

Time for change:

Making renting fairer for private renters



Shelter

Supported by



Building Society

About the Authors

Cecil Sagoe

Policy Officer at Shelter

Ruth Ehrlich

Policy Officer at Shelter

Liam Reynolds

Senior Research Officer at Shelter

Hannah Rich

Research Officer at Shelter

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FOREWORD

WHY SHELTER AND NATIONWIDE BUILDING SOCIETY HAVE COME TOGETHER



Polly Neate
Chief Executive
of Shelter



Joe Garner
Chief Executive
of Nationwide
Building Society

Shelter and Nationwide Building Society have proudly worked together for the last 19 years to campaign for reforms that will help end the housing emergency. We have focused on tackling the huge issues we see in the fastest growing type of housing: the private rented sector. We want to improve the lives of private renters by campaigning to make renting more stable, secure and accountable. We also want to tackle discrimination in the sector.

We have worked together to challenge the discrimination that housing benefit recipients face in their search for a new home.¹ We have also campaigned tirelessly for greater security for private renters. But many private renters are still faced with poor quality housing, poor landlord, housing management agent and letting agent practice² and discrimination. Renters also face an underlying lack of security and power.

Over the last 15 months, we've conducted extensive research. We have interviewed a broad range of stakeholders including private renters, users of Shelter's helplines, local authority officials, Shelter's legal advisers and case workers, representatives from sector organisations and landlords.³ They told us about the many issues private renters face from poor housing standards and bad practice to discrimination and a lack of power.

Shelter and Nationwide have used the findings of this research to develop a shared long-term vision for an improved private rented sector.⁴

¹ The Nationwide Foundation have also supported work to challenge the discrimination that benefit recipients face. See S. Phipps. 2020. *Court ruling makes it clear – No DSS' discrimination is unlawful*.

² From now on, when referring to both housing management agents and letting agents we will use the term "agents".

³ Please see Appendix A for a more detailed outline of the research that fed into the development of this report.

⁴ As this report shares Shelter and Nationwide Building Society's joint positions, this report does not reflect the totality of Shelter and Nationwide's respective perspectives on the set of reforms that are needed to the sector. Notably, we do not present our respective perspectives on ensuring affordability. Nor do we present our full respective positions on licensing.

We want to see a sector in which:

- **landlords and agents are held more accountable for the standard of the homes they let and how they act;**
- **private renters feel safe and comfortable in their home;**
- **renters can make more informed decisions about who they are renting from;**
- **discrimination is tackled; and**
- **renters have stronger powers to enforce their rights.**

In this report, we make clear that there is no single intervention that can achieve this long-term vision. Instead, we need several key regulatory and legislative reforms that are backed up with proper resourcing.

The Renters' Reform Bill presents a significant opportunity to start work to introduce these reforms. It can follow through on government's promise to scrap "no-fault" evictions so that renters can enforce their rights without fear of losing their home. It can also introduce a national landlord register which will be a platform for greater accountability within the sector.

For the millions of people priced out of homeownership and locked out from social housing because of lack of supply, the need for private rented sector reform is urgent. The government must legislate to improve the lives of the 11 million people living in the private rented sector. In this report, we propose a package of reforms that government should introduce to make the private rented sector a fairer place to live.



Last year, the government announced that it would develop a Renters' Reform Bill to introduce a package of reforms to the private rented sector. Ahead of the publication of the Bill, Shelter and Nationwide Building Society have come together to set out a shared long-term vision for improving private renting. We outline a set of reforms that will help transform living standards in the sector. We propose a package of regulatory, resourcing and legislative reforms that will help to improve housing standards, enhance landlord, housing management agent and letting agent practice, tackle discrimination and bolster private renters' power to enforce their rights.

Shelter



Building Society

EXECUTIVE SUMMARY

The coronavirus pandemic has shone a light on how perilous private renting can be. Private renters are struggling in sub-standard homes. Many experience serious problems with landlord and agent practice. Many renters face discrimination. They lack an effective means to seek redress. Many renters also live under constant threat of losing their home, and with nowhere else to go they face the real risk of homelessness. The sector lacks the regulatory, resourcing and legislative framework needed to help address these issues. Wide-scale reform of the sector is needed to hold landlords and agents more accountable for standards in the homes that they let and for how they act. Reforms must also give renters the security and power they need. Achieving all this will help get more private renters the safe, stable homes they need.



EXECUTIVE SUMMARY

The number of people who are privately renting has more than doubled in the last 20 years.

Over **11 million** people live in England's 4.6 million privately rented homes

Just as importantly the sector's make-up has also changed, with the number of families with children renting privately tripling over the last 15 years. For too long, many of these private renters have faced an unaccountable, unfair and insecure rental system. Many also lack the power they need to enforce their rights. These problems have had stark consequences for renters.

One in four (25%) private rented homes are considered non-decent.⁵



And each year hundreds of thousands of renters have experienced other serious problems with landlord and letting agent practice. This includes their landlord or agent threatening, harassing and/ or assaulting them and their landlord discriminating against them.⁶ But as the pandemic has clearly shown, poor housing conditions, bad landlord and letting agent practice and discrimination are disproportionately experienced by particular groups of private renters.

Renters who live on the lowest household incomes, are in receipt of housing benefit, are from Black, Asian and Minority Ethnic backgrounds, are young, are women, are not working (but not retired) and/ or have children in the household disproportionately experience the worst problems in the private rented sector.

We urgently need wide-scale reforms that address the problems that renters face. We need a sector which:

1 Holds all landlords and agents more accountable over housing standards and their practice

All renters should be supported by a regulatory framework that helps to drive up housing standards, tackle discrimination and enhance landlord and agent practice in the sector.

2 Ensures decent and secure homes for all renters

All renters should be able to live in a long-term home, rather than a short-term rental. They should be able to live in a safe and decent home where they feel comfortable and have the certainty to put down roots.

3 Enables all renters to make more informed renting decisions and uphold their rights

Renters need publicly available information on landlords and agents, the homes they manage and whether homes meet basic safety requirements. They also need appropriate avenues and means to seek redress if things go wrong.

⁵ MHCLG, English Housing Survey 2018 to 2019: headline report, Annex Table 2.2

⁶ YouGov survey of 3,995 private renters in England, online, weighted, 18+, Aug-Sept 2019.

We need to create a sea change in private renting. The Renters' Reform Bill, promised by the government in 2019, provides a clear opportunity to begin work to introduce much needed reforms. With worsening economic conditions, it is clear that more and more people will be stuck renting privately. So there has never been a more urgent time for the government to address the underlying problems and take steps needed to build a fairer private rented sector.

Problems in the private rented sector

Poor housing standards

Good quality homes are out of reach for too many private renters. Private rented homes are more likely to be considered non-decent than owner occupied or social homes.⁷



And nearly 7 in 10 private renters (69%) reported experiencing one or more serious problems with conditions in their home in the 12 months up to September 2019.

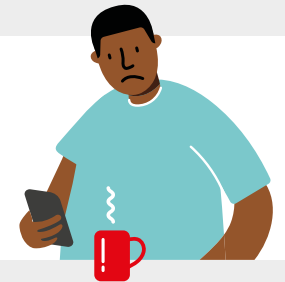
These problems include mould, damp, leaks, electrical hazards and infestations.⁸ Poor housing conditions are also impacting on the health of renters. During lockdown alone 15% of private renters had some kind of housing maintenance problem that caused them or someone they live with stress.⁹ We cannot let this go on. Private renters need to see a marked improvement in housing standards.

Unacceptable landlord and agent practice


Private renters are also likely to report broader problems with their landlord and/ or agent's practice. For example, we estimate that around three quarters of a million renters have had a landlord or agent enter their home without permission in the 12 months leading up to September 2019.

We also estimate that a similar number have experienced rude or threatening communications.¹⁰ Shelter's services have also seen first-hand how harassment, illegal eviction threats and illegal evictions have been a persistent problem during lockdown. These various experiences are making private renting grim for many renters. They also risk some becoming homeless. Too many renters also have to put up with discrimination:

In the 12 months up to September 2019 over 180,000 renters were treated unfairly by a landlord or letting agent due to their race, nationality, gender, age, sexual orientation and/ or disability.¹¹



Discrimination against benefit recipients is also rife in the private rented sector.

 54% of renters currently claiming housing benefit, say that since they have been renting they have not been able to rent a home they wanted because they came across an advert saying "No DSS" i.e. that they do not accept benefit recipients.^{12 13}

Ultimately, this discrimination can make people homeless because they have few, or no, housing options.

⁷ MHCLG, *English Housing Survey 2018 to 2019: headline report*, Annex Table 2.2

⁸ YouGov survey of 3,995 private renters in England, online, weighted, 18+, Aug-Sept 2019.

⁹ YouGov survey of 5,177 adults in England, online, weighted, 18+, Sept 2020.

¹⁰ YouGov survey of 3,995 private renters in England, online, weighted, 18+, Aug-Sept 2019.

¹¹ Ibid.

¹² YouGov survey of 3995 private renters in England (828 currently claiming Housing Benefit), online, 18+, weighted, Aug – Sept 2019.

¹³ Note: DSS refers to the Department of Social Security which ceased operating in 2001.

Problems with the way private renting is regulated

The regulatory framework for the private rented sector is fragmented and underfunded. This insufficient framework plays a key role in the persistence of poor housing standards and practice in the sector. In certain cases, the legislative framework is contributing to the discrimination that certain renters face. There are several key issues:

- a lack of a robust national regulatory framework for holding landlords and agents more accountable and enhancing housing conditions and practice;
- underfunded local authorities, which is undermining their ability to play a proactive role in ensuring acceptable housing standards and enhancing landlord and agent practice;
- problems with some local authorities' approaches to partnership working – we identify issues with siloed working amongst some local authority housing teams, as well as harmful collaborations that some local authorities adopt with external agencies – e.g. UK Border Force – as part of their private rented sector enforcement work;
- limitations with the existing and best tools that local authorities currently have at their disposal to tackle poor housing conditions and practice in their local area – e.g. selective licensing;¹⁴
- government's "right to rent" legislation which causes discrimination in the private rented sector on the grounds of race and nationality,¹⁵ and which creates a substantial barrier to renting privately for migrants, people perceived to be migrants and British people of colour without a passport.

These problems with the way that private renting is regulated must all be addressed if we are to transform private renting for the benefit of renters.

¹⁴ All private landlords operating in a selective licensing zone require a license from the relevant local authority to legally let out private homes in that area. See section 2.3 for more discussion of selective licensing.

¹⁵ High Court judgment on "right to rent" legislation.

¹⁶ YouGov survey of 3,995 private renters in England, Online, 18+, weighted, Aug-Sept 2019.

Precarity and a lack of power for renters

Fundamentally, renters don't feel secure in their homes because of an imbalance of power between renter and landlord. The possibility of Section 21 "no-fault" evictions means that many private renters live under the constant threat of eviction, even if they have paid their rent on time and taken good care of the property. If renters have to move, exorbitant private rents, high demand in the sector and a lack of social housing often combine to make it a struggle for private renters to find somewhere decent that they can afford to live. In a market like this, the lack of security that private renters have puts them at risk of homelessness, as we have seen during the pandemic. This threat also undermines private renters' power to challenge poor housing conditions and practice.



Nearly one in five (18%) renters who have experienced disrepair in their homes in the past five years have not reported them to their landlord for fear of being evicted.¹⁶

Renters' power is also undermined by their limited access to justice and redress. Severe cuts to legal aid have left too many renters unable to challenge their landlord when many instances of disrepair arise. Whilst section 21 evictions remain legal, and without effective routes to seek redress, private renters will be unable to confidently assert their rights or challenge poor conditions or practice.

