



Safe and Decent Homes:

Solutions for a better private rented sector

Supported by

British Gas

Shelter

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Foreword from Shelter

In 2014, renting from a private landlord is the only housing option for an increasing number of families. Priced out of home-ownership and unable to get into the limited supply of social housing, families have no option but to find a private letting.

There are now more than 9 million private renters in England. They are no longer predominantly students and other young people renting until they choose to settle down. Nearly 50% of growth in the sector in the last two years has come from families with children, who now make up nearly a third of private renting households. For such families, a settled, 'forever home' can seem an unattainable dream. Almost half of renters are aged 35 and over and nearly a third expect to be renting for the rest of their lives.

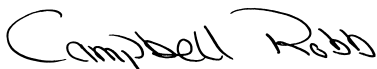
We must question whether a short-term rental, with notice of eviction an ever-present risk, can ever really provide a stable family home. Most of us view a home as somewhere we can make our own, decorate with our own stamp and factor into our long-term plans. A place where our children can grow up feeling settled. With so many young families now struggling to set up home, can the private rented sector offer a solution?

At Shelter, every day we see evidence that this deregulated market is failing to deliver as it should. More than 40% of the people who approach us for advice are private renters – more than double the proportion of the population who rent privately. Property conditions in the sector are worse than any other tenure. A third of privately rented homes fail the government's Decent Homes Standard, while almost a fifth contain dangerous hazards.

Are these the sort of conditions we want our children to grow up in?

In March this year, we published *Can't Complain* – a report looking at why there are such poor conditions in private rented homes. In an overheated market, renters have very little recourse to complain about poor conditions in their homes and landlords often lack the financial incentives and knowledge to improve them.

We have since gathered further evidence and insight from those involved in private rented housing – renters, landlords and council housing enforcement teams – to establish what needs to be done to deliver safe and decent homes for England's 9 million renters. This report sets out our solutions to the barriers currently facing renters and local authorities in improving housing conditions. With more families facing a lifetime of private renting, urgent action is now needed to ensure that – as a minimum – their homes are a safe and healthy environment.



Campbell Robb
Chief Executive, Shelter,

Foreword from British Gas

Across the country more and more people are turning to the private rented sector for their housing. As the sector grows, so must our understanding of the challenges faced by the tenants and landlords. That's why British Gas sponsored the development of this report.

At British Gas we visit 50,000 homes every day, whether that is to install insulation or smart meters, repair boilers, or to conduct gas and electricity safety checks. So to British Gas, our customers' homes are their world. We share a vision with Shelter that those worlds should feel safe, and should be places where people are happy to call home. Sadly there are too many homes in Britain in which people don't feel this way, and an increasing number of those are in the private rented sector. Although most landlords take their responsibilities to their tenants very seriously, a small minority don't – and it's often the case that those landlords just don't know what their responsibilities are.

We have a five year partnership with Shelter that is looking to improve these standards. With Shelter we'll have the scale and reach to help more homes get access to insulation, provide more families with advice on how to make their homes better, and have a greater voice for setting the policy framework that will make non-decent homes less of an issue.

This report makes an important contribution to the debate around standards and British Gas welcomes that. There is much that we support and would like to see implemented, not least improved gas and electrical safety standards. We will be continuing to support Shelter and their efforts to help make changes for the better to people's lives.



Bryan Halliday

Director of Sustainability, British Gas

Executive summary

The private rented sector has almost doubled in size in the last decade, and there are now more than 9 million private renters in England. As rising house prices mean fewer people are able to afford a home of their own and social housing stock continues to dwindle, private renting is no longer just a short-term housing solution.

Nearly 50% of growth in the sector in the last two years has come from families with children, who now make up nearly a third of private renting households.¹ Almost half of renters are aged 35 and over² and nearly a third of renters expect to be renting for the rest of their lives.³ Only 6% of renters say it is their preferred choice of housing.⁴

The sector is clearly playing a very important role in housing more people, for longer and at more settled stages of their lives. However, the market needs to function more effectively to provide renters, as consumers, with real choice and good quality accommodation.

What is the problem?

Property conditions in the private rented sector are worse than any other tenure. A third of privately rented homes do not meet the government's Decent Homes Standard,⁵ while almost a fifth contain a hazard posing a serious danger to the health and safety of renters.⁶

Our research found that over 6 in 10 renters (61%) have experienced at least one of the following problems in their home over the past 12 months: damp, mould, leaking roofs or windows, electrical hazards, animal infestations and gas leaks.⁷ Ten per cent of renters said their health had been affected because of their

landlord not dealing with repairs and poor conditions in their property in the last year, and 9% of private-renting parents said their children's health had been affected.⁸

Why are homes in the private rented sector in such poor condition?

The private rental market does not function to ensure that homes are let in a decent condition

- **In a market where the demand for homes often outstrips supply, renters lack basic consumer power to bargain for better conditions.**

Following the deregulation of rents in the late 1980s, it was assumed that the market would regulate for good conditions.⁹ But the imbalance between the demand for and supply of homes in various areas of the country and among certain groups of renters (eg households living on lower incomes) has meant that market forces alone do not ensure that homes are let in a decent condition. Renters are acutely aware that they are easily replaceable, which means they often lack the bargaining power they exercise as consumers of other goods and services. The lack of bargaining power is most acutely reflected in the practice of retaliatory eviction, where renters are evicted for complaining about poor conditions in their home. Our research found that over 300,000 renters every year are threatened with or face eviction for complaining about poor conditions and 1 in 8 do not complain because they fear eviction.¹⁰ A lack of bargaining power is also a problem for local authorities who often have to incentivise landlords to accommodate people through golden handshake-type agreements, and place people out of area to secure accommodation for people facing homelessness.¹¹

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1. Department for Communities and Local Government (DCLG), English Housing Survey Headline Report 2012-13. Table 1: Demographic and economic characteristics, by tenure 2012-13, (February 2014)
 2. DCLG, English Housing Survey Headline Report 2012-13. Table 1 Demographic and economic characteristics, by tenure 2012-13, (February 2014)
 3. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas
 4. Ibid.
 5. DCLG, English Housing Survey 2012-13 Table 12: Non-decent homes by tenure, 2006 – 2012, (February 2014)
 6. DCLG, English Housing Survey Headline Report 2012-13, Table 13: Homes failing decent homes criteria, by tenure, 2012 (February 2014)
 7. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas
 8. Ibid.
 9. A.D.H Crook, 'Housing conditions in the private rented sector within a market framework' in S.Lowe and D.Hughes, The private rented sector in a new century, revival or dawn? (2002), p.156
 10. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas. These calculations are estimations based on figures from the English Housing Survey 2011-12
 11. Shelter, [Temporary accommodation in London](#), (August 2014)

- **An overheated market provides few incentives for landlords to invest in repairs and maintenance of their properties, despite having the financial resources to do so.** Our research shows that landlords' decisions about whether or not to invest in maintenance and repairs is much more heavily driven by expectations of capital growth than the need to protect rental incomes, highlighting the weak relationship between rents and conditions. Our research also found that landlords in areas of high demand are less likely to put money aside for repairs and maintenance than landlords operating in low demand areas.¹²
- **The rental market is dominated by amateur and accidental landlords, many of whom have little or no relevant experience or qualifications.** Rogue landlords perpetuate poor conditions and are a manifestation of a lack of renter bargaining power.¹³ The sector however, is far more greatly characterised by individual amateur and accidental landlords owning just one or two properties and who may have very little understanding of their responsibilities. This fragmented market, and the lack of centralised data on landlords and their stock, makes it very difficult for national or local government, or indeed professional bodies, to educate landlords and renters on their rights and responsibilities.

Local authorities struggle to intervene where the market fails to self-regulate

- **Local authorities have legal duties and powers to improve conditions in the private rented sector, but often lack the financial resources to do so.** Renters can report poor conditions to their local authority, which has a responsibility to inspect and assess the condition of the property using the Housing Health and Safety Rating System. The local authority has duties and powers to take legal action where landlords fail to meet legal requirements. This should serve to improve conditions where the market fails to. However, local authorities' budgets are increasingly tight and environmental health teams are often under-resourced. This decline in enforcement resources comes during a period of expansion in private renting, and of increasing interaction between local authorities and private landlords.
- **Local authorities lack basic information on landlords and private rented stock in their area, and very few renters come forward.** Unless local authorities run landlord licensing schemes, they hold very little information on stock in their area and few renters make the authority aware of their whereabouts. The amount of centralised, national data on landlords and private rented homes is

even more limited. This lack of information makes it even harder for under resourced local authorities to identify homes in poor conditions and use their powers to improve stock.

Shelter's vision for improving conditions in the private rented sector

We advocate a three-pronged approach to tackling poor conditions:

Firstly, the consumer bargaining power of renters must be strengthened to enable them to report poor conditions to their landlord without fear of retaliatory eviction.

Secondly, in a relatively unprofessionalised market, where many landlords lack the financial incentives to improve and maintain conditions, government must intervene to ensure landlords meet their basic legal requirements and are adequately trained in their responsibilities.

Thirdly, local authorities should have access to better information on private landlords and rented stock in their area. They should also be better equipped with the financial resources needed to strengthen their existing duties and powers to inspect, enforce and prosecute landlords who let homes in poor conditions and exploit renters. This will better enable them to proactively take action to prevent poor conditions.

Greater consumer power, more professional landlords, better informed and better resourced local authorities would all help the market to function more effectively and ensure that the private renter sector provides safe and decent homes.

Shelter's recommendations for improving conditions

Improve knowledge and understanding in the sector

- **National government should introduce mandatory training of private landlords and a robust national register, which all private landlords and lettings agencies would be required to join.**
 - A national register of private residential landlords would provide local authorities with vital information on the distribution of the private rented housing stock in their area and which landlords are operating in the market. This would allow them to plan and undertake more targeted proactive inspection and enforcement work to improve conditions

12. University of Cambridge, Understanding landlord business models, (2014)

13. Shelter, [Asserting authority: calling time on rogue landlords](#), (2011)

- Landlords should be required to undergo training on their responsibilities in order to improve knowledge and understanding in the sector and to demonstrate that they meet the minimum legal requirements. Landlords should be required to show that they have a basic understanding of the Housing Health and Safety Rating System, and relevant sections of the Landlord and Tenant Act (1985) and the Housing Act (2004).
 - **Lenders should consider placing additional requirements on buy-to-let landlords to drive up understanding about poor conditions.** As a minimum, prospective landlords should be required to provide evidence of a gas safety check, an electrical safety check and a Home Buyers Report before a mortgage is approved. This should serve to increase prospective landlords' knowledge about the condition of the property, and encourage them to budget appropriately for works needed before it is fit to let.
- ### Improve renters' consumer bargaining power
- **National government should legislate to protect renters from retaliatory eviction.** The government should put legal restrictions in place to prevent Section 21 possession notices being served when renters have complained about the poor condition of their homes. This would give renters the confidence to report and challenge poor conditions. It would also encourage landlords to respond before their property further deteriorates, lowering their costs, and allowing local authorities to better target inspections.
 - **National government should professionalise the evictions process.** The government should standardise the use of notices to professionalise the eviction process and make landlords and renters more aware of their rights and responsibilities. The government should produce a mandatory Section 21 notice prescribed form. This would help reduce the number of notices served incorrectly and raise awareness of the rights of both landlords and renters in the process. Time limits should be introduced so that a Section 21 notice would only remain valid for six months from the point at which it is served.
 - **National government should amend the Landlord and Tenant Act (1985) to require all landlords to ensure that the homes they let are fit for human habitation.** The government should legislate to remove the rent limits from Section 8 of the Act, which deals with implied terms of fitness for human habitation. This would serve to insert an implied term into every tenancy agreement that the landlord will ensure that the home is fit for human habitation at the start of, and during, the tenancy.
 - **National government should reinstate legal aid for disrepair cases.** The Ministry of Justice should reinstate housing cases involving disrepair within the scope of the Legal Aid, Sentencing and Punishment of Offenders Act to ensure they are covered by the legal aid scheme.¹⁴
 - **National government should place a statutory duty on local authorities to provide a tenancy relations service.** The government should place a statutory duty on each local authority to provide a tenancy relations service, to improve awareness of rights and responsibilities and to provide a mediation service between landlords and renters when disputes arise on various issues, including conditions, as well as to prosecute breaches of the Protection from Eviction Act (1977).
- ### Increase the power of local authorities
- **National government should make it easier for local authorities to introduce selective licensing schemes.** Financial and bureaucratic barriers often prevent local authorities from implementing selective licensing schemes, particularly the restriction that they can only be introduced on the grounds of low demand or anti-social behaviour. The government should extend the criteria under which local authorities can introduce selective licensing to include areas with high demand for homes and poor conditions. The government should also produce new guidance on the evidence required of local authorities to demonstrate that they meet the qualifying criteria for selective licensing. They should also consider helping part-fund the local consultation process required for the introduction of licensing.
 - **Local authorities should consider setting up a social lettings agency.** Social letting agencies can help renters receive a better service, and ensure that properties are maintained in a good condition. They can help a diverse range of local people to find a suitable home in the private rented sector, including people who might not normally be provided with assistance from the council's housing options service.

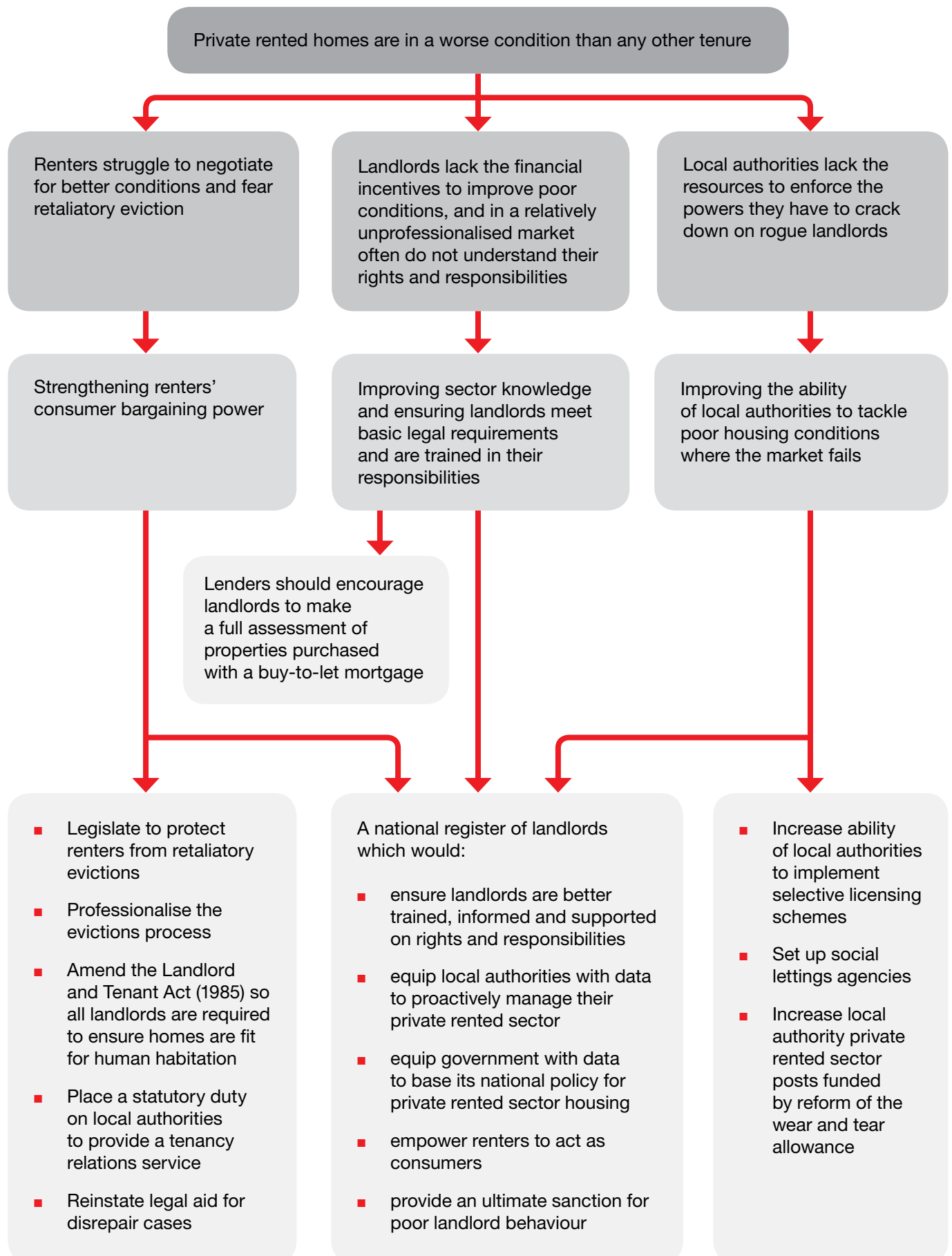
14. The Low Commission, *Tackling The Advice Deficit: A strategy for access to advice and legal support on social welfare law in England and Wales*, (January 2014), p.14, paragraph 1.26

National government should also consider:

- **Reforming landlords' wear and tear tax allowance in order to provide more funding for local authorities to invest in tackling poor conditions.** In 2010/11 the cost of tax relief from landlords' wear and tear and replacement basis allowances combined was £2.52 billion.¹⁵ The rates of the relief for the wear and tear allowance have not been updated for decades, despite rents increasing at a much higher rate than the items the allowance is designed to cover. Reducing the remaining wear and tear allowance could potentially generate an extra £1 billion in tax revenue. This could be used to fund additional local authority enforcement work, which cannot be funded by licensing fees, and a tenancy relations service.
- **assessing the suitability of county courts to hear disrepair and other housing-related cases.** The government should explore options for developing an alternative route for private rented sector cases to be heard. This process must be made quicker, cheaper and far more straightforward. One way of providing more efficient, accessible and specialist access to justice for both landlords and renters would be to transfer some housing cases from the county courts to a specialist private rented sector tribunal.

