

Institute for Public Policy Research



# SIGN ON THE DOTTED LINE?

A NEW RENTAL  
CONTRACT

FINAL REPORT

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## ABOUT THIS PAPER

This report furthers IPPR's charitable aim to promote research into (and the publication of the useful results thereof) and the education of the public in the economic, social and political sciences.

The report also seeks to deliver on IPPR's charitable aim to relieve poverty, unemployment, or those in need by reason of youth, age, ill-health, disability, financial hardship, or other disadvantage.

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The analysis and conclusions of the report, and any errors, are the authors' own.



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# SUMMARY



The private rented sector has grown substantially over the past two decades. It is now home to 20 per cent of households (4.7 million). Many more people now expect to live in the private rented sector for longer; this includes 1.7 million households containing nearly 3 million children. Many of those children will grow up, go to school and transition into adulthood in homes rented from private landlords.

Yet the rules and regulations which underpin the private rented sector have not kept pace with this growth. This means that tenants face unaffordability, poor conditions, a lack of tenure security and limited control over the place they call home. Meanwhile, cuts to benefits and welfare reform, a slow court system and a lack of strategic policy mean that the structural foundations which are essential for a thriving sector are being eroded.

In this report we set out a programme of radical but necessary reform to the private rented sector which would address these challenges. The broken market for private renting causes hardship for many, including by contributes to the suffering of households in poverty. We propose measures which will seek to offer a new deal for tenants and landlords, and which will offer relief to the hardships faced by many households, including those in poverty, through a reformed private renting sector that works well for all. In doing so, we have drawn on in-depth conversations with tenants and landlords across England. Through these we have sought to understand the lived experience of those in private renting and how they want it to change, testing with them ideas for reform.

Polling commissioned by IPPR through Sky Data as part of our research reveals significant public support for reform of the sector. As renters, and those concerned about the sector and its impacts, grow as a political force it is clear that the programme of reform we present here would not just ensure that the sector was more just: it would be hugely popular with tenants and the wider public, too.

## KEY FINDINGS

- The private rented sector has grown considerably in recent years, housing 4.7 million households (20 per cent) in 2016/17, up from 2 million (10 per cent) in 1996/97.
- The types of households renting from private landlords has changed. The number of households with dependent children living in the private sector grew from 461,112 in 1996/97 to 1.7 million in 2016/17.
- The private rented sector is insecure. Around one in 10 tenancies which come to an end do so as a landlord has terminated them, typically through a no-fault eviction. Tenancies ended by landlords were the biggest cause of homelessness acceptances in England in 2017, accounting for 28 per cent (16,320) of all local authority homelessness acceptances.
- Private rents are unaffordable for many. In 62 per cent of local authorities the median private rent would be unaffordable to those on low incomes and in 52 per cent to those on middle incomes.
- A higher proportion of private rented homes are of poor quality compared to other tenures, with 27 per cent of homes failing to meet the decent homes standard.

- Welfare reforms have created challenges for both tenants and landlords. Since 2011, 1.9 million households have seen a reduction in the level of local housing they receive with impacts on rent arrears. Survey evidence suggests that around half of all landlords with tenants in receipt of universal credit have experienced rent arrears.
- The court system is working for neither tenants nor landlords. Delays in the court system mean that landlords must often wait a long time to gain possession of a property, which can mean mounting rent arrears. Meanwhile, legal aid reforms limit access to justice for tenants, with housing cases dropping by half following reforms. What is more, reforms have created legal aid deserts, with 1 million people living in areas with no access to housing advice.
- The private rented sector is also having an impact on the wider housing market, increasing house prices, hampering first time buyers and worsening wealth inequality.
- Polling commissioned by IPPR from Sky Data found that most people believe the current system of private renting is unfair to tenants, providing them with neither a stable nor an affordable home. The poll found that 53 per cent of people believe the way private renting works is 'very' or 'fairly' unfair for tenants, while just 19 per cent regard it as fair. What is more, 72 per cent of people think that the government should be doing more to improve and regulate the private rented sector for the benefit of tenants (ibid).

## RECOMMENDATIONS

### Improving the affordability of private rented housing for those on low incomes

1. Government should reform universal credit so that it better supports renters.
  - 1.1. Government should end the freeze of LHA, re-assessing it so that it is set according to the 30th percentile of local rents, as per its design, and then up-rating it in line with increases to local rents in subsequent years.
  - 1.2. Government should lower the upper age limit for claiming the shared accommodation rate of the housing costs element of universal credit from 35 back to 25.
  - 1.3. Tenants should be able to choose to have the housing costs element of universal credit paid directly to their landlord.
2. Private landlords, letting agents and mortgage lenders should be prevented from banning tenants in receipt of social security benefits from renting out their properties.

### Improving the quality of private rented housing stock

3. Government should establish a national landlord register, and in doing so bring together existing bodies to create a Tenancy Management Service (TMS).
4. Government should introduce a 'property MOT' for private rented property run by local authorities and acting as a mandatory criteria for landlord registration.

### Improving security for tenants

5. Government should introduce a mandatory open-ended tenancy, ending section 21 (no-fault eviction), removing selling a property as a ground for eviction in the first three years of a contract and limiting rent increases to once a year, capping them in line with the consumer price index.

### **Increasing the control tenants have over their homes**

6. Government should prevent landlords from banning tenants from undertaking reasonable decoration.
7. Government should prevent landlords from banning tenants from having pets by default.

### **Reforming the legal process to ensure it works swiftly while increasing access to justice for tenants**

8. Government should establish a specialist housing court.
9. Government should establish a mediation service.
10. Government should widen access to legal aid and make it available for cases in the housing court.

### **Reforming the tax system that relates to private landlords to ensure that it promotes socially responsible landlordism, a long-term, high quality and stable rented sector and challenges wealth inequality**

11. Government should launch a review of all taxation relating to private landlords.

### **Giving local authorities the tools to buy up private rented homes, using them to meet local needs**

12. Local authorities should purchase private rented properties to address local housing need.

# 1. INTRODUCTION

The private rented sector in England has grown significantly in recent years. The sector has more than doubled in size in the last two decades and is now home to 20 per cent of households (4.7 million).<sup>1</sup> What is more, the role that private renting plays in the housing market has changed. Many more people now expect to live in the sector for longer; this includes 1.7 million households with children (ibid).

This growth, which has been driven by the availability and low cost of credit for landlords looking for a sound investment and a supply of tenants locked out of home ownership and the social rented sector (Kemp 2015), has not been by design. Nor has it been matched by adequate reforms to the regulations which govern the sector.

IPPR has been undertaking a programme of work seeking to understand in greater depth the lived experience of both tenants and landlords in the private rented sector. As part of this programme, IPPR conducted focus groups structured over two waves. In the first, we set out to understand tenant and landlord experiences and their attitudes to reform. In the second, we worked through some policy proposals designed to tackle the issues unearthed by the project, testing and refining them supported by their insights and feedback. The conclusions of this report draw on these insights, a literature review and interviews and roundtables with relevant stakeholders and policymakers.

In 2018, we released our interim report, *The case for reforming private renting*, which set out the arguments for reform (Baxter and Murphy 2018). That report concluded that the sector is not working for many tenants, who experience problems with insecurity, quality, affordability and the ability to exercise control over their homes. Moreover, our research also uncovered the particular concerns of landlords which included issues with the legal system, welfare reform and reforms to the taxation of landlords. That report also found some key issues which are shared between tenants and landlords: a lack of knowledge on their rights and responsibilities; the dependence on the kind of relationship that is built between tenant and landlord; an imbalance of power, with tenants feeling that they lack power in the system as a whole and landlords expressing frustration at a lack of power at key parts of the process; and limited trust in the system on both sides.

In our conversations with tenants and landlords it was clear that there was broad support for reform, though not always universal agreement on what shape that reform should take. While the debate about the private rented sector is often divisive, it is clear from our work that the views of both tenants and landlords is often more nuanced than is presented.

To support the focus group research conducted with tenants and landlords, IPPR also commissioned polling from Sky Data on the views of the general public on private renting (Sky Data 2018). This research supported the views of those in our focus groups, finding that that most people believe the current system of private renting is unfair to tenants, providing them with neither a stable nor an affordable home. It found that most believe that the tenure works poorly for certain groups in particular – pensioners, single parents and couples with children.

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<sup>1</sup> IPPR analysis of the Survey of English Housing 1993/94–2007/08 and the English Housing Survey 2008/09–2016/17

In response, this report concludes by setting out a major programme of reform for the sector which would: improve the affordability of housing for those on low incomes; increase stability for tenants, ensuring that they feel secure in their homes; improve the quality of private rented housing stock; increase the control tenants have over their home; reform the legal process to ensure it works swiftly while increasing access to justice for tenants; and give local authorities the tools to buy up privately rented homes to help meet housing need in their areas. In doing so, the measures outlined in this report will offer relief to the hardships faced by many households, including those in poverty, through a reformed private renting sector that works well for all.

## 2. A GROWING SECTOR

The private rented sector in England has grown rapidly in recent decades. In 2016/17 around 4.7 million households were living in the private rented sector, more than double the 2 million households' resident in the sector 20 years previously.<sup>2</sup> The private rented sector is now larger in size than the social rented sector (3.9 million households) (ibid).

This growth has been most rapid since the global financial crisis in 2008. Low interest rates and poor investment prospects elsewhere in the economy, the result of post-crisis macroeconomic policy, and a growing pool of prospective tenants, spurred on the sector and led the proportion of households in the private rented sector to grow by 8 per cent between 2007/08 and 2016/17.<sup>3</sup> While over the same period the owner-occupied and social renter sectors shrank by 6 per cent and 2 per cent (ibid).

The growth of private renting has been highest in urban centres, predominantly those with higher than UK average house prices. In London, for example, 30 per cent of all households now rent their home from a private landlord, compared to 19 per cent across the rest of England (excluding the capital) (MHCLG 2018a). Yet the growth of the sector has been most rapid outside of capital. Between 2003/04 and 2016/17 the sector grew in the northern regions by 181 per cent compared to 156 per cent in London and 119 per cent in the South East (ibid).

The role that the private rented sector plays in the housing market has also changed. In the past the private rented sector was, for many tenants, a temporary step on the way to more permanent housing in the other tenures. But increasingly, the sector is becoming a long-term default for a growing number of households. For many, this shift is not one of choice but of necessity, 56 per cent of private renters say that their preference is to be a home owner in two years, whilst 71 per cent in 10 years (Pannell 2016). This has particular generational impacts. Millennials (the generation born between 1981 and 2000) are four times more likely to be renting privately at age 30 than baby boomers (the generation born between 1946 and 1965) were at the same age (Corlett and Judge 2017).

The nature of those residing in the sector has also changed and the rental market is now home to a more diverse range of households, including many more children who are growing up in the sector. Between 1996/97 and 2016/17 the number of households with dependent children living in the private sector grew from around 460,000 to 1.7 million in 2016/17 (Kemp 2015).

Regulation has not kept pace with these shifts in the tenure, creating a series of problems for both tenants and landlords. At the same time, the growth of the private rented sector has had an impact on the wider housing market, increasing prices (Hudson 2018), causing competition for first time buyers and expanding inequality (Roberts et al 2018).

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2 IPPR analysis of the Survey of English Housing 1993/94–2007/08 and the English Housing Survey 2008/09–2016/17

3 IPPR analysis of the Survey of English Housing 1993/94–2007/08 and the English Housing Survey 2008/09–2016/17

# 3.

## THE CASE FOR REFORM

IPPR's interim report, *Understanding tenants and landlords: The case for reforming private renting* (Baxter and Murphy 2018), found that despite the more significant role that the private rented sector now plays in the housing market, the regulations which govern the tenure have not kept pace with its growth. As a result, the 4.7 million households living in the private rented sector are not provided with the security, affordability and quality that many of them look for in a home, while the structure of the sector does not do enough to support the role of responsible private landlords in the housing market.