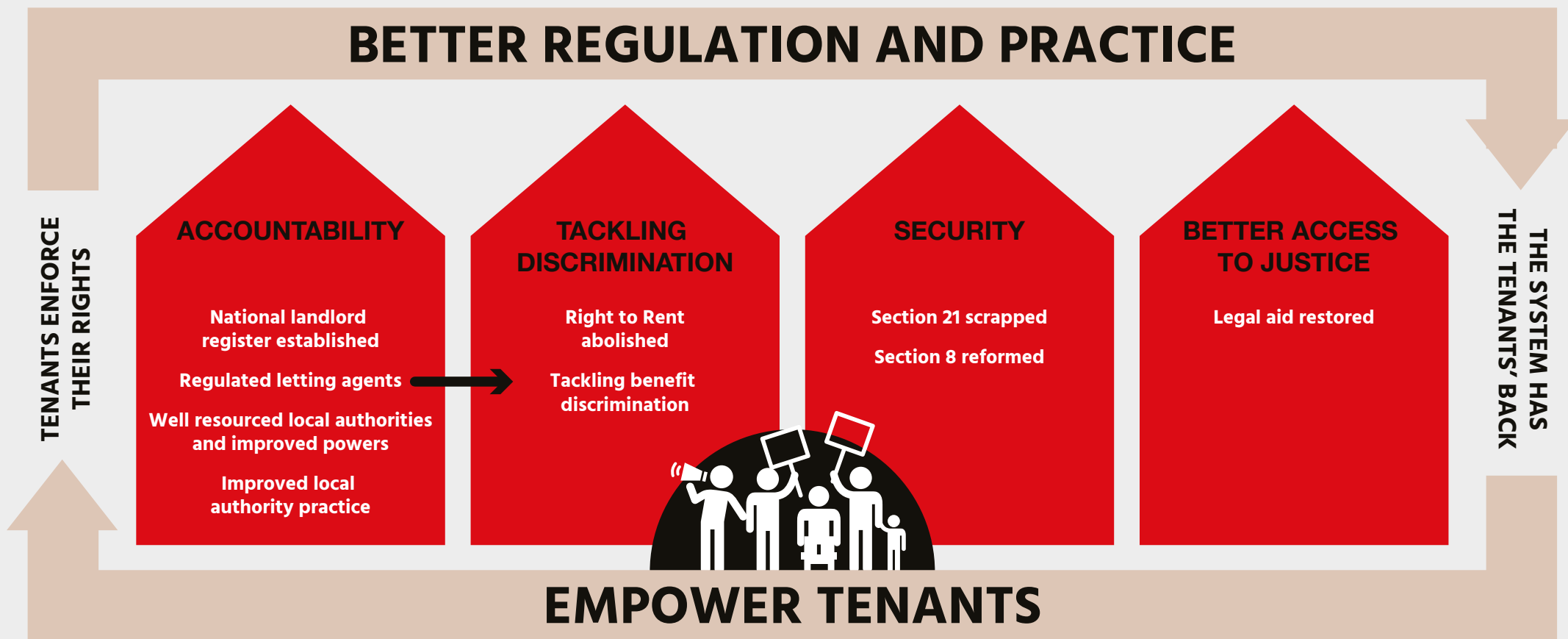
The package of private rented sector reforms we need

The case for comprehensive reform of the private rented sector is overwhelming. The government needs to bring forward the Renters' Reform Bill and commit to using any required processes to introduce reforms that will transform living standards in the private rented sector. These reforms, in the order that they appear in the report, are:

- **A national landlord register.** All landlords and housing management agents must register themselves, the properties they manage, details of the letting agents they work with and the rents they charge to a national register. Landlords and housing management agents must also evidence that the homes they manage meet essential safety requirements. This register would operate alongside the rogue landlord database and could also facilitate a new lifetime deposit scheme. A register would be a foundation for developing greater accountability in the sector and so must be a legislative priority for the government.
- **The regulation of all letting agents.** All letting agents need to adhere to a code of practice. Additionally, all letting agents must be sufficiently qualified and licensed. These measures would vastly improve standards within the sector and should be a key priority for the government.
- **The introduction of a regulatory body covering the private rented sector.** This body should oversee the national landlord register, rogue landlord database and the regulation of letting agents. It should also provide another avenue for redress for renters.
- **Enough resource for local authorities so that they can hire sufficient Environmental Health Practitioners, Tenancy Relation Officers and any housing staff they need to address poor housing standards and practice.** Local authorities must be sufficiently resourced and work appropriately across their internal teams to meet their statutory duties to ensure acceptable housing standards and to assist in improving practice in the sector.
- **The abolition of “right to rent” checks.** The “right to rent” policy must be abolished so that private renters don’t face immigration checks in their search for a new home. This policy has been shown to lead to discrimination on the grounds of race and nationality.¹⁷ Nobody should face discrimination in their search for a new home. Government must urgently abolish this policy which represents a substantial barrier to the ability to access private rented housing for migrants, people perceived to be migrants and British people of colour without passports.
- **The abolition of “no-fault” evictions.** Section 21 of the Housing Act 1988 must be abolished, and Section 8 amended, so that landlords must prove they have a legitimate reason for evicting tenants. The government has promised to abolish Section 21 evictions. Its abolition must be a legislative priority. Security of tenure underpins all reform and regulation in the sector, and only once tenants have security will they be able to enforce their rights.
- **The restoration of legal aid.** Funding for early advice and representation must be restored for disrepair and fitness cases, including damages-only claims.

¹⁷ See section 2.4

Figure 1: A programme for improving private renting





CHAPTER 1

PROBLEMS WITH HOUSING STANDARDS AND PRACTICE IN THE PRIVATE RENTED SECTOR

Everybody who lives in the private rented sector should be able to live in a good quality home, experience a decent service from landlords and agents and live free from discrimination. However, this is out of the reach for so many private renters.

1.1 The size of the private rented sector has soared

There are now over 11 million people living in 4.6 million private rented homes, a figure which has more than doubled over the last twenty years. The private rented sector once mainly housed transient workers and young people on their way to home ownership. Now the sector is the home of a wide range of households.



From families to older people, 8.6 million adults and 2.8 million children live in the private rented homes. Fifteen years ago, only 9% of families with children rented privately, whereas now it is very close to 1 in 4 (24%).

Many of those who now live in the private rented sector would traditionally have lived in more affordable government-provided social housing or would have bought their own home. But a decline in social housing provision and rocketing house prices means that an unstable, unaffordable and unaccountable private rented sector is now expected to provide homes for millions. As we will come to see, many renters in this sector are living in poor quality homes, are on the receiving end of poor practice from landlords and agents and are experiencing discrimination.

1.2 Private rented homes tend to be lower quality

Private rented homes are more likely to be lower quality than homes in other tenures (see Figure 2). Whilst it's good news that the proportion of homes failing the decent homes standard has fallen drastically over the last 15 years, the proportion of private rented homes failing this standard is still higher than in the social rented sector and owner-occupied sector.

The size of the private rented sector has also grown rapidly in this time. This means that although there have been improvements to the conditions of private rented homes over the last 12 years, the overall number of homes failing the decent homes standard has barely changed (see Figure 3). Almost 1.2 million private rented homes are non-decent. This is unacceptable.

% of homes failing Decent Homes Standard

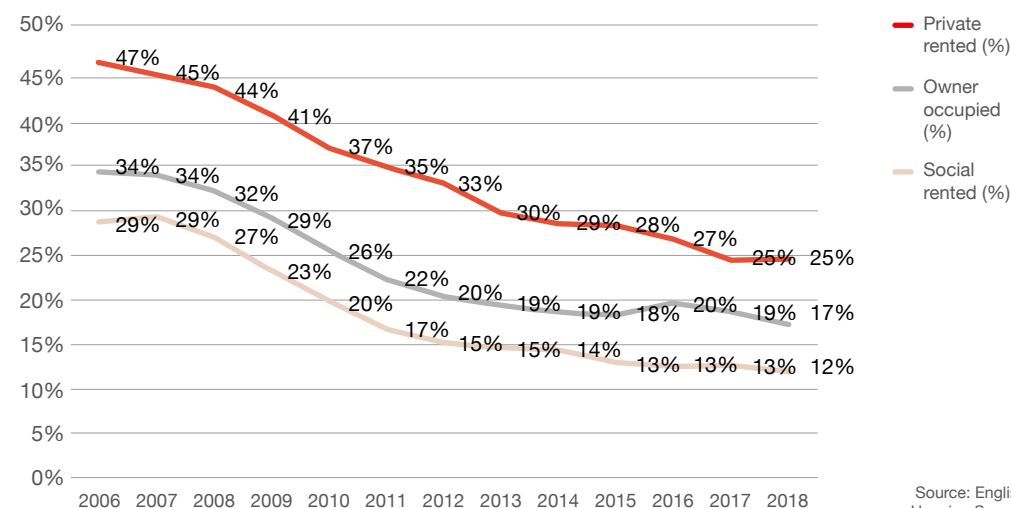


Figure 2: % of homes failing decent homes standard

Source: English Housing Survey, MHCLG, 2018/19, Annex table 2.2

Number of homes failing Decent Homes Standard

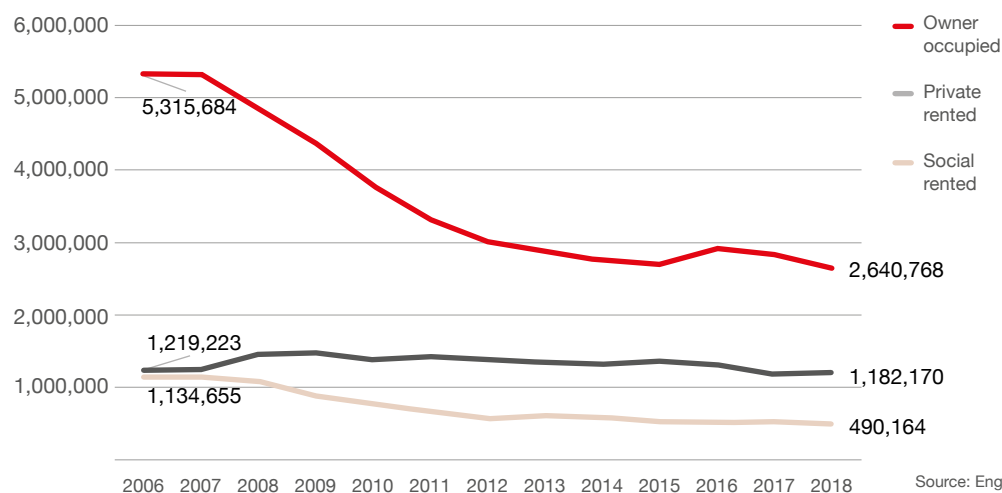


Figure 3: Number of homes failing decent homes standard

Source: English Housing Survey, MHCLG, 2018/19, Annex table 2.2

1.3 Private renters experience various problems with housing conditions

1.3.1 Private renters are suffering as a result of poor conditions

According to the 2019 survey of private renters carried out by YouGov for Shelter,¹⁸ many private renters, when deciding whether to rent a home, experience similar issues with disrepair and poor conditions. Worryingly, in the year preceding September 2019, nearly 7 in 10 private renters (69%) reported experiencing one or more of the problems outlined in Figure 4. This amounts to an estimated 6 million adults, living in over 3 million homes. 40% of private renters said they had experienced three or more of these problems over the same period, equating to nearly 3.5 million adults living in 1.8 million homes. This is a substantial number of people who have had to deal with multiple serious problems with the condition of their home.

...When, if at all, was the last time that you experienced each of the following... In the last year

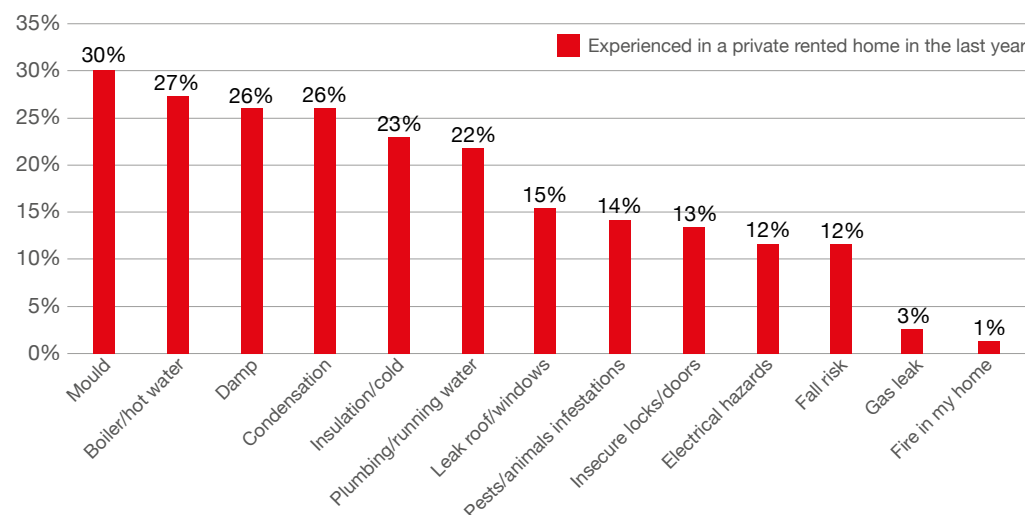


Figure 4: Problems with repairs and conditions: Source: YouGov survey of 3,995 private renters in England, Online, 18+, weighted, August-September 2019

¹⁸ This survey is the biggest and most comprehensive of its type. It is weighted to be demographically representative, with close to 4,000 private tenants in England sampled. This survey can provide rich detail on the types of problems experienced by private renters, due to high sample sizes and a broad range of topics covered. The latest full survey took place in August 2019. These figures are different and not comparable to official statistics and surveys as they are self-reported by the tenant rather than assessed by a surveyor.

Private renters are also dissatisfied with the quality of repairs that are conducted after they have reported problems, with a fifth (21%) unhappy with the quality of work when repairs have taken place (see Table 1). Our research also revealed that renters are often not fully informed about problems with the condition of a prospective home when deciding whether to rent it. A quarter of renters (26%) who have experienced poor conditions feel that these were hidden from them and only came to light after moving in. Renters are therefore not only having to deal with problems that are not properly rectified, they are also being kept in the dark about problems which may have affected whether they would have rented out a particular home in the first place.

Table 1: Repairs and conditions, general

The current condition of your home: Total dissatisfied	21%
The quality of work when repairs or maintenance has taken place: Total dissatisfied	21%
You said you had experienced poor conditions in a rented home over the last five years...The problems were there at the start of the tenancy and the landlord/ letting agent did not make me aware of the problems with the property before I signed the contract, and I only discovered them after moving in	26%

YouGov survey of 3,995 private renters in England, online, weighted, 18+, Aug-Sept 2019.

