

Domestic Abuse & The Renters (Reform) Bill

Second Reading Debate Briefing

Domestic Abuse Housing Alliance (DAHA)-led National Housing & Domestic Abuse Policy & Practice Group

The DAHA-led National Housing & Domestic Abuse Policy & Practice Group¹ welcomes the changes set out within the Renters (Reform) Bill² to end Section 21 'no fault' evictions, fixed term assured tenancies, and assured shorthold tenancies, which will offer victims of domestic abuse more protection against evictions and flexibility to leave a tenancy if required for their safety. We also welcome the commitment to bring forward legislation to apply the Decent Homes Standard in the PRS, to address discrimination against tenants in receipt of benefits or with children, and to strengthen local councils' enforcement powers.

However, we remain greatly concerned that these welcomed steps will be undermined by two proposed changes to grounds for possession for anti-social behaviour (ASB) and rent arrears. This includes, broadening the discretionary ASB ground for eviction (Ground 14) to "any behaviour capable of causing nuisance or annoyance" as well as introducing a new mandatory ground for repeated rent arrears (Ground 8A).

Victims of domestic abuse are significantly more likely than other tenants to have ASB complaints made against them, often due to the misidentification of domestic abuse as ASB³. Victims of domestic abuse are also more likely to be in rent arrears, both as a direct result of economic abuse, and due to the economic and practical burden of fleeing abuse and becoming homeless, often with their children (victims in their own right)⁴. With currently no proposed safeguards in place to protect victims of domestic abuse from evictions related to domestic abuse, we fear the changes to ASB and rent arrears eviction grounds will lead to harm and homelessness to vulnerable women and children. As a result, victims of domestic abuse may become more dependent on their abuser and face even greater barriers to leaving.

Amendments to Ground 14 (Anti-social behaviour)

We are concerned that the changes to the discretionary ground 14 (Schedule 2 of the Housing Act 1988) which replaces "likely to cause nuisance and annoyance" with "capable of causing nuisance and annoyance", sets a significantly lower threshold for the discretionary ground, which could essentially create a back door for section 21 evictions, with currently no clear definition of what capable could mean.

We are concerned that this definition could easily include victims of domestic abuse, whose experiences can result in 'nuisance and annoyance' to neighbours, housemates, and the landlord, yet

¹ For more information about our National Group: <https://www.dahalliance.org.uk/policy-influencing/national-housing-and-domestic-abuse-policy-and-practice-group/>

² Renters (Reform) Bill: <https://bills.parliament.uk/bills/3462>

³ Jackson (2013), cited by Henderson, K. (2019) p.60. *The role of housing in a coordinated community response to domestic abuse*, Durham theses, Durham University. Available from: <http://etheses.dur.ac.uk/13087/> and Gentoo & SafeLives. *Safe at Home: The case for a response to domestic abuse by housing providers* (2018). <https://safelives.org.uk/sites/default/files/resources/Safe%20at%20Home%20Report.pdf>

⁴ Gentoo & SafeLives. *Safe at Home: The case for a response to domestic abuse by housing providers* (2018). <https://safelives.org.uk/sites/default/files/resources/Safe%20at%20Home%20Report.pdf>

is not, and should not be considered ASB. Evicting a tenant due to ASB, when it is domestic abuse, could lead to significant harm and homelessness for victims of domestic abuse, including children.

It is important to highlight that the wording in the legislation for social housing providers refers to ASB as behaviour “causing or likely to cause nuisance and annoyance” (Ground 2, Schedule 2 of the Housing Act 1985)⁵, which is the standard definition used by the social housing sector. The newly proposed wording in the Bill would be a deviation from this standard, and we question the rationale for this change, and how it will impact tenants.

Unlike the PRS, social housing providers have ASB teams who are trained and equipped with tools including injunction powers and proportionality assessments to respond to ASB early, allowing opportunities to remedy the ASB before eviction actions are taken. Critically, ASB teams within social housing providers are often trained and equipped to distinguish domestic abuse from ASB, and to take safeguarding actions to protect vulnerable tenant rather than criminalise or evict them. Following the passing of the Social Housing (Regulation) Bill, social housing providers will be better equipped to make this distinction, as they will access guidance for responding to ASB, including its links to domestic abuse, and be required to have a domestic abuse response through the revised Consumer Standards, enforced by the Regulator for Social Housing⁶.

