

Happier and healthier: improving conditions in the private rented sector

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The logo for British Gas, featuring a stylized flame or leaf shape in blue and green.

Shelter

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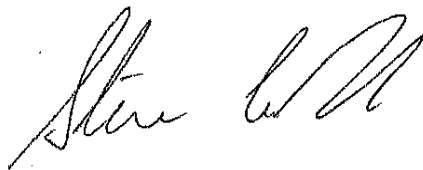
Foreword

The private rented sector is housing more people than ever before, and for much longer. It is vital that these homes are safe and decent, happy, healthy and comfortable.

Together, Shelter and British Gas have worked hard over the past five years to improve conditions in the private rented sector - with considerable success. From setting out a road map in 'Safe and Decent Homes' in 2014 to the 'Living Homes Standard', the public's definition of what an acceptable home should look, together we have successfully persuaded Parliament to ban revenge evictions, introduce mandatory electrical safety checks and require landlords to install carbon monoxide detectors in properties with solid fuel burners.

The majority of landlords take their responsibilities to their tenants very seriously, but a small minority don't. Either wilfully, or through ignorance, they allow their properties to fall into a state of disrepair that is distressing to live with and harmful to health.

The Housing and Planning Act 2016 gives local councils new powers to identify, fine and ban landlords who do not keep their properties in good condition. This new briefing encourages local councils to use these important new tools to improve conditions for all renters, making the private rented sector a happier, healthier place to live.



Steve Crabb
Director, Consumer Vulnerability
and Corporate Citizenship, British Gas



Anne Baxendale
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Executive summary

Everyone should have a home that is warm, safe and secure.

But too many homes in today's private rented sector are in very poor condition, severely compromising families' health and wellbeing, and in the most extreme cases putting lives at risk.

Property conditions in the private rented sector are worse than any in any other tenure. We know that there are also problems with conditions and enforcement in social renting and we are undertaking separate work on this. The private rented sector is, therefore, the focus of this briefing. More than a quarter of homes do not meet the Decent Homes Standard. As the cost of home ownership rises and the lack of social housing endures, the private rented sector is playing an increasingly important role in housing people. It is vital that these homes are safe and decent.

Local councils have responded in a wide variety of ways to the different challenges they face in improving conditions in their local PRS. The case study councils featured in this briefing have made imaginative use of their existing powers, both formal and informal, to empower renters and target poor landlords.

But while conditions in much of the PRS are undoubtedly improving, thanks to existing legislation and inspection regimes, there is still more to be done.

Hard fought new powers in the Housing and Planning Act 2016 extend the range of measures local councils can use to take tough enforcement action and crack down on rogue landlords who, either wilfully or through ignorance, allow their tenants to live in poor conditions, causing ill health and distress.

These new powers allow councils to build on their existing initiatives and impose banning orders, civil penalty notices and rent repayment orders on landlords who fail to improve conditions in their properties, and to maintain a database of banned landlords and those convicted of a banning order offence. They will be able to share this, along with information from tenancy deposit schemes, to better build and share intelligence about rogue landlords.

But problems with the supply of, and demand for, private rented homes (including the lack of security of tenure), diminishing resources for local council enforcement teams and the difficulty renters face in exercising their consumer power and taking action against poor landlords themselves, means that, on their own, the new powers will not be enough to significantly improve conditions in the private rented sector.

Shelter is optimistic about the prospects for a new Homes (Fit for Human Habitation) Bill, presented as a private members' bill in July 2017. Renters must have a right to expect that homes are fit to live in. Most good landlords already provide this, but renters must have a direct route independent of local authority resources and priorities to enforce basic housing standards in their home, without fearing eviction and homelessness as a result.

Recommendations

Local councils have responded in a wide variety of ways to the different challenges they face in improving conditions in their local PRS. The case study councils featured in this briefing have made imaginative use of their existing powers, both formal and informal, to target poor landlords and empower renters. They have demonstrated how important a mixed, localised, resource-clever approach is to crack down on rogue landlords. Common themes across their work have included:

- Targeted and proactive inspection of the local private rented sector
- Bids for additional funding to support adequately resourced enforcement teams
- Use of prosecutions as a method of formal enforcement, when notices are not complied with
- Building proactive relationships with the local private rented sector through accreditation and licensing schemes
- Harnessing the skills and knowledge of other agencies
- Working to educate tenants and landlords of their rights and responsibilities

To make a significant improvement to conditions in the private rented sector, there needs to be a **fundamental review of housing standards**, including updating the evidence base that sits behind the HHSRS (which is now 20 years old) and

reinstating some basic housing standards that are easy for both renters and landlords to understand.

This must then be supported by **increased consumer rights for renters to take their own action against landlords who fail to keep their properties in a safe and decent condition**, freeing up local councils to concentrate their limited resource on the worst offenders.

We continue to call for increased security of tenure in the private rented sector. This would significantly increase tenants' ability to enforce consumer standards themselves, without fear of being evicted. Ending the freeze on local housing allowance, and restoring rates to at least the 30th percentile of the local rental market, would put renters in a stronger position to complain, knowing that, if the worst did happen and they were evicted, they would have more chance of finding a new home that they could afford.

Legal Aid is the funding that stops the worst from happening – enabling families to get the advice on welfare benefits (most importantly housing benefit), debt and disrepair that might stop them losing their home in the first place. But access to free legal advice when a problem first emerges has been hugely restricted as a result of changes following the Legal Aid, Sentencing and Punishment of Offenders Act in 2012. Free advice now kicks in only at the point of crisis – when a family faces imminent homelessness or disrepair has become a serious risk to their health or safety. **The power imbalance between renters and poor landlords could be significantly reduced if the government reinstated Legal Aid for issues of disrepair.**

Work to prevent homelessness should go hand in hand with enforcement. Councils should examine how Homelessness Reduction Act 2017 funding could assist with this. This should include identifying those tenants at risk of becoming homeless and helping them to stay in their existing home, challenging illegal and revenge eviction and harassment and defending no fault evictions wherever possible. If all this fails, the council should help them find another home.

Introduction

Everyone should have a home that is warm, safe and secure.

Too many homes in today's private rented sector are in very poor condition, severely compromising families' health and wellbeing, in the most extreme cases putting lives at risk.

This has not gone unnoticed by recent governments. The Housing and Planning Act 2016 extends the powers that local councils have to take enforcement action to improve standards in their local PRS and crack down on rogue¹ landlords who, either wilfully or through ignorance, allow their tenants to live in poor conditions, causing distress and ill health.

Shelter, alongside British Gas, has long campaigned for improvements to the PRS and we welcomed these new powers as an important step forward in the fight against rogue, or criminal, landlords. Councils that have prioritised work to improve conditions in the PRS through prevention and enforcement work have had considerable success.

But with continuing cuts to local authority budgets, housing and environmental health services are under enormous strain, compounded, in some authorities by a lack of political will to commit resources to tackle bad landlords.