Poor living conditions are adversely affecting renters' health. One in eleven renters (9%, and over 800,000 adults) said that their health has been affected due to their landlord not dealing with repairs and poor conditions in their home in the last year. 8% of privately renting parents (over 200,000 people) reported a similar impact in relation to their children's health.¹⁹

The pandemic has brought the health impacts of poor conditions to the fore. In lockdown alone, 15% of private renters had some kind of housing maintenance problem that caused them or someone they live with stress.²⁰



It is clear then that private renters are suffering a great deal as a result of landlord and agent inaction on poor conditions.

¹⁹ Ibid.

²⁰ YouGov survey of 5,177 adults in England, online, weighted, 18+, September 2020.

CASE STUDY 1



Landlord inaction on disrepair impacts renters' health

Isabel lived in her previous private rented property for more than ten years. Over this time, the landlord never carried out any checks or repairs to the property, despite repeated complaints by Isabel and her partner. The house was surrounded by trees which were causing significant structural issues, drainage problems, uneven floors and leaks.

Isabel and her partner decided to carry out some of the repairs themselves when the landlord failed to act. Eventually the structural issues became too difficult and expensive to fix by themselves and posed a serious health risk to them and their family. Isabel and her partner threatened to report the landlord to the council, at which point the landlord completely ignored them and they decided to move to a new home.

“We were there for eleven years, and in the whole eleven years, he didn’t do anything to the house. He didn’t even do the safety check, that he’s legally supposed to do, every year. So, we decided enough was enough.”

South West England

1.3.2 Landlords need to be more responsible for ensuring good housing conditions

It's clear that too many private renters are living in a non-decent home. To find out more about why (from a landlord perspective), we ran a survey with over 1,000 private landlords in the UK in 2019.²¹ One in 13 (8%) of private landlords agree that “I sometimes struggle to keep my properties in a good state of repair” and a further 14% answered “neither agree nor disagree”, meaning that 22% did not disagree with the statement. The types of landlord surveyed who were a little more likely to acknowledge problems with repairs were:

- those who do not use an agent;
- those letting in London;
- “accidental landlords”;²²
- landlords who are not making a profit; and
- landlords with higher Loan-To-Value ratios.

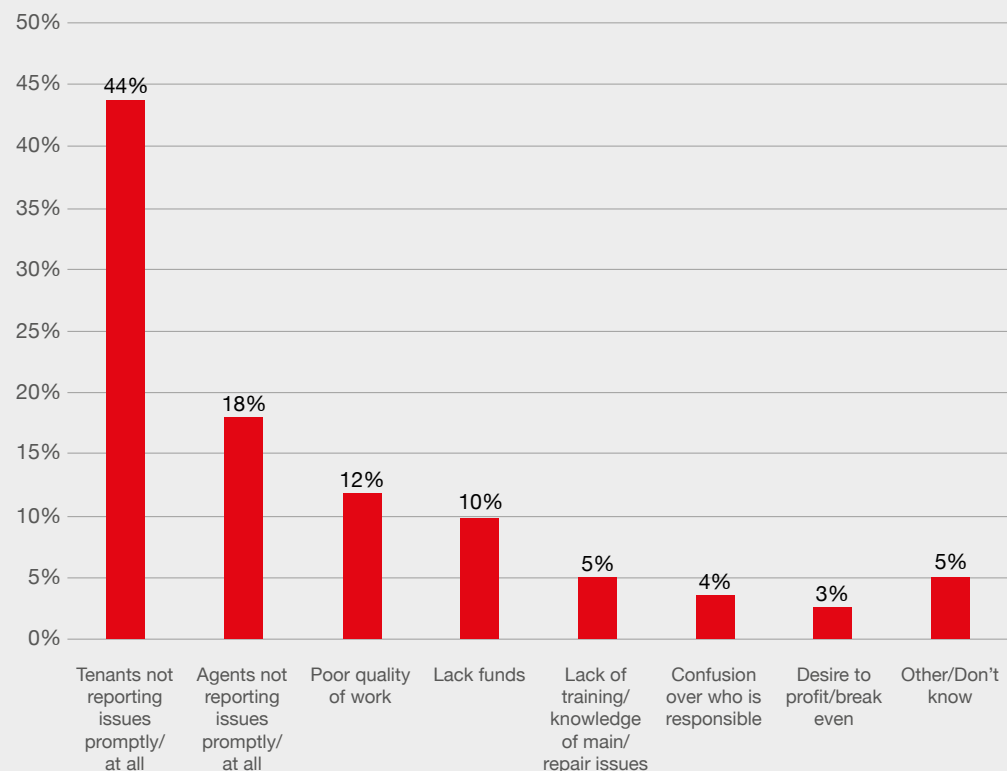
This initially suggests that financial problems and a lack of input from a professional body may be behind issues with not keeping up with repairs.

But, Figure 5 (see next page) provides a different and more illuminating picture. It shows that landlords do not perceive financial pressures to be a major barrier preventing them from keeping the homes they let in a good state of repair. Instead, landlords cite a lack of reporting by tenants and agents as the top two barriers. This suggests that landlords maintaining good property standards is chiefly dependent on renters or agents reporting problems to them.

²¹ The survey is not weighted as too little is known about the landlord population to do this. But it provides a very good representation of the small landlord market. Nearly two-thirds (63%) of landlords in the YouGov survey let just one property and 94% let less than 5. The survey tells us a number of important things about a landlord's ability to keep the properties they manage in a good condition.

²² Only 12% of landlords in the YouGov study described being a landlord as “my main job”. More than four in 10 (43%) could be described as “accidental landlords” in that their reasons for becoming a landlord were mainly due to personal or housing market circumstances, rather than being a planned business move.

Reasons provided for why landlords are unable to ensure that properties are well maintained.



YouGov survey of 1,009 private landlords letting in UK, base for this chart – 692 who did not say 'N/A nothing would', online, 18+, Dec 2019 – Jan 2020

Figure 5: Reasons provided for why landlords are unable to ensure that properties are well maintained. Source: YouGov survey of 1,009 private landlords letting in UK, 692 of whom gave a reason, online, 18+, December 2019 – January 2020. The chart excludes the 55% who said nothing has prevented them from keeping their property well maintained.

Whilst renters can have an important role to play in reporting problems with housing conditions to their landlords, to leave this entirely to them is not good practice. Indeed, even 45% of landlords state that leaving inspections solely to tenants is not an effective way of maintaining a property, and only 13% think it is a very effective method.

Renters are reluctant to report issues for various reasons, prominently including fear of eviction. The risk of eviction after complaining about conditions is very real. Research by Citizens Advice found that of renters who made a formal complaint, nearly half (46%) had received an eviction notice within 6 months.²³ As we will discuss in chapter 4, this risk of eviction puts renters off complaining about the condition of their home. Bearing this in mind, we can't exclusively place onus on renters to report issues.

Landlords must take on greater responsibility in ensuring their properties are up to scratch – 1 in 6 (16%) landlords say that they never check the condition of the home they rent and leave reporting of issues entirely to their tenants. Landlords must also ensure that when they do carry out maintenance and repairs, they do so to a good standard. To help achieve this, landlords must be aware of their responsibilities in this area. But, many landlords are lacking on this front.

While three-quarters of landlords surveyed by YouGov think they have a good awareness and knowledge of the various requirements for landlords on conditions and standards, only 1 in 5 (21%) feel strongly about this.

It is crystal clear that we need more security for tenants so that they have more confidence to complain, and we also need landlords to be subject to a regulatory framework that holds them more accountable for maintaining good standards.

²³ Citizens Advice. 2018. [Touch and go: how to protect private renter from retaliatory eviction in England.](#)

1.4 Private renters have to deal with poor landlord and agent practice

A shocking number of private renters have to deal with poor property conditions. But private renters also put up with poor landlord and agent practice, which can make private renting extremely uncomfortable. As Table 2 illustrates, private renters experience a range of problems. Around three quarters of a million renters report a landlord or agent entered their home without permission in the last year. A similar number say they have experienced rude or threatening communications. Alarming, discrimination is also widespread in the sector.

Table 2: Other serious problems that private renters report with landlord and agent practice

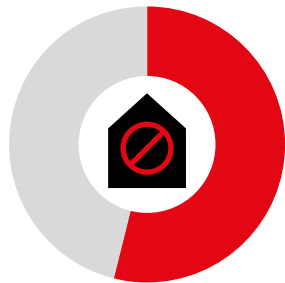
	In the 12 months up to September 2019: (%)	In the 12 months up to September 2019: (estimated number of adults)	In the 12 months up to September 2019: (estimated number of homes)
A landlord/ agent has entered my home without me being given any notice/ chance to give permission	9.1%	785,000	411,900
My landlord, agent or someone acting on their behalf has spoken or written to me in a rude/ unfriendly/ threatening way	8.4%	727,800	381,900
I have paid a tenancy/ damage deposit to a landlord or agent and they have not placed the deposit with any of the approved government protection schemes	5.1%	443,300	232,600
I have rented a property from a rogue landlord	5.0%	433,700	227,600
My Landlord/ letting agent unfairly kept my deposit/ part of my deposit	4.1%	359,100	188,400
My Landlord/ letting agent threatened/ harassed/ assaulted me	2.6%	221,200	116,100
I have been treated unfairly by a landlord/ letting agent due to my race/ age/ nationality/ gender/ sexual orientation/ disability	2.1%	184,800	97,000
My landlord/ agent has stolen or damaged my property	1.4%	124,900	65,500
I have experienced sexual harassment/ unwanted attention from my landlord, agent or someone acting on their behalf	1.3%	112,800	59,200
My Landlord/ letting agent cut off my electricity/ gas/ water for no good reason	1.1%	96,300	50,500
A landlord/ letting agent has thrown my belongings out and changed the locks	0.3%	29,500	15,500

YouGov survey of 3,995 private renters in England, online, weighted, 18+, Aug-Sept 2019. Numeric estimates are calculated by Shelter using English Housing Survey, Census and Office for National Statistics population data. Figures are rounded to nearest hundred.

1.4.1 Discrimination is widespread in the private rented sector

Every day, private renters experience discrimination in the sector. In the 12 months up to September 2019, over 180,000 renters have said that they face discrimination in the sector due to their race, nationality, age, gender, sexual orientation and/ or disability. There is also clear evidence that the government's "right to rent" policy is actually feeding into discrimination against migrants and British people of colour (see chapter 2).

Discrimination against benefit recipients is also endemic.



A huge **54%** of renters currently claiming housing benefit say that since they have been renting they have not been able to rent a home they wanted because it was advertised as "No DSS".²⁴

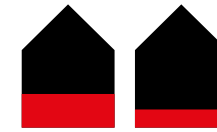
That's one in five of all private renters. This discrimination does not only take the form of adverts saying "No DSS", "No housing benefit" or "No Universal Credit". We know that letting agents use affordability assessments (as part of referencing checks) that do not count housing benefit as a form of income for the purpose of assessing affordability.

At times, they also have guarantor requirements that go beyond the requirements for renters who are not in receipt of benefits. As a user of Shelter's helpline has outlined, many landlords and agents simply "don't want to know" if they receive an enquiry from a benefit recipient.²⁵

Women are more likely to be impacted by these discriminatory policies and practices as they are more likely to be in receipt of housing benefit than men. Data also shows that disabled people and Bangladeshi and Black families are also more likely to be affected.

Women are **1.5 times** more likely to be in receipt of housing benefit than men.²⁶

Disabled people are **three times** more likely to be in receipt of benefit than those without disabilities.²⁷



Bangladeshi and Black families respectively have rates of **25% and 24%** of families receiving housing benefit, compared to an average rate of **12%** across all families.²⁸

So, the discrimination that housing benefit recipients face, and the specific difficulties they have in accessing private rented housing, is having disproportionate impacts on intersecting lines of gender, disability and race, as well as income.

This discrimination is causing huge stress and anxiety, and forces people to remain in unsuitable and unsafe accommodation because they can't move. It can also increase the fear of eviction because of the difficulty in finding another home. Ultimately, this discrimination can make people homeless because they have few, or no housing options. Despite recent court cases showing this discrimination is unlawful, it continues and must be challenged.

²⁴ YouGov survey of 3995 private renters in England (828 currently claiming HB), online, 18+, weighted, Aug – Sept 2019.

²⁵ Shelter Guest Blog. 2019. 'If you're on benefits, landlords don't want to know'.

²⁶ 12% of adult women in England claim HB whereas 8% of adult men in England claim [Numbers of housing benefit claimants are from analysis of Housing benefit caseload, [DWP Stat-Xplore](#), data is as at March 2018 to avoid UC rollout influencing the numbers, social and private combined, England].

²⁷ Disability data is taken from wave 9 of Understanding Society and covers the UK. Total unweighted base is c.29,750. Disabled respondents have a base of c3,592. Data was collected January 2017 – January 2019. We have defined those who are disabled as those who say they are claiming either the disability living allowance or the severe disablement allowance. 44.6% of households who claim DLA or SDA claim Housing Benefit compared to 15.1% of households who do not claim DLA or SDA. This means that, in the private rented sector, disabled households are almost three times as likely to rely on Housing Benefit, and thus be excluded by a No DSS policy, than non-disabled households.

²⁸ This information is based off of the Family Resources Survey: [financial year 2016/17](#).