These findings were supported by polling commissioned by IPPR which found that just 20 per cent of people feel that the private rented sector works well for people like them (Sky Data 2018). This figure is even lower when people are asked to consider whether the sector works well for couples with children, lone parents and pensioners (ibid).

### KEY CHALLENGES FOR THE SECTOR

This sense of dissatisfaction was felt clearly by tenants and landlords in our focus groups, with many articulating how the sector failed to meet their needs. The main issues centered around several key themes: affordability, welfare reform, security, the justice system, control, quality and the tax system. Each of these will be considered in turn.

#### Affordability

Private rents are unaffordable in more than a third of all local authority districts in England to those on low incomes (JRF analysis unit 2018). These high costs are particularly acute in densely populated urban centers, particularly those in London and the South East (ibid). This is in a large part because rents have risen at a faster pace than earnings. Between 2001/01 and 2015/16 median private rents in England increased by 92 per cent, while median earnings only increased by 52 per cent (Rhodes and Rugg 2018).

***“On my road, that I live, there was a house that was advertised four years ago and we moved in for rent, and it was £575 a month, four years ago, and now it’s £700 a month. So four years, it’s gone up, you know, £125, but in the same four years no one’s had a pay rise for that amount, not really ...”***

Private landlord, Birmingham

The costs of deposits and letting agent fees also cause financial stress for tenants. A deposit in England costs the equivalent to 62 per cent of an average earners monthly pay (based on a median income and rent) and 56 per cent of a lower earner (based on lower quartile earnings and rent) (IPPR analysis of VOA 2018). When agency tenancy fees are included this equates to 73 per cent for a median earner and 68 per cent for a lower income earner (IPPR analysis of VOA 2018 and Generation Rent 2017).

***“You have to pay lots of fees now. If you want a guarantor, they’ve got to pay. Everyone’s got to pay. The kids that are over 18, they all have to pay. It’s like thousands at the time. You’re renting because you can’t really afford it in the first place. You’re feel quite stuck really.”***

Private tenant, London

## Welfare reform

Cuts to and changes in the benefits paid to tenants further compound problems with affordability. Reforms to local housing allowance (LHA) since 2011 have resulted in 1.9 million households who rent privately seeing a cut in their entitlement (Joyce et al 2017). This means that an increasing number face a shortfall between the rent they are being charged and the amount of local housing allowance (LHA) they are able to claim (ibid). As local housing allowance (LHA) rates are frozen, preventing them from increasing in line with local rents, by 2025 it is estimated that an additional 200,000 private tenants will face a shortfall between their rent and entitlement (ibid).

***“I think you’ve got to look at the rents and what is currently capped at the moment, and that is a struggle for people that are on benefits.”***

Private tenant, Oxford

***“Then, on top of that, if you’re on benefits, how on earth do you do that switch? It can take up to eight weeks. By the time you’ve moved into your property, you’re already in a month’s rent arrears. It just doesn’t work. If it’s ticking over, and you’re secure in that property, that’s another weight off your mind. If you’re going into that already ground in rent arrears, it just spirals, because you do have to have new stuff. You have to make the house your home again, wherever you’re going. So, yes, it’s not on.”***

Private tenant, Manchester

Cuts in housing benefit mean that landlords are experiencing increasing amounts of rent arrears. This is supported by research by the Residential Landlords Association, a representative body for private landlords, which found that an increasing number of their members had experienced an increase in arrears due to changes to the social security system (Wilson 2018a).

At a time when the sector is expanding and housing a wider range of tenants, this lack of adequate financial support for tenants to meet their housing costs, alongside changes in the system which mean households are paid directly, is also creating barriers to access for low income renters.

Landlords and letting agents routinely place restrictions on who they let their properties out to, commonly barring those in receipt of local housing allowance (LHA) and other social security benefits and this has increased in prevalence since the onset of welfare reform (Shelter and NHF 2018). In many cases, this is also enforced by mortgage lenders through the terms they place on buy-to-let landlords (ibid).

Analysis by the housing charity Shelter, as part of their ‘End DSS discrimination’ campaign, has shown that 43 per cent of landlords outright refuse to rent to those in receipt of housing benefit, while one in three tenants who claim housing benefit say that they have been prevented from renting a home for this reason in the last five years (Shelter and NHF 2018).

## Security of tenure

The private rented sector does not provide security for tenants. Around one in 10 tenancies come to an end as a consequence of a landlord terminating the contract, typically through a no-fault eviction. The biggest reason for a no-fault eviction is to enable a landlord to sell the property or take it back into their own use<sup>4</sup>. Tenancies ended by landlords were the biggest cause of homelessness acceptances in England in 2017, accounting for 28 per cent (16,320) of all local authority homelessness acceptances.

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4 IPPR analysis of the English Housing Survey 2015-16, Special License Access dataset

***“I’d like somewhere that I can call my home because at the moment, you never know when you’ve got to move on. There’s always a phone call to say, ‘That’s it, move.’”***

Private tenant, London

***“So... you haven’t got that security that you want where you’re there for, like, 10, 20 years, and you can make it a home. It’s, kind of, like, you never really fully invest yourself.”***

Private tenant, Oxford

The average length of tenancies, however, has increased in recent years with the proportion of households who had been living in their rented home for between three and five years increasing from 18 per cent to 30 per cent between 2008/09 and 2015/16 (Rhodes and Rugg 2018). Nevertheless, it was clear through our conversations with tenants that a culture of insecurity remains.

Many tenants described to us their fear that their tenancy could be ended ‘at any time’, which in turn led them to change their behaviour with their landlord. For example, many tenants described to us putting off asking for repairs so as not to appear as a ‘nuisance’. This is supported by public opinion. Polling conducted by Sky Data for IPPR found that 61 per cent of people in England do not think that the private rented sector provides a long-term stable home for tenants (Sky Data 2018).

***“The problem is, based on supply and demand, they know full well that if you don’t like it, there will be somebody that will jump straight into that. You’re not actually the only one in the queue, so in terms of, like, when you raise issues, and where I’ve raised issues in the past, I raise them a couple of times, and then you get to a point where you start feeling quite vulnerable, because the reality is, am I becoming that pain to them?”***

Private tenant, Oxford

***“You think about people with families, like, young children, if they go to local schools, it’s in their best interests to stay put, isn’t it? Otherwise it messes the child up having to keep moving around and, you know, it’s a knock-on effect for lots of things, isn’t it?”***

Private landlord, Bristol

## **The legal system**

Many of the landlords in our focus groups told us that their worries about offering tenants greater security stemmed from what would happen if they had a bad tenant that they needed to evict. Some argued that it could take many months to gain an order given the slow pace of the court system. Figures presented by the government in their consultation on increasing security of tenure estimate that the time taken from order to gaining possession for private landlords is 22 weeks (MHCLG 2018b). Some of the landlords we spoke to also gave examples of when this had taken much longer.

***“I’ve had a couple, first when I went through the courts, and I’ll never do that again. By the time the court case came, this, that and the other and everything. I think the whole bill was just under £7,000, the loss of rent, solicitor costs, court costs and everything”***

Private landlord, Birmingham

The legal system is not working for tenants either. Reforms to legal aid have limited access to financial support for tenants where they want to challenge their landlord and have resulted in legal access ‘deserts’ where housing advice is hard to come by (Gilbert 2018). Analysis of Ministry of Justice statistics by the BBC has found that 1 million people live in areas with no legal aid providers for housing, and a further 15 million live in areas with just one provider (ibid).

## Control

Tenants often described feeling that they lack control and agency over their homes. Landlords in the UK routinely place limits on what tenants are able to do in their homes, limiting their ability to decorate or have pets for example. This is in contrast to the private rental markets of other nations, such as Germany, where tenants enjoy greater freedom over the decoration of, and manner in which they occupy, their home (Davies et al 2017).

This had a non-trivial impact on the ability of the tenants we spoke to feel at 'home', with consequences for their general wellbeing (Baxter 2018).

***"I don't know. I mean, where I live now is comfortable, and I know that I can relax in the house, but I do feel- like, because, you've just mentioned, you can't put pictures up. My sister, she's had [houses] similar to this and said, 'Oh, don't put a picture on the wall. If it leaves a line around the picture then you'll have to get the whole room painted or you'll lose some of your money on a deposit.' Council renting, they don't care. My neighbour, he's ripped out two kitchens and put brand-new kitchens into his [house] because he does feel that that is his permanent residence."***

Private tenant, London

Private tenants also lack representation in the housing system. Elsewhere in Europe, tenants' unions provide support to tenants on local and national matters that affect them, giving tenants a greater voice in the debates that shape the housing market (Davies et al 2017). In the UK, the tenants union movement is still small and lacks recognition in the housing system.

This is important, particularly given that the findings from polling commissioned by IPPR, found that a majority of people think landlords have too much power, and that tenants should have greater protection from those landlords who behave badly (Sky Data 2018). The research found that 54 per cent of people believe landlords hold too much power over tenants, with only 10 per cent believing the opposite (ibid).

***"You've power as to where you're going to live, and when you want to move, but aside from that, there isn't much else."***

Private tenant, London

## Quality

The private rented sector has a higher proportion of poor-quality homes than any other tenure. In total, 27 per cent of privately rented homes fail to meet the decent homes standard, a minimum standard for property quality (MHCLG 2018a). Standards are slowly increasing but they still lag other tenures (ibid). In the owner-occupied sector, 20 per cent of homes fail to meet the decent homes standard, with 13 per cent falling short in social housing (ibid).

***"We've got storage heaters. They're awful in the winter. The kitchen, dated. I've mentioned it many times, but it's like, not priority for the landlord. It is for me, because it affects my day-to-day living, but to them, they're like, you know?"***

Private tenant, Oxford

At the same time, research by the housing charity Shelter found that 61 per cent of renters had experienced damp, mould, leaking roofs or windows, electrical hazards, animal infestations or gas leaks in the last 12 months (Gousy 2014).

Poor conditions have fed into the public perception of the tenure. The polling research commissioned by IPPR found that 45 per cent of people believe that the

private rented sector does not ‘provide good quality accommodation for tenants’ compared with just 29 per cent who believe the opposite (Sky Data 2018).

### **The tax system**

In the 2015 and 2016 budgets, then-chancellor George Osborne announced a range of tax changes which affected private landlords, including reductions in mortgage interest relief (HM Treasury 2015) and the introduction of additional stamp duty on the purchase of second homes (HM Treasury 2016). These changes were designed to ‘level the playing field’ between first-time buyers and investors, reducing buy-to-let investment in the private rented sector (ibid). In the 2018 budget, chancellor Phillip Hammond also introduced limits on the capital gains relief available to private landlords (HM Treasury 2018).

A number of landlords described how the tax changes were reducing their incomes. For some, this was making them think about the ongoing viability of renting out property.

***“Yes. Yes, and it’s only when your accountant does your tax return at the end and you go, ‘Really? Is it worth it?’”***

Private landlord, Manchester

Landlords were often conflicted on the purpose and effectiveness of the tax changes. While some landlords felt that the tax changes were unfair and designed to target buy-to-let landlords, driving them from the market, others understood, and broadly agreed with, the motivation for the changes. Though, many did question the effectiveness of the changes in supporting owners over landlords, recognising the other challenges that first-time buyers face in the housing market.

**Landlord one:** *“It’s stopping people buy to let. It’s stopping it. Again, they know there’s going to be this big problem down the road. So, they don’t want any more people buying to let. Or they want to discourage it as much as possible.”*

**Landlord two:** *“I don’t really know what the answer is because I get where the government’s coming from in that they’re trying to do things for tenants. Part of me feels like, in a lot of cases, it’s weighted towards more the tenant than the landlord. I get that they probably feel like first-time buyers are being out-priced. You know, other people can’t get on the market. Maybe the answer is to look at an area and say, ‘Out of an area that can house 2,000 people, or there are 2,000 homes, there’s only ever going to be 300 that are allowed on buy-to-let.’”*

**Landlord one:** *“The fact that first-time buyers can’t afford isn’t all landlords fault though, is it?”*

**Landlord three:** *“No.”*

**Landlord two:** *“No, course it isn’t.”*

**Landlord one:** *“It’s not all landlords’ fault yet they seem to be the easy target.”*

Private landlords, London

### **COMMON ISSUES FOR TENANTS AND LANDLORDS**

Our focus groups also revealed that landlords and tenants shared a number of common frustrations with the sector. These centered around four themes: a lack of knowledge about their rights and responsibilities; a perception about power in the system; a reliance on the individual relationship between tenant and landlord, and a lack of trust in the system and the ability of government to reform it.