15. The Intergenerational Foundation, [Why BTL equals "Big Tax Let-off" – How the UK tax system hands buy to let landlords an unfair advantage](#), (November 2013)

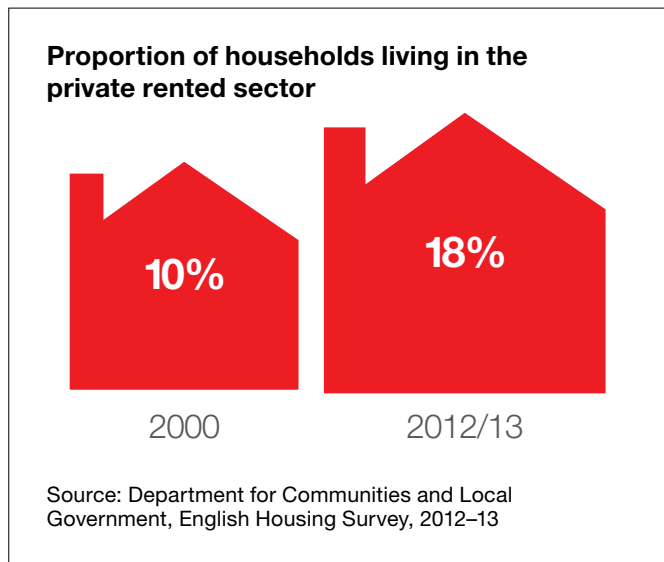
Improving conditions in the private rented sector



Introduction

Private renting in 2014

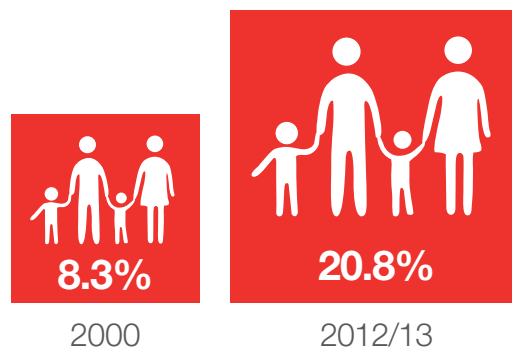
Private renting is fast becoming the new normal. The sector is now home to more than 9 million people. For the first time in post-war history, more people rent from a private landlord than from the council or a housing association.¹⁶



The proportion of households living in the private rented sector has risen by 80% since 2000.

The types of people living in the private rented sector have also shifted dramatically. Renting is no longer exclusively the domain of students and mobile young professionals. Nearly 50% of growth in the sector in the last two years has come from families with children, who now make up nearly a third of private renting households.¹⁷ Almost half of renters are aged 35 and over.¹⁸ Nearly a third of renters expect to be renting for the rest of their lives.¹⁹

Proportion of families with dependent children living in the private rented sector



Source: Department for Communities and Local Government, English Housing Survey, 2012–13

The proportion of families living in the private rented sector with dependent children has more than doubled since 2000.

A private rental is no longer a short-term stop gap. The high cost of buying a home and a shortage of social housing means many families now have no choice but to rent privately for the medium to long term. Nearly a third (32%) of renters expect to be living in the private rented sector for the rest of their lives.²⁰ English renters' main reason for renting is because they cannot afford a home of their own (44%). This proportion increases to 50% for families.²¹ Only 6% of renters say it is their preferred choice of housing.²²

In many areas, private rented accommodation is increasingly being relied on by local authorities to meet housing need, either as temporary accommodation for homeless households waiting for an offer of settled housing; as a final Private Rented Sector Offer under the statutory rehousing duty; or as an offer from the 'housing options' service outside of the protection of the homeless legislation. Last year 36% of homeless prevention and relief cases who were assisted to find accommodation via housing options were placed in the private rented sector.²³ Where a full rehousing duty is owed, it is typically because homeless households contain pregnant women, children or other vulnerable people, such as those with long-term illnesses and disabilities, all of whom are likely to be more seriously affected by poor living conditions.

16. DCLG, English Housing Survey Headline Report 2012–13, (2013)

17. DCLG, English Housing Survey 2012–13. Table 1 Demographic and economic characteristics, by tenure 2012–13, (2014)

18. Ibid.

19. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas

20. Ibid.

21. Ibid.

22. Ibid.

23. DCLG, Homelessness Prevention and Relief: England 2013/14 Official Statistic, (July 2014)

All these factors have increased the pressure on the private rented sector. Shelter is calling on the government to ensure that more homes are built in all tenures – in particular affordable homes – in order to address our housing shortage.²⁴ Increasing the supply of private rented homes can help to improve standards and affordability in the sector, by increasing competition and diversification in the market. But, even with an additional supply of newly built private rented homes, people will still need to rely on the existing stock. There remains a need to ensure that the growing number of private renters live in safe, secure and decent homes.

What's the problem?

The deregulation of the sector in the late 1980s was designed to encourage it to offer a housing option for more people. It was also believed that higher rents would allow private landlords to invest in improving the aging stock.²⁵

However, within the context of a chronic overall housing shortage, increased demand for private rented homes has pushed up rents, which have not been matched by rising incomes. Over the last decade private rents have risen twice as fast as wages.²⁶

Despite the high costs, poor conditions continue throughout the private rented sector and are worse than all other housing tenures. Thirty-three per cent of private rented homes fail to meet the government's Decent Homes Standard.²⁷ This compares to only 15% of homes in the social rented sector, and 20% of owner occupied homes. Over 6 in 10 renters (61%) have experienced at least one of the following problems in past 12 months: damp, mould, leaking roofs or windows, electrical hazards, animal infestations and gas leaks.²⁸ For families the figure is 69%.

Too often, management standards are also poor. Rogue landlords can make renters' lives a misery by refusing to carry out repairs, harassing renters in their homes, and evicting them if they complain. One in 33 renters (3%) reported that they currently rent from a rogue landlord, and 1 in 20 (5%) said that they have done so in the past 12 months, but not currently.²⁹

While poor standards can in part be attributed to rogue landlords who deliberately exploit renters, there are far more ill-informed amateur and accidental landlords whose actions, while less malicious, are equally as dangerous for renters. More than 40% of the people who approach Shelter for advice live in the private rented sector. This is more than double the proportion of the population who rent privately.

In recent years, awareness of the urgent need to address poor conditions in the sector has gathered momentum. In March 2014 the government launched a review of property conditions in the private rented sector which considered:

- whether additional guidance on the Housing Health and Safety Rating System is required
- how to better protect renters who report poor conditions in their homes from retaliatory eviction
- the need for smoke and carbon monoxide alarms
- whether landlords should be required to carry out regular electrical checks, and
- whether renters who are forced to suffer unacceptable conditions could reclaim their rent.

The Labour Party's policy review also committed to introducing a national register of private landlords; a new national private rented property standard; and a review into how councils can better use property licensing schemes.

24. Shelter and KPMG, *Building the homes we need – a programme for the 2015 government*, (2014)

25. A.D.H Crook, 'Housing conditions in the private rented sector within a market framework' in S. Lowe and D. Hughes, *The private rented sector in a new century, revival or dawn?*, (2002), p.156

26. Based on analysis of the DCLG, *Survey of English Housing 2002/2003 and 2011/12* and the ONS *Annual Survey of Hours and Earnings 2003-2013*

27. DCLG, *English Housing Survey 2012-13*, Table 12: Non-decent homes by tenure, 2006 – 2012, (February 2014)

28. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas

29. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas – for the purpose of this survey the term 'rogue landlord' was defined as a 'landlord who treats their tenants unfairly (ie landlords who rent out homes that aren't in a fit state, neglect basic safety standards, carry out financial scams or deliberately exploit or harass tenants)

So why, nearly 30 years after the deregulation of the sector, has it failed to deliver on the intention to improve conditions? In many areas of the market the demand for privately rented homes outstrips supply. Where this happens, the market cannot be relied upon to regulate for good conditions. Where landlords know that they can expect a steady supply of renters and continue to increase rents, there are few financial incentives for them to offer decent management and maintenance services. However, our evidence shows that the vast majority of landlords do have the financial means to invest in improving conditions.³⁰ Research conducted by the University of Cambridge into landlord business models also shows that, for many landlords, the decision to invest in maintaining the homes they let is more likely to be motivated by maximising capital growth than rental incomes, further highlighting the weak relationship between rents and conditions.³¹

Markets differ throughout the country, and in some areas the imbalance between demand and supply is less pronounced. However, the combined impact of social housing allocations policies and housing benefit rules often means that, even in areas of lower demand, some households are excluded from social housing and struggle to find a private landlord who will let to them. People with such limited options are then forced to rent at the very bottom of the market, where the worst conditions and most neglectful landlords prevail.

In addition, renters are in a weak position to enforce their consumer rights. Assured shorthold tenancies, which are commonplace in the market, typically only provide renters with a six or 12-month fixed contract. Beyond the fixed contract period landlords can evict renters using a Section 21 'no-fault' possession notice. As long as the notice has been served correctly, renters have no grounds on which to challenge it.³² Renters are often reluctant to report poor conditions because of the lack of legislative protections in place to prevent retaliatory evictions.

Many local authorities, in the context of a growing private rented sector, anticipate a growing role in improving poor conditions.³³ Equipped with powers under the Housing Act (2004) to require landlords to meet minimum standards, local authorities are key to improving conditions. However, as a result of fiscal pressures, environmental health teams often lack resources to carry out proactive inspections and enforcement work. A lack of renters reporting poor conditions and basic data on the number and location of landlords and private rented sector properties makes it even more difficult for them to strategically manage and improve private rented homes.

Securing better standards requires driving out rogue landlords and driving up quality throughout the sector. With demand high and rising, and the imbalance between landlords' and renters' market power entrenched, the case for regulatory intervention has become urgent. This report sets out the case for change and puts forward Shelter's practical, considered recommendations for how conditions can be improved across the private rented sector.

30. YouGov 2013, base 1,064 UK private landlords. Jointly commissioned by Shelter and British Gas

31. The University of Cambridge, *Understanding Landlord Business Models*, (2014)

32. If a landlord has served a Section 21 notice correctly and they have met any licensing obligation and protected any deposit taken in a government approved scheme, there are no grounds on which renters can challenge the notice.

33. Local Government Information Unit & Electrical Safety First, *House Proud – how councils can raise standards in the private rented sector*, (2013)

Methodology

In addition to secondary sources, this report is informed by:

- A YouGov online survey of 4,544 English private renters carried out between 11 December 2013–16 January 2014, looking at their experiences of private renting and responses to proposals for improving the sector.³⁴ All YouGov figures, unless stated otherwise, refer to adults in England. Where ‘families with children’ are referenced in relation to YouGov findings, this refers to adults living in England with children under 18 in the household. This research was jointly commissioned by Shelter and British Gas.
- A YouGov online survey of 1,064 UK private landlords who are members of the YouGov panel.³⁵ This was carried out in December 2013. While this is not a sample that is conclusively representative of the landlord sector, the profile of the YouGov panel fits well with the small, buy-to-let or more ‘accidental’ landlord that was desired for this study. Fieldwork was undertaken between 11 December and 19 December 2013. This research was jointly commissioned by Shelter and British Gas.
- In December 2013, Shelter and British Gas jointly hosted three roundtables with local authorities, renters and landlord representative bodies in order to explore the barriers to improving poor conditions in the private rented sector and potential routes for reforms. These roundtables were conducted under Chatham House Rules, but the debate has served to inform this report.
- The University of Cambridge was commissioned to analyse landlord business models to better understand what motivates landlords to invest in and improve property conditions in the private rented sector.³⁶ These results are based on telephone interviews with a purposive sample of 225 landlords. BDRC Continental carried out the survey of landlords. This research was jointly commissioned by Shelter and British Gas.
- In July 2014, BDRC Continental conducted four focus groups with private landlords on behalf of Shelter and British Gas. Two of the roundtables were held in London and two were held in Leeds. The groups were used to test potential options for reforming the sector and improving conditions. The discussions inform this report.

34. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas.

35. YouGov 2013, base 1,064 UK private landlords. Jointly commissioned by Shelter and British Gas

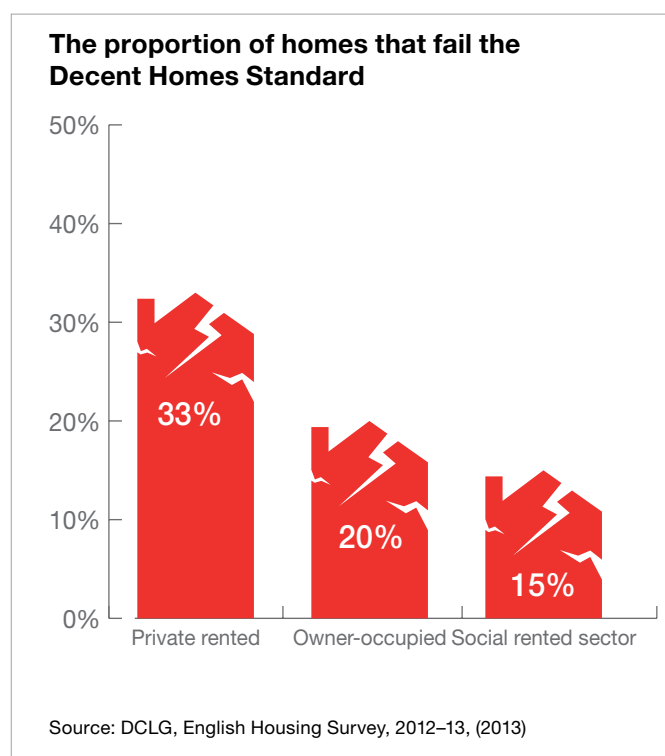
36. The University of Cambridge, Understanding Landlord Business Models, (2014)

Part 1

Poor conditions in the private rented sector

How bad are conditions in the private rented sector?

Conditions in the private rented sector are worse than in any other form of tenure. Thirty-three per cent of private rented homes fail to meet the government's Decent Homes Standard, compared to 20% of owner occupied homes and 15% in the social rented sector.³⁷ Over 6 in 10 renters (61%) have experienced at least one of the following problems in past 12 months: damp, mould, leaking roofs or windows, electrical hazards, animal infestations and gas leaks.³⁸



The Decent Homes Standard

The Decent Homes Standard was introduced in 2000 to provide a minimum standard of housing conditions in the social rented sector. While privately rented homes are not legally required to meet the standard, the government does use it to measure and compare the condition of properties in all tenures. A home meets the standard if it:

- is in a reasonable state of repair. A home might fail if, for example, it had a leaky roof or a heating or electrical system in poor condition
- is warm and weatherproof. A home would fail if it had an inefficient heating system or ineffective insulation. A home would also fail to meet the standard if it suffered from damp or was very expensive to heat
- meets the minimum requirements of the Housing Health and Safety Rating System. A home would fail if it contained a Category 1 hazard (the most serious kind)
- has reasonably modern facilities. A home would fail if, for example, the kitchen and bathroom both lacked modern facilities, and the kitchen also had an inadequate layout or insufficient space.

A third of private rented homes fail to meet the Decent Homes Standard.



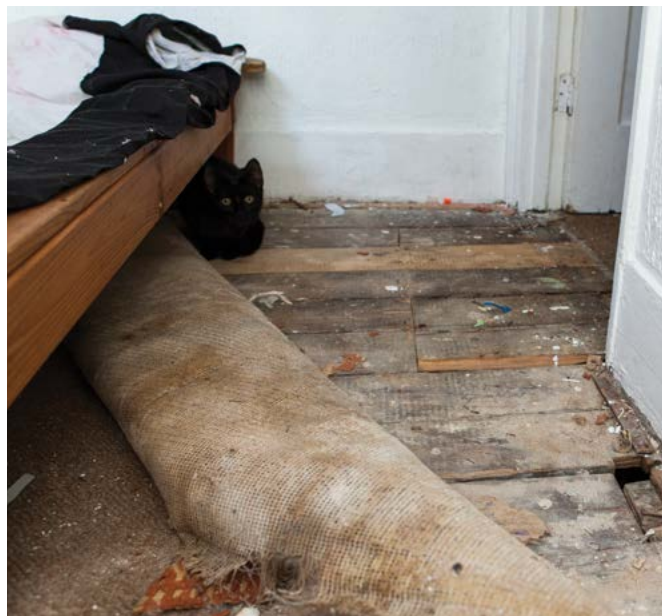
37. DCLG, English Housing Survey 2012-13, Table 12: Non-decent homes by tenure, 2006–2012, (February 2014)

38. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas

What causes privately rented homes to fail the Decent Homes Standard?