1.4.2 Living with the fear of harassment and illegal eviction

Renters have little protection from legal eviction as it is very easy for landlords to evict renters through the courts (see chapter 4 for more discussion). But harassment and illegal evictions are also a persistent feature of private renting (see case study 2). This has been made very clear in lockdown, where landlords have shown an utter disregard for renters' welfare and illegally evicted them onto the streets in the middle of a pandemic.

Shelter's online advice team have reported a raft of cases of harassment, illegal eviction threats and/ or illegal evictions. Between March and August this year, when the eviction ban was in place, Shelter's web chat team handled over 360 cases of harassment, illegal eviction threats and/ or illegal evictions. This is likely to be the tip of the iceberg – many more are likely to have happened but will not have come to Shelter for help. Citizens Advice have also reported a 95% increase in people asking for help with illegal evictions between the end of March this year and the end of July this year, compared with the same period last year.²⁹

This is all taking a huge toll on renters. Renters have to deal with their landlord coming around unannounced and being aggressive. They are coming home to find that their locks have been changed and that their belongings have been thrown out. The stress and anxiety that this places on renters is intolerable. We need a better framework for challenging this behaviour from landlords and for ensuring that renters are not illegally evicted.

²⁹ T. Wall, 2020. [No place like home: illegal evictions in 'shadow' sector soar in lockdown](#).

CASE STUDY 2



Poor conditions and the threat of illegal eviction

Ella lived in her previous private rented property for five years. There was an ongoing issue with poor conditions in the flat and in particular black mould. The landlord failed to act after repeated complaints, so Ella used her own money to try to fix the problem:

“We had this terrible black mould as well in the flat... I had to buy a dehumidifier and it was filling up every day and pouring out of my flat.”

This was bad enough. But then the landlord turned up without any prior notice and told Ella and her housemates that they had to leave in a week. Ella and her partner got in touch with Shelter and found out that their landlord had to follow the legal process of eviction, which meant that they had enough time to find a new home before leaving.

London

1.5 Worst hit renters

A large number of private renters from all demographic groups suffered from poor conditions and landlord and agent practice. High incomes and high rents provide no guarantee of avoiding such problems. But our research also makes crystal clear that certain social groups and those in specific renting circumstances are more likely to experience more extreme issues or numerous problems in a short space of time. The social groups that disproportionately encounter the most and/ or the worst problems are:

- people on the lowest household incomes;
- people claiming Housing Benefit;
- people from a Black, Asian and Minority Ethnic background;
- young renters;
- women;
- people who are not working, but not retired (students, unemployed and other working age people who are not employed, such as unpaid carers); and
- people with children in the household.

The renting circumstances most associated with experiencing the worst problems are:

- renters who said separately that they had found it “very difficult” to find a decent affordable home the last time they moved;
- people who think they will be renting privately for the long-term or forever.
- people who are constantly struggling or falling behind on their rent;
- people that have moved multiple times in recent years; and
- private renters who would have preferred to have stayed in their last rented home, rather than move.

Many of the demographic and circumstantial factors listed above are inter-related. For example, young renters are more likely to be on lower incomes, and to move more frequently. Those on lower incomes are more likely to say they think they will be “renting forever” and that it was “very difficult” to find a decent affordable home last time they moved. As a renter who received help from Shelter in the South West of England told us:

“People are living in these properties, I’ve been living in them for quite a long time, you know, they’re not doing it out of fun. They’re not doing it for their health. They’re doing it because they can’t bloody afford to go anywhere else, or they can’t find anywhere else. That’s why.”

Additionally, 30% of Black, Asian and Minority Ethnic private renters had moved three or more times in the last five years compared to 24% of white British renters. Renters from Black, Asian and Minority Ethnic backgrounds were also more likely to say that they found it difficult to find a decent affordable home last time they moved. Women (27%) were also more likely than men (19%) to find it “very difficult” to find a decent, affordable home the last time they moved. It is clear, then, that marginalised social groups are more likely to struggle to find a decent, secure and affordable private rented home.

1.6 Private renters face various problems whilst renting

Private renters face myriad problems in their homes, as well as with landlord and agent practice. This includes discrimination. The evidence also paints a clear picture that renters from specific social groups disproportionately face problems with finding somewhere decent, secure and affordable to live in. But what regulatory, resourcing and legislative problems with our current private rented sector framework are enabling these problems to persist?

The next chapter addresses this question by exploring problems with the national and local regulatory, resourcing and legislative framework for tackling poor housing conditions and practice in the sector.





CHAPTER 2

ISSUES WITH THE REGULATORY, RESOURCING AND LEGISLATIVE FRAMEWORK GOVERNING THE SECTOR

The private rented sector is marked by a fragmented and under-funded regulatory framework. With renters having little choice or power to choose in the market, this insufficient framework acts as a major barrier to holding landlords and agents more accountable over poor housing standards and practice within the sector. This framework is also not playing the role that it could to help tackle discrimination in the sector. Furthermore, aspects of the legislative framework are facilitating discrimination.

2.1 The sector lacks a clear consistent and proactive regulatory framework

The absence of a clear, consistent and proactive national regulatory framework to help ensure good standards and practice is a conspicuous feature of England's private rented sector. With such high demand for properties, prices unaffordable for many, and a lack of protection from eviction for renters, landlords hold the power to choose who rents their property and they can evict households for no reason. It also means many landlords have little incentive to provide a good standard of property. Some are able to get away with very poor practices. A national framework that can help to hold landlords and agents to account over housing standards and practice is needed.

Many landlords themselves would agree. **Four-in-ten landlords believe that current requirements for landlords to maintain and improve the condition of their property are not stringent enough.**³⁰ Reforms are needed to help ensure that landlords keep the homes they let out in good nick.

Many of the research participants cited the lack of a national register for landlords and housing management agents as a key absence that impacts efforts to improve practice and standards. Shelter caseworkers, representatives from sector organisations, private renters and local council private rented sector enforcement officers all expressed this view. A national register exists in other countries in the UK.³¹ But, the absence of a register in England means that there is no requirement for landlords and housing management agents to make themselves known to councils other than through licensing requirements. This hinders councils' ability to carry out preventative work. It is challenging for them to proactively engage with landlords and housing management agents and disseminate information to them about their responsibilities and the standards that they need to meet.

³⁰ 40% of landlords agreed with the statement "The current requirements for landlords on the condition and standard of the properties they let out are not adequate, they should be more stringent, placing more onus on landlords to maintain and improve the properties they let out". YouGov survey of 1009 private landlords in England, Online, 18+, December 2019-January 2020.

³¹ The [Scottish Landlord Register](#) is the official register of landlords of private rental properties in Scotland. There is also a [landlord registration](#) system in Wales where there is a legal obligation for all landlords to register and provide accurate and up-to-date information about themselves and their rental properties. Finally, Northern Ireland has the [Landlord Registration Scheme](#) which collects and maintains accurate information on landlords and their properties.

The absence of a national landlord register also impacts on consumer choice – it prevents renters from making any type of informed decision about who to rent from. As a caseworker in London suggested, landlords would be "open to public scrutiny if on a register." The key role that a national register would play in holding landlords and agents to account and how this would work in practice is explored in chapter 3.

Research participants also cited the lack of a national regulator for the sector as a key barrier to holding landlords and agents to account. The absence of a national regulator means that no one has overall responsibility for improving landlord and agent practice.

As a representative from a sector organisation suggested:

"There should be a national body responsible for putting up standards, using ledgers like creating a national register of landlords, and that means they [landlords] can be held accountable when they aren't meeting standards."

A regulator could also help develop clear standards for the sector where standards are missing. They could also play a proactive role, alongside councils, in addressing poor practice that has been highlighted by private renters. For instance, they could help to challenge discrimination and transform behaviour. A regulator could therefore work strategically alongside councils to help drive up standards in the sector for the benefit of renters.

Attempts to effectively hold landlords and letting agents to account are further undermined by a lack of a formal requirement for local authorities to tackle poor landlord and agent practice. Placing a duty on local authorities to do proactive work to tackle poor landlord and agent practice would be helpful.³²

³² Several representatives from sector organisations suggested that the lack of duties on local authorities to tackle poor practice undermines their ability to carry out proactive work to improve practice.

This duty could encompass conducting training programmes to raise awareness of landlord and agent responsibilities, and regular, proactive inspections of properties, with the permission of renters. Where there are duties and powers in place for local authorities, these are often discretionary.³³ As government guidance outlines:

“The decision to take enforcement action will require a judgement as to the necessity for intervention, given the authority’s priorities and wider renewal policies.”³⁴

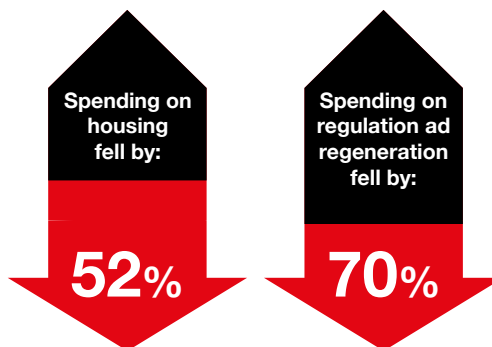
This means that private landlords and agents in one local authority can be held to a higher standard than those in other areas due to factors such as capacity, resourcing and political will. But, as section 2.2 will set out, capacity and resourcing are lacking across many local authorities.

2.2 Under-resourced local authorities and siloed working

2.2.1 Local authorities are under-funded

Austerity and local government budget cuts over the last decade have undermined local authorities’ ability to ensure good practice in the private rented sector.

While spending on housing fell by 52% per person between 2009/10 and 2019/20, spending on the regulation and regeneration of private sector housing decreased by 70% per person.³⁵



This sharp drop in local authority spending will impact on the quality of service that they can provide to private renters.

Within this constrained environment for local authorities, there are also concerns about how much councils prioritise funding for work that will help to ensure good standards and practice in their local private rented sector.

Net expenditure on ensuring good private sector housing standards by local authorities in England decreased from £12.58 per private renting household in 2009/10 to £7.02 per private renting household in 2018/19 (a reduction of 44%).³⁶

Although some funding has recently been announced to help councils tackle poor landlord practice,³⁷ this is not enough to respond to the significant gap in funding that has been created by years of austerity.



³³ This excludes Category 1 hazards. Local authorities are under a statutory duty to take action if a Category 1 hazard has been identified within a property, but local authorities can decide which type of action to rectify the problem.

³⁴ Office of the Deputy Prime Minister (2006) *Housing Health and Safety Rating System Enforcement Guidance, Housing Act 2004, Part 1: Housing Conditions*, Part 2.2.

³⁵ Harris, T., Hodge, L. and Phillips, D. (2019) *English local government funding: trends and challenges in 2019 and beyond*, The Institute for Fiscal Studies.

³⁶ This includes all costs associated with work to ensure that the residents of private sector accommodation live in safe and sanitary conditions, such as inspections and licensing of houses in multiple occupation. We calculated the cost per private renting household by dividing the net current expenditure by the number of households living in the private rented sector in England. MHCLG, *Local authority revenue expenditure and financing England*, Revenue outturn cultural, environmental, regulatory and planning services (RO5) and MHCLG, *English Housing Survey 2018 to 2019: headline report*, Annex Table 1.1.

³⁷ <https://www.gov.uk/government/news/more-funding-to-help-crack-down-on-criminal-landlords>

These **cuts to local authority budgets have subsequently directly impacted on the number of council officials available to tackle poor property standards and practice.** Indeed, the caseworkers we spoke to suggested that this is the most significant barrier for local authorities who are trying to hold landlords and agents to account over poor practice. Many councils reportedly only have one or two people working to enforce standards for thousands of private rented homes.³⁸ Local authorities need more people to help improve housing standards for private renters.

Cuts to local authority budgets have impacted the number of Environmental Health Practitioners (EHPs) that councils have available to ensure good standards. This has subsequently constrained the capacity of remaining EHPs. We heard about examples of local authorities whose EHPs have issued improvement notices to landlords but who do not have the capacity to follow these up if the landlord ignores the notice. During our research we also heard about local authorities, within a context of limited resources, downgrading hazards they have come across during property inspections.³⁹ A Shelter caseworker in London has highlighted why this is the case:

“Local authorities can try and enforce but unless they have staff to do this and decide to take on the case, they can’t do anything. Some local authorities downgrade [from hazard category 1] to hazard [category] 2 so they don’t have to take enforcement [action].”

³⁸ Several of the representatives from sector organisations and Shelter caseworkers we spoke to pointed out that councils often only have one or two private rented sector enforcement officers for thousands of private rented homes.

³⁹ We spoke to 16 Shelter caseworkers who mentioned various examples of local authority resourcing issues and the impact this has on capacity within private rented sector enforcement teams.

As well as the loss of EHPs, our research also showed that the cuts to funding have had an impact on the number of Tenancy Relation Officers (TROs) available within councils. TROs play an important role as mediators between landlords and tenants, helping to maintain good relationships between them.

TROs can also enforce the Protection from Eviction Act 1977 which means that they are able to interview landlords if there is an indication that landlords are not meeting their legal obligations under the Act.⁴⁰ The loss of TROs has significant implications for local authorities’ capacity to enforce renters’ rights to legal protection from illegal eviction and harassment, respond to complaints and carry out more proactive work to prevent the escalation of poor practice.

As a renter in the South West who received help from Shelter told us:

“[Local authority] has one and a half tenancy relations officers for the entire city. I think that might be a problem. You know what I mean? It seems like that’s a very, very, very small amount of people to be looking after all the private tenants.”