### **A lack of knowledge**

Our conversations with tenants and landlords revealed that many were unaware of their rights and responsibilities. Many tenants were unsure of their rights or the mechanisms for enforcing them. This led several to experience, but leave unchallenged, unlawful practice.

***“There’s this rip-off culture with deposits where people are being completely messed over, because the landlord is saying, ‘Oh, well, you’ve marked that wall.’ So, that’s going to cost you £300 to paint the living room, whereas actually, as a tenant, you’re really protected... It’s just that no one knows that this stuff exists.”***

Private tenant, Oxford

Landlords were similarly unsure of the framework that governs the private rented sector. For many, their understanding of their responsibilities was learned reactively in response to emerging situations, rather than proactively. This shows that tenants cannot expect lawful treatment by default.

***“So, again, for somebody relatively new, you need to be aware of a lot of these things and I’m clearly not.”***

Private landlord, Manchester

The lack of knowledge among landlords and tenants is despite the efforts of government to address this. Since October 2015, landlords have been required to supply tenants with a copy of the government’s ‘how to rent’ booklet, which contains information on the rules governing the private rented sector (MHCLG 2018c). Our conversations with tenants and landlords would suggest that this passive approach is not effective in improving the knowledge of either party.

### **A perception about power in the system**

Our in-depth conversations revealed both tenants and landlords to be concerned about the way in which power was shared between them. Tenants felt that landlords exercised a large degree of control over the way they occupied a home and for how long they were able to do so. The ease of repossession with section 21 notices meant that tenants were felt they were ‘beholden’ to their landlord, working hard at being a ‘good’ tenant who did not present as a nuisance, for fear of goading a landlord into ending their tenancy.

***“Tenants are very vulnerable. I mean, you have very little power, you’re worried about your deposit, there’s also this thing called revenge eviction. Now if you complain, if you’re dealing with a nasty landlord, he’ll just evict you on Christmas Eve, usually.”***

Private tenant, London

Landlords often felt disempowered where they had a tenant who was not paying rent or causing other problems such as damage to the property or anti-social behavior, feeling that protections for tenants and the judicial system unfairly disadvantages them in taking possession. This led a number of them to believe, whether fairly or unfairly, that tenants were free to not pay rent or damage the property as they wished, while informing their views as to whether tenants should be offered greater security.

***“It’s by the by, because we, once they get their keys that’s it, it doesn’t matter whether it’s six months, a year, two years, three years, five years, 10 years, it doesn’t matter, once they’ve got those keys you can’t do anything about it ... We should be in charge, within reason obviously, ... they shouldn’t be calling the shots.”***

Private landlord, Birmingham

Overall, this shows that the systems in the private rented sector which aim to distribute risk between tenants and landlords are currently not perceived to be working.

### **A reliance on the individual relationship between tenant and landlord**

A common theme that emerged from our conversations with both tenants and landlords was the extent to which the relationship between them shaped their experience. A 'good' experience of the tenure was often dependent on having a 'good' landlord or tenant.

**Tenant one:** *"I agree, but I think it depends on the landlord because I've had situations where it's taken the landlord a long time to respond to any enquiries, and it's like you're having to chase them up and it's just extra effort, kind of thing."*

**Tenant two:** *"So, I think it depends really on how conscientious the landlord or landlords are, and whether you're dealing with a single person privately or whether you're dealing with them via someone like [a letting agency]."*

Private tenants, London

**Landlord one:** *"It's just it's absolutely pointless, I mean houses around where that is, it's right by the hospital, I mean I could probably get about £120 a month more, but she's a good tenant, she's paid every month, every time I've been around for inspection, it's absolutely pristine, you would think it was a show home, and it's only a two up, two down terraced house, but she's got it, like-,"*

**Landlord two:** *"It's her little palace?"*

**Landlord one:** *"It's a new build, it's beautiful, absolutely gorgeous. She's kept it really well, and I don't see the point. Why should I inflict that upon her, where she can't actually physically pay when I've got a good, reliable tenant there. I get £400 a month, I could easily get £525, something like that, and I just don't, because it's pointless."*

Private landlords, Birmingham

The extent to which a good experience of private renting relies on a well-functioning personal relationship is unique to the tenure, and emerges from the lack of protections afforded to tenants, the lack of knowledge either party have of those rights which do exist, and the lack of power that both feel in the tenure and therefore the desire to get the other party 'on side'.

### **A lack of trust in the system and the ability of government to reform it**

Given the findings from our focus groups set out here, it is perhaps unsurprising that tenants and landlords alike recognised the need for reform of the private rented sector. Nonetheless, many lacked trust in the ability of government, or market intermediaries like letting agents, to deliver this.

Tenants were frequently dismissive of attempts to regulate landlords, feeling that they would find ways to evade new legislation. While at the same time, landlords felt that while they would adhere to new legislation, 'rogue' landlords would ignore it, rendering the intervention pointless.

**"They're victimising all the landlords, as opposed to the rogue landlords. Send them to bloody jail if they're doing something catastrophically wrong, send them to bloody jail."**

Private landlord, Manchester

A good example of this trust gap can be found in the government's plans to ban letting agent fees. While most of the landlords and tenants that we spoke to felt that the fee ban is a good idea, few thought that government would be able to implement it successfully. Many expressed concern that letting agents would simply evade the ban. Overall, it is clear that government must do more than reform the sector, it must also build up the trust of those within it.

**Landlord one:** *"They're going to find another way to – they're not just going to lose that money, are they? The letting agents..."*

**Landlord two:** *"No."*

**Landlord three:** *"They'll just package it up as something else."*

Private landlords, Manchester

**Moderator:** *"Was anybody aware that [the letting agent fees ban] was happening?"*

**Tenant one:** *"No, I didn't know that."*

**Tenant two:** *"I didn't know that but, and there is a 'but' here, is that they are going to get that money somehow. So, they're not going to charge administration fees, but they'll come up with some other genius thing for people. 'We're going to charge you for this.'"*

**Tenant three:** *"They'll just put the rent up by £10 a month."*

Private tenants, Oxford

The findings from our focus groups paint the picture of a private rented system which is dysfunctional, failing to provide homes that are decent, secure, and affordable for tenants. At the same time, despite expanding rapidly and housing a greater diversity of households, the structural supports of an adequate welfare state and well-functioning legal system have been undermined in recent years. This can have notable consequences for landlords. The impacts of the private rented sector are not just contained within it however, the private rented sector has wider impacts on the housing market.

## THE WIDER IMPACT ON THE HOUSING MARKET

The private rented sector cannot be understood in isolation. Its growth has been driven by, and had consequences for, other parts of the housing market. Most notably the boom of investment in the sector, particularly in the last decade, has driven up house prices, hampered first time buyers and worsened wealth inequality.

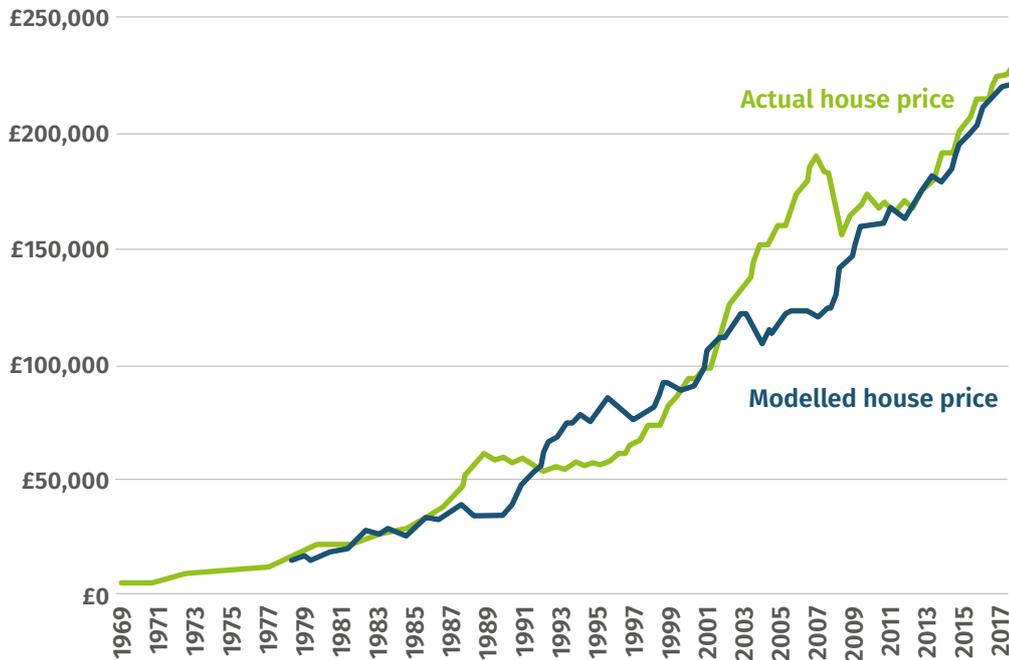
### The impact of lending on house prices

There are many drivers behind the rapid growth of the private rented sector but a major cause has been the availability of finance for buy-to-let landlords and the low cost of borrowing following the financial crisis (Kemp 2015). This availability of credit has had negative consequences elsewhere in the housing market.

The availability of credit and its costs are key drivers of house prices. Analysis by Resi Analysts has found that a house price model based on local earnings and mortgage rates can accurately predict historic house prices outside of times of boom and bust (Hudson 2018). The analysis notes that the availability of credit plays a role in determining house prices (ibid). The creation and growth of buy-to-let mortgages have been a key factor in increasing the supply of credit into the housing market and consequently has had an effect on house prices (ibid).

**FIGURE 3.1**

**The role of mortgage rates in house prices**



Source: Hudson 2018

Modelling from the National Housing and Planning Advice Unit (NHBAU) found that the availability of buy-to-let mortgages increased house prices by up to 7.4 per cent between their introduction in 1996 Q3 and 2007 Q2, the equivalent to £13,485 (Taylor 2008). However, the report stresses it is unknown how much owner-occupied lending may have taken place in a scenario where buy-to-let mortgages were not introduced (ibid).

