



Submission

Notice to Quit Consultation

January 2022

homelessconnect.org

Homeless Connect Response to Notice to Quit Consultation

Introduction

1. Homeless Connect (previously known as Council for the Homeless NI) has been working to prevent and alleviate homelessness in Northern Ireland since 1983. As a membership body, we represent organisations working with people experiencing homelessness or at risk of becoming homeless and provide direct support to service users through our projects.¹

2. Homeless Connect made a submission to the Communities Committee call for evidence on the Private Tenancies Bill. Our responses to this consultation reflect the views we put forward to the Committee.² This response is made on behalf of Homeless Connect as an organisation.

Question 1

Do you agree that the length of notices to quit for landlord and tenants should be different?

3. Yes, we agree that the length of notices to quit for landlords and tenants should be different. It is justifiable for the legal framework to differentiate between landlords and tenants in this regard due to the differential consequences for both sides if an NTQ is given. For tenants given an NTQ, there is a risk of homelessness if they are unable to find suitable alternative accommodation. The potential consequences for a tenant are far greater than for a landlord who is unable to find a new tenant.

4. It should also be noted, as the insightful research produced for the Department by the Chartered Institute of Housing notes, that many other jurisdictions have different NTQ periods for landlords and tenants.³ In adopting this approach, Northern Ireland is acting in concert with many other jurisdictions.

Question 2

Do you agree that Notices to Quit should vary depending on the length of the tenancy?

5. In our estimation, differential lengths for NTQ periods can be justified. It is accepted that the impact of an NTQ on a tenant who has been, for example, in a property for six months is less than the impact on a tenant who has been in a property for five years. However, it should be noted that in both cases the tenant still has to find new accommodation. If differential notice periods are adopted according to the length of time a tenant has had a tenancy, the threshold for the lower period needs to be of sufficient length to allow a tenant to find alternative accommodation.

Question 3

Do you agree that the length of notice for shorter term tenancies of up to 12 months should remain at 4 weeks?

6. No, we do not agree that the length of notice for shorter term tenancies of up to 12 months should remain at four weeks for NTQs issued by landlords. We do believe the NTQ issued by tenants should remain at four weeks for tenancies of up to one year in duration.

7. As our answer to Question 1 demonstrated, we agree with the Department that it is justifiable to have different NTQ periods for landlords and tenants due to the differential consequences for each party involved of an NTQ being issued. We believe it is justifiable for the NTQ period for tenants to be of four weeks duration due to the need for flexibility for tenants in such tenancies. However, we do not agree that NTQs issued by landlords should remain at four weeks for tenancies less than one year in duration.

8. We note that under the provisions set out in clause 11 of the Private Tenancies Bill going through the Assembly, it is proposed that tenancies which last for less than one year will still have an NTQ period of four weeks. We believe this is too short a time for tenants. There is a risk of a cliff edge negatively impacting on certain tenants as landlords may seek to end a tenancy before the twelve-month period to avoid having to allow for an eight-week NTQ period proposed under the legislation for tenancies between one year and 10 years in duration. In practice, four weeks is a truly short time for a household to identify accommodation once they receive an NTQ from a landlord. This can create real stress and anxiety for tenants. Even an eight-week NTQ period is in practice a short time to leave a property and identify a new place to live.

9. It is worth noting that PropertyPal in early October reported that they are seeing an average of 78 enquiries for PRS properties advertised on their site. This is almost four times higher than the previous three-year average.⁴ Especially in this context, tenants need more time to consider their options if they receive an NTQ. Additionally, throughout the coronavirus pandemic, the Department rightly increased the duration of the NTQ period up to twelve weeks for all tenancies. While this was a measure taken due to the unique set of circumstances arising from the pandemic, it provided crucial protection for renters without to our knowledge causing major difficulties in the PRS. We commended the Minister for taking this step and extending this provision to next May.⁵

10. In our response to the Communities Committee call for evidence, we argued that consideration should be given to extending the time limit for the Housing Executive to legally provide assistance to a person at risk of homelessness beyond the twenty-eight days they currently have. While we would have preferred the Private Tenancies Bill to be utilised to this end, we understand that Departmental officials have informed the Communities Committee that such an amendment would be beyond the scope of the Bill. We are further aware that the Department for Communities are currently reviewing the legislation around homelessness and that further reforms will be considered in the next mandate. In our view, extending the NTQ period without extending the period in which the Housing Executive can legally provide assistance to a person at risk of homelessness does create an illogical situation. In an ideal world, the length of the NTQ period would have been coupled with an extension of the period in which the Housing Executive can provide assistance. However, as this will not prove possible in this mandate, we do still believe it would be worthwhile to extend the NTQ period in anticipation of an extension in the time in which the Housing Executive can provide support in future legislation.