⁴⁰ Association of Tenancy Relations Officers, [TRO guidance](#).



A Shelter caseworker talked about a similar situation in the North West:

“When I first started at Shelter, [local authority] had quite good tenancy relations officers... so if people had problems with private landlords, they went to see them... There are no tenancy relations officers now.”

The loss of council officials who work on tackling poor property conditions and practice has impacted on councils' ability to carry out activities that sit outside of their legal duties, including more proactive and preventative work.

Some of the local authorities we spoke to reinforced this point, with one officer suggesting that they have to focus on their “day-to-day obligations and duties under the Housing Act”. The emphasis on implementing their legal duties as a bare minimum can come at the expense of carrying out crucial proactive work with landlords and agents, including setting up engagement and training programmes that raise awareness of their responsibilities as housing providers.⁴¹ Austerity measures have therefore affected local authorities' ability to conduct activities that will help prevent serious problems from arising in the first place for renters, notably including illegal evictions.

If local authorities lack a properly resourced tenancy relations service then they are ill-equipped to enforce the rights of renters who are being harassed, threatened with illegal eviction or who have experienced an illegal eviction. In some areas there are active renters' groups such as ACORN, Greater Manchester Tenants Union and London Renters' Union who are often a trusted source of practical support and accessible information about housing rights and getting help locally. They are doing important, necessary work, especially in a context where local authorities are not consistently providing this support to renters.



⁴¹ Several of the representatives from sector organisations and local authority staff we spoke to suggested that the cuts to private rented sector enforcement teams have had an impact on local authorities' capacity to carry out proactive training and educational activities with landlords and managing agents.

But community groups and renters' unions should not have to take chief responsibility in dealing with illegal evictions or illegal eviction threats.

There should be well established process in place to ensure the rights of tenants are adhered to. Yet these groups are having to run evictions resistance workshops.⁴² Renters' unions are also having to prevent illegal evictions from taking place,⁴³ putting themselves at risk because local authorities do not always have the capacity to prevent them from happening.

As there aren't groups and unions across the country, not all renters are able to get help to stay in their homes in cases of illegal evictions. Local authorities, who are meant to be there to play a leading role in protecting renters' rights, must also be available to provide support to renters if they do go to their local authority for assistance. With enough resource, local authorities will be able to play the role that they should in protecting the rights of renters in their area who are experiencing harassment, illegal eviction threats or illegal evictions.

A lack of local authority resource, and a subsequent insufficient capacity to assist renters, also discourages renters from going to their council for help.



This unresponsiveness undermines renters' trust in local authorities' ability to hold landlords and agents to account and means that problems can remain unresolved. Our YouGov survey also shows that of those who decided not to complain to the local authority about conditions or practice, nearly a fifth (18%) didn't complain because they didn't think anything would change as a result.⁴⁵

As a renter in London who received help from Shelter noted, unless councils become more responsive landlords will know that they can continue to "get away with" bad practice.

⁴² London Renters Union. [Eviction Resistance](#).

⁴³ See https://twitter.com/ACORN_Bristol/status/1310673043719675904

⁴⁴ This was the most common response of private renters who complained about their landlord or letting agent to their local authority in the last five years. YouGov survey of 3,995 private renters in England, Online, 18+, weighted, Aug-Sept 2019.

⁴⁵ YouGov survey of 3,995 private renters in England, Online, 18+, weighted, Aug-Sept 2019.

2.2.2 Local authorities can sometimes work in siloed ways

The under-resourcing of local authorities is impacting on their ability to ensure good housing standards and practice. However, ineffective and siloed ways of working between different functions in a local authority can also reduce their ability to hold landlords and agents to account. Existing research has pointed to a lack of strategic co-ordination over objectives and priorities across some private rented sector teams and housing options teams.⁴⁶

This means that homelessness teams may not always share information with other teams about landlords and agents they come across who are causing problems in their local private rented sector.⁴⁷

This finding was echoed by some of the caseworkers we spoke to who suggested that the growing importance of the private rented sector as a route to discharging homelessness duties can come at the expense of holding landlords and agents to account for their poor practice. As a caseworker in the South West suggested, housing options teams “want to keep them [landlords] onside”. The concern is that a lack of strategic co-ordination over objectives and priorities means that local authorities may not always be working in ways that will allow them to effectively tackle poor standards and practice within their boundaries.

⁴⁶ J. Rugg. 2020. [London boroughs' management of the private rented sector](#).

⁴⁷ Ibid.



2.3 Selective licensing – a useful but limited tool

Despite a lack of powers and resources, local authorities do have licensing as a tool to help hold landlords and housing management agents to account. There are three forms of licensing that local authorities have at their disposal: houses in multiple occupation (HMO) licensing, additional licensing and selective licensing. HMO licensing is compulsory for all landlords who let out a property to five or more people living in two or more separate households.

Local authorities also have powers to impose additional licensing on HMOs beyond the national mandatory regime. But this section will focus on selective licensing. This is the form of licensing that was most discussed and critiqued by research participants.



Selective licensing is a tool that local authorities can use to, amongst other things, tackle poor property conditions and poor practice within the private rented sector.⁴⁸ All private landlords operating in a selective licensing zone require a licence from the relevant local authority to legally let out private homes in that area. In selective licensing areas, local authorities have enhanced powers of entry to inspect properties and require improvements to housing conditions.⁴⁹ So this is potentially a powerful tool that local authorities can use to improve housing standards and landlord and housing management agent practice.

But selective licensing is not operational across the country. If local authorities want to develop a selective licensing scheme that covers more than 20% of their authority's geographical area, then they need Secretary of State approval. The same goes for if they want to set up a scheme that covers more than 20% of privately rented homes in their boundary.⁵⁰

Last year's government commissioned review of selective licensing found that as of 1st January 2019 only 44 (less than 13%) local authorities in England reported operating a selective licensing scheme. It also found that four (just over 1%) local authorities had a scheme covering 100% of their local area and a further nine (less than 3%) had a scheme covering more than 20% of their local area.^{51 52} So, selective licensing is a tool that is only operational in a minority of areas across England.

In general, the caseworkers we spoke to thought that, where operational, selective licensing was a useful tool for improving conditions and landlord or letting agent practice. They particularly referred to the benefits of being able to tailor the approach in different areas.

48 Local authorities can designate an area for selective licensing for five years after providing evidence for, and consulting on, the need for selective licensing in their area.

49 T. Moor & R. Dunning. 2019. *Regulation of the private rented sector in England using lessons from Ireland*.

50 MHCLG. 2019. *An Independent review of the use and effectiveness of selective licensing*.

51 Ibid.

52 There are 343 local authorities in England.

Representatives from sector organisations also expressed some positive views, suggesting that selective licensing can help to build constructive relationships between local authorities and private landlords, for example through the council setting up landlord forums. As a representative from a sector organisation told us:

“I do think that within areas where there are selective licensing schemes, it was clear that most local authorities were developing much better and closer relationships with their landlords because they knew how to contact them.”

The government commissioned review of selective licensing also shows that selective licensing can be effective in tackling poor standards and practice when it is used as part of a wider, planned, coherent and well-resourced framework to tackle these issues.⁵³ A caseworker in London refers to some of these contingencies:

“You need the resources to do selective licensing effectively. And it needs to be used alongside existing legislation.”

53 MHCLG. 2019. [An independent review of the use and effectiveness of selective licensing](#).

The Chartered Institute of Housing and The Chartered Institute of Environmental Health have also conducted research which presents successes of selective licensing.⁵⁴ For example, their research outlined that many properties in licensable areas are benefitting from improvements in conditions. Their research also discussed how landlords’ willingness to improve practice and housing conditions increased when licensing schemes had been set up in their areas. Their research also cited an improved local authority understanding of their local housing market and better opportunities to engage with local landlords as factors contributing to improved conditions where selective licensing is in place.

Despite these benefits, there are some serious limitations which are undermining the effectiveness of selective licensing as a tool for improving housing standards in the private rented sector. Local authorities we spoke to have said that they cannot include conditions on the license that relate to housing standards.⁵⁵ This means that they are unable to use selective licensing to help ensure properties are in a good condition prior to them being let. A renter in the South West who received help from Shelter bemoaned the lack of checks before providing a licence:

“This is another thing that really wound me up. Just like, they hand out a licence without checking. Who does that? Can I have a driving licence? No, you don’t need to see if I can drive, can I just have one? You can take it away when I have an accident. Like what? No. You check first, then you give out the licence, surely.”

We clearly need a system which plays a proactive role in ensuring that homes are fit to let prior to licenses being issued.

54 Chartered Institute of Housing and Chartered Institute of Environmental Health. 2019. [A license to rent](#).

55 T. Moore & R. Dunning. 2019. [Regulation of the private rented sector in England using lessons from Ireland](#).

We also heard from sector organisations that selective licensing doesn't always drive up standards throughout a local authority's boundary. As we have already outlined, selective licensing is not operational across the country. Additionally, the majority of schemes that do exist don't cover all of a local authority's boundary.

This creates a two-tier system with some landlords bound by requirements and others not. Some of the caseworkers and sector organisations we spoke to also brought attention to the long and difficult process involved in setting up a selective licensing scheme, particularly large schemes, referring to the high threshold of evidence required to make the case. This can discourage local authorities from setting up a licensing scheme or extending the area affected. As a Shelter caseworker stressed:

“It's a long procedure to go through, you have to show that the licence is feasible. It can be a gruelling process.”

Another key limitation that caseworkers highlighted was the lack of relevant information for the public. Private renters are not able to find out which landlords have been subject to action requiring them to improve their practice and standards in the homes that they let. Many of the caseworkers we spoke to therefore said that selective licensing in its current form does not enable private renters to make sufficiently informed decisions about renting from a prospective landlord.

Finally, it is clear that some local authorities are embarking on troubling collaborations with external bodies and agencies.

For example, some local council private rented sector teams are collaborating with immigration enforcement teams. As a representative from a sector organisation told us:

“We've had cases of selective licensing basically being used as a tool for immigration enforcement. Councils working with border agencies to essentially carry out raids on tenants whose immigration status is unclear. We don't think the licensing scheme should be used in this way.”

Immigration raids are extremely traumatic. They can be incredibly violent and can lead to parents being taken away in front of their children.⁵⁶ When people are taken away during an immigration raid, they can subsequently be placed in detention centres. It is well documented that in these centres people suffer gross human rights abuses, including racism and physical assaults at the hands of detention centre officers.⁵⁷

People in these centres also face the prospect of subsequent forced removals, including after being wrongly detained and removed, as the Windrush scandal conspicuously highlighted, and after being denied legal rights.⁵⁸ People who are removed can be sent to dangerous situations for them where they can experience further harms and even threats to their life.⁵⁹ These are tragic and unacceptable outcomes that can arise from combining selective licensing property inspections with immigration raids.

⁵⁶ Joint Council for the Welfare of Immigrants. [Treating humans with humanity](#).

⁵⁷ DPG Law. 2019. [Detention centre abuse victims win battle against the Home Office for effective public inquiry](#).

⁵⁸ Joint Council for the Welfare of Immigrants. [Windrush scandal explained](#).

⁵⁹ The Week. 2019. [Five men killed after being deported from UK to Jamaica](#).

Selective licensing should not be used as a form of immigration enforcement. Private renters will not reach out to local authorities if they know that they face the risk of an immigration raid. They will have a reduced trust in their local council and will not raise problems they are experiencing with their council. Private renters will therefore be at a heightened risk of struggling with unacceptable conditions and landlord and agent behaviour.

Selective licensing will also be in danger of losing its key purpose. There is a real concern that over time improving housing standards and landlord and agent practice will no longer be the primary driver behind selective licensing inspections. Instead, if collaborations with UK Border Force persist and they gain more influence within the selective licensing framework, **immigration enforcement, not protecting renters, will take over as a key driver behind licensing inspections.**

Selective licensing can contribute to improved housing standards for private renters. Whilst this is the case, it is not used across the country meaning that not all renters experience this benefit of selective licensing. Furthermore, siloed working within some local authority housing teams is impacting on the effectiveness of selective licensing and hindering the benefits that it can bring to renters.

At worst, the way in which selective licensing is being used by some local authorities – e.g. as a form of immigration control – means that it is harming renters. Local authority resource should not be used to create a hostile environment for renters. Drastic changes are needed to the scope of selective licensing so that it operates as more effective a tool for improving housing conditions for private renters and enhancing landlord practice.

60 See Table 2 in section 1.4 which outlines the number of private renters who say that they have been treated unfairly by a landlord/ letting agent due to my race/ nationality/ age/ gender/ sexual orientation/ disability.

61 A. Qureshi, M. Morris and L. Mort. 2020. *Access Denied: The human impact of the hostile environment*.

62 Racism and discrimination against migrants are linked as immigration controls in Britain principally target a “global poor” in a way that closely corresponds with people who come from “former colonies” and therefore people of colour. So, immigration controls in Britain will also have impacts along racial lines. At the same time, immigration controls change, and who they explicitly target changes. These changes often respond to anti-immigration politics or fears of immigration which can create new racialised resentments and fears that target different racialised outsiders and migrants – recently, this for instance includes, but is not limited to, asylum seekers from sub-Saharan Africa and the Middle East, as well as Eastern European migrants. These changes in immigration controls will produce changes in formal rights to access housing, welfare and other services, impacting how discrimination against migrants and racism develops within these sectors. For further discussion of the link between immigration control and racism see L. De Noronha. 2020. *Deporting Black Britons: Portraits of deportation to Jamaica*.