Working together, Shelter and British Gas have achieved significant legislative change over the past five years, testament to the scale of the problem and our combined influencing efforts. By itself, however, legislative change is insufficient to ensure that these laws produce the necessary changes to the private rented sector.

This briefing is part of our work to ensure that local councils are motivated to tackle rogue landlords. It aims to encourage local councils to make full use of their new Housing and Planning Act powers to improve conditions in the private rented sector. We know that there are also problems with conditions and enforcement in social renting, and we are undertaking separate work to examine conditions and propose remedies.

¹ The Government has defined a 'rogue landlord' as 'a landlord who knowingly flouts their obligations by renting out unsafe and substandard accommodation to tenants.'

Building on our 'Safe and Decent Homes' report² and 'What Works' briefing³, we have interviewed Shelter advisers and local council housing teams across the country, to gain fresh insights into the problems caused by poor conditions in the PRS and why low-income tenants are particularly at risk.

The centrepiece is a series of case studies from innovative local councils who have prioritised the use of their existing powers, in an imaginative and cost-effective way, to successfully improve enforcement rates and make their local PRS a better, safer, place to live.

Poor property conditions in the private renter sector

I visited a house, a three bed house. The bathroom had severe damp, as did 2 out of the 3 bedrooms. The electrics were in a terrible, dangerous, state. The family had 5 children, the youngest was 11. The 11-year-old was settled in school but couldn't establish friendships because he couldn't bring friends home after school like his other friends could. He was embarrassed, and there wasn't enough room for them. There was no place to comfortably sit and eat together, and they couldn't cook because of a lack of facilities. Both the parents and the children struggled with depression and low self-esteem – the poor conditions caused great stress and the cramped conditions meant that the parents constantly felt irritated by each other.

Service Manager, Shelter Bristol

The private rented sector (PRS) in England has more than doubled in size since 2002 and now consists of 4.5 million households.⁴ Private renting is no longer just a short-term housing solution, with over half of renters (56%) aged 35 or over, and more than one third (36%) of households being families with children. Just short of a quarter of households (24%) have lived in the private rented sector for 10 years or more.⁵ As the cost of home ownership rises and the lack of social housing endures, the private rented sector plays an increasingly important role in housing people. It is vital that these homes are safe and decent.

² Shelter (2014) *Safe and Decent Homes*

³ Shelter (2013) *What works: tackling rogue landlords and improving the private rented sector*

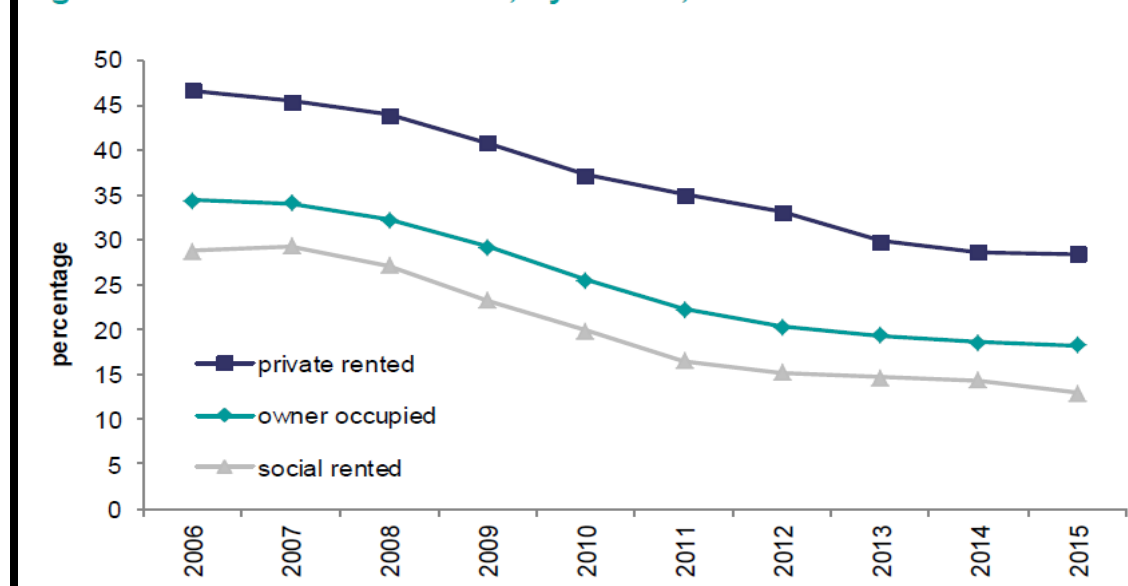
⁴ DCLG (2017) *English Housing Survey Headline Report 2015-16*

⁵ *ibid.*

Property conditions in the private rented sector are worse than any in any other tenure. More than a quarter (28%) of privately rented homes did not meet the government’s Decent Homes Standard⁶ in 2015. This compares to 13% in the social rented sector and 18% of owner-occupied homes.⁷

Although the proportion of non-decent homes in the PRS is going down, the absolute number of PRS homes that do not meet the standard has increased slightly, from 1.2 million in 2006 to 1.35 million in 2015, as a result of the rapid expansion in the sector as a whole.⁸

Figure 2.6: Non-decent homes, by tenure, 2006 to 2015



Source: EHS 2015-16

More than one-third of PRS properties were built before 1919, compared to 20% of owner occupied and 6% of social rented homes. They are not only more likely to be older properties but are also more likely to be converted from one dwelling into a number of separate dwellings.⁹

⁶ The Decent Homes Standard was introduced in 2000 to provide a minimum standard of housing conditions in the social rented sector. The Government uses it to measure and compare standards across all housing tenures.

⁷ DCLG (2017) *op cit*.

⁸ *ibid*.

⁹ *ibid*.

More privately rented homes (9%) have a problem with damp of any kind (condensation, mould, rising or penetrating damp) than homes in any other tenure (5% of social housing and 3% of owner occupied).¹⁰

The lower rate of private rented homes with central heating (84% compared to 88% in housing association properties and 95% in both owner-occupied and local authority homes) and the prevalence of older, less efficient boiler types in this dwelling type also contribute to this.

Damp and mould are probably the most reported problems, but they are often not the most serious. The most serious harm is caused by excess cold. It is insidious; the cause of death is never 'got too cold'. But we have a lot of Victorian and Edwardian properties and they are very hard to heat. People are faced with very high fuel costs alongside their very high rents. But people don't contact us because they are too cold.

Private Housing Team, Bristol City Council

Private renters are least likely to have at least one working smoke alarm (83%), compared with 89% of owner-occupiers, 93% of local authority renters and 95% of households in housing association properties. And owner-occupied dwellings (31%) or social rented dwellings (28%) are more likely than private rented sector (21%) to have a carbon monoxide alarm.¹¹

The Housing Health and Safety Rating System (HHSRS) provides a mechanism through which local authority environmental health officers inspect and identify hazards in residential housing. Where they identify the most serious ('Category 1') hazards, they are required to take action, they can also choose to take action in regard to less serious ('Category 2') hazards. 17% of homes in the PRS contained at least one Category 1 hazard in 2015/16, a much higher rate than social housing.