The most common reason for privately rented homes failing the Decent Homes Standard is because they do not meet the minimum requirement of the Housing Health and Safety Rating System (HHSRS):³⁹

- 18.9% of all privately rented homes contained a Category 1 hazard
- 15.2% of all privately rented homes failed to provide sufficient levels of thermal comfort
- 7.9% of all privately rented homes were not in a fit enough state of repair
- 2.7% of all privately rented homes did not have modern enough facilities



The Housing Health and Safety Rating System

While homes in the private rented sector do not legally have to pass the Decent Homes Standard, they are subject to certain standards which are based on a risk assessment process known as the Housing Health and Safety Rating System (HHSRS). The HHSRS came into effect in April 2006 and replaced the Fitness Standard as the statutory element of the Decent Homes Standard.

The HHSRS assesses the level of faults in properties and how they might affect the health and safety of any potential occupant. The HHSRS considers how likely it is that a hazard would occur and how serious the outcome would be.

The HHSRS assesses various physiological and psychological requirements, including:

- dampness, condensation, and mould growth
- rats, cockroaches and other vermin infestations
- broken glass, falling plaster, or dangerous or decaying stairs

- faulty or dangerous gas or electrical installations
- blocked drains or problems with rubbish or sewage
- unacceptable noise levels
- damaged asbestos
- smoke fumes or gases.

Hazards that are assessed as posing a serious danger to health and safety are classified as a Category 1 hazard. When a Category 1 hazard is discovered, the local authority has a duty to take appropriate enforcement action, which may consist of serving an Improvement Notice or a Prohibition Order.

Other defects which are assessed as less serious are classified as Category 2 hazards. Local authorities are not required to take action in this situation but still have the power to serve an Improvement Notice or take other enforcement measures.

39. DCLG, English Housing Survey 2012-13, Table 13: Homes failing decent homes criteria, by tenure, 2012, (2014)

How many renters live in poor conditions?

Between 2006 and 2012 there was a decrease in the proportion of non-decent, privately rented homes from 47% to 33%.⁴⁰ However, due to the rapid expansion of the sector, the actual numbers of non-decent homes increased. In 2006, the number of homes in non-decent conditions in the private rented sector stood at just over 1.2 million. In 2012, the figure had risen to more than 1.3 million.⁴¹ This means a further 140,000 households live in non-decent privately rented homes. It has also been suggested that the proportional improvement in conditions is a result of the disproportionate addition of newer housing stock, rather than the improvement of existing properties.⁴²

Gas safety

Landlords have a legal responsibility to make sure any gas equipment they supply is safely installed and maintained in good condition. They are also required to have a registered Gas Safe engineer carry out an annual gas safety check on each appliance. Despite this, nearly 1 in 5 landlords (19%) are not able to correctly state that a gas safety certificate needs to be renewed every year.⁴³ Our research also suggests that 6% are breaking the law by not fulfilling this requirement in all their properties that have a gas supply and that 4% of renters have experienced a gas leak in the past year.⁴⁴

Carbon monoxide and smoke alarms

It is not currently a legal requirement for landlords to carry out similar checks for carbon monoxide safety. The Gas Safety Trust has reported that private renters are at least four times more at risk of a carbon monoxide incident than those living in other tenures.⁴⁵

Our research has shown that:⁴⁶

- 2% of renters have experienced carbon monoxide poisoning in the past year.
- Only 47% of landlords currently have carbon monoxide detectors fitted in all the homes they let.

When it comes to fire safety, evidence from the English Housing Survey shows the high level of risk in privately rented homes, compared to other housing tenures. Despite only making up 18% of the overall housing stock, privately rented homes account for 29% of homes that were classified as posing a significantly higher than average fire risk.⁴⁷ This is not surprising considering that only 52% of renters reported having a working smoke alarm fitted, and only 23% reported having a fire extinguisher and/or fire blanket in the last year.⁴⁸

This lack of protection has serious consequences for renters, and the government has recognised the problem in the Energy Act 2013. This allows the government to make orders requiring all private sector homes to be equipped with smoke alarms and carbon monoxide detectors in the future. Recognising that legislation may be necessary to improve the safety of renters is an important first step, and we look forward to the regulations being laid.

Electrical safety

Poor electrical safety can kill and around 20,000 domestic fires in Great Britain are caused by electrical appliances every year.⁴⁹ Our research shows that 16% of renters experienced problems with electrical hazards in the last year.⁵⁰ This number increases to 19% among renters claiming housing benefit, 20% among families with children, and 23% among those constantly struggling or failing behind with their rent.

While landlords are required to make sure that all electrical systems and appliances they supply are safe, there is no legal requirement for landlords to carry out checks on a regular basis. Shelter and Electrical Safety First have recommended that the government introduce mandatory five-yearly safety checks, by a competent person, of electrical installations and any electrical appliances supplied with private rented properties. In addition Residual Current Device (RCD) protections should be required within all privately rented properties.⁵¹

40. DCLG, English Housing Survey 2012-13 Table 12: Non-decent homes by tenure, 2006-12, (2014)

41. Ibid.

42. Rugg, J and Rhodes, D. The Private Rented Sector: its contribution and potential, Centre for Housing Policy, The University of York, (2008)

43. YouGov 2014, base 1,064 UK private landlords. Jointly commissioned by Shelter and British Gas.

44. Ibid.

45. Gas Safety Trust, [Gas Safety Trust Carbon Monoxide Incident Report](#), (2012)

46. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas

47. English Housing Survey 2012 to 2013: fire and fire safety report (2014), Table 3.2: Dwelling characteristics, by Category 1 fire risk, (2012)

48. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas.

49. Electrical Safety First, [Core Data Set, derived from GBwide DCLG fire statistics 'mortality data and polling'](#)

50. Shelter and Electrical Safety First, [Home Improvement – Tackling poor electrical safety in the private rented sector](#), (June 2014)

51. Ibid.

Security

Problems with security measures are also considerably worse in the private rented sector than every other tenure. Despite only making up 18% of all dwellings, they account for 41% of the total number that were assessed as posing a significantly higher risk of entry by intruders.⁵² Our research also shows that 18% of renters have experienced poorly secured locks and doors in the last year alone.⁵³

Thermal comfort and energy efficiency

Problems with thermal comfort and energy efficiency continue to be overrepresented in privately rented homes. While energy efficiency has improved over the last couple of years, the sector still has the largest proportion of properties with the worst energy performance rating of any tenure. Ten per cent of privately rented properties have an Energy Performance Certificate (EPC) rating F or G.⁵⁴ This can partly be explained by the fact that 37% of homes in the sector were built pre-1919 – significantly more than other tenures.⁵⁵

Energy Performance Certificates

Energy Performance Certificates (EPC) are drawn up by accredited energy assessors. They show how energy efficient a property currently is, and how energy efficient it could be if certain improvements were made. Properties are rated from A to G, with A being the most efficient, and G the least efficient. Landlords who are letting or re-letting a self-contained property must supply an EPC to any prospective renter. In both cases, the EPC must be commissioned before a property is marketed.

Poor energy efficiency ratings have a significant impact on the ability of renters to keep warm.⁵⁶

- 40% of renters reported experiencing poor insulation and excess cold in the past year
- 25% of renters experienced problems with leaking roofs or windows in the past year
- 38% reported a problem with damp – all contributory factors to a lack of thermal comfort

The Children's Society has reported that an estimated 3.6 million children thought their home was too cold last winter, and around 1.3 million said it had damp or mould.⁵⁷ Problems with excess cold are particularly worrying because the sector is increasingly being used to accommodate homeless households, many of whom are more likely to be vulnerable to the cold, such as people with long-term illnesses and disabilities. In our survey, 40% of privately renting families in receipt of housing benefit reported experiencing poor insulation and excess cold in the past year – worrying when they have limited funds for their own improvements or large heating bills.⁵⁸

Our research also reveals that only 60% of landlords have an active EPC on all of their rental homes, suggesting a relatively high level of non-compliance with this legal requirement.⁵⁹ Knowledge among landlords of measures to improve energy efficiency is also low. Only 48% have heard of the Green Deal and only 4% have accessed it to try to improve their properties.⁶⁰

Given that the sector contains a disproportionately high level of homes that were built pre-1919, it is especially important that landlords take a proactive approach in ensuring that they provide an adequate level of thermal comfort to meet the Decent Homes Standard, and address the widespread problems with damp and poor insulation.

52. DCLG, English Housing Survey Homes Report, (2011)

53. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas

54. English Housing Survey 2012 to 2013, Table DA7101 (SST7.1): Energy performance1 – dwellings, 2012, (2014)

55. DCLG, English Housing Survey, Homes Report 2011

56. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas

57. The Children's Society, *Behind Cold Doors*, (2013). These figures relate to children in all tenures.

58. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas

59. YouGov 2013, base 1,064 UK private landlords. Jointly commissioned by Shelter and British Gas.

60. You Gov March 2013 base 1,004 England, Wales and NI private landlords

What is the impact of poor conditions on renters?

Ten per cent of renters said their health had been affected because of their landlord not dealing with repairs and poor conditions in their property in the last year, and 9% of private-renting parents said their children's health had been affected.⁶¹

Other evidence shows that:

- almost 1 in 6 councils in England report that private landlords' neglect of property has required the intervention of health services⁶²
- the BRE Group has calculated that poor housing is costing the NHS in excess of £600 million a year.⁶³ While this is not exclusively attributed to the effects of conditions in the private rented sector, the overrepresentation of Category 1 hazards in this tenure provides a very definite cause for concern.

The relationship between poor housing conditions and bad health is well documented. Poor conditions such as overcrowding, damp, indoor pollutants and cold have all been shown to be associated with physical illnesses including eczema, hypothermia and heart disease.⁶⁴ Physical features of housing can also affect mental health, as families struggle to cope with the stress of living in poor conditions.⁶⁵ Studies have shown that coping with damp, problems with keeping the house warm, noise and a poor state of repair are associated with higher levels of anxiety and depression.⁶⁶

Given the disproportionate increase in families living in the private rented sector, the impact of poor conditions on children is particularly concerning. Children living in bad housing are more likely to have wheezing problems and poorer general health.⁶⁷

Previous Shelter research also suggests that children living in overcrowded and insecure housing, where conditions are poor, are more likely to have mental health problems such as anxiety and depression,

are more likely to contract meningitis and to have respiratory problems.⁶⁸ Poor conditions can also affect children's physical, educational and social development because of the lack of safe, comfortable space to play and study; the effects of poor conditions on sleep; illness leading to absence from school; and the embarrassment of inviting friends home to play.⁶⁹

Our research has also shown that 2 in 10 renters (18%) who have moved rental properties in the last five years stated that one of their main reasons for doing so was due to their accommodation being in poor condition.⁷⁰ In some circumstances a problem will never get reported, meaning that properties are continuously let in a poor condition to renters for shorter periods, and standards are never improved.

Sustain, a three-year longitudinal qualitative study of people housed in the private rented sector after being homeless, conducted by Shelter and Crisis, highlights the effects of poor housing conditions on health. All the participants in the study experienced a problem with conditions at some point in the 19 months that they were interviewed. The most common problems were damp and mould, which made people's homes very cold and impacted on their health, with people reporting new respiratory conditions such as asthma. About half of those involved in the study reported an increase in the frequency of coughs and colds, and more frequent visits to the GP.

Smith, M., Albanese, F and Truder, J.A Roof Over My Head: The Final Report of the Sustain Project, Sustain: A longitudinal study of housing outcomes and wellbeing in private rented accommodation, Shelter and Crisis, 2014, p. 19 Big Lottery Funded

61. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas

62. Shelter Freedom of Information request July 2012. This asked thirteen questions concerning complaints received concerning private rented accommodation and subsequent enforcement action against private landlords. Out of the 326 local authorities contacted, we received 310 responses

63. Roys, M., Davidson, M., Nicol, S., Ormandy, D and Amrose, P. The real cost of poor housing. Bracknell: HIS BRE Press. BRE have developed a methodology to compare the cost of housing interventions with the potential savings to health services, (2010)

64. Barnes, B. Cullinane, C, Scott, S and Silvester, H. People living in bad housing – numbers and health impacts, Natcen, (2013)

65. Ibid.

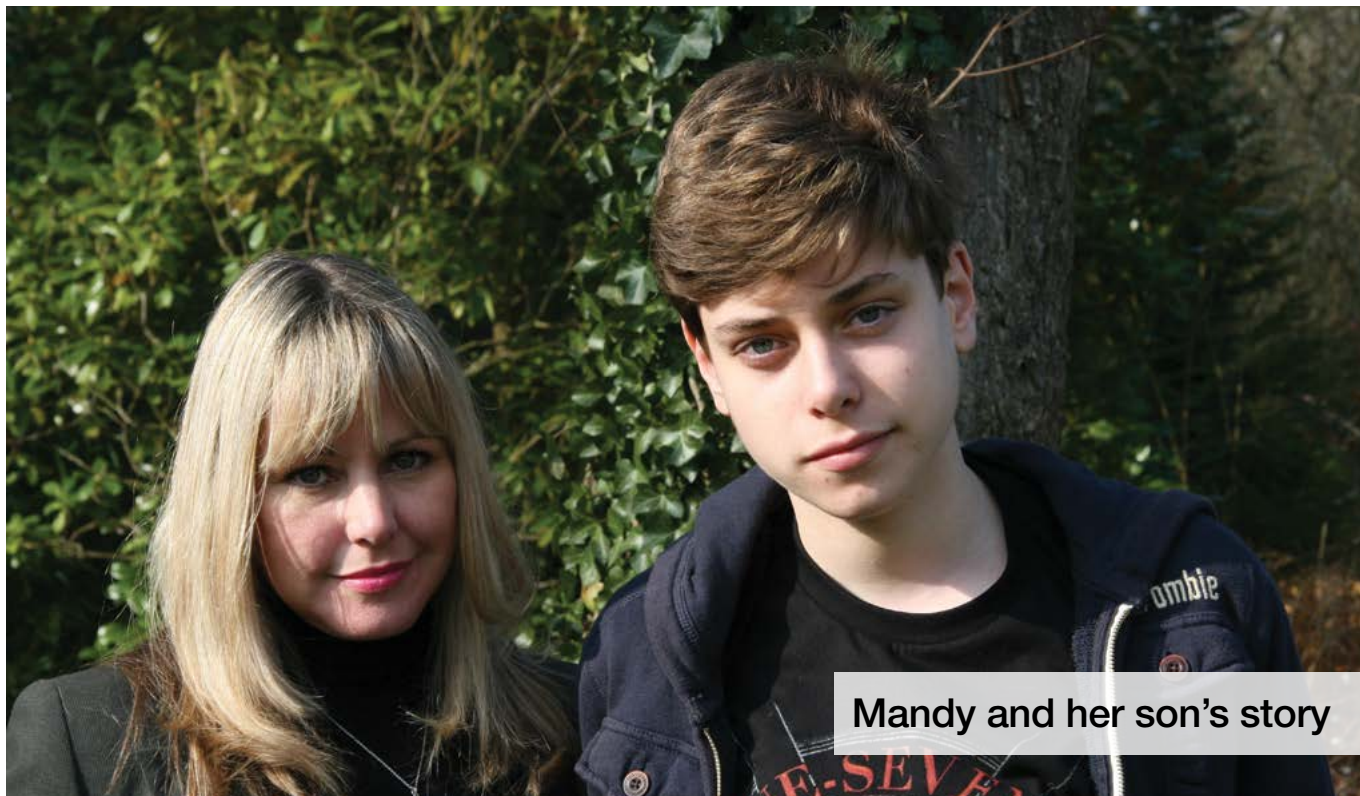
66. Macintyre S, Ellaway A, Hiscock R, Kearns A, Der G, Mackay L. What features of the home and the area might help to explain observed relationships between housing tenure and health? Evidence from the west of Scotland. *Health Place* 9:207–18, 2003

67. Barnes, B. Cullinane, C, Scott, S. and Silvester, H. People living in bad housing – numbers and health impacts, Natcen (2013)

