

# RAISING THE ROOF

Building a better private rented sector

October 2023





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# About the Centre for Social Justice

Established in 2004, the Centre for Social Justice is an independent think-tank that studies the root causes of Britain's social problems and addresses them by recommending practical, workable policy interventions. The CSJ's vision is to give people in the UK who are experiencing the worst multiple disadvantages and injustice every possible opportunity to reach their full potential.

The majority of the CSJ's work is organised around five "pathways to poverty", first identified in our ground-breaking 2007 report Breakthrough Britain. These are: educational failure; family breakdown; economic dependency and worklessness; addiction to drugs and alcohol; and severe personal debt.

Since its inception, the CSJ has changed the landscape of our political discourse by putting social justice at the heart of British politics. This has led to a transformation in government thinking and policy. For instance, in March 2013, the CSJ report It Happens Here shone a light on the horrific reality of human trafficking and modern slavery in the UK. As a direct result of this report, the Government passed the Modern Slavery Act 2015, one of the first pieces of legislation in the world to address slavery and trafficking in the 21st century.

Our research is informed by experts including prominent academics, practitioners and policymakers. We also draw upon our CSJ Alliance, a unique group of charities, social enterprises, and other grass-roots organisations that have a proven track-record of reversing social breakdown across the UK.

The social challenges facing Britain remain serious. In 2023 and beyond, we will continue to advance the cause of social justice so that more people can continue to fulfil their potential.

# Acknowledgements

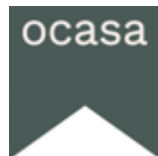
We are grateful to the individuals and organisations who have kindly shared their knowledge and expertise with us during our research on the Private Rented Sector over the last year.

In particular, we would like to thank those who attended roundtables and contributed expertise, including Ben Beadle (National Residential Landlords Association), Richard Blakeway (Housing Ombudsman), Jo Cooper (Back on the Map), Sue Edmonds (Capital Letters), Michael Kovacs (Ocasa), and Simon Virth (Community Campus 87).

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We are especially grateful to the staff at Back on the Map (Hendon, Sunderland) and Community Campus 87 (Stockton-on-Tees) for hosting and contributing to roundtables, as well as to members of their local communities who shared so generously from their experience.

We would like to thank the supporters of the CSJ's Housing and Communities Unit. In addition to those listed above, we would like to thank Advisory Board members, as well as Adam McLeod and Cassandra Tucker for helpful conversations and reflections on this paper.



Disclaimer: Please note that the views, findings, and recommendations presented in this report are those of the CSJ alone, and not necessarily those of any organisation or individual who has fed into our research. Any errors remain our own.

# Foreword

Every renter should expect their landlord to provide a safe, warm, good quality home. 80 per cent of Private Rented Sector (PRS) tenants are satisfied with their accommodation. However, sadly too many are not satisfied. The examples of unprofessionalism, absenteeism and neglect by landlords identified in this report have no place in our nation. It is fair neither on tenants nor good landlords who respect tenants and obey the law.

As Centre for Social Justice's (CSJ) data analysis shows, a much higher proportion of young, low-income households now live in the PRS compared to twenty years ago. These households face very limited choice in the market and too many of them face serious issues with maintenance and service quality.

Having served in homelessness support and social housing organisations in the West Midlands, I know what a difference a secure home makes to residents. It is a crucial support for family life, health, education, and economic opportunity.

It was therefore a privilege to hold responsibility for the Department of Levelling Up, Housing, and Community's white paper, A Fairer Private Rented Sector, as Parliamentary Under-Secretary of State for Housing and Homelessness.

I am pleased that the Renters (Reform) Bill has now been published. It's no exaggeration to say that this Bill represents the biggest and most comprehensive set of reforms of the sector in a generation.

Reforms such as ending Section 21 'no-fault' evictions, ending fixed term tenancies, and providing an Ombudsman for all private renters will deliver a new deal for renters based on fairness, security and accountability.

One key reform I would like to highlight is the Property Portal. It might not sound like the most exciting change, but I am evangelical about it. It promises a quiet revolution.

It will ensure that, for the first time, we have a 'one stop shop' for landlords and tenants to access information, including about the property and its level of compliance. This will increase transparency for tenants.

It will also be a source of guidance and support for good landlords. This report recognises the importance of the PRS and the need to encourage excellence, innovation, and investment within it. We should encourage and enable those wanting to do this in a professional way, and—in addition to strengthening the Section 8 grounds for possession—the Property Portal will be one of the key ways we can do this.

By providing better data to local authorities, the Property Portal will furthermore turbocharge our ability to crack down on abusive rogue landlords who cause upheaval and distress in the lives of their tenants and communities. This will increase the efficiency of enforcement teams and save the taxpayer money.

The CSJ's report offers helpful recommendations on how Government can deliver these reforms, while also laying out practical policies that can complement the legislation to ensure it works well, including a court system capable of processing housing claims fairly and quickly.

It is time for a new deal for renters and recognition and support for good landlords. I wholeheartedly welcome this report and the Renters (Reform) Bill.



**Eddie Hughes MP**

Parliamentary Under-Secretary of State for Housing and Rough Sleeping at the Ministry of Housing, Communities and Local Government from January 2021 to September 2022.

# Executive Summary

A home is more than a house. It is the place we share time with our loved ones. It is where we raise children. It is a sanctuary after a hectic day. It is a springboard into school, jobs and serving in the local community.

As we add colour and personality to our homes, they become a frame for our lives and an extension of ourselves. Having a decent home matters to us deeply.

Renting privately can and should be a tenure where people feel they can thrive in a good home. Indeed, there are many good landlords and a lot of good private rental sector (PRS) dwellings—nationally, 80 per cent of tenants are satisfied with their accommodation<sup>1</sup>.

We should encourage and support good landlords. This paper offers suggestions as to how they can exhibit excellence in the provision of residential accommodation. This is not necessarily about fancy apartments, but excellent service and value for money for every tenant.

However, there is also a substantial minority who are not satisfied. Their experiences of poor-quality housing and inadequate service make a severely negative impact on their lives. This must change.

Further, the PRS has the lowest levels of *tenure* satisfaction across all tenures.<sup>2</sup> Too often, tenants feel they cannot put down roots. Indeed, it means that where housing is not decent, residents can lack the confidence to challenge inadequate service for fear of being evicted. Local authority enforcement is also too often ineffective.<sup>3</sup> This, too, must change.

During research, we visited some of the areas worst affected by poor quality Private Rented Sector (PRS) accommodation. Tenants described to us experiences of absentee landlords, poor quality housing, inadequate enforcement, and a hesitancy to challenge poor landlord conduct for fear of being evicted.

Tenants explained how negative experiences in the PRS have impacted the stability of their children's education, the security of neighbourhoods, and their feeling of being able to put down roots.

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1 UK Government, English Housing Survey, *Private Rented Sector (2020-21)*, p.13. Here, 'tenure' means the terms on which a property is occupied (as defined by a tenancy agreement if renting, rather than owner occupation).

2 *Ibid.* p.14.

3 This became clear through our qualitative research and is reflected in findings of the Government's study, *Local Authority Enforcement in the Private Rented Sector (2022)*.



## PRS Reform is crucial for low-income households

PRS reform is especially significant for households on the lowest incomes. As we demonstrate with original data analysis, there has been a staggering shift from this demographic living in the social rented sector—which offers greater tenure security—to the private sector over the last twenty years.

Today, some 63 per cent of low-income households (under £200/week in real terms) under the age of 45 rent privately, compared to just 29 per cent 20 years ago.<sup>4</sup> Meanwhile, the proportion of these households living in social housing (which offers greater security of tenure) has halved from 41 per cent to less than 21 per cent in the same period.

Low-income renters face particular challenges. Modest budgets mean they have limited choice in the market and are more likely to need to move when rents rise. With 1.2 million households on the waiting list for social housing<sup>5</sup>, they are very often unable to move into a social tenancy offering more security and more predictable rents. Further, the effect of an eviction is more acute because the marginal costs of needing to move house are higher. As a result, low-income PRS tenants face a situation that some have named a “policy black hole”<sup>6</sup>.

In addition, areas with high levels of deprivation are also more likely to be affected by anti-social behaviour (ASB).<sup>7</sup> As we set out in this paper, landlords have a crucial role in preventing ASB and reforms must empower them to do this.

For low- and high-income renters alike, reform to the sector is long overdue and must be delivered effectively.

## Delivering a step-change in private renting

The Centre for Social Justice has called for prudent but substantial reform, including to the legal framework of tenancies, in the 2018 paper *Putting Down Roots*.<sup>8</sup>

Since then, the Government has recognised that the experience of living in the PRS in England does not provide sufficient security of tenure.<sup>9</sup> Again and again, it has promised to scrap Section 21 evictions to establish a new, fairer relationship between landlord and tenant.

Last year, the Government unveiled a substantial white paper proposing a step change in legislation, regulation, and policy innovation.<sup>10</sup> This month, it has unveiled a Bill to deliver on these reforms.

We welcome the legislation to be debated immanently. The Government must now deliver on their intentions through seeing the Renters Reform Bill successfully through Parliament.

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4 CSJ analysis of Family Resources Survey data.

5 Department for Levelling Up, Housing, and Communities (DLUHC), *Live Tables on Rents, Lettings, and Tenancies*, (2022), Table 600.

6 Joseph Rowntree Foundation, Elliot, J. & Earwalker, R. *Renters on low incomes face a policy black hole* (2021), p.14.

7 Home Office, *Anti-Social Behaviour: Impacts on Individuals and Communities* (2023).

8 Centre for Social Justice, *Putting Down Roots*, (2019)

9 Prime Minister Theresa May, *PM's Speech on Housing*, (2019), Conservative Party. *Election Manifesto* (2019), p.29, and UK Government, *The Queen's Speech*, (2022), §Renters Reform Bill (pp.67-68).

10 UK Government Department for Levelling Up, Housing, and Communities (DLUHC), *A Fairer Private Rented Sector*, (2022).

## Improving security for tenants

Greater security for PRS tenants will enable residents to put down roots in communities and feel a stronger sense of feeling settled at home. It will strengthen their position when it comes to seeking improvements and redress where service provision is sub-standard.

- The Government should follow through with the abolition of Section 21 of the Housing Act 1988. This will give tenants greater security of tenure, feeling they can put down roots more easily. Further, it will give tenants greater confidence to challenge landlords through official processes where there are good reasons for doing so.
- The Government should reform all Assured Shorthold and Shorthold tenancies and bring about a Standard Tenancy which is periodic, leaving fixed-term tenancies only for the general student PRS market. This tenancy should be subject to a four-month initial period, after which a notice to quit becomes feasible subject to a two-month notice period.

## Encouraging and enabling good landlords

As this paper makes clear, the PRS exists for very good reasons and is in strong demand. We must avoid impeding investment and reassure good landlords that they will be supported with a well-functioning system through these reforms.

There are concerns that PRS reform will discourage investment in, and availability of, housing. As we discuss, these can be overstated (see 5.3). Despite increased stamp duty and the ending of mortgage relief for buy-to-lets in recent years, the sector has nevertheless grown since 2019.<sup>11</sup> It is also worth bearing in mind that a smaller number of landlords is not the same thing as a smaller number of homes to rent. 43 per cent of landlords have just one property.<sup>12</sup> The Bank of England indicate that it is smaller landlords who are leaving the market,<sup>13</sup> but following trends of recent years many of their properties could stay within the PRS market. Savills report that reforms are expected to lead to a more consolidated, professionalised sector.<sup>14</sup> Nevertheless, in enacting reforms, it is important that reassurance can be given to landlords that new systems will be efficient, reliable, and fair. Reforming Section 8 and introducing an efficient Property Portal two important parts of this.

- The Government should ensure that the abolition of Section 21 does not make housing unworkable for landlords. The grounds in Section 8 must be overhauled into a robust system including mandatory grounds for landlords wishing to sell their properties, landlords and their close family members wishing to move into a rental property, and landlords needing to evict tenants where there have been repeated serious rent arrears.
- The Government should press ahead with its plans to create a digital Property Portal. This will enable quality landlords to demonstrate their good practice and adequacy of their accommodation. It will also mean a more straightforward one-stop-shop for information and administration, thereby increasing efficiency. As described below, it will also make it easier to detect and crack down on rogue landlords, meaning good landlords are not competing with them in the rental marketplace. The Government should make clear its timescale for implementation of the Property Portal, aiming to deliver it no longer than two years following the passage of the Renters (Reform) Bill.

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11 Landlord Today, *Revealed – the size and value of the UK's private rental sector* (2023).

12 DLUHC, *English Private Landlords Survey 2021*, (2022), Annex Tables, Fig. 1.2.

13 Bank of England, *Agents' Summary of Business Conditions – Q1 2023*. (2023)

14 Savills, *Mainstream Residential Property Forecasts*, (November 2022), p.2.

## Cracking down on rogue landlords

It is not fair either on tenants nor good landlords that rogues and absentees are able to operate in the market without adequate enforcement. Better resourcing and new measures are needed to remedy this situation.

- Local Authority housing enforcement is not consistently effective and in need of considerable improvement. The Government should substantially increase support for local authorities' housing enforcement capacities to drive up standards, prioritising areas with the most severe challenges.
- The Database of Rogue Landlords and Property Agents is not fit for purpose. Freedom of Information (FoI) request data obtained by the CSJ in June 2023 reveals that it has just 57 live entries which were contributed by just 29 of the 317 local authorities in England. This total has gone down since it reached a peak in January last year. The database should be substantially upgraded and integrated into the forthcoming Property Portal. This, in turn, will significantly improve the efficiency of local authority enforcement teams' abilities to make use of the resources they have.

## Ensuring fair adjudication and redress

It is essential, when disputes occur between landlords and tenants, that robust and efficient means of redress are available. This matters not only for where there are actual disputes, but also for the peace of mind of both tenants and landlords.

- The Government should work to substantially increase the capacity of the courts to handle housing cases in a timely fashion.
- It should introduce a specialist Housing Court, staffed by judges with specialist expertise in housing issues. All housing cases could then travel through a single body with the institutional insight needed to process them more quickly and effectively than at present.
- The Government should introduce a single Ombudsman for the PRS making membership of it mandatory for all private landlords. This will provide a redress system with powers to investigate complaints and ensure systematic administrative failures are investigated and tackled at root cause.

## Improving the quality of private rented accommodation

The PRS is the tenure with the highest proportion of properties which are non-decent and contain category 1 hazards. It also has a higher proportion of homes with low (E-G) EPC ratings.

- The Government should introduce a clear, coherent Decent Homes Standard for the PRS which considers the nuances of the housing stock and profile of the sector.
- To ensure major building works are viable, and therefore to incentivise investment in upgrading the quality and environmental efficiency of residential accommodation, we recommend removing condition (b) from Ground 6 set out in Schedule 2 of the Housing Act 1988.

## Supporting affordability

Our data analysis shows that vastly higher proportions of low-income, young households have moved into the PRS during the last twenty years. The long-run solution to this is substantially improving the supply of social housing as we have argued in our recent papers.<sup>15</sup> However, in the medium-term, the Government can make several improvements to PRS affordability.

- In delivering PRS reforms, the Government should fulfil its intention to replicate the existing system of allowing rent increases only once per year, increase the minimum notice period needed for any change in rent to two months, and end the use of rent review clauses.
- The Government should monitor market-led solutions that aim to reduce the problems experienced during the overlap between tenancies and examine the case for whether national rollouts or pilot programmes (such as deposit passporting) would be feasible.

## Ensuring the housing system can support tackling anti-social behaviour

It is crucial that tenants feel they can put down roots in communities where streets are safe. Landlords have a crucial role to play in ensuring that anti-social behaviour, especially where it occurs in shared housing, is dealt with. The Government, too, has a key role in ensuring systems are in place to facilitate and encourage effective, multi-agency responses. This includes:

- The Government should prioritise and fast-track possession claims in respect of antisocial behaviour. The reformed Section 8 ground for possession in cases of antisocial behaviour should be mandatory.
- The Government should issue statutory guidance on where low-level cases of anti-social behaviour (ASB) will be eligible for Section 8 possession orders to be issued. The Government should avoid setting an evidential bar too high such as to make a system unworkable.
- The Government should examine how the forthcoming Property Portal could have capacity to enable future integration with a system for the management of ASB Case Reviews, linking where appropriate with local authority departments, police, and other housing providers.

A reformed PRS will ensure that greater security is available to tenants, ensuring a stronger sense of home—especially for the vast numbers of young households with low incomes now housed in the sector. In the long run, these reforms must go hand-in-hand with an increase in housebuilding, and a better supply of social housing in particular.

That is vital, but will take years, if not decades, to deliver. The Government has promised to make a huge improvement to people's lives through these reforms but has yet to deliver. Now is the time to deliver on this manifesto mandate.

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<sup>15</sup> Centre for Social Justice, *Levying Up*, (2022)

# Introduction

## Social justice and the PRS

The PRS has attracted considerable attention in housing policy discussions. A widely held view is that it is too big and too frequently fails residents with poor quality housing, unprofessional management, and insecure tenures. There are many examples of policy research highlighting this. For example, the Affordable Housing Commission concluded that:

“After 18 months of studying the misery caused by housing affordability problems, the Affordable Housing Commission has not discovered a silver bullet that could fix everything. But we did unearth an underlying cause of so many households struggling with disproportionate housing costs: it is the switch into the PRS - which has more than doubled in size in less than twenty years - from both social renting and from home ownership.”<sup>16</sup>

Similarly, the Commission of the Archbishops of Canterbury and York on Housing, Church and Community found that people “[...] feel unable to influence the quality and nature of the services they receive in the private rented sector because they feel, and are, insecure, and they often see their landlords as slow to respond, faceless and uncaring”<sup>17</sup>. The Joseph Rowntree Foundation found recently that “many low-income households are stuck in the private rented sector with no other options”<sup>18</sup>.

This familiar theme is far from a new issue. Indeed, Mary Beard relates in her history of ancient Rome, *SPQR*, that, “The rented market in slums provided grim accommodation for the poor but lucrative profits for unscrupulous landlords.”<sup>19</sup> Indeed, remarkably familiar housing policy issues were present then—including the availability and generosity of state welfare<sup>20</sup>, fire safety in multistorey apartment buildings<sup>21</sup>, the lack of a zonal planning system<sup>22</sup>, the unprofessionalism of landlords and rent collectors<sup>23</sup>, and the deleterious economic and health effects of insecure housing tenure and homelessness<sup>24</sup>.

These ancient problems should not be present in modern Britain. Whilst we do have modern bureaucratic regulation of residential accommodation, it is not working adequately. Poor housing conditions are by no means absent today. There is significant contemporary concern that our approach to the PRS needs substantial improvement and reform. As we shall see, regulation today is too complex, out of date, and poorly enforced.

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16 Affordable Housing Commission final report, *Making Housing Affordable Again* (2020), Foreword, p.5.

17 The Commission of the Archbishops of Canterbury and York on Housing, Church and Community, *Coming Home: Tackling the housing crisis together*, (2021), p.26.

18 Joseph Rowntree Foundation, Elliot, J. & Earwalker, R. *Renters on low incomes face a policy black hole* (2021), p.14.

19 Mary Beard, *SPQR: A History of Ancient Rome*, Profile Books, (2015), p.33.

20 Ibid. p.445

21 Ibid. p.447

22 Ibid. p.448

23 Ibid. p.447

24 Ibid. pp.446-448.

## PRS Reform

A contemporary effort to reform the PRS has been promised by the current Government. The Conservative Party 2019 General Election Manifesto said:

*“We will bring in a Better Deal for Renters, including abolishing ‘no fault’ evictions and only requiring one ‘lifetime’ deposit which moves with the tenant. This will create a fairer rental market: if you’re a tenant, you will be protected from revenge evictions and rogue landlords, and if you’re one of the many good landlords, we will strengthen your rights of possession.”<sup>25</sup>*

A Bill—the “Renters (Reform) Bill”—to deliver on these promises is has been introduced into Parliament. It follows the landmark 2022 white paper *A Fairer Private Rented Sector*<sup>26</sup>. This white paper’s aims are clear. In the words of the Secretary of State for Levelling Up, Housing, and Communities:

*The reality today is that far too many renters are living in damp, dangerous, cold homes, powerless to put things right, and with the threat of sudden eviction hanging over them.*

*They’re often frightened to raise a complaint. If they do, there is no guarantee that they won’t be penalised for it, that their rent won’t shoot up as a result, or that they won’t be hit with a Section 21 notice asking them to leave.*

*This Government is determined to tackle these injustices by offering a New Deal to those living in the Private Rented Sector; one with quality, affordability, and fairness at its heart.<sup>27</sup>*

This policy paper focuses on why reforms to the PRS matter, with a particular focus on issues faced by tenants in communities with low economic opportunity and high levels of deprivation. A safe, secure, affordable home is a cornerstone of individual and family wellbeing. Likewise, this is vital for families to put down community roots and play a part in strengthening the fabric of their local area.

In addition to legislative and regulatory reform, landlords can and should go further to support tenants—especially those with low incomes. The law should set workable, clear, and appropriate baselines for minimum service provision. However, many landlords can and should want to go above and beyond what the spirit and the letter of the law requires.

Many already do strive for this—for example through following advice and guidance from membership bodies such as the National Residential Landlords Association (NRLA)—and we seek to add to this aspect of the public policy and practice discussion through a focus on *excellence* in PRS provision for low-income tenants and in local communities experiencing high levels of deprivation.

This paper proceeds in two parts. Firstly, in Part 1, we consider the structure of the PRS and its distinctive characteristics as an area of housing provision. We look at its role, identifying the purposes it serves. We also look at its structure—the providers within the PRS (landlords) and the tenants they serve. Next, we offer an overview of the buildings and homes within the sector, the tenure arrangements currently available, and the levels of satisfaction among tenants with the service they receive.

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<sup>25</sup> Conservative Party *General Election Manifesto* (2019) p.29.

<sup>26</sup> DLUHC, *A Fairer Private Rented Sector* white paper (2022)

<sup>27</sup> *Ibid.* p.2.

Part 2 turns to focus on the provision of excellent service and how legislative and policy reforms can improve the sector. We relate the experiences of tenants and sector experts in each section, highlighting the need for improvement in the sector.

Our qualitative research included two in-depth, two-hour roundtables with tenants and housing professionals in March 2023, convened by frontline charities connected to the CSJ Foundation's network. These enabled us to glean insights from residents who had wide experience of the local rental market and associated issues, as well as the insights of housing professionals with decades of experience encompassing hundreds, if not thousands, of cases.

In both cases, the roundtables were located in areas with high levels of social deprivation (top 3 per cent most deprived according to the Index of Multiple Deprivation).<sup>28</sup> The discussions have enabled us to understand and illustrate the key issues through the voices of those with experience of poor PRS housing.

It is not the intention to construe these cases as representative of the entire sector. As we have made clear, there is much excellent private rental accommodation and there are many excellent landlords. The reason reform is needed is to clamp down on rogue and absentee landlords who are failing in their legal and moral responsibilities. The qualitative evidence we have gathered illustrates clearly the need for this.

We also convened a roundtable with leading sector experts, including representatives from the Housing Ombudsman, National Residential Landlords Association, Capital Letters, Castleforge Partners, and two community sector PRS landlords: Back on the Map (Hendon, Sunderland) and Community Campus 87 (Stockton-on-Tees). These latter two are locally rooted charities with a very strong understanding of PRS issues in their local areas.

