

Policy: briefing

Asserting authority: calling time on rogue landlords



Shelter

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Summary

Shelter is concerned about the state of the private rented sector. Local authorities dealt with more than 86,000 complaints from private tenants in 2010/11; yet, wider research finds that over 350,000 private renters experienced housing problems in the same year.

The sector is blighted by a large number of amateur landlords failing to offer good standards to their tenants, and a small minority of rogue landlords who deliberately prey on the vulnerable. Local authorities have told us they are aware of some 1,477 serial rogue landlords. Yet, in the past year only 270 landlords were prosecuted and tough enforcement activity made up a small proportion of local authorities' activity. Many landlords are therefore not receiving a clear message that bad practice will not be tolerated.

This briefing exposes the scale and the nature of problems in the private rented sector, analyses local authorities' responses to problems with landlords in their area, and explores the barriers that local authorities face in taking tough action and how they can be overcome. Finally, it makes recommendations to national and local government on the measures needed to stamp out rogue landlords once and for all.

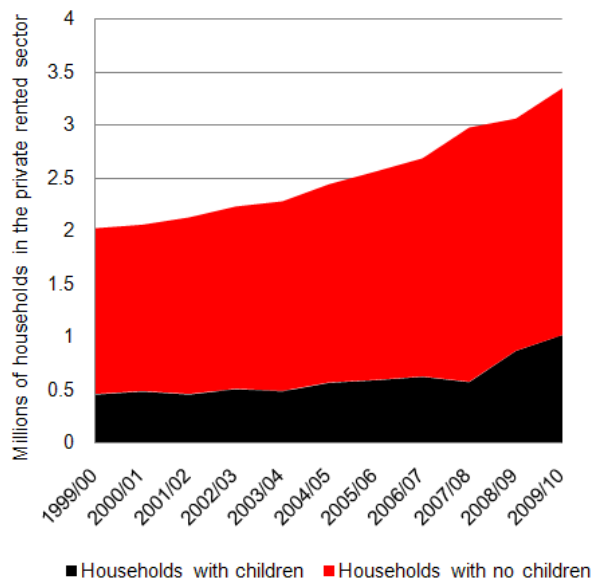
Key findings

- The scale of problems in the private rented sector raises serious questions about the suitability of private renting in general, but particularly for growing number of families and vulnerable households who have few other options open to them.
- While some local authorities are stepping up their activities to tackle problems, many are not sending out a tough message that poor practice will not be tolerated. As a result, problems continue to grow as amateur and rogue landlords alike know that tenants are often unwilling to make complaints and, when they do, the chances of a prosecution are slim.
- Many enforcement teams face substantial barriers to taking tough action against rogue landlords in their area. These are often corporate and political barriers, with frontline officers lacking the internal support to deal strategically and effectively with problems in their local private rented sector. Addressing these barriers is critical to improving the effectiveness of enforcement activities.
- National government has a vital role to play in intervening to break this vicious cycle and create a better environment for tough enforcement. This must start with a strong message to local authorities on the importance of dealing with amateur and rogue landlords in the private rented sector. Government should also work with the court system to improve their understanding of the seriousness of the problem.
- Local councillors and senior officers must get to know their local private rented sector and ensure they are taking a strategic and effective response to local problems. This could involve referring amateur landlords who are the subject of complaints for training on their responsibilities to avoid future problems, and taking tough, decisive action with the worst offenders.

Introduction

The private rented sector in England is growing rapidly. In the last decade, the sector has grown to accommodate a further 1.3 million households.¹ High demand has pushed rents up by 66 per cent in the same period, while wages have only increased by 35 per cent.² In some parts of London, letting agents report annual rent increases of 16 per cent.³

Figure 1: A decade of growth in the private rented sector



Source: English Housing Survey and Survey of English Housing 2009/10 to 1999/0.

At the same time, problems in the private rented sector have been increasing. New research by Shelter has found that local authority enforcement teams are gradually increasing their efforts to deal with the growing number of complaints about private landlords; yet wider research suggests this is only the tip of the iceberg, with many more private renters affected than the complaints figures reflect.⁴

Complaints about the most serious health and safety hazards have increased by 25 per cent in the

past two years.⁵ Local authority officers believe that many of the complaints stem from amateur landlords not understanding their responsibilities, but that a small minority of rogue landlords are exploiting their tenants without fear of punishment.

Local authorities are aware of some 1,477 serial rogue landlords operating in England,⁶ although there may be many more operating below the radar. Because there is no requirement for landlords to register, and little data is collected on the private rented sector, we do not know how many properties these landlords own, and many tens of thousands of tenants could be affected. Yet the low number of prosecutions and light sentences mean rogue landlords have few incentives to improve the way they do business.

Widespread problems with amateur landlords and exploitation by the small minority of rogues are a major concern for professional landlords, whose good reputation is undermined by this poor practice. Local councillors and officials should also be concerned about the volume of problems they face, and the financial consequences of not addressing them strategically.

Local and national government should reflect on the state of the private rented sector at a time when more than a million families with children live in private rented homes.⁷ Policy changes are already in track to place more homeless households into the sector. It is likely the sector will be the only long-term housing destination for an increasing number of both vulnerable households and low and middle income families in work.

The poor state of the private rented sector

Standards in the private rented sector are already significantly worse than in the owner occupied and social rented sectors. Forty per cent of private rented homes are classified as 'non-decent',⁸

¹ Shelter analysis of Department for Communities and Local Government English Housing Survey 2009/10, Survey of English Housing 2004/5 and 1999/0.

² Shelter analysis of Annual Survey of Hours and Earnings 2010 and 2000 and *ibid.*

³ Savills Rental Index, May 2011

⁴ Shelter commissioned an online survey from YouGov which asked the people who had rented privately over the past ten years the problems they had experienced with their landlord. Total sample size is 2,092 GB adults. Fieldwork was undertaken between 15th -17th June 2011. Shelter commissioned analysis of Civil and Social Justice Panel Survey 2010.