68. Harker, L. Chance of a Lifetime, Shelter, (2006)

69. Ibid.

70. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas

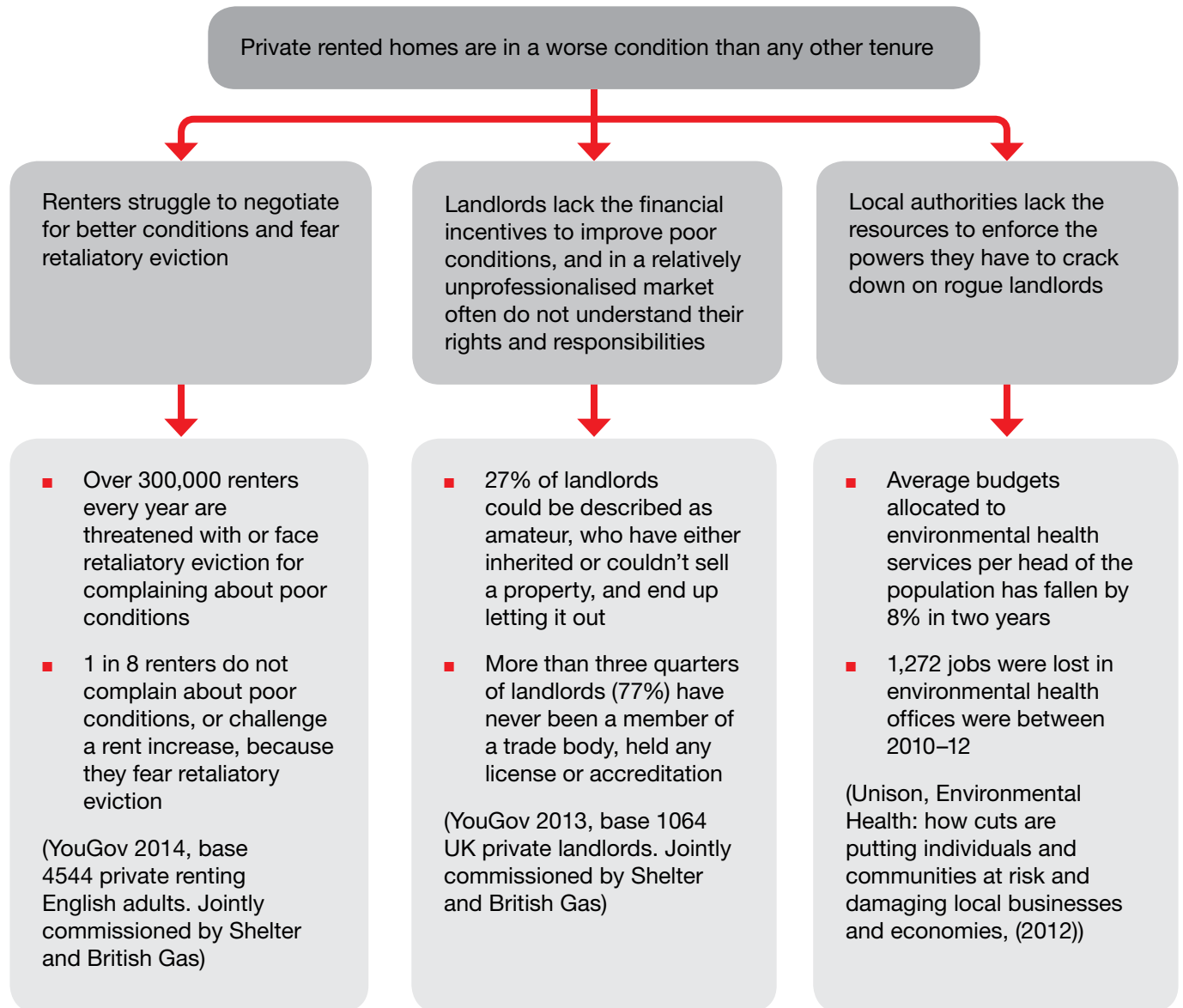


Mandy and her son's story

'Alex had so many chest infections, headaches and nausea. He had to have a month off school at one point. I have cystic fibrosis and living with damp problems meant I kept coming down with a lung infection that I'd never had before or since we moved out. Our landlord didn't seem to get that for us, the tenants, that property is our home, and a place we should be able to feel safe in, not in fear for our health.'

Mandy wishes they'd moved out sooner than they did. The problems started as a few little things but built up and up. Before she knew it, she was spending all her time chasing her landlord, holding out for him to fix the many problems in her home.

Why are conditions so bad in the private rented sector?



An overheated market

The imbalance between the demand and supply of homes in the private rented sector means that market forces alone fail to ensure that homes are let in a decent condition. Renters often lack the bargaining power that they exercise as consumers of other goods and services. In most areas, renters are acutely aware that they are easily replaceable. For many, this may affect their decision to report poor conditions for fear of retaliatory eviction. For example, in London, England's highest demand market, 40% of renters worried that their landlords would not keep the accommodation in good order – higher than all other English regions except the north.⁷¹ Conversely, a steady supply of renters and a confidence to continue to increase rent fails to provide landlords with financial incentives to improve conditions, despite having the means to do so.

Renters lack consumer power

Why don't renters complain about poor conditions?

Renters have certain rights requiring their landlord to keep their homes in good repair. If homes are in a poor condition, renters are entitled to ask the landlord to carry out repairs. If a landlord fails to take action then they can report poor conditions to their local authority, which has a responsibility to inspect the property and, where necessary, serve an Improvement Notice requiring works to be carried out. Where the home is in a condition that is 'prejudicial to health', the authority may serve an Abatement Notice requiring the landlord to remedy the problem.⁷²

Despite high levels of poor conditions, the numbers of renters reporting problems remains relatively low. Our research found that as little as 8% of renters have complained to their local council.⁷³ This can in part be explained by renters' lack of awareness of their rights or low expectations, which are important and relevant factors.⁷⁴ However, Shelter has long stressed that the main barrier to renters reporting (and one that would come into play even if renters possessed both higher expectations and awareness of their rights) is the lack of protection from retaliatory eviction or other forms of retaliatory action, such as landlord harassment. This fear must be recognised as a major barrier to renters bringing forward complaints about conditions or poor practice.

Why do renters fear retaliatory eviction?

The majority of renters have an Assured Shorthold Tenancy of a six or 12-month fixed period. During the fixed period of a tenancy the landlord can generally only evict a renter by obtaining a court order following a Section 8 possession notice. In order to obtain a possession order via the Section 8 procedure, the landlord must provide evidence of certain statutory grounds, such as rent arrears.

If, after the fixed period of the tenancy has expired, the tenancy is not renewed for a further fixed term, it becomes a statutory periodic tenancy.

Where the fixed term has expired, or where there was no fixed term at all, the landlord has the right to evict a renter using a Section 21 possession notice. A Section 21 notice enables the landlord to end an assured shorthold tenancy agreement without having to show any grounds, providing the renter has been given a minimum of two months' notice. As long as the landlord has complied with the rules concerning tenancy deposit protection, met any licensing requirements and served the notice correctly, renters will have no defence to a possession claim based on a Section 21 notice.⁷⁵ For renters who have a six or 12-month fixed period, this means that they can be required to leave within a year, and those with a periodic tenancy within two months. This makes the threat of retaliatory eviction a very real one, and provides a strong incentive for renters not to risk provoking their landlord.

There is currently no specific legislation in place to protect renters who report poor conditions to their landlord or local authority from being evicted or suffering other forms of retaliatory action. The UK is out of step with other jurisdictions in providing such weak protections for renters. In other European countries, many renters are protected by longer fixed-term tenancies. To provide renters with greater security, Shelter have called for the development of a five-year Stable Rental Contract. During this period landlords would not be able to evict renters without a good reason.⁷⁶

71. YouGov 2011, base: 541 private renting GB adults

72. Under Part III of the Environmental Protection Act 1990, certain matters are declared to be 'statutory nuisances'. This includes any premises in such a state as to be prejudicial to health or a nuisance.

73. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas

74. Shelter's [Sustain report](#) (conducted jointly with Crisis), shows that private renters often have very low expectations.

75. As long as a landlord has served a Section 21 Notice correctly and they have met any licensing obligation and protected any deposit taken in a government approved scheme, there are no grounds on which the renters can challenge the notice.

76. For more detail on Shelter's proposal for longer, five-year tenancies see, Shelter, [A Better Deal](#), (2012)

In countries such as America (39 of the 50 states provide protection), Australia and New Zealand, where shorter tenancies are more commonplace, renters have greater powers to challenge an eviction in order to protect themselves from retaliatory action. This allows them to better exercise their rights to reasonable living conditions.



New York

If a landlord issues an eviction notice in response to a renter making a complaint regarding a violation of a health and safety law or regulation, or trying to enforce any rights under their tenancy or joining a tenants rights group, it is deemed retaliatory. They are subsequently not able to make any substantial changes to the tenancy such as increasing the rent or reducing services. They are also not allowed to not renew a tenancy within a 12-month period. Landlords that are found to have violated this are subject to pay compensation.

Florida

It is unlawful for a landlord to increase rent, decrease services or threaten to bring an action for possession in retaliation to a tenant complaining about unsafe or illegal living conditions. They are also protected from retaliatory action if they join a renters' rights group.

Alaska

It is unlawful for a landlord to increase rent, decrease services or threaten to bring an action for eviction in retaliation to a renter making a complaint. They are also protected from retaliatory action if they join a renters' rights group. Renters are also potentially entitled to recover damages if they find that a landlord has acted in retaliation.

Source: Shelter Cymru, Making rights real – preventing retaliatory eviction in Wales, 2013; Citizens Advice Bureau, The Tenants Dilemma – warning: your home is at risk if you dare complain, 2007.



New Zealand

Within 14 days of receiving a notice of eviction, renters can apply to a tribunal for an order declaring that the notice is of no effect on the grounds that the landlord served the notice because the renter tried to exercise any rights relating to their tenancy agreement.

How widespread are retaliatory evictions?

There is a significant body of evidence suggesting that the practice and fear of retaliatory eviction is widespread and should be addressed in order to ensure that renters are protected when exercising their basic consumer rights.

Our research shows:⁷⁷

- **renters fear retaliatory eviction.** One in eight renters (12%) have not asked for repairs to be carried out in their home, or challenged a rent increase in the last year, because they fear eviction.
- **renters do suffer retaliatory eviction.** One in 33 renters have been evicted, served notice or threatened with eviction in the past five years because they complained to their local council or their landlord about a problem in their home. This is the equivalent to 324,172 renters every year.

There are some groups living in the private rented sector where retaliatory eviction and the fear of it is more prevalent, particularly for those living in areas such as London, where the demand for homes is higher. In the past year the incidence of retaliatory eviction increases to:⁷⁸

- 14% for London families
- 13% for non-EU nationals
- 10% among BME households and 17% for London BME households
- 5% for households in receipt of housing benefit – and 7% for families in receipt of housing benefit.

77. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas

78. Ibid.

1 in 8 fear retaliatory eviction



Source: YouGov 2014, base 4544 private renting English adults.
Jointly commissioned by Shelter and British Gas

12% of renters have not asked their landlord to carry out repairs or challenged a rent increase because they fear retaliatory actions

Research from the Tenants' Voice also found that 71% of renters have paid for repairs themselves rather than asking their landlord to make them, and that 61% were wary of complaining to their landlords about poor conditions.⁷⁹

These findings are supported by the experiences of frontline housing staff. Shelter regularly witnesses how the practice and fear of retaliatory action deters renters from exercising their rights. A survey of 321 Shelter advisers (48 responses were received) found that:

- 55% of advisers said that in 30% of cases where there were poor conditions, renters were reluctant to take formal action because they were worried that their landlord might evict them
- 76% of advisers said that renters worried that the landlord would increase the rent if they made a complaint about poor conditions
- a third of advisers reported that between 20% and half of all eviction cases they dealt with in the private rented sector had been retaliatory
- more than half (52%) of advisers said that they thought that the practice of retaliatory eviction had got worse.

Shelter Cymru have also carried out research with frontline housing staff on this practice.⁸⁰ They found that all 29 of the environmental health and tenancy relations officers they surveyed had worked with renters who were deterred from accepting their help because they feared jeopardising their tenancy, and that almost 40% reported that renters were 'often' put off accepting their advice and help.

These findings very much reflect the work carried out by the Citizens Advice Bureau in 2007, which similarly focused on the experience of environmental health and tenancy relations officers.⁸¹ They also found that all 129 respondents had worked with renters who were put off accepting their help for fear it might jeopardise their tenancy, and almost half said that this was 'always' or 'often' the case. When respondents were asked if more security was required for renters when exercising their statutory rights, only 2% disagreed. These findings not only highlight the impact on renters but also how the fear of retaliatory eviction affects the ability of frontline housing staff to properly advise renters and take enforcement action.



79. Tenant Voice, *A third of tenants have been evicted or threatened with eviction after complaining to their landlords*, (2013). The results are based on a poll of more than 2,000 tenants from their Facebook Community.

80. Shelter Cymru, *Making Rights Real – preventing retaliatory evictions in Wales*, (2013). They contacted all 22 local authorities in Wales and asked officers working in Environmental Health and PRS Tenancy Support to complete an online survey. Responses were received from 29 respondents in 20 authorities.

81. Citizens Advice Bureau, *The Tenant's Dilemma – warning: your home is at risk if you dare complain*, (2007). An email survey was carried out with environmental health officers and tenancy relation officers through LACORS (Local Authorities Coordinators of Regulatory Services) and the Association of Tenancy Relations Officers. Responses were received from 129 officers across England and Wales.



Rachel's story

'I was diagnosed with cancer last year and when I needed heating the most – just after my surgery - it wasn't there. I contacted the agency and told them about the problem and asked them to fix the heating. I told them about my cancer diagnosis and gave them plenty of opportunities but nothing happened and it went on like this for five months.

'Eventually I got tired of waiting and contacted the council. They sent an environmental health officer round and she said, "There's no way you can live like this". They ordered him to fix it but instead one month later we got notice to vacate.

'I feel overwhelmed and let down. I had a rough journey with my health and have had stress and anxiety all the way through because of this. I thought I'd be OK when I finished my treatment and then this happened. Now I'm thinking "Where do I turn?" No one wants me as a tenant now because he gave me a bad reference.

'There were a few occasions where I was trying to force his hand by withholding rent but as soon as the agency called me I paid it. He never had to wait more than a week. He knew all about it.

'Why is he doing this now and not giving me an opportunity to get my life back on track? Everywhere I turn there's a door being shut in my face.

'I'm on the road to recovery and someone has thrown a spanner in the works. I don't want to move because I'm trying to get better after my treatment. All I want is stability.'



Tina's story

'When we moved in, we couldn't believe our luck – the place was spotless! But it became clear very quickly that major faults had just been painted over.

'The house is a death trap – it has massive cracks in the walls and my eldest daughter has had a ceiling collapse on her. Last month my son spilt a small amount of his drink, it went down the side of the landing carpet and through the floorboards and caused several big electrical explosions.

'When we asked the landlord for repairs, she served us a Section 21 eviction notice. How can she be allowed to treat us like this?'



Ellie's story

'My landlord refused to do any upkeep – there was a lot of mould and other problems. Then when the guy I used to live with made it formal and complained, the landlord evicted us. There was no official health inspection or anything.

'We lived in the flat between 2011 and 2013. During the time in the flat there were a lot of problems. The boiler lost pressure almost daily, so we continuously had no hot water. There was damp and mould throughout the flat and it was generally in a very poor condition. When we let him know about these things he would do his best to avoid coming to have a look at them and make excuses. For example he said that the damp was from 'overcrowding', and he said he had seen a lot of 'traffic' going in and out of the house! He then tried to blame it on candles, and drying clothes in the house.

'We ended up with a dehumidifier which was very expensive to run. A lot of our clothes and bits of furniture were damaged with the mould. There was a lot of hard work and frustration on our part, as we loved the property, but it was becoming unliveable.

'Fire doors were then fitted which involved putting up a wall in the house that we weren't informed about, and dust and wires were left hanging out. Eventually the landlord issued us with an eviction notice when we asked him to resolve this – saying that this was because he was looking to sell the property.'

Landlords lack financial incentives

Supply and demand

In an overheated market, there are often very few financial incentives for landlords to improve the condition of the homes they let in order to attract renters.

The Housing Act (1988) radically changed the law governing the private rented sector, including creating the Assured Shorthold Tenancy (which has become the default private residential tenancy), and the deregulation of rents. These measures were intended to revive the sector. It was assumed that deregulation would lead to an overall improvement of conditions. It was expected that as the market grew renters would be provided with more choice and landlords letting properties in a poor condition would find it difficult to attract renters.⁸² This would incentivise them to improve property standards.

Following deregulation and the introduction of the buy-to-let mortgage product in the 1990s, the sector has grown in size and proportion, from a low of 9% of the market in 1992 to 18% of all households by 2012–13.⁸³ However, this growth has not kept up with the demand for privately rented homes, leading to a substantial increase in rents during the same period.⁸⁴ The National Housing Federation has predicted that private rents will rise by 39% by 2020.⁸⁵

Confidence in market conditions and the ability to increase rents has been highlighted by various landlord surveys.