Ninety-five per cent of renters say that the property being in good condition is very, or fairly, important when looking for a new PRS home, the same percentage who said that a home safe and free from hazards. The same percentage said that a good landlord, who upholds their legal responsibilities, is very or fairly important.¹²

¹⁰ *ibid.*

¹¹ *ibid.*

¹² Shelter/You Gov (2015) *Private Rented Sector survey* England, online, weighted,

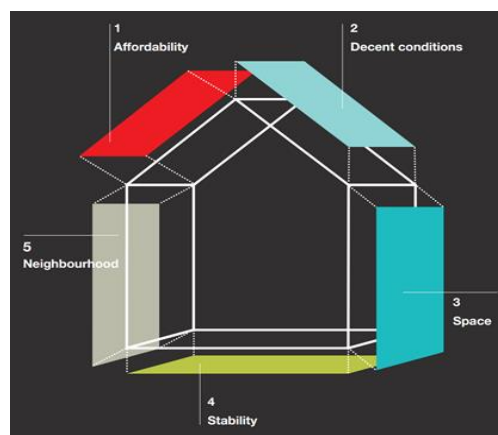
But Shelter research found that over six in ten renters (61%) had experienced at least one of the following problems in their home over the previous 12 months: damp, mould, leaking roofs or windows, electrical hazards, animal infestations and gas leaks¹³. Ten per cent of renters in that research said their health had been affected in the last year, because their landlord had not dealt with repairs and poor conditions in their property, and 9% of private-renting parents said their children’s health had been affected.¹⁴

A mum and her young child, living in a flat above a shop, owned by a well-known company. The front door was broken, jammed shut, and they had to climb in and out of the window. Her landlord was trying to evict her for rent arrears and, when she came to see us at the Court Desk, Mum said she had thought there was nothing she could do about the disrepair. With our support, she was able to get the arrears waived, compensation paid and the repairs done.

Shelter Service Manager, Plymouth

Living Home Standard

Shelter and British Gas’ Living Home Standard, launched in 2016, was developed by the public to define ‘home’. It set five criteria for housing: affordability, decent conditions, space, stability and neighbourhood.¹⁵



¹³ Shelter (2014) op cit.

¹⁴ *ibid.*

¹⁵ Shelter (2016) *Living Home Standard*

Figure 1: Shelter and British Gas' Living Home Standard

Taking the standard as whole, 69% of privately rented homes failed to meet the Living Home Standard, compared to 68% of local authority rented and 66% of housing association homes. 20% of homes owned without a mortgage and 38% of homes owned with a mortgage failed to meet the standard.

The criteria for 'decent conditions' included: the home can be heated safely and effectively, has hot and cold running water, free from safety hazards (faulty wiring, fire risks); structurally sound, has a toilet and bath and/or shower; feels physically secure; free from pests; free from damp or mould; suitable for current age and/or disability needs of household. 28% of PRS homes failed to meet this – on a par with social rented and housing association homes (both 29%), but significantly worse than the 13% of homes owned with a mortgage and 11% of homes owned without.

Previous attempts to improve conditions in the PRS have not solved the problem

Local authority powers

The Housing Fitness Standard, as set out in the Housing Act 1985, was a pass or fail test of housing fitness based on nine categories, including repair, damp, internal arrangement, natural light, ventilation, water supply, drainage and sanitation and food preparation and waste water disposal. The effectiveness of the Standard was impeded by its failure to include some of the most serious health and safety hazards, such as fire and falls, and a lack of clarity about processes - when a local authority deemed a property unfit, it was left to them to decide how to act, and the Housing Fitness Standard test only resulted in a pass or fail, meaning that a property could fail the test whether it had merely a minor risk or a major hazard.

Section 8 of the Landlord and Tenant Act (1985), introduced an implied condition into all tenancies, requiring that the home is **fit for human habitation** at the start of the tenancy, and remains so throughout. A property is regarded as unfit for human habitation if it is 'so far defective in one or more of those matters (as set out in the Housing Fitness Standard above) that it is not reasonably suitable for occupation in that condition'. The law, however, is effectively obsolete as it only applies to

properties with an **annual rent** of less than £80 in London, and £52 elsewhere. The average **monthly rent** in London for a two bed property is £1,716.¹⁶

The **Housing Health and Safety Rating System (HHSRS)**, introduced by the Housing Act 2004 and in force since 2006, provides a mechanism through which local authority environmental health officers can inspect and identify hazards in residential housing. Where they identify the most serious ('Category 1') hazards, they are required to take enforcement action, either by issuing the landlord an Improvement Notice or a Prohibition Order. If a less serious and urgent Category 2 hazard is found, then the local authority can choose to take action but is not legally required to.

Unlike the Housing Fitness Standard that it replaced, HHSRS is not a pass or fail test, and does not set minimum standards.¹⁷ The HHSRS takes a risk assessment approach, with issues judged on the risk they pose to occupants rather than whether a property has a particular maintenance issues.

The effectiveness of the HHSRS has been limited by the absence of a general legal obligation for a landlord to ensure properties are 'fit for human habitation', which would enable a tenant to take legal action rather than rely on local authority inspections. The test is very complex to apply and knowledge of its existence, and understanding of how it works, is limited among both landlords and tenants.¹⁸ Tenants have to rely on Environmental Health Officers to take action on their behalf as they cannot independently risk assess hazards to prove a breach.

The Housing Act 2004 also introduced **licensing schemes** in order to improve the management of private rented homes in certain problem areas. In 2010, all discretionary schemes were granted a general approval by DCLG, provided that councils could show why their scheme(s) were needed, and that they had consulted on them sufficiently.¹⁹

¹⁶ VOA (2017) *Private Rental Market Property Summary Statistics April 2016- March 2017*

¹⁷ House of Commons Briefing Paper (2016) *Housing fitness in the private rented sector*

¹⁸ House of Commons Library (2016) *HHSRS* reported that a survey of private landlords carried out by DCLG in 2010 found that 85% of landlords had not heard of the HHSRS; the CLG Committee concluded that there was also likely to be a low level of awareness amongst tenants. Some evidence submitted to the Committee raised concerns around the complexity of the HHSRS and the fact that there is limited understanding of its operation outside of professionals in the field.

¹⁹ Future of London (2015) *PRS licensing – policy and practice*

When licensing was first introduced, local councils had to demonstrate that a given area was suffering from a significant problem with low demand or antisocial behaviour, before they were allowed to adopt a selective scheme. Following complaints that these were too narrow, **these criteria were extended in April 2015**. Local authorities are now also able to introduce selective licensing if a given area has a high proportion of privately rented homes **and** exhibits one or more of the following:

- poor property conditions
- an influx of migration
- a high level of deprivation
- high levels of crime

At the same time, however, restrictions were made to the general approval and councils now have to seek permission from the Secretary of State for 'any selective licensing scheme which would cover more than 20% of their geographical area or would affect more than 20% of privately rented homes in the local authority area'.