⁵ Shelter submitted a Freedom of information request to all English local authorities. This asked twelve questions about complaints received concerning private rented accommodation and subsequent enforcement action against private landlords. Out of the 326 local authorities contacted we received 322 responses. The statistics relate to trends in the past three years from 2008/09 to 2010/11. All figures relate to local authorities who returned valid data for the questions Shelter requested information on. Response rates for each question varied.

⁶ *Ibid.*

⁷ Department for Communities and Local Government, English Housing Survey 2009/10.

⁸ As defined by the Department of Communities and Local Government, a decent home is one which does not have any category 1 hazards as defined by the HHSRS, is in a reasonable

compared to 30 per cent of homes in owner occupation and 27 per cent of social rented homes.⁹ Research commissioned by Shelter found that 12 per cent of private renting households experienced housing problems in the last year, including harassment by landlords, unsafe conditions, and landlords failing to carry out repairs.¹⁰

Some 36 per cent of the problems dealt with by Shelter's advice services come from private renters, who make up only 16 per cent of all households. This has increased by 23 per cent in the last year.¹¹

Private tenants also lack housing security: most have short contracts of six or twelve months, after which landlords can easily evict a tenant with just two months' notice. Academics have argued that this asymmetrical relationship affects tenants' mental health.¹² Similarly, a longitudinal study has found that moving home more frequently, particularly mid-year, correlates with lower academic achievement,¹³ suggesting the impact the lack of housing security can have on children. The insecurity means tenants who complain to their landlord or local authority about poor management or property standards may find themselves swiftly evicted. Shelter advisors report that the fear of retaliatory eviction is a key factor in the under-reporting of rogue landlords.

The profile of the estimated one million landlords in England suggests that many do not treat renting as a professional business or are not fully aware of their legal responsibilities as landlords.¹⁴ The sector is dominated by individuals and couples with small portfolios, with a wide variety of motivations for becoming landlords.

No formal licence or training is required of private landlords in England. As there is no easy way for local authorities to identify which accommodation in their area is rented privately, many struggle to communicate with local landlords, inform them of their responsibilities, and support them to improve their contribution to the local housing market. This

makes it even harder for councils to identify the small minority of wilful rogues operating in their area.

The legal framework for the private rented sector

Private landlords are required to comply with a patchy but fairly extensive legislative framework, stemming from many different pieces of legislation.

Figure 2: The legal framework for the private rented sector

Problem	What does the law say?
Poor conditions	The Housing Act 2004 allows councils to take action where they consider housing conditions to be a danger to health and safety, for instance by serving an improvement notice, hazard warning notice or a prohibition order. The Act places a duty on councils to intervene when they identify a serious (category 1) hazard. It is a criminal offence not to comply with the terms of a notice issued under the Act.
Poor gas safety	Landlords must arrange an annual gas safety check by an authorised Gas Safety engineer, and issue a copy of the certificate to all existing tenants within 28 days and to new tenants prior to moving in.
Unprotected deposit	Landlords must protect tenants' deposits from being unfairly withheld at the end of a tenancy, using one of three approved tenancy deposit protection schemes, within 14 days of receiving the deposit and must justify deposits at the end of a tenancy if they intend to withhold it.
Harassment and illegal eviction	The Protection from Eviction Act 1977, the Criminal Law Act 1977 and the Protection from Harassment Act 1997 make harassment and illegal eviction criminal offences. Harassment includes threatening or intimidating tenants. Illegal eviction involves forcing tenants from their home without having followed due process.
Unlicensed Houses in Multiple Occupation (HMO)	The Housing Act 2004 requires landlords of large shared houses to obtain an HMO licence from their local authority. Licensed properties have to comply with a variety of additional requirements, for instance concerning fire and electrical safety, and their landlords must pass the test of being a 'fit and proper' person.

state of repair, has reasonable and modern facilities and thermal comfort.

⁹ Communities and Local Government, 2010. English Housing Survey Headline Report 2008–09.

¹⁰ Shelter commissioned analysis of Civil and Social Justice Panel Survey 2010

¹¹ Shelter service statistics, 2011.

¹² The Parliamentary Office of Science and Technology, 2011. Post Note 371: Housing and Health.

¹³ Consortium on Chicago School Research, University of Chicago, 2009. Changing Schools: A Look at Student Mobility Trends in Chicago Public Schools Since 1995.

¹⁴ Julie Rugg, 2008. The Private Rented Sector: its contribution and potential, York: Centre for Housing Policy.

Tenants' experience of problems in the private rented sector

A recent Freedom of Information request by Shelter to local authorities found that they are dealing with a 22 per cent increase in the number of complaints about the private rented sector in the last three years: more than 86,000 complaints in total. However, Shelter is concerned that this is only the tip of the iceberg, with our research finding more than 350,000 private renting households have experienced housing problems in the last year.¹⁵

A YouGov survey commissioned by Shelter found that almost a third (30%) of people who experienced a problem with their landlord in the last ten years were able to sort it out with them, while 41 per cent spoke to their landlord and the landlord did nothing.¹⁶ The effects of insecurity in the private rented sector clearly have an impact on tenants' willingness to challenge bad practice: seven per cent of tenants with a problem did nothing at all because they were scared of the consequences.¹⁷

Lower socio-economic groups experienced a similar number of problems, but markedly different responses from their landlord:

- Only 22 per cent of lower groups sorted the problem out with their landlord, compared to 37 per cent of ABC1s.
- 45 per cent of C2DEs said that their landlord did nothing once they reported the problem, compared to 37 per cent of ABC1s.
- C2DEs were twice as likely to take no action for fear of the consequences (10 per cent of C2DEs vs 5 per cent of ABC1s).¹⁸

The table below details the number of people who have experienced problems in the private rented sector in the last 10 years. Compared to the 86,628 complaints received by the local authorities who

responded in 2010/11, it is clear that many more problems occur than are reported.