- The government's 2010 Private Landlord Survey found that 78% of landlords expected to re-let their properties if they became vacant tomorrow – of these 59% at the same rent, 40% at a higher rent and only 1% lower.⁸⁶ Four-fifths (82%) of landlords surveyed by the government did not perceive low rental demand as a problem, further reinforcing confidence in market conditions.⁸⁷
- Our research has found that that among landlords who had set up a new tenancy in the last five years, 40% had increased the rent, 39% had kept it the same and 8% had decreased it for the next renter.⁸⁸

Rising rents

The median private rent increased by 67% between 2002–03 and 2011–12, according to the English Housing Survey. Over the equivalent time period (2003–2012), median gross full-time wages in England rose by 25% (ONS Annual Survey of Hours and Earnings 2003–13). This means that private rents rose at 2.5 times the rate of wage increases over the last 10 years.

For the 12 months from December 2012 to December 2013, LSL data shows London market rents have risen by 4%, and UK rents by 2%. Homelet shows a 3% annual inflation of London rents and 4% nationally. Both sources show average monthly rents to be over £1,100 in London and over £700 nationally. By comparison, the average full-time wage has risen by just 1% in England in each of the last two years, for which data is available (2010–11 and 2011–12).

Our landlord survey also explored the reasons that these landlords increase rents. Fifty-five per cent reported that it was on the advice of their letting agent or because it was the way the market was going.⁸⁹ Significantly only 11% reported that the main reason was to cover the cost of repairs or redecoration, either suggesting that few repairs are made, or the cost is not prohibitive enough to pass on to renters.

The prevalence of poor conditions in the sector has led many commentators to cast doubt on the ability of market forces to improve the sector. In their 2008 government-commissioned report, Julie Rugg and David Rhodes concluded that due to high levels of demand from renters, market forces cannot be relied upon to 'police' the sector. Furthermore, they noted that even where a landlord has a poor reputation locally, they will still be able to find renters. The imbalance between supply and demand, they concluded, is particularly pronounced for people living on lower incomes, often resulting in higher numbers of 'overtly unscrupulous' landlords operating at the lower end of the market.

82. A.D.H Crook, Housing conditions in the private rented sector within a market framework in S.Lowe and D.Hughes, The private rented sector in a new century, revival or dawn?, (2002), p.156

83. DCLG, The English Housing Survey, Headline Report 2012–13, Annex Table 1 'Trends in tenure, 1980–2012–13, (2014)

84. Ibid.

85. IPPR, [Back to Rising Damp, addressing housing quality in the private rented sector](#), (2014)

86. DCLG, Private Landlord Survey, (2010)

87. Ibid.

88. YouGov 2013, base 1,064 UK private landlords. Jointly commissioned by Shelter and British Gas

89. Ibid.

This argument is supported by our research, which found that renters on housing benefit are more likely to have cause to complain to their local authority about privately rented homes (36% compared to 29% of all renters).⁹⁰ Out of those who have reason to complain, a larger proportion do not do so because they are worried about the action the landlord might take (9% compared to 5% of all renters).⁹¹

A lack of consumer bargaining power and sense of insecurity of tenure among renters living in the lower end of the sector is reflected in the Sustain project findings. The study found that participants, who had all been housed in the private rented sector by a local authority or voluntary agency, often felt that landlords had more control over their tenancy than they did. One of the reasons given was that landlords could easily give notice or evict renters and, due to their limited financial circumstance, their choice of alternative accommodation was very constrained. Some people were worried that the landlord would be annoyed or serve an eviction notice at the six-month break clause if they asked for repairs.⁹²

Analysis of landlord business models carried out by the University of Cambridge found that landlords renting properties in areas of high demand set aside significantly less for repairs and maintenance than those in low demand areas.⁹³ This is despite the fact that they are more likely to be making a greater rental income and less likely to suffer void periods. The analysis also found that 84% of landlords with a property in an area with the highest housing demand did not view their borrowing costs as a problem.

In many areas where there is a high demand for properties or pockets of high demand among certain groups, such as those living on lower incomes, market forces alone do not regulate for good conditions in the sector. With so many people in need of a private rented home, there appear to be few financial incentives for landlords to reinvest rental income in improving conditions.

Capital investment vs. rental income

Landlords' business models are more heavily driven by long term capital growth than rental incomes, contributing further to renters' reduced consumer power when bargaining for better conditions.

Soaring house prices have made the private rented sector an obvious choice for people looking for a good long-term investment. Many now decide to invest in a rental property to supplement, or as a substitute for, their pensions. The Strategic Society Centre found that around 70% of landlords expect to use selling or renting out property as a way of funding their retirement.⁹⁴

Commissioned by Shelter, consultants at Jones Lang LaSalle took an in-depth look at a range of business plans by private landlords.⁹⁵ They found that the main return in the business plans of landlords they interviewed was primarily long-term capital growth, with rental income making up a necessary, but relatively marginal, part of the overall return on investment over a 15-year buy-to-let holding.

This trend is supported by results from our landlord survey, which suggests a significant proportion treat renting primarily as a means of building up a long-term financial asset, rather than a business:⁹⁶

- 60% of landlords said that they regarded renting as a sideline to a longer investment
- Only 57% of landlords regarded their role as a landlord as a business, with customers first and foremost. Notably landlords who did not state that they regarded renting as a business with customers first and foremost were less likely to have money set aside for repairs
- 15% of landlords said they regarded renting as an investment that they did not have to worry about

90. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas

91. Ibid.

92. Smith, M, Albanese, F and Truder, J, A Roof Over My Head: The Final Report of the Sustain Project, Sustain: A longitudinal study of housing outcomes and wellbeing in private rented accommodation, Shelter and Crisis, (2014). Big Lottery Funded

93. University of Cambridge, Understanding landlord business models, (2014)

94. Lord, C, Lloyd, J, Barnes, M, Understanding Landlords, A study of private landlords in the UK using the Wealth and Assets Survey, Strategic Society Centre (2013).

95. Shelter, A Better Deal, (2012)

96. YouGov 2013, base 1,064 UK private landlords. Jointly commissioned by Shelter and British Gas

University of Cambridge analysis of landlord business models showed that 119 out of 225 landlords surveyed said that the main reason for improving and maintaining the condition of their property was to maintain its value. Only 31 said it was to sustain rental incomes. Poor maintenance, unless prolonged and detrimental to the structure of a building, has little impact on the capital value of a property. This suggests that landlords may be less concerned that the condition of their property will affect their ability to attract renters and increase rents, further highlighting the fragile link between rents and conditions, and ultimately renters' limited ability to act as consumers.

Landlords have the financial resources to invest in the homes they let

Recent research suggests that the majority of landlords face few financial barriers to improving conditions. Based on an analysis of the Wealth and Assets Survey, the Strategic Society Centre found that 62% of landlords thought that they could cope for a year or more if their income dropped by a quarter.⁹⁷ They also found that 78% of private landlords felt that their income was enough to meet the costs of their everyday outgoings.

The government's 2010 Private Landlord Survey also reported that only 10% of landlords considered the cost of repairs to be a serious problem.⁹⁸ These findings are supported by our research which shows that:⁹⁹

- three-quarters of landlords said that the rent they collect is more than their total costs (mortgage, insurance, maintenance, etc)
- 43% of landlords have no outstanding mortgage costs and only 16% had mortgages worth 75% of the value of their portfolio or more.

The University of Cambridge's analysis of landlord business models showed that even landlords who make no financial provision for repairs and maintenance overwhelmingly report they are able to carry out necessary maintenance from existing

resources.¹⁰⁰ Similarly, our landlord survey found that 24% of landlords regularly put aside money, but a further 38% didn't regularly put aside money for major repairs, but reported having enough money to cover the costs.¹⁰¹

An amateur market

Ill-informed amateur and accidental landlords are far more numerous than rogues – and can be as dangerous for renters. Since the late 1990s the boom in the buy-to-let mortgage product has allowed many more people to set up as landlords. There are now around 1.5 million outstanding buy-to-let mortgages, equating to a third of all private rented sector homes.¹⁰²

Individual landlords who own a single investment property now dominate the market:

- 89% of all landlords are private individuals, and more than three-quarters (78%) of all landlords own a single rental property¹⁰³
- Two-thirds (69%) of all landlords, had been letting property for ten years or less¹⁰⁴
- 22% of all landlords had only been in the market for three years or less¹⁰⁵
- Our research shows that only 5% of landlords regard letting properties as their main or full-time job¹⁰⁶

The University of Cambridge's analysis of landlord business models also showed that for 85% of the one-property landlords surveyed, rental income was, at best, a quarter of their total gross income. Letting a property for them was, more or less, a side business, suggesting that, for many, being a landlord is a part time occupation.¹⁰⁷

Since the financial crash there has also been an increase in the levels of 'accidental landlords'. Our landlord survey found that 27% of landlords could be described as accidental landlords, who have either inherited or couldn't sell a property, and end up letting it out.¹⁰⁸

97. Lord, C, Lloyd, J, Barnes, M, Understanding Landlords. A study of private landlords in the UK using the Wealth and Assets Survey, Strategic Society Centre (2013)

98. DCLG, Private Landlord Survey, (2010)

99. YouGov 2013, base 1,064 UK private landlords. Jointly commissioned by Shelter and British Gas

100. University of Cambridge, Understanding Landlord Business Models, (2014)

101. YouGov 2013, base 1,064 UK private landlords. Jointly commissioned by Shelter and British Gas

102. Council of Mortgage Lenders, Buy to let lending tops £5 billion in the second quarter, (2013)

103. DCLG, Private Landlord Survey, (2010)

104. Ibid.

105. Ibid.

106. YouGov 2013, base 1,064 UK private landlords. Jointly commissioned by Shelter and British Gas

107. University of Cambridge, Understanding Landlord Business Models, (2014)

108. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas

Consequently, it is not surprising that more than three-quarters (77%) have never been a member of any trade body or held any license or accreditation.¹⁰⁹ Landlords with more experience and bigger portfolios appear most likely to be accredited.¹¹⁰ Recent research conducted by the Smith Institute found that while local authorities regarded rogue landlords as a problem, a significant number were more concerned about incompetent landlords – often described as small or ‘accidental’.¹¹¹

The large number of amateur and accidental landlords has led to a lack of professionalism and expertise on conditions and standards across the sector. The government’s Private Landlord Survey revealed that only 15% of landlords had heard of the Housing Health and Safety Rating System (HHSRS). Twenty-nine per cent of landlords required more information on gas regulation, and 27% required more information on fire regulation.

Our research shows:¹¹²

- a quarter of landlords did not know how often they should renew their Energy Performance Certificate
- nearly 1 in 5 (19%) landlords were not able to correctly state that gas safety certificates need renewing each year
- 6% of landlords appeared to be breaking the law on gas safety by not ensuring that boilers are serviced every year and CP12 certificates are up to date in all of their properties.

Local authorities lack the resources to manage and take enforcement action

Shelter has been fortunate enough to engage with a wide range of local authorities. We have come across some fantastic examples of councils using innovative and cost-effective techniques to tackle poor conditions and improve their local private rented sector.¹¹³

Many local authorities, however, face budget cuts and as a result environmental health teams are often under-resourced. In 2005, over half of all local housing authorities in England employed fewer than five full-time members of staff on private sector housing renewal activity.¹¹⁴ Since 2010, budget cuts have further stripped housing teams of their already limited resources and local authorities now need to find less costly and more innovative ways to deliver services for their communities.

Over the course of the 2010 Spending Review (2011–2015), local government funding will have reduced by 33% in real terms. A further real-terms cut of 10% is confirmed for most local government services for 2015/16.¹¹⁵

Unison’s 2012 research found that:¹¹⁶

- average budgets allocated to environmental health services per head of the population has fallen by 8% in two years
- 1,272 jobs have been lost in environmental health services and a total of 60 trainee and student environmental health officer posts have been cut over two years across the UK between 2010 and 2012.

109. YouGov 2013, base 1,064 UK private landlords. Jointly commissioned by Shelter and British Gas

110. Ibid.

111. The Smith Institute, [The growth of the private rented sector: what do local authorities think?](#) (June 2014), The Smith Institute conducted a survey of 42 councillors from across England who have lead responsibility for housing matters. The survey examined opinions on the growth and future growth of the PRS; how the PRS is regulated; the quality and management of the PRS homes; actions local government would like central government to take; and how investment in the PRS might change. The survey was complemented by in-depth interviews with 30 senior council officers.

112. YouGov 2013, base 1,064 UK private landlords

113. Shelter, [What works, tackling rogue landlords and improving the private rented sector](#), (2013)

114. Local Government Association, [Future funding outlook for council from 2010/11 to 2019/20](#), (2013)

115. Ibid.

116. Unison, [Environmental Health: how cuts are putting individuals and communities at risk and damaging local businesses and economies](#), (2012). The research is based on data provided in response to a Freedom of Information request from 70% of councils in England, Wales, Northern Ireland and Scotland.

The decline in the funding for environmental health teams comes not only during a period of expansion of the sector as a whole, but also increasing interaction between local authorities and private landlords.¹¹⁷ It is not surprising, therefore, that, despite cuts, local authorities envisage that their work on the private rented sector will need to increase. The Local Government Information Unit's (LGIU) recent research on local authorities and conditions in the private rented sector found that:¹¹⁸

- 95% of the 178 of local authorities who responded to their survey agreed, or strongly agreed that they have an important role to play in the sector
- nearly 80% of respondents said they expected their council to take a greater role in the private rented sector in the future
- 9 out of 10 authorities who were interviewed in greater depth saw improving the physical condition of the private rented sector as the key driver for greater engagement. Reducing health and safety risks to renters was regarded as the second most important factor. Local authorities identified a lack of resources as one of the greatest obstacles to improving conditions in the worst properties.

Despite identifying the need to increase engagement with the private rented sector, local authorities' budget constraints mean that the response to poor conditions is typically fairly reactive and reliant on complaints from renters. As outlined earlier in the report, however, the numbers of renters reporting problems remains relatively low.¹¹⁹ This further compounds the difficulties that local authorities have in finding and inspecting properties in poor conditions.

In addition local authorities have no systematic centralised means of capturing basic data on landlords and private rented sector homes in their area. At a time when local authorities are expected to increase engagement with the private rented sector, conditions are worse than any other tenure and budgets are being cut, there is an urgent need to provide local authorities with basic data in order to ensure that they are able to proactively manage and engage with their private rented sector.

117. Following the Localism Act 2012, local authorities have had the power to discharge their homelessness duty into the private rented sector. They must provide a 12 month tenancy and have a duty to rehouse households if they become unintentionally homeless again within two years.

118. Local Government Information Unit & Electrical Safety First, [House Proud – how councils can raise standards in the private rented sector](#), (2013)

119. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas. Our research found that as little as 8% of renters have complained to their local council.

Existing mechanisms for improving conditions

The Housing Act (1988) brought in the deregulation of rents with the expectation that this would lead to an overall improvement in conditions. Up until 1996, local authorities who took enforcement action had to continue to provide grants to landlords to improve their properties. These are now only available at the discretion of the local authority and are not widely used by landlords.

Licensing

The Housing Act (2004) brought in mandatory licensing for houses in multiple occupation (HMOs) consisting of three or more storeys which are occupied by five or more people in two or more households.¹²⁰ Licensing was specifically targeted at this area of the market because it was where conditions were deemed to be worst and presented the greatest risk to renters.

A 2010 survey of local authorities found licensing of HMOs to be fairly successful. While there were some landlords evading licensing, this was thought to be fewer than 20% of cases.¹²¹ The cost of licences varies between local authorities, ranging from nothing to £1,500. Nichols's 2010 research reported an overall positive impact which included reduced overcrowding and improvements to the physical conditions of property.¹²²

In addition to mandatory licensing, the Housing Act also gives local authorities the power to bring in additional licensing schemes for HMOs not covered by the mandatory definition – and selective licensing for other privately rented homes.

Selective licensing focuses on improving the management of privately rented properties accommodating single households. It is a discretionary scheme that empowers local authorities to introduce licensing for privately rented homes in a given neighbourhood or area. However, to implement selective licensing, local authorities must be able to provide sufficient evidence to demonstrate that the designated area is suffering with a significant problem of low demand or antisocial behaviour.

The LGIU's research has shown that just under a third (31.9%) of local authorities said they were interested in pursuing registration and/or licensing of private landlords.¹²³ Despite this high figure, there are currently only sixteen selective licensing schemes in operation in England – which is less than 5% of local authorities.¹²⁴ We have engaged widely with local authorities on their strategies to manage the private rented sector and have specifically sought views on the use of selective licensing schemes. While we have found a number of examples of selective licensing schemes that are working well, we also found a significant number of local authorities, which, while recognising the role that licensing can play in improving conditions and management standards, reported that they were deterred by the financial and bureaucratic obstacles to implementing and operating schemes.