63 JCWI analysed 1,708 mystery shopping enquiries. The mystery shopping consisted of email enquiries sent to landlords and agents from online accounts belonging to six scenarios that differed in their ethnicity, nationality, the documents they had to evidence their “right to rent”, or their migration status. Joint Council for the Welfare of Immigrants. 2017. *Passport Please: The impacts of the Right to Rent checks on migrants and ethnic minorities in England*.

2.4 The “right to rent” policy leads to discrimination

We have discussed how inappropriate uses of selective licensing mean that it can work as a form of immigration enforcement causing harm to certain renters. Renters are also having to live with the government’s “right to rent” policy which is likely to be feeding into the discrimination that renters face on the grounds of race and nationality.⁶⁰

This policy was introduced in 2014 by then Home Secretary Theresa May as the housing element of a broader suite of policies that comprise the “hostile environment”. These policies aim to make it as difficult as possible for people without leave to remain in the UK to stay here. In practice, they have fostered racism.⁶¹

The “right to rent” policy requires landlords to check the immigration status of prospective renters. It criminalises landlords for renting out properties to those without a so-called “right to rent” in the UK. Landlords can face a fine of up to £3,000 or a criminal conviction if they let a property out to someone without a “right to rent”.

This policy not only leads to landlords turning away people without a regularised immigration status. It has also been shown to lead to linked discrimination against migrants and racial discrimination,⁶² including against people who do have a “right to rent”. Research conducted by the Joint Council for the Welfare of Immigrants (JCWI) has found that:

- The majority (58%) of enquires from British Black, Asian and Minority Ethnic households without a passport were ignored or turned down.⁶³





This mystery shopping research found that people from Black, Asian and Minority Ethnic backgrounds without a passport were 14% more likely to receive a negative response from a landlord compared to White British private renters.⁶⁴

Black, Asian and Minority ethnic renters without a passport were also 25% less likely to be offered a viewing and 20% less likely to be told the property is available. This clearly suggests that the “right to rent” scheme leads to racial discrimination. The JCWI research also found that the policy fosters discrimination on the basis of nationality:

- 51% of surveyed landlords stated that the “right to rent” scheme makes them less likely to consider renting to foreign nationals from outside the EU; and
- 42% of surveyed landlords are less likely to rent to someone without a British passport as a result of the scheme.⁶⁵

Additionally, a survey carried out by YouGov on behalf of Shelter has found that:

- almost half of landlords who make letting decisions said that the “right to rent” checks would make them less likely to consider letting to people who didn’t hold a British passport or who “appeared to be immigrants”.⁶⁶

This evidence has fed into a legal challenge to the “right to rent” policy that JCWI brought to the High Court. In 2019, the High Court delivered a damning judgment and agreed that this government policy causes discrimination in the private rented sector on the grounds of race and nationality. Rather than abolishing this policy, the government sought to appeal the judgment. Subsequently, this year, the Court of Appeal stated that:

“discrimination [on the grounds of race and nationality] was caused by the Scheme in the sense that, but for the Scheme, that level of such discrimination would not have occurred”.⁶⁷

⁶⁴ A negative response includes being ignored or turned down by a landlord or agent.

⁶⁵ Joint Council for the Welfare of Immigrants. 2017. [Passport Please: The impacts of the “right to rent” checks on migrants and ethnic minorities in England.](#)

⁶⁶ YouGov survey of 1,071 private landlords letting in UK, online, 18+, June 2015 – July 2015.

⁶⁷ [Court of Appeal judgment on the Right to Rent policy.](#)

But, the Court of Appeal also delivered a disappointing and worrying judgment that the “right to rent” policy represented a “proportionate means of achieving its legitimate objective”.⁶⁸ As it stands, the government is able to continue with this policy which facilitates discrimination in the housing rental market.⁶⁹

No amount of discrimination is acceptable. We are very concerned about the consequences for people who are likely to be impacted by the “right to rent” policy. It represents a substantial barrier to the ability to access private rented housing for migrants, people perceived to be migrants and British people of colour without passports.

The government’s policy is therefore not only likely to be fuelling some of the discrimination based on race and nationality which private renters have said that they experience. It is also likely to be pushing people from aforementioned social groups into worse quality housing than people from other groups, as well as risking homelessness amongst these groups.



⁶⁸ Ibid.

⁶⁹ JCWI is seeking to appeal this judgement to the Supreme Court. See [JCWI to appeal to Supreme Court after Court of Appeal find Right to Rent scheme is not unlawful](#).



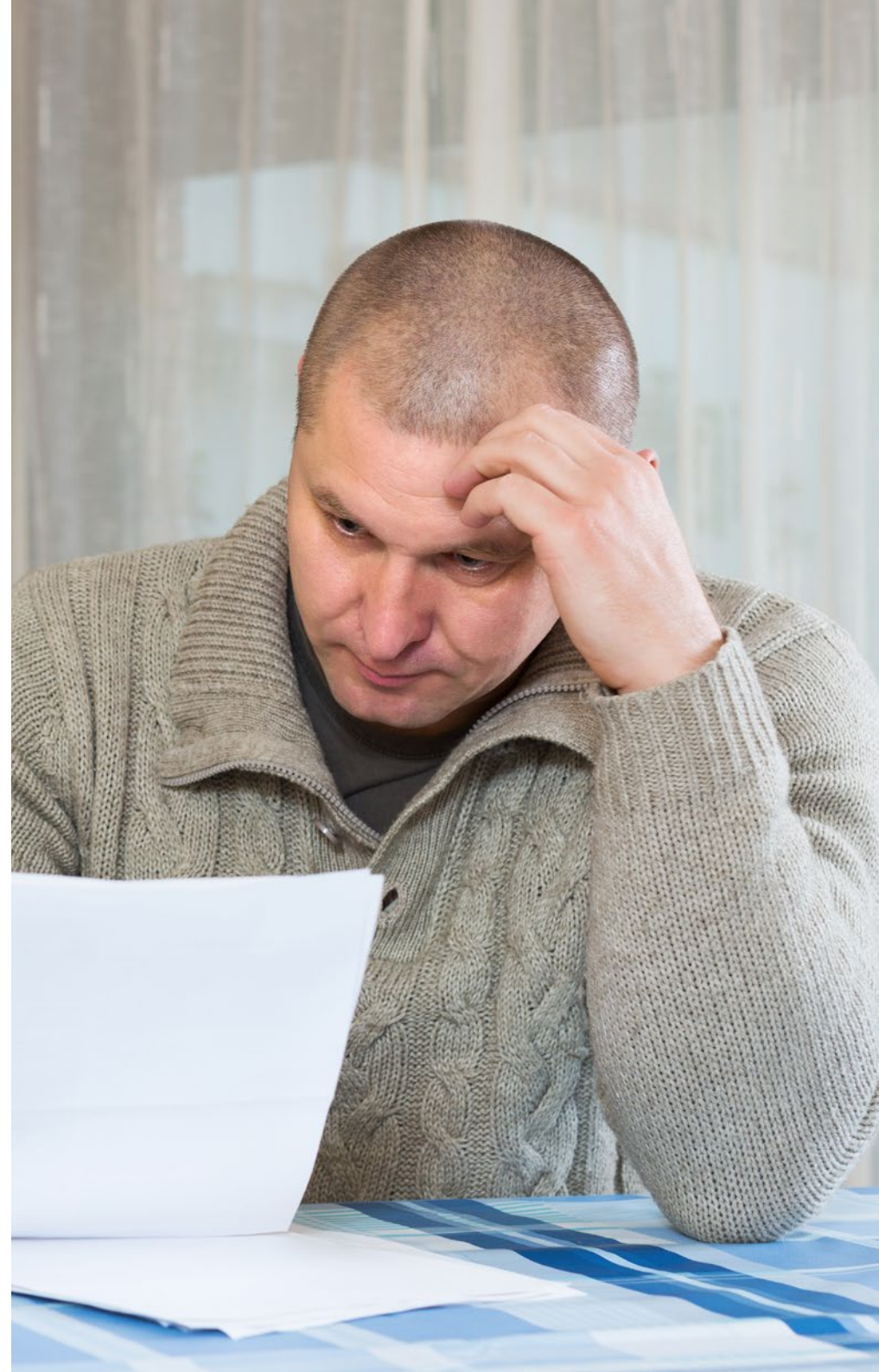
2.5 We need comprehensive change to the private rented sector's regulatory framework

It's clear that we need a comprehensive set of reforms from the government to bring an end to poor housing standards and practice. We also need these reforms to tackle discrimination. That means we need to see:

- better regulation of landlords and agents, to help ensure good standards and practice amongst landlords and agents within the sector;
- greater local authority resource to tackle poor standards and practice in the sector; and
- an end to government legislation that facilitates discrimination.

Alongside these reforms, we also need to see improved local authority practice. Local authorities must ensure that their housing teams are working strategically so that they can be as effective as possible in tackling poor standards and practice. We also need them to end collaborations, e.g. with UK Border Force, that can lead to harm for renters and weaken progress towards improving standards.

Without these interventions, private renters' ability to resolve poor conditions and bad and discriminatory landlord and agent practice will continue to be hindered. However, we also need to address the underlying insecurity, fear of being evicted and lack of power that renters experience. These issues also make it difficult for renters to get problems resolved. The next two chapters set out how we can address these problems.



CHAPTER 3

REFORMING THE REGULATION OF STANDARDS AND PRACTICE

We can't create the regulatory framework that we need with piecemeal amendments. We need comprehensive reforms that will hold landlords and agents more accountable over housing standards and how they act, and which helps to tackle discrimination in the sector.



3.1 We need a national landlord register

3.1.1 What is a national landlord register?

England is the only country in the UK without a national landlord registration scheme. Private renters need access to publicly available information about their landlord, their practice and the properties they manage.

A national landlord register would require all private sector landlords and housing management agents to register themselves, the properties they manage and any letting agents they work with onto a central register. Landlords and housing management agents would also need to upload some essential safety information about the properties they manage to the register – e.g. gas safety certificate, electrical safety certificate and Energy Performance Certificate (EPC). This information will benefit renters across the country, alongside having greater security of tenure which will enhance renters' power to challenge poor housing standards (see chapter 4).

Landlords and housing management agents would also need to provide up-to-date information about the rents they charge for their properties. They would pay a periodic fee for registering themselves and a minimal fee for registering the properties they manage.⁷⁰ Upon registration, they would receive a registration number.

The register would be publicly accessible and could be linked up with the rogue landlord database.⁷¹ Renters, prospective renters, a regulator (if one was set up – see section 3.3) and local authorities could access information on the national landlord register, as well as the rogue landlord database (if it was linked with the register). The register should be designed in a way which ensures that:

- the public, a regulatory body for the private rented sector and local councils have access to redacted information about a landlord or housing management agent (e.g. name, properties managed, if they are on the rogue landlord database and why), as well as aforementioned housing safety details; and
- only a regulatory body and relevant local authorities have access to landlords and management agents' contact information and any sensitive details of issues that have been raised with their practice by previous renters.

3.1.1 A platform for developing greater accountability

There was broad agreement amongst our research participants – including renters who received help from Shelter, caseworkers and representatives from sector organisations – that a national landlord register is an important step towards developing greater accountability in the sector. Last year's government commissioned review of selective licensing also supported the introduction of a national registration scheme for landlords, citing support from local authorities, landlord groups and tenant groups.⁷²

80%



of private renters support government introducing a national landlord and housing management agent register, with almost half (47%) strongly supporting this measure, according to a recent YouGov survey.⁷³

⁷⁰ This is similar to the registration fee system that operates in Scotland. See Scottish government. 2020. [Landlord registration fees](#).

⁷¹ Government has recently consulted on widening access to the rogue landlord database, and this proposal would fit within that agenda. Ministry of Housing Communities and Local government. 2019. [Rogue landlord database reform](#).

⁷² MHCLG. 2020. [An independent review of the use and effectiveness of selective licensing](#).

⁷³ YouGov survey of 498 private renters in England, Online, 18+, Weighted, March 2020.

Research participants were supportive of a national landlord register as it would:

- enhance public awareness of operational private landlords and housing management agents. Local authorities and a regulator could then proactively engage with these landlords and agents and disseminate information to them about their responsibilities;
- enable renters to make more informed decisions about who to rent from as:
 - 1 if this register was linked with the rogue landlord database then renters would know if a prospective landlord/ management agent has serious problems with their practice and would be able to make an informed decision to stay clear (if they are able to);
 - 2 if landlords and management agents were required to upload up-to-date essential safety certificates then renters could check that their landlord is meeting essential safety requirements; and
 - 3 if landlords or management agents did not have a registration number then renters could decide whether they want to rent from someone who is not registered.
- support work to tackle landlords and management agents causing problems across local authority boundaries. For example, a regulator could see if there was a landlord or management agent causing issues across several local authorities. They could then support relevant councils to take co-ordinated action to resolve these issues and improve the landlord's or management agent's practice; and
- be a platform for delivering other important systems and information. For example, the register could help renters and landlords understand the local market by holding rent data. It could also facilitate the operation of a lifetime deposits system,⁷⁴ especially if government develops a single, publicly-owned custodial tenancy deposit scheme.