Figure 3: Broader experience of private renting problems

If you have lived in a private rented property in the past ten years which, if any of the following problems have you experienced with your landlord?	% of people rented privately in last 10 years
My landlord...	
...did not carry out repairs or deal with poor conditions	34%
...did not ensure gas safety checks were carried out	7%
...did not protect my deposit and/ or unfairly kept my deposit	17%
...threatened me and/ or another tenant	2%
...cut off my electricity/gas/water	1%
...entered my home without permission	12%

Source: Shelter commissioned YouGov survey 15th-17th June 2011 Base: All GB adults who have lived in a private rented property in the past ten years: 668.

The scale of these problems is a serious concern, especially at a time when the private rented sector is housing more and more vulnerable households and an increasing number of households with children. While complaints are increasing, the number remains low compared to the overall prevalence of problems. This suggests that many amateur and rogue landlords are not challenged on their poor management and property standards, due to the lack of power tenants have as consumers.

¹⁵ Shelter commissioned analysis of Civil and Social Justice Panel Survey 2010.

¹⁶ Shelter commissioned an online survey from YouGov. Total sample size is 2092 GB adults. Fieldwork was undertaken between 15th -17th June 2011. The figures have been weighted and are representative of all GB adults (aged 18+).

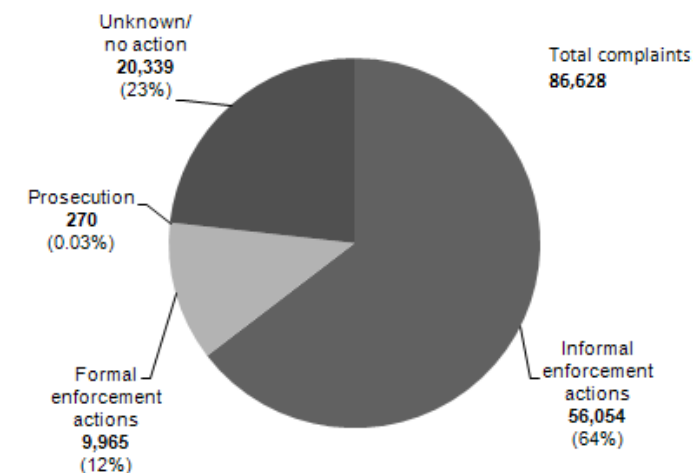
¹⁷ Ibid. Figures total more than 100% due to some respondents making multiple responses to describe their experience.

¹⁸ ABC1 and C2DE refer to occupation based social grades maintained by the Market Research Society. ABC1 refers to professional, managerial and administrative occupations, while C2DE refers to manual workers and those who depend on welfare for their income. From: Shelter commissioned an online survey from YouGov. Total sample size is 2092 GB adults. Fieldwork was undertaken between 15th -17th June 2011. The figures have been weighted and are representative of all GB adults (aged 18+).

What's being done?

The results of Shelter's FOI research reveal an increasing level of activity by local authorities in responding to an increasingly high level of complaints. But the action that local authorities are taking against landlords is highly variable, and tough formal action makes up a tiny proportion of overall enforcement activity. As a result, it is clear that many serial offenders are not receiving the message that their poor practice will not be tolerated.

Figure 5: Local authority enforcement action

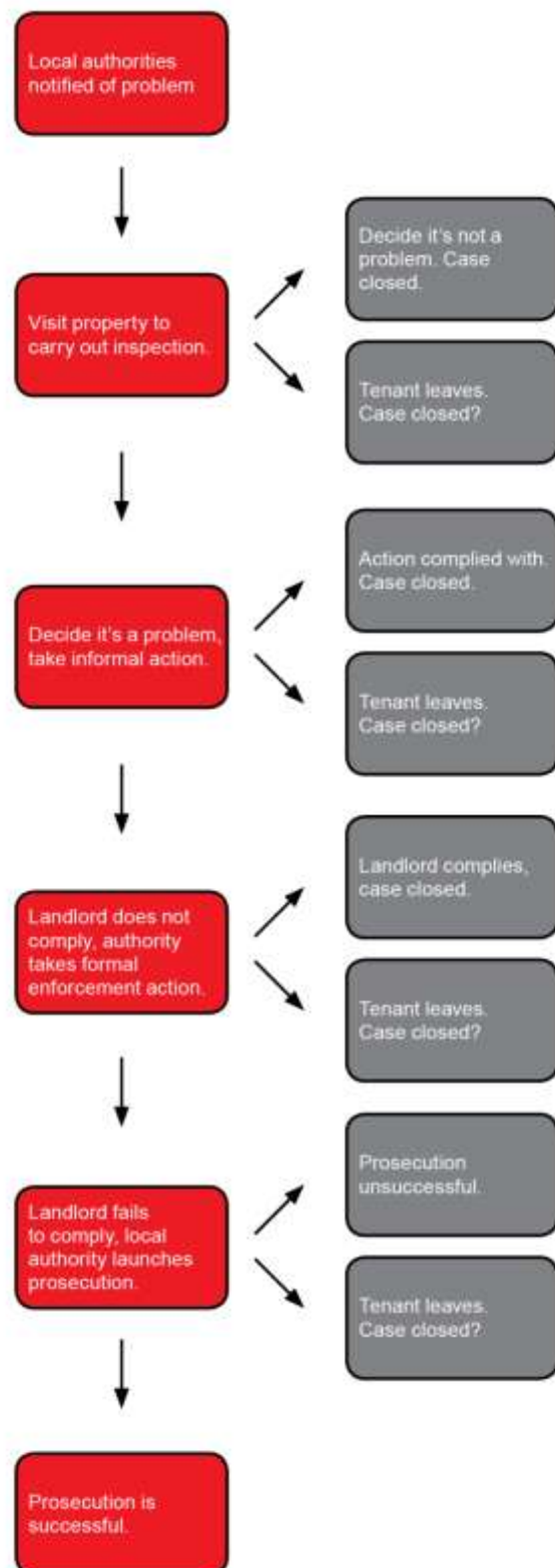


Source: Shelter Freedom of Information request to local authorities, 2011

Analysis of the data by individual local authorities shows different types of enforcement behaviour.