The LGIU found that two thirds of local authorities cite cost as the greatest barrier to introducing selective licensing schemes.¹²⁵ Furthermore, an investigation by the Environmental Health News found that eight of the current 16 licensing schemes were not self-financing, further indicating the financial difficulties incurred by local authorities.¹²⁶ The Housing Act (2004) requires local authorities who intend to introduce schemes to take reasonable steps to consult all parties who are likely to be affected and consider any representations made in accordance with the consultation. Associated advertising in addition to other consultation costs are regarded as a financial obstacle for authorities who want to introduce schemes. There is also a financial risk in requiring local authorities to invest significant amounts in this process before a decision is made to pursue licensing as a strategy. Many local authorities were concerned that they were 'over consulting' because of the threat of judicial review, which would incur significant financial penalties.

120. Under the Housing Act 2004 households are defined as members of the same family, or people in a prescribed relationship, which means domestic workers living rent-free, such as an au pair, nanny, nurse, carer, governess, maid, butler, cook, cleaner, chauffeur.

121. IPPR – [Back to Rising Damp, addressing housing quality in the private rented sector](#), (2014)

122. Ibid.

123. Local Government Information Unit & Electrical Safety First, [House Proud – how councils can raise standards in the private rented sector](#), (2013)

124. Environmental Health News, [Over 300 landlords prosecuted in licensing areas](#), (December 2013)

125. Local Government Information Unit & Electrical Safety First, [House Proud – how councils can raise standards in the private rented sector](#), (2013)

126. Environmental Health News, [Over 300 landlords prosecuted in licensing areas](#) (December 2013)

Secondly, the operation of selective licensing schemes often has prohibitive cost implications for councils. This is because under EU Directives, income from licensing fees cannot be used to fund enforcement activity.¹²⁷ This means that enforcement work cannot be self-financing under a selective licensing scheme and must be paid for from the council's general fund. Enforcement work is essential in ensuring that licensing is not simply a 'box ticking' process, observed by good landlords, but that local authorities are sufficiently resourced to inspect licensable properties and prosecute rogue landlords who deliberately exploit renters and try to evade licensing.

In addition, many local authorities report that they would struggle to meet the current selective licensing criteria of low demand or anti-social behaviour as set out in the Housing Act (2004). For example, London authorities, which cannot make a case on the ground of low demand, and often struggle to prove a significant problem with anti-social behaviour, find it challenging to use selective licensing to improve conditions. As outlined above, areas of high demand are more likely to have problems with poor conditions because of the lack of renter consumer bargaining power and financial incentives for landlords to make repairs and improvements.

Landlord accreditation

Landlord accreditation schemes are commonly aimed at ensuring that landlords provide a good service and high quality housing. Landlords can apply to be accredited by a recognised scheme, which is administered by a local authority, a group of neighbouring local authorities or a third party such as a professional landlord body.

Accreditation schemes often require landlords to meet a set of standards on the management and condition of their properties in order to achieve accreditation status. Schemes provide training and forums for landlords, helping improve knowledge on their rights and responsibilities. A robust scheme will run a formal complaints procedure to ensure that landlords maintain standards and compliance. In return, schemes can help landlords improve their business as well as giving them a market advantage and access to incentives. Accreditation allows local authorities to work with good landlords to improve conditions and professional standards and focus enforcement on the rogues, who will never voluntarily sign up to such schemes.

However, despite the potential market advantage and training opportunities only 5% of landlords are members of an accreditation scheme.¹²⁸ This figure increases to 16% for landlords who own five or more properties and to 16% of landlords who consider renting to be their fulltime or main job.¹²⁹ It is arguably these groups of landlords who are already the most professional.

In many areas of the market where the demand for rented homes outstrips supply and landlords are confident of a steady flow of renters and regular rent increases, there are very few incentives for landlords to join voluntary accreditation schemes in order to attract renters. Despite the fact that 72% of private renters would prefer to rent from an accredited landlord,¹³⁰ where competition for homes is fierce, renters are unlikely be able to choose to.

The failure of accreditation highlights the limited scope for voluntary approaches to improve conditions throughout the sector, particularly in markets where renters have limited consumer bargaining power.

127. Local Government Information Unit & Electrical Safety First, [House Proud – how councils can raise standards in the private rented sector](#), (2013)

128. YouGov 2013, base 1,064 UK private landlords. Jointly commissioned by Shelter and British Gas

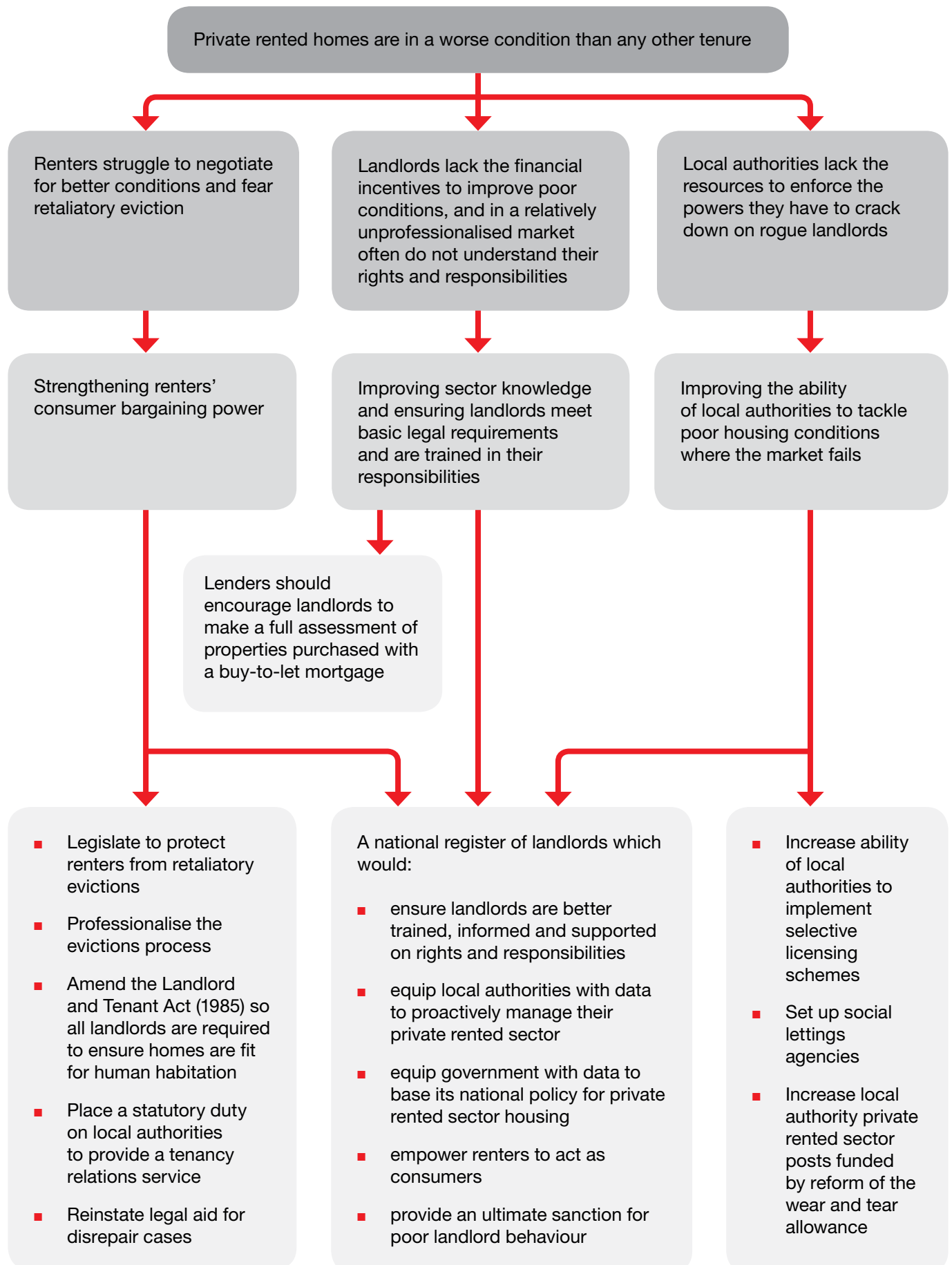
129. Ibid.

130. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas

Part 2

Solutions for a better private rented sector

How to improve conditions in the private rented sector



Improving renters' consumer power

Insecurity of tenure in an overheated market and the lack of legislative protections from retaliatory eviction has undermined the consumer bargaining power of private renters. Every year over 300,000 renters are evicted, served notice or threatened because they complain about poor conditions and one in eight renters have not asked for repairs to be carried out in their home, or challenged a rent increase, in the last year because they fear eviction.¹³¹

Addressing the imbalance of power between landlords and renters by strengthening renters' consumer bargaining power will help ensure that the market works more effectively to deliver decent quality homes.

Recommendation 1: Government should legislate to protect renters from retaliatory evictions

The government should put restrictions in place to prevent Section 21 possession notices being served when a renter has complained about poor conditions in their home.

An Improvement Notice or emergency remedial action served or taken by a local authority should automatically prohibit a Section 21 notice.

- The fear of retaliatory eviction is more prevalent than the practice. In order to provide renters with the confidence to report poor conditions, we recommend that when a renter makes a complaint and a local authority subsequently serves an Improvement Notice or takes emergency remedial action, landlords are automatically prohibited from serving a Section 21 notice.
- Local authorities have to take some form of enforcement action if they discover a Category 1 hazard. While they are not obliged to, they also have the power to take enforcement action if they discover one or more Category 2 hazards. They also have the power to take emergency remedial action if there are hazards which pose an imminent risk of serious harm to occupiers. They can take remedial action to remove the risk of harm and then recover reasonable expenses.
- If a Section 21 notice is served following a complaint but before the Improvement Notice is served or emergency remedial action is taken, it should also be treated as invalid.

- Where an Improvement Notice is served or emergency remedial action is taken, the landlord should not be able to serve a valid Section 21 notice for six months subsequently.

A Hazard Awareness Notice served by the local authority should also automatically prohibit a Section 21 notice from being served.

- Many local authorities do not serve a landlord with an Improvement Notice if they find Category 1 and 2 hazards in a property. The Housing Health and Safety Rating System enforcement guidance¹³² advises that it might be appropriate to wait before serving the notice if the local authority is confident that the landlord will take remedial action quickly. In this situation authorities are advised to use a Hazard Awareness Notice to record the action and provide evidence that the landlord was informed in the event that they fail to carry out the necessary work.
- Shelter proposes that a Hazard Awareness Notice should also serve to automatically prohibit landlords from serving a Section 21 notice for six months in order to prevent renters from being evicted before the landlord has considered how to respond to the notice.
- We also recommend that if a Section 21 notice is served following a complaint but before the local authority issues a Hazard Awareness Notice, it should also be treated as invalid.

Renters who report poor conditions to their landlord and are subsequently served with a Section 21 notice, should have the right to defend the possession claim.

- If a renter is able to provide evidence (a) from someone who is trained in the Housing Health and Safety Rating System confirming there are Category 1 or 2 hazards in their home and (b) that they made a complaint to their landlord, or someone who works on their behalf (eg a letting agent) before the notice was served, then the notice should be treated as invalid.
- The landlord should not be able to serve a Section 21 notice for six months subsequently.

131. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas

132. Office of the Deputy Prime Minister, [Housing Health and Safety Rating System Operating Guidance](#), (2006)

These proposals would give renters the confidence to report poor conditions in their homes without fear of retaliatory eviction. Those landlords who fail to meet their legal obligations to keep the homes they let in a decent condition, and then evict renters who complain, will rightly be prevented from doing so. This will help improve the reputation of the sector and act as a future deterrent. This approach is already established in the private rented sector in relation to the protection of tenancy deposits. Legislation prevents landlords from evicting renters where the deposit has not been properly protected, so a similar restriction in relation to disrepair would be relatively easy to implement. Similarly landlords who fail to license a property which currently requires one are also restricted from serving a Section 21 notice.

A change to the law would also benefit landlords. When renters do not report problems, properties can fall further into disrepair, costing more money to rectify and make good, and putting landlords at risk of large costs later on. The University of Cambridge's analysis of landlord business models showed that a significant number of landlords surveyed thought that a renter not reporting problems when they occurred was a barrier to upgrading and maintaining their property.¹³³ Reforming the law to encourage renters to report issues as they arise will enable landlords to respond promptly, before their property further deteriorates.

The role of someone who is trained in the Housing Health and Safety Rating System in verifying reports of poor conditions as the basis for restricting the use of Section 21 notices will protect landlords from spurious renter complaints aimed at avoiding eviction.

There will be cases where a landlord will want to sell the property during the period a Section 21 notice is invalid. We therefore recommend that landlords who wish to sell should still be able to issue a Section 21 notice, provided they can produce documents clearly evidencing a binding exchange of contracts to ensure that the proposed sale is genuine.

Empowering renters to report poor conditions will also be of considerable benefit to local authorities in their strategies to tackle poor conditions. Often under-resourced, local authorities rely on information provided by renters themselves to target their limited enforcement resources. These reforms would ensure that more vulnerable groups, renting from rogue landlords, would have the statutory protection to report poor conditions. This would allow local authorities to identify rogue landlords who might not necessarily come to their attention via other forms of engagement such as accreditation and licensing, thereby protecting renters at the bottom end of the market, where the worst conditions are usually found.

Protection from retaliatory eviction will also assist local authorities in prosecuting rogue landlords. Often renters do not want to testify against their landlords for fear of eviction, or they might have already been evicted in retaliation. Renters' testimonies, which help document the impact of poor conditions, can be crucial in ensuring successful prosecution of rogue landlords and the award of a significant enough fine to act as a deterrent to others.

Recommendation 2: Government should legislate to professionalise the evictions process

The government should reform the use of Section 21 notices in order to professionalise the evictions process and make landlords and renters more aware of their rights and responsibilities. There are two relatively simple measures that could achieve this:

Prescribed forms

- There are a number of tenancy processes for which it is necessary for landlords or renters to complete a 'prescribed form'.¹³⁴ The forms are carefully drafted to ensure that the person completing the form does so correctly. Failure to serve the correct form may invalidate the notice. The government should produce a prescribed form for the Section 21 notice. This would help reduce the number of notices served incorrectly and raise awareness of the rights of both landlords and renters in this process.

Time limits

- Time limits should be placed on the length of validity of a Section 21 notice. This would prevent the common practice of serving a Section 21 notice on renters in the early stages of their tenancy in order to be able to apply for possession at a much later date. Whilst this is lawful, industry stakeholders agree that it represents poor practice. It has also contributed to local authorities not treating a Section 21 notice as evidence of homelessness, meaning that renters have to go through a stressful bailiff eviction before they can apply as homeless to their local authority. This situation clearly presents difficulties for both renters and landlords. We recommend that the Section 21 notice only remains valid for six months.

133. University of Cambridge, *Understanding Landlord Business Models*. (2014)

134. DCLG, *Guidance: Assured Tenancy Forms*. (2012)

Recommendation 3: Local housing authorities should offer improved access to mediation services

Improved access to local mediation services would also help strengthen renters' consumer bargaining power when disputes arise over poor management or conditions. Mediation services can play a key role in ensuring tenancy sustainment.

Tenancy Relations Officers, based in local authorities, have historically performed this mediation function. Their main role is to:

- promote awareness of both landlords and renters' rights and responsibilities
- negotiate between the parties in the interest of resolving landlord and renter disputes, and
- where necessary, assist in the enforcement of duties and in the prosecution of landlords for harassment and illegal eviction.

Tenancy Relations Services can negotiate with landlords to make repairs and carry out essential maintenance work. They can also reduce void periods for landlords and prevent homelessness by ensuring that renters are able to remain in their homes.

Despite the dramatic increase in the number of households living in the private rented sector, there has been a decline in the number of Tenancy Relations Officers employed by local authorities to perform these functions. Very few housing authorities currently provide a Tenancy Relations Service: this situation has worsened since the cuts to local authority budgets in April 2011.

Government should place a statutory duty on local authorities to provide a Tenancy Relations Service, as a measure to improve awareness of rights and responsibilities and to provide a mediation service between landlords and renters when disputes arise regarding conditions. Additional posts could be funded through reform of the wear and tear tax allowance and additional tax revenue as outlined in Recommendation 9.

Birmingham City Council

Birmingham City Council has a team of Tenancy Relations Officers who enforce the provisions of the Protection from Eviction Act 1977. The Tenancy Relations Officers are based with the Environmental Health Officers who tackle poor conditions in the private rented sector. Birmingham has a large and growing private rented sector. The 2011 Census revealed around 69,000 lets amounting to 17% of the city's housing stock.

The Tenancy Relations Officers undertake the following roles:

- Preventing unlawful eviction and harassment using negotiation, mediation and threat of legal action (both criminal and civil) to prevent the loss of their home. A particular frustration however, is the increasingly common incidence of 'retaliatory eviction' which the team struggles to prevent.
- Investigating and prosecuting under the Protection from Eviction Act (1977), Landlord and Tenant Act (1985) and the Accommodation Agencies Act (1953)
- Providing advice and guidance to landlords to help prevent renters becoming homeless
- Providing advice and guidance to renters, landlords and letting agents on all aspects of renting and letting, eg tenancy agreements, notices, disrepair, rent disputes, court procedures, deposits

The team dealt with 2,200 cases during 2013/14 and has a successful track record in prosecuting criminal landlords in complaints of unlawful eviction and harassment.