Currently the Renters (Reform) Bill does not provide any safeguarding mechanisms for victims of domestic abuse who live in the PRS and who will be disproportionately impacted by the suggested changes to Ground 14. To ensure that victims of domestic abuse, among other vulnerable tenants, are not inadvertently caused harm by these changes, we advise the government to take the following steps:

Recommendations on Ground 14 (ASB):

- **To maintain the current definition of Ground 14 as ‘likely’ to cause nuisance and annoyance, and not to expand the definition to ‘capable of causing nuisance and annoyance’. It must also be additionally made clear in legislation that domestic abuse should not be considered a form of ASB which leads to eviction under Ground 14.**
- **To require landlords and managing agents to follow pre-eviction protocols in cases of Ground 14 evictions. This is imperative to ensure vulnerable tenants are not disproportionately impacted by these possession grounds and to give ample opportunity to remedy ASB before eviction actions are taken. Critically, a pre-eviction protocol will help to safeguard against landlords inadvertently responding to domestic abuse as ASB.**
- **ASB guidance must specifically address domestic abuse, and critically, how to distinguish between ASB and domestic abuse. This should be accessible on the property portal, which landlords and managing agents should be required to read as a part of the pre-eviction protocol.**
- **It is imperative that judges are given maximum discretion in cases of Ground 14 evictions, to ensure all vulnerable tenants, including victims of domestic abuse are not evicted as a direct consequence of their vulnerabilities. To support this, judges should receive clear guidance that domestic abuse should not be treated as ASB and lead to evictions.**

⁵ Schedule 2 Housing Act 1985 <https://www.legislation.gov.uk/ukpga/1985/68/schedule/2>

⁶ The charter for social housing residents: social housing white paper <https://www.gov.uk/government/publications/the-charter-for-social-housing-residents-social-housing-white-paper>

Repeat rent arrears (Ground 8A)

We are equally concerned by the government's introduction of the new mandatory ground for repeated rent arrears (Ground 8A, Schedule 2, Housing Act 1988). This new ground provides landlords with mandatory grounds for possession where the tenant has been in arrears on three separate occasions over a three year period, with each 'occasion' including arrears for as little as eight weeks, and only as late as one day.

These changes present a significant risk to victims of domestic abuse who are more likely to accumulate rent arrears due to economic abuse and the economic impact of fleeing domestic abuse.⁷ In doing so, it would inadvertently undermine the changes made through Part 1 of the Domestic Abuse Act 2021, which legally defines economic abuse as a form of domestic abuse, as well as, post separation coercive and controlling behaviour. Furthermore, domestic abuse disproportionately impacts women, and single women with children, who are at a greater risk of being in rent arrears and to be evicted as a result. This is compounded by a cost-of-living crisis which disproportionately impacts women⁸. Black and minoritised, Deaf and disabled women are at an even greater risk of harm, economic insecurity, and homelessness, and will be further impacted by these proposed changes.

Research has shown that victims of domestic abuse suffer on average three years of abuse before getting effective help, and some will suffer more than 50 incidents in that time⁹. Three years is a long time and can lead victims to accumulate rent arrears over this period due to economic abuse and/or coercive and controlling behaviour. We are concerned that the three years' timeframe suggested in the new mandatory ground for repeated rent arrears is too long and will impact victims and survivors who have accumulated rent arrears over time, before accessing the help and support that they need.

We are also concerned that by making Ground 8A mandatory, there is no opportunity for judges to consider the individual circumstances of tenants which led to arrears over such a long period. This includes the opportunity to consider whether the arrears are linked to domestic abuse, for which victims should not be punished, evicted, or made homeless. Such actions could lead to even more economic insecurity and dependency on the perpetrator.