Many authorities follow a very clear process, starting with 'soft' initial approaches to resolve complaints: visiting homes or sending letters and making phone calls to the landlord to encourage them to rectify the issues. This is then followed by formal action against a landlord, for example by serving an improvement notice. Only once that process has failed do many local authorities consider bringing forward a prosecution. Overall, this can be a lengthy and bureaucratic process and can see many problems 'resolved' only because the tenancy has ended. The flow chart (above right) shows how many stages this process can involve and how many opportunities there are for cases close without reaching a satisfactory conclusion.

Figure 6: Conventional enforcement flow chart



Some authorities take a more flexible approach, using informal approaches for some lower level problems, but taking formal enforcement action immediately where a serial rogue landlord is involved or the risk to tenants is high.

A handful of authorities are taking tough enforcement action for a greater proportion of the cases they see, and then use the local press to publicise enforcement and prosecution cases, sending out a strong, clear message to landlords that bad practice will not be tolerated. Some have seen a change in the behaviour of local landlords as a result. Of authorities who have ramped up the number of prosecutions in recent years, many have seen significant decreases in complaints coming to them, at a time when complaints elsewhere are rising.

The high number of informal actions compared to formal notices and prosecutions confirms what many local authorities have told us: that they prioritise a conciliatory approach, with local policies specifying that enforcement activities should be focused on resolving the individual case. Indeed, several respondents referred to the then Department for Trade and Industry's 1998 Enforcement Concordat, which states that local authorities should help businesses comply with regulations before escalating action.

While Shelter actively encourages local authorities to engage positively with local landlords, and it is often in the tenant's immediate interest to resolve issues through conciliatory means, the increasing scale of the problems occurring suggests that the conciliatory approach is not addressing the fundamental problems in the private rented sector. Amateur landlords are not taking their approach to letting seriously, and rogue landlords know full well that they are unlikely to get a strong punishment for illegal, dangerous and exploitative practice. Local authorities need to do more to actively help amateurs to professionalise and focus tough enforcement on the worst offenders.

Case study: Oxford City Council

Oxford has long had significant problems in its private rented sector, with a minority of rogue landlords with substantial portfolios letting out dangerous accommodation. But a confident use of the authority's powers has led to a series of high profile prosecutions of some of the worst landlords in the city. Between 2007 and 2009 Oxford City Council issued 89 summonses and formal cautions. This compares to just 87 issued by all twelve inner London boroughs - each with dense populations and similarly large and pressured private rented sectors - over the same period.¹⁹

In 2008/9 Oxford City Council prosecuted 15 landlords and upheld 592 complaints about hazards. In the following two years, upheld complaints about hazards fell to 508 and 509 respectively, at a time when the sector came under increasing pressure. Similarly complaints about harassment fell from 35 to 25 between 2008/9 and 2010/11. This demonstrates that tough action, coupled with extensive publicity, can reduce immediate problems and is effective in sending out a strong message to amateur and rogue landlords.

Environmental health managers at Oxford put their success down to confident officers who have the full backing of local councillors, who in turn appreciate the importance of addressing problems in the local private rented sector. The priority attached to improving private renting means that enforcement functions are well resourced, and councillors are now looking at how licensing can be made cost-neutral for the authority.

¹⁹ Chartered Institute of Public Finance and Accounting, 2007/8 and 2008/9 Environmental Health Statistics.

Barriers to tough enforcement

A 2010 Shelter survey of enforcement officers found that they face substantial barriers in taking enforcement action against rogue landlords in their area. Only 29 per cent considered there to be no barriers to local authorities taking enforcement action, while over half cited a lack of staff. Almost a third considered the length of the process a major barrier, and a quarter considered the cost-benefit ratio insufficient.²⁰

This comes at a time when more than half of local authorities report they lack resources to deal with landlord problems,²¹ and more than 1 in 4 local authorities have cut back their enforcement resources in the last three years.²²

Of those who highlighted further barriers, many mentioned a lack of corporate support, due to concerns about the risk and cost of prosecution activities. Others cited a lack of confidence among officers in using the legislation flexibly to respond to different problems, as well as a lack of confidence among officers due to low political support for enforcement activities.

Enforcement officials are in general agreement that the current legal framework does contain strong powers to take tough enforcement against rogue landlords, if the resources and the will to use them are there.

Political and organisational barriers

Several local authorities said that they lack political support for tough enforcement against rogue landlords, as well as facing pressure from other departments with conflicting interests.

Housing options teams, for example, may rely on accommodation from some of the landlords that enforcement teams want to take tough action against. With a shortage of decent accommodation in many parts of the country, it is not uncommon for authorities to have a very small pool of landlords willing to rent to low-income households. When some of these landlords also offer dangerous accommodation and poor management, it can create a difficult conflict of priorities, particularly where both enforcement and housing options teams are in the same directorate. Other internal

barriers include legal and finance departments that may regard enforcement as both high risk and poor value for money.