Recommendation 4: Government should enable renters to take legal action to ensure that homes are fit for habitation

Section 8 of the Landlord and Tenant Act (1985) has historically served as a very important measure in improving conditions in the private rented sector. It seeks to ensure that rented accommodation is 'fit for human habitation' by inserting an implied term into a tenancy agreement whereby the landlord undertakes to ensure that:

1. the accommodation is fit for human habitation at the start of the tenancy, and
2. it will be kept fit for human habitation by the landlord during the tenancy.

Crucially fitness for human habitation places a statutory duty on landlords covering issues such as damp, mould and infestation, which are not covered by the repairing obligation unless they are caused by disrepair. Failure to meet this statutory duty could result in a civil action by the renter for an injunction and compensation.

However, this statutory consumer protection is now completely obsolete as it only applies where the annual rent is less than £80 in London, and £52 elsewhere. These would have been low, but not entirely unrealistic rents in 1957, when the last uprating of rent limits took place. We think they should be scrapped via an amendment to Section 8. There is no reason whatsoever why, in return for payment of a market rent, a basic standard of fitness for human habitation should not apply to all letting contracts.

Amendment of Section 8 would provide an important remedy for renters wishing to ensure that their landlord address conditions which render their homes unfit for habitation.

Recommendation 5: Legal aid should be reinstated for disrepair cases

Currently, renters can be deterred from taking their own legal action in disrepair cases because it can prove costly, especially if the tenant loses and has to pay the landlord's legal costs. For those who can't afford to pay the legal fees, there is now little assistance. The Legal Aid, Sentencing and Punishment of Offenders Act (LASPO), which came into effect in 2012, has taken legal action for disrepair out of the legal aid scheme.¹³⁵ Legal aid is now only available for court action where there is a serious risk to the health or safety of the occupiers and the renter is seeking an injunction to put matters right.

We recommend that legal aid should be reinstated in disrepair cases and cases involving breach of a landlord's obligations, to allow renters to seek advice and take action both to remedy poor conditions and obtain compensation for any damages suffered.

This has also been recommended by the Low Commission, an independent review of the future of advice and legal support. The commission recognised the particular difficulties of providing advice and representation in housing law cases unless the agency undertaking the work employs lawyers. This is due to most matters, if they cannot be resolved, having to be litigated in the county court, rather than within a tribunal system, as is the case for the other areas of social welfare law. To act for a client in the county court, a representative requires rights of audience. The commission therefore recommended that cases involving housing disrepair and the right to quiet enjoyment (protection from harassment and unlawful eviction), should be restored to the legal aid scheme.¹³⁶

Recommendation 6: Government should consider whether some housing cases could be transferred to a specialist private rented sector tribunal

The majority of disputes in the private rented sector between landlords and renters are currently handled by the county courts. They deal with civil proceedings from disrepair through to possession proceedings and unlawful eviction cases. While renters are currently unable to make use of Section 8 of the Landlord and Tenant Act (1985) to bring a claim against a landlord for unfitness because of its obsolete rent limits, our recommended amendments to this section, as outlined, would help provide renters with better consumer bargaining power to ensure that their homes are fit for habitation.

There is however, a significant lack of confidence in the court system as the appropriate route by which to resolve disputes. Court costs are extremely high for both parties and cuts to legal aid for housing related cases pose a particularly significant barrier to renters in bringing claims against landlords for disrepair.

Landlord associations have reported concerns around waiting times for court dates to pursue possession proceedings, and in many cases will advise landlords to wait until they can issue a Section 21 notice, which allows them to obtain a possession order without having to give a reason for seeking possession or proving there has been a breach of tenancy.¹³⁷ The University of Oxford and University of Hull's research on housing possession cases found that cases

135. [Legal Aid, Sentencing and Punishment of Offenders Act](#)

136. The Low Commission (January 2014), [Tackling The Advice Deficit: A strategy for access to advice and legal support on social welfare law in England and Wales, page 14, paragraph 1.26](#)

137. Shelter, [A Better Deal](#), (2012)

involving private landlords take up a disproportionate amount of court time and resources. While other repossession cases tend to be block-listed, private landlords are given a specific slot so that the judge can devote more time to their cases in view of the greater incidence of misunderstandings of the legislation or procedural requirements.¹³⁸ Recent research by Landlord Action found that in 62% of their previous 200 instructions from landlords and letting agencies who had served their own statutory notices, they proved to be invalid or defective, resulting in the need for new notices to be served.¹³⁹

The government has also recognised the need to review court processes for private rented sector cases and has set up a working party to ‘examine proposals to speed up the process of evicting, during a tenancy, renters who do not pay rent promptly or fail to meet other contractual obligations. The ability to secure evictions more quickly for non-payment of rent will encourage landlords to make properties available on longer tenancies.’¹⁴⁰

More must be done to make court processes more accessible. This would give renters better recourse to complain about poor conditions. It would also help overcome landlords’ concerns about the time it takes to gain possession for rapidly-increasing arrears when they let properties on longer fixed term tenancies.

The government should explore options for developing an alternative route for private rented sector related cases to be heard. One way of providing more efficient, accessible and specialist dispute resolution for both landlords and renters would be to transfer some housing cases from the county court to a specialist private rented sector tribunal. The introduction of such a system in England was considered in some detail by the Law Commission in 2007-08¹⁴¹ and has recently been introduced in other parts of the UK:

The Scottish Model

The Housing (Scotland) Bill 2013 makes provision for taking civil housing disputes in the private rented sector – both eviction and non-eviction matters – out of the Sheriff’s Court, and into a dedicated private rented sector tribunal. The Sheriff’s Court in Scotland is the equivalent to county courts in England and Wales.

The new tribunal will consider the following matters:

- Applications by landlords or renters to exclude or modify the application of the repairing standard requirement to the landlord¹⁴²

- A renter’s right to appeal a landlord’s refusal of, or imposition of conditions on, consent to adapt a rented house for a disabled person or for energy efficiency
- Appeals against local authority decisions on landlord registration

The Irish Model

In 2004, the Irish government set up the Private Residential Tenancies Board (PRTB) to provide a dispute resolution service for landlords and renters.¹⁴³ The PRTB is also responsible for tenancy registration. In addition, the PRTB also carries out research to inform policy advice and guidelines on the private rented sector in Ireland.

Landlords, renters or other parties directly affected (eg neighbours) can initiate the dispute resolution process. Landlords must be registered with the PRTB to use the dispute resolution service, but it is available to all renters. The service covers disputes about deposits, lease terms, termination of tenancies, rent arrears, market rents, complaints by neighbours and breaches of statutory obligations. Landlords and renters do not need to have legal representation when taking a case to the PRTB.

The process consists of two stages. Firstly landlords and renters are offered confidential mediation or adjudication. If that does not work to resolve the dispute, the case is heard in public by a three-person Tenancy Tribunal. Decisions made by the tribunal can only be appealed to the High Court on a point of law. Enforcement of determination orders is through the Circuit Court.

Australian dispute resolution service

Each Australian state runs a tenancy deposit scheme. As in England and Wales, all landlords are required to protect the deposit via the state scheme. The interest accrued on the deposits during the time that they are protected is used to fund residential dispute tribunals. Whilst the tribunal functions differ slightly from state to state, their overall role is to provide dispute assistance for landlords and renters and undertake investigations on a variety of issues including poor conditions and disrepair. They often include a conciliation or arbitration service as a first stage to encourage landlords and renters to resolve disputes without the need for a tribunal hearing.

138. University of Oxford and the University of Hull, *Information, Advice and Representation in Housing Possession Cases*, (2014), p. 11

139. *Landlord Action*, (2014)

140. House of Commons Communities and Local Government Committee, *The Private Renter Sector*, First Report of Session 2013-14, para. 97

141. *The Law Commission*, (2004)

142. For details on the repairing standard see: *s.18(2) Housing (Scotland) Act 2006*

143. *The Private Residential Tribunal Board*

Improving knowledge and understanding in the private rented sector

As outlined, the private rented sector can no longer be described as a marginalised tenure, providing stop-gap lettings to mainly single and transient households such as students and young professionals. It is now the dominant rental sector, providing homes to 9 million people, including families. With few options to secure a permanent home, many are likely to remain in the sector long-term, even beyond retirement. However, while the numbers of households living in the private rented sector and private landlords has grown dramatically over the last decade, the market is largely unprofessional.

Given the dramatic expansion of the sector it is timely for central and local government to take a more strategic approach to ensuring the sector is fit for purpose. There is nothing inherently wrong with small landlords, many of whom provide excellent services. But the growth of small, amateur landlords has resulted in a fragmented market about which little reliable data is available. Unless local authorities run licensing schemes they hold very little information on their private rented sector stock, and the amount of centralised, national data on landlords and private rented homes is even more limited. Crucially, the lack of reliable data makes it difficult for national or local government, or indeed professional bodies, to strategically plan to improve the sector, such as informing and training landlords and renters on their rights and responsibilities.

At a local level, the lack of data on landlords and the homes they let makes it extremely difficult for local authorities to proactively manage their local private rented sector and take enforcement action against rogue landlords.

Recommendation 7: Government should introduce a robust national register and mandatory training of private landlords

The government should implement a national register of landlords which all private landlords and lettings agencies would be required to join. A national register of landlords would provide local authorities with basic information on the distribution of the private rented housing stock in their area and private residential landlords operating locally. This would allow them to undertake more targeted proactive inspection and enforcement work to improve conditions. Better data on the size and location of private rented homes would also allow local authorities to make more informed and strategic decisions about the resources required within the authority to tackle poor conditions, including whether or not to implement selective and additional licensing schemes. Conversely, some local authorities might decide that improved data makes the need for licensing redundant, instead choosing to focus resources on enforcement work.

As well as providing improved data, landlords should undergo training on their responsibilities to improve knowledge and understanding in the sector. Landlords should demonstrate that they have a basic understanding of the Housing Health and Safety Rating System, and relevant sections of the Landlord and Tenant Act (1985) and the Housing Act (2004). Landlords would also have to demonstrate that they meet their basic legal requirements in order to register, such as providing annual gas safety certificates.

A national register of landlords would also benefit HMRC. They currently estimate that £550 million every year is lost because landlords either evade tax or fail to pay the correct amount.¹⁴⁴ Last year they launched the 'Let Property' campaign¹⁴⁵ to specifically target this problem, but the lack of centralised data on this sector makes it extremely difficult to focus investigations. Increased access to data would also allow local authorities to better investigate non-payment of council tax. Following the introduction of borough-wide licensing in Newham, the council has recuperated £390,000 in unpaid council tax.¹⁴⁶

144. The Guardian, [Landlords – HMRC is closing in on your undeclared lettings income](#), (March 2014)

145. HMRC, [Let property campaign](#), (2013)

146. London Borough of Newham, [Property Licensing Enforcement Update](#), January 2013-May 2014

The national register would work to:

- **enable national government and local authorities to ensure landlords are better trained, informed and supported on their rights and responsibilities in order to foster a greater sense of professionalism throughout the sector**
- **equip local authorities with the data to proactively manage their private rented sector to improve conditions**
- **equip national government with the data on which to base its national policy on private rented sector housing**
- **empower renters to act as consumers**
- **provide an ultimate sanction for poor landlord behaviour.**

How would a national register of landlords work?

Who should be required to join the register?

All private landlords would be required by law to register in order to let properties. Landlords would be required to re-register every three years, and update contact information and properties details as their housing portfolio changed.

Letting agencies would also have to register with the scheme every three years, and landlords would also be required to indicate whether a letting agency or some other form of agent was managing a property on their behalf. Landlords would only be able to instruct a registered letting agency to let or manage their property.

The requirements of the register

Landlords would have to meet the following requirements in order to register:

- **Demonstrate that they meet basic safety requirements.** All landlords would have to submit a gas safety check certificate every year for each rental property that they own. Landlords would also have to provide evidence of an energy performance certificate. Landlords are already required by law to provide these two certificates, so this would place no great additional burden on them.
- **Undertake basic training on their rights and responsibilities towards renters.** All landlords would have to undergo basic training in the Housing Health and Safety Rating System and their rights and responsibilities towards renters in accordance with the Landlord and

Tenant Act (1985) and the Housing Act (2004). Landlords renting out HMOs would be required to undertake training specific to their rights and responsibilities. The training could be tendered out to an organisation that already delivers these services, such as a professional landlord body. To avoid unnecessary burdens or loss of earnings for landlords, courses could be delivered via e-learning and completed at a convenient time. Any courses should be designed to be completed within a relatively short period. The register would also provide a channel through which national government could disseminate information to landlords on their rights and responsibilities including the 'How to Rent' guide, model tenancies and updates on legislation and guidance.

- **Undergo a Disclosure and Barring Service check (previously CRB check).** This provides a much more robust check than a self-certified fit and proper person check. Any person found to have committed an offence which affects their fitness to manage a property should be required to instruct a registered letting agency to take over the management of the property.
- **Landlords should be required to pay a basic fee to cover the administration of the scheme.** The fee should be kept as low as possible. We would not envisage landlords having to pay more than £220 every three years to register. This amounts to just over £6 per month. Fees could be structured to reflect the number of properties owned by landlords to help avoid placing an unnecessary burden on smaller landlords.

Letting agencies should be required to register as a business rather than as an individual, and would have to meet the following requirements in order to register:

- Demonstrate that they are members of an approved redress scheme. From October 2014, letting agencies have been required to join one of three compulsory redress schemes. The redress schemes work to ensure that complaints about hidden fees and poor service are investigated independently, and where a complaint is upheld, renters receive compensation.
- Demonstrate that they are a member of a professional letting agency body. Letting agencies that are members of professional bodies such as NALS and ARLA are covered by the Client Money Protection (CMP) Scheme and by professional indemnity insurance. This would provide a far greater level of financial security for both landlords and renters.

How would compliance with the register be enforced?

- **Sanctions for failing to register should serve as a strong deterrent to ensure compliance with the scheme.** Penalties for failing to register should be kept in line with those already in place for landlords who fail to obtain a required licence. These include fines of up to £20,000 and restriction on the use of Section 21 notices to evict renters. A series of lower fines should be put in place for landlords who fail to keep the register updated with correct information. Renters should also be able to apply to the First Tier Tribunal (Property Chamber) for a Rent Repayment Order to reclaim rent for the period they have been living in a property let by a landlord who has failed to register.¹⁴⁷ Rent Repayment Orders are already available to renters whose landlord has failed to obtain a required licence for a property.
- **An easy-to-use web portal for renters to check if their landlord is registered.** Renters should be able to use a web portal to find out if their landlord is registered. Empowering renters would play a vital role in compliance.
- **Providing landlords with a unique registration number.** Once a landlord has registered, they will be provided with a unique registration number. This number should be displayed in any lettings advert and official documentation relating to the tenancy, including eviction notices and tenancy agreements. As a publically visible sign of registration, this would make it much easier for renters and local authorities to identify unregistered landlords. A web portal would help certify the validity of a registration number.
- **The register should have the power to strike off landlords who repeatedly fail to meet their legal requirements.** In the same way that doctors who risk health and safety can be struck off by the General Medical Council, the register could be used to prohibit a landlord from operating in the private rental market. This would be a rarely used and extreme sanction reserved for landlords who have been prosecuted for persistent poor management and conditions or have been convicted of a serious tenancy-related offence, such as manslaughter relating to the death of a renter. It would involve a tribunal hearing and allow a right to appeal. Unlike having a local licence revoked, being struck off the national register would prohibit a landlord from

letting elsewhere in the country. This would prevent rogue landlords who are refused licences, or are frequently prosecuted by enforcement officers in one area, from simply moving their operation to another part of the country. In many instances, however, we would envisage that a landlord convicted of housing-related offences could instruct a registered letting agency to manage the property.

Who should run the register?

The national register of private landlords should be administered by a self-financing central body. This body would be responsible for processing applications, including checking that applicants meet the necessary requirements. It should then disseminate data on operating landlords and private rented sector stock to local authorities, who would be better equipped to carry out their existing role of strategically planning to improve the private rented sector and undertaking enforcement work where appropriate.

Crucially a centrally administered register would reduce the burden on landlords with properties in multiple authority areas, as they would only be required to register with one body.

It would also reduce the burden on local authorities. One of the barriers to compliance with Scotland's national register of landlords has been the role of local authorities in administering the register. Shelter Scotland's evaluation of the register, three years after implementation, found that some councils were not applying the 'fit and proper person' test in any meaningful way and failed to use available sanctions to stop landlords who were persisting with bad practice. They also concluded that there was a possible lack of capacity and budget for councils to effectively carry out their duties with regards to landlord registration.¹⁴⁸ Given the cuts to local authority budgets in England, a nationally run register would alleviate this administrative burden, allowing them to focus on enforcing standards in the sector, and tackling the worst rogue landlords.