A national landlord register, in addition to enhancing knowledge about the sector, is a crucial foundation for developing greater accountability and rebalancing power within it. If government is serious about improving private renting, then introducing a national landlord register is essential.

3.2 Government must regulate agents

3.2.1 What the regulation of letting agents involves

Letting agents are not being held to account over their practice. Our research participants were clear that action needs to be taken to improve letting agent practice. Last year, government announced that it would introduce measures to “professionalise letting agents, to the benefit of tenants and landlords.”⁷⁵ This announcement followed on from work conducted by the Regulation of Property Agents (RoPA) working group who produced a series of recommendations about how to regulate the property agent sector, inclusive of letting agents:⁷⁶

- all those carrying out property agency work should be regulated, with their regulation being overseen by a regulator;
- all property agents should adhere to a high-level code of practice and a sector-specific code of practice;
- every property agency should ensure that staff are trained to an appropriate qualification level;⁷⁷ and
- property agents should be required to have a licence, issued by a regulator, to operate.

These interventions will help to improve the practice of letting agents.

Within these potential interventions is the opportunity to address the discrimination that benefit recipients face in their search for a new home.⁷⁸ As chapter 1 outlined, this discrimination by landlords and agents is rife within private renting and it is having disproportionate impacts on grounds of gender, disability, race and income. At Shelter and at Nationwide we are committed to ending this discrimination.

⁷⁴ This measure was announced in the Queen's Speech in December 2019.

⁷⁵ [The Queen's Speech 2019](#).

⁷⁶ Regulation of Property Agents working group. 2019. [Final Report](#).

⁷⁷ This training, amongst other things, needs to provide all letting agents and housing management agents with: (1) a working knowledge of housing legislation; and (2) sufficient training on health and safety in housing (e.g. through providing training on the Housing, health and safety rating system).

⁷⁸ M. Moore. 2020. [No DSS: Landmark court ruling declares housing benefit discrimination is unlawful](#).

Earlier this summer, significant progress was made in this area. A historic case this year in York County Court, involving Shelter client “Jane”,⁷⁹ declared benefit discrimination unlawful as it indirectly discriminates against women.⁸⁰ A second case found that benefit discrimination unlawfully indirectly discriminates against disabled people. It is hoped that these rulings will begin to spell the end of this form of discrimination.

But we continue to hear from people in receipt of benefits who are being discriminated against when searching for a new home. Alongside our work to inform renters, landlords and letting agents of the law, and continued public pressure to challenge this discrimination, the government could help to promote the findings of these cases by setting out what they mean in codes of practice.

The RoPA working group have begun work to develop a high-level code of practice covering all property agents, and sector specific codes of practice covering different types of agents, including letting agents. This offers a real opportunity to take a further step towards ending this discrimination. Both the broader property agent code of practice and letting agent code of practice should explain the legal position and highlight what letting agents should be doing so as to not discriminate benefit recipients.

These codes should:

- outline agents’ legal obligation to not discriminate against benefit recipients;
- outline that agents should not work with landlords who discriminate against benefit recipients;
- promote a principle that the ability to afford a home for someone who is in receipt of benefits should be judged on its merit, rather than a blanket assumption being made that they cannot afford a home because they are in receipt of benefits; and
- end the use of exclusionary referencing and financial assessments that serve to lock benefit recipients out of accessing private rented homes.

If codes like this are developed by the RoPA working group, and then adopted by the government, letting agents will understand the standards they need to adhere to.

⁷⁹ Jane is a pseudonym. The name of Shelter’s client has been changed at her request.

⁸⁰ M. Moore. 2020. [No DSS: Landmark court ruling declares housing benefit discrimination unlawful](#).



3.2.2 Regulating letting agents will help improve their standards

For a long time, there have been serious concerns about the practices of letting agents across the sector. A Shelter caseworker in the North West referred to this poor practice:

“I think it’s shocking when you’ve got so-called ‘professional’ letting agents and estate agents who either say they don’t know the law, or they’re pretending they do know it and getting it wrong, but it’s just surprising me how many professional or so-called professional ones seem to get it wrong as well.”

Renters have been suffering as a result of the lack of professionalism within certain quarters of the sector, and the lack of regulation over it.

Landlords have also expressed dissatisfaction with the quality of letting agents. In our landlords’ survey, only 6% of landlords rated the professionalism of letting agents to be “very good”.⁸¹



Concerns about letting agents’ overall standards are so strong that 90% of private renters believe that government should take action to ensure that letting agents are regulated, licensed, adhere to a code of practice and are sufficiently qualified.⁸²

⁸¹ YouGov survey of 1009 private landlords letting in the UK, online, 18+, Dec 2019 – Jan 2020.

⁸² YouGov survey of 498 private renters in England, Online, 18+, Weighted, March 2020.

The government should implement the RoPA Working Group’s recommendations to help achieve this.

The government also needs to introduce codes that outline what letting agents should be doing to avoid discriminating benefit recipients. This would build on recent court rulings and public campaigning to challenge this discrimination. The recent court rulings set a legal principle that benefit recipients should not be denied access to a good quality home because of the source of their income. But we must introduce regulatory codes, linked to a licencing system to support these rulings. This would allow people who have experienced discrimination to challenge the practice without every case needing to go to court.

Letting agents would face the prospect of losing their licence to operate if they themselves were being discriminatory, or if the landlords they work with were being discriminatory, and they refused to end their discriminatory practices.⁸³

This framework can help normalise the principle that that a person’s source of income has no bearing on whether they can access a private rented sector home.



⁸³ Letting agents should then have their licence reinstated if they were able to demonstrate that their working practices will not lead to the discrimination of housing benefit recipients.

3.3 We need a national regulator for the sector

3.3.1 What is a national regulator?

A national regulator needs to oversee two key interventions we call for in this report: a national landlord register and the regulation of letting agents. This regulator should operate according to Terms of Reference which has been through, and shaped by, a public consultation. Private renters should be provided with early, ongoing, influential and transparent opportunities, in a variety of accessible formats, to shape the Terms of Reference for the regulator. These Terms of Reference should be periodically reviewed.

Central government would provide sole funding for the establishment of the regulator and its initial costs. After this, its ongoing costs should be covered by a mixture of ring-fenced government funding and funding (e.g. through relevant fees) from the organisations and individuals it regulates.



3.3.2 A regulator can oversee regulation in the sector

A national regulator is crucial for ensuring the smooth operation of a national landlord register and the regulation of agents

For a national landlord register, we need a regulator to:

- oversee the registration of landlords and housing management agents and their properties;
- disseminate relevant information to landlords and management agents about their responsibilities (as well as providing this information in accessible formats to renters);
- conduct strategic co-ordination to improve the practice of landlords and housing management agents who are causing issues across a range of local authority boundaries;⁸⁴ and
- ensure that any updates to the rogue landlord database are reflected in the national landlord register.

For the regulation of property agents, we need a regulator to:

- issue licences to letting agents as a way of confirming that they have appropriate qualifications and have met relevant obligations;
- according to a pre-determined framework, remove licences where letting agents are breaching obligations, as identified through the Code of Practice;
- re-issue licences to letting agents who have had their licence revoked once they have shown that their practices will adhere to required standards; and
- either take on itself, or appoint the body that it feels is best placed to run property agent redress and client money protection schemes.

A regulator could also play a role in informing renters about their rights. And it could be a key body that private renters go to if they need assistance with any serious issues they are experiencing with a landlord or agent's practice. So, alongside playing a key role in proactively ensuring good standards, a regulator could provide redress for renters.

⁸⁴ But local authorities would still be the first port-of-call for landlords causing issues within a local authority boundary.



3.4 Local authorities need enhanced resources and improved powers

3.4.1 Local authorities need sufficient funding and powers

Local authorities lack the resources they need to proactively ensure good housing standards and practice across their local private rental markets. Specifically, our research has identified that local authorities lack the EHPs, TROs and other private rented sector housing staff that they need – in our research, these local authority staff were considered best placed to ensure good standards and practice.

Government can help local authorities to be sufficiently staffed by providing them with:

- 1 the overall level of funding they need to develop adequately resourced environmental health teams. Local authorities will then be much better placed to fulfil their requirement to tackle and improve poor housing conditions in their boundary; and
- 2 the overall level of funding they need, and creating a legal duty for them,⁸⁵ to provide a properly resourced service that will allow them to tackle and prevent bad practice like illegal evictions and harassment.

Alongside these measures, government also needs to address current problems with selective licensing (see chapter 2). This means ensuring any future approach to licensing:

- 1 enables local authorities to include standardised conditions on a licence that relate to property standards. This is in line with a key recommendation made in the government commissioned review of selective licensing.⁸⁶ This change will allow local authorities to use licensing as a direct tool to ensure properties are in a good condition prior to them being let out; and
- 2 reduces financial, administrative and political barriers to the development of larger licensing schemes, where these schemes are needed.

If the government makes these amendments to selective licensing, the scheme would be more effective in improving housing standards and landlord and agent practice for more renters.

⁸⁵ If a duty was created, then this would represent a “new burden” and the government would need to ensure that there is sufficient funding available for local authorities to fulfil this duty. See [New burdens doctrine: government guidance for departments](#).

⁸⁶ MHCLG. 2019. [An independent review of the use and effectiveness of selective licensing](#).



3.4.2 Improving local authorities' approach to partnership working

Alongside more resource for local authorities, we need to see improvements to local authority practice. Siloed working within some local authority housing departments means that they are not always working in ways that will enable them to effectively support renters struggling with poor housing conditions and landlord practice. Some local authorities are also collaborating with UK Border Force as part of their selective licensing work. This puts renters at risk of harm, risks undermining trust in local authorities and risks selective licensing straying away from improving living standards for renters.

To address these problems with partnership working, we need local authorities to do two things:

- 1** local authorities should effectively pool expertise (including amongst local services and communities) and resources together to improve the renting experience for private renters; and
- 2** local authorities must end partnership working with any institutions that risk harm to renters and which weaken progress towards improving living standards. Prominent amongst this is ending the practice of local authorities' housing teams collaborating with UK Border Force.

If local authorities adopt these approaches then this will enhance renters' trust in their local authority, making them more likely to reach out to their council when they are experiencing problems with conditions and landlord practice. These approaches will also help prevent selective licensing, and local authority housing teams from losing their central purpose – to improve living standards for renters in their boundary.

3.5 The government must abolish “right to rent” checks

The government’s stated intention for the Renters’ Reform Bill is to “deliver a fairer and more effective rental market.”⁸⁷ Institutional discrimination does not make for a fair sector. It leads to landlords and agents unjustly turning away potential renters. This fuels inequality in access to housing and can ultimately feed into homelessness.

The government must abolish “right to rent” checks if it wants to deliver a fairer private rented sector for all. The government should not be continuing with a policy that has been found to cause discrimination on the grounds of race and nationality.

It should not be maintaining a policy that puts particular racialised groups at risk of homelessness. Neither should the government be turning landlords – who have also challenged this policy⁸⁸ – into border guards. We must see an end to this discriminatory policy.

⁸⁷ *The Queen’s Speech 2019*, p. 46.

⁸⁸ The Residential Landlord Association, prior to merging with the National Landlords Association, intervened to support JCWI’s legal challenge to the government’s “right to rent” policy. G. Peaker. 2019. *Rights and Right to Rent*.



3.6 The government must introduce comprehensive reform

If the government implements the key national-level regulatory and legislative interventions that we have called for, this will help to develop a clear and consistent regulatory framework for the private rented sector. A sector where landlords and agents are held more accountable for standards in the homes that they let and for how they act. A sector where local authorities are equipped with the resources, staff and powers they need to play their part in developing a more accountable sector. A sector where “right to rent” checks are no more.

Alongside these national interventions, local authority practice must also improve so that local authorities can play as effective a role as possible in improving living standards for all renters in their local area. This is also so that their selective licensing regimes do not contribute towards harm to renters, but instead remain focused on improving housing conditions for renters.

But these reforms to the systems, practices and legislation that regulate the sector are not enough to make renting fairer for private renters. Renters also need security and power to enforce their rights.





CHAPTER 4

ENHANCING PRIVATE RENTER POWER

Private renters face challenges in the place they pay to call home. While improved regulation and increased resourcing is vital, better systems of regulation will be ineffective while renters lack the power and protections to enforce their right to a safe home. In banning “no-fault” evictions and arming renters with the tools to hold their landlords to account, we can balance the scales and raise the quality of housing.

4.1 Renters lack power to hold landlords to account

In no other consumer market does a customer pay so much and have so few avenues to redress when things go wrong. If you bought a faulty car or fridge, you have the consumer rights and power to demand a refund or repair. But in the rental market, these protections do not exist. This is due to both the massive shortage of affordable housing, which leaves renters with limited choice, and the lack of means of redress and security to hold their landlords and agents to account.

Given that private renters spend on average 40% of their monthly income on rent, it is unacceptable that they are so vulnerable to eviction if they assert their rights, and that they have limited ways to do so if they so choose.⁸⁹ Indeed, a shocking 42% of private renters think that they pay too much for their home given its quality.⁹⁰

The private rented sector will never be an effective, functioning and fair market until landlords and agents fulfil their responsibilities – and are held to account when they fail to do so.