Research by the Chartered Institute of Housing found wide variances between local councillors' engagement with private rented sector issues. Their study found that councillors were more likely to be engaged in areas with large populations of students or migrant workers living in poor quality private rented housing, and that many councillors simply had little understanding of the private rented sector.²³ Given that Shelter's research found that more than a quarter of authorities could name at least five landlords that gave them continued cause for concern, there is clearly much work for officers to do in engaging local councillors around the problems in the private rented sector.

Enforcement officials at local authorities that have taken a proactive and tough approach to enforcement have all reported having strong political support for their approach. It is not simply a question of having the political agreement to a decent level of resource for enforcement functions: knowing that your political leaders give their full backing to your work can boost morale and confidence and overcome internal barriers. The presence of senior councillors keen to actively publicise tough enforcement action against rogue landlords can make an appreciable difference.

Judicial barriers

From analysis of sentencing information on landlord prosecutions from Shelter's recent FOI, it is clear why some local authorities perceive the efforts of prosecution to be unworthy of the effort. There were only 175 recorded instances of landlords receiving a fine higher than £5,000 in the last five years, while more than a quarter of landlords found guilty received a fine under £1,000. One local authority officer told us of a landlord grinning as he left the magistrates' court, having received a £350 fine for illegally evicting a tenant. When punishment is as low as this, prosecution does not have a serious impact on rogues' business operations. This undermines local authorities' efforts to proactively enforce the law and send out strong messages to landlords that they cannot get away with flouting their legal responsibilities.

²⁰ Shelter, 2010. Research summary: Survey of Environmental Health Officers

²¹ Ibid.

²² Shelter Freedom of Information request 2011.

²³ Chartered Institute of Housing, 2006. Ways and Means: Local authorities' work with the private rented sector

The problems relate to experiences at Residential Property Tribunals, and at magistrates' courts, which handle prosecution cases.

Residential Property Tribunals²⁴ handle most cases around Housing Act 2004 contraventions, particularly improvement notices following inspections under the Housing Health and Safety Rating System. However, analysis of case outcomes posted on the LACORS website,²⁵ along with anecdotal evidence from enforcement officers, suggests that a substantial proportion of cases that are appealed are upheld in favour of the landlord, undermining enforcement officers' confidence in the process and sending out a message to local landlords that enforcement is weak.

Several cases fall down on technical details, and environmental health officers describe how every failed case after substantial work reduces morale among enforcement teams, as well as reducing confidence from corporate leadership concerned about the cost-benefits of tough enforcement activities. Some have argued that more targeted training and mentoring is needed where environmental health officers lack professional confidence in preparing cases for the Residential Property Tribunal. In a time of restricted budgets, and where enforcement functions are not prioritised, this skills gap may not be addressed.

Problems also exist when taking cases to the magistrates' court. The variability of sentences imposed by magistrates clearly increases the perceived risk to local authorities in proceeding with prosecutions. The variability can, to an extent, be explained by a lack of precedent established in the magistrates' courts. Our FOI request to local authorities found that only 318 landlord cases were taken to magistrates' courts in the last year, a tiny proportion of the total 1.68m cases magistrates heard in 2010. Considering that there are 29,270 magistrates in England,²⁶ the odds of an individual magistrate hearing a landlord case are extremely low.

On the other hand, magistrates primarily consider the severity of the impact of a case based on the evidence presented to them in court, which informs their sentencing. Evidence of impact may take the form of a community or victim impact statement as

part of the evidence; however, anecdotal evidence from magistrates suggests these are not as commonplace in local authority prosecution cases as they are in cases brought by the Crown Prosecution Service, highlighting a possible gap in many authorities' approach to prosecution.

In order to aid the consistency of sentencing, the Sentencing Council will typically develop sentencing guidance and education programmes geared at magistrates and judges. Such guidance highlights the detriment caused to victims in order to guide sentencing. Recent guidance consulted on by the Sentencing Council covers burglary, drugs and assault cases, which perceptibly make up a much larger proportion of cases handled by magistrates than cases involving landlords. There is currently no sentencing guidance on landlord offences. Without such guidance, and with some authorities failing to convince courts of the serious impact of landlord offences, sentencing is inconsistent.

Tenant barriers

On the other side, many of the barriers that local authorities face come from tenants, who, for a variety of reasons may not come to local authorities to complain about standards or their landlord's practice, or may be unwilling to comply with local authorities' investigations where local authorities are proactively carrying out inspections.

The gap between the level of problems that occur and the number of problems that result in complaints to local authorities is demonstrated by the fact that more than 350,000 private renters have experienced problems in the last year, while only 86,628 complaints were received by local authorities.²⁷

One factor is that tenants may simply be unaware of their rights to decent conditions and may be unaware of the local authority's enforcement powers. That only five per cent of tenants who experienced problems in the private rented sector consider reporting their landlord is testament to the

²⁴ The Residential Property Tribunal (RPT) is a tribunal of two or three people. It is an independent decision making body which is completely unconnected to the parties or any other public agency. The Chairman of a tribunal may be a lawyer or a valuer, or, exceptionally, a lay person. Other members may be lawyers, valuers or lay people.

²⁵ Available on LACORS website: www.lacors.gov.uk

²⁶ Ministry of Justice, Judicial and Court Statistics 2010, p. 63

²⁷ The 350,000 figure is from Shelter commissioned analysis of Civil and Social Justice Panel Survey 2010. This is based on 12% of private tenants experiencing housing problems of the 3.4 million households living in PRS. The 85,000 figure is from the Shelter Freedom of Information request.

low level of awareness of councils' role in housing enforcement.²⁸

However, Shelter has long stressed that some tenants fear negative reactions from landlords, including retaliatory eviction, where a landlord will evict their tenant in response to a request for repairs. This fear of losing the home presents a major barrier for tenants to bring forward complaints about conditions or practice in the private rented sector.