**Competition with first-time buyers**

In addition to the impact on house prices, some have argued that buy-to-let landlords have been able to out compete first-time buyers in the housing market, due to their access to higher levels of capital and lending, as well as the tax advantages afforded to them. This has created further barriers for would-be first-time buyers. This was certainly the motivation for George Osborne’s decision to reduce the tax relief available to landlords in the 2015 budget (HM Treasury 2015) and to increase stamp duty on those purchasing an additional property (HM Treasury 2016). In announcing the tax reforms, he stated that:

*“Buy-to-let landlords have a huge advantage in the market as they can offset their mortgage interest payments against their income, whereas homebuyers cannot.*

*And the better-off the landlord, the more tax relief they get.*

*For the wealthiest, every pound of mortgage interest costs they incur, they get 45p back from the taxpayer.*

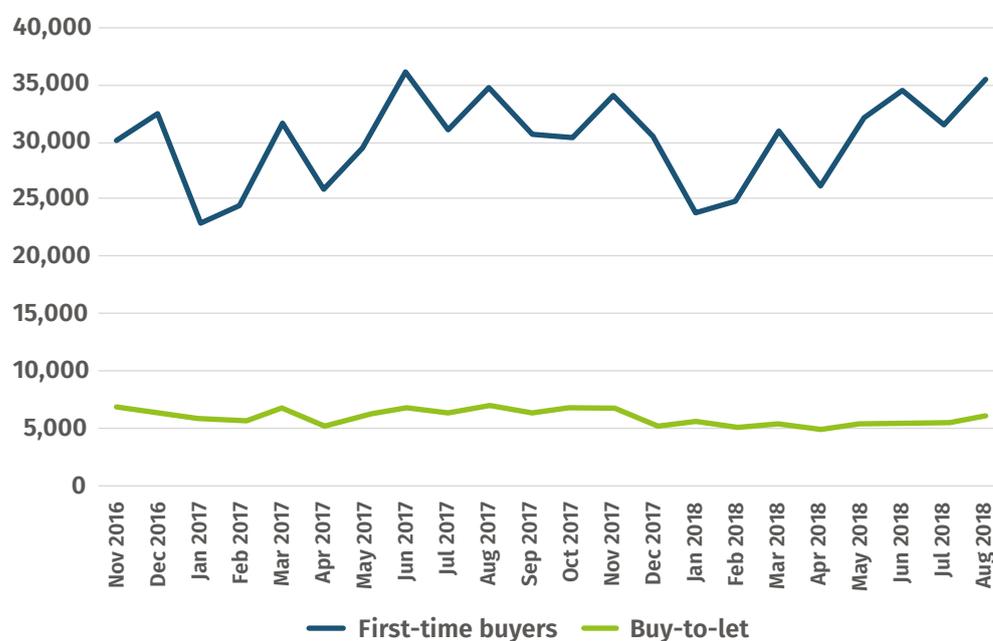
*All this has contributed to the rapid growth in buy-to-let properties, which now account for over 15 per cent of new mortgages, something the Bank of England warned us last week could pose a risk to our financial stability.”*

However, the evidence on the impact of buy-to-let lending on first-time buyers is inconclusive and little modelling exists to determine the case either way. Some, for example, have suggested that the higher loan-to-value ratios which are common for buy-to-let mortgagors disadvantage them in comparison to owner-occupiers (Thomas 2014).

Nevertheless, following the tax changes introduced by George Osborne and the subsequent reforms brought in by his successor Philip Hammond, the net level of buy-to-let lending has fallen. Data published in UK Finance’s mortgage trends update showed that between November 2016 and November 2017 the number of buy-to-let mortgages granted fell by 0.1 per cent, while the number granted by first-time buyers grew by 5.2 per cent (UK Finance 2018a).

**FIGURE 3.2**

**The number of mortgages granted to buy-to-let landlords has fallen while those granted to first-time buyers has increased**



Source: IPPR analysis of UK Finance’s mortgage trends update (November 2016 to November 2017 and August 2017 to August 2018) (UK Finance 2018a and 2018b).

UK Finance, the body representing much of the UK mortgage industry, attribute much of this change in the tax regime on privately rented and second homes (UK Finance 2018a). These trends have continued into 2018 with the number of buy-to-let mortgages granted continuing to decline while the number of mortgages granted to first-time buyers has increased (UK Finance 2018b).

### Wealth inequalities

Wealth in the UK is more unequally distributed than income, with the richest 10 per cent of households owning 900 times that of the poorest ten per cent (IPPR 2018). Rising home ownership was once a driver helping to reduce wealth inequality, but rising prices and rents alongside falling home ownership are now exacerbating it (Roberts et al 2018). House prices have increased tenfold since the 1980s, compared with five times for consumer prices (Blakeley 2018). Since 1997, average house prices have increased four times faster than average full-time earnings (IPPR analysis using ONS 2018b). This has been driven by a combination

of high levels of mortgage lending due to a loosening of credit conditions, low interest rates and a long-term failure to build enough homes (Roberts et al 2018).

Those with existing assets or capital, including landlords, have benefitted from low interest rates to expand their wealth, while those without wealth are locked out of ownership. As IPPR's Commission on Economic Justice pointed out, it is a stark fact that today one in 10 adults, or 5.2 million people, own a second home, while 40 per cent own no property at all (IPPR CEJ 2018). This has profound intergenerational impacts. As noted previously, those in their 30s are half as likely as their parents' generation to be homeowners (Corlett and Judge 2017), while 75 per cent of all second homes, including those rented to tenants, are held by those aged 52 and over (Gardiner 2017). All the while, tenants, locked out of ownership, are unable to build up wealth and may struggle, due to rental costs, to save for a mortgage deposit. It can also create inequities at the other end of the life-course, with older people who rent unable to draw down on housing wealth to pay for their care.

The evidence reviewed in this chapter shows that the private rented sector works poorly for tenants and is an increasingly challenging environment for landlords, while also having significant negative impacts on the wider housing market. This should be a clear mandate for reform of the private rented sector. Yet, to date, the ambition for policy change, in England at least, has not been enough to meet the scale of the challenge. However, this is changing and among tenants, the public, government and landlords a consensus on reform is developing.

## 4.

# A CONSENSUS ON THE NEED FOR CHANGE

The challenges that face the private rented sector in England are notable but action to address them has to date been piecemeal. However, among the public, landlords and within governments across the UK attitudes are changing, leading to a growing consensus that more needs to be done to reform the private rented sector.

### REFORM ACROSS THE UK

In Wales and Scotland significant reforms of the private rented sector have already been undertaken. Meanwhile, in Northern Ireland, the government has set out a programme of reform designed to enact regulation which reflects the role that the private rented sector is now playing in the housing market. As yet, regulatory reform in England remains tentative and piecemeal, though more significant reforms are being considered.

#### The lettings industry

At present, England is the only area within the UK that doesn't have comprehensive regulation of the lettings industry. The Scottish government introduced a framework for regulating letting and management agents in 2014. It includes a mandatory register with a 'fit and proper person' test; mandatory training; a statutory code of practice; and a specialist tribunal which provides for tenants and landlords to pursue complaints against agents (Wilson 2018b).

In Wales, agents have been required to be licenced since 2014. Obtaining a licence requires agents to undergo training, to adhere to a code of practice and to comply with a number of conditions which include client money protection, insurance and membership of a redress scheme (ibid). In Northern Ireland, the government announced an intention to "introduce a regulatory framework for all letting agents including bringing forward legislation to ban letting agent fees" (DfC 2018a).

In England, the government has stated its intention to regulate letting and property management agents. The proposal is to set minimum entry standards with an independent body carrying out regulatory functions. In addition, requirements were placed on agents to join an approved redress scheme in 2014 and a bill is currently passing through parliament with the aim of banning letting agent fees charged to tenants. Nevertheless, at present, there is no overarching statutory regulation of private sector letting or managing agents in England (ibid).

#### Landlord licensing and registration

Since 2006, those renting out property in Scotland have been required to register as private landlords (Scottish government 2017a). Landlords are subject to a 'fit and proper person' test which means that they if they have been convicted of certain criminal offences and/or have previously managed properties in an unfit manner they will be denied the ability to rent out a property (ibid). The aims of the registration are to provide a register of all private landlords for public inspection, to support communication between local authorities and landlords, and to aide in tackling the worst landlords in the sector with enforcement activities (Scottish government 2017b).

Wales has also recently committed to landlord licensing. Since 2015, landlords have been required to sign up to a register, providing information on themselves and their property (Rent Smart Wales 2016). As in Scotland, this requires a landlord to pass a 'fit and proper person test' before they can register the property, barring them if they do not meet certain criteria (ibid).

Currently, neither England or Northern Ireland mandate a nationwide licensing or registration scheme. In England, local authorities are able to establish landlord licensing schemes in their areas, subject to approval from the secretary of state (Wilson 2017). Licensing areas require landlords to register, much like in Scotland and Wales, with local authorities free to set the precise conditions for granting a license (ibid). There is also a mandatory licensing for specific houses in multiple occupation (HMOs) (as there also is in Wales and Scotland) and a discretionary scheme for other types of HMOs. Moreover, the Homes (Fitness for Human Habitation) Act also became law in 2018 which extends and updates the statutory obligations on landlords to keep their property in a fit state for tenants. The act was the result of a backbench bill by the Labour MP Karen Buck, which was subsequently supported by the government (Wilson 2018b).

### **Security of tenure**

Scotland has recently passed significant tenure reforms, a key element of which was the development of the Private Residential Tenancy (PRT). The new PRT has no end date and can only be terminated by a written notice from the tenant, or the landlord when they use one of 18 grounds for eviction (Private Housing (Tenancies) (Scotland) Act 2016). Landlords can only increase rent once a year and must give tenants three months' written notice (ibid). This change applies only to new tenancies, although tenants have a right to ask to be changed over to a PRT when their current tenancy moves out of a fixed term (ibid).

These new arrangements stand in stark contrast to the limited security still offered to tenants in the rest of the UK. However, tentative steps are being taken to address this. In Northern Ireland the government has proposed increasing the notice period served on tenants when a landlord ends their tenancy (DfC 2018b). Under these new proposals tenants will be offered two months' notice, an increase from four weeks, if they have lived in a property for more than 12 months (ibid).

In England the government has recently launched a consultation on the introduction of three-year tenancies. A number of options for reform are presented in this consultation but a model is proposed which would set tenancy lengths at a minimum of three years with a six-month break clause (MHCLG 2018b). Tenants would be able to leave the tenancy after six months subject to giving two months' written notice and landlords could terminate the tenancy after the same period if they could provide grounds for possession, such as rent arrears or wanting to sell the property (ibid). Rent increases would be limited to once a year or whatever was agreed from the outset by both parties (ibid).

### **Dispute resolution and judicial reform**

The Scottish government, as part of their wider tenure reforms, have introduced a new 'housing court'. The objective is to make repossession procedures smoother for landlords, giving them greater confidence in their ability to repossess a property and/or evict a tenant where they have reason to do so. The housing court was created by giving the First-tier Tribunal for Scotland (Housing and Property Chamber) new responsibilities (Housing and Property Chamber 2018). These include the responsibility to hear cases related to eviction, rent assessments and other non-criminal matters (ibid).

The UK government has recently launched a call for evidence aiming to understand the case for reform to the court system in England as it relates to housing matters

(MHCLG 2018d). In doing so, they have proposed four potential options for reform: the introduction of a specialist housing court; making structural changes to the existing court and tribunal system, for example shifting the responsibility for some non-possession, housing cases to property tribunals; making changes to the enforcement process in the county courts, including greater information to landlords; or, maintaining the status quo, while increasing the amount of advice on court processes to claimants (ibid).

## INTERNATIONAL COMPARISONS

There is a wide spectrum of approaches to regulation of the private rented sector internationally. There are also different contexts and approaches to renting privately which mean that the sector in England is not directly comparable elsewhere.

Nevertheless, the international literature is clear that the approach to regulation of private renting sits at one extreme in England with the sector being highly deregulated in comparison to its international counterparts.

As table 4.1 shows, England is not only an outlier within the UK, it is an outlier internationally as well.

**TABLE 4.1**

**Overview of current regulatory regimes in 11 European countries, 2012**

Country	Initial rent	Rent increases	Length of lease	Termination of lease	Selling property	Enforcement problems	General perception of regulatory framework
Denmark	Low	Medium	High	Medium	High	Medium	Significant
England	Low	Low	Low	Medium	Medium	Medium	Limited
Finland	Low	Low	High	Low	Low	Medium	Limited
France	Low	Medium	Medium	Medium	Low	High	Significant
Germany	Medium	Medium	High	Medium	Medium	Medium	Significant
Netherlands	High	High	High	Medium	Medium	Medium	Strong
Norway	Low	Medium	Medium	Low	Medium	High	Limited
Rep. Ireland	Low	Low	Medium	Medium	Low	Medium	Significant
Spain	Low	Medium	Medium	Medium	Medium	High	Significant
Sweden	Medium	Medium	High	Medium	Medium	Medium	Significant
Switzerland	Low	Medium	High	Medium	Low	Low	Significant

Source: Whitehead et al 2012

## AN APPETITE FOR CHANGE

Our polling and the results of our focus groups which we turn to in the next section suggests that reform carries with it broad support amongst tenants, landlords and wider population. The polling shows that 54 per cent of people believe that landlords have slightly (26 per cent) or far (28 per cent) too much power over tenants, with just 10 per cent thinking the opposite (Sky Data 2018).