This followed complaints from landlords that some councils had developed large scale licensing schemes without first sufficiently evidencing a need, unnecessarily drawing in landlords in areas where there had been no significant problems.

Current piecemeal licensing schemes have been criticised for being confusing for both landlords and tenants. This risks being compounded by the requirement to obtain Secretary of State sign-off for schemes covering more than 20% of an area, which has pushed councils to adopt even smaller schemes and an even more fragmented approach.

A borough-wide scheme does have considerable advantages for a cash-strapped council. It is less of a patchwork, easier for landlords and tenants to understand and gives poor landlords less opportunity to hide. It enables councils to concentrate resources (and enforcement action) on those landlords who do not apply for a license.

Redbridge is the only council to have applied for a borough-wide licensing scheme since the requirement to gain permission was introduced. It was turned down by Greg Clark, the Secretary of State at DCLG, at the end of 2015,

increasing concerns that this will have a serious dampening effect on larger licensing schemes. Newham's application to extend its borough-wide scheme, launched in July 2017, will be another test of this.

Renters consumer powers

The Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) (2012) increased the maximum fines payable for breaches of Housing and Planning legislation, to serve as a better deterrent to rogue landlords. But, more significantly, it also severely limited the availability of **Legal Aid for cases of disrepair**. Legal Aid is now only available where there is deemed to be a 'serious risk' to health and safety, and even then only up to the stage of obtaining an injunction against the landlord. This allows neglectful landlords to ignore the complaints of tenants who (i) don't qualify for Legal Aid but cannot afford to take legal action or (ii) who qualify for Legal Aid but are unable to prove there is a 'serious risk'.

As a result, most tenants now have little scope for achieving redress for disrepair. Private sector tenants can turn to their council's environmental health department to consider serving a Hazard Awareness Notice or Improvement Notice, but this depends on councils having the capacity to take action in the face of growing need and cuts to local authority funding.

There is a significant power imbalance between tenants and landlords: landlords have access to legal advice from their own solicitors, as might tenants on higher incomes. But there is not really any way that low income tenants can enforce standards without risking eviction— unless local authorities support them with this.

The Homes (Fitness for Human Habitation) Bill 2015-16 was introduced by Karen Buck MP as a private member's bill. It aimed to 'amend the Landlord and Tenant Act 1986 to **require that residential rented accommodation is provided and maintained in a state of fitness for human habitation**'. This would have been a good accompaniment to the new powers set out in the Housing and Planning Act (see below) but, despite cross-party support, the bill was 'talked out' of time and didn't get through its second reading to become law. We are looking forward to supporting Karen Buck MP's new attempt to get this onto the statute book, later in the year, again through a private members' bill.

The Housing and Planning Act 2016 gives **local councils the power to find rogue landlords and fine them**, but tenants themselves are still not supported to take action against their landlord. Such a two-pronged attack would enable tenants to exercise their consumer power and take action themselves, freeing local councils to concentrate their limited resources on pursuing the worst offending landlords.

The Deregulation Act (2015) introduced the first new protection for tenants against being evicted for complaining about problems in their home, since 1988. Tenants cannot now be served a section 21 notice within six months of issue of an improvement or emergency remedial action notice by the council, following the identification of a Category 1 hazard in their home. Shelter campaigned hard for this **protection against revenge, or retaliatory, eviction.**

It is, however, a difficult process to make work and there are many exceptions. Tenants need their local council to respond to complaints, assess hazards and serve Improvement Notices on landlords in order to be protected from eviction. They are not protected if they approach their landlord by themselves. This leaves uninformed or unsupported tenants vulnerable to bad practice and homelessness if evicted.

If tenants continue to be afraid of retaliatory eviction, particularly where this might leave them unable to find another home that meets minimum standards, they will be reluctant to complain. Environmental health and homelessness prevention teams often seem to be working to conflicting agendas (the drive to improve housing standards clashing with four walls and a roof being better than none, no matter what the condition) but closer working between these teams is key – and has been given increased emphasis following local councils' new duties to prevent homelessness in the Homelessness Reduction Act 2016.

Current practice to improve conditions

Local councils have adopted a wide variety of ways of responding to the different challenges they face in improving conditions in their local PRS. The case study councils featured in this briefing have made imaginative use of their existing powers, both formal and informal, to target poor landlords and empower renters.

Bristol City Council

Bristol City Council is a unitary authority, controlled by a directly elected mayor. The Private Rented Sector accounts for 24.9% of all housing stock in Bristol, and as much as 50% in some areas. The PRS has doubled in size since 2001 and is continuing to increase. Standards are often poor: 17.3% of PRS homes in Bristol contain 'category 1 hazards' and 23.3% are classified as 'non-decent'.²⁰

Bristol organises its enforcement activity across three teams:

- a **dedicated prosecution liaison officer**
- a **licensing team** to cover all licensable properties, and
- a **complaints team** reacts to complaints from non-licensable properties

Rogue landlord targeted enforcement

Bristol successfully bid for DCLG funding to expand its enforcement work in 2015/16. The council targeted fast food premises with low food hygiene ratings (0 or 1 stars, published online and so easy to get hold of), reasoning that if a company was not complying with the law in one area – food hygiene – perhaps the accommodation would also be poorly managed. The proposed work would also potentially identify benefit fraud, slavery/trafficking and other criminal offences, all issues that are part of a bigger national debate.

Bristol developed a targeted social media campaign and worked in partnership with other agencies, including the police, immigration agencies, anti-trafficking and homelessness charities, including Shelter, other council departments, including planning and housing options, and worked closely with tenancy relations to enforce harassment and unlawful eviction laws, as well as engaging tenant groups.

²⁰ Unpublished communication from Bristol City Council

Bristol found that:

- **Evening visits worked best**, knocking on people's doors between 6- 8pm
- **Action Days and joint inspections with the police**, also worked well, where the police targeted properties where they suspected slavery and trafficking and housing could take action over poor housing conditions. The council's powers of entry are different to the police's and they used this to gain access to properties. Landlords who were engaged in criminal activity and poor management of housing were punished for both.

Publicity

- Branding – the council decided to minimise the council logo to make it as simple and eye-catching as possible, and concentrate on what people think about their rented property
- Adverts on the back of buses; business and calling cards; radio and local press used to publicise the initiative
- Facebook campaign targeting minority groups who are over-represented in poor quality privately rented accommodation. Bristol found this to be extremely successful in terms of reach and engagement, and had more 'shares' than any recent Council campaigns (65% and 79% percentage increase in hits on the website the week before and after the campaign ran)

What was found?

- Overcrowding, falls, fire safety hazards, anti-social behaviour, unlicensed HMOs
- Many of these properties were above shops in areas where the council rarely receive complaints – there are not large numbers in the licensing areas and few complaints are received from tenants

Results

The targeted action part of the project ran for three months at the beginning of 2016. Over this time, Bristol uncovered:

- 10 unlicensed HMOs
- 5 cases of overcrowding

- 10 cases of severe cold hazard
- 20 cases of risk of serious falls

During the inspections other issues came to light, including council tax avoidance and non-payment, prostitution and evidence of potential trafficking and families with unmet safeguarding needs, which have been passed to the relevant enforcement teams and to Social Services to consider taking action in these cases. The police investigations team found evidence of trafficking and are taking further action.