One centrally administered register, rather than individual schemes run at a local level, would help foster a greater sense of professionalism and cohesion right across the sector. It could be spearheaded by a national advertisement campaign, reinforcing responsibility and helping embed recognition of the register. It would also encourage renters to check if their landlord is registered before entering into a tenancy.

147. Since 1 July 2013, the functions of the Residential Property Tribunal have been transferred to the First-tier Tribunal (Property Chamber). The term Residential Property Tribunal is still commonly used.

148. Shelter Scotland, [Landlord registration in Scotland: three years on](#), (2009)

There are several possible agencies that national government could choose to administer a national centrally run register:

- **An arm's-length body of DCLG**
- **The Homes and Communities Agency**
- **The Housing Ombudsman Service**
- **The government could put the contract out for tender using the same process as tenancy deposit and letting agency redress schemes**

Recommendation 8: Lenders should play a role in ensuring that landlords are aware of their legal responsibilities before letting out a home

The buy-to-let mortgage product has expanded significantly over the last decade. Figures from the Council of Mortgage Lenders show that between May 2013 and May 2014 there was a 14% increase in the number of buy-to-let mortgages and a 22% increase in their value.¹⁴⁹ In April 2014 alone, buy-to-let mortgages totalled £2.2 billion. University of Cambridge analysis of landlord business models has shown that 89% of new landlords bought their rental properties using a buy-to-let mortgage.¹⁵⁰

There is clearly a role that lenders can play in ensuring that, when they provide buy-to-let mortgages, landlords are aware of their legal responsibilities.

Lenders should ensure that any prospective landlords provide the following documentation before a home is purchased:

Gas safety check. Landlords have a legal responsibility to make sure any gas equipment they supply is safely installed and maintained in good condition. They are also required to have a registered Gas Safe-registered engineer carry out an annual gas safety check on each appliance and/or flue. Lenders should inform landlords to arrange with the vendor of the property for a gas safety check to ensure that the property is fit to let out and, if not, that they are able to budget appropriately for any associated works to take place prior to letting the property.

Electrical safety check. Landlords are required to make sure that all electrical systems and appliances they supply are safe. Lenders should encourage landlords to arrange with the vendor for an electrical safety check to establish if there are electrical hazards in the property.

Home Buyers report (previously known as the Homebuyers Survey and Valuation). The report was introduced in 2009 and is completed within a standard format as laid down by the Royal Institution of Chartered Surveyors. The Home Buyers report flags urgent problems which should receive specialist attention before signing a contract or completing the purchase. The report would provide landlords with a guide to the amount of work that would be required to bring the property up to a lettable standard.

The prospective landlord would bear responsibility for ensuring that these checks were complete prior to the mortgage being approved in the same way that anyone applying for a mortgage has to demonstrate proof of earnings, etc. They would also be responsible for bearing any of the associated costs relating to these checks. Failure of one of the checks or poor performance on the Home Buyers report should not prevent lenders from approving a buy-to-let mortgage. Rather, it would serve to require landlords to confirm, as part of their mortgage application, that they had undertaken the necessary legal requirements and would make them aware of any required work needed.

This recommendation would ensure that buy-to-let lenders were playing their part in ensuring that finance for homes for rent supports legal requirements and borrowers are not at risk of breaching housing legislation or endangering renters, in the same way that banks check the business plans and risks of applicants for business loans.

149. The Council of Mortgage Lenders, 'MMR impact on lending appears subtle, rather than dramatic, says CML', (July, 2014)

150. University of Cambridge, Understanding Landlord Business Models, (2014)

Improving local authorities' existing enforcement powers

Even if renters were to be given greater consumer power to enforce their right to decent housing, there would still be a need for local authorities to tackle poor housing conditions and to take action on renters' behalf, in the same way, for example, that they seek to improve trading standards. This is particularly necessary where renters lack the confidence, capacity, or support to take their own action.

However, as set out earlier in the report, local housing enforcement officers often face barriers in taking steps to improve private rented housing standards.

Recommendation 9: Government should make it easier for local authorities to introduce selective licensing schemes

Shelter strongly supports the ability of local authorities to use selective licensing. In the absence of a national register of landlords, licensing helps local housing enforcement officers identify privately rented properties in their area, enabling them to develop proactive inspection and enforcement programmes. It provides an opportunity for good landlords to identify themselves to the local housing authority. This makes it easier for local enforcement officers to prioritise identifying and inspecting unlicensed properties, which are more likely to have poor standards of maintenance and management. Licences often contain a higher set of standards than minimum legal requirements. For example, licence conditions often include issuing renters with a written tenancy agreement, proof of electrical safety checks and regular property inspections.

Requiring contact information for private landlords in their area allows local housing authorities to offer services to improve their practice, such as regular information updates, training courses, forums and signposting to local statutory and voluntary services. Licensing, therefore, is an important tool to improve the sector, not only to deal with landlords who deliberately exploit renters, but for the large numbers of amateur and accidental landlords who are unsure of their responsibilities.

As outlined earlier in the report, financial and bureaucratic barriers often prevent local authorities from implementing selective licensing schemes. In the spirit of localism, these barriers should be removed and greater flexibility given to local authorities to decide whether selective licensing is a useful tool to improve their local private rented sector.

The London Borough of Newham

Newham's private rented sector now represents 40% of the housing market. The borough has seen increasing problems of extortionate rents and appalling conditions in the sector. Given the scale of the challenge and the failure of the market to provide decent housing, Newham took the decision to introduce the country's first borough-wide mandatory licensing scheme.

The council supported landlords to sign up to a voluntary accreditation scheme, but less than 2.5% registered. Licensing however enables the council to identify criminal landlords and require all landlords to adhere to a basic set of conditions including levels of occupation, tenancy management and property standards.

There are now over 32,000 properties licensed and the council have carried out over 1,500 inspections, while taking a light touch approach to those running a professional operation. This has resulted in over 300 prosecutions and 15 of the borough's worst landlords being banned.

Licensing is proving to be an effective tool in encouraging the professionalisation of the sector. Interim findings from an independent evaluation of Newham's scheme show that licensing tackles anti-social behaviour, the proportion of reported anti-social behaviour against unlicensed properties is more than double that of licensed properties. Renters' satisfaction with landlord service more than doubled after their property had been licensed. Crucially, licensing protects renters by requiring landlords to provide them with a tenancy agreement and improved standards.

In order to make selective licensing schemes easier to implement, national government should:

- **extend the criteria to include high demand and poor conditions**

The primary function of selective licensing should be to improve property management and conditions. Currently, local authorities in high demand areas that want to tackle problems have to make a case on the grounds of anti-social behaviour alone – even where there is no specific link to poor conditions or management standards. Making a case on these grounds attributes blame for poor conditions on renters, rather than focusing on the role of landlords. Somewhat counter-

intuitively, there is little evidence to suggest that homes in low demand areas are more likely to be in a poor condition than homes in areas of high demand. University of Cambridge analysis of landlord business models found that landlords renting properties in areas of high demand set aside significantly less for repairs and maintenance than those in low demand areas. In fact, selective licensing is often most needed in high demand areas because renters living in overheated markets, such as parts of London, often have less consumer power.

- **provide more guidance on the criteria**
National government should produce additional guidance about the types of evidence that local authorities must produce to demonstrate that they meet the qualifying criteria for selective licensing schemes. Additional guidance could also help promote the benefit of selective licensing schemes in improving poor conditions.
- **provide more funding for local authorities to carry out consultations**
National government should consider helping part-fund local authorities' consultations for selective licensing. DCLG has already provided additional funds of £4 million to local authorities which have been able to demonstrate that they have a significant problem with rogue landlords and have a well-designed strategy for tackling them.¹⁵¹ Government could similarly help local authorities which are able to prove they have a significant problem with poor conditions and management in the private rented sector.

Recommendation 10: Local authorities should consider setting up social lettings agencies

Local authorities should, based upon an assessment of their local housing needs, consider establishing social lettings agencies. Social letting agencies deliver a much more reasonable service for renters and can help ensure that properties are maintained in a good condition.¹⁵²

The London Borough of Havering

In 2012, the London Borough of Havering set up one of the country's first social lettings agencies. It offers a comprehensive range of 'in-house' property management services for landlords to meet the unprecedented rise in the number of local people turning to the council for help with their housing problems. The agency was built on the success of the council's leasing scheme to offer new products including 'high-street style' management of private assured shorthold tenancies and intensive management of shared accommodation. The range of competitive products and council-run services has enabled it to acquire large numbers of homes for people experiencing a range of different housing needs including homelessness, overcrowding, and the increasing numbers excluded from renting privately.

At the same time, it is helping the council drive-up property standards across the borough. By the end of August 2014, the social lettings agency had built up a portfolio of over 1,100 properties, all of which have had to meet high-quality standards. In particular, the agency has helped the authority manage the standards of shared accommodation. The council is using the social lettings agency to take management control of shared accommodation and help landlords improve property conditions and maintain standards.

Unlike for-profit letting agencies, social lettings agencies are free from the incentive to maximise profits through high tenancy turnover, providing greater stability to renters. Social lettings agencies generally charge all costs relating to finding renters and setting up a tenancy to the landlord, making the sector more affordable, particularly for those living at the lower end. Our research has found that almost a third of renters (32%) were charged £200 or more in letting agent fees. This figure increased to 38% for families with children.¹⁵³

Our 2012 YouGov survey found that:¹⁵⁴

- a third of people who rent their home through a letting agency did not trust their agent
- 1 in 4 of all renters felt that they had been charged an unfair fee.

151. DCLG, 'Cash for councils to stop rogue landlords', (December 2013)

152. Crisis, Local lettings agencies: a good practice guide, Providing access to the private rented sector while generating income, (2011)

153. YouGov 2014, base 4,544 private renting English adults. Jointly commissioned by Shelter and British Gas

154. YouGov survey for Shelter. Sample size for England and Wales was 4724 adults. Fieldwork was undertaken between 10–14 August 2012

Social lettings agencies can also act as guarantors for renters in receipt of housing benefit or on low incomes, who often face far greater barriers accessing accommodation in the private rented sector. As well as helping establish tenancies, social lettings agencies can provide an on-going property management service, helping to drive up standards throughout the sector. To ensure that homes are let in a decent condition, a social lettings agency could also require that landlords are a member of an accreditation scheme, which often requires their members to meet a higher set of management and maintenance standards.

Social lettings agencies also provide a number of benefits for landlords. For-profit letting agents on average charge landlords a fee of 10% of the rental income. Social lettings agencies tend to charge far less. In addition, social lettings agencies often continue to pay landlords rent, even if void periods are incurred. They could offer wider services to landlords such as damage and rent insurance. They can also act as a mediatory body between landlords and renters to help resolve disputes and sustain tenancies.

Recommendation 11: Government should consider reforming landlord tax to help fund local authority work

The wear and tear allowance

Until recently, landlords had two routes by which to claim tax relief on the cost of providing and updating 'plant and machinery', including furniture and other moveable household items. They could either do this through the wear and tear allowance or on a replacement basis.¹⁵⁵ Figures released by HMRC in 2013 in response to a Freedom of Information request showed that in 2010/11 the cost of tax relief from both the wear and tear allowance and replacement basis allowance combined was £2.52 billion.¹⁵⁶

In April 2013, the replacement basis was scrapped. Landlords letting furnished properties can now only claim via the wear and tear allowance, which allows the tax payer to offset 10% of their annual rental income against their property income tax bill. The allowance is designed so that landlords can claim a relief for the depreciation of plant and machinery within a residential property. This could include for example, fridges, freezers, cookers and furniture. Landlords are able to deduct the 10% without having to incur any expenditure.

How could the tax relief be reformed?

Capital Allowances: HMRC could scrap the wear and tear allowance and allow landlords instead to claim tax relief for the depreciation of plant and machinery on a

capital allowance basis. The aim of capital allowances is to give tax relief for the actual expenditure of qualifying assets that the tax payer buys and owns for business use by allowing them to write off their cost against the taxable income of their business. This would require landlords to claim for individual items and maintain records of this expenditure. It is unlikely, however, that HMRC would introduce this measure given that their policy has been consistent on this point for a long time.

Reduce the wear and tear allowance: HMRC could reduce the wear and tear allowance from 10% to 5% of gross rental income. The wear and tear allowance was originally introduced in 1974 and set at 10%. Since that time rents have considerably increased, and at a much higher rate than the cost of items that the wear and tear allowance is intended to cover.

While it is difficult to track accurate data on rents from 1974, figures from the English Housing Survey show that rents increased by 504% between 1988 and 2013.¹⁵⁷ By comparison, according to ONS CPI figures, furniture has risen by 100% between 1989 and 2012 and DIY material by 99%.¹⁵⁸

Given that, in 2010/11, the cost of tax relief from wear and tear and replacement basis allowance was £2.52 billion, reducing the remaining wear and tear allowance could potentially generate an extra £1 billion in tax revenue. This is assuming that the new cost of the wear and tear allowance is the same as the wear and tear allowance and the replacement basis combined in 2010/11. This figure is therefore only a rough estimation.

In order to more effectively tackle poor conditions in the sector this money could be provided to local authorities to fund tenancy relations officer posts. To fund two tenancy relations officers in every local authority would cost approximately £19m every year. The additional revenue could also help fund grants from national government to local authorities to adequately staff environmental health teams. Providing local authorities with additional resources to carry out more targeted work would help to improve conditions in the worst end of the sector where rogue landlords, who may be less likely to use the tax relief for the depreciation of plant and machinery items, operate.

Limiting the wear and tear allowance to 5% of net rental income would more accurately reflect the cost of items such as furniture and would not affect a landlord's ability to claim deductions for repair of a property, which arguably impacts more heavily on the condition of homes. Reforming the allowance would ensure that local authorities are sufficiently resourced to enforce the powers they already hold to improve conditions in the private rented sector.

155. The replacement basis: Under Extra Statutory Concession B47, the cost of replacing plant and machinery supplied with the property could be claimed as an expense where neither the 10% wear and tear allowance nor plant and machinery capital allowances are claimed. Plant and machinery are defined as common business assets such as office equipment, furniture and machines

156. The Intergenerational Foundation, *Why BTL equals "Big Tax Let-off" – How the UK tax system hands buy to let landlords an unfair advantage*, (November 2013)

157. English Housing Survey, *Weekly rents net of services*, table FA3601, (2014)

158. ONS, *Consumer Price Inflation*, (2014)

Conclusion

Our homes are one of the most important things in our lives. As owning a home of your own becomes increasingly more difficult and social housing stocks dwindle, more and more people find themselves living in the private rented sector for longer, and at more settled stages of their lives. The increased number of private renters has put considerable pressure on the sector and in many areas the demand for homes outstrips supply.

Despite these changes in the population of renters, and the fact that most renters do not rent privately out of choice, the standard tenancy offer remains one designed for more highly mobile, younger people: six to 12-month contracts are the norm, and landlords can usually end tenancies more or less at will.

The combination of an overheated market and short term contracts manifests itself in increasing instability for private renters and a lack of consumer power to negotiate for better conditions. Hundreds of thousands of renters are evicted from their homes every year for complaining about poor conditions and many more continue to live in non-decent homes because they fear reporting poor conditions.

Conversely in a market where demand outstrips supply there are very few financial incentives for landlords, many of whom are amateurs, to invest in their properties. It is not surprising that the private rented sector contains more homes that fail the government's Decent Homes Standard than any other tenure.

What needs to be done?

We need a private rented sector which provides England's 9 million renters with safe, decent and stable homes. The market must function more effectively to ensure that renters are given genuine choice over where they live. A greater number of checks and balances must be installed to ensure that landlords meet their legal requirements to let homes in a good condition.

Taken together, Shelter's recommendations to end retaliatory eviction, professionalise the eviction process and ensure greater mediation services between landlords and renters, will ensure that renters are provided with much stronger consumer bargaining power.

A national register would ensure that landlords are more accountable for demonstrating that they meet the basic legal minimum requirements and possess a better understanding of their rights and responsibilities. It would help foster a higher level of professionalism right across the sector.

Registration would also provide much needed data on landlords and the stock they own. This would help HMRC to crack down on tax evasion and policy makers to implement more strategic plans to improve the sector. Most importantly, registration would allow local authorities to plan how to more effectively exercise their existing powers to clamp down on poor conditions in the private rented sector.

Poor housing conditions have a devastating effect on physical health. A significantly high number of renters are living in homes that are damp, infested or riddled with dangerous hazards. Poor conditions can leave people feeling trapped in accommodation, with little recourse to do anything about it, or forced to move on with no guarantee of a better prospect.

For families, the effect is arguably most acute. Poor conditions, along with the impact of the volatility and uncertainty of the rental market can have a damaging impact on children's lives and restrict their chances of ever living in a decent, stable home.

With such a significant number of people now forced to rely on private renting, action must be taken to ensure that, like any other healthy market, it delivers consumers a product which is fit for purpose.

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Shelter's 9 million renters campaign is run with the
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