As highlighted earlier, many private tenants have little power to challenge the practice of their landlord. While landlords value reliable tenants who pay the rent and know that there are costs associated with finding a new tenant, tenants face significant financial and social costs to moving, particularly in a tight market with rising rents. They may not easily be able to find another home to rent in the area where their networks are - a particular concern for households with children. It is easy to imagine why many tenants would put up with poor conditions if the fear of eviction is real and the consequences costly.

Case study: retaliatory eviction

Sam rented a home from a local agent with his partner and young child. 'We thought our house would be great for our child to spend her first year. It turned out to be a nightmare,' he says. The property was riddled with damp which soaked the walls and led to the spread of black mould throughout their home.

When the health visitor came to the property she wrote to the council saying the family should be re-housed. Sam hadn't suffered from asthma since he was a young child but the illness returned soon after he moved in. His baby daughter also suffered from illnesses related to the damp. The family ran up a huge gas bill trying to keep the property warm during the winter.

When Sam took action asking for repairs to be made they were asked to leave the property a week before Christmas. The agent also kept more than £100 that Sam had pre-paid on the electricity meter. They are now living in temporary accommodation having been accepted as homeless by the council.

²⁸ Shelter commissioned an online survey from YouGov. Total sample size is 2092 GB adults. Fieldwork was undertaken between 15th -17th June 2011

A major review of the sector highlighted that there is insufficient detailed evidence into how tenancies end,²⁹ although the joint Shelter and Crisis Sustain longitudinal research project³⁰ expects to gain a better understanding of this.

However, Shelter advisors regularly come across cases where tenants have promptly received an eviction notice following a complaint to their landlord about conditions or repairs. While this may be a minority of cases, the fear is likely to be more widespread as a tenant will not know what their landlords' response will be until they make a request for repairs or improvements. Even though eviction may only occur in a minority of cases, it is clear that many more tenants are anxious about bad reactions from landlords and do not complain as a result. Such attitudes are difficult to quantify, but should not be ignored by policy-makers as a result.

Some local authorities told us that they struggle to take enforcement against the worst landlords in their area due to the fact that many of their tenants are migrant workers, with landlord and employer often being linked. In these cases enforcement action would have wider ramifications for the tenant than their immediate housing situation. In one case, the local authority reported real difficulty in obtaining a statement from the tenants, which weakened their case in taking action against the landlords.

Case study: Wandsworth Council

Wandsworth Council is particularly concerned about the state of its local private rented sector for migrant populations, where some of the worst landlords operate and offer some of the most dangerous accommodation. However, due to poor information about their rights and scarce alternatives, many tenants are unwilling to bring forward complaints.

Enforcement officials at Wandsworth now make pro-active inspection of suspect properties, using information gathered from multi-agency working with the police, community groups and other parts of the council. They have found that this approach has helped to identify the worst properties, ensure rogue landlords are charged for the full range of offences for which they are suspected, and protect vulnerable tenants from being evicted for making a complaint.

²⁹ Julie Rugg, 2008. The Private Rented Sector: its contribution and potential, York: Centre for Housing Policy.

³⁰ For more information visit:
http://england.shelter.org.uk/professional_resources/policy_and_research/sustain/about_the_project

Conclusions: taking action to improve the private rented sector

This report has considered the scale of problems in the private rented sector and the barriers that local authorities face in taking tough enforcement action against rogue landlords. It is important to recognise that many local authorities are now taking strong action to improve their local private rented sector, showing that many of these barriers can be overcome through good practice and culture change.

Local authorities need to take a multi-track approach to improving standards in their private rented sector. Many forward-thinking councils are already undertaking innovative work with private landlords to raise standards. Shelter wants to see local authorities give two clear routes for landlords they receive complaints about: either improve practice and become professional landlords, or face tough enforcement action and possibly prosecution.



There can be no 'one size fits all' process for enforcement, as every local private rented sector has different dynamics. Cultural change must come from local corporate and political leaders realising the importance of a decent private rented sector and then prioritising a tougher and more proactive approach to enforcement. Local authorities must send a clear message to landlords that they cannot expect to repeatedly get away with low-level problems, and that more serious problems will not be tolerated at all.

The Sheffield case study demonstrates that local authorities can very successfully get this balance right with the right political support.

Case study: Sheffield City Council

Sheffield City Council takes a dual approach to its private rented sector, working positively with good landlords and focusing enforcement activities on the worst offenders.

The authority values the contribution that most private landlords make to the residents of Sheffield, and is further developing relationships with professional landlords who know it is in their business interest to offer good quality homes and management services. They benefit from a more informal approach from the council and are generally responsive. Officers are trained to take a holistic view of tenants' needs as a starting point and this informs the positive approach.

This allows officers to target scarce resources at successfully tackling the landlords they are concerned about - those that simply lack knowledge or experience, and those at the extreme that have criminal intentions. Officers are confident they have all the legal tools to take tough action; however, they would like to see more appropriate fines and penalties that fully take into account the impact those landlords' actions can have on tenants and the community as a whole.

Officers believe that their new cabinet member's commitment to improving the sector and to working in partnership with local landlords is a key driver of success. This support has been vital in taking forward the development of a new customer and business focused accreditation scheme, and developing a 'Repairs on Prescription' service jointly with health authorities, the fire service and the energy trust to address the worst conditions in their area.

A positive and strategic approach to helping amateurs improve

For first time low-level problems, local authorities should ensure that landlords are fully informed about their responsibilities and have no excuse for being referred to local authorities again. Shelter would like to see all local authorities sending landlords found to be breaching their responsibilities on mandatory training programmes, perhaps via e-learning. While landlords would be under no legal obligation to complete the course, local authorities should make it clear that they will respond with compliance visits on all properties if a landlord refuses to take part.

