

Debate Pack

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General debate on a fairer private rented sector

Summary

There will be a general debate on ‘A fairer private rented sector’ on 3 November 2022.

This debate pack provides background on the Government’s white paper [A fairer private rented sector](#) which was published on 16 June 2022, together with links to other relevant sources of information.

The contents of the white paper are broadly welcomed by tenants and their representative bodies. The National Residential Landlords Association (NRLA) “[supports the Government’s aim of improving the experience of renters in the private rented sector](#)” (PDF) but is stressing the need for landlords to feel the changes are of benefit to them. A failure to persuade landlords risks, the [NRLA argues](#) (PDF), landlords reducing their portfolios or leaving the sector, which in turn could exacerbate the rental supply crisis.

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1

Introduction

The white paper, [A fairer private rented sector](#), was published in June 2022. It sets out the Government's long-term vision for the private rented sector (PRS) in England.

The [Queens Speech 2022](#) confirmed a Renters Reform Bill would be introduced in the 2022-23 parliamentary session. On 17 October 2022, then-Secretary of State at the Department for Levelling Up, Housing and Communities (DLUHC) Simon Clarke, said "[I can confirm that we will introduce the rental reform Bill in the course of this Parliament.](#)"

The white paper set out plans to:

- abolish section 21 'no-fault' evictions and introduce a simpler tenancy structure
- apply the Decent Homes Standard to the PRS for the first time
- introduce a new Property Portal to help landlords understand their obligations
- introduce a housing ombudsman covering all PRS landlords and providing redress for tenants

Alongside the white paper the Government published:

its [response to the 2019 consultation on 'A new deal for renting'](#) which provides more detail on the tenancy reforms; and

- its [response to the 'Considering the case for a Housing court: call for evidence'](#) which outlines reforms intended to improve the efficiency and speed of court processes for possession cases.

The Levelling Up, Housing and Communities Committee launched [an inquiry into reforming the private rented sector](#) on 21 July 2022. [Evidence submitted to the inquiry](#) can be found on the Committee's webpages.

The Public Accounts Committee [published the report of its inquiry into regulating of the PRS](#) on 13 April 2022. [The Government response](#) was published on 2 September 2022.

There were calls to 'fast-track' the Renters Reform Bill during the pandemic to protect private tenants who were struggling to meet their rent commitments. These calls have been renewed in the context of cost of living increases.

2 Abolishing ‘no fault’ section 21 evictions

There is a detailed Library paper on this issue: [The end of 'no fault' section 21 evictions](#). The issue was also the subject of a [Westminster Hall debate on 25 October 2022](#).

The National Residential Landlords Association (NRLA) submission to the Levelling Up, Housing and Communities Committee’s inquiry into the private rented sector (2022) emphasised the need for the Government’s proposed court reforms to be in place and working before section 21 evictions are abolished:

Without this, responsible landlords will have little confidence that the new system is likely to work. At the very least, the court reforms should be in place by the time of the Government’s planned six months’ notice of its first implementation date, after which all new tenancies will be periodic and governed by the new rules.¹

3 A legally binding decent homes standard

Background on conditions in the PRS is provided in the Library paper: [Housing conditions in the private rented sector \(England\)](#).

The Labour Government adopted a Public Service Agreement target in 2000 to bring all social housing up to a decent standard by 2010. As part of Spending Review 2002, the Government announced private sector homes occupied by vulnerable households would be brought within the target. It has never been a statutory standard. [To meet the current standard a home must:](#)

- meet the statutory minimum standard for housing under the HHSRS. Homes with a Category 1 hazard under the HHSRS are considered non-decent
- be in a reasonable state of repair
- have reasonably modern facilities and services
- provide a reasonable degree of thermal comfort

[The English Housing Survey 2019-20](#) found the PRS had the highest proportion of non-decent homes (23%, 1.1 million). This compared with the social rented sector (12%, 504,000) and owner-occupied homes (16%, 2.5 million). Private renters in receipt of Housing Benefit were more likely to live in a non-decent home (29%, 356,000).

¹ NRLA, [LUHC submission](#), (PDF), 2022

[Consultation on applying and enforcing a decent homes standard in the PRS](#) ran between 2 September and 14 October 2022. The Government is proposing a standard “broadly consistent” with the current standard with adjustments to reflect circumstances in the PRS.