Bristol City Council has recently learnt that they have been successful in a bid for further Rogue/Criminal Landlord enforcement funding. It intends to use this to pay for full-time officers to continue this targeted, proactive work.

Leeds City Council

Leeds City Council is a metropolitan district council in West Yorkshire, with a population of about 750,000. Only 12% of private rented properties have rents that are within Local Housing Allowance levels, and so much if the PRS is unaffordable to many low-income households. There are significant issues with housing quality in the lower end of the rental market.

The **Leeds Neighbourhood Approach** (LNA) is a project which addresses both housing conditions and the needs of the households and community. It proactively targets small areas of the city on a street by street basis based on intelligence, stock condition, levels of empty homes and identifiable community needs. The LNA is a partnership approach, led by Private Sector Housing. It includes:

- Community champions and ward members
- West Yorkshire Police
- West Yorkshire Fire and Rescue
- Health
- Jobs and skills
- Leeds Credit Union
- Home Office Immigration
- Sustainability Unit - to address fuel poverty
- Local community-led housing organisation
- Care and Repair
- Public sector housing providers
- Environmental action services
- Third sector voluntary groups such as Elderly Add, Connect for Health, Forward Leeds

All rented properties, both private and social housing, within a designated area are targeted and inspected by the Private Sector Housing Team to ensure consistency. All owner/occupiers are invited to take part with help and advice provided on property maintenance. All landlords, agents and empty home owners are written to and invited to work with the partnership to improve the area. Any owner who does not come forward within the six-week amnesty is dealt with formally using whatever legislation is appropriate. All notices are robustly enforced.

The LNA allows individual household needs to be met as well as working with the wider community groups. By crossing the threshold, officers are able to engage with owners, build

relationships over a period of time and help partners target their resources to those who need them.

In addition to the house by house approach, there is a regular Hub Bus, local landlords forums and community walkabouts. This approach is intensive and only works on a small geographical area - anything too large would not be effective as resources would be stretched and not able to make the differences required.

Leeds sees communication as being key to the project's success. The population of the areas targeted is transient, so it is essential that all occupiers are kept engaged and aware of the approach. Not doing so would mean that some vulnerable occupants might miss out of the help and support offered.

Derby City Council

Derby City Council is a unitary authority in the East Midlands, with a population of over a quarter of a million people. 17% of Derby's housing stock is privately rented. The PRS has expanded rapidly over the last 15 years, from just 7.3% of stock in 2001. This equates to approximately 20,000 PRS homes. Some of the poorest quality housing is found in the privately rented sector.

Derby's Housing Standards Team currently consists of nine permanent enforcement officers. They were successful in obtaining funding from DCLG, in 2013, to increase their work in tracking down, and enforcing against, rogue landlords.

Initially, the council appointed four agency EHOs to carry out inspections (without waiting for a complaint) in areas it had identified as being the worst in the City. In addition, they identified 4 of the worst landlords/agents and carried out proactive inspections of the properties it owned.

Although that funding has long since ended, the council has continued with the same approach, on and off. It currently employs one extra enforcement officer on an agency basis to work in an area informally designated for regeneration, with funding from Derby Homes.

The Housing Standards Team is currently focussed on dealing robustly with the worst landlords in the City. It gets approximately 450 - 550 service requests a year from tenants and other organisations about dangerous and unhealthy conditions in the PRS, which are prioritised according to the hazards reported, and the vulnerability of the occupants. Many have to be allocated to an officer immediately because of the urgency of the case.

Whether inspections originate reactively or proactively, Derby's policy is to take formal action under the Housing Act 2004 without undue delay, in all cases where category 1 hazards or very high scoring category 2 hazards are found. The Council charges for such action to cover their costs. They will usually undertake work in default where notices are not complied with and, in appropriate cases, prosecute for non-compliance with Improvement Notices and Prohibition Orders. Its rate of prosecutions has steadily increased year on year.

The council reports that interventions often lead to landlord harassment and attempted illegal evictions. As a result, the Housing Standards Team is co-located with the Housing Options Team (in the open plan council HQ building) and work very closely with them in this respect. The authorisations to use the 'Protection from Eviction Act 1977' have recently

been transferred to the Housing Standards Team so that it can now co-ordinate tenancy relations enforcement with that under the Housing Act 04.

The team meets quarterly with other enforcement agencies (Fire Service, Police, Housing Benefit Fraud, Environmental Protection Team, Integration and Cohesion staff and Home Office (immigration) staff to exchange intelligence and improve targeted action against rogue landlords.

London Borough of Newham

Newham is a Borough in the North-East of London. The number of households in Newham reliant on the private rented sector has doubled from 23 per cent in 2009 to 46 per cent in 2016. This equates to over 52,000 properties.

Newham became the first local authority in the country to introduce borough-wide private rented sector licensing in 2013 and its approach to using the new Housing and Planning Act powers is driven by the same principles as its licensing scheme. All its work is:

- undertaken through multi-agency partnerships - including Newham officers, HMRC, the Home Office and Newham-funded police to uncover and address other forms of criminal activity, including exploitation, anti-social behaviour and undeclared rental income)
- follows an intelligence-led approach – using sophisticated data-analysis developed through the borough’s data warehouse to identify unlicensed properties and target properties likely to be in breach of licensing conditions
- backed up by robust enforcement – Newham pays for 20 police officers under a scheme match-funded by the Metropolitan Police Service to ensure that 40 police officers are available to support joint enforcement against rogue landlords. This has led to 714 arrests to date

Results

Newham’s private rented sector licensing scheme has delivered significant success. To date, under the scheme:

- 1,100 prosecutions have been brought against criminal landlords
- 28 landlords have been banned
- Over £2.4m of Council Tax has been recovered
- £280,000 of Housing Benefit fraud has been detected and stopped
- 426 multi-agency operations have been conducted including the Council, Police and HMRC officers
- 13,000 landlords have been identified by HMRC where there are serious discrepancies between declared income and our records with potentially significant implications for the Exchequer
- 25 letting agents have been subject to Penalty Charge Notices or other legal action
- 61 Rent Repayment Orders have been issued (worth £380,000 of reclaimed benefit)
- More than 714 arrests have been made by Newham Police during licensing operations

Oxford City Council

Oxford is a city in South East England with a population of around 160,000 people. The private rented sector in Oxford has increased its share of the overall housing market by almost 50% in the last 10 years, to a share of 28% of the overall housing market. This has been driven by pressure from a large student population, potential home owners who have been unable to buy during an economic downturn and a lack of availability of social housing for those on low incomes.

Oxford has pioneered **city-wide HMO licensing** in response to the local housing market pressures and poor housing conditions which were impacting negatively on tenant health and the wider community.