We look at six key topics, making policy recommendations for government in each area—as well as highlighting ways in which PRS landlords can exhibit excellence in each also. The six areas are:

- Secure tenures
- Decent homes
- Affordable rents
- Quality customer service
- Fair standards and dispute resolution
- Thriving local communities

We conclude with a call to action. The Government has come a long way in preparing generational reforms for private renters. It is important now that reforms are put in place to ensure our PRS is fit for the future. Most importantly, it is vital that we eliminate the appalling forms of landlord absenteeism we have heard about through visits to frontline charities operating in the area of housing support.

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<sup>28</sup> DLUHC (formerly DCLG), *Indices of Deprivation: 2019 and 2015*.

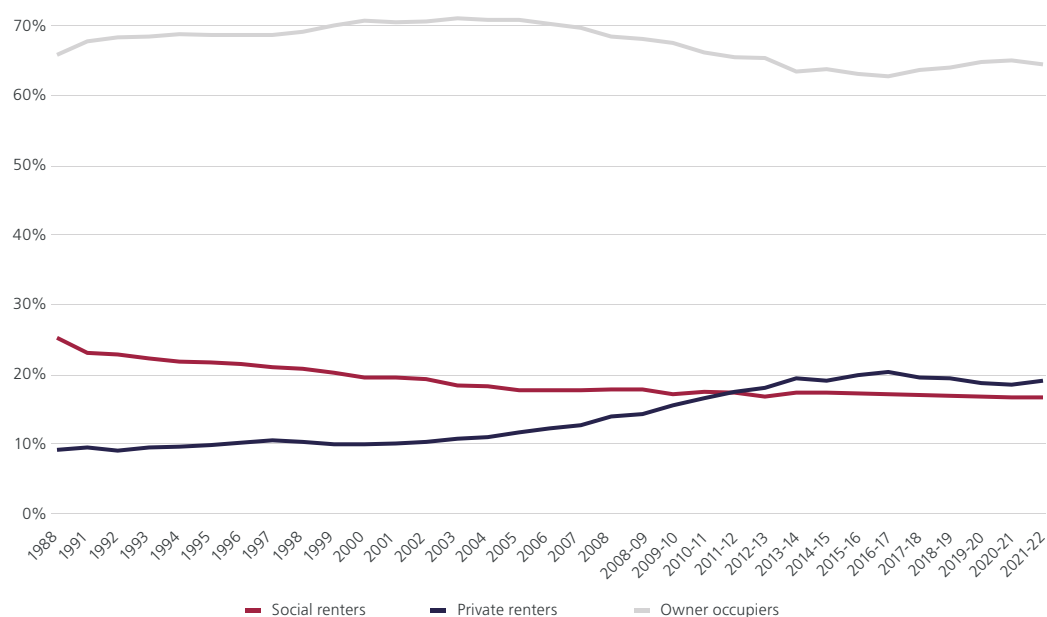
## Part 1:

# The Private Rented Sector and Housing in England

## Chapter 1: The Role of the PRS in Housing Today

The PRS has attracted considerable policy attention for its remarkable growth since the early 2000s. The Affordable Housing Commission note that “the PRS has more than doubled in size in less than twenty years.”<sup>29</sup> That can be seen by looking at the national tenure trend statistics, as presented in the following national statistics:

Figure 1: Trends in Tenure, 1988-2021



Source: DLUHC, 2023, Table FT1101 (S101): Trends in tenure.

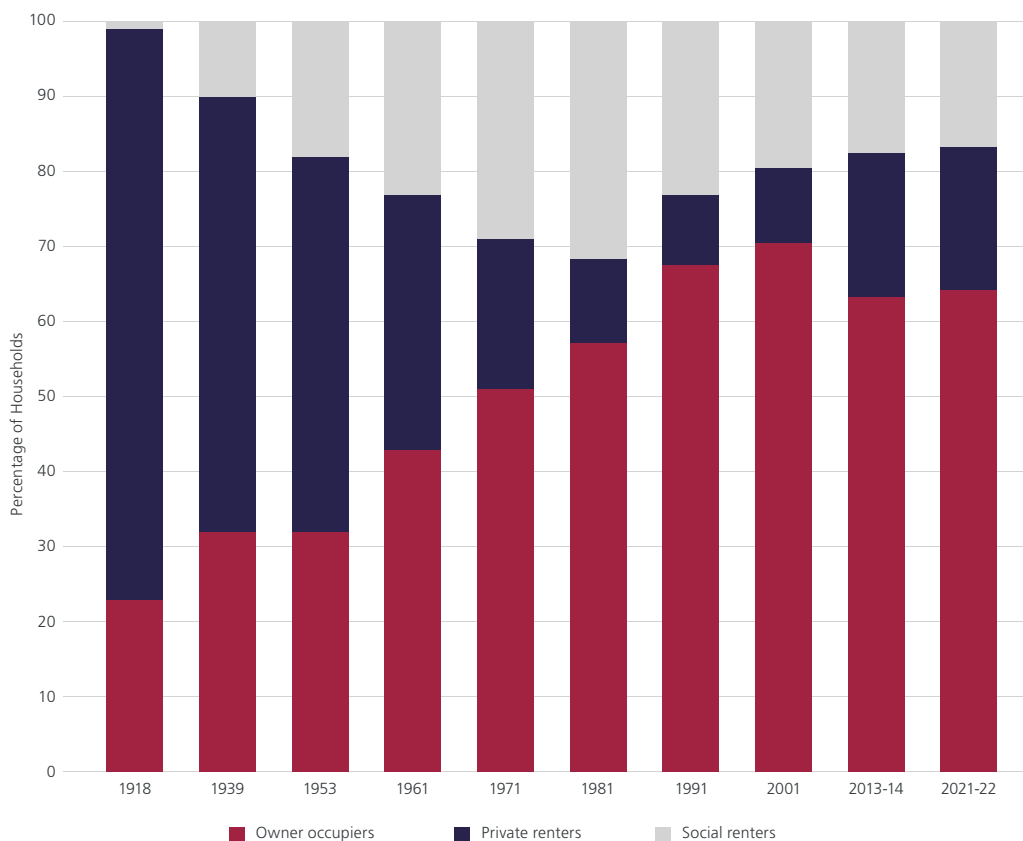
This clearly shows that whilst private renting has increased, homeownership and social housing has declined as a proportion of housing tenures over the last two decades.

That said, we should also bear in mind that the PRS is still substantially smaller than it has been historically. Mass homeownership and the large-scale provision of social housing are phenomena of the Twentieth Century. Prior to this, private renting was the mainstream tenure for most of the population as the following figures attest:

29 Affordable Housing Commission final report, *Making Housing Affordable Again* (2020), Foreword, p.5.



Figure 2: Trends in tenure, 1918 to 2021:



Source: English Housing Survey 2013-14 Household Report Figure 1.1: Trends in tenure, 1918 to 2013-14 & (2021 figures) CSJ analysis of DLUHC, Live Table 104.<sup>30</sup>

The recent re-growth of the PRS has resulted in widespread questions about whether its increased size is healthy for today's society. Understanding this requires understanding the role it plays more broadly in our overall housing system. To see this, we must ask what role, in a society oriented towards fostering the common good, private investment in rental accommodation should play. In other words, what social benefits does the PRS provide?

Firstly, the PRS enables greater *choice* over accommodation. People may wish to live in areas, or in types of accommodation, for which ownership would be financially unfeasible, whereas renting is. For example, choosing to live in a city centre to reduce commuting times—rather than looking to buy a home in a more distant, less expensive suburb—can reasonably form part of a lifestyle choice, and the PRS enables this.

Research by ChamberlainWalker Economics demonstrates this; around a third (31 per cent) of renters say that what they like most about renting includes that “I can live in an area where I may not be able to afford to buy.”<sup>31</sup> The same research reveals that another key reason people choose to live in a rental property is the convenience: 45 per cent of respondents said that “not having to worry about property maintenance and repairs” was one of the things they liked most about renting.<sup>32</sup>

<sup>30</sup> See the English Housing Survey publication for full details of original underlying data sources; see also see Annex A and p. 18.

<sup>31</sup> ChamberlainWalker, *A Housing Market that Works for Everyone*, (2023), p.20.

<sup>32</sup> Ibid.

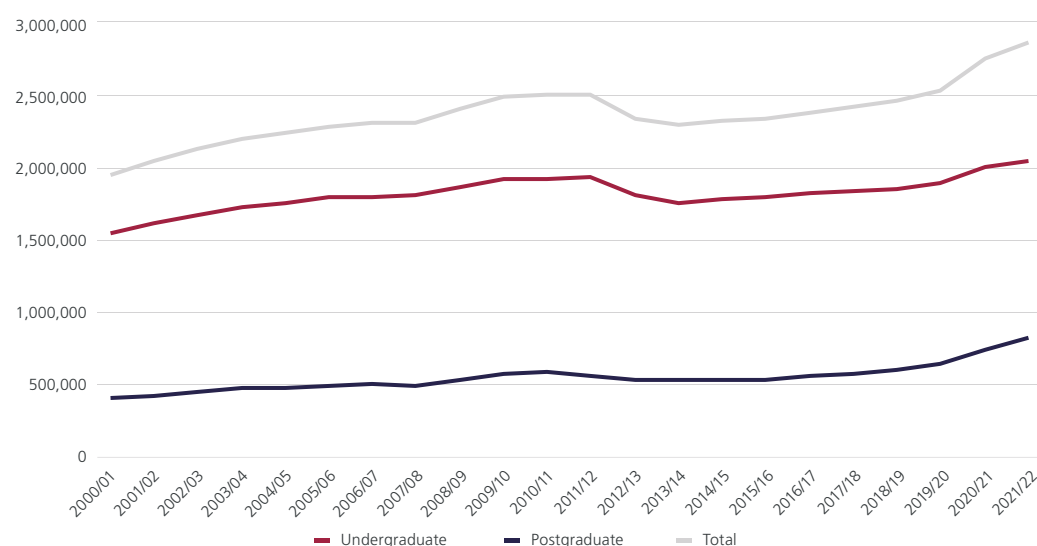
In addition to this, private rental accommodation enables greater choice over the type of accommodation and facilities it offers. Investors in the Build to Rent market have noted this, and it is increasingly known as a “lifestyle formula” product strategy—a key way in which PRS providers respond to customers’ desires by adding value to their offer.<sup>33</sup> Such products can include apartment homes with shared gyms, swimming pools, lounges, concierge services, and so forth—as well as the endeavour to foster a sense of place and community.

Whilst the PRS offers the benefit of choice, it should be born in mind by policymakers that many low-income households occupy private rental homes out of absolute necessity rather than choice. Low-income households rarely (if ever) occupy expensive, purpose-built executive rental apartments. They have few other viable options and occupy low-cost rentals whilst waiting in a very long queue for social housing.

The second feature that PRS housing enables is greater *flexibility*. Many people move within the UK for education, employment, and other reasons. In the aforementioned study, 33 per cent of PRS residents said that “the ability to move relatively easily” was among their favourite features of rental accommodation.<sup>34</sup> The English Housing Survey reports that “The majority (73 per cent) of private renters left their last tenancy because they wanted to move, and 10 per cent said their tenancy ended because it was only for a fixed period. Fewer than one tenth (6 per cent) said they left their last tenancy because their landlord or agent asked them to leave.”<sup>35</sup>

The nature of contemporary lifestyles and employment patterns underpins this, and some recent changes will doubtless have contributed to the increase in the size of the PRS over the last twenty years. For example, there are considerably more students in the UK at present, most of whom would be looking for either standard PRS or student rental accommodation, as can be seen in Figure 3.

Figure 3: Trends in student numbers in UK higher education<sup>36</sup>



Source: Higher Education Statistics Authority, *Who’s studying in HE?* (2023) fig. Students by level of study.

33 Michael Swiszcowski, Chapman Taylor website blog post, *What is ‘Build-to-Rent’ or ‘PRS’, and how can developers capitalise on this opportunity?* (2020). Sukhvir Sandhu, Seven Capital website blog post, *THE INCREDIBLE GROWTH OF THE PRIVATE RENTED SECTOR* (2019).

34 ChamberlainWalker, *A Housing Market that Works for Everyone*, (2023), p.20.

35 DLUHC, *English Housing Survey, Private Rented Sector, 2020-21*, p.5.

36 House of Commons Library Research Briefing, Paul Bolton, *Higher education student numbers* (2023). p.30.

This element of flexibility is crucial not merely for supporting students, but also for supporting the labour market. 14 per cent of renters say they are “are only living in the local area / country temporarily”<sup>37</sup> and the PRS houses far more foreign nationals (measured by the Household Reference Person (HRP)) than other tenures.<sup>38</sup>

Thirdly, for many people, the PRS supports households’ needs. It is true that 76 per cent of people in the UK who do not own a home would like to in the future.<sup>39</sup> Within the PRS, the English Housing Survey reports that “Nearly two thirds (61 per cent) of private renters say they expect to buy a home at some point in the future.”<sup>40</sup> However, of the remaining group who do not expect to buy, just over half (52 per cent) said this was because of affordability issues.<sup>41</sup>

ChamberlainWalker’s research adds specificity to this. The major affordability issues are threefold: the cost of a necessary mortgage deposit (63 per cent of PRS residents who want to buy but cannot), the high purchase prices of homes (57 per cent), and necessary income levels for securing a mortgage (41 per cent).<sup>42</sup>

Because of this, the PRS offers accommodation to many people whose needs could not be met at this time by homeownership. Some argue that, were the PRS to be somewhat smaller, some of these affordability issues would be ameliorated<sup>43</sup>. The argument is that this would reduce the demand for rental investment property, thereby reducing demand for residential accommodation overall, and thereby dampen prices on the open market—and hence somewhat reduce the deposit and income requirements needed for homeownership. In that way, a sell-off of properties into homeownership would be made easier.

There is some truth to this. However, this argument can be overstated. Demand for private rental tenancies has increased significantly due to underlying changes in the UK population—including the substantial increase in net migration<sup>44</sup> and residential university students at both undergraduate and postgraduate levels, as can be seen in the graphs above. A contraction in the PRS should not, therefore, be seen as a panacea—what is needed, more broadly, is an expansion in the supply of truly affordable homes, including social homes, and more efficient use of housing stock. Indeed, more supply in all tenures is crucial.

This last point—*efficiency*—constitutes a fourth role that the PRS plays in the housing system. There is accommodation that, were it not for the option to let privately, would not be available at all. In the context of highly constrained housing supply, this is an important aspect of housing provision.

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37 ChamberlainWalker, *A Housing Market that Works for Everyone*, (2023), p.23.

38 Ibid. & DLUHC, *English Housing Survey, Private Rented Sector, 2020-21*, p.11

39 YouGov, Christien Phelby, *Global: Who does – and doesn’t – want to own a home?* (2021).

40 DLUHC, *English Housing Survey, Private Rented Sector, 2020-21*, p.6

41 DLUHC, *English Housing Survey, Private Rented Sector, 2020-21*, p.6

42 ChamberlainWalker, *A Housing Market that Works for Everyone*, (2023), p.21.

43 See, for example, Patrick Collinson (The Guardian), *Buy-to-let slump puts first-time buyers in the driver’s seat* (2017) and Lorna Bourke (CityWire), *Buy to let investors crowd out first time buyers* (2011)

44 University of Oxford Migration Observatory, Mariña Fernández Reino and Carlos Vargas-Silva, *People born abroad had lower home ownership rates than the UK born (47 per cent vs 70 per cent), and were more likely to be in the private rental sector*, (2022).

For example, a household might offer a spare room for private rental, and a family moving abroad for a number of years—but wishing to return—might wish to let out their property in the meantime. These kinds of cases will inevitably mean that the PRS has a more granular structure than the social rented sector, with a much higher proportion of landlords with one property, or a handful of them. The fact that it does enables a more efficient use of the accommodation we have across the country.

Furthermore, PRS providers that can construct and operate at scale, such as in the rapidly expanding Build-to-Rent market, are able to offer accommodation at a high density to meet growing demand in a changing marketplace—particularly in growing urban centres.<sup>45</sup> This, in turn, can incentivise efficiency in the residential accommodation marketplace as a whole.

A fifth purpose for the PRS is the promotion of *investment*. Investment in residential property is needed amid the present shortage of homes. Recent examples include the increasing build-to-rent sector, as well as smaller-scale investment in buildings where specialist landlords are able to improve housing stock that would be a challenge for individual homeowners to develop. For example, the development of heritage buildings and the conversion of former commercial or industrial premises.

Finally, by encouraging entrepreneurship, the PRS invites *innovation* into the housing sector. This might include new forms of service offer—such as facilities, tenant support, place-making, building and interior design, new energy efficient technologies, and so forth. Whilst innovation can of course occur in all areas of housing—including homes developed for sale and social rental—the unique financial structure of PRS businesses can put them in positions to make innovative developments.

## Chapter 2: The Structure of the PRS

In addition to grasping the contributions the PRS makes to a flourishing society, it is also necessary to have a sense of its structure and shape before considering reforms to it. We can look at the shape of the sector in terms of the key elements that shape it: the providers (landlords), the occupants (tenants), their relationship (tenancies), the buildings available (homes), and the broader rules and institutions (regulation) governing how private renting can operate.

### 2.1. Providers of PRS Housing

As discussed above, the number of households in the sector has increased substantially over the last twenty years—as too has the proportion of dwellings, from 9 per cent in 1989 to 20 per cent in 2021. This was caused by four things: increased sources of demand (discussed above, for example, from increasing demand for residential student accommodation), and supply-side factors. As Bentley discusses, these include tenancy reform in 1988 (discussed below) in conjunction with the rise of buy-to-let mortgages in 1996 and the house price boom of the late 90s to early 2000s which made housing an attractive investment.<sup>46</sup>

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<sup>45</sup> JLL Partners, *UK Build to Rent (BTR)*, (2021), §How Occupational Demand is changing (pp.13-14).

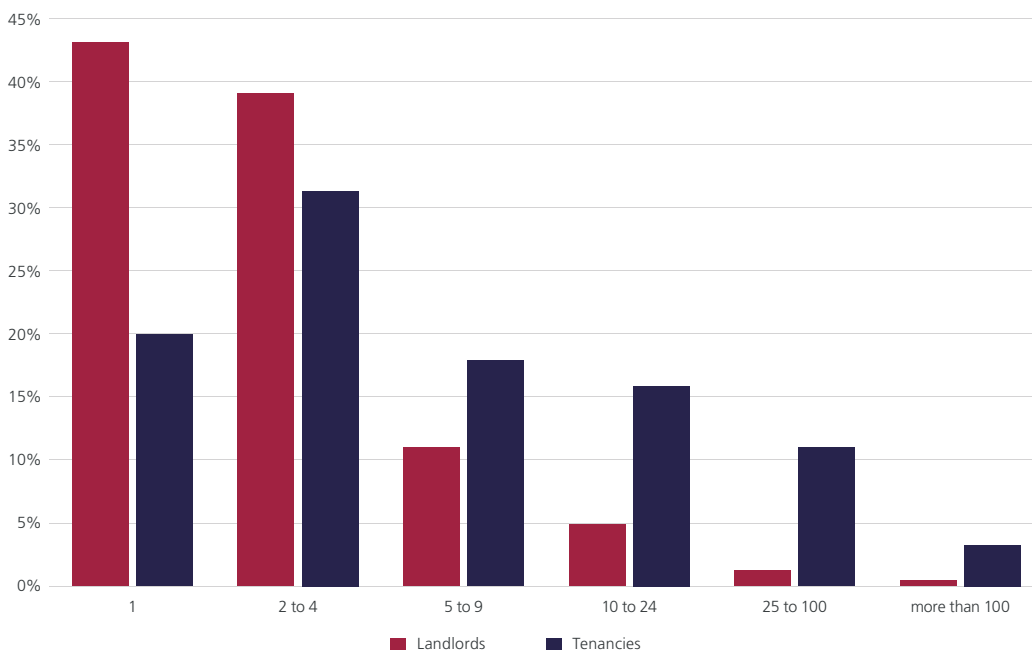
<sup>46</sup> Daniel Bentley, Civitas, *The Future of Private Renting*, (2015), Ch.1.

This has meant that a large number of individual investors have acquired buy-to-let properties as an investment vehicle—including to boost retirement income—which significantly shapes the structure of the sector (and indeed the wider economy) today.

We can see this by comparison with the social housing sector. In that sector, the total number of Registered Providers of social housing (including Private, non-profit, and Local Authority organisations) in England is 3,228.<sup>47</sup> These organisations rent out a total of 4,426,926 homes.<sup>48</sup> This means the average number of homes that a typical social housing provider owns 1371 rental homes (the mean, though there is of course wide variation—several larger housing associations rent out upwards of 60,000 homes).

By contrast, HMRC indicates that there are around 2,740,000 unincorporated private landlords across the UK. The English Housing Survey indicates that there are 4,434,000 dwellings with private rental tenure.<sup>49</sup> The typical ratio of tenants to landlords is thus vastly smaller than in the Social Rented Sector. The following data show how there are many private landlords with just one property:

Figure 4: Landlords by portfolio size



Source: English Private Landlord Survey 2021, Figure 1.1, Landlord population by type, 2021.

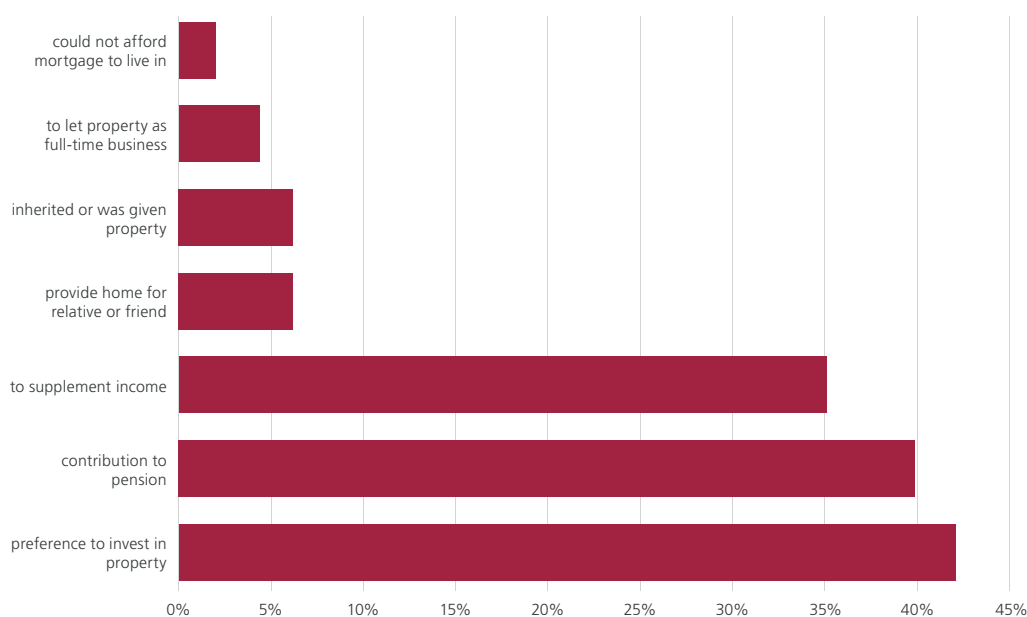
The PRS also differs in terms of the purposes for which landlords invest in rental property. Most, but not all, social housing providers are non-profit entities (either Government-owned or with charitable purposes). By contrast, most (but certainly not all) PRS landlords are primarily seeking a return on investment for private purposes. The granularity of the sector (many landlords with one or two properties) is substantially explained by the fact that many are seeking returns to supplement income and contribute to private pensions:

47 Regulator of Social Housing, *Registered Provider (RP) social housing stock and rents in England 2022: additional tables (2022)*, Table 1.19. (summation of all registered providers across all three sub-sectors. These figures include over 250 providers that are registered but own no homes at all, so the true number of RPs which actually operate tenancies is in fact smaller).