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**TABLE 4.2**

Landlords have far too much power over tenants	28 per cent
Landlords have slightly too much power over tenants	26 per cent
The balance of power between landlords and tenants is about right	17 per cent
Tenants have slightly too much power over landlords	7 per cent
Tenants have far too much power over landlords	3 per cent
Don't know	18 per cent

Source: Sky Data 2018

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When asked whether they think that regulations designed to protect tenants from bad landlords are sufficient, 35 per cent say they do not go far enough and 22 per cent say they do not go nearly far enough (Sky Data 2018). Just 19 per cent feel regulations are sufficient and even fewer (4 per cent) feel that they go too far (ibid).

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**TABLE 4.3**

**Do you think regulations to protect tenants from bad landlords go too far, do not go far enough, or are they about right?**

Go much too far	2 per cent
Go too far	2 per cent
About right	19 per cent
Do not go far enough	35 per cent
Do not go nearly far enough	22 per cent
Don't know	21 per cent

Source: Sky Data 2018

---

Given this, it is unsurprising that there is broad support for greater government intervention in the rental market. 72 per cent of people think that the government should be doing more to improve and regulate the private rented sector for the benefit of tenants (ibid). While just 10 per cent think the government is currently doing enough and just 3 per cent think it should be doing less (ibid).

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**TABLE 4.4**

**Do you think the government should be more or less involved in improving and regulating the private rented sector for the benefit of tenants?**

Much more	42 per cent
Slightly more	30 per cent
About right	10 per cent
Slightly less	2 per cent
Much less	1 per cent
Don't know	16 per cent

Source: Sky Data 2018

---

This shows that action, or inaction, on the private rented sector is likely to have significant electoral consequences for political parties. Support for reform is popular amongst all age groups and across the political spectrum. 68 per cent of those aged over 55, least likely to be renters, felt government should be doing more to reform the sector, similar to those aged 35-54 (74 per cent) and 18-34 (75 per cent). At the same, while those who voted for the Labour party in 2017 were more likely to think that government should do more to regulate the private rented sector (83 per cent), reform was nonetheless popular with those who had voted Conservative with 66 per cent agreeing that government needed to do more.

This shows that action, or inaction, on the private rented sector is likely to have significant electoral consequences for political parties. This is supported by analysis conducted by the housing charity Shelter which shows that in marginal constituencies, private tenants make up a significant block of voters (Shelter 2018b). Data from the British Election Survey has also revealed that the majority of the increase in voter turnout in the last election was attributable to people who rent rather than own – and that was also the case for the entirety of the swing from the Conservatives to Labour (ibid). Moreover, in 253 constituencies, more than 20 per cent of voters are renters (ibid) and they are particularly motivated by housing, prioritising it as a key issue that affects their vote. The offer that is made to private tenants could be a defining political issue in coming elections.

The next chapter will explore how government can deliver a progressive programme of reform for the private rented sector.

# 5.

## TOWARDS A PROGRAM FOR REFORM

As the private rented sector has grown and the role it plays in the housing market has changed, it has become unfit for purpose creating significant problems for tenants, landlords and the wider housing market. However, what is clear from the polling we have commissioned and the in-depth conversations we have had with tenants and landlords is that there is an appetite for reforming the problems of the private rented sector.

Government is already undertaking some tentative and much welcome steps towards more substantial reforms of the private rented sector, including efforts to increase security of tenure and to reform the court system. But as yet, this is piecemeal and there is no major program of reform designed to address the cross-cutting issues facing the sector. This chapter will present that program of reform.

### **Our focus**

We have taken a unique approach to developing the policy proposals outlined in this report, working directly with tenants and landlords to formulate and test ideas for reform. This approach has proved valuable in getting a true sense of what both parties want from the private rented sector, what policies are needed to deliver this and how they should be framed and communicated.

Through this process we have identified six key areas that government needs to address if they are to deliver a functioning private rented sector.

1. Improving the affordability of private rented housing for those on low incomes
2. Improving the quality of private rented housing stock
3. Improving security for tenants
4. Increasing the control tenants have over their homes
5. Reforming the legal process to ensure it works swiftly while increasing access to justice for tenants
6. Reforming the tax system that relates to private landlords to ensure that it promotes socially responsible landlordism, while generating revenue and challenging wealth inequality
7. Giving local authorities the tools to buy up private rented homes, using them to meet local needs.

The nature of this approach does mean that there are several areas in which reform is needed but which we did not have time to test within our focus groups.

### **Tenants unions**

Earlier in this report we acknowledged that tenants in the UK lack representation when compared to their European counterparts. In many European countries, Germany for example, tenants' unions play a significant role in the housing market, representing tenants in disputes with their landlords and advocating for them in national debates (Davies et al 2017). In comparison, the tenant's union movement in the UK, while growing and playing a major role in advocating for change, is still small.

Tenants' unions could help support tenants, including by empowering them in disputes with landlords and letting agents. More work is needed to understand this, and the wider potential role of tenants unions, further, however we did not have sufficient time to address these issues in our focus groups.

### **Type of supply**

Our work has explicitly focused on small-scale and typically amateur landlords. However, these are not the only actors in the private rented sector. An increasing number of institutional investors and bespoke build to rent organisations have entered the market in recent years, spurred on by policy which has sought to encourage them (Rugg and Rhodes 2018). For some, these larger scale actors are a solution to many of the problems in the private rented sector which we have identified and seek to propose reforms to address.

We have sought to focus on proposing reforms which could be implemented immediately, and which would address the market as it currently stands. More than seven in 10 (71 per cent) of all privately rented homes are owned by individuals and couples – 78 per cent of all landlords own just a single dwelling and only 8 per cent are full-time landlords (DCLG 2011). Even if institutional investors do become the norm, it will take some time for them to gain a majority of the market. The proposals we make in this report are however designed to work regardless of landlord type and therefore we remain agnostic, at least here, as to the nature of supply in the sector.

### **Consumer innovations**

Some of the problems facing private tenants could be solved by the development of new innovations within the sector. Letting agents, for example, have a key role to play in evaluating the service they offer to tenants and landlords and to look at how their business model could adapt to address some of the issues present in the sector. Our engagement with both private tenants and landlords suggests that this is not happening sufficiently.

Nonetheless, in this report we have sought to tackle what we believe to be fundamental challenges facing the private rented sector.

## **IMPROVING THE AFFORDABILITY OF PRIVATE RENTED HOUSING FOR THOSE ON LOW INCOMES**

A key issue facing private tenants is the cost of housing, driven in a large part by rents which have increased at a much faster rate than earnings in recent years (Rhodes and Rugg 2018). This break down in the relationship between what people earn and what they need to spend on housing is driven by systemic factors which sit outside the scope of this report. However, it is important to acknowledge that the solutions to high costs in the private rented sector cannot be unwound from issues elsewhere in the housing market. For those on a low income or in poverty, the most effective policy to address the issues they face in the private rented sector is likely to be to increase the availability of subsidised public housing.

What is clear though is that these problems have been further compounded by reforms to the social security system which have left many tenants worse off and struggling to meet their housing costs.

Alongside causing hardship for tenants, welfare reform has undermined access to housing as landlords become ever more worried about rent arrears. Research by the Residential Landlords Association (RLA) has found that half of landlords with tenants on universal credit had experienced rent arrears, higher than before the scheme was rolled out (Walmsley 2018).

Households on low incomes would be better supported and access to housing widened if government ensured that the housing costs element of universal credit

accurately reflects the costs of renting. Accordingly, we argue that universal credit must be reformed in several ways to support tenants.

**RECOMMENDATION 1: Government should reform universal credit so that it better supports renters**

**Recommendation 1.1: Government should end the freeze of the local housing allowance, re-assessing it so that it is set according to the bottom 30th percentile of local rents, as per its original design, and then up-rating it in line with increases to local rents in subsequent years**

Since 2011, 1.9 million private renter households have seen a cut in their local housing allowance (LHA) entitlement meaning that an increasing number face a shortfall between the rent they are being charged and the amount of local housing allowance they are able to claim (Joyce et al 2017). By 2025 it is estimated that an additional 200,000 private tenants will face a shortfall between their rent and entitlement as benefit rates remain frozen, while local rents will continue to rise (ibid). In order to support tenants the government should end the freeze and re-set rates based on actual local rents, adjusting these annually to take account of rent increases.

Costing this policy is challenging given the unavailability of data on local rents at Broad Rent Market Area (BRMA), the geography used in calculating LHA rates. However, analysis from the Joseph Rowntree Foundation has estimated that uprating income related benefits with CPI inflation from 2018/19 would cost around £2.8 billion, while lifting 380,000 people out of poverty by 2020/21 (Wright and Case 2017).

**Recommendation 1.2: Government should lower the upper age limit for claiming the shared accommodation rate of the housing costs element of universal credit to from 35 back to 25**

Alongside cuts to the rate of housing costs support that is paid, the criteria for qualifying for support has changed. Since 2012, the amount of support single people without children who are under 35 have been able to claim has been reduced (Wilson 2014). Under the current system those under 35 have been only been able to claim housing allowance at the shared accommodation rate (ibid). The expectation is that those under this age will live with other adults in a shared house, limiting their ability to access single occupancy accommodation (ibid). In the previous system, before 2012, the upper age limit for the shared room rate was 25 (ibid).

The reform of the shared accommodation rate has led to an increase in the number of sharing households on lower incomes in the private rented sector (Green and McCarthy 2015). At the same time, the policy has raised questions as to whether sharing is an appropriate living circumstance for vulnerable adults, particularly those who have recently experienced homelessness. Accordingly, we call on government to return to the pre-2012 system and lower the maximum age of the shared accommodation rate to 25.

Lifting the maximum age for the SAR rate was estimated to save £215 million a year by 2014/15 according to government projections (Wilson 2014). Independent analysis of these savings are lacking, however this figure is indicative of the cost of repealing the policy.

### **Recommendation 1.3: The housing costs element of universal credit should be paid directly to landlords**

The rollout of universal credit has removed the option for tenants to choose to have their housing allowance paid directly to their landlord, except where they have fallen into rent arrears or can demonstrate that they struggle to manage their finances (Shelter 2018c).

Research suggests that direct payments have been a key factor in the increase in rent arrears experienced following the roll out of universal credit (Walmsley 2018). This is demonstrated in this exchange between two landlords in our Bristol focus group:

*Landlord one: "I've been in properties where they're tenanted by people on social services, you know, and they're perfect."*

*Landlord two: "I think if housing benefit got paid direct to the landlord it would—"*

*Landlord one: "Well, it used to be, didn't it? It used to be, and then they decided that these tenants can make their own responsibility to pay themselves."*

Private landlords, Bristol

In seeking to encourage self-reliance in tenants, this policy change has undermined the provision of secure housing for those on low incomes who are managing tight budgets. Accordingly, we propose that government returns the option for tenants to choose to have their housing costs element of universal credit paid directly to their landlord.

In practice this is already happening, with 53 per cent of landlords who let to tenants on universal credit having applied for payments to be made directly to them (Walmsley 2018). However, the time taken to process applications, in combination with existing arrears, means that tenants can amass significant arrears before a landlord receives any payment (ibid). As such, making payments to landlords an option from the outset would ensure support was provided earlier.

Ensuring that those on low incomes have adequate support to meet their housing costs is irrelevant if they cannot access somewhere to live. Analysis by the housing charity Shelter, as part of their "End DSS discrimination" campaign, has shown that 43 per cent of landlords outright refuse to rent to those in receipt of housing benefit, while one in three tenants who claim housing benefit say that they have been prevented from renting a home for this reason in the last five years (Shelter 2018a). This research also found that letting agents and mortgage lenders also enforce policies that encourage or prevent landlords from renting to tenants in receipt of benefits even where they may otherwise want to (ibid).