Since launching the licensing scheme, the council has undertaken thousands of inspections and hundreds of successful enforcement cases, utilising its full range of regulatory enforcement tools and powers across the whole of Oxford City Council and by a range of partner enforcement agencies.

This enforcement approach is coupled with education through landlord accreditation, outreach surgeries for tenants and extensive web content specifically developed to help landlords, tenants and the public understand the complex legislative area and to identify and easily report unlicensed and problematic HMOs. The result is safer houses and communities, fewer complaints and increased compliance.

Building on the successes of HMO licensing, the Council is planning to consult on up-scaling the scheme and **introducing selective licensing of non-HMO properties** to maximise the impact and bring improvements to more tenants and communities across the city.

Customer feedback and stakeholder engagement have been integral to the development of the scheme. The results of a major review and public consultation on the scheme, in 2015, saw the introduction of longer licences and a fairer fee structure to reward compliant applicants whilst setting higher fees to deter 'rogue' landlords.

A regular 'Landlords Information Exchange' and Council representation at tenant, resident and community groups facilitates open discussions between industry, regulators and the community. Customer feedback has led to investment in a new streamlined HMO application system which will go live following customer testing in summer 2017.

The **additional licensing scheme** has allowed Oxford City Council to respond proactively to the needs of residents, evidenced by the declining number of poor conditions complaints over the length of the scheme.

Operating in a wrap-around HMO Licensing and Enforcement structure has allowed the council to deliver efficiencies through economies of scale, enabling officers to inspect a large number of properties every year and help maintain standards in the city's HMO stock. This delivery model has enabled the Council to centralise a number of key services into the scheme such as tenancy relations and sector engagement, thereby offering the public a central point for housing related issues. This in turn has brought the Council closer to communities and the landlord sector, building relationships and realising 'bigger, better and more sustainable' outcomes.

Oxford's HMO Licensing Scheme has an 'earned autonomy' delivery model which rewards fully compliant and accredited applicants with reduced fees and longer licences; whilst those requiring additional inspections or found avoiding licensing pay higher fees and receive annual licences. The council offers HMO Licensing Pre-application advice visits to landlords to help them develop HMO properties in accordance with the prescribed standards. This approach empowers the private rented sector in Oxford to improve and allows the majority of landlords and agents to enjoy lighter-touch regulation, whilst freeing up council resources to focus on the non-compliant minority.

New enforcement powers to improve conditions in the private rented sector

Despite examples of good practice, as evidenced in our case study areas, local council capacity to continue to improve standards in the PRS has reduced in the face of funding reductions and increasing demand. Formal enforcement activity is still low, with many councils preferring to take an informal approach instead.²¹

FOI research in 2015 found that formal enforcement activity (hazard awareness notices, improvement and prohibition notices, as defined under the Housing Act 2004) had fallen by 40% since the previous Parliament.²²

A lack of resources, staff time and little knowledge or experience of issuing statutory notices all contribute to this reluctance to go down a formal route, as well as the very limited fines that they were previously able to issue and difficulty in actually getting fines paid. For example, when prosecutions of housing offences do occur, they often result in small fines for rogue landlords (averaging £1,500) which are not a suitable deterrent.²³ But it is also true that councils can successfully deal with poor conditions using informal routes and building positive relationships with local landlords.

We take a more proactive approach than many councils, but with budgets shrinking and resources scarce, we have to target our activity. We don't have the legislative powers to help in cases that are less serious but nor do we have the capacity to help informally

Private Housing Team, Bristol City Council

However, councils will need to take a more formal approach if they are to make use of the new powers contained within the Housing and Planning Act.²⁴

The private rented sector parts of the 2016 Act have been a few years in the making. The growth of the PRS had led to an increased focus on standards of accommodation within the sector, rent levels and the lack of overarching regulation and, between 2012 and 2015, the

²¹ See for example, Pidgeon C (2016) *Rogue Landlords in London: A survey of local authority enforcement in the private rented sector* and Battersby S (2015) *The challenge of tackling unsafe and unhealthy housing: report of a survey of local authorities for Karen Buck MP*

²² Battersby S (2015) *op cit.*

²³ Information gathered from Public Policy Exchange symposium (2017) *Tackling Rogue Landlords and Improving the Private Housing Sector*

²⁴ Housing and Planning Act 2016

sector had been the subject of a series of key reports and reviews.²⁵ Part 2 of the Housing and Planning Act takes forward some of the issues raised in these reviews, and is directed at tackling rogue landlords (and letting agents).²⁶

Housing and Planning Act 2016 powers

Power	Detail	Commencement date
Banning Orders	Local authorities can make an application for a banning order to the First Tier Tribunal. If successful, people or corporate bodies would be banned from being a landlord, a letting agent or managing property (or all three) for at least 12 months. Banned individuals or bodies cannot have an HMO license. The nature of the relevant offences will be set out in regulations. Breaching a banning order is punishable by up to 51 weeks in prison or a fine or both.	October 2017
Register of rogue landlords	Local authorities will have a responsibility to maintain the database, which must include anyone who is the subject of a banning order. Local authorities can also include anyone convicted of a banning order offence. The database is shared between local authorities but there is no current proposal by government to make it public.	From October 2017
Rent repayment orders (RROs)	This gives power to the First Tier Tribunal to issue rent repayment orders on rent paid by tenants or councils (through universal credit) for a range of offences including	April 2017

²⁵ Including CLG Committee (July 2013) *The Private Rented Sector*; DCLG (Oct 2013) *Government response to the CLG Committee report*; DCLG (Feb 2014) *Review of property conditions in the private rented sector*; DCLG (March 2015) *Government response to the review of property conditions in the private rented sector*

²⁶ House of Commons Library (2015) *Housing and Planning Bill*

	harassment, failure to comply with an improvement notice, breaching a banning order or holding or managing an unlicensed HMO. These were first introduced for HMO offences in 2004 but have now been extended to cover a much wider range of offences.	
Fixed penalty notices (increased financial penalties)	Local councils will have the power to enforce fines of up to £30,000 in cases of failure to comply with improvement notice, licensing, failure to comply with overcrowding notice or management regulations in respect of HMOs. It also gives the Secretary of State the power to determine what to do with fines. Local councils have been told that they can keep the income from fines to reinvest in their enforcement activity.	April 2017
Electrical safety checks	This gives the Secretary of State power to regulate for electrical safety checks, including how often they should be carried out and by whom, and what fines there would be for failure to comply. This applies to the installation of an electricity supply into the property and the electrical fixtures and appliances provided.	Further consultation required, but the government has said it is keen to implement this following the fire at Grenfell.
Information from tenancy deposit schemes	This puts a duty on deposit schemes to share information requested by councils. The suggestion is that the combination of this measure with the rogue landlord register may create something approaching an authoritative register.	TBC

We have welcomed these new powers. They will enable local councils to take much tougher enforcement action against landlords who fail to keep their properties in a decent condition.

