Miliband’s proposals: Old fashioned rent control or a better operating market?

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Last week Ed Miliband unveiled proposals intended to benefit renters, which were quickly denounced as old-fashioned ‘rent-control’ by his opponents. ***Christine Whitehead*** *examines the Labour leader’s proposals in detail, arguing that they do not definitively deal with the issue. The private rented sectors needs to be addressed by more coherent, nuanced and evidence-based policies.*

The majority response to Ed Miliband’s proposals to introduce longer term security and rent stabilisation into the private rented sector has been horror – investment will dry up; established landlords will leave in droves; and there will be a growing informal sector into which the poorest households will be forced – in other words all the traditional ills of private renting will follow immediately. A minority have welcomed the initiative as mirroring regulatory frameworks in well operating private rented sectors notably Germany, saying it will be better for tenants and landlords alike. Neither side is entirely right or wrong – which can also be said of the proposals. What they all are, unhappily, are knee-jerk partial responses to a problem that can only start to be addressed by more nuanced, coherent and evidence-based policies.

First the easy bit: Ending the fees charged by agents to tenants for securing a property is already in place in Scotland and was a recommendation of the cross part by the House of Commons Select Committee. The agent acts for the landlord so the fee should be paid by the landlord (even though it will of course ultimately be paid at least in part by the tenant through the rent. It could well form part of the government’s current initiative which looks to enforce transparency around fees and membership of a redress scheme by all landlords and agents.

The big issues in Miliband’s announcement however were around security and in tenancy rent increases: looking to enforce a 3 year tenancy contract which can only be ended early if the agreement is broken (although the details are not yet spelled out and could include other reasons). Currently there is nothing directly to stop such a contract under the Assured Shorthold Tenancy route and the government is already committed to providing a model tenancy agreement for longer term tenancies, giving 3 years as an example. Those that are already in place tend to include an index linked annual increase which provides secure income for the investor. The big difference with the Miliband proposals is that it is to be legally enforced – and therefore can be vilified as rent control.

Is this really what either Labour or the market wants and needs? First there are obvious immediate barriers: most landlords cannot get a mortgage or even a loan if they offer a contract of more than a year. This can be changed but at the cost of higher interest rates and less readily available funds. Secondly where these tenancies have been offered without any extra costs, there has certainly has been no rush to take them up and tenants have usually chosen much shorter terms. This reflects the fact that while there are many households who will stay longer and some, especially family households, who will know this at the outset it is by no means the highest priority for many mainstream tenants. Many, maybe the vast majority of prospective tenants will want to opt out especially if the legislation is symmetric imposing costs on those who leave early.

Almost everyone who is in favour of the longer term tenancy model cites Germany as an example of how effectively it has worked to support a large private rented sector. But further examination of German experience suggests there are many differences that cannot be ignored and which that suggest it would be better as an option rather than a legal requirement.

First, Germany’s private rented sector had very different attributes from that in England – not only are most tenancies unfurnished but the tenant in the mainstream part of the sector usually provides at least the white goods and sometimes even their own kitchens and bathroom. On this basis of course you need longer tenancies for both parties. Indeed the tenancy is indefinite rather than time limited – which in turn requires very careful specification to ensure reasonably even conditions for both parties. Second, yes rent increases within the tenancy are set by reference to an index but the initial rent is market based but can be up to 20% above comparable rents at the start of the tenancy to allow for expectation that rent increases will not keep pace with costs and the market. Third, the regulatory system has generally worked well just because there has been very little market pressure over the last two decades with low inflation and often falling populations. In markets where there is upward pressure on prices and rents – the successful cities people find it extremely difficult and costly in time and money to find a tenancy and those with little market power lose out. The position on England and especially in London is far closer to those cities where it is generally accepted the system is not working.

An important issue lies in the market response to an, as yet, very general proposal. The government and the opposition are both aiming to bring institutional investors into the market. In principle initial market rents and in tenancy indexed rents produces the type of risk/return profile that many institutional investors want. But overwhelmingly such investors want certainty – and the very lack of clarity of this round of suggestions and the fear that there will be other less benign regulations in the future is sure to put some of them off. This combined with more difficult access to Buy to Let funding could well put a break on the more professional investment that we are looking for and scare of some existing landlords, especially if the owner-occupation market continues to improve.

Finally what about the tenants? Better off, more stable households will naturally be favoured by professional landlords. This group should find it relatively easy to enter a longer agreement voluntarily or simply extend their Assured Shorthold Tenancy, where the average actual tenancy length is anyway closer to three years than one. Those tenants who are currently being kicked out after six months are generally poorer and have less market power. Most, including many working households, are also already subject to de facto rent control through the Housing Benefit system. Unhappily, statutory longer term rent stabilised tenancies, while they may benefit the better off tenant, are likely to worsen the position of poorer households looking to rent privately harming the very people the suggested approach is trying to help.

Note: This article gives the views of the author, and not the position of the British Politics and Policy blog, nor of the London School of Economics. Please read our comments policy before posting. Homepage image credit: Kathleen Tyler Conklin

About the Author

Christine Whitehead *is a professor of housing economics at the London School of Economics. Her research interests are mainly in the fields of housing and urban economics, housing finance and policy and more general issues of privatisation and regulation. She is an Honorary Associate member of the Royal Institution of Chartered Surveyors. She has given evidence to the House of Commons Communities and Local Government committee on private renting and the DWP committee on Welfare and housing Costs over the last 18 month. In 1991, she was awarded the OBE for services to housing.*