### **RECOMMENDATION 2: Private landlords, letting agents and mortgage lenders should be prevented from banning tenants in receipt of social security benefits**

As such, we echo calls from Shelter and other organisations for landlords and letting agents to be prevented from refusing to let properties to those in receipt of social security benefits. This action should be extended to lenders, preventing them from including this as a term in their buy-to-let mortgages.

It should be noted that this policy change would not be a silver bullet. Landlords may, and likely currently do, discriminate in other less direct ways. For example, credit checks or income thresholds may be used to screen tenants. More therefore needs to be done to explore the screening processes that tenants face in accessing private rented sector and an assessment made of their appropriateness, fairness and effectiveness. Nonetheless, a ban on landlords, lettings agents and lenders discriminating against those in receipt of social security benefits would be a strong message for government to send.

## IMPROVING THE QUALITY OF PRIVATE RENTED HOUSING STOCK

Private tenants are more likely to live in housing which is of poor quality than owner occupiers and social renters (MHCLG 2018a). A total of 27 per cent of private rented homes fail to meet the decent homes standard, a minimum benchmark for housing quality, compared to just 20 percent in the owner-occupied sector and 13 per cent in the social rented sector (ibid). Rectifying this will require an injection of investment from private landlords into the sector.

Landlords are already subject to some mechanisms for ensuring that the properties they rent out meet a minimum standard. Landlords are required to ensure an annual gas safety check is undertaken by a gas safe engineer and will soon be required to do ensure that similar checks are undertaken for electrical safety (Wilson 2018b). Since 2015, landlords have also been required to install smoke alarms and carbon monoxide detectors, ensuring that they are working at the point a tenant moves in (ibid).

Recent legislation has required that properties let on tenancies after April 2018 must reach a minimum of an energy performance rating of E on an energy performance certificate (EPC) (ibid). This will apply to all properties after April 2020 (ibid).

Local authorities are also responsible for taking action on private rented homes in their areas which present health and safety hazards to their occupants (Wilson 2016). Where serious hazards are found, local authorities are required to take appropriate action which include orders mandating repairs and, where it is necessitated, demolishing the property (ibid).

Further reforms are already being put in place. The Homes (Fitness for Human Habitation) Act, mandates that a property is let and maintained at a standard which is fit for human habitation and, where a property does not reach this standard, that a tenant has the right to take legal action for breach of contract (Wilson 2018b).

This act is a positive step, but policy also needs to work proactively, seeking out the homes that are of insufficient quality and mandating that landlords undertake work to rectify these problems. In our focus groups this idea received support from both tenants and landlords.

***Private landlord one: That is good, yes. If it highlights who the rogue landlords are and eventually phases them out, then it can only be a good thing.***

***Private landlord two: It also covers me. One of the things I'm worried about is, if there is something that I'm not doing right, and then god forbid there is a fire or something and I haven't done something-***

***Private landlord one: That is the other thing. You're left to your own devices. I read up and I check what I should be doing, but nobody checks. There should be more regulation, definitely.***

Private landlords, Leeds

***"I think, if you've got nothing to hide, you wouldn't mind, would you? If your property was 100 per cent and worth renting out, you shouldn't be worried, and then it would probably make the ones, that rent properties out that are bad, make them up to a standard where people can live properly".***

Private landlord, Manchester

We propose that in order to improve the quality of private rented housing two things need to happen. First, all landlords should be required to register their properties. A condition of registration is that the dwellings which are to be let out must reach a minimum standard of quality. Secondly, a program of inspections

must be undertaken to support this registration and to ensure that properties remain at the required quality through the life of a tenancy.

This scheme would be mandatory and would replace existing local licensing schemes. It should be assured that no area would see a degradation of the conditions required of a landlord in moving from a local licensing scheme to national registration. The existing HMO licensing would be integrated into the system.

While registration would be operated nationally, checks and enforcement should be conducted locally. This would achieve economies of scale where possible and would ensure that consistent standards are applied to landlords operating across the country, which in turn would simplify the system, while ensuring that local intelligence is used in enforcement.

**RECOMMENDATION 3: Government should establish a national landlord register, and in doing so bring together existing bodies to create a Tenancy Management Service (TMS)**

We propose that government should introduce a national landlord register. This register should have some licensing conditions, operated locally, like the systems registered in Scotland and Wales (described in further detail in chapter 3). A landlord registration scheme would have several benefits.

Firstly, it would provide a record of all landlords creating useful data on the sector to government, local authorities and other agencies or researchers who want to understand more about the tenure. To enable this, landlords should be required to provide personal details on registration, including their name, address and details of the properties they own. This information should be searchable, meaning that local authorities, government departments and tenants can access information on private landlords as necessary.

Secondly, the register should also act as a deterrent to landlords who would otherwise fail to maintain properties or provide poor or criminal property management. A landlord should be struck off the register, and therefore prevented from operating as a landlord, where they are found to be managing a property in an unlawful manner. Orders made against landlords should be listed on the register alongside the details of those who are struck off.

Thirdly, a registration scheme could act to ensure that only properties meet a minimum property standard are available for rent. This would be achieved through the introduction of a property 'MoT'.

This would be supported by a requirement that landlords must pass a 'fit and proper person' test. In registering themselves and their properties, landlords should be required to disclose relevant prior offences and any actions against them as a landlord. Greater detail on these elements can be found in the following section.

### *Enforcement*

A common concern raised by landlords in our focus groups was that while they would register, the worst landlords, who a registration scheme would be seeking to act against, would continue to operate under the radar. Accordingly, for a scheme to work it must be supported by active enforcement and equipped with appropriate sanctions for those who fail to comply with it.

To enforce the requirement to register it should be made a criminal offense to let a property without being registered. Those who are convicted should face a significant fine. In Scotland the fine for letting a property without registering is up to £50,000 (Scottish government 2017). A cutoff date should be introduced 12 months after the registration scheme is introduced, by which point all existing landlords should have signed up.

Local authorities should actively seek out non-registered landlords, for example through cross-checking against council tax records. Lenders also have a role to play in enforcing mandatory registration. Lenders should require that a landlord provides them with their registration details within four weeks of granting a mortgage.

### *Information sharing*

Alongside acting to manage those landlords who do not comply with that which is required of them, a registration scheme presents an opportunity to share information with landlords. This was noted by landlords in our focus groups in Scotland, who view a scheme similar to that proposed here which is already in action, as a missed opportunity.

**Landlord one:** *“Well, see, to me, we’re on the landlord registration. I’d not heard nowt from them. That’s what I don’t get.”*

**Landlord two:** *“You don’t, because the Scottish government is a different body from landlord registration.”*

**Landlord one:** *“I mean, to me, if you’re registered on a system as a registered landlord, surely that should all be filtered down? ... So, to me, I don’t get that. At the end of the day, they’re quick enough to get you if you’re not registered, and get you if you’re not applying to the rules and stuff, but I’m thinking once there’s a change, and usually it really affects us, why are we not notified about that?”*

Private landlords, Glasgow

In our interim report - *The case for reforming the rented sector* – we found that a key challenge facing both tenants and landlords was a knowledge of their rights and responsibilities (Baxter and Murphy 2018). We propose that through creating a register of all landlords and their contact details, a national register, and the body that maintains it, could become an effective means through which policy and practice changes could be actively communicated to landlords.

### *Funding*

In order for the register to function it will need funding. In Scotland and Wales, national registration schemes are funded, at least in part, by fees paid for by landlords (Scottish government 2018; Rent Smart Wales 2016). This is a model which could be replicated in England.

However, such a route risks creating some bodies for use by landlords and others for tenants, each with different levels of control by government and different funding mechanisms. For this reason, we propose that the government should consolidate these functions into one tenancy management service (TMS), which would maintain the national register of landlords, provide a tenancy deposit service for tenants, and provide a mediation service for tenants and landlords where needed. Consolidating these bodies would be beneficial for two reasons. First, creating one organisation which landlords’ approach with a range of functions simplifies the system. Similar ideas emerged organically in our conversations with tenants and landlords.

**“I think you could, a bit like the Deposit Protection Scheme, log onto a portal, you’ve got a list of your properties there that you own, and you can scan an attachment, put your electrical reports, and the fire and safety in there. You know, there’s a record there and it’s time stamped, and you’ve got to do it. If it’s overdue, you get an email reminder the week before, well, a month before, ‘Your fire safety is due next month’, and then you just scan and attach it, put it in, and then you can have a bit of dialogue. You might get a message on there on an inbox, it might be, like, ‘Have you done this? Have you done that?’”**

Private landlord, Leeds

Secondly, the revenue from the tenancy deposit service could be used to fund the national register, creating a self-sufficient system. Deposit schemes currently operate in two ways. Custody schemes hold deposits, at no fee to landlords, generating income from the interest on the deposits they hold, while insurance backed schemes charge a fee to guarantee the deposit with the landlord holding onto it.

At the end of March 2017, tenancy deposit schemes held 3.7 million deposits in England and Wales, with an average value of £1,080 each (Wilson 2018c). This is an estimated £4.25 billion. Were these all to be held in a custody scheme this could generate £302 million in interest on an annual basis based on the current Bank of England base rate - though, this is only an estimate. Deposits could be treated in different ways, with some kept liquid to pay out to tenants on the end of a tenancy attracting a low interest rate, while other pools of deposits held for longer, generating higher interest rates.

A government consultation in 2009 on the introduction of a national landlord register suggested that this would have a cost around £40 million a year (DCLG 2009). This is the equivalent to around £51 million in 2017 prices<sup>5</sup>. While these figures would need to be fully re-costed it would seem that a register could be funded self-sufficiently through deposit protection revenues.

The TMS could be created incrementally, taking additional powers over time. The integration of tenancy deposit services, and the use of this as a revenue stream, could occur in a number of ways. One potential option would be for the TMS to offer a tenancy deposit service which landlords could choose to use, while still having the option to store deposits with the existing independent schemes. The TMS would then be one of a number of actors in the market. Alternately, over time government could mandate that all deposits must be held in the TMS.

#### **RECOMMENDATION 4: Government should introduce a ‘property MoT’ for private rented property**

A key requirement of the national registration scheme that we have set out is that landlords should prove that the properties they are renting out meet a minimum standard of quality. We propose that this should be achieved through the introduction of a property ‘MoT’ for privately rented property.

The idea of a property MOT was first introduced by Rugg and Rhodes (2018) in their recent review of the private rented sector. They suggested that:

***“a property ‘MoT’ certificate will indicate that the property has passed independent inspection. Securing the licence would be a tax-deductible business expense, and the licence would cover requirements including gas and electrical safety. All properties would be required to meet a minimum property standard: a new standard should be established in consultation with the industry, environmental health professionals and tenant representatives. Properties would be inspected annually ... The licence would be issued by independent property inspectors, much as registered garages can issue MoT certificates. Providing these serves constitutes a new business opportunity at small, medium and large scale; local authorities may also offer this service in an entrepreneurial capacity.”***

We echo this recommendation as a means of driving up standards in the sector and driving out those who rent property in the worst conditions. However, we propose some alterations to how it should function based on the in-depth conversations we have had with tenants and landlords.

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<sup>5</sup> IPPR analysis using <https://www.bankofengland.co.uk/monetary-policy/inflation/inflation-calculator>, 2017 is the latest year for which data is available

### *A new minimum standard*

We agree with the recommendation made by Rugg and Rhodes (2018) that a new minimum standard is necessary for the introduction of a property 'MoT' system. We propose that this should be based on the decent homes standard. The decent homes standard was introduced as a means of increasing the quality of social rented housing. A home meets the standard if it (Wilson 2018d):

- is free from Category 1 hazards as assessed by the HHSRS
- is in a reasonable state of repair
- has reasonably modern facilities and services
- provides a reasonable degree of thermal comfort.

We believe that the decent homes standard presents a more holistic definition of quality, going beyond the bare minimum to offer a broader understanding of what a tenant should expect from their dwelling. However, the decent homes standard is as yet ill-defined and therefore government should seek to bring the definition up to date and make sure it is fit for the purpose set out here.