48 Regulator of Social Housing, *Registered Provider (RP) social housing stock and rents in England 2022: additional tables (2022)*, Table 1.1.

49 DLUHC, English Housing Survey data on tenure trends and cross tenure analysis, table FT1101 (S101): trends in tenure, (2022).

Figure 5: Reasons for becoming a landlord



Source: *English Private Landlord Survey, 2021*. Main Report; fig.1.5.

The fact that the PRS has this structure has meant that, even in 2001, the Government’s own principal survey of English private housing stated that the “The private rented sector has long been characterised as a “cottage industry” with private individuals renting out one or two properties in their spare time”.<sup>50</sup>

However, this characterisation cannot describe the whole industry, and the picture is changing. The ONS demonstrate that whilst a great deal of landlords have just one property, “[...] nearly half of tenancies were owned by landlords with five or more properties”.<sup>51</sup> This is part of a trend. In 2010, fully 78 per cent of landlords owned just one property.<sup>52</sup>

Over recent decades, there has been an increase in investment in residential property from larger organisations and institutional capital, including in the Build to Rent (BtR) sector.<sup>53</sup> These tend to be institutions with hundreds, if not thousands, of tenancies. As we will see, this highly mixed structure of the sector has important implications for how it can and should be regulated.

Whilst the trend towards a larger PRS is clear over the last twenty years, that trend has cooled significantly over the last five to seven years. As can be seen, the growth of the PRS as a proportion of tenures slows substantially after 2015 (see fig. 1.). Part of the reason for this cooling in PRS investment can be attributed to tax changes introduced between 2017 and 2020 which have made investment returns less attractive. For example, private individuals’ buy-to-let financing costs (including mortgage interest, loans, and overdrafts) have reduced eligibility for offsetting against income tax, except below a threshold. Nevertheless, there has still been growth since 2019 as Landlord Today report.<sup>54</sup>

50 Office of the Deputy Prime Minister, *English House Condition Survey*, (2001), §2.2. p.7.

51 DLUHC, *English Private Landlord Survey 2021: main report*, (2021), §Main Findings.

52 DLUHC, *English Private Landlord Survey 2018: main report (2018)*, p.5.

53 Savills, *UK Build to Rent Market Update – Q3 2022*, (2022)

54 Landlord Today, *Revealed – the size and value of the UK’s private rental sector* (2023).

It is also worth noting how private landlords operate. Some arrange tenancies directly, though most work through agents. There are 2.74 million unincorporated landlords in the UK<sup>55</sup>, and in England, there are around 408,000 that operate independently, arranging lettings without the support of an agency.<sup>56</sup> This means that the vast majority are operating and arranging lettings through agents.

Both agents and landlords have trade bodies (membership organisations) that support participants in the industry and advocate for them publicly. These include Propertymark (for Agents, including Estate Agents) and the National Residential Landlords Association (NRLA). The NRLA has grown substantially in recent years to over 100,000 members<sup>57</sup>—a significant number of landlords, but a still just a fraction of the millions of landlords operating in the UK today.

It is also crucial to look at the structure of the sector from the tenant perspective—who is housed within private tenancies?

## 2.2. Tenants within the PRS

The PRS has a number of distinctive characteristics. It is the sector with, by far, the most foreign nationals—18 per cent, compared to just 3 per cent of owner-occupiers.<sup>58</sup> Furthermore, the National Student Accommodation Survey shows that the vast majority of students live in private rental accommodation—either a private landlord’s property or in halls.<sup>59</sup> These relate to the role of the PRS in society more broadly, highlighting the flexibility that these demographics are likely to need.

In socio-economic terms, tenants in the PRS come from a very broad spectrum. We can see this by comparison with other sectors using the ‘ACORN’ classification, used by the Office for National Statistics for the English Housing Survey, segments the population into five categories; “affluent achievers”, “rising prosperity”, “comfortable communities”, “financially stretched”, and “urban adversity”.

As would be expected given conditionalities in allocations systems, almost all Social Rented Sector tenants are from within the ‘financially stretched’ and ‘urban adversity’ segments. It is clear that, in general, homeownership is more common in more affluent segments. The exception to this rule is in the ‘rising prosperity’ segment which includes younger professionals who may well have “good incomes” but “[...] not all might yet have had time to convert these into substantial savings or investments.”<sup>60</sup> This means renting is more common among the ‘rising prosperity’ demographic who are often tenants of “recently built executive city flats”<sup>61</sup>, in part because a lack of time to accumulate sufficient savings at that stage would preclude having a deposit for securing a mortgage.

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55 DLUHC, *Property Rental Income Statistics 2022*, (2022). Some landlords jointly own property which should be born in mind when considering these statistics.

56 DLUHC, *English Private Landlord Survey 2021: main report*, (2021), §Main Findings. This is based on data gathered through registered Tenancy Deposit Schemes, and as such the data is an estimate. It is also exclusive to England, although the majority of the UK population is in England.

57 National Residential Landlord Association (NRLA) website, [§About Us](#),

58 DLUHC, *English Housing Survey 2020-21*, §Private Rented Sector, Figure 1.1

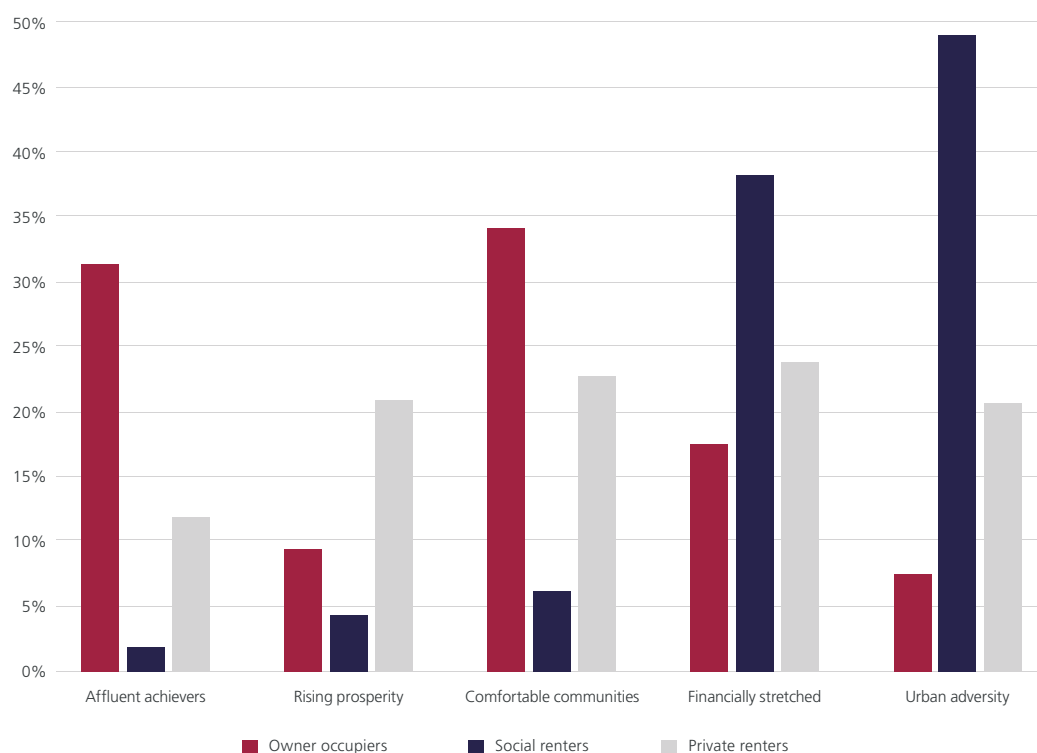
59 Save the Student, *National Student Accommodation Survey 2022-Results*, 2022

60 The Acorn User Guide, *The Consumer Classification*, (2014), p.28.

61 The Acorn User Guide, *The Consumer Classification*, (2014), p.28.

The remaining PRS residents are strongly represented in the two least well-off segments of the ACORN categorisation system:

Figure 6: ACORN by tenure, 2020-21



Source: English Housing Survey 2021-22, Private Rented Sector, fig.1.2 ACORN by tenure, 2020-21

There has been widespread commentary that many tenants on low incomes in the PRS would be better served by social housing, but are unable to secure a social home due to inadequate supply and a waiting list of more than 1.2 million households.<sup>62</sup>

As Professor Nick Bailey has demonstrated, over the last 30 years, there has been a very substantial rise in the proportion of young, low-income households in the PRS, and a sharp decline in proportion to the social rented and owner-occupied sectors.<sup>63</sup> This can be demonstrated using Households Below Average Income (HBAI) and Family Resources Survey (FRS) data.<sup>64</sup>

We have used Family Resources Survey data to demonstrate that this is a continuing trend. Twenty years ago, most young households (head of household under 45) in England with low incomes (under £200 per week) could be accommodated in social housing. By design, the social rented sector offers not merely a home but also specialist support for tenants with things like employment and personal finance. It also offers greater security of tenure due to the tenancy rules that are used, which is reassuring to those with low and / or unpredictable income streams, and those whose rental costs are supported by housing welfare payments.

62 IPPR, *Renting Beyond their Means*, (2020); Affordable Housing Commission final report, *Making Housing Affordable Again*, (2020); Joseph Rowntree Foundation, Elliot, J. & Earwalker, R. *Renters on low incomes face a policy black hole* (2021); Centre for Social Justice, (2022), *Levying Up*. For current waiting list statistics, see DLUHC, live table 600. It should be noted that not all people on the waiting list are in the private rented sector; some are already housed in SRS but are hoping to achieve more appropriate housing within that sector.

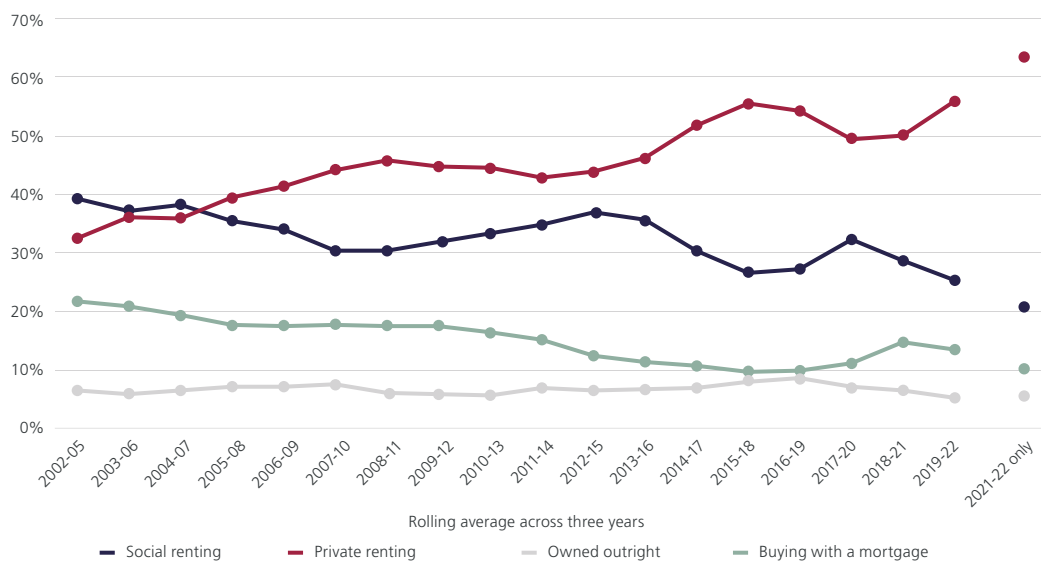
63 Prof. Nick Bailey, *Poverty and the re- growth of private renting in the UK, 1994-2018*. (2020)

64 Ibid. See Fig.5. We have done our own similar modeling based on this, using updated figures from the Family Resources Survey. (with the exception of the 'care of / rent free' category).



During the last twenty years, the picture has changed dramatically. Now, most of these households are accommodated in private rental accommodation, with a staggering shift observable over that period:

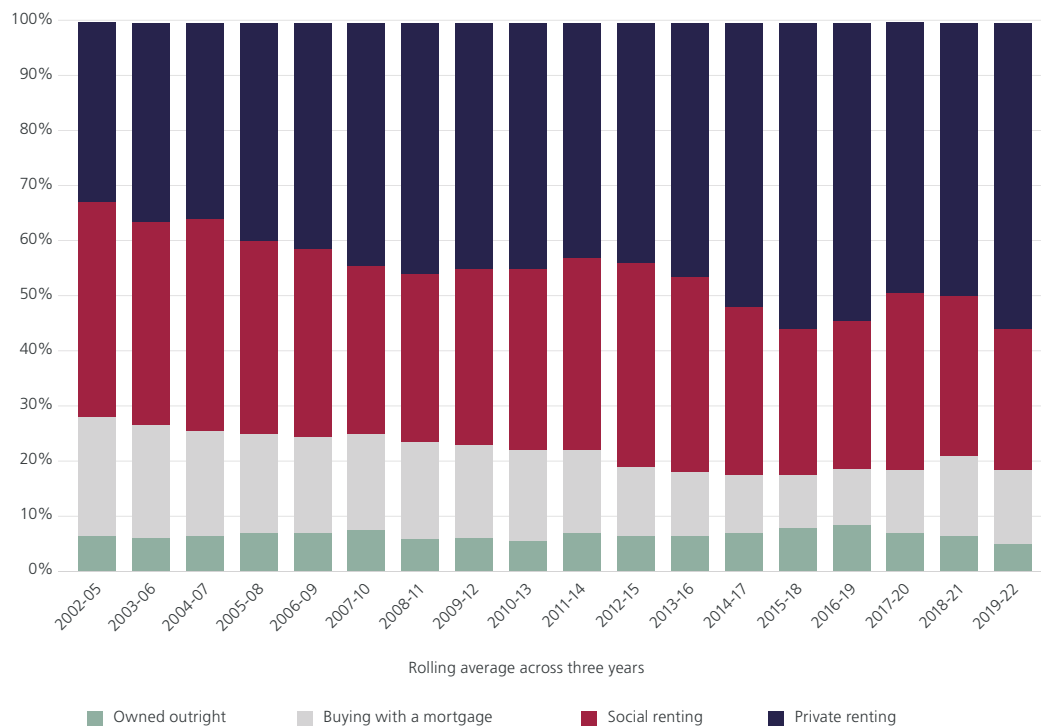
Figure 7: Share of young, low-income households in England by housing tenure:



Source: CSJ analysis of Family Resources Survey data; young households (headed by under-45s), with real-terms incomes of less than £200 per week, based on 3-year rolling averages.

As can be seen, more of the young, low-income households are living in rental accommodation, and more of those renting households are in the private sector. This can be seen clearly in the following graph which shows the annual tenancy distribution of this cohort:

Figure 8: Annual distribution of young, low-income households in England by housing tenure:



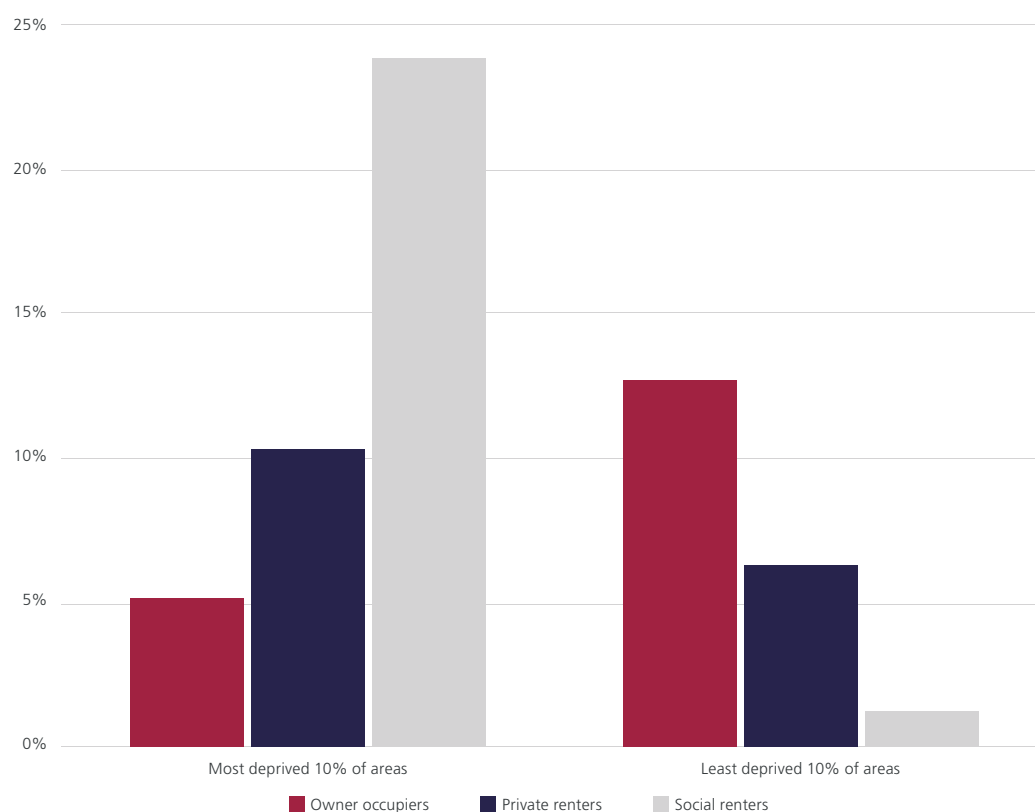
Source: CSJ analysis of Family Resources Survey data; young low-income households based on 3-year rolling averages.

This means that, increasingly, private rental sector accommodation is used by many households who would previously have lived in social housing. Legislative reforms to the sector, in addition to other policy measures such as welfare reform and enforcement measures, must take this into account.

Indeed, when analysed as raw figures (not rolling averages), the results show that between 2002-03 and 2021-22, the percentage of these households in social housing has almost halved (41% to 21%), and more than 63% are in the PRS.

Many of the residents in the PRS are in receipt of government support for covering their housing costs. The ONS demonstrate that for over a quarter (26 per cent) of PRS households, either the Household Reference Person or their partner are receiving housing support.<sup>65</sup> At the area level, more than double the proportion of tenants in the most deprived areas are housed within the PRS compared to the least deprived areas:

Figure 9: Most and least deprived areas, by tenure, 2020-21



Source: English Housing Survey, full household sample, Private Rented Sector, Figure 4.4.

The Government undertook a separate segmentation of PRS tenants for the purposes of its seminal *A Fairer Private Rented Sector* white paper.<sup>66</sup> It identified that 11 per cent of PRS households are “struggling families”. This amounts to 473,000 households, three quarters of which are lone parents with dependent children. Half of these families have challenges with paying rent and all are “very likely to be on low incomes without savings and receive housing support”.<sup>67</sup>

65 DLUHC, *English Housing Survey, Private Rented Sector, 2020-21*, p.32.

66 For this segmentation and the statistics we quote from it, see Department for Levelling Up, Housing, and Communities, *A Fairer Private Rented Sector* white paper (2022), pp.14-15.

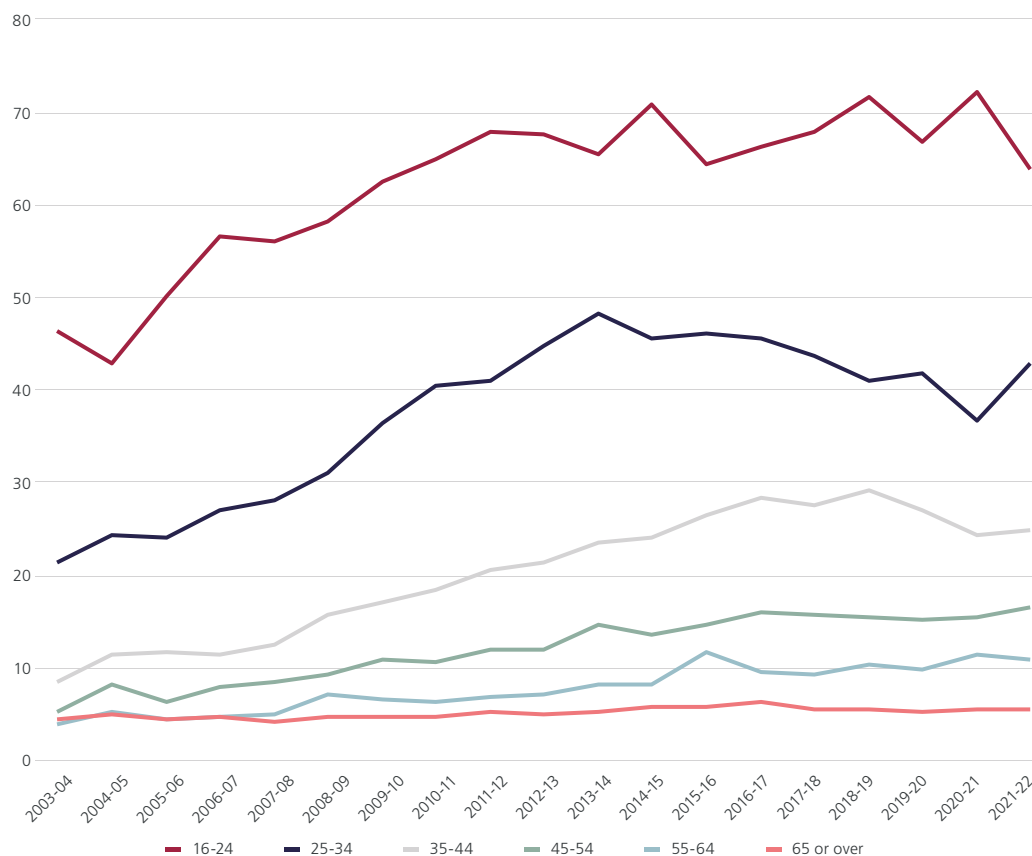
67 *Ibid.* p.15.

Another group identified by the segmentation is the “vulnerable singles” category. Just 1 in 5 of these tenants are in paid work and are “very likely to live alone and be on low income without savings”.<sup>68</sup> The group amounts to 424,000 households.

This means that any consideration of standards, regulation, and service quality within the PRS will necessarily need to bear in mind that a considerable proportion of the tenants within that sector are exposed to several social and financial vulnerabilities. This is not to say that regulation should differ for such households. On the contrary, all households should be able to have the same expectations for a decent home. However, policymakers should consider how households with specific vulnerabilities are protected effectively, such as through rigorous enforcement measures and accessible redress schemes.

The latest English Housing Survey data also demonstrates that over the last decade, the proportions of middle to older age groups living in the PRS has substantially increased. There are 210,000 more households aged 45-54 and 225,000 more households aged 55-64 living in the sector—increases from 12 per cent to 17 per cent and 7 per cent to 11 per cent respectively.<sup>69</sup> As can be seen, this means there is a trend towards households remaining within the PRS as they age.<sup>70</sup> This can be seen in the following breakdown of PRS tenure proportions by age:

Figure 10: Proportion of households in PRS by age of household reference person



Source: English Housing Survey 2021 to 2022, Annex Table 1.4: Age of household reference person, by tenure, 2003-04 to 2021-22

68 Ibid. p.15.

69 DLUHC, *English Housing Survey, Private Rented Sector, 2020-21*, paragraphs 1.19 to 1.20 respectively.

70 Albeit that this does not take account of household fragmentation as a driver of the overall increase in households.

## 2.3. Tenancies in the PRS

The relationship between tenants and their landlords is governed by a tenancy. Each tenancy in the PRS has to be established according to an accepted legal framework. These are grounded in law through statutes, English land law, and case law clarifying how statutes are to be applied. The available legal frameworks have changed substantially over the past half century as new statutes have been introduced, changing existing tenancies and introducing new ones.