There are significant structural barriers that prevent renters from enforcing their rights regardless of the strength of the current regulatory framework. The biggest barrier is, the existence of Section 21 “no-fault” eviction notices, which destroys renters’ confidence in challenging their landlords, and hampers their ability to effectively do so before they are evicted and replaced. Secondly, a lack of access to legal advice and representation prevents renters from holding their landlord to account.

4.2 Living with the constant threat of eviction

Section 21 of the Housing Act 1988 allows a landlord to serve an assured shorthold tenant with a two-month eviction notice for no, or any, reason, as long as the tenant is no longer in a fixed-term or in the first four months of their tenancy. In practice, this means that many private renters live under the constant threat of eviction, even if they have paid the rent on time, taken good care of the property and have settled into their community and neighbourhood.

Wholesale tenure reform is well overdue. The government has committed to reforming the private rented tenancy regime by abolishing Section 21 “no-fault” evictions.⁹¹ It is vital that this reform is brought forward to protect renters and allow them to enforce their rights.

Until this legislation is passed, and Section 21 “no-fault” evictions remain available to landlords, private renters will be unable to confidently assert their rights and challenge poor landlord practice. As we outlined in chapter 1, they run the risk of eviction if they complain about conditions in their home (see section 1.2.2). This threat of eviction is preventing renters from complaining about poor conditions. Nearly one in five (18%) renters who have experienced disrepair in their homes in the past five years have not reported them to their landlord for fear of being evicted.⁹²

⁸⁹ English Housing Survey 2018 to 2019: headline report, Annex Table 1.13.

⁹⁰ YouGov survey of 5,177 adults, including 827 private renters in England, Online, 18+, weighted, Sept 2020.

⁹¹ See [The Queen's Speech 2019](#).

⁹² YouGov survey of 3,995 private renters in England, Online, 18+, weighted, Aug-Sept 2019.



Our survey of 23 Shelter legal staff also found that the threat of eviction was the most common barrier preventing private renters from resolving issues with their landlord or letting agent.⁹³ This was echoed by renters who received help from Shelter, who also expressed their worries about complaining about their landlord to their council. As a renter in the North West told us:

“I’ve had people say to me, ‘I feel like phoning them [the Environmental Health team] but I daren’t because I know Mrs Smith down the road did, and she doesn’t live there anymore because the landlord got rid of her within weeks.’ They’re frightened, they’re intimidated, or the landlord might have said if you call environmental health services you’ll be gone within days.”

While the Deregulation Act 2015 sought to protect private renters from retaliatory eviction, the system is ineffective due to both the law itself and insufficient resourcing. In reality, as soon as a tenant complains about disrepair, they are at risk of being served a retaliatory Section 21 notice. Protections under the Deregulation Act 2015 only kick in once a local authority has served an improvement notice on the landlord.

Typically, a tenant will have complained to their landlord, failed to receive a response, approached the local authority, waited for a visit from an environmental health officer and then waited for the outcome before an improvement notice is served. Service of an improvement notice triggers a six-month period where any Section 21 notice served by a landlord is invalid. But clearly, there is ample opportunity for a landlord to serve a notice in the interim. Limited local authority resources, not to mention the significant time that can elapse before a tenant would turn to their local authority for support, means that renters are still very vulnerable to being served an eviction notice.



Without wholesale reform to the sector and the removal of Section 21 evictions, renters will be unable to confidently assert their rights. The security and power that these reforms would provide are fundamental to the changes needed to the sector, because they will ensure renters can complain without facing retaliation. The government must act swiftly to abolish Section 21 and reform Section 8 of the Housing Act 1988 so that landlords are only able to evict their tenants when they can demonstrate a legitimate reason for doing so, such as when a landlord intends to move into the property as their sole and principal home, or in cases of severe rent arrears and anti-social behaviour.

⁹³ 22 of the 23 Shelter legal staff who responded to the survey suggested that the threat of eviction due to Section 21 “no fault” evictions was a barrier for tenants who want to resolve an issue with their landlord or letting agent. Shelter, Survey of 23 Shelter legal staff, online, January 2020.

4.3 Limited access to justice and redress

4.3.1 Legal aid for disrepair and unfitness cases needs to be restored

Cuts to legal aid have left too many renters unable to challenge their landlord. The Legal Aid, Sentencing and Punishing of Offenders Act 2012 (LASPO) severely limited the availability of legal advice and representation for people struggling with disrepair in their homes. This lack of legal aid acts as a barrier to enforcement, as tenants are unable to go through the court to solve disrepair issues. As a renter who received help from Shelter in London suggested:

“well, taking away legal aid, it’s all part of the plan, really, isn’t it? It’s disenfranchising us.”

Legal aid is only available for disrepair cases where there is a “serious risk” to the health and safety of the client or a family member. However, there is both uncertainty about, and a high bar for, the concept of “serious risk”. As a result, many people find themselves in conditions which undeniably cause them severe discomfort or hardship, but which do not meet the high bar necessary to make them eligible for legal aid.

Even if a tenant can receive legal aid – for example, in cases where the disrepair is causing harm to health – the work covered by legal aid is limited. Legal aid only covers the obtaining of an injunction or order forcing the landlord to remedy the disrepair, although it does cover counterclaims for damages in possession proceedings based on rent arrears.

Tenants cannot receive legal aid for damages-only claims, apart from counterclaims. While this is in keeping with the government’s view that compensation claims should not be paid for by legal aid, it misses a significant opportunity to deter landlords who fail to fulfil their legal obligations. Neglectful landlords can be confident in ignoring their tenants’ complaints knowing that there are unlikely to be any serious repercussions.

In order to ensure that renters can hold their landlords to account when they fail in their duties, legal aid must be restored for matters of disrepair and unfitness, including damages-only claims.

4.3.2 Renters need access to legal aid to make the Fitness for Human Habitation Act 2018 work

In 2019, the Homes (Fitness for Human Habitation) Act 2018 came into force. This legislation seeks to ensure that all homes are fit for people to live in them, and to strengthen tenants’ routes to redress if they are not. If a court finds that a landlord has failed in their duty to provide a home that is fit for human habitation the tenant can be awarded compensation and a landlord can be forced to carry out the necessary improvement work. However, a tenant will not receive any legal aid for a damages-only claim, and the housing conditions still need to reach the “serious risk” threshold. While there has not yet been any official evaluation of the Act, it is clear that in order to make the Act work, renters must be able to access the advice and representation they need to use it.

4.4 Empowering private renters to enforce their rights

Private renters need the power to enforce their rights and ensure that they can hold their landlords to account. Crucially, private renters need security of tenure, so that they are able to complain to their landlord or local authority – or indeed bring legal proceedings – without fear of being served with a Section 21 “no-fault” eviction notice. Furthermore, the government must expand legal aid so that renters have the means to legally challenge their landlord when they fail to keep their homes safe. These changes would give tenants the ability to enforce the rights that they already have.

It is also vital that private renters are well-informed about their rights and their landlords’ responsibilities. A further barrier to renters enforcing their rights is simply a lack of understanding about what those rights are.

So, while a robust regulatory framework and well-resourced services are essential in ensuring a healthy private rented sector, they are not standalone solutions. Private renter power must be strengthened so that renters are confident and empowered to also hold their landlord and letting agents to account.



CHAPTER 5

ACHIEVING MEANINGFUL CHANGE FOR PRIVATE RENTERS

The private rented sector needs comprehensive reform. The government must use the Renters' Reform Bill and a package of reforms to re-write the rule-book on renting.

5.1 A package of reforms that will create a sea-change in private renting

Many private renters in England have long been suffering the consequences of an unaccountable private rented sector where they lack power. Homes that aren't up to scratch, poor and discriminatory landlord and agent practice, insecurity and an inability to seek redress are prevailing features of private renting.

We have also outlined that the worst problems in the sector are disproportionately experienced by renters who live on the lowest household incomes, are in receipt of housing benefit, are from Black, Asian and Minority Ethnic backgrounds, are young, are women, are not working (but not retired) and/ or have children in the household.

In this report, Shelter and Nationwide have outlined a package of reforms we believe are needed to increase the power of renters and improve accountability and the regulation of the sector, creating a sea-change in private renting. These are critical components for driving up practice and standards in the sector so that private renters across the board can live in a safe home where they can put down roots, have an informed choice, and where they do not have to suffer discrimination.

We need to develop a national landlord register that will enable renters to make a more informed decision about who to rent from.

It will also provide a regulator with a way to inform landlords and housing management agents about their responsibilities. Additionally, it will enable a regulator to co-ordinate work with local authorities to improve practice amongst landlords and management agents who are not meeting their responsibilities.

This should feed into better standards and an improved experience for renters. The register also serves as an ideal means to facilitate a lifetime deposits system which would mean that renters do not have to struggle to put together a deposit for a new home whilst also not having access to the deposit for their existing home.

The wholesale regulation of letting agents, overseen by a regulator, will help set the standards that the letting agent sector must meet. The establishment of a regulator to oversee this, will also create a national body to help ensure that letting agents adhere to their standards and responsibilities.

This measure, alongside further work to challenge discrimination, should help feed into a culture change in the industry, where renters will benefit from a much more professional service across the board and where discrimination is tackled.

The government properly resourcing local authorities, combined with a local authority approach to partnership working that is guided by the principle of improving the renting experience for all private renters, will mean that there is a well-resourced local government framework across the country that renters can resort to and rely on. This framework will be one which can help in upholding standards, holding landlords and management agents to account, and ensuring local authority practice does not harm renters.

Abolishing the “right to rent” policy will remove a key piece of legislation that risks facilitating the discrimination that certain renters face on the grounds of race and nationality. Its abolition will mean the removal of a harmful bit of legislation that particularly hinders the ability to access private rented homes for migrants, people perceived to be migrants and British people of colour without passports. Its removal is key if we want to work towards developing a fair rental sector for all.

Abolishing Section 21 and giving renters genuine security of tenure will underpin these changes and make them work, emboldening renters who would currently be too fearful to hold their landlord to account, even if the methods were available to do so. Alongside this vital reform, **restoring legal aid for disrepair and fitness cases** will give renters the tools they need to enforce their rights.



5.2 The Renters’ Reform Bill is key to delivering meaningful change

The Renters’ Reform Bill provides a key opportunity to re-write the rulebook on renting. It represents a legislative process where the government could make comprehensive national regulatory and legislative reforms to the private rented sector that will make it more accountable, fair, balanced and which will help in tackling discrimination in the sector, including by abolishing “right to rent” checks.

This Bill is the opportunity to consign Section 21 “no-fault” evictions to the history books and give renters genuine security in the place they call home and greater power to enforce their rights. But, to deliver real change for renters, it must also come with the financial resources that local authorities need to allow them to play a proactive part in developing a more accountable sector that challenges poor practice and enhances standards. We also need to see the levels of investment in legal aid that will allow renters to use the judicial system to hold their landlords to account.

To achieve the changes presented in this report, we will work with private renters and others and build on work they have been doing to improve the private rented sector. Broad ranging voices, ideas and continued action are needed to secure changes that will turn the tide for all private renters. We will work with the government and with any organisations who are committed to supporting renters in delivering an accountable, fair and balanced private rented sector, which provides security and an effective means to seek redress.

We can develop a private rented sector where all renters can live in a good quality and secure home. We can develop a sector where landlords, housing management agents and letting agents do not discriminate and are held to account over the standards they need to meet. By working together, we can make this happen.

APPENDIX

RESEARCH CONDUCTED

This report shares the findings of a multi-method research programme.

Research conducted included:

- a weighted, representative, online YouGov survey of almost 4,000 private renters in England between August and September 2019;
- a YouGov survey of just over 1,000 private sector landlords in England in December 2019 and January 2020;
- interviews with eight representatives from sector organisations in October and November 2019;
- interviews and focus groups with 17 current and former Shelter service users in London, the South West, North East and East of England between November and December 2019. The service users were either currently or very recently living in a private rented home and had experienced an issue with their private rented home;
- interviews and focus groups with 16 caseworkers in the above locations between October and December 2019;
- a survey of 23 Shelter legal staff based in ten of our service hubs in January 2020;
- a weighted, representative YouGov survey of just under 500 private renters in England in March 2020 in which we tested four policy ideas that would help hold landlords and agents more accountable for standards in the homes they let and for how they act; and
- interviews with four local authority private rented sector enforcement practitioners in the South West, North East and the East of England.

About Shelter

Shelter helps millions of people every year struggling with bad housing or homelessness through our advice, support and legal services. And we campaign to make sure that, one day, no one will have to turn to us for help. We're here so no one has to fight bad housing or homelessness on their own. Please support us at shelter.org.uk

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Shelter
88 Old Street
London
EC1V 9HU
0300 330 1234
shelter.org.uk

About Nationwide Building Society

Nationwide is the world's largest building society as well as one of the largest savings providers and the second largest mortgages provider in the UK. It is also a major provider of current accounts, credit cards, ISAs and personal loans. Nationwide has around 16 million customers and members.

Customers can manage their finances in a branch, via the mobile app, on the telephone, internet and post. The Society has around 18,000 employees. Nationwide's head office is in Swindon with administration centres based in Northampton, Bournemouth and Dunfermline. The Society also has a number of call centres across the UK.