3.1

Summary of comments

- [The housing charity Shelter’s submission to the LUHC Committee’s PRS inquiry](#) (PDF) said security of tenure and property conditions in the sector cannot be separated. Shelter said the new standard would “be significant in driving up standards”.
- Respondents have referred to the need for a degree of flexibility to take account of the diverse nature of the sector but have also called for clarity and guidance on what a reasonable degree of thermal comfort and reasonable facilities might mean (Chartered Institute of Housing, [Decent homes consultation response](#), (PDF) October 2022).
- There are calls for clarity on how the new standard will interact with existing statutory requirements pertaining to housing conditions, such as the Homes (Fitness for Human Habitation) Act 2018 ([Shelter 2022](#), PDF).
- Shelter has called for the standard to reflect “contemporary expectations of a safe and decent home- such as accessibility adjustments for older people and disabled tenants, digital connectivity and energy efficiency” ([Shelter 2022](#), PDF). The campaigning group Generation Rent makes similar points and has also raised requirements in terms of noise, damp and mould and space ([Generation Rent 2022](#), PDF).
- Many respondents from both the landlord and tenant perspectives have highlighted the need for proper resourcing of the enforcement role:

To make the DHS a real standard enforceable in the PRS (proactively rather than triggered by complaints) is likely to require additional resources, including more trained staff, for many local authorities which are already stretched. This has been reinforced by the findings of the House of Commons Public Accounts Committee’s [report](#) into the regulation of the PRS.²

The challenge for enforcement is rooted in adequate resourcing at councils. It would be unrealistic and impractical to expect councils, some of whom are already experiencing financial challenges, to be able to enforce the standard without additional, upfront funding to offset the new responsibilities. The new burden should be assessed on the basis of funding additional staff to

² Chartered Institute of Housing, [Decent homes consultation response](#), (PDF) October 2022).

undertake it, without which, the same number of officers will be required to undertake an even greater number of responsibilities.³

- The NRLA supports “the principle of establishing a standard that is easily recognised by tenants when they are looking for a property and to hold their landlord accountable when they are in one.”⁴ They want the differences in need between the PRS and social rented sector reflected in the standard.⁵ [The NRLA published its own proposals for decent homes in the PRS](#) in May 2022.

4 A new property portal

The white paper included a commitment to introduce a new property portal [“to ensure that tenants, landlords and local councils have the information they need”](#):

The portal will provide a single ‘front door’ for landlords to understand their responsibilities, tenants will be able to access information about their landlord’s compliance, and local councils will have access to better data to crack down on criminal landlords. Subject to consultation with the Information Commissioner’s Office (ICO), we also intend to incorporate some of the functionality of the Database of Rogue Landlords, mandating the entry of all eligible landlord offences and making them publicly visible.

Landlords will be required to register their properties with the portal. Local authorities will be able to take enforcement action against landlords who fail to register.

The Government [consulted on extending access to the rogue landlord database between July and October 2019](#). Views were also sought on expanding the scope of offences and infractions which could lead to entries on the database. Responses are being analysed.

[Research into local authority enforcement in the private rented sector](#) was commissioned by DLUHC and published in June 2022 alongside the white paper. The authors found “local authorities face significant barriers to tackling poor conditions, resulting in an uneven picture of enforcement.” A lack of local knowledge about the PRS hampers strategic decision making, while enforcement capacity was “so limited in some teams that they described mostly ‘fire-fighting’.” There was support for a mandatory register of all landlords which “would go some way to filling this data gap.”

³ Local Government Association, [LUHC submission](#), (PDF), 2022

⁴ NRLA, [LUHC submission](#), (PDF), 2022

⁵ For example, they refer to one third of the PRS stock being built before 1919.

[Shelter's submission to the LUHC Committee's PRS inquiry](#) (PDF) said “We are pleased that the Government has acted on this feedback by introducing the Property Portal and the database.”

The LGA welcomes the gathering of robust data via the portal and its role in supporting authorities to target and tackle non-compliant landlords. [The LGA's submission to LUHC Committee](#) (PDF) focused on the additional burdens it would place on councils:

...there will be new pressures on councils as a result of this reform. This will include monitoring compliance with the duty to register; enforcing against those that are not registered; and reporting compliance. This will require sufficient, upfront new burdens funding.

[The NRLA submission to the LUHC Committee](#) (PDF) recorded a survey of landlords showing:

60% of landlords felt that the national property portal would cost responsible landlords money but would have limited impact on tackling criminal landlords.