The major turning point in policy came in 1988 with the Housing Act<sup>71</sup> which introduced the Assured Shorthold Tenancy, the most common PRS tenancy in use today.<sup>72</sup> Prior to 1988, tenancies tended to be Regulated—these operate under a system of regulated rents (known as ‘Fair Rent’) and strong rights for tenants, such as protection from eviction without a thorough court process.<sup>73</sup> At the time, less than 10 per cent of homes were in the PRS.<sup>74</sup>

None of the aforementioned tenancies cover lodging. These are classified as ‘Excluded’ tenancies.<sup>75</sup>

Tenancies in the social housing sector are, in general, different again. Most tenants have ‘secure’ or ‘assured’ tenancies which afford stronger rights of tenancy, rent control, room subletting, and in some cases the right to pass on the tenancy to others.<sup>76</sup> That said, many social housing providers do use assured shorthold tenancies, particularly for starter tenancies in the early years of an occupant’s residency in their dwellings.

Whilst it is possible for PRS landlords to elect to have an ‘assured’ tenancy, in practice these are rare; the introduction of the Assured Shorthold Tenancy was one key factor in enabling the dramatic increase in size of the PRS.<sup>77</sup>

The features of several tenancies, illustrating differences in regulation and tenure security, can be summarised as follows:

TENANCY	MAIN USAGE	EFFECTIVE FROM	DURATION / TENURE SECURITY	RENT RULES
<b>Assured Shorthold</b>	PRS	Housing Act 1988 (legislation) 1989 (effective)	Can be Fixed Term or Periodic. Possession can be sought without tenants being at fault, and without a specified reason (through Section 21) outside of a fixed term—2 months’ notice required.	Can be increased with 1 month’s notice (outside of fixed term), in line with local area market rates. Landlords can be challenged through tribunals.
<b>Assured</b>	Some PRS and most Social Housing	Housing Act 1988 (legislation) 1989 (effective)	Fixed Term or Periodic. Section 21 does not apply, meaning possession notices can only be served through specifying a reason under Section 8.	The same as those of Assured Shorthold tenancies (above, which are a type of Assured Tenancy).

71 UK Government legislation: Housing Act 1988.

72 UK Government, *Private renting for tenants: tenancy agreements*,

73 Ibid & Shelter, *Regulated Tenancies*, (2022)

74 DLUHC, Live Tables on Dwelling Stock, Live Table 104, (2023)

75 UK Government, *Private renting for tenants: tenancy agreements*

76 Housing Ombudsman, *Occupancy Rights*.

77 DLUHC (then MHCLG), *Overcoming the Barriers to Longer Tenancies in the Private Rented Sector*, (2018), p.7

TENANCY	MAIN USAGE	EFFECTIVE FROM	DURATION / TENURE SECURITY	RENT RULES
<b>Regulated</b>	PRS (legacy)	Rent Act 1977. Ended 1989, but longstanding tenancies are still effective	Possession can be sought only through court orders. Succession (inheriting the tenancy) is possible, at which point it becomes an Assured tenancy.	Tenants pay Fair Rent set by the Valuation Office Agency.
<b>Secure</b>	Social Housing (esp. Council Housing)	Created by Housing Act 1980	Lifetime tenancy, grounds for possession are limited. Succession is possible (ordinarily once, but repeatedly if agreements allow this).	Sub-market social rent as determined by the tenancy agreement and reviewed annually.

As can be seen, the Assured Shorthold Tenancy—by the most common form in the PRS—affords the lowest level of tenure security as compared to tenancies that precede it, or are currently available in the social housing sector. This is due to the availability of section 21 as a mechanism for seeking possession, which enables eviction without the specification of a reason and adjudication by a court as to its use being fair, just, and appropriate.

As we discuss later, this system lies at the heart of the issue of tenure insecurity in the PRS. It creates a dynamic in which tenants know they can be evicted at their landlord’s request with minimal limits (2 months’ notice) on the exercise of this power. This, in turn, has the effect of reducing tenants’ confidence to challenge landlords on the quality of service provision, building decency, and adherence to legal regulations.

Government statistics demonstrate that, currently, use of section 21 is by far the most common means used by landlords to effect an eviction from AST tenancies. Ending this—as is currently proposed—would involve a very significant change to the sector:

“Landlords evicting tenants in the last year most commonly did so by means of s. 21 (no fault eviction) notice. About a quarter said they used a s.8 notice, meaning the tenant had broken the terms of the tenancy agreement [...].

- Over two thirds (67 per cent) of landlords who evicted tenants or asked them to leave in the last year gave their tenants a section 21 notice. One in four (25 per cent) gave a section 8 notice. This is the notice that landlords can give if tenants have broken the terms of their tenancy.
- Over one quarter (27 per cent) said they asked their tenants to leave informally, and one in twenty (5 per cent) offered to pay the tenants to leave.”<sup>78</sup>

In assessing the merits of this system, it is necessary to consider what advantages to society and the common good Assured Shorthold Tenancies (with the possibility of using section 21) might bring. In a sense, it might seem incompatible with the common good that tenants have lower tenure security. Why would policy measures like this open the door to lower levels of security over something as important as their tenure in the homes within which they live?

The most plausible answer is that it lowers risk to landlords, and therefore encourages improvements in accommodation and rental service through encouraging capital investment. Other reasons include increasing flexibility for travelling workers and students.

78 DLUHC, *English Private Landlord Survey 2021: main report*, (2021),

Risk to investors is lowered by providing reassurance that possession of properties can be regained if it is needed for another purpose or a tenant is acting inappropriately. The presence of Section 21 as a possible eviction procedure reduces risk very strongly because it eliminates the possibility of litigation and protracted court proceedings to regain possession, thereby reducing possible costs.

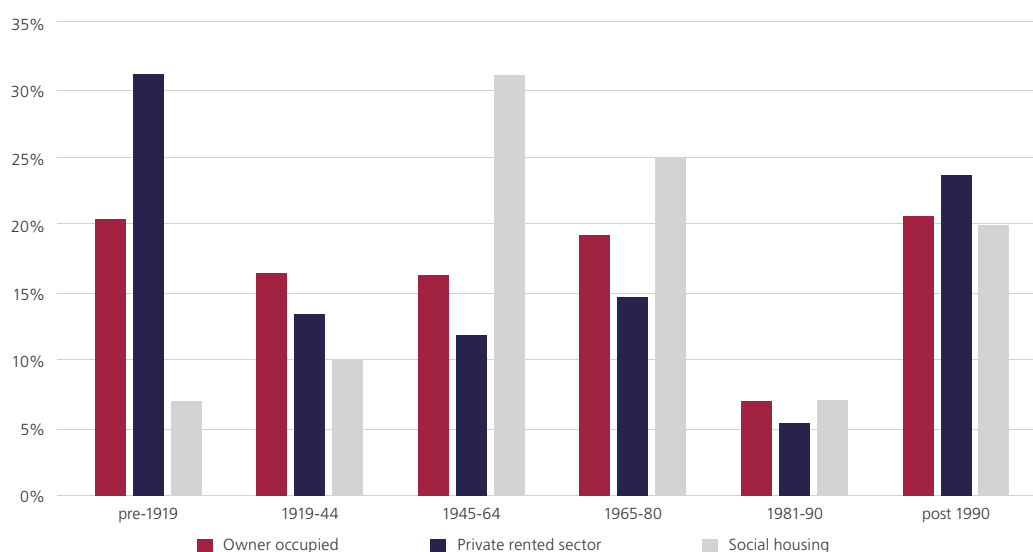
As Bentley points out, the introduction of section 21 meant that ‘the stage was set’ for a PRS expansion to take place, and this happened following “[...] the introduction of buy-to-let mortgages in 1996 which made it very much easier for small investors to buy property for private rental [...]” and “[...] the house price boom of the late 1990s and 2000s [...]”.<sup>79</sup> This expansion can be seen in the first and second figures of this paper.

## 2.4. Homes within the PRS

In addition to considering the people (both landlords and tenants) involved in the provision and use of PRS housing, we should also consider the variety of homes (buildings or ‘housing stock’) within the sector.

The first point of consideration is that, proportionally, more homes within the PRS are over 100 years old than homes that are owner-occupied or in the social rented sector:

Figure 11: Age of housing as proportion of stock within each sector:



Source: CSJ analysis of UK Government Data, Table DA1101 (SST1.1): Stock profile, 2020

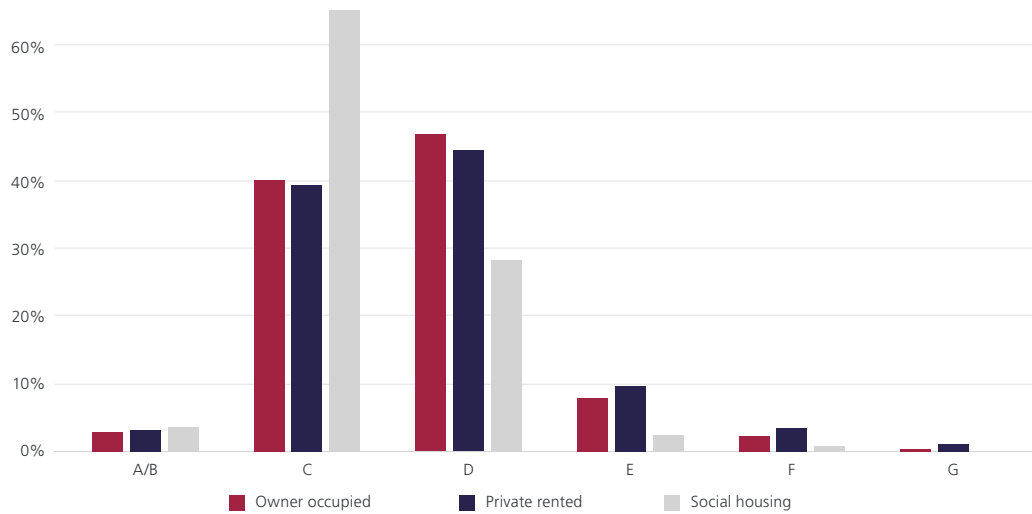
As a recent ONS study makes clear, “Age of the property is the biggest single factor in energy efficiency of homes”.<sup>80</sup> Only 12 per cent of homes assessed by the ONS that were built before 1900 have high levels of energy efficiency.<sup>81</sup> This gives some context as to why the PRS has more properties in the lowest three energy efficiency bands than any other tenure:

79 Daniel Bentley, *Civitas, The Future of Private Renting*, (2015), Ch.1. Bentley citing Paragon Group, ‘UK private rented sector and buy-to-let market 2013’, p.13.

80 Office for National Statistics (ONS), *Age of the property is the biggest single factor in energy efficiency of homes*, (2022)

81 *Ibid.*

Figure 12: Energy Efficiency Rating (EER) band, by per cent of dwellings in sector

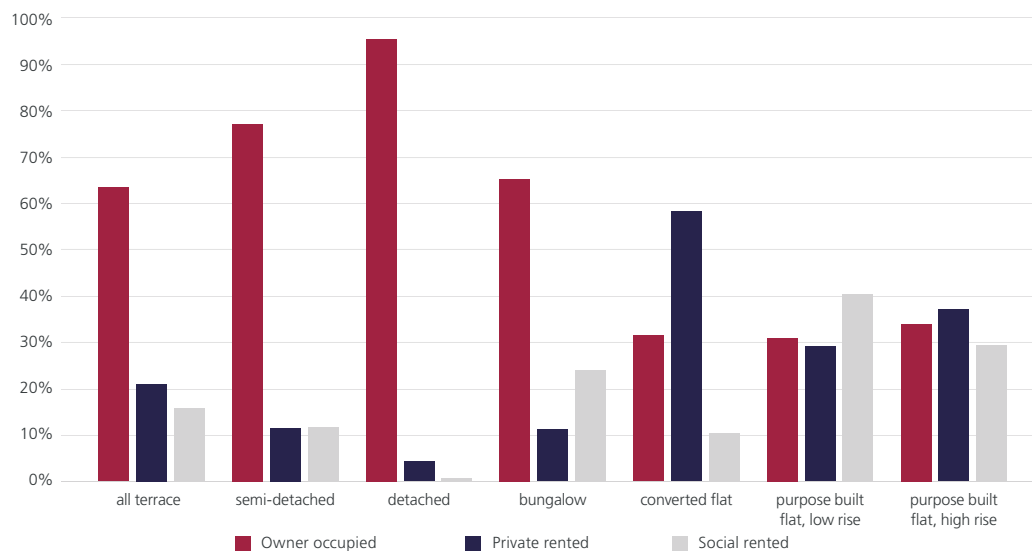


Source: UK Government Data, Table DA7101 (SST7.1): Energy performance – dwellings, 2020

It is also worth bearing in mind the dynamic nature of this picture. Whilst the PRS does have the highest proportions of energy-inefficient properties, it has also seen the most significant proportionate reduction in highly energy-inefficient properties over the last decade. In 2008, more than a fifth (21 per cent) of PRS properties were in the least energy efficient categories of F and G. By 2020, this had fallen to less than a twentieth (4.3 per cent)—a fall of over 16 percentage points; the highest of any sector.<sup>82</sup>

We can also see that there are distinctive characteristics when it comes to the types of dwellings within the PRS. As can be seen, there are relatively few detached homes in the PRS, and a far greater proportion of converted flats than other tenures:

Figure 13: Proportion of dwelling types by tenure

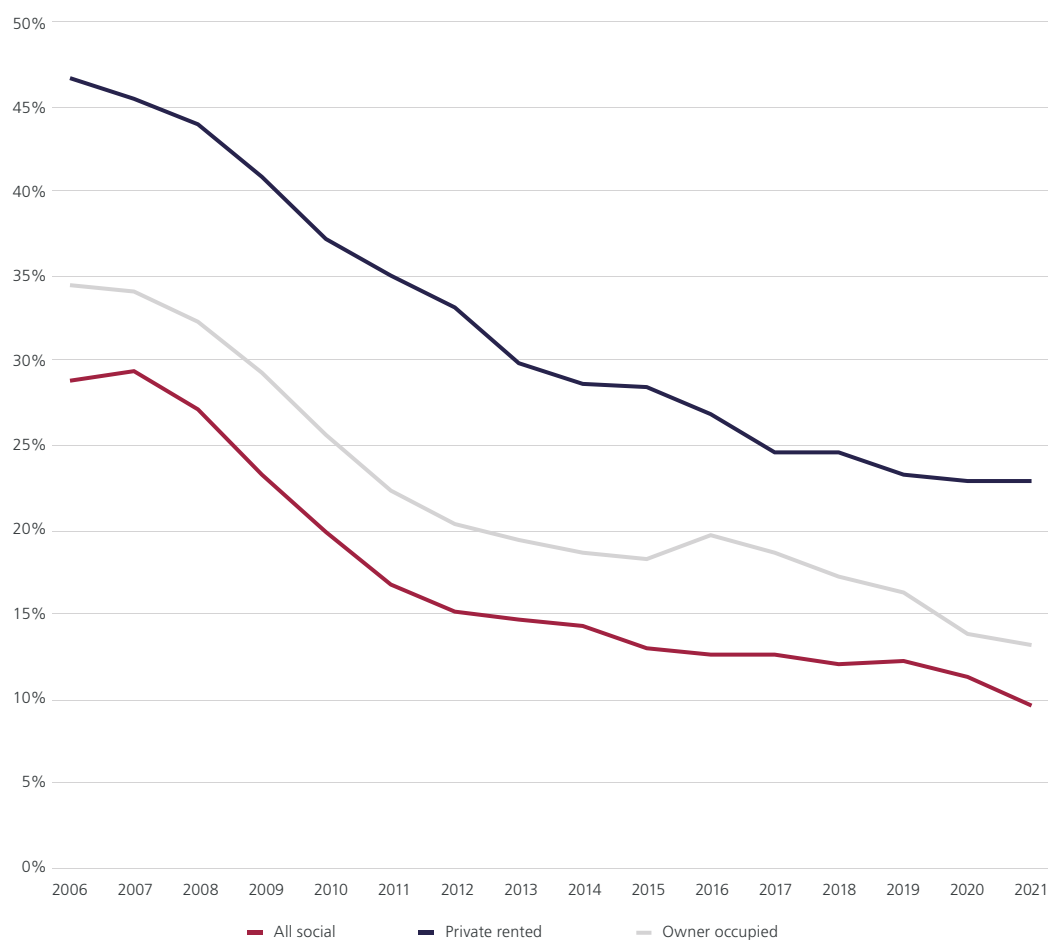


Source: CSJ Analysis of Table DA1101 (SST1.1): Stock profile, 2020

82 DLUHC, English Housing Survey data on energy performance, Table DA7101

This is significant because, as the ONS point out, converted flats are among the more likely types of property to be non-decent—fully 35 per cent of them do not meet the Decent Homes Standard, rising to 58 per cent in the North West of England.<sup>83</sup> Across the PRS, seen as compared to other sectors, the proportions of homes meeting the Decent Homes Standard over time are as follows:

*Figure 14: Percentage of non-decent homes, by tenure, 2006 to 2020:*



Source: English Housing Survey, Headline Report, 2020-21, Section 2, based on table 2.1 with underlying data (Annex table 2.3) and extended to 2006. See notes 1-7 regarding data sources and formats.

83 DLUHC, *English Housing Survey: Housing quality and condition, 2020* p.5.



## The Decent Homes Standard and Housing Health and Safety

The Decent Homes Standard is a set of requirements, last updated by the Government in 2006, designed originally to regulate the quality of housing in the Social Rented Sector. It is not currently legally applicable to the PRS or owner-occupied properties, although homes in those sectors can still be assessed against it. It comprises regulations in four categories, such that “A decent home meets the following four criteria:

- a, It meets the current statutory minimum standard for housing [...]
- b, It is in a reasonable state of repair [...]
- c, It has reasonably modern facilities and services [...]
- d, It provides a reasonable degree of thermal comfort [...]<sup>84</sup>

Within point (A) of this standard, all dwellings are required to avoid having any ‘Category 1 Hazards’ as defined by the Housing Health and Safety Rating System. The Government’s framework is constructed such that “Each hazard has a weighting which will help determine whether the property is rated as having category 1 (serious) or category 2 (other)<sup>85</sup>. The hazards are grouped into four categories<sup>86</sup>:

- a, Physiological Requirements, including Hygrothermal Conditions (damp, mould, excess cold and heat) and Pollutants (for example, asbestos and carbon monoxide)
- b, Psychological Requirements (for example, crowding / space, security, light and noise)
- c, Protection against infection (for example, sanitation, water supply, refuse)
- d, Protection against accidents (including falls, electric shocks, fires, and collisions)

All properties can be inspected under this system—including all rented and privately owner-occupied homes, and all rented homes must, by law, comply with the safety standards.<sup>87</sup> In the case of privately rented homes, tenants have the right to request an inspection from the local authority if they believe their home is not compliant with these standards.<sup>88</sup>

If hazards are discovered, the local authority can then serve a variety of notices on the landlord ranging from a ‘Hazard awareness notice’ to a ‘Prohibition order’ (preventing or restricting occupancy of the dwelling).<sup>89</sup>

84 DLUHC (then DCLG) *A Decent Home: Definition and guidance for implementation*, (2006), Section 4, pp.11-13.

85 Office of the Deputy Prime Minister, *Housing Health and Safety Rating System: Operating Guidance*, (2004),

86 *Ibid.* §The Hazard Profiles, p.51.

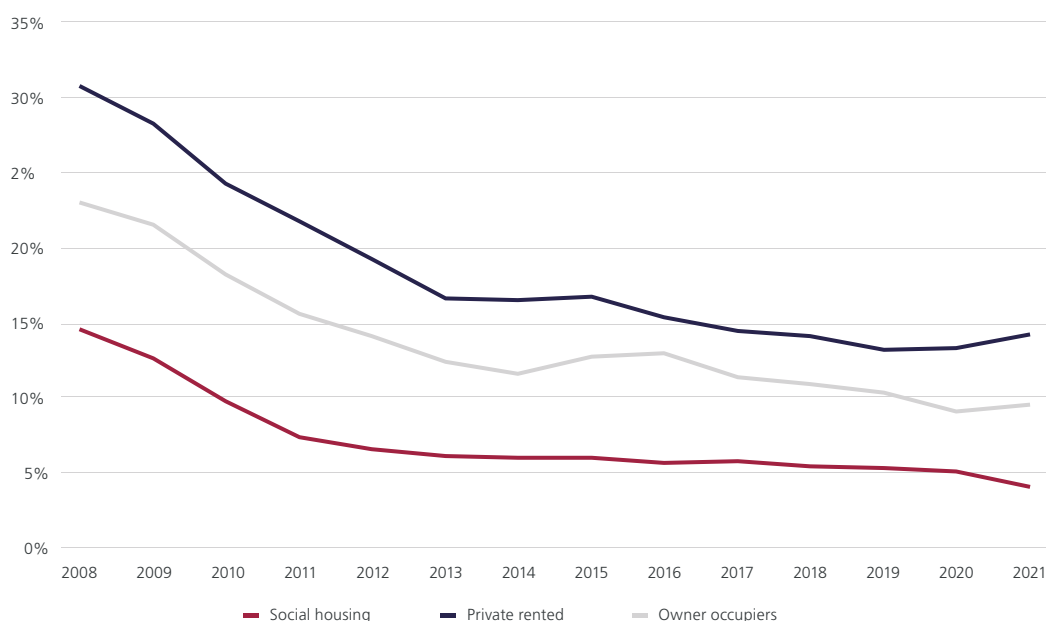
87 National Audit Office, *Regulation of private renting*, (2021), p.21.

88 See the guide prepared for tenants by Shelter for details of this process: Shelter, *Health and safety standards for rented homes (HHSRS)*, (2022). Some local authorities have guides specifically related to regulating PRS properties, for example, that of Cotswold District Council.

89 Shelter, *Health and safety standards for rented homes (HHSRS)*, (2022).

As can be seen, the PRS is the residential accommodation tenure with the most homes with Category 1 hazards:

Figure 15: Percentage of homes with category 1 hazards, by tenure, 2008-2020:



Source: CSJ Analysis of English Housing Survey data, Headline Report, 2020-21, Annex Table 2.4: HHSRS Category 1 Hazards, by tenure, 2008-2020 (revised)

In terms of the underlying causes of PRS Category 1 Hazards, a private company which conducts compliance inspections, VeriSmart, identified that 40 per cent of these Category 1 hazards are due to “a missing or non-functional smoke detector”, and 26 per cent are due to “a danger of falling on stairs and between or on separate levels of a house”.<sup>90</sup>

## 2.5. Regulation of the PRS

Landlords and agents are required, by law, to meet a range of legal standards across a variety of areas. These include, but are not limited to, aspects of the building fabric (such as gas and electrical safety, meeting building regulations, and ensuring the energy efficiency of the building is adequately rated), aspects of administration (such as establishing and complying with a legal tenancy and adequately verifying a tenant’s right to rent) and financial matters (ensuring tenant deposits are protected, ensuring sufficient insurance is in place). Tenancies are governed by both the legal frameworks for them (established in, among other pieces of legislation, the Housing Act 1988) and consumer protection law.<sup>91</sup>

Current regulation of the PRS involves a range of rules and institutions which govern the relationship between landlords, lettings agents, and tenants and set expectations regarding letting practices and accommodation quality. A systematic review of regulation in the PRS conducted by the National Audit Office (NAO) concluded that “The sector is highly complex and shaped by multiple intersecting policy areas across government [...]”<sup>92</sup>.