Recommendations on repeat rent arrears (Ground 8A):

- **The new mandatory Ground 8A for repeated rent arrears must be discretionary to allow for a judge's discretion and consideration for the circumstances of the most vulnerable tenants, and in particular victims of domestic abuse. Where rent arrears are a direct result of the tenant experiencing domestic abuse, possession should not be granted.**
- **The timeframes of Ground 8A for repeated rent arrears need to be amended including significantly shortening the three-year period and allowing a longer period than only one day for the definition of each 'occasion' of rent arrears.**
- **Landlords and managing agents should be required to follow a pre- eviction protocol in cases of repeat rent arrears to give tenants the opportunity to address arrears and minimise the risk of eviction.**

⁷ Gentoo & SafeLives. *Safe at Home: The case for a response to domestic abuse by housing providers* (2018), p.36-37.

<https://safelives.org.uk/sites/default/files/resources/Safe%20at%20Home%20Report.pdf>

⁸ Women's Budget Group (2019). *A home of her own: Housing & Women* <https://wbg.org.uk/wp-content/uploads/2019/07/WBG19-Housing-Report-full-digital.pdf> and Independent, 19/09/2020 'We live in fear': *Why women will be hardest hit by the eviction ban* <https://www.independent.co.uk/news/uk/home-news/eviction-ban-ends-women-homelessness-rent-childcare-landlords-coronavirus-b485673.html>

⁹ SafeLives, 2015. *Professionals miss five opportunities to stop domestic violence, says SafeLives.* <https://safelives.org.uk/node/506>

- **The legislation should require statutory guidance for judges, landlords and managing agents on addressing rent arrears, including the links between rent arrears and domestic abuse.**

Proposed changes to homelessness legislation

We are also concerned about the Bill's proposed changes to homelessness legislation and its impact on survivors of domestic abuse. Councils would have discretion to decide whether to accept a homelessness prevention duty at the point tenants are served with a possession notice. This presents a risk to survivors of domestic abuse who are more likely to be served possession notice based on ASB and rent arrears and will need early advice and signposting to (i) prevent the landlord issuing proceedings, (ii) defend possession and/or (iii) find a suitable alternative home.

We are also concerned that survivors who face repossession on 'fault' grounds (e.g. arrears or ASB) will need early prevention advice. This is because if they lose their home due to lack of help, they could be unfairly deemed intentionally homeless and thereby not be entitled to temporary accommodation and the offer of a settled home, should they become homeless. Another concerning change is the end of the reapplication housing duty for formerly homeless applicants who have accepted a private rental sector offer (PRSO) but then lose their tenancy within two years of being accepted as homeless. Therefore, we support Shelter's recommendations on these issues as detailed in their Renters (Reform) Bill briefing.¹⁰

Signed National Group Members

Against Violence & Abuse (AVA);	National Housing Federation (NHF);
Agenda Alliance;	National Federation of ALMO's;
Angelou Partnership;	Peabody Housing Association;
Birmingham & Solihull Women's Aid;	Refuge;
Chartered Institute of Housing (CIH);	Resolve ASB;
Commonweal Housing;	Respect;
Crisis;	SafeLives;
Domestic Abuse Housing Alliance (DAHA);	Shelter;
The DRIVE Partnership;	Single Homeless Project (SHP);
Employers Initiative on Domestic Abuse (EIDA);	Solace Women's Aid;
Ending Violence Against Women (EVAW);	Standing Together Against Domestic Abuse;
Generation Rent;	St Mungo's;
Gentoo Housing Association;	Surviving Economic Abuse (SEA);
Hestia;	Women's Aid Federation of England (Women's Aid)
Homeless Link;	

If you have any questions or would like to discuss this further, please contact the National Group Chair, Deidre Cartwright, d.cartwright@standingtogether.org.uk

¹⁰Shelter, 2023. *Briefing: The Renters (Reform) Bill*
https://assets.ctfassets.net/6sxvmndnnp0s/6EO3qlF1tjgnOARkaHn5E/b14989516cc1c6fdc05d56952c0bda7a/Renters_Reform_Bill_-_MP_briefing.pdf