Local authorities should also engage strategically in their local private rented sector and actively promote landlord accreditation schemes. Shelter

estimates that around two-thirds of local authorities now offer landlord accreditation as a way of educating well-intentioned landlords,³¹ helping them to improve their business and giving them a market advantage and access to incentives.

Positive engagement can be supported by a tenancy relation function within the authority. Tenancy Relations Officers can mediate between tenants and landlords to resolve low-level issues, while also having tough enforcement powers to serve injunctions and press for prosecutions for more serious landlord problems.

These measures help to address the lack of landlord education that leads to local authorities dealing repeatedly with amateur landlords. At the same time, authorities should always be clear that they will get tough on landlords who continually breach their responsibilities and offer substandard accommodation.

A tough stand against rogues

Shelter wants to see local authorities taking tough action against rogue landlords immediately. Rogue landlords are those who show no willingness to improve their approach to letting and knowingly let dangerous, poor quality accommodation or carrying out illegal management practice. Where local authorities are seeing the same landlords time after time there is clearly a case for stronger enforcement.

By serving notices under their Housing Act 2004 powers, and taking prosecution action where these are not complied with or criminal activities such as harassment and illegal eviction are carried out, local authorities can send out a strong message to local landlords that poor standards and bad management will not be tolerated.

However, the attractiveness of tough enforcement as an option has to be improved. In a period of tight budgets, councillors and senior officials will rightly ask whether any activity is good value for money. Shelter argues that the benefits of tough, well-publicised enforcement send out a strong message and can lead to change in the behaviours of local landlords, saving local authorities money in the long run while delivering justice for tenants who suffer at the hands of rogue landlords.

Overcoming the barriers to tough enforcement

Instilling culture change

Local authorities, particularly corporate leadership and senior councillors, need to perceive the benefits of working positively with their local private rented sector and taking tough enforcement action against rogue landlords. Political engagement is unlikely to become widespread while the scale of the problem is understated. However, there are a number of actions that local and national government can take to improve local political and corporate engagement in private renting:

- National government must send out a strong message to all local authorities that they should be taking tough action against rogue landlords.
- Local managers and politicians should enquire about the state of their local private rented sector, step up their enforcement activities and not hesitate in taking tough and decisive action against rogue landlords in their area.

Strong local policy and practice

Once senior local decision-makers are engaged in addressing problems in their local private rented sector, it is important to develop a strong policy for how the authority will work positively to improve the practice of local amateur landlords and take action to rid their local sector of rogues.

- Local councillors and senior managers should consider how they can work positively with the local private rented sector, such as through landlord accreditation schemes. Officers should read Shelter's good practice guide on accreditation³² to learn how to target landlords and tenants more effectively.
- Senior council managers and politicians should give enforcement teams the political support they need to take tough action against landlords who continually flout their duties and give officers cause for concern.
- Local authority press officers should work with politicians to use the local press to publicise the tough stance the authority is taking and celebrate every prosecution that is successful.
- Local officers should give tenants the support they need to bring complaints to the authority to aid action targeted against rogue landlords.

31 Shelter, 2011. Landlord accreditation campaign briefing.

32 Available from england.shelter.org.uk

Resourcing enforcement

The scarcity of resources is a key barrier for enforcement officials trying to take tough action. Inadequate resources can be linked to a lack of political priority, but are also a reality in a time of tight public finances. Nevertheless, some authorities have found ways of making enforcement activities cost-neutral, and there is scope within existing enforcement powers to make reasonable charges to landlords.

Some local authorities have started to explore how they can self-fund their enforcement activities, but it will take some time to make the changes necessary to achieve this. For this reason, Shelter believes that national government must intervene by creating a time-limited fund to instigate a tougher enforcement approach to rogue landlords. This could cover short-term legal resources to bring prosecutions forward and training for enforcement officers to compile watertight cases. The prize is not only a clear signal being sent to landlords and better outcomes for tenants, but the chance to develop a self-funding enforcement process that will save public money in the medium to long term.

- National government should create a time-limited fund to support local authorities in pursuing prosecutions.
- Local councillors and managers should promote the Shelter good practice guide on creative tips for tough enforcement in the private rented sector, covering poor conditions, licensing, harassment and illegal evictions, and financial scams.³³
- Local and national authorities should work together to develop ways of making enforcement self-funding.

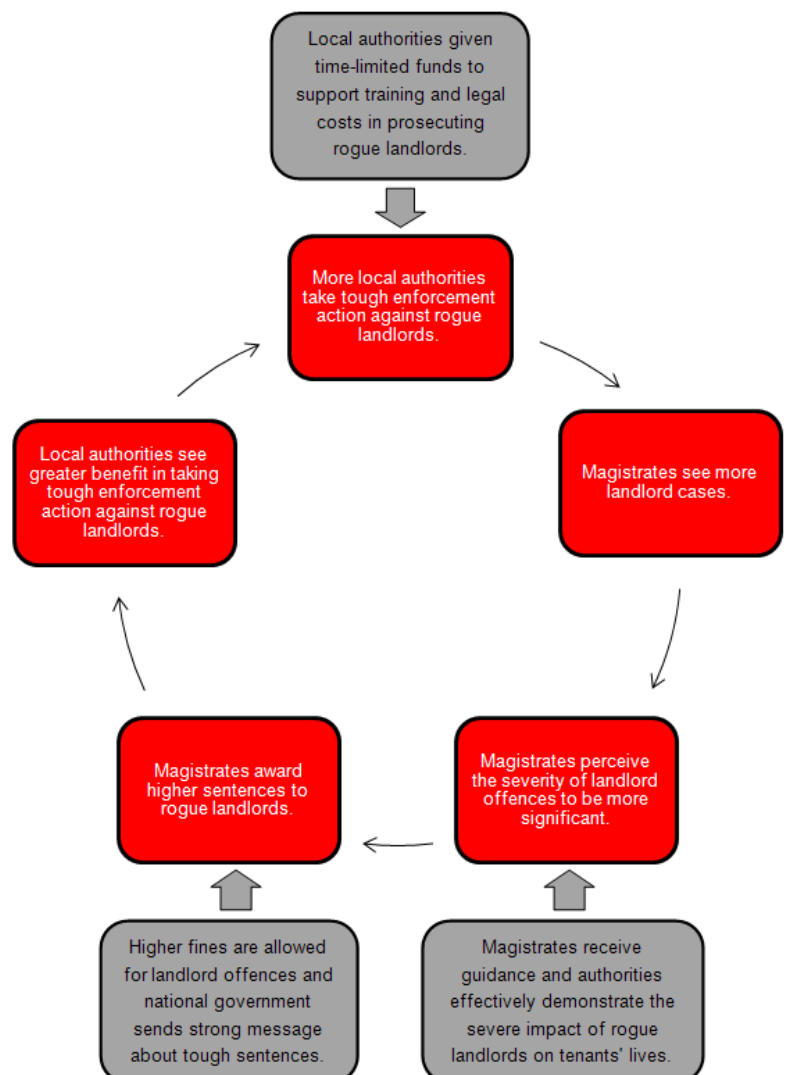
Improving the cost-benefits through the justice system