90 See these as reported in *Property Reporter: What are the most common hazards being missed by buy-to-let landlords?* (2019).

91 Shelter, *Assured Tenancy Definition*, (2021).

92 National Audit Office, *Regulation of private renting*, (2021), p.17.

At the top level of government, the Department for Levelling Up, Housing, and Communities “[...] sets the overall policy and regulatory framework”<sup>93</sup>. However, other Departments also hold key responsibilities that have considerable effects on the regulation of PRS housing, including the Department for Energy Security and Net Zero (energy efficiency), the Department for Work and Pensions (governing, for example, Local Housing Allowance rates and payments), and the Ministry of Justice (governing court processes for disputes).<sup>94</sup>

Whilst overall responsibility lies with the top level of government, all regulatory implementation is undertaken by the “308 lower-tier or single-tier local authorities in England”<sup>95</sup>. Each council has “autonomy to choose how they regulate based on local priorities and have a range of investigative and enforcement tools available to them.”<sup>96</sup>

The NAO make clear that, for some of these tools, implementation is a requirement, such as licensing of Houses in Multiple Occupation (HMOs).<sup>97</sup> Other operations are discretionary, such as the implementation of selective licensing which is present in certain local authorities and differs from place to place depending on the local authority’s design of the licensing scheme.<sup>98</sup> Within local authorities, housing, trading standards, and letting agency teams oversee regulation and enforcement of different parts of the PRS.<sup>99</sup>

In addition to local authorities’ powers, other national bodies are crucial stakeholders in the operation of the PRS and its standards. These include the Competition and Markets Authority; industry bodies which advocate on behalf of, and provide advice to, tenants, letting agents, and landlords; client money and deposit protection schemes; redress schemes (such as the Property Redress Scheme and Property Ombudsman); and the various courts that may deal with housing cases.<sup>100</sup>

As can be ascertained from this brief summary, the regulation of the industry is complex and subject to considerable variation across administrative authorities. This matters because it increases complexity for housing providers whose portfolios do not necessarily map on to a single local authority in a tidy way.

The Government conducted a study of compliance among PRS landlords. The exercise segmented the landlord population into four clusters which have been detailed in the English Private Landlord Survey statistical analysis report<sup>101</sup> and the recent white paper *A Fairer Private Rented Sector*<sup>102</sup>.

It must be noted that the segmentation does *not* cover the worst (*criminal*) landlords, as the tenant deposit schemes, from which the analysis data are drawn, are unlikely to be a reliable indication of criminal landlord behaviour.

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93 Ibid. p.13.

94 Ibid. p.17. N.B. The NAO report was prepared at the end of 2021 prior to the early 2023 reorganisation of the Department for Business, Energy, and Industrial Strategy.

95 Ibid. p.16.

96 Ibid.

97 Ibid.

98 DLUHC (formerly DCLG), *Selective licensing in the private rented sector*, (2015).

99 National Audit Office, *Regulation of private renting*, (2021)

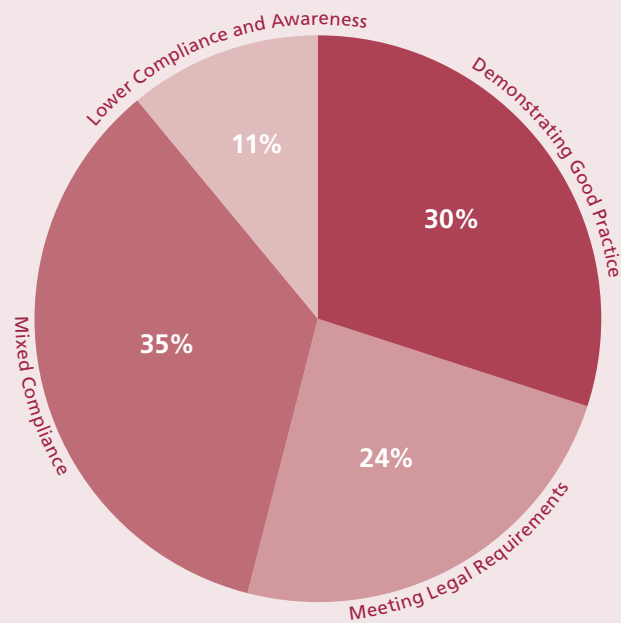
100 See the schematic chart prepared by the NAO (ibid), Figure 2, p. 15.

101 DLUHC, *English Private Landlord Survey: segmenting private landlord compliance*, (2022).

102 DLUHC, *A Fairer Private Rented Sector* white paper (2022), pp.80-81.

The four types are as follows:

*Figure 16: Landlords by Business Practices and Legal Compliance*



Criminal Landlords (number unknown as data unavailable)

### “Demonstrating good practice – 30 per cent

Landlords most likely to be compliant with both legislation and good practice indicators.

- Most likely to get information from a landlord organisation
- Larger portfolios of properties including HMOs
- Let to students
- Bought with intention of letting
- Most likely to have buy to let mortgage

### Meeting legal requirements – 24 per cent

Landlords likely to be compliant with most legislation, though less likely to be compliant with good practice indicators.

- Get information from [GOV.UK](https://www.gov.uk), online forums and other websites
- Larger portfolio of properties
- Let to a range of tenants including white collar workers and professionals
- See properties as investment for rental income
- More likely to be in work and separate from letting practice

## Mixed compliance – 35 per cent

Landlords likely to report mixed compliance with legislation for last let, though many comply with good practice indicators.

- Get information from online sources and their letting agents
- Likely to have 1 or 2 properties only
- More likely to have rental income under £10,000 p/a
- More likely to be retired
- Unlikely to have a loan or borrowing

## Lower compliance and awareness – 11 per cent

Landlords least likely to be compliant with either legislation or good practice indicators.

- Get information from informal sources
- Likely to have 1 or 2 properties only
- Most likely to be concerned with tenant behaviour
- Bought first property to live in themselves
- In work separate to landlord practice<sup>103</sup>

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103 DLUHC, *English Private Landlord Survey: segmenting private landlord compliance*, (2022).

## Part Two

# Challenges, Legal Reform, and Excellence in the PRS

Against the backdrop of the PRS as a whole, and its distinctive features as part of the UK's housing ecosystem, we can now turn to issues faced by the sector and contemporary tenant and practitioner voices, with a particular focus on neighbourhoods with high levels of multiple deprivation and low-income residents.

Several areas of challenge are addressed, and for each area, we look at the issue—and its impact on tenants and their communities—and proposed changes to legislation and regulation. We then make recommendations as to the shape future legislation should take and how landlords can demonstrate excellence in these areas of accommodation provision.

Our approach has been to focus on identifying the areas and cases of poor PRS provision, the reduction of which strongly grounds the Government's overall housing strategy, for example as set out in the Levelling Up white paper: "Too many households still live in housing below standards society should accept. [...] Poor quality housing is not spread evenly across the country [...]." <sup>104</sup>

For this reason, we conducted two in-depth, two-hour roundtables with tenants and housing professionals in March 2023, convened by frontline charities connected to the CSJ Foundation's network.

These enabled us to glean insights from residents who had wide experience of the local rental market and associated issues, as well as the insights of housing professionals with decades of experience encompassing hundreds, if not thousands, of cases. In both cases, the roundtables were located in areas with high levels of social deprivation (top 3 per cent most deprived according to the Index of Multiple Deprivation). <sup>105</sup>

The discussions have enabled us to understand and illustrate the key issues through the voices of those with experience of poor PRS housing. It is not the intention to construe these cases as representative of the entire sector. As we have made clear, there is much excellent private rental accommodation and there are many excellent landlords. Indeed, several quotations highlight this. The reason reform is needed is to clamp down on rogue and absentee landlords who are failing in their legal and moral responsibilities. The qualitative evidence we have gathered illustrates clearly the need for this.

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104 DLUHC, *Levelling Up the United Kingdom*, (2022), p.222

105 DLUHC (formerly DCLG), *Indices of Deprivation: 2019 and 2015*.

We also convened a roundtable with leading sector experts, including representatives from the Housing Ombudsman, National Residential Landlords Association, Capital Letters, Castleforge Partners, and two community sector PRS landlords: Back on the Map (Hendon, Sunderland) and Community Campus 87 (Stockton-on-Tees). These are locally rooted charities with a very strong understanding of their local areas.

In what follows, we quote extensively from these discussions. We are very grateful for the input from those that attended the roundtables. They shared some very distressing experiences; the likes of which policy reform is needed to prevent in the future.

## Chapter 3: Secure Tenures

At the heart of a rental relationship is the tenancy—the formal contractual rules which govern the terms on which a tenant occupies the property.

Between different housing sectors (social / private) and different legal jurisdictions (countries in the UK and beyond), these terms can vary substantially—for example, around their length of tenancies, the grounds on which a landlord can end a tenancy, and the amount of notice landlords must give before possession of a property can be regained. The legal framework of statute and case law has a very significant role in determining the contours within which these parameters fall in a given legal framework. This, in turn, has a major effect on the experience of tenants—which is why rental reform matters.

In England, where the proposed reforms will apply, research from academics at the University of Warwick has shown that England's PRS has standard tenancies that are “considerably shorter than most other jurisdictions [...]” and that “[m]any other jurisdictions have longer notice periods and place various restrictions and limitations on the landlord's ability to resume possession”.<sup>106</sup>

It is in this context that, for several years, reform to standard PRS tenancy rules in England has been a significant issue in housing policy discussion. Central to this is reform to Section 21 of the Housing Act 1988 which grounds the legal right of landlords to evict tenants, even if they are not at fault in any way.<sup>107</sup>

Theresa May's Government committed to ending 'no-fault' evictions<sup>108</sup>, as did the 2019 Conservative Party Manifesto<sup>109</sup>. The Government's 2022 white paper, *A Fairer Private Rented Sector*, commits to doing this, as did the Government in the recent Queen's Speech<sup>110</sup>, promising this as a core part of the Renters Reform Bill:

“Abolishing so-called 'no fault' evictions by removing Section 21 of the Housing Act 1988, providing security for tenants in the private rented sector and empowering them to challenge poor practice and unfair rent increases without fear of retaliatory eviction”<sup>111</sup>.

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<sup>106</sup> Centre for Human Rights in Practice, Warwick University, *Comparing the rights of private sector tenants in England with those in other jurisdictions*, pp.5-6.

<sup>107</sup> UK Government, Housing and Local Services, *Being a landlord and renting out a room: Evicting tenants (England and Wales)*.

<sup>108</sup> Ashley Cowburn, *The Independent*, Article: *Theresa May pledges to abolish 'no-fault' eviction powers for landlords in overhaul of private rental sector*, (2019).

<sup>109</sup> Conservative Party, *Manifesto*, (2019), p.29.

<sup>110</sup> Prime Minister's Office, *The Queen's Speech 2022*, (2022), p.67.

<sup>111</sup> *Ibid*.

### 3.1. Why Tenancy Reform Matters

In our qualitative research, it was made clear that the possibility of Section 21 eviction does cause anxiousness among tenants. As one participant put it,

*“You can feel terrified... It’s scary”.*

Another put it this way:

*“I think with private renting, it’s the constant anxiety. I’ve lived in loads of private rented, and will always regret leaving my council property.”*

As is clear from such remarks, the terms of tenancy, particularly around eviction rules, can have a serious and material effect on the ability of tenants to feel they can enjoy a property with security. The power dynamic created between landlord and tenant has several follow-on impacts, including tenants’ feelings of being able to seek redress when a landlord has not provided adequate service. For example, as one participant put it,

*“That was always the thing in the back of my mind. Always that little thing in the back of my head: If I’m going to confront you for something I need doing, or I know you’re not going to be minded to do for me, are you going to evict me?”*

This also relates significantly to tenants’ feelings of being able to request repairs. As one participant, a housing charity leader with decades of frontline experience in supporting those experiencing homelessness, put it:

*“I think tenants put up with a lot of stuff from landlords in terms of repairs. I’ve seen some terrible properties in terms of repairs. [...] Not much expectation. There is the fear of that—an eviction or a landlord saying, “you can leave”.”*

The need to improve opportunities for redress, service quality, and physical building fabric are key topics for PRS reform in their own right. It is vital, though, at this stage to emphasise the great extent to which the dynamic between tenant and landlord, in a significant way framed by the legal structure of tenancies, has a material impact on provision in these areas.

Specifically on tenancy reform, this raises the question of how the law ought to operate in future. Participants expressed a clear view that they preferred a system under which reasons had to be given for evictions:

**Interviewer:** *“If no-fault evictions were stopped, but the possibility of the other type of eviction (S8 with reason) remains, then would that make a difference? Would that improve things?”*

**Participant:** *“Yes, because then at least they’ve got to have a reason, which makes more sense. Of course, people have got to protect their own property too when they rent it out, when someone’s damaging it, then, yes. But without reason, certainly not. That’s the problem.”*

**Interviewer:** *“If you knew they had to give a reason, would it give you more confidence to challenge a landlord?”*

**Participant:** *“Yes, especially if you knew you weren’t doing the things that you’d been accused of. Or if there’s a reason—that something had happened—that you could explain.”*



## 3.2. Excellence in Tenancy Rules

What might excellence look like when it comes to landlord practices around evictions? Leading commercial and community sector landlords we interviewed said that Section 21 was not the right approach to evictions. As one put it,

“Ending the S21—fine—we never used it. We didn’t think it was ethically right.”

Another landlord sector participant said,

“If you’re only evicting with a legitimate reason, then S21 going makes no odds.”

Yet another said,

“I agree with [participant] about Section 21. When we do refurbishments, we’ll work with people under Section 8.”

Excellence from a PRS provider perspective, then, would—at present—involve avoidance of using S21 unless absolutely necessary. Clearly, though, there does need to be a just and efficient system to enable landlords to regain possession where this becomes necessary. As a community-sector landlord put it, “there does need to be an accelerated process to evict people for some landlords, because it’s such a lengthy process and a costly process in terms of lost rent.”

Previous CSJ research has also emphasised the need for longer tenancies—we have previously recommended introducing a standard 4-year tenancy<sup>112</sup> which is reflective of the average term of residence in the PRS.

As a sector-leading PRS lettings organisation for low-cost accommodation put it, “We’ve been set up to only procure two-year ASTs. It’s all about creating stability for homeless families so they can put roots down in communities”. This is substantially longer than the current 6-month period of guaranteed tenure security tenants have under the current system.

The second key element of excellence for providers in the PRS would therefore involve going above and beyond the current AST fixed term of 6 months and giving tenants the right to reside in the property for a longer period (ideally 2 years or longer), whilst retaining their right to leave the tenancy with two months’ notice. This would, of course, not involve waiving landlords’ statutory rights to make evictions under Section 8 for issues such as rent arrears and anti-social behaviour.

In addition to these issues, landlords aiming for excellence should work proactively with tenants where possession must be sought for no fault to find alternative accommodation. For larger landlords, for example, this might involve identifying alternative accommodation within their portfolio. This is an example where scale can be an advantage when it comes to delivering excellent service in the PRS.

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112 Centre for Social Justice, *Putting Down Roots*, (2019), p.37 (Recommendation 2)

### 3.3. Reforming Tenancies in the PRS

The CSJ continues to support the abolition of Section 21 ‘no-fault’ evictions, as recommended in our reports *Putting Down Roots*<sup>113</sup> and *Pillars of Community*<sup>114</sup>. The Government should press ahead with this as the Renters (Reform) Bill passes through Parliament.

The crucial question is how to make this workable. As many landlords related to us, going through the judicial system can be very costly and time-consuming. As the aforementioned community-sector landlord put it regarding the “lengthy process and a costly process in terms of lost rent”, this is a serious issue. As highlighted above, this undermines the certainty available to landlords which will have an effect in disincentivising investment in the sector as returns are less sure.

We found evidence in our qualitative research of tenants accepting this point, too, whilst recognising the need for a fair balance with a tenant’s right to security of tenure. For example, as one related to us,

*“I understand as a tenant that landlords have to have their own rights too so we don’t burn the place down. But it’s got to be a better balance”.*

The key issue here is ensuring that Section 8, the alternative to Section 21 for seeking possession of a property, is reformed to be sufficiently workable. We therefore support reform to Section 8 as an essential counterpart to the abolition of Section 21. This will help ensure that landlords, and indeed residents, have reassurance such that investment and supply in the PRS are not unduly disincentivised. As we outline below, it will also ensure tenants and the community are supported through a robust approach to the prevention of anti-social behaviour. We therefore support the Government’s plan to:

“[...] reform grounds of possession so that they are comprehensive, fair, and efficient, striking a balance between protecting tenants’ security and landlords’ right to manage their property.”<sup>115</sup>

Specifically, we support the Government’s plans to introduce mandatory grounds for:

- “Landlords who wish to sell their property”<sup>116</sup>
- Enabling “[...] landlords and their close family members to move into a rental property.”<sup>117</sup>
- Landlords wishing to evict tenants with “repeated serious arrears”.<sup>118</sup>

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113 *ibid.* Recommendation 3

114 Centre for Social Justice, *Pillars of Community*, (2021) p.36.

115 DLUHC, *A Fairer Private Rented Sector* white paper (2022), §3.1.

116 *ibid.* p.33.

117 *ibid.*

118 *ibid.*

## Recommendation 1

The Government should make good on its intention to abolish Section 21 of the Housing Act 1988. In doing so, it should simultaneously overhaul Section 8 to strengthen the rights of landlords where appropriate, including stronger grounds for possession for landlords wishing to sell their properties, landlords or their close family members are wanting to move into their property, where there have been repeated serious rent arrears, and where there has been damage to property by tenants or anti-social behaviour.

In addition to this, there are several particular concerns regarding tenure rules that the Government should examine going forward. For example, lettings and estate agency representative body Propertymark has advocated introducing *mandatory* grounds for breach of contract, acquiring a tenancy by using false identification, damage over the amount of the deposit, and tenants refusing access to the property.<sup>119</sup>

This matters not merely for ensuring that management of rental property is workable and not inimical to investment, but also because it interacts with homelessness legislation. As Propertymark point out, “Currently a tenant may not be offered assistance to prevent homelessness if the ground for eviction is discretionary, if all grounds are mandatory then tenants will be supported to prevent homelessness by the local authority”<sup>120</sup>. The Government should consider the merits of ensuring mandatory grounds are available for these circumstances.

Two areas that merit particular attention are the grounds for possession available for undertaking major works to buildings, and the systems available for mitigating anti-social behaviour. We address these in respective sections below.

There is also a question regarding the standard length and structure of tenancies. The CSJ has previously recommended introducing a Standard Tenancy based on a fixed term of four years to reflect the average stay in a rented home.<sup>121</sup> During this term, renters—but not landlords—would have the right of exit after an initial 6 months by giving two months’ notice in writing. Landlords would not be able to end the tenancy except under specific conditions through a reformed Section 8 procedure, with conditions including antisocial behaviour, non-payment of rent, and wanting to move into or sell the property.

We are pleased that the Government has listened. As can be seen, the *Fairer Private Rented Sector* white paper suggests something close to this, without the fixed-term element—proposing instead that all tenancies become periodic<sup>122</sup> rather than fixed-term (with the exception of purpose-built student accommodation (PBSA) which cannot ordinarily be let to non-students).<sup>123</sup> Indeed, this amounts to the full abolition of fixed-term tenancies except for this exemption.

119 Propertymark, *Technical consultation on consequential changes to the homelessness legislation: Written Response from Propertymark* (2023).

120 Ibid. Point 4.

121 Centre for Social Justice, *Putting Down Roots*, (2019), §Summary of a standard tenancy, p.45.

122 A periodic tenancy is one with no fixed end date, structured by a specified, rolling period of time—typically, periodic tenancies work on a rolling monthly basis.

123 DLUHC, *A Fairer Private Rented Sector*, (2022), §3.1.

We concur with the view of the Levelling-Up, Housing, and Communities Select Committee which argues in its recent paper that “The abolition of fixed-term tenancies, combined with the abolition of section 21, would undoubtedly give tenants greater security of tenure.”<sup>124</sup> They recognise, however, that there is a need for a level of guaranteed rental payment for landlords to make the system a fair balance. It cannot simply consist of rolling one-month periodic tenancies with a short notice period.

For this reason they propose (in line with our recommendation in *Putting Down Roots*) that the tenancies should be subject to a minimum period of four months, followed by a two month notice period, meaning that landlords would be guaranteed an initial 6 months’ income in line with current AST practice.<sup>125</sup> They argue that fixed-term tenancies should remain in place for the whole of the student lettings sector—not just PBSA.<sup>126</sup> We support this recommendation, as well as the proposal to end all fixed-term tenancies, by moving to a new Standard Tenancy which is periodic except for in the student sector.

### Recommendation 2

The Government should reform Assured Shorthold and Shorthold tenancies and bring about a Standard Tenancy which is periodic, leaving fixed-term tenancies only for the general student Private Rented Sector (PRS) market. This tenancy should be subject to a four-month initial period, after which a notice to quit becomes feasible subject to a two-month notice period.

## Chapter 4: Decent Homes

When the Conservative Party manifesto of 1951 argued that “Housing is the first of the social services”<sup>127</sup>, it was clear to its authors that good accommodation is crucial for a flourishing home life. Unfortunately, inadequate PRS accommodation is too common—15 per cent of all PRS homes in England had Category 1 Hazards in 2021, as can be seen in Figure 15 above.

As discussed, the rate of improvement over the last decade has been strongest in the PRS. Nevertheless, there is much more to be done—it is Government policy that homes should be free from Category 1 hazards as made clear by the fact that local authorities are not merely empowered, but have a *duty* to act where they occur.

We can also see that a similar trend is present when looking at non-decent homes, as defined by the Decent Homes Standard. The PRS has the largest proportion of non-decent homes, but has also seen the most significant rate of improvement, as attested by figure 14.

124 House of Commons, Levelling-Up, Housing, and Communities Select Committee, *Reforming the Private Rented Sector*, p.13.