### *The operation of a property 'MoT'*

A property 'MoT' would make a step change in the way government enforces property standards. We believe that inspections should be run by local authorities. Local authorities already hold many of the responsibilities, and therefore skillsets, for enforcing property standards and so the inclusion of these powers should be a natural evolution. The responsibility for inspections would also compliment and support their wider enforcement role.

In proposing a local authority run scheme it is important to acknowledge the stress that local authorities are currently under in delivering even core services. It is perhaps for this reasons that research by the Residential Landlords Association (RLA) found that in 2017/18 two-thirds of local authorities brought no prosecutions against landlords (RLA PEARL 2018).

As such, we recognise that to ensure that local councils are adequately resourced to undertake this task we propose that the inspection system is paid for by landlords through a fee which would be a tax-deductible expense. These fees should be ringfenced by local authorities for the operation of inspections and extra funding should be provided by central government to provide for up front set-up costs and staffing.

As the issuance of an 'MoT' certificate would be one of the conditions of landlord registration it should be sought when a property is first brought to the market or when it is sold to a new landlord, including when the property is sold with a sitting tenant. Once conducted, the 'MOT' must be refreshed annually. Where a property is on the threshold of meeting the required standard, an inspector should be able to bring forward the date of a future inspection.

Not every element of the 'MoT' would need to be conducted every year. While certain tests, such as the gas safety check, would be repeated annually, other structural checks may need less frequent assessments.

In addition to assessing the structure of the property, local authorities should also conduct the 'fit and proper' person test as part of the 'MoT'. This would need to be conducted when a landlord first registers and should be repeated every three years.

### *Application to properties let on licence*

A potential side effect of this reform, and the others listed in this report, is it could provide an incentive for landlords to degrade the terms by which they let to tenants: particularly offering properties on licence rather than by tenancy. This form of

agreement is common for holiday lets but is also used to rent under property guardianship (Shelter Legal 2018). This form of renting offers lower than market rents in return for decreased rights in often ex-commercial property (ibid). Some landlords use licenses where they should offer a tenant a tenancy agreement. This is known as a 'sham tenancy' (CAB 2019).

Were this and other reforms to be enacted then some landlords who currently rent on tenancy agreements may choose to let homes on license, leading to an increase in 'sham tenancies'. This would likely be most prevalent in houses in multiple occupancy (HMOs) in high cost housing markets. Legislation enacting a property 'MoT' and landlord registration should be conscious to specify that this must apply to all dwellings rented for occupancy, thereby including both licenses and tenancies. This would also have the impact of increasing the quality of accommodation at the lowest end of the market.

### **IMPROVING SECURITY FOR TENANTS**

One of the most common issues raised by tenants in our focus groups was the lack of protection that they have from eviction. Landlords in the private rented sector are able to take possession of a property after an initial fixed term, usually six months, without giving reason. Alongside the practical consequences of this limited protection it breeds a culture of insecurity, with many tenants worried about being asked to leave at short notice.

As discussed earlier in this report, the government is currently consulting on increasing the tenancies to three years (ibid). This consultation proposes a new default tenancy which would have a fixed term of three years, with a break clause allowing tenants and landlords to end the tenancy at six months if either were dissatisfied. After the six-month break clause, a tenant would be able to leave the tenancy by providing two months' notice in writing. A landlord would only be able to recover the property if they proved reasonable grounds, these would include non-payment of rent, damage to the property, the desire to sell, amongst other things. Rent increases would be limited to once per year at whatever rate the landlord and tenant agree and how rents will increase must be advertised clearly at the outset of the tenancy.

This is a positive step, but we do not feel this does far enough in guaranteeing security for private tenants. As such we propose a mandatory, open-ended tenancy.

### **RECOMMENDATION 5: Government should introduce a mandatory open-ended tenancy**

#### *Ending section 21*

A key element of our proposal is the abolition of section 21. Section 21 currently allows landlords to end tenancies, once outside a fixed term, without proving grounds. This means a landlord can end a tenancy without giving a reason and without getting a possession order from the court. Removing section 21 would mean that if a landlord wanted to take back possession of their property, for example where a tenant was in rent arrears, had caused damage or anti-social behavior or where they wanted to sell the property, they would have to seek a possession order, setting out their reasons for doing so.

Ending section 21 would help rebalance the risk in the relationship between tenants and landlords more fairly but it is not enough on its own. It is also necessary to look at the structural factors which underpin insecurity.

***“I think families in particular need more protection from the stress of renting, and having to move at short notice with kids, and all that sort of thing. I don’t think it’s fair. The caveat is that there’s more protection for the landlord.”***

Private landlord, Leeds

### **Reforming the process by which landlords can evict a tenant in order to sell a property**

In our focus groups a number of tenants challenged the effectiveness of extending tenancies when provisions would still be there to allow a landlord to evict them in order to sell their property. Tenants felt the churn of landlords in and out of the market was a structural factor which created insecurity.

***“.. [There is] no good signing up for a five, 10-year lease ... if the landlord’s got no intention of keeping that property that long anyway, because some don’t, some keep it two or three days, or once they get a better property, something like that. Not all of them, but some do, don’t they?”***

Private tenant, Sheffield

This is supported by data on the reasons for the ending of tenancies which finds that 62 per cent of no fault evictions are served to enable landlords to sell their property or to use the property themselves<sup>6</sup>.

It is clear then that we need to do more than just end section 21 if we are to increase the security of tenancies. In response we propose that in addition to making tenancies indefinite and ending section 21 the ability of, and process surround, landlords evicting tenants in order to sell properties should be reformed.

Broadly, we would argue for the adoption of similar grounds which currently apply to the reformed system in Scotland (see box below).

### **SCOTTISH REFORMS TO THE EVICTION PROCESS**

In Scotland, under the Private Housing (Tenancies) (Scotland) Act 2016 there are 18 different grounds (reasons) for eviction.

**Mandatory grounds** (if the tribunal agrees that the ground exists, the tenant must leave the property).

1. Landlord intends to sell the let property.
2. Let property to be sold by lender.
3. Landlord intends to refurbish the let property.
4. Landlord intends to live in let property.
5. Landlord intends to use the let property for non-residential purpose.
6. Let property required for religious worker.
7. Tenant has a relevant criminal conviction.
8. Tenant is no longer occupying the let property.

**Discretionary grounds** (even if the tribunal agrees that the ground exists, it still has to decide whether it will issue an eviction order).

9. Landlord’s family member intends to live in the let property.
10. Tenant no longer needs supported accommodation.
11. Tenant has breached a term of the tenancy agreement.

6 IPPR analysis of the 2015-16 English Housing Survey Special License Access Dataset

12. The tenant has engaged in relevant antisocial behaviour.
  13. Tenant has associated in the let property with someone who has a criminal conviction or is antisocial.
  14. Landlord has had their registration refused or revoked.
  15. Landlord's HMO licence has been revoked.
  16. An overcrowding statutory notice has been served on the landlord.
- Grounds which could be mandatory or discretionary** (depending on the circumstances of the case).
17. Tenant is in rent arrears over three consecutive months.
  18. Tenant has stopped being – or has failed to become – an employee.

Source: Scottish government (2017b)

However, we propose that landlords should be prevented from taking possession of a property to sell it with vacant possession for the first three years after a tenancy is signed. This would not prevent them from selling the property, only taking possession in order to do so. They would still be free to sell with a sitting tenant. This three year rule should also be applied to circumstances where a landlord's family member intends to live in the let property.

This is commonplace elsewhere. In Germany, where landlords are prevented from evicting tenants in order to sell, a large sub-market for properties exists. We hope that if enacted, this reform would, alongside offering much more meaningful protection for an initial fixed term, support the development of a sub-market for tenanted properties in England.

Once outside of this initial term landlords would be free to take possession for this reason. However, we propose some reforms to this process. Firstly, as part of gaining a possession order, landlords should be required to prove reasonable intent to sell. This would act to prevent landlords using this ground to evict tenants where there is no other ground to do so.

Secondly, where a landlord does seek possession in order to sell the property, we propose that they should be required to compensate tenants. This payment, the value of one month's rent, should act to offset the moving costs and disruption associated with having to move for this reason.

We recognise that such a proposal would not just have an impact on landlords but lenders too who often require that the landlord has the ability to take possession of their property to sell should they need to. Therefore such a proposal would have to be subject to significant consultation not just with landlords but with mortgage lenders and financial institutions too. What is more, to support landlords through this transition government should work with relevant stakeholders to support the development of a market for properties sold with sitting tenants.

### *Controlling rents*

The threat of eviction was not the only factor that led the tenants in our focus groups to feel insecure. Rent increases at the end of a fixed term could leave tenants unable to pay the rent and therefore forced them to move.

**Moderator: Is [a rent increase something that you] worry about ... when your tenancy is coming to an end?**

***“Yes, because you can’t budget, can you? You can’t think, ‘When I go on this sort of holiday next year,’ you don’t know. I mean, everything goes up, doesn’t it, electricity, gas, rent, council tax.”***

Private tenant, Oxford

In order to increase security tenants’ action must be taken on rents. We propose that as part of an indefinite tenancy, rent increases should be limited to once every 12 months (with three months’ notice) and the increase limited by consumer price inflation. It is important to note that this should be a cap and not a target.

A potential issue presented by rent capping is that it may dissuade landlords from renovating or modernising their property where they cannot recoup that investment through higher rental yields. This may be a particular problem in a system where tenants remain within properties for longer and inspections mandate that landlords make improvements to a property where they are found to not meet a minimum standard. As such, government should consult on what, if any, exceptions are appropriate to the limits we propose on rent rises where a landlord renovates a property.

### **INCREASING THE CONTROL TENANTS HAVE OVER THEIR HOME**

Current tenure arrangements not only undermine tenant’s security, they also impact on the control they have over their home. Some terms in the tenancy agreement, which our focus groups show are often left in tenancy agreements by default rather than by active choice, impose limits on tenants which shape the control they feel they have over their home. Tenure reform is an opportunity to address these, giving tenants a greater sense that their home is their own.

Banning tenants from decorating and having pets are two of the most common ways in which default tenancies limit what tenants can do in their home. As private renting becomes a longer-term option these limits appear increasingly out of date and norms in the sector should be brought up to date with the way in which it is being used.

### **RECOMMENDATION 6: Government should prevent landlords from banning tenants from undertaking reasonable decoration**

A number of tenants told us that their tenancy agreements prevented them from decorating their property.

***“Realistically, you should be able to put a couple of photos up without the worry of losing money, really, you know, you’re not trying to redecorate the house, you’re just trying to make it a bit personal.”***

Private tenant, London

Most landlords in our groups did not have a problem with tenants redecorating on the proviso that they returned the property to how they found it.

***“I allow them to do whatever they want, provided that it gets put back to how it was when they moved in. So, I’ve got a tenant now and she wants the paints the walls in her room. So, it’s like, ‘I don’t have a problem, it’s your home. Obviously, when you move out, put it back to white,’ and that’s been agreed and signed. I mean, you’re living there, so as long as you’re not knocking walls down or anything, you’re just making it your home, I don’t see the problem with that. You’re paying the rent, that’s your home while you’re there.”***

Private landlord, Manchester

This suggests that the feelings of many landlords are not necessarily reflected in tenancy agreements that they use. Greater clarity could be achieved if government were to prevent landlords from stopping tenants undertaking reasonable decoration. This would create a similar situation to commercial leases where it is common for leaseholders to be free to decorate on the provision that they return a property to the state they found it in.

Careful attention would need to be paid to defining 'reasonable decoration' to ensure that this was commonly understood, easy to interpret and enforce and reflected the reality of the way in which private tenants currently occupy their properties.

#### **RECOMMENDATION 7: Government should prevent landlords from banning tenants from having pets**

Many landlords ban tenants from having pets by default. As an increasing number of families live in the sector for the long term it is likely that this provision is out of date, limiting the freedom of tenants to occupy their property as a home. This is particularly the case when considering that 44 per cent of the UK population own a pet (PFMA 2018).