There is a currently Catch-22 situation with regard to magistrates' courts. Until magistrates perceive the scale and severity of landlord offences, they are unlikely to give consistently tough sentences. Yet local authorities are unlikely to take tough action when they know the likely outcome of a long and resource-intensive process is a sentence that is insufficient to act as a deterrent.

Shelter believes that national government has a role to play in changing the perceptions of magistrates about problems in the private rented sector. This can be aided by skilling-up local authority officers to highlight the severity of landlord offences in court, which could be supported by the time-limited fund. This could further be aided by making the case for sentencing guidance on the range of landlord offences, including illegal eviction, harassment, and non-compliance with licensing requirements and enforcement notices on health and safety hazards, and the detriment caused by poor standards and practice.

- National government should send a strong, clear message to magistrates about the impact of poor conditions and bad management practice on tenants' lives.
- National government should join Shelter in writing to the Sentencing Council calling for sentencing guidance on landlord offences.
- National government should consider raising the maximum fines for landlord offences, to increase local authorities' perception of the value for money of pursuing prosecutions.

Figure 7: Interventions for a virtuous cycle of tougher sentences



³³ Available from england.shelter.org.uk

Protection for tenants who complain

As identified above, many tenants are unable to challenge landlords' bad practice because they lack consumer power. If the market is to work better for tenants, they need to be able to make reasonable challenges without fear of retaliatory eviction.

In the long term, Shelter would like to see a more balanced legal relationship between tenants and landlords. However, in the short term Shelter believes that tenants must be protected from retaliatory eviction by allowing them to challenge an eviction notice if they feel it has been issued maliciously following a request for repairs or a complaint to their local authority.

There are a number of options which would enable a tenant to appeal a Section 21 eviction notice and have access to a judicial process, allowing a civil judge to rule on the appeal based on the evidence presented to them. For example, restrictions on Section 21 eviction notices could be put in place while upheld complaints about serious hazards are awaiting compliance. If the landlord cannot use the eviction to avoid improvement works, then this may

reduce the instance of retaliatory eviction, while also improving local private rented housing.

Shelter would not want to weaken landlords' rights to evict non-paying or anti-social tenants, and would welcome serious discussion with national government and professional landlords associations as to how the sharp practice of retaliatory eviction can be prevented.

- National government should commit to legal measures to protect against retaliatory eviction and continue discussions with tenant representatives, enforcement officials and landlord organisations to ensure protections are workable.
- Local authorities should make proactive inspections to local private rented properties on a street-by-street basis, and ensure that these are well-publicised, so that tenants are not automatically blamed if enforcement action is taken against their landlord.

Recommendations

A tough message to rogue landlords

- National government must send out a strong message to all local authorities that they should be taking tough action against rogue landlords.
- Local authorities must step up their enforcement activities and not hesitate in taking tough and decisive action against rogue landlords in their area.

Strong local policy and practice

- Local senior managers and politicians should give enforcement teams the political support to take tough action against landlords who continually flout their responsibilities and give officers cause for concern.
- Local authority press officers should work with politicians to use the local press to publicise the tough stance the authority is taking and celebrate every successful prosecution.
- Local officers should give tenants the support they need to bring complaints to the authority, to aid enforcement action against rogue landlords.
- Local councillors and senior managers should engage with and work positively with local private landlords to improve standards and incentivise best practice.

Supporting a step-change in practice

- National government should create a time-limited fund to support local authorities in boosting tough enforcement activity.
- Local councillors and managers should promote the Shelter good practice guide on creative tips for tough enforcement in the private rented sector, covering poor conditions, licensing, harassment and illegal evictions, and financial scams.

Addressing judicial barriers

- National government should send a strong, clear message to magistrates detailing the impact of poor conditions and bad management practice on tenants' lives.
- National government should join Shelter in writing to the Sentencing Council to call for sentencing guidance on landlord offences.
- National government should consider raising the maximum fines for landlord offences, to increase local authorities' perception of the value for money of pursuing prosecutions.

Protection for tenants

- National government should commit to legal measures to protect against retaliatory eviction and continue discussions with tenant representatives, enforcement officials and landlord organisations to ensure protections are workable.
- Local authorities should make pro-active inspections to local private rented properties on a street-by-street basis, and ensure that these are well-publicised, so that tenants are not automatically blamed if enforcement action is taken against their landlord.

Shelter, the housing and homelessness charity.

Until there's a home for everyone.

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