125 Ibid.

126 Ibid. p.14.

127 Conservative Party, *1951 Conservative Party General Election Manifesto*, [www.conservativemanifesto.com](http://www.conservativemanifesto.com)

## 4.1. Why Building Quality Matters

Participants spoke of the importance of privacy and space in their accommodation. When asked about what matters in the physical fabric of a home, one put it this way:

*“Spacious rooms are important; and the facilities. Having a kitchen—I like my cooking. Having a private kitchen matters. I’ve tried bedsits before where you do share with others. Especially bathrooms where you just don’t want to go in. When you share kitchens [shakes head] no, no. It’s not nice. It’s difficult to have a rota. Having your own facilities is definitely important.”*

Poor quality building fabric—and a lack of attention to them—has a severe impact on tenants’ and their families’ lives. In our qualitative research, participants spoke movingly of the issues they have faced. One participant said:

*“We had a leak. The pipes flooded the house and we’ve still got the same kitchen. All of the wood on one of the cupboards, it’s just... it smells because of the water damage and everything. They won’t fix it.”*

Another described a horrific structural failure in the house, and her landlord’s lack of action:

*“My ceiling came down. I had a leak in my bath and the ceiling had come down into the kitchen. I phoned her and I was like “I need this sorting straight away. I’ve got three kids in the house. One’s a brand new baby, and the others are teenagers. Get it sorted.” She was like, “You’ll have to wait [...]”*”

A further participant spoke of severe issues in a property, and a landlord’s neglect, even when the tenant had personally improved the dwelling:

*“I had a house on [X street]. It was an absolute dive when I moved in. I’d done it up; new cupboards, kitchens, and so forth. But the damp was just unbearable. It got to the point where my boys were in the front room. Black mould was growing up the walls and round the windows. I was cleaning it 3-4 times per week just to keep on top of it. The plumbing was horrendous—I’d got leaks under the sink. I could never find the stop cock.*

*Every time I asked them where the stop cock was, they said “Oh, it’s in the cupboard. It’s in the cupboard...”. But I could never find the stop cock. I phoned them up because we had a massive leak in the kitchen. The cupboard under the sink was just completely rotted. He [the landlord] wouldn’t do anything to fix anything.”*

Tragically, this participant’s landlord decided to evict the tenants with a very short notice rather than work to fix the problem:

*“I got a phone call telling us he was selling the house from under us. And I had to get out. As you can imagine it was really upsetting. Three kids. As you can imagine it was really hard to get out of that situation [Tenant breaking up into tears] but I had to move. ... He didn’t give us any sort of letter to tenants, anything; he just said, on the phone, you’ve got a month to get out.”*

The themes of adequacy, timeliness, and communication around repairs came out repeatedly when it comes to ensuring good quality building fabric. As one participant observed, based on their experience of living in an absentee landlord's property:

*"I feel like the safety of a house depends on whether you can contact your landlord and say, "We've had a problem with the house, can you please come out and help us?" We had one time when the ceiling in the kitchen came in from the bathroom. It took two years to get the walls and everything re-done. [...] I really do think the safety of the house depends on the people you can contact. He's not contactable because his number's either foreign or just not reachable."*

These observations demonstrate how closely connected a landlord's willingness and ability to facilitate proper administration is to the adequate maintenance of a property. Given the importance of this, we turn to the topic of administration in the next section.

## 4.2. Excellence in PRS Accommodation

It is obvious that excellence in accommodation cannot be achieved without meeting minimum statutory standards of health and safety. These include compliance required under the Physiological, Psychological, Infection, and Accident elements of the Housing Health and Safety Rating System. Further, as part of this bare minimum, landlords would need to meet their obligations under the Homes (Fitness for Human Habitation) Act 2018 which requires all PRS landlords to:

"ensure that their properties, including any common parts of the building, are fit for human habitation at the beginning of the tenancy and throughout."<sup>128</sup>

Landlords would also need to meet any requirements specific to the type of property they are operating—for example, for Houses in Multiple Occupation<sup>129</sup> or forms of locally-mandated standards.

Excellence, though, would mean going beyond what is minimally required. The Decent Homes Standard is not presently mandated by law as a legal standard in the PRS—it applies to the Social Rented Sector, but there is significant discussion and government consultation as to whether it should be introduced in the PRS.<sup>130</sup>

Meeting the Decent Homes Standard is, we believe, a component of excellence in PRS accommodation provision. Its criteria cover some of the health and safety rules that are legally required (for example, meeting standards to ensure homes are free from HHSRS Category 1 hazards). The others go beyond this, but are not particularly stringent:

- E) "It meets the current statutory minimum standard for housing [...]"
- F) It is in a reasonable state of repair [...]"
- G) It has reasonably modern facilities and services [...]"
- H) It provides a reasonable degree of thermal comfort [...]"<sup>131</sup>

128 DLUHC (Formerly MHCLG) *Guide for Landlords: Homes (Fitness for Human Habitation) Act 2018*.

129 See Shelter, *Houses in multiple occupation (HMO)* (2022), and UK Government, *Private Renting: Houses in multiple occupation*.

130 DLUHC, *Closed consultation: A Decent Homes Standard in the private rented sector: consultation*, (2022).

131 DLUHC (formerly DCLG), *A Decent Home: Definition and guidance for implementation* (2006). Section 4, pp.11-13.

These standards, though, have faced calls for being updated and mandated in the PRS, and a Government consultation was recently held on that subject.<sup>132</sup> As such, they can hardly be considered a *standard* of excellence, but would certainly be an element of it. Excellent accommodation would need to exceed this standard. This clearly raises the question of *by how far?*

One might be tempted to imagine ‘excellent’ accommodation in the PRS as needing to have very high-end luxury facilities; designer interiors, concierge services, and the like. This would be a mistake—excellence and luxury are conceptually distinct. A key element of excellent provision, when it comes to PRS accommodation, concerns *value for money*. This means offering high standards relative to the cost of rent (which, in turn, will be proportionate to the prices prevailing in the relevant local market).

For example, a low-cost housing provider could be excellent without providing high-end and flashy facilities such as fitness suites. Nevertheless, it would require high standards in core provision of accommodation, such as:

- Security—such as natural surveillance, and locking systems
- Insulation—both thermal and acoustic
- Systems, such as for plumbing, heating, and ventilation
- Freshness and good condition of flooring, paint, fixtures and fittings, and so forth
- Well-maintained, usable outdoor space (where reasonably available)
- Good aesthetic taste, incorporating tasteful and tidy architecture and interior design where possible
- Where appropriate, respect for the heritage of the building and built environment
- Keeping very high administrative standards kept ensuring that maintenance is prompt, minimally disruptive, high-quality, and well-communicated. We address this in the next section.

It is true that some aspects of excellence are subjective. However, this does not mean that objective study of opinion in built environment aesthetics cannot be undertaken as has been done effectively by, for example, the *Building Better, Building Beautiful* commission.<sup>133</sup>

### 4.3. Reforming regulations to improve PRS accommodation quality

The NRLA point out, rightly, that at present, regulation of the PRS is highly piecemeal as it is based on numerous pieces of legislation; fully 168 at the NRLA’s estimation.<sup>134</sup> For a sector with many landlords with small portfolios (including of one and two properties) this is a highly unsatisfactory situation.

We agree with the NRLA’s that “Regulation, which is poorly understood, of which there is little awareness, and in respect of which too little enforcement is carried out is clearly not serving the purpose for which it was intended.”<sup>135</sup>

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132 DLUHC, *Closed consultation: A Decent Homes Standard in the private rented sector: consultation*, (2022).

133 UK Government web site, *Building Better, Building Beautiful Commission*, (2019).

134 James Wood, National Residential Landlords Association, *Not under-regulated but under-enforced: the legislation affecting private landlords in England* (2021)

135 National Residential Landlords Association (NRLA), *Decent Homes and the Private Rented Sector*, p.9.

Applying a standard of decency, similar to the Decent Homes Standard, to the PRS is a good idea in principle. Done well, it should have a simplifying and consolidating effect. It is right that the Government has suggested it in its *Levelling Up*<sup>136</sup> and *Fairer Private Rented Sector*<sup>137</sup> white papers.

We recognise, though, that applying this standard would need to be bespoke to the PRS—it is, as has been set out comprehensively above, a very different sector with very different housing stock. The concept of ‘decency’ should not differ broadly, but its application may well.

The NRLA’s proposed ‘three pillar’ structure for a Decent Homes Standard would entail the following:

- “All rental properties must meet the statutory minimum standard for housing and in so doing must be free of category one hazards.
- All rental properties must be in a decent state of repair.
- All rental properties must meet the statutory minimum for energy efficiency.”<sup>138</sup>

### Recommendation 3

The Government should introduce a clear, coherent Decent Homes Standard for the PRS which considers the nuances of the housing stock and profile of the sector.

Meeting strong standards of energy efficiency is important, not merely because of environmental concerns but—especially where tenants have modest financial means, for enabling cost-effective heating of homes. As part of this, the Government should continue to consider where the Minimum Energy Efficiency Standards (MEES) might be feasibly updated to improve the energy efficiency of rental property.

We note the recommendation made by the Housing and Communities Select Committee that criterion D (thermal comfort) of a PRS Decent Homes Standard should incorporate compliance with the Minimum Energy Efficiency Standard (MEES) criteria.<sup>139</sup> The Government should take this into account when considering reforms and continue to consult with the sector as to the viability of policy changes.

In addition, MEES itself is also in need of being updated. Currently, PRS properties must meet an EPC standard of E, unless exempt for specific reasons such as unduly high costs of building remediation, property devaluation, consent of a prospective tenant, and recency of becoming a landlord.<sup>140</sup>

136 DLUHC, *Levelling Up the United Kingdom*, (2022), p.xxvi.

137 DLUHC, *A Fairer Private Rented Sector* white paper (2022), p.24.

138 National Residential Landlords Association (NRLA), *Decent Homes and the Private Rented Sector*, p.14.

139 House of Commons, Levelling Up, Housing, and Communities Committee, *Reforming the Private Rented Sector*, (2023), p.69

140 UK Government, *Domestic private rented property: minimum energy efficiency standard - landlord guidance* (2017, updated 2023). See §Registering an exemption



This itself is not a particularly high bar, and we should aim for a PRS which, in general, has higher standards where reaching them is practically feasible and financially viable. For this reason, we support the Government's aspiration for "all fuel poor homes to be upgraded to be EPC Band C by 2035 where practical, cost-effective and affordable".<sup>141</sup>

Clearly, the burdens of meeting this will fall unevenly on different landlords depending on the age and type of stock in their portfolios. The Government should therefore retain exemptions that currently exist where appropriate and provide financial incentives to landlords for whom remediation works would be excessive and unviable.

As mentioned above, the proposed changes to eviction rules interact significantly with the ability of housing organisations to carry out major works for building repair. In the PRS, landlords can be encouraged to upgrade the energy efficiency of buildings, but this can be a challenge where one building contains multiple tenants and there is a need to carry out major structural work and refurbishment.

This can affect any privately rented building. However, it is particularly salient in apartment buildings with a large number of residents. Indeed, as LSE research demonstrates, tower blocks in the UK are especially susceptible to poor energy efficiency:

"[...] with many built in the 1960's and 1970's at a time when energy was relatively cheap, they can be draughty, expensive, cold and damp places to live."<sup>142</sup>

Indeed, research for an EU-backed initiative to address this issue found that "Europe's streets full of grand old buildings bring tourists from around the globe, yet it isn't the ornate 19th-century brick buildings that are the least energy efficient, but rather the reinforced concrete structures which gained popularity after World War II."<sup>143</sup>

In England, the removal of Section 21 poses a threat to investment in buildings such as these which would reduce energy inefficiency through major structural works.

This is because, presently, if a landlord wishes to gain possession of the building for the purpose of undertaking such works (where continued occupation during that time would be unfeasible), a Section 21 notice can be issued.

However, with Section 21 being closed, this would leave only Section 8 open as a channel for seeking possession for the purpose of undertaking major works.

Presently, Section 8 of the Housing Act 1988 provides a ground for seeking possession (Ground 6) where "The landlord who is seeking possession or [...] a superior landlord intends to demolish or reconstruct the whole or a substantial part of the dwelling-house or to carry out substantial works [...]".<sup>144</sup>

This ground can only apply if a number of conditions are met. These include the condition that:

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141 Department for Business, Energy, and Industrial Strategy, *The Clean Growth Strategy*, (2017), p.13.

142 London School of Economics, Centre for Analysis of Social Exclusion (CASE), Housing and Communities, *High Rise Hope*, (2012), p.1.

143 European Commission web site, Horizon magazine, *Taking on Europe's concrete tower block energy challenge* (2017).

144 UK Government Legislation, Housing Act 1988, Schedule 2, *Grounds for Possession of Dwelling-houses let on Assured Tenancies* (1988 + amended periodically, correct at 5th May 2023), Ground 6.

“either the landlord seeking possession acquired his interest in the dwelling-house before the grant of the tenancy or that interest was in existence at the time of that grant and neither that landlord (or, in the case of joint landlords, any of them) nor any other person who, alone or jointly with others, has acquired that interest since that time acquired it for money or money’s worth; [...]”<sup>145</sup>.

In essence, this means that it is not possible to acquire a property with any significant number of sitting tenants with a view to undertaking repair or upgrade works at some later date since the interest would have been acquired after the start of the tenancies.

As a result, this leads to two issues:

1. Firstly, it *incentivises* the eviction of tenants earlier than otherwise necessary—prior to the sale of a property—to enable sales to a landlord wishing to undertake such works on buildings. This is not good for tenants.
2. Secondly, it *disincentivises* investment in residential property with a view to upgrading it to improve structural integrity, amenities, aesthetics, and, crucially, energy efficiency and environmental impact. This is because the lack of a secure mechanism for seeking possession for the purpose of major works increases uncertainty and risk substantially.

As a result, the closure of Section 21 necessitates—as the Government rightly recognised in its white paper—a reformed Section 8 to ensure adverse consequences are not created.

#### **Recommendation 4**

To ensure major building works are viable, and therefore to incentivise investment in upgrading the environmental efficiency of residential accommodation, we recommend removing condition (b) from Ground 6 set out in Schedule 2 of the Housing Act 1988.

## Chapter 5: Affordable Rents

Sustaining a tenancy in the PRS—or any other rental sector for that matter—is dependent upon payment of rent. This is a major issue for residents across all housing tenures except for outright homeowners, with mortgage rates rising, “affordable housing” routinely seen as true to its name, and PRS rents rising.

The Joseph Rowntree Foundation argue that “renters on low incomes face a policy black hole”<sup>146</sup>. They find that there are almost 1,000,000 families paying rents they cannot afford. This was undertaken in late 2021; with rising inflation and scant uplift to state housing welfare support, this situation is getting worse not better.

<sup>145</sup> Ibid, condition (b).

<sup>146</sup> Joseph Rowntree Foundation, Elliot, J. & Earwalker, R. *Renters on low incomes face a policy black hole* (2021)

The English Housing Survey makes clear that “Compared to the other tenures, private renters spend more on weekly rent (£198) than social renters (£102) and have higher weekly housing costs compared to mortgagors (£174) [...]”.<sup>147</sup>

The Affordable Housing Commission, assessing housing affordability in a detailed national study, concluded that:

“[...] it is in the PRS that the greatest problems are found, with 2 million households in potential difficulty. These households represent 43 per cent of all households renting privately. Moreover, the households devoting 40 per cent or more of their incomes to rent – the group at highest risk – are mostly in the private rented sector: there are over 1 million of these in the lower half of incomes.”<sup>148</sup> This matters especially because across the country, private rents have been rising:

*Figure 17: Index of Private Housing Rental Prices percentage change over 12 months in England, January 2012 to April 2023*



Source: Office for National Statistics (ONS), *Index of Private Housing Rental Prices, UK: April 2023*.

During this time, pressure has increased on low-income households’ finances as Local Housing Allowance (LHA) rates have been frozen since 2020<sup>149</sup> which means that as prices rise, families dependent upon state support for covering housing can face the need to tighten already-squeezed household budgets elsewhere to cover rent, or face moving away—often from important support networks (such as schools, jobs, and family) in their local community.

<sup>147</sup> DLUHC, *English Housing Survey, Private Rented Sector, 2020-21*, p.17

<sup>148</sup> Affordable Housing Commission final report, *Making Housing Affordable Again* (2020),

<sup>149</sup> Peter Apps, *Inside Housing, Spring Budget 2023: sector figures express ‘disappointment’ over lack of decarbonisation and welfare commitments*

## 5.1. Why PRS Affordability Matters

Our qualitative research participants shared how housing affordability is a key issue for them and the stability of their lives. This matters right from the very beginning of setting up tenure in a home, where it is necessary to put down a deposit. As one participant put it:

*“I’ve privately rented three different properties over the space of 9-10 years. Initially I found it’s a massive financial layout when you start renting because you’ve got to put your deposit down at the start—I think it was about 1.5 times your monthly rent, so you’ve got to have all that upfront which is, when you first start, it’s difficult.”*

In one of our roundtables, participants described extreme changes in rents: “Someone rents at £600 where previously it might have been £350”.

Another talked of how anxiety is a ‘constant’ when it comes to the possibility of unexpected increases in rent costs:

*“[...] but it’s that kind of constant “If they do, can I afford it? ... what am I going to do? What are my options?” I don’t want to move, but it’s then finding the money to actually move if I have to.”*

It was discussed how Local Housing Allowance rates were too low to cover sufficient rent. As a result, paying a “top up” out of other funds (non-housing benefits) has become routine for some:

*“I had a private rental where I had to pay £750 before I even moved into it, got into it, and had to pay £350 for a rent, then an extra £70 top up every week. So, every week it was an extra £70 top up. It was an absolute nightmare. We were there for nine years.”*

This has not only the effect of creating anxiety in the short term, but also frustration about the long-term financial impact of being trapped between high PRS rents (which undermines savings potential) and the large deposit needed to purchase a home of sufficient size to accommodate a family with children. As one participant simply put it,

*“It breaks my heart on a daily basis paying somebody else’s mortgage. Every single month.”*

As we have discussed before, and as has been well documented elsewhere, housing affordability is a multi-level structural problem in the UK with no straightforward and simple solutions—either in public policy or from private enterprise. A longstanding failure to meet national housing needs has led to this point, and a long-term, strategic approach is needed to address the issue.

Nevertheless, there are some things that housing providers and Government can do to address this issue.

## 5.2. Excellence in providing affordable PRS accommodation

Firstly, those looking to invest in residential property might consider creating a portfolio with quality, affordable rental properties—or diversifying an existing property in that direction. Much investment in PRS property is high-end, especially for Build to Rent. Excellence, particularly for large-scale housing providers can involve seeking to add to the stock of rental properties which are genuinely affordable.

As a sector-leading lettings organisation for low-cost PRS properties related to us,

*“The problem is doing that for a cohort of people who can only afford very low rent. Often at LHA levels. Often on benefits, low income, or a mixture of both. They can’t pay more, but the market allows people to charge more. It’s not about saying landlords are bad, but about helping them. Many want to work in this space but can’t because they also have bills to pay. For example, mortgages are going up! So, the bigger challenge is how do we increase the supply of really truly affordable housing?”*

Investors might also look to acquire ageing housing stock in areas with poor housing quality and low investment levels, with a view to improving it to good quality standards. There are great examples of community organisations doing this, and there are examples of national charitable organisations seeking to finance such projects.

As one participant also pointed out to us, based on extensive experience of finding low-cost PRS housing, there should be a good basic standard of decency for all. However, too often, this is lacking at the lower end of the market:

*“[...] regardless of affordability, there should be a good, basic standard—free of damp and mould. Safe, good quality homes. At whatever price point. But often [it is the] lower end of the market that gets the less investment. If we want to improve that, we need to think differently about how they are funded.”*

In addition, landlords might seek—where possible—to ease the burden of the initial housing cost outlay for future tenants by allowing them to have reduced deposit arrangements when setting up tenancies. This might also include participation in market-led schemes to enable ‘deposit passporting’ between properties so that tenants don’t need to raise an additional deposit to bridge themselves between rentals. This will enable the Government to gather better evidence as to how innovation in this area can develop in the future. As they write in the PRS white paper:

“We plan to [...] monitor market-led solutions that aim to reduce the problems experienced during the overlap between tenancies with our expert industry-based working groups [...]”<sup>150</sup>

Excellent provision for renters with tight budgets or facing financial hardship might include a supportive, policy-led approach to rent. This includes having a clear, transparent, predictable, and fair approach to rent reviews. It could also include some flexibility where there are arrears, working to offer terms that extend somewhat beyond legal minimums where tenants are in especially challenged financial circumstances.

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150 DLUHC, *A Fairer Private Rented Sector* white paper (2022), p.59

There may well be reasons as to why this latter point would be unfeasible for some landlords, but maybe easier for those who are not leveraged and have some degree of scale. As such, this criterion wouldn't be classed as a 'requirement' for the label of 'excellence' but would be a factor in exhibiting excellent practice for a landlord serving tenants who are financially stretched.

Further, excellence in low-cost rental accommodation provision would entail a familiarity with the challenges renters in the area might face, as well as how best to support them in case of any financial hardship. This might include, for example:

- Familiarity with the welfare system, including how Universal Credit / Housing Benefit, and Local Housing Allowance work.
- Knowledge of how the Local Authority might assist tenants with financial challenges, such as job centres and other statutory support services.
- Knowledge of charitable and social support organisations who can assist with factors such as money management, debt, addiction, training opportunities, counselling, and finding employment.

In addition to this, good practice can also be encouraged through legislative and policy reform.

### 5.3. Affordability and PRS Reform

Government, too, has a role in supporting affordability in the PRS. One key issue which needs to be addressed is the question of a supposed "landlord exodus" in the sector. The concern is that the reforms to tenancy rules will lead to a significant contraction in the number of landlords. The concern is that this will fuel unaffordability due to an exacerbated imbalance of supply and demand.

This argument can be greatly overstated, and it is important to bear in mind five key countervailing considerations.

Firstly, despite the tightening of rules in recent years (including the ending of buy-to-let mortgage tax reliefs and increases in stamp duty), the sector has nevertheless increased in size. As *Landlord Today* reported this year, "[...] the overall size of the PRS has grown by 2.4 per cent across England since 2019, with 4.876m properties"<sup>151</sup>.

Secondly, a smaller number of *landlords* is not the same thing as a smaller number of *properties* available to rent. This is because smaller buy-to-let landlords can easily sell to other, larger landlords with increased scale. The Bank of England reported that agents observe it is "smaller buy-to-let landlords" that are leaving the market<sup>152</sup>. In a sector where a 43 per cent of landlords have just one property<sup>153</sup>, it is perfectly possible for a contraction in suppliers to take place without a considerable contraction in homes supplied.

Indeed, in the wake of these reforms, a move to a sector with larger scale landlords is broadly expected: as Savills write regarding the Renters Reform Bill, "[a]ll this points to the professionalisation of the sector"<sup>154</sup>.

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151 *Landlord Today, Revealed – the size and value of the UK's private rental sector*, (2023). This references the number of PRS homes in the Government's dwelling stock data; see DLUHC's Live Table 104.

152 Bank of England, *Agents' Summary of Business Conditions – Q1 2023*. (2023).

153 DLUHC, *English Private Landlords Survey 2021, (2022)*, Annex Tables, Fig. 1.2.

154 Savills, *Mainstream Residential Property Forecasts*, (November 2022), p.2.

Thirdly, Savills also argue that there may be something of an increased supply of rental homes from ‘accidental landlords’ as those needing to sell a property (for example, due to a family member passing away) may wish to wait until the property market is less uncertain, and therefore opt to rent for several years<sup>155</sup>.

Fourthly, as we have highlighted, the PRS has grown as owner-occupation has shrunk over the last two decades. If the sale of some PRS properties enables a greater supply of homes to become owner-occupied, and more households to get onto the housing ladder, then that is by no means a bad outcome for society. There is, of course, a major undersupply of housing in general which needs to be addressed across all sectors—including in the PRS—and this must be tackled head-on as an issue in its own right<sup>156</sup>. We need to build more homes available to buy and to rent across the board.

Fifthly, as we are strongly recommending in this report, the reforms proposed to Section 8 and elsewhere will give landlords reassurance that investment in PRS property is still viable and welcome in today’s market.

As such, alarmism over a “landlord exodus” is not well-founded, and we should not be afraid of reforming the sector due to this.

Having considered this, we can turn to several measures that the Government can undertake to support affordability in the sector.

Firstly, since many renters struggle with deposits, and can struggle when moving house due to needing to raise a new deposit for a new rental, we strongly support the Government’s proposal to “monitor market-led solutions that aim to reduce the problems experienced during the overlap between tenancies [...]”<sup>157</sup>.

### **Recommendation 5**

The Government should monitor market-led solutions that aim to reduce the problems experienced during the overlap between tenancies and examine the case for whether national roll-outs or pilot programmes would be feasible.