11. Consequently, we submit that the NTQ period should be twelve weeks for all tenancies. As the CIH research for the Department points out, internationally an NTQ period of twelve weeks is not unprecedented for tenancies of this duration.⁶ We do acknowledge that it is a principle of tenancy law in

the United Kingdom to differentiate between tenancies up to a year in length and those which last longer. While our preference would be that all tenancies had an NTQ of at least twelve weeks duration, if it is believed to be important for this principle to be maintained we would submit the Department should still seek to increase the NTQ period for tenancies less than one year in duration beyond four weeks to at least eight weeks.

Question 4

What do you think the Notice to Quit period that a landlord will be required to give a tenant should be (where the tenancy is between 12 months and 10 years in length)?

12. We believe 12 weeks is a suitable NTQ period for landlords to give to tenants for tenancies of 12 months to 10 years in duration. We note that the Private Tenancies Bill proposes to grant a power to the Department of Communities to extend the NTQ period to up to six months. We agree with this approach.

Question 5

Do you think that there should be exemptions to this notice period?

If yes what should those exemptions be and what should the reduced Notice to Quit period be for those exemptions?

13. In our view this is a complicated area which requires greater consideration. From the perspective of tenants, there are certain situations where exemptions from the NTQ period could and potentially should be considered. For example, if a person is a victim of domestic abuse and feels they need to leave a property, should the full NTQ period (whatever it is determined to be) still apply to them? Other scenarios could be posited as well. It is acknowledged that designing suitable exemptions for tenants raises practical and legal challenges.

14. However, we do not feel that we can provide a more substantive response than this at this point. It is regrettable that this issue is only being considered at this stage of the process for the Private Tenancies Bill. It would have been much more preferable for the legal text of exemptions to have been included in the initial Bill and for the Communities Committee to have had the opportunity to thoroughly scrutinise the proposed clauses. We are concerned about unintended consequences which may arise from a rushed process around the introduction of exemptions to the NTQ period.

Question 6

Do you think the length of Notice to Quit for those tenants living in an HMO, or for exemptions to the Notice to Quit, should be different from that of other tenants in the Private Rented Sector?

15. In principle, tenants in HMOs should not be treated differently from other tenants in the PRS. However, as the Department will know, the reality that some living in HMOs are licensees rather than tenants needs to be borne in mind when considering this issue.

References

¹ 'Homeless Connect' is the working name of 'Council for the Homeless (Northern Ireland)', registered charity in Northern Ireland (charity number 103325)

² See Homeless Connect, "Homeless Connect Submission on the Private Tenancies Bill", October 2021, <https://homelessconnect.org/wp-content/uploads/2021/10/Homeless-Connect-Private-Tenancies-Bill-Call-for-Evidence-Submission.pdf>

³ Chartered Institute of Housing Northern Ireland, "Private rented tenancies in Northern Ireland and 'notice to quit' periods", November 2021, <https://www.cih.org/media/kdkch00v/private-rented-tenancies-ntq-report-ni-final.pdf> 18-21.

⁴ "Number of properties on NI housing market down by almost a half from pre-pandemic levels" *Irish News*, 8 October, 2021, <https://www.irishnews.com/business/2021/10/08/news/number-of-properties-on-ni-housing-market-down-by-almost-a-half-from-pre-pandemic-levels-2471987/>

⁵ Nathaniel Barker, "NI government extends longer eviction notice periods until May 2022", *Inside Housing*, 31 August 2021, <https://www.insidehousing.co.uk/news/ni-government-extends-longer-eviction-notice-periods-until-may-2022-72358>

⁶ Chartered Institute of Housing Northern Ireland, "Private rented tenancies in Northern Ireland and 'notice to quit' periods", November 2021, <https://www.cih.org/media/kdkch00v/private-rented-tenancies-ntq-report-ni-final.pdf> 18-21.



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