What is more, as a large proportion of landlords ban pets, this creates problems for households with animals as they move through the rental market. Evidence from Australia, where regulations surrounding the rental market are similar to England, suggests that tenants with pets can face significant insecurity as they move through the housing market (Power 2017). This could also create problems for those moving between tenures, given the greater provision for pets in the social rented and owner-occupied sectors.

Government should prevent landlords from banning pets by default. Instead, landlords should only ban tenants from having pets where the pet has proved to cause problems in the past or where they deem that it is reasonable to prevent them from doing so. For example, in shared accommodation in which rooms are let and where much of the space is communal, it may be reasonable to prevent tenants from having pets. We also propose that these conditions should be extended to flat leases.

As with reasonable decoration, careful consideration must be exercised in defining what is to be regarded as an appropriate situation for a landlord to ban tenants from having pets. In practice, this would create a situation where tenants could expect the ability to have pets as a default and a landlord must prove why it would be inappropriate. Were a tenant to disagree, they could challenge this through the legal system.

#### **REFORMING THE LEGAL PROCESS TO ENSURE IT WORKS SWIFTLY WHILE INCREASING ACCESS TO JUSTICE FOR TENANTS**

For a more secure rental system to work and for landlords to have confidence in it, the rental market must be supported by an effective legal system. In some cases, it will be necessary for landlords to evict tenants, for example due to rent arrears, and this process should be easy to use as possible for all involved. Housing standards and quality are also best maintained when tenants have recourse to the legal system to challenge bad practice and unfair treatment.

#### **RECOMMENDATION 8: Government should establish a specialist housing court**

Government should establish a new housing court, which will hear all criminal and non-criminal housing cases. This would be staffed with specialist housing judges.

***“Yes, pretty much. Either way, whether it be a new housing system or a new housing court, or a new whatever, the court system needs to be reformed somehow. It needs to have some kind of stir-up, not just make it favourable for us, because obviously we don’t want to get somebody out if we’re not justified to get them out.”***

Private landlord, Bristol

In their call for evidence, the government have proposed a number of options for a reform to the legal system. Two options of the proposed options under consideration are to establish a new court or to add powers to the already operating property tribunal (MHCLG 2018d). This latter option is comparable to the approach recently taken in Scotland, where the first-tier tribunal became a housing court (Housing and Property Chamber 2018). We have opted for the former.

This is because a tribunal is currently limited in the scenarios in which it can award costs, and, in most cases, legal aid is not available (Skinner 2018). Accordingly, for an empowered tribunal system to be effective it would need significant reform in these areas. In comparison, a court model would have greater powers by default.

Nonetheless, there is a much that a housing court could learn from the tribunal system and which it should seek to emulate. Tribunals in England and Wales have adopted a more inquisitorial style of justice, in which the judge takes a proactive approach to gathering evidence, taking control of proceedings and governing the participation of various parties (Thomas 2013). It is common for judges to bring in experts to provide advice to the court, for example a building surveyor in a case of property conditions. The housing court should take a similar approach.

This opens the opportunity for housing courts to take a problem-solving approach to justice. Looking to actively resolve issues in front of them rather than simply dispensing judgements. In cases of rent arrears this may include looking at resolving issues with social security claims or debt, referring claimants or defendants onto other services as appropriate.

One of the challenges for any new housing court would be the volume of cases it might expect to hear. Not only will all the cases currently heard by the county court and tribunals, and in some cases the magistrates court, be transferred to the new court, but the volume will increase as proposed reforms require a court order to end all tenancies. This can be addressed in three ways.

Firstly, new funding would be needed to set up and run the housing court. This would need to be additional funding and should not come out of existing court budgets. This would include the cost of hiring new judges and securing new premises for housing courts to operate in.

Secondly, digital technology can be used to make the courts run efficiently. Under the current system when making possession orders landlords can use a digital system. This system ensures that claims for orders are made with all the necessary paperwork and checks undertaken and limits the opportunity for error, a factor which is attributable to a large amount of court delays (MHCLG 2018d). Expanding this service to all claims under the new housing court would increase the efficiency of the court system.

Thirdly, under the current system when a landlord makes an accelerated possession claim (used when a tenant is out of their fixed term) the claim is considered without need for a hearing by default. A hearing will only occur if a tenant requests one. A similar system could be adopted for some cases under the system proposed in this report, particularly those relating to claims for possession. Though, effort should be made to ensure that this does not encroach on tenants right to justice, particularly in cases with vulnerable tenants or those less likely to turn up to a hearing.

Lastly, a mediation service should be set up to resolve some cases before they reach the court.

**RECOMMENDATION 9: Government should establish a mediation service**

Government should establish a mediation service to resolve issues between tenants and landlords. This should take place through the tenancy management service (TMS) set up to run the national registration of landlords and manage tenant deposits. The system should be designed to resolve issues without the need for court, looking for agreement between the two parties and advising them on their legal rights and responsibilities.

Where the mediation service cannot reach an agreement between parties it should be able to refer cases onto the court. In most cases, the mediation service should be a necessary precursor to taking action through the housing court.

**RECOMMENDATION 10: Government should widen access to legal aid and make it available for cases in the housing court**

Having access to justice is not just about having the necessary institutions. Being adequately represented is also a necessary precursor to justice. Cuts to legal aid, as discussed previously, have had a significant impact on access to justice in housing cases. Since legal aid was cut, the number of housing cases dropped by 50 per cent (Amnesty International UK 2016). While BBC analysis has shown that one million people live in an area where there is no legal aid provider for housing and a further 15 million in areas with just one provider (Gilbert 2018).

Ensuring the legal system works will require reform to legal aid. We propose that the level of legal aid and the income threshold below which it can be claimed should be returned to pre-reform rates. This should be reflected to adjust for inflation. The Law Society estimates that expanding access to legal aid in housing cases to pre-reform levels could be achieved for around £2 million a year (The Law Society 2017).

**REFORMING THE TAX SYSTEM THAT RELATES TO PRIVATE LANDLORDS TO ENSURE THAT IT PROMOTES SOCIALLY RESPONSIBLE LANDLORDISM, A LONG-TERM, HIGH QUALITY AND STABLE RENTED SECTOR AND CHALLENGES WEALTH INEQUALITY**

As we have set out in this report, the government has undertaken a series reforms to taxation and tax reliefs with regard to the private rented sector. The changes include a stamp duty surcharge imposed on buy to let investors with an additional 3 per cent to be paid on each transaction by prospective or existing landlords; restrictions applied to mortgage interest and finance costs with a curtailment on the relief landlords are able to claim over a four-year period; the withdrawal of the 'wear and tear allowance' which was designed to encourage investment and upkeep of properties and its replacement with a new less generous system; and a reduction in the capital gains relief that landlords are able to claim upon sale of their property.

Many of these changes have been specifically designed to either curb investment in the buy to let market or improve the ability of first-time buyers to compete against investors in the housing market. The impacts of these changes are yet to be fully realised and determined. Nevertheless, the potential benefits of ensuring that first-time buyers are able to get on the housing ladder and to enjoy the security of home ownership are clear. However, the combination of our wider proposed reforms and future taxation changes deserve closer inspection. The experience of some of our international counterparts suggests that where private rented sectors are more tightly regulated there are also more generous tax regimes for private landlords in regard to the investment and upkeep of privately rented properties.

### **RECOMMENDATION 11: Government should launch a review of all taxation relating to private landlords**

We recommend that the government should launch a review of the taxation of the private rented sector including all tax reliefs. The purpose of such a review would be to assess to what extent the current system encourages socially responsible landlordism, promotes a long-term, high-quality, and stable private rented sector, and addresses issues of wealth inequality. Such a review should incorporate an assessment of the tax regimes of our international counterparts.

#### *Giving local authorities the tools to buy up privately rented homes, using them to meet local needs*

An argument often extended by those challenging attempts to further regulate the private rented sector is that greater regulation will lead landlords to sell up, reducing supply and leading to rent increases (Wilson-Craw 2018). This is an important consideration as the recommendations we have proposed in this report may lead landlords to divest for a number of reasons, although we would not expect the scale of divestment to be significant. As highlighted earlier in the report, England is a significant outlier compared to its international counterparts with regard to the lack of regulation and rights for tenants within the private rented sector. Many other countries, such as Germany, have thriving private rented sectors which incorporate much greater rights for tenants

Firstly, our proposals around property quality are designed to identify those properties in need of investment to bring them up to a reasonable standard and to ensure that remedial work is undertaken. We would hope that in most cases this investment would take place, raising the quality of housing stock in the private rented sector. For some, this investment may be too great, and they may choose to sell on the property. Similarly, the requirement to register and be subject to local licensing conditions and to offer greater security may dissuade some landlords, who perceive the risks as too great or who do not want to take on the additional responsibility, from operating under the new system.

New entrants to the market may also be put off. This may be the case for accidental landlords, those who acquire properties through inheritance or other means and who decide to rent them out rather than sell them on or leave them empty. It may be that the higher barriers to entry to the rental market may dissuade them from letting property.

Governments should not be concerned about enacting policy which triggers divestment for two reasons. Firstly, the exit of certain landlords from the market should be viewed as a positive consequence of tighter regulation and should serve to ensure that the professional standard of the private rented sector is raised.

Secondly, evidence suggests that an exit of landlords from the market would have no impact on the housing costs of tenants. Analysis from Generation Rent which looks at historic contractions and expansions of the private rented sector shows that these events have had no effect on the levels of rent that tenants were charged (Wilson Craw 2018).

A contraction of the private rented sector induced by policy could also present an opportunity for the state to take a more active role in shaping local housing markets. Nevertheless, as set out above we would not expect the scale of divestment to be significant.

**RECOMMENDATION 12: Local authorities should purchase private rented properties to address local housing need**

Local authorities have a key role to play in shaping their local housing markets. They should be encouraged to acquire ex-private rented and inherited properties, seeking to re-deploy these homes to support local housing need.

The devolved nature of this scheme would mean that local authorities would be free to decide how best to support local housing markets. What works in Westminster may not work in Redcar and vice versa. Some authorities may seek to tackle high housing costs and lack of affordable housing, others may want to support low cost ownership, while others may want to challenge quality.

A challenge in the realisation of this policy is that local authorities may take on too much risk, purchasing properties at or above market value which they struggle to rent out or which decrease in value. It will be important that local authorities have solid business plans in place when making investments to ensure that they make a sustainable return.

It is also important that local authorities do not simply act to bail out landlords whose investments have failed. Rather, this is an opportunity for local authorities to use the contraction of the market to intervene in new and innovative ways in their local housing market. This may for example involve bringing forward new affordable home ownership models, supporting those excluded from the market with private rented sector access schemes or supporting cooperative and/or community-led housing schemes who may otherwise find it hard to acquire properties or land on the open market.

## 6. CONCLUSIONS

The private rented sector has grown rapidly in the last 20 years. The number of households who rent from private landlords has more than doubled in the last 20 years. This rate of growth is even high for those with children, with 3.5 times as many in the sector in 2016/17 than in 1996/97. While people are living in the sector for longer into their lives.

But despite this shifting role the regulations governing the sector have not kept pace. As such, the protections afforded to and limits placed on tenants are wildly out of step with the way in which the way the tenure is being used. While a growing number of families with children are making a long-term home in the sector, they cannot be assured they are protected from eviction or rent increases, they run a higher risk than those in other tenures of encountering poor quality accommodation and have limited control over their home, often prevented from making it a 'home' at all.

It is hardly surprising then that 72 per cent of people think that the government should be doing more to improve and regulate the private rented sector for the benefit of tenants. Our research also found support for reform amongst the landlords we spoke to, with many recognising that the sector worked poorly for those looking for a long-term home.

This is feeding into policy, with major reform in Scotland and Wales and proposals for change across a number of areas in Northern Ireland. Yet England remains an outlier, with only tentative steps towards reform. This report sets out the programme of reforms needed in England. Now all that is needed is the political will to match public support.

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