The *Fairer Private Rented Sector* white paper also outlined the Government’s intention to maintain and introduce measures giving tenants greater powers to challenge unjustified or disproportionate rent rises.

It is right to that, in general, rent control policies can lead to very substantial unintended consequences, including severe allocative inefficiencies. On this basis, it would not be right to reintroduce systematic rent controls.

<sup>155</sup> Savills, *ibid.* p.1.

<sup>156</sup> See, for example, Centre for Social Justice *Levying Up*,

<sup>157</sup> DLUHC, *A Fairer Private Rented Sector* white paper (2022), p.59

However, there is a need for households to have sufficient predictability in their personal and family finances and to prevent abuse of the system. As the Government rightly point out, “Any attempts to evict tenants through unjustified rent increases are unacceptable.”<sup>158</sup>

The Government outlined its intention to introduce several measures to prevent abuse and ensure tenants are able to plan their financial arrangements with greater confidence. These include to:

- “[...] only allow increases to rent once per year (replicating existing mechanisms) [...]”
- “[...] increase the minimum notice period landlords must provide of any change in rent to two months”
- “[...] end the use of rent review clauses, preventing tenants being locked into automatic rent increases that are vague or may not reflect changes in the market price”<sup>159</sup>

We support the introduction of these measures, and recommend the following:

### **Recommendation 6**

The Government should fulfil its intention to replicate the existing system of allowing rent increases only once per year, increase the minimum notice period needed for any change in rent to two months, and end the use of rent review clauses.

Regarding fiscal support for housing costs, the Government should review the freeze on Local Housing Allowance (LHA) rates. These rates determine the generosity of housing welfare support in a given local area. They have been subject to erratic and unpredictable policy changes which have several negative consequences. Most recently, previous freezes were undone with LHA rates set at 30% of the Broad Rental Market Area prices as at September 2019—a measure taken due to the Covid-19 pandemic.<sup>160</sup> However, they have been frozen at that level ever since.

One negative consequence of this is that households face a progressive squeeze on their finances as rents rise, in many cases significantly due to high levels of inflation, and their levels of housing welfare support remain the same. This means households need to move to new accommodation, which might well be in a quite different location, when they can no longer viably afford the rent as it rises above the rate of benefit provision. This leads not merely to the disruption of facing eviction, but also the possibility that children are moved further away from school and families away from their workplaces and social support networks.

The second—longer term—issue is that the unpredictability of fluctuating LHA rates stymies investment in affordable housing. As has been pointed out by research from the Investment Property Forum, the freezing of LHA presents risks to low-cost rental housing investors and is therefore a deterrent to investment. They explain that “the freezing of Local Housing Allowance (LHA) in cash terms from 2021/2022 is anticipated to see a rise in rent arrears for the sector”<sup>161</sup>.

158 DLUHC, *A Fairer Private Rented Sector*, (2022), p.38.

159 *Ibid.*

160 Institute for Fiscal Studies, *Freezes in housing support widen geographic disparities for low-income renters* (2023).

161 Impact Investing Institute, *Is there an investment case for social and affordable housing in the UK?* (2021). p.75



This is especially significant because the relatively low-yielding returns on affordable rental accommodation can be acceptable to investors if the returns have the favourable characteristic of low volatility. Freezing LHA rates, unfortunately, has the consequence of increasing volatility, and therefore has a particularly negative effect on large-scale institutional investment.

For both of these reasons, we recommend the following:

### **Recommendation 7**

The Government should review the freeze on Local Housing Allowance. When fiscal headroom allows this could be re-based at 30% of Broad Rental Market Area prices.

## Chapter 6: Excellent Customer Service

Residential rental accommodation is a service industry. Tenants rightly expect there to be good quality customer service as part of their rental agreement. It is essential for providing the peace of mind that tenants need to enjoy a safe, secure, peaceful home life.

As was discussed in the previous section, tenants we interviewed strongly emphasised the importance of a trusting tenant-landlord relationship, substantiated by high quality customer service, as being essential to a good renting experience. This includes the communication around, and promptness and quality of, repairs—but goes beyond this.

At a national level, we can see that this is an important issue. Overall, the picture is quite positive. The English Housing Survey makes clear that “The majority of private renters were satisfied with the services provided by their landlord (80 per cent). They were more likely to be satisfied than social renters (72 per cent) or leaseholder owners (58 per cent) and were overall more likely to say they were very satisfied with the landlord/freeholder services than the other tenures [...]”<sup>162</sup>.

However, the remaining minority of renters who are dissatisfied with services provided nevertheless represents a substantial number. This needs to be addressed since it is a crucial element of good accommodation.

**More than 1 million privately renting households in England (24 per cent) are dissatisfied with their tenure, and over half a million (12.8 per cent) are dissatisfied with the services provided by their landlord.**<sup>163</sup>

This context means that addressing customer service should be a key priority when it comes to PRS reform, focusing on addressing the significant minority of households who are not satisfied with customer service provision.

<sup>162</sup> DLUHC, *English Housing Survey: Private Rented Sector 2020-21*, §1.29

<sup>163</sup> English Housing Survey 2020-2021: Private Rented Sector, Annex Tables 1.23 & 1.21 respectively.

## 6.1. Why Customer Service Matters

In our qualitative research, we heard repeatedly from participants about the strong importance of a positive and well-functioning tenant-landlord relationship, as exemplified through excellent customer service.

We highlighted above how customer service is intimately related to building quality; repairs need to be communicated well and executed in a timely fashion. Landlord absenteeism (the opposite of good customer service) is therefore utterly inimical to a decent living experience in the PRS.

One participant perceived there to be a material risk of having low PRS service quality in their local area, dependent upon the landlord in question:

*“If you’re lucky, and you get a decent landlord, and they just say “Yep, we’ll sort it. We’ll get someone on the way. Sorted.” Then you think, great. But you might get someone who’s like, “no, I’m not really interested”. And that’s where the problem can arise”.*

Charity staff with longstanding experience of supporting PRS tenants in socially and economically challenged areas in the North East said the pattern of poor service quality is widespread due a lackadaisical attitude on the part of some landlords, and indeed outright absenteeism:

*“A lot of the problems and issues; it’s because we’ve got a lot of absent landlords in the area. They don’t even come up and purchase. They do it all online. They’ll stick some money [on a property], but they’ve never been to the area. They don’t see the people they’re putting into the properties. It’s a massive issue.”*

Another North East participant, based in a different city, concurred with the above issue regarding non-local landlords and absenteeism:

*“A lot of the landlords [here] are from elsewhere. It’s just an investment. They see it on an auction for 30 grand [...] The North East has a lot of absentee landlords. Most rental properties, the landlords have only got one or two. They don’t have a lot of experience in housing law or repairs.”*

When asked whether non-local landlords could avoid being absentees from an administrative perspective through working with agents, a participant commented that:

*“Sometimes they do work with agents. Sometimes they don’t. But you can doubt the scrutiny among agents as well to be fair—they’re not all above board and doing everything transparently. Definitely not.”*

Yet another related a terrible experience where there was a lack of clarity and buck-passing between landlord and agent, resulting in appalling customer service deficiencies:

*"It was the first time I'd actually met him face-to-face because I went through a company in the town. I'd never met him. It was all through the company. I'd phoned him, phoned and phoned... and he wouldn't answer. He'd finally answer and say "What d'ya want?" and he'd just say "Just phone them... [the agent]". They'd say, "Look, it's not our problem, you'll have to contact the landlord". I'd say "I've contacted the landlord and he's not listening". You just shake your head."*

Another participant highlighted the issue as follows:

*"Most of them, it's directly with a landlord. So, with a landlord, it's different to agencies. Some landlords, when you ring them, they don't answer you. I have my friend... many things are damaging his house. The landlord says, "No, I can't afford it". [...] My landlord was a very nice man. But he didn't know a lot. He only owned this house, so he has no experience."*

A community-sector PRS housing support worker related how absenteeism and a lack of communication can have repercussions not only for tenants, but for residents of neighbouring properties affected by issues that are not promptly dealt with:

*"We've got an issue right now with one of our properties with the next door [property]. There's a leak next door that is coming through to ours. They're not answering the door. We've got the deeds for the property and the lady who owns it, we believe, lives in Greece. We can only make assumptions... we can assume it's rented. There's nobody answering the door, there's a leak coming through. I've had to write to Environmental Health to see if they can do anything."*

As we have highlighted above, national statistics bear out that dissatisfaction with service quality is—thankfully—only a minority of cases across England. Nevertheless, it is also a substantial minority. From the evidence presented at our evidence sessions, it would appear that there are concentrated geographic areas of acute rogue absenteeism. All this points towards the need for greater integration and transparency of information.

We need to encourage excellence in service provision, and also look to how Government policy can incentivise it—whilst also knocking out, as far as possible, the appalling kinds of treatment participants in our focus groups have received.

## 6.2. Excellence in PRS Customer Service

This is not the place for a handbook to PRS customer service provision. However, broad lineaments of quality tenant care have come to the fore during our research.

In our sector expert roundtable, leading figures from across the industry highlighted three central themes to good administrative practices leading to quality customer care.

**Firstly**, clarity of a landlord's responsibilities is essential to ensure tenants are looked after. These include directly customer-facing responsibilities, such as carrying out repairs, and ones that form part of the smooth and efficient running of a landlord's business, such as meeting financial and legal obligations and keeping up to date with legal or regulatory changes. Fundamental to knowing and meeting responsibilities are high quality administrative practices.

There are several ways that landlords can foster excellence in this regard. One way is to undertake an accredited training programme. Another good way is through membership of a professional or industry body that can adequately resource and support their participation in the rental property market and keep them up to date with regulatory changes. A prominent example is the National Residential Landlords Association (NRLA).

Currently, NRLA membership is growing, having recently passed 100,000 members<sup>164</sup>. The sector body is rightly ambitious to continue growing their member base to encourage professionalism and high-quality provision in the sector. The Government indicates that there are 2.74 million unincorporated landlords. Excellence in administration and customer care would require membership of a good organisation to keep on top of the changes and innovation in the private rental accommodation sector and regulatory environment.

In addition, when it comes to considering quality of administration, understanding the very different types of landlord that exist within the PRS is important. As we have stressed above, there are some PRS landlords with large, institutionally financed property portfolios. On the other hand, there are very many landlords with just a handful of properties—often even just one. It would be wrong to suggest that one type is inherently better than the other at administration, but there must be a recognition of the divergent risks between the two, and how they can be mitigated.

Larger landlords are likely to have a large staff team, perhaps spread across multiple office locations or properties. This means opportunities arise for administrative failures to occur where there is a breakdown of communication and understanding within the organisation.

In our sector expert roundtable, we learned how this can be mitigated through having a *policy-led* approach which clearly sets out the landlord's processes and timelines for implementation—such as, for example, for emergency and routine repairs. Such policies need to be up-to-date, well-understood, accessible (internally and to tenants where appropriate), reasonable, and implementable.

As Andrew Grove famously wrote about management, “everything is process”. This is not a panacea, however. Organisational culture (of which processes are a part) matters too—as Peter Drucker famously said, “culture eats strategy for breakfast”).

This became very apparent in our discussions with tenants who had moved from failing absentee landlord properties to quality community-sector housing providers. They all commented on the strong positivity of the culture of the community sector<sup>165</sup>, not-for-profit PRS landlords—staff caring about them as people, often going ‘above and beyond’, and working to support them if they ran into difficulties. Having a strong culture, combined with a clear and robust set of policies and practices, is a recipe for success.

Smaller landlords, on the other hand, are in a different situation. If a property is owned by one individual and let out, the risk of issues for tenants falling between cracks in an organisation is minimal (except for the case, discussed in this chapter, of falling between a landlord and an agent). Instead, there can be a major opportunity for strong relationship-building with the landlord. As one participant in our roundtable put it:

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164 National Residential Landlords Association, *NRLA: The Bulletin*, *NRLA membership hits 100,000 mark*.

165 We use this term to describe charitable or not-for-profit organisations that provide rental housing in the PRS, but are not Registered Providers of social housing. We do not use the term ‘charity sector’ because some are not registered charities. Some registered charities operate rental homes as part of their trading services rather than on a charitable basis.

*"I had a landlady who was absolutely... I was really lucky with her. She was just... I could have phoned her any time and said "something's wrong" and they were there to sort it. [...] She was like, "If you know someone who can do it, then they can do it and we'll pay them"."*

Smaller landlords should seek to demonstrate excellence with high levels of personal relationship-building and care (of course in a non-invasive or excessive way) to ensure their obligations are met and tenants feel they can be trusted.

However, it must be recognised that an equal and opposite risk is also present here—specifically, all of the management responsibility falls on one person. Whilst smaller landlords are likely to be able to exceed the quality of interpersonal relationships that larger landlords could offer, they might struggle to match the management capacity and financial flexibility of a large organisation. As such, excellence for smaller landlords requires taking steps to mitigate the risks of poor administrative practice.

In one sense, this makes forms of external support all the more important, such as membership of—and diligent engagement with—a membership body to assist with building capacity and expertise. A further form of external support is working in an effective way with agents and being clear about their responsibilities. This matters: we heard evidence that smaller landlords lacked clarity on what agency services they had recruited and where responsibilities lie. As one housing support professional with considerable experience of supporting people with PRS issues said of her area:

*"There are a lot of landlords who use 'any' letting agents... there's a misconception with a lot of landlords. There's three different services you can use. You can have total management, rent only, or you can have property management. Some of them include maintenance (so the agent would handle that and then invoice the landlord). Other landlords don't want anything else other than rent collection, but don't accept that when they can't be bothered to carry out the maintenance themselves. So, you would get fobbed off a lot."*

**Secondly**, we heard how good quality communication is essential. This includes accurate information, appropriate and respectful tone, and timeliness of response.

This matters not just during a tenancy—as any matters arise—but throughout a tenancy from start to finish. In particular, ensuring that tenants are aware of their concerns and obligations from the beginning is very important. One community sector PRS landlord we spoke to offered 'tenancy training' at the beginning of tenancies which tenants found invaluable:

*"I won't forget that time you had us all in here talking about the tenancy agreements—the Tenancy Training—and that was just second-to-none. I wouldn't have known half of that! I wouldn't have known any of that before. You don't get that when you're with [housing provider]. You don't get that when you're with any other private landlord. You talked us through everything, step-by-step. What you should do. What you can do. What you can't do. And, if in doubt, ask."*

A representative from this community landlord offered more detail as to what this entails:

*“What we do is, the first half is all about [our charitable organisation] and the community services. The second half is all about the tenancy—our role as a landlord. That includes good advice like, for example, organising the redirection of your mail (a lot of important documents might be forgotten and they could be sitting in an empty property for months on end and you mightn’t be getting them); informing all the necessary people before you move. The tenancy agreement itself... we operate two different types. AST for our tenant and a Licence to Occupy (for HMOs [...]).*

*We’re incorporating energy saving advice, and [advice on how to deal with] mould which seems to be on the rise because people are not heating their houses. They can’t afford to. So we’re going through a lot of that—the importance of heating and ventilation. Clutter, which is also a big no-no in a property that’s well over 100 years old. It’s very informal. It’s not a pass or a fail. You do get a lovely big certificate at the end though! Cup of tea and a biscuit. Just an informative advisory session really. We’re still a private landlord, but with all of the benefits that social housing brings really. And some more. Much more.”*

This kind of communication at the outset means that a quality landlord-tenant relationship is established at the outset and sets everything up for success. It demonstrates excellence in communication and other landlords, where possible, would do well to offer similar support should tenants want it.

The bare minimum currently in this regard is that “Every landlord must ensure their tenant(s) have received a copy of the How to Rent guide at the beginning of their tenancy.”<sup>166</sup> This guide acts as a checklist for tenants demonstrating to them their rights and obligations.<sup>167</sup> Excellence in communication, though, should seek to go beyond this.

**Thirdly**, a further key element of administrative excellence, leading to quality customer care, that came through in our roundtable discussions was the importance of record keeping. The first purpose for this is that it makes both previous issues (administration and communication) much smoother. Problems such as routine repairs and maintenance can be anticipated in advance, and acted on much more rapidly if correct records are in place.

Record keeping also matters because, if any disputes should arise, it also enables proper adjudication and redress (for or against landlord or tenant). This is a further key issue which we address in the next section. For present purposes, it suffices to say that excellent landlords will have a clear and rigorous procedure for maintaining records and using them to improve the service quality of their delivery.

Examples might include knowing clearly when gas safety checks need to be undertaken and having communication records to show as evidence should disputes arise.

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<sup>166</sup> Katie Todd, Letting a Property web site, *How to Rent Guide – 2023 Landlord Download* (Updated 24th March 2023)

<sup>167</sup> DLUHC (formerly MHCLG) *How to Rent: the checklist for renting in England*.

### 6.3. Reforming the PRS to improve service standards

To drive up service standards, the Government must prioritise eliminating the worst abuses. This requires enforcement. And enforcement, in turn, requires the right information to crack down on the right people. The Government estimated over five years ago that 10,500 rogue landlords were operating in England.<sup>168</sup> These include landlords who are grossly negligent in maintenance of properties, are absentees, and are disrespectful to tenants.

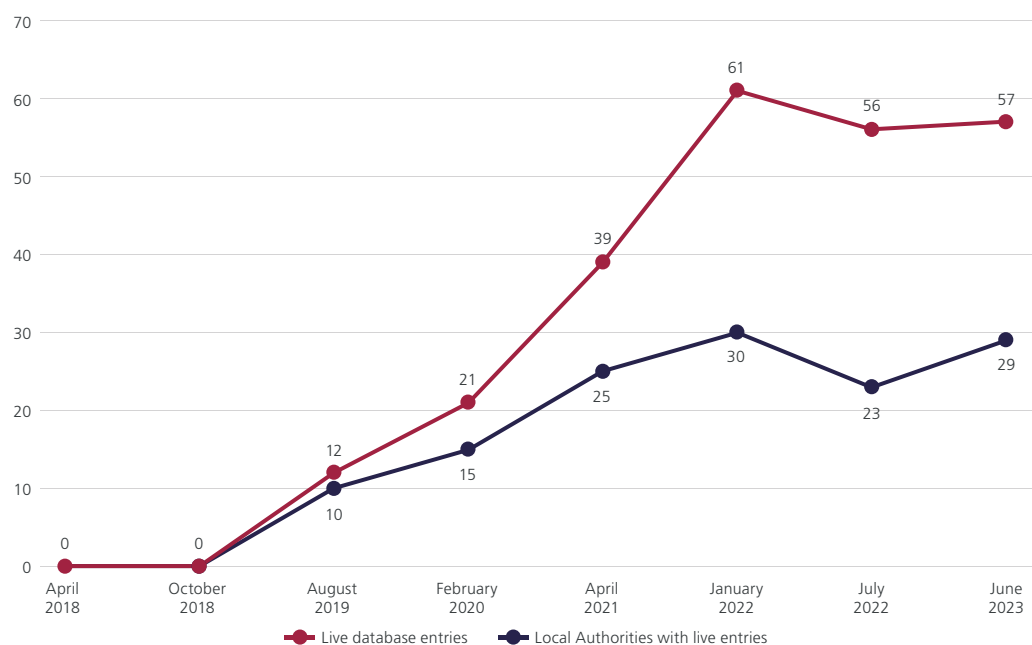
As far back as 2016, legislation was introduced to try and improve the use of data sharing and information to prevent such abuse. The Housing and Planning Act 2016 created a Database of Rogue Landlords and Property Agents.<sup>169</sup> At the time it went live, the Government expected that “more than 600 of the worst offenders” would be placed on it.<sup>170</sup>

However, new figures gained by the CSJ through a Freedom of Information Request show that as of June 2023, **there are just 57 live entries on the database**. Further, these 57 have been submitted by **just 29 of the 317 local authorities in England**. This amounts to less than 10 per cent of councils.

Previous disclosures of the numbers on the database demonstrate that, far from growing, the use of the database has stagnated since entries hit a high watermark of 61 in January last year—entered by 30 councils.

Combining this latest data with previous FOI request evidence, the CSJ has plotted the growth and stagnation of the database:

*Figure 18: The underperformance and stagnation of the Database of Rogue Landlords and Property Agents*



Source: CSJ Freedom of Information Request to Department of Levelling Up, Housing, and Communities (June 2023 figures) and previous FOI requests / announcements as reported in the press.<sup>171</sup>

<sup>168</sup> Simon Goodley, *The Guardian*, *Tenants will get access to rogue landlord database, says PM*, (2018).

<sup>169</sup> DLUHC (formerly MHCLG), *Database of rogue landlords and property agents under the Housing and Planning Act 2016*, (2018).

<sup>170</sup> Simon Goodley, *The Guardian*, *Tenants will get access to rogue landlord database, says PM*, (2018).

<sup>171</sup> Individual year sources: April & October 2018, *The Guardian*; August 2019, *This is Money*; February 2020, *This is Money*; April 2021, *The Guardian*; January 2022, *Landlord Zone*; July 2022, *The Negotiator*.

The CSJ also asked for the Government to distinguish between the number of landlords and the number of property agents on the database. Responding to the request, the Government made clear that it “The database does not distinguish between landlord and property agents’ entries so the information is not held by the Department.” This clearly shows that the Database is not fit for purpose as the data quality is very poor. There could feasibly be no rogue landlords on it at all if all 57 are property agents. Better quality data is needed to pinpoint emerging trends and respond to them with effective policy.

It is fair neither on tenants nor good landlords that these rogues are not being identified and forced out of the market. We agree with the National Residential Landlords Association’s assessment that this “[c]hronic failure to tackle rogue landlords puts tenants at risk”<sup>172</sup>.

A further major issue with the current PRS policy framework is its complexity. Multiple obligations are owed to multiple actors and institutions. Regulation is subject to considerable variation nationally (for example, through licensing schemes), and is strewn across hundreds of pieces of legislation. Further, the lack of clear integration of data and information for landlords and tenants is a major problem. Many well-intentioned landlords are not fully compliant (see Figure 16), and therefore better integration of information and digital systems is necessary.

We are encouraged by the Government’s proposal to introduce a Property Portal which could tackle many of these issues through a considerable step up in monitoring and transparency for both tenants and local authorities. As Eddie Hughes MP rightly points out in the Foreword to this report, it has the potential to “turbocharge our ability to crack down on abusive rogue landlords who cause upheaval and distress in the lives of their tenants and communities. This will increase the efficiency of enforcement teams and save the taxpayer money”.

### **Property Portal**

As highlighted above, privately renting out residential property is something undertaken by millions of landlords with just a handful of properties, and often just one. For a great many of these, being a landlord is not a full-time occupation and relatively few small-scale buy-to-let investors will have a professional history in housing. Further, as we have highlighted, the regulatory structures framing the PRS are highly complicated, have manifold sources, and demand a plethora of obligations which—mostly for good reason—it is incumbent upon landlords to fulfil.

These two facts, combined, mean that service quality in the PRS is compromised too often—13 per cent of tenants being unsatisfied is a minority, but it is far too substantial a minority, amounting to more than half a million households. Quality managing agents can make a very positive difference where landlords are unsure of their responsibilities or need professional support in administering their rentals. However, ultimately it is incumbent upon landlords to put their house in order adequately when renting out.

172 National Residential Landlords Association (NRLA), *Chronic failure to tackle rogue landlords puts tenants at risk*, (2021).



The Property Portal is a policy measure proposed in the *Fairer Private Rented Sector* white paper to address these issues. It aims to provide “a single ‘front door’ to help landlords understand, and demonstrate compliance with, their legal requirements”.<sup>173</sup> Elements of it have some precedents in local authority-level accredited landlord registers<sup>174</sup> and those of Northern Ireland<sup>175</sup>, Scotland<sup>176</sup>, and Wales<sup>177</sup>.