We are disappointed, however, that the Government chose not to take the opportunity to go further and introduce a national register of landlords, improve consumer powers for tenants through longer tenancies and fitness for human habitation, or go beyond allowing councils to retain the fines from enforcement activity and introduce new grant funding for councils to do this work.

The extra powers are great. We will make good use of them. But they bring a new capacity pressure to our already stretched team.

Private Renting Team, Bristol City Council

More must be done to empower local authorities to drive up standards in the private rented sector. The ability to recoup legal costs through Rent Repayment Orders is crucial along with adequate funding and the reversal of restrictions meaning that local authorities are unable to introduce large selective licensing regimes without central government approval.

LB Newham

We are proud to be the first local authority in the country to use the new power in the Housing and Planning Act 2016 to impose civil penalties in order to fine landlords directly for serious breaches of housing conditions. We used this power just 20 days after it came into force **illustrating that with political will and local knowledge, local authorities are the best placed to police the sector and drive rogue landlords out of business.**

LB Newham

Beyond increased enforcement powers

Our 'Safe and Decent Homes' report showed that a lack of enforcement powers was only one of a number of factors contributing to ongoing poor conditions in the private rented sector.²⁷ Shelter identified five root causes of poor conditions:

1. Demand outstrips supply, leading to renters being unable to negotiate better conditions
2. Landlords have few incentives to invest in repairs and maintenance (despite having the cash to do so)

²⁷ Shelter (2014) *Safe and Decent Homes*

3. Landlords tend to be amateur or accidental, with little understanding of their responsibilities
4. Local authorities lack information on landlords and private rented stock
5. Local authorities often lack the resources to enforce their legal duties and powers

The new enforcement powers do address a lack of incentives for landlords to improve conditions in their properties through Banning Orders, Fixed Penalty Notices and Rent Repayment Orders, and enabling councils to build up and share intelligence about rogue landlords, through registers of rogue landlords and information from tenancy deposit schemes.

At the same time, however, other factors have made it harder for renters to exercise their consumer powers and local council's resources to tackle landlords have continued to reduce. The new powers will not be enough to fundamentally improve conditions in the private rented sector if we do not also tackle these.

Birmingham is a tale of two cities, there is a clear affluent/poorer split. Our clients largely come from the poorer areas. There are good and bad PRS landlords but tenants simply do not understand their rights.

One client came to us - their property was in a very poor state. There was severe damp, mould and vermin. The client didn't know whether anything could be done about it. He certainly didn't know how.

Shelter Service Manager, Birmingham

Supply and demand

In the three years since we published *Safe and Decent Homes*, the impact of welfare reform has meant that low income households have found it ever more difficult to access the PRS and, in desperation, have become increasingly vulnerable to criminal landlords in the lowest part of the market.²⁸

Changes in the housing market - the inability of first time buyers to purchase a home and the shortage of social rented housing - have led to an increasingly competitive rental market. This competition has seen rents rise and allowed landlords to be choosier about who they let to. Consequently, rents that were once affordable have risen year on year, and households on low incomes have found it increasingly difficult to find anywhere to rent within LHA rates. At the same time, shortages in social housing have meant that a large

²⁸ Shelter (2017) *Shut Out: the barriers low income households face in private renting*

group of households on low incomes, who would previously have been served by social housing, must now find a private tenancy.

This has resulted in a growing reliance on an insecure private rented sector to house those most at risk of homelessness -- fuelling increased homelessness, leaving growing numbers of families trapped for years in unsuitable temporary accommodation and leaving low income tenants with little choice but to accept poor conditions and poor landlords:

Meanwhile, housing benefit has failed to keep up with spiralling rents. The local housing allowance freeze is creating large shortfalls between rents, even at the bottom of the market and the amount households can get to help pay their rent, and the introduction of Universal Credit is giving landlords yet another reason to be cautious about renting to tenants on benefits.²⁹

As a result, low income renters are left in insecure housing with few options. When people on low-incomes do manage to find an affordable private rental, it is likely to be at the very lowest end of the market, where standards are low.³⁰

The people most vulnerable to poor conditions are often the least likely to contact us. They think that, because they can only afford to pay rent at the very lowest end of the market (which is still a high rent, because this is Bristol), they are not entitled to expect any better. They are easily intimidated by their landlord and fearful of losing their home.

Private Housing Team, Bristol City Council

Stability

Renters in the UK generally have very short fixed-term contracts of either six or 12 months. During the fixed term, landlords can only evict tenants if they can prove certain grounds, such as rent arrears. After the fixed-term ends, landlords can issue an eviction notice without having to provide any grounds of wrongdoing on the renter's part. In a market where there are simply not enough homes to go round, renters are easily replaceable. Landlords know this and so do renters themselves.

Eviction from a private (assured shorthold) tenancy is now the single biggest cause of homelessness, accounting for 78% of the rise in homelessness since 2011.³¹ The annual Crisis Homelessness Monitor for England³², highlights the phenomenon:

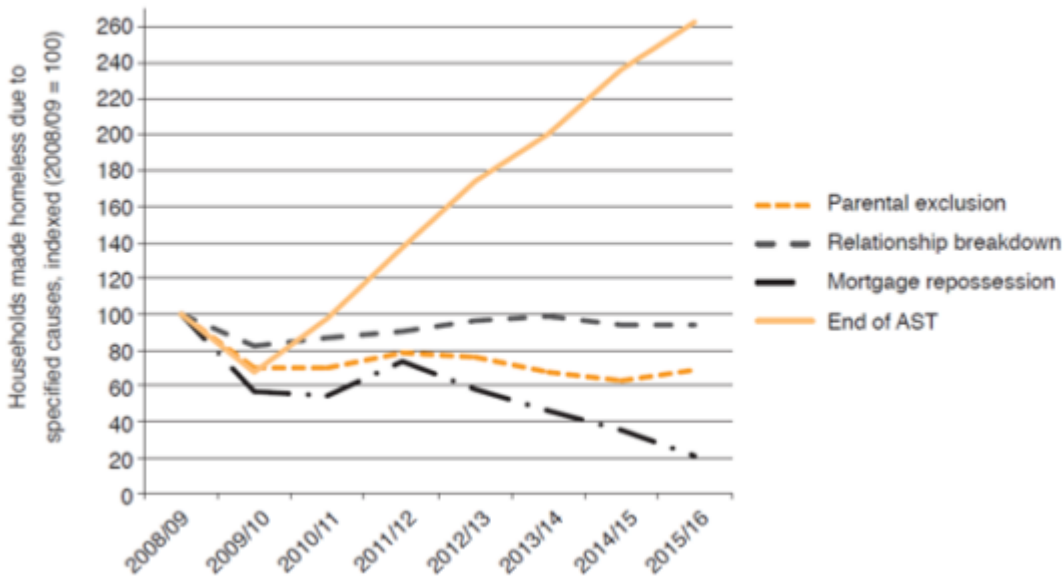
²⁹ *ibid.*

³⁰ *ibid.*

³¹ DCLG (2017) Live tables on homelessness

³² Crisis (2017) Homelessness Monitor for England

Figure 4.8 Change in number of households made homeless due to selected immediate causes, 2008/09-2015/16 – indexed



Even with the introduction of legislation to protect tenants from retaliatory eviction, tenants living in the worst conditions and with the fewest options – for example those on housing benefit – are reluctant to make a complaint about their landlord, fearing eviction or a rent increase and knowing they can ill-afford to find a tenancy if the existing one ends.