The NRLA argues that discretionary licensing schemes operated by local authorities (eg [selective licensing](#)) should be abolished if the portal goes ahead:

Given that the Portal will be accessible by local authorities, and given the development of a national decent homes standard for the private rented sector, the Government should therefore scrap selective licensing. With the details of all landlords and properties already available on a national database, and with standards having already been set, we question what discretionary local licensing schemes would achieve, apart from being an unnecessary duplication of effort and an excuse for income generation by local authorities.⁶

5

A housing ombudsman for the PRS

The white paper says the changes to section 21 evictions and the new binding decent homes standard “[will be backed by a powerful new Ombudsman so that disputes between tenants and landlords can be settled quickly and cheaply, without going to court.](#)”

Landlords in England, irrespective of whether they use an agent, will be required to register with the Ombudsman scheme. It will be an offence to fail to register. The Ombudsman will have the following powers:

The Ombudsman will have powers to put things right for tenants, including compelling landlords to issue an apology, provide information, take remedial action, and/or pay compensation of up to £25,000. As part of providing compensation, we also intend for the Ombudsman to be able to require

⁶ NRLA, [LUHC submission](#), (PDF), 2022

landlords to reimburse rent to tenants where the service or standard of property they provide falls short of the mark. In keeping with standard practice, the Ombudsman's decision will be binding on landlords, should the complainant accept the final determination. Failure to comply with a decision may result in repeat or serious offenders being liable for a Banning Order. The government will also retain discretionary powers to enable the Ombudsman's decisions to be enforced through the Courts if levels of compliance become a concern.⁷

The NRLA has questioned whether landlords will be able to raise complaints about a tenant's behaviour:

Given plans for a new Ombudsman for the sector, the Government will need to provide clarity as to how this, if at all, will relate to the proposals to strengthen mediation services for landlords. Would, for example, mediation be embedded within the operation of the planned Ombudsman? If so, there needs to be a mechanism for landlords to raise complaints regarding their tenant's behaviour as well.⁸

The LGA has said the new Ombudsman "will create a fairer PRS as tenants will have the same access to redress as those living in social housing and will ensure that landlords are accountable" as long as they have "the appropriate set of powers."⁹

Shelter supports the creation of a dedicated Ombudsman for the PRS and has also focused on the proposed powers:

...we would welcome powers which allow the Ombudsman to tackle complaints promptly and decisively, with the aim of preventing further issues from occurring. Specifically, the Ombudsman must be empowered to issue an order that requires the landlord to comply with their duties and the outcome of an Ombudsman investigation.

The Ombudsman should be able to take punitive action against repeat and serious offenders and those that fail to comply with a decision. We would welcome the power to issue a fine up to £30,000 when landlords are found to be non-compliant. This will act as a meaningful deterrent, as quite often a fine of a lesser amount can be a 'drop in the ocean' for some landlords. But this power should be used as a last resort, when other means of compelling landlords to comply have failed.¹⁰

⁷ DLUHC, [A fairer private rented sector](#), June 2022

⁸ NRLA, [LUHC submission](#), (PDF), 2022

⁹ Local Government Association, [LUHC submission](#), (PDF), 2022

¹⁰ [Shelter's submission to the LUHC Committee's PRS inquiry](#) (PDF) 2022

6 Other measures

6.1 Giving tenants the right to request a pet

This is covered in a Library casework page: [Can my landlord prevent me from keeping a pet?](#)

The NRLA has said:

We welcome the Government's acceptance of the NRLA's calls for landlords to be allowed to require pet insurance as a condition of tenants bringing their pets with them. In legislating to ensure landlords do not unreasonably withhold consent when a tenant requests to have a pet in their home, the law will need to be applied evenly and be clear about what a reasonable reason for a landlord refusing a pet might be.¹¹

6.2 Making illegal for landlords/agents to have blanket bans on renting to families with children or those in receipt of benefits

This is covered in the Library paper: [Can private landlords refuse to let to Housing Benefit claimants?](#)

The NRLA has said it has no objection to this measure if landlords can reject applicants "if references and other checks demonstrate a claimant would be unable or unlikely to sustain a tenancy."¹² However, they argue the measure will have little practical effect:

...this plan will make little difference as the more commonplace problem for landlords and tenants is that for over half of private rented households in receipt of Local Housing Allowance, this fails to cover their rent. The most recent figures show that 57% of private rented households in receipt of the Local Housing Allowance have a shortfall between that and the monthly rent they pay. To enable landlords to have confidence that the rent will be paid the Government needs to:

- Unfreeze the Local Housing Allowance so it mirrors market rents.
- End the five weeks wait for the first payment of Universal Credit.

¹¹ NRLA, [LUHC submission](#), (PDF), 2022

¹² NRLA, [LUHC submission](#), (PDF), 2022

- Enable tenants, from the very start of a claim for Universal Credit, to choose, if they so wish, to have the housing element paid directly to their landlord.¹³

6.3

Market-led solutions to passport deposits

This is covered in the Library paper: [Tenancy deposit schemes](#).

¹³ As above.

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