In addition, as discussed above, the proposed Portal will make sure there is clear accountability between landlord and tenant, with an obligation to comply. This, in turn, will be enforced by councils who “will have the power to take enforcement action against landlords who fail to join the portal”<sup>178</sup>.

The key tenets of the Property Portal can be summarised thus:

- ✓ Enables tenants easily to verify that their property is compliant
- ✓ Enables landlords to understand their obligations
- ✓ Enables landlords to demonstrate compliance
- ✓ Enables local councils to enforce standards on non-compliant landlords
- ✓ Enables a fair balance between privacy and accountability for transacting parties

Whilst a seemingly technocratic intervention, the Property Portal is in fact a crucial and missing piece of infrastructure in our national housing system. The Government have committed to “[...] ‘future proof’ the portal so it can flex to support future policy developments.”<sup>179</sup> There are several points of integration that the Government should look to implement. Firstly, the Government should enable digital integration of the Property Portal with the Database of Rogue Landlords and Property Agents, and improve how it works such that it is capable of distinguishing between landlords and agents. It should further investigate the possibility for integrating a case management system for Anti-Social Behaviour Case Reviews.

In terms of implementation, there is a need to deliver this quickly. Questions remain as to whether the Government will be able to deliver this fast enough and enforce compliance with it effectively.

The Government state in guidance accompanying the Renters (Reform) Bill that it plans “[...] to introduce the Property Portal as soon as possible after the Bill has received Royal Assent.”<sup>180</sup> It further says that introduction will only take place following a thorough testing process.

It should be remembered that it took two years between the Housing and Planning Act 2016 receiving Royal Assent in May 2016 (which laid legislative foundations) and the introduction of the failing Database of Rogue Landlords and Property Agents in April 2018. Six months after that, it still had not been used at all.

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173 Ibid.

174 For example, see Bournemouth, Christchurch, and Poole council, *Dorset Register of Accredited Landlords*

175 NI Direct, *Landlord Registration Scheme*

176 Scottish Government, *Scottish Landlord Register*.

177 Welsh Government, *Landlord Registration*.

178 DLUHC, *A Fairer Private Rented Sector*, (2022), p.46.

179 DLUHC, *A Fairer Private Rented Sector*, (2022), p.47.

180 DLUHC, *Privately Rented Property Portal: Renters (Reform) Bill*, (2023).

The proposed Property Portal is very substantially more complex than the Database it replaces. It will be usable by the public, tenants, landlords, and councils—not just councils as with the Database. Each type of stakeholder will have different access requirements. The number of entries on it will need to be in the millions—vastly eclipsing the meagre 57 currently on the list. As such, without great government effort and commitment, we are concerned that development and testing will in all likelihood take very much longer than the Database of Rogue Landlords.

As such, the Government must make clear how it is going to deliver the Property Portal in a timely fashion. The need for it is pressing and time is scarce. The Bill has only just been introduced and achieving Royal Assent could take around a year. If the previous experience of the rogue landlords database is anything to go by, the development and testing periods could well be much longer than two years due to the vastly increased complexity of the system. In total, this could mean delivery is at least 4-5 years away. This is too long.

Two ways in which Government could speed up delivery would be to increase resourcing for its construction and build as much of the system as possible whilst the Bill is in progress. Lessons could be learned from the development of coronavirus vaccines where the production systems were put in place in readiness whilst clinical trials took place and legal approval was pending. The Government should explain how it will deliver the Portal at pace.

Further, there is a question over enforcement. The Property Portal is intended to increase substantially the ability of local authorities to enforce effectively. The proposed fines for failing to join are up to £5000 for a first offence and up to £30,000 for repeat offenders.<sup>181</sup> The portal will help identify *properties* that are rented illegally (because they are not on the database) but is likely to be of more limited use when identifying criminal landlords themselves.

There is a risk of a chicken-and-egg scenario whereby rogues simply evade signing up to the portal and continue to operate illegally. If a council is attempting to identify an evasive rogue landlord in order to fine them for failing to join the Property Portal, the Portal itself is obviously of limited use—precisely because they would not be on it. As such, the Government must ensure that local authorities are adequately equipped to maximise sign-up, enforcement, and implementation of the portal.

It should also regularly review whether the fines regime is tough enough to dissuade avoidance. We heard in our qualitative research how criminal landlords simply evade enforcement and compliance—especially as regards selective licensing schemes. Such schemes can carry criminal records and unlimited fines, and yet we heard how compliance and enforcement are still issues in areas.

### **Recommendation 8**

The Government should make clear its timescale for implementation of the Property Portal, aiming to deliver it no longer than two years following the passage of the Renters (Reform) Bill. It should further make clear how the design and testing processes will be aligned to ensure this is feasible. It should enable full integration with, and improvement upon, the Database of Rogue Landlords and Property Agents, as well as examining the possibility for integrating a case management for Anti-Social Behaviour Case Reviews.

181 DLUHC, *Privately Rented Property Portal: Renters (Reform) Bill*, (2023).

## Chapter 7: Fair Standards and Dispute Resolution

Good relationships between landlords and tenants are crucial for a smooth rental experience. We have discussed how excellent practice and policy reform around tenure structures, repairs, administration, and rents can enable this.

However, there is always the possibility that things can go wrong. It is vital that tenants and landlords who have disputes have access to timely, impartial, and just adjudication.

This matters not only for landlords and tenants in a dispute situation, but also for those who are not yet at that point. Simply knowing that robust redress is available, should it become necessary, gives tenants the peace of mind they deserve and landlords the confidence they need to invest in good quality rental homes.

The Government's white paper explains that, at present, opportunities for redress are insufficient.

"Private tenants can access redress where they have a complaint about their letting agent or managing agent. However, issues that are the responsibility of the landlord (such as conduct, repairs and conditions) are typically outside the remit of these schemes. We are committed to building on this work by mainstreaming early, effective, and efficient dispute resolution throughout the PRS".<sup>182</sup>

There is a variety of routes through which dispute resolution and redress can be sought. Perhaps the most obvious of these is litigation through the judicial system. In the worst and most challenging disputes, a court case will be necessary to resolve disputes.

Here, there are substantial challenges. There is widespread concern in the PRS that court backlogs are very severe. The DLUHC Select Committee reported, following its investigation into the PRS, that "The system was variously described as "broken", "severely backlogged and delayed", and "incompetent, expensive and frustrating"."<sup>183</sup> Taking oral evidence from the sector, the Select Committee reported that this is a particular issue when it comes to ascertaining possession orders: "Currently, it can take up to 12 months for a landlord to gain possession under section 8."<sup>184</sup>

One of the ways in which the Government seeks to prevent court backlogs and delays is through the use of mediation—not just in housing, but in a variety of areas of law, such as family law. Housing redress services have been backed by the Government, such as the Property Redress Scheme. The Government has actively been seeking to identify ways in which "non-adversarial forms of dispute resolution" could be taken forward to improve fairness and efficiency in the sector.<sup>185</sup>

A further form of dispute resolution is the service of an Ombudsman. This service differs from a court or redress / mediation scheme in that it offers impartial adjudication *with the power to investigate the conduct of public and private organisations to resolve disputes*. In the world of rental housing, the picture around Ombudsmen is complex.

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<sup>182</sup> DLUHC, *A Fairer Private Rented Sector* white paper (2022)

<sup>183</sup> House of Commons, Levelling Up, Housing, and Communities Committee, *Reforming the Private Rented Sector*, (2023), ¶143. Quotations citing evidence responses from the NRLA, Grainger Plc, and Mr. James Fraser respectively.

<sup>184</sup> *Ibid*, ¶143, citing oral evidence session: *Reforming the Private Rented Sector*, HC 624 , Q2, responses of Ben Beadle and Theo Plowman.

<sup>185</sup> MoJ & DLUHC, *Rental Mediation Service Pilot, Post Implementation Review*. (2023) p.3.

## Ombudsman Schemes

- **Housing Ombudsman** – covers the Social Housing sector. All Registered Providers of Social Housing (Housing Associations and Local Authorities) are required to join the Scheme governing its existence. Certain other organisations have the right to join, and several have.
- **Property Ombudsman** – Covers estate, lettings, and management agents. All estate and lettings agents are required to be a part of this Ombudsman scheme or the Property Redress Scheme.

Whereas agents and social landlords are mandated by law to be a member of an ombudsman service or redress scheme, there is no such equivalent requirement for landlords who operate without agents. This leaves many tenants without recourse to quality mediation and redress.

In addition to concern around redress, there is also concern around enforcement. This concern has been made clear in an investigative report commissioned by the Government and released in 2021. Based on qualitative and quantitative research covering 140 Local Authorities in total, the investigation concluded that “[...] local authorities face significant barriers to tackling poor conditions, resulting in an uneven picture of enforcement.”<sup>186</sup>

Setting out reasons for this, the report notes that “[...] few local authorities participating in the study had sufficient, comprehensive knowledge of the local private rented stock to inform strategic decision making, and enforcement capacity was so limited in some teams that they described mostly ‘fire-fighting’.”<sup>187</sup> The report also notes that a culture of commitment to the issue is important: “Local authorities lacking political or corporate commitment to improving housing conditions found it difficult to robustly enforce private rented sector standards.”<sup>188</sup>

## 7.1. Why Redress and Enforcement Matter

In our qualitative research discussions, we asked tenants about their view of redress and dispute resolution. Two things became clear in the areas we surveyed. Firstly, participants felt that the availability of redress was inadequate. Secondly, participants felt that starting a process of redress can seem risky and intimidating, especially because of the power imbalance when a landlord has the ability to issue Section 21 notices.

One exchange proceeded as follows:

**Interviewer:** *In a dispute with a landlord, how confident would you be to take up a redress scheme through mediation or through a court case?*

**Participant 1:** *I think [redress] happens very rarely.*

**Interviewer:** *Even if the landlord is an absentee who’s not doing maintenance?*

186 DLUHC, *Local authority enforcement in the private rented sector: headline report* (2022)

187 *Ibid.*

188 *Ibid.*

**Participant 2:** *With my previous landlord, where I had problems with my bathroom and my kitchen, I was always nervous to confront her. Always. Because it's always that thought—"If I'm going to confront you, then you're going to confront me with an eviction".*

**Participant 1:** *That's it, yes.*

**All participants:** *Yes! [unanimous agreement]*

**Participant 2:** *That was always the thing in the back of my mind. Always that little thing in the back of my head: If I'm going to confront you for something I need doing, or I know you're not going to be minded to do for me, are you going to evict me?"*

A further comment to this effect was as follows:

*"I think tenants put up with a lot of stuff from landlords in terms of repairs. I've seen some terrible properties in terms of repairs. [...] Not much expectation. There is the fear of that—an eviction or a landlord saying "you can leave"."*

In another roundtable, the following exchange took place on this subject:

**Interviewer:** *The proposed S21 eviction ban: If no-fault evictions were stopped, but the possibility of the other type of eviction (S8 with reason) remains, then would that make a difference? Would that improve things?*

**Participant:** *Yes, because then at least they've got to have a reason, which makes more sense. Of course, people have got to protect their own property too when they rent it out, when someone's damaging it, then, yes. But without reason, certainly not. That's the problem.*

**Interviewer:** *If you knew they had to give a reason, would it give you more confidence to challenge a landlord?*

**Participant:** *Yes, especially if you knew you weren't doing the things that you'd been accused of. Or if there's a reason—that something had happened—that you could explain."*

As concerns enforcement, tenants were not confident that fixing the issues they faced in the PRS was a priority of Government. Their measure of whether it is a priority is determined by concrete results and action—not merely by words and proposals, as the following exchange bears out:

**Interviewer:** *How confident are you that national Government is concerned with the quality of private rental accommodation? And what would give you the confidence that they are?*

**Participant 1:** *We're not confident. Because even if you ring the council, they don't do anything with the private landlord.*

**Participant 2:** *I just don't think it's a concern of the Government's, to be honest.*

**Participant 3:** *The Government's not bothered.*

**Participant 1:** *They just do what they want. The private landlords."*

## 7.2. Excellence in dispute resolution

When it comes to excellence in PRS provision regarding dispute resolution and enforcement, there are several points to note. The first relates directly to the way in which landlords conduct relationships with tenants. It became clear that many tenants feared their landlords and were worried about a formal dispute resolution process for fear of retaliation.

Maintaining strong professional standards of communication and administration for good relationships with tenants, wherever possible, is essential to prevent unnecessary escalation and positive dispute resolution.

Further, at a bare minimum, ensuring any agents the landlord is working with are professional and adequately covered by a redress scheme is indispensable. For landlords working independently of agents, membership of a redress scheme is likewise vital.

As pointed out in the section on administration, it is also crucial that the landlord has a clear, effective, and policy-governed approach to complaints handling and escalation in-house which is properly followed in a timely fashion before referring matters on to a redress service. This helps to prevent unnecessary clogging of external bodies and appropriate prioritisation of cases in public institutions.

When working with a dispute case, landlords should exhibit excellence through being cooperative, timely, honest, and open to feedback from any findings that may be taken against them. Here, another link with administration is clear—appropriate record keeping is crucial for the effective presentation and adjudication of evidence.

Finally, regarding enforcement, we would hope that excellent landlords would never be subject to any kind of enforcement action. Nevertheless, if this did happen, then working cooperatively with relevant local government bodies and seeking to prevent reoccurrences in a systematic fashion would be a must. Where local and national government are looking to improve enforcement, landlords can exhibit excellence by engaging positively and proactively with consultations on policy and legislation.

## 7.3. Reforming the PRS systems of enforcement and redress

For any kind of enforcement and redress to take place, it is necessary to have the correct information and communication channels available for parties to engage constructively. This provides further grounds for support for a Property Portal to be introduced so that government, landlords, tenants, and mediation and redress services can intervene in a timely fashion. We strongly support the Government's intention to introduce a Property Portal, as discussed above.

This should drive up the efficiency with which local authorities can target and implement enforcement operations, which is welcome. We further welcome plans for the Government to introduce stronger powers for local authorities to tackle rogue landlords, such as:

- Lowering data entry thresholds to enable greater sharing of information about landlords subject to Civil Penalty Notices across council areas.
- Increasing Local Authority investigative powers
- Strengthening the 'fine regime for serious offences and high criminality, such as the most serious 'Category 1' hazards, including 'minimum fines'.<sup>189</sup>

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189 DLUHC, *A Fairer Private Rented Sector* white paper (2022) p.51

Nevertheless, there is an outstanding issue over local authority enforcement resourcing. Even if existing enforcement teams are given a boost to resources through a property portal and additional powers, we cannot escape the fact that labour resource is needed to combat landlord abuse in the PRS. Tools are no good if there is nobody to use them skilfully. There is good evidence for this, as the Government report recently found:

“There was a clear correlation between those working proactively, making use of the range enforcement tools and powers, and those with larger teams. The four most enforcement-led local authorities in the case study sample map directly onto the four local authorities with the largest teams.”<sup>190</sup>

This applied not merely to housing enforcement teams, but also to the other teams with whom they must work, whose capacities are also often stretched. The report clearly shows that “a boost to capacity had demonstrable results”.<sup>191</sup> Whilst we recognise that the current system of local authority funding places serious, conflicting demands on resource allocation, we recommend that capacity be strongly increased for enforcement action at local authority level.

### **Recommendation 9**

The Government should substantially increase support for local authorities’ housing enforcement capacities to drive up standards, prioritising areas with the most severe challenges.

When it comes to seeking just adjudication and redress in housing cases, some pressure can be taken off the court system through mediation or alternative dispute resolution schemes. An Ombudsman could also play a key role in this, too. However, there is no escaping the fact that the courts are presently struggling to process cases in a timely fashion and lack the necessary capacity. This will only get worse with the abolition of Section 21 without additional resourcing.

One solution, recommended previously by the CSJ<sup>192</sup>, is the introduction of a specialist housing court which would be able to process claims more efficiently. Whilst it would not be wise to introduce specialist courts for each area of law, there can be good grounds for doing so. In the case of housing, the need to reassure tenants and landlords that the courts can handle large numbers of possession cases means a specialist housing court is justified. It would also substantially free up judicial capacity in other areas as well. There is clear precedent for introducing specialist courts in areas of particular need, such as the single Family Court introduced in 2014 and the specialist First-tier Tribunal chambers.

As Dr David Smith at the NRLA writes, *“Instead of tinkering with the current system, what is needed is the establishment of a dedicated housing court. This could build on the work of the current Property Tribunal and cover matters such as property standards, whether landlords are meeting their legal obligations and repossession cases.”*<sup>193</sup>

190 DLUHC, *Local authority enforcement in the private rented sector: headline report* (2022)

191 *Ibid.*

192 Centre for Social Justice, *Putting Down Roots*, (2019), p.6.

193 Dr. David Smith, National Residential Landlords Association, *The Need for a Housing Court*, (2020)

As the DLUHC select committee has pointed out in making the same recommendation, the number of section 8 cases is likely to increase substantially following the abolition of section 21 and will therefore need an efficient and high-capacity court system.<sup>194</sup> This is important not just for dealing with actual cases for existing landlords, but providing reassurance that the English legal system can provide a reliable commercial environment to attract investment in new housing. Based on this, we recommend the following:

### **Recommendation 10**

The Government should work to increase substantially the capacity of the courts to handle housing cases in a timely fashion. It should, further, introduce a specialist Housing Court, staffed by judges with specialist expertise in housing issues. All housing cases could then travel through a single body with the institutional insight needed to process them more quickly and effectively than at present.

Finally, it is not right that PRS landlords who operate without employing the services of an agent can leave tenants with no recourse to an Ombudsman-level redress service. For this reason, we strongly support the introduction of a “single government-approved Ombudsman covering all private landlords who rent out property in England, regardless of whether they use an agent”.<sup>195</sup>

As the white paper rightly points out, “[t]his will ensure that all tenants have access to redress services in any given situation, and that landlords remain accountable for their own conduct and legal responsibilities.”<sup>196</sup>

As noted above, it is important that the UK’s PRS provides opportunity for redress at the level of an Ombudsman because of the need to utilise the *investigative* powers that an Ombudsman possesses to address the administrative problems that can occur within the sector.

In addition to this, we see merit in the Ombudsman having responsibility for all rental housing providers in England since there can be cases where integration of redress between the social and private sectors is invaluable—for example where housing schemes integrate both PRS and social housing (such as schemes where a social housing provider has an administrative or service provision role in a privately owned property following leasehold Right to Buy sales). Further, this would enable learning and cross-pollination from where Ombudsman cases lead to important guidance being developed which are applicable to multiple sectors.

### **Recommendation 11**

The Government should introduce a single Ombudsman for the PRS, making membership of it mandatory for all private landlords.

<sup>194</sup> DLUHC Select Committee, *Reforming the Private Rented Sector*, (2023), p.20 (§The Courts).

<sup>195</sup> DLUHC, *A Fairer Private Rented Sector* white paper (2022) p.39.

<sup>196</sup> Ibid.



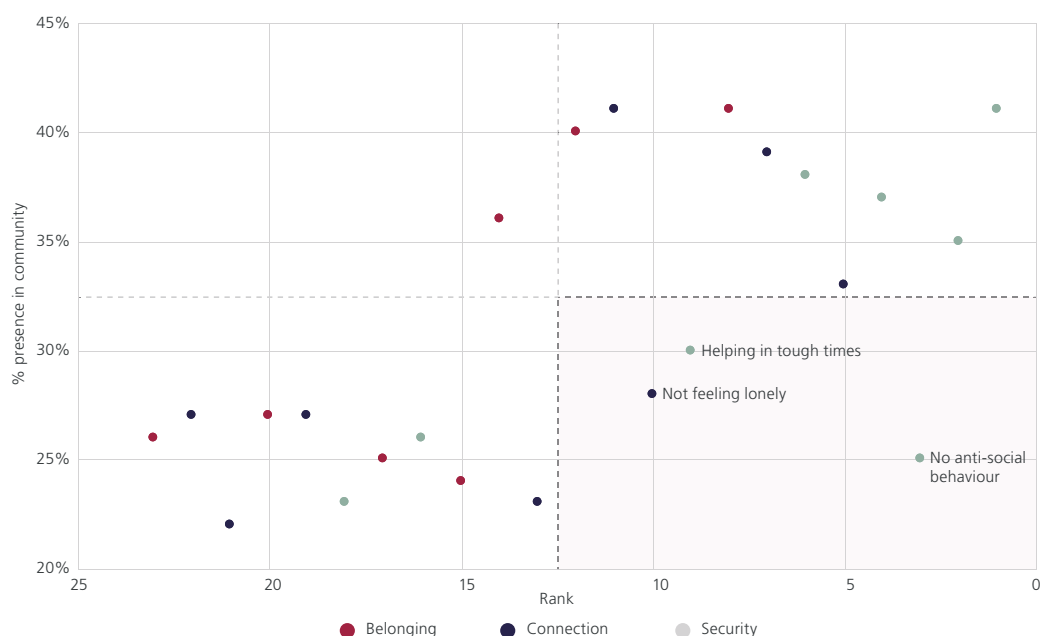
# Chapter 8: Thriving Local Communities

## Housing, Local Community, and Reforming the PRS

Housing and communities go hand-in-hand.<sup>197</sup> It's not for nothing that DLUHC covers both policy briefs. When thinking about PRS reform, it might not be immediately obvious that it has much to do with community policy. However, as we have argued previously, tenure security in the PRS matters significantly for people to be able to put down roots and gain a sense of connection to their neighbourhood.<sup>198</sup>

When the CSJ examined the strength of local communities in the *Pillars of Community* report, we found that among the most significant factors people felt affected the strength of their local community was the level of anti-social behaviour (ASB). Unfortunately, most felt that that their community did not have low levels of ASB. This can be seen in the following:

Figure 19: Factors contributing to community (presence and ranked importance)



Source: CSJ proprietary polling (5,000 respondent sample) on community strength. See CSJ report *Pillars of Community*.

In addition, people helping in tough times and the absence of loneliness similarly fall into the same category of high importance and low presence in the community.

Accommodation has an important bearing on these serious social issues. For example, in the layout of buildings and the opportunities they present for interpersonal connection. So, too, does the management of accommodation. Anti-social behaviour matters especially for rental accommodation. National statistics bear out that this is a serious issue; more than a third of adults over the age of 16 have witnessed or experienced ASB in their local area.<sup>199</sup> This matters significantly for low-income tenants. Areas with high levels of deprivation are also more likely to be affected by anti-social behaviour.<sup>200</sup>

197 For a recent discussion of this, see Bright Blue, *Home Advantage*, (2023) §Building to Belong: the role of housing in integrating communities.

198 Centre for Social Justice, *Putting Down Roots*, (2019), p.37

199 Office for National Statistics, *Crime Survey for England and Wales (CSEW) estimates of personal and household crime, anti-social behaviour, and public perceptions, by police force area, year ending September 2022 table 4b.*

200 Home Office, *Anti-Social Behaviour: Impacts on Individuals and Communities* (2023).

## Definition of Anti-Social Behaviour

The most significant legislation affecting the mitigation of ASB is the Anti-Social Behaviour Act 2014. It defines ASB as:

- a, "conduct that has caused, or is likely to cause, harassment, alarm or distress to any person,
- b, conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises, or
- c, conduct capable of causing housing-related nuisance or annoyance to any person."<sup>201</sup>

As can be seen from this legal wording, ASB specifically refers to 'residential premises' and 'housing-related nuisance'. Whereas ASB is