In addition, if landlords invest in their properties, then it would not be unreasonable for them to seek an increased return on their investment through higher rents. Indeed, local councils use this in their armoury of incentives. But increases in rent can leave those same households unable to afford the rent, risking homelessness because they know they cannot afford anything else in the private rented sector.

But this must not be a reason not to improve standards in the PRS

Work to prevent homelessness should go hand in hand with enforcement and include identifying those tenants at risk of becoming homeless and helping them stay in their existing home, challenging illegal eviction and harassment and defending no-fault evictions where possible (e.g. retaliatory eviction). If all this fails, the council should help them find another home (e.g. with another local private landlord).

Our services report tensions in their own work, between helping people access accommodation that they know is of poor condition or with a rogue landlord and any roof

being better than none. The same tensions exist within local councils, between PRS management and EHO teams and homelessness teams.³³

We are co-located with our Housing Options Team (in the open plan council HQ building) and work very closely with them in this respect. The authorisations to use the 'Protection from Eviction Act 1977' have just been transferred to my team members so that they can now co-ordinate tenancy relations enforcement with that under the Housing Act 04. Housing Standards Team, Derby City Council

The Homelessness Reduction Act gives new attention and additional resource to homelessness prevention work. It offers protection to all eligible people threatened with homelessness, in addition to those who are unintentionally homeless and in priority need. It also encourages councils to intervene early in potential homelessness cases and take a more humane approach, which is both a more efficient use of resources and a better solution for those affected by homelessness. However, the Act does not tackle the leading cause of homelessness: the inability to find a new rental property once the current tenancy ends.

We get people at crisis point, but they don't know where to start – their biggest fear is losing their tenancy

Service Manager, Shelter Birmingham

Lack of local council resources

Meanwhile, local councils face continued cuts in their overall level of funding.³⁴ Resources for statutory services, including enforcing against landlords with properties with Category 1 hazards, have been stretched to breaking point, leaving non-statutory services, including powers to enforce standards in the PRS, struggling for resources.

Several years ago, it was often commented upon that landlords would take no notice of us because we didn't have the resource to follow up letters and notices. This has changed, but, despite having a much improved staff establishment relative to a few years ago, we still don't have enough enforcement capacity to really get on top of the problems.

Housing Standards Team, Derby City Council

³³ Discussion with Housing, PRS and EHO team managers and officers at PPE symposium; Inside Government conference (2017) *Effectively regulating private housing tackling rogue landlords*; informal discussion with CIEH.

³⁴ Councils have faced an overall reduction in funding of 30% between 2010 and 2015, see: www.gov.uk/government/news/greg-clark-hails-historic-4-year-settlement-and-support-for-adult-social-care

Several of the councils we talked to for this briefing raised concerns that the management of enforcement relating to non-payment of the civil penalties, together with overseeing the appeals process, creates additional resourcing requirements for the Council – in the wider context of significant, ongoing, reductions in local government funding. They were also concerned that the inability to recoup legal costs under Rent Repayment Orders would also act as a significant barrier to utilising RROs when wishing to recover smaller sums of public money.

Conclusion

The local councils that we have talked to for this briefing have been enthusiastic in their welcome for their new powers to identify and crack down on the worst offending landlords. Several, however, suggested that, on their own, these new powers will not be enough.

Despite some improvements in the proportion of private rented homes that meet the Decent Homes Standard, far too many renting families continue to have to put up with poor conditions in their homes. Poor conditions, including damp, mould, poor electrical safety, and infestations, can have a serious impact on renter's physical and mental health, all the more when there are children in the household.

The increasing reliance on private renting as a long-term housing solution is putting high pressure on the sector, where the supply of homes has not kept up with demand. This means that there have been few financial incentives for landlords to improve the conditions of the homes that they let. It also means that renters have very little consumer power to bargain for better conditions and fear that, by reporting a problem, they will face losing their home and not be able to afford another one.

One of the key reasons that poor conditions continue to prevail is because of the low numbers of renters who report problems. This is particularly concerning because, in the context of continuing cuts to local government funding, many environmental health teams are not sufficiently resourced to carry out proactive inspections and enforcement work. It is therefore essential that renters are given proper protections to allow them to act as consumers and exercise their right to live in safe and decent homes.

Recommendations

Local councils have adopted a wide variety of responses to the different challenges they face in improving conditions in their local PRS. The case study councils featured in this

briefing have made imaginative use of their existing powers, both formal and informal, to target poor landlords and empower renters. They have demonstrated how important a mixed, localised, resource-clever approach is to crack down on rogue landlords.

In reviewing and developing their work, to make best use of their new powers, councils across the country should keep these common themes in mind:

- Targeted and proactive inspection of the local private rented sector
- Bids for additional funding to support adequately resourced enforcement teams
- Use of prosecutions as a method of formal enforcement, when notices are not complied with
- Building proactive relationships with the local private rented sector through accreditation and licensing schemes
- Harnessing the skills and knowledge of other agencies and
- Working to educate tenants and landlords of their rights and responsibilities

To make a significant improvement to conditions in the private rented sector, there needs to be a **fundamental review of housing standards**, including updating the evidence base that sits behind the HHSRS (which is now 20 years old) and reinstating some basic housing standards that are easy for both renters and landlords to understand.

This must then be supported by **increased consumer rights for renters to take their own action against landlords who fail to keep their properties in a safe and decent condition**, freeing up local councils to concentrate their limited resource on the worst offenders.

We continue to call for increased security of tenure in the private rented sector. This would significantly increase renters' ability to enforce consumer standards themselves, without fear of being evicted.

Ending the freeze on local housing allowance, and restoring rates to the 30th percentile of the local rental market, would put renters in a stronger position to complain, knowing that, if the worst did happen and they were evicted, they would have more chance of finding a new home that they could afford.

Legal Aid is the funding that stops the worst from happening – enabling families to get the advice on welfare benefits (most importantly housing benefit), debt and disrepair that might stop them losing their home in the first place. But following the LASPO changes, access to free legal advice at the beginning of a problem has been hugely restricted – it now kicks in

only at the point of crisis – when a family faces imminent homelessness or disrepair has become a serious risk to their health or safety. **The power imbalance between renters and poor landlords could be significantly reduced if the Government reinstated legal aid for issues of disrepair.**

Work to prevent homelessness should go hand in hand with enforcement. Councils should examine how Homelessness Reduction Act 2017 funding could assist with this. This should include identifying those tenants at risk of becoming homeless and helping them to stay in their existing home, challenging illegal and revenge eviction and harassment and defending no fault evictions wherever possible. If all this fails, the council should help them find another home.



