

Underfunded courts will struggle with an influx of claims when the Renter's Rights Bill becomes law – both tenants and landlords will suffer

By Gary Scott, property dispute resolution partner, Spector Constant & Williams



The Renter's Rights Bill passed its third reading this month and when it becomes law there will be a seismic change in how tenancies operate and the prospect of an influx of claims. Our County Courts are creaking at the seams, and an already painfully slow system will get even slower.

One of the main measures in the Bill is the end of section 21 'no fault' evictions. On the face of it, this is a worthy measure designed to tackle unscrupulous landlords, but they are a tiny minority. It is my experience that a large number of section 21 evictions are prompted by a tenant breach, such as failure to pay rent or the landlord's need to sell the property. This process is used because it is a procedural process and so slightly quicker, cheaper and requiring less Court time. These situations will still arise, so we are unlikely to see any significant reduction in the total number of possession claims. What will happen, however, is that claims will take longer because under the new system, the Landlord must prove their ground for possession before an Order is made, which will inevitably require more Court and judicial time where the grounds are not purely procedural.

The current backlog in the courts and tribunals is compounded by delays in the enforcement side of the system, where it can take many weeks for a bailiffs appointment to be made following a possession order. In the London County Courts and other regions where courts capacities are already stretched, Landlords could face very long delays in recovering possession.

As the Bill has progressed, the government has failed to properly address the underfunding of the courts. Instead of a formal impact assessment on Court capacity, Housing Minister Matthew Pennycook MP relies on the unevidenced assumption that tenants will be reluctant to take legal action, despite also claiming that the legislation will empower Tenants to do just that!

By failing to tackle the backlog already facing the courts and tribunals or investing properly in digital processes to help streamline the system, the government risks landlords losing faith in the system.

This risks a reduction in available rental properties as some landlords sell up or those who stay in the sector putting up rents to cover the increased risk of a lengthier and more expensive possession process. This is a situation where tenants will lose out too – the very thing the government wanted to avoid.

This writer remains hopeful, however, that good sense will prevail. There are ways in which the system could be vastly improved with the right investment. A central national Court for all possession actions, for example, could be extremely effective for handling the vast majority of claims, meaning much fewer for the local County Courts to have to deal with. In the meantime, the practitioners will continue to do their utmost to assist landlords in navigating the upcoming changes in the private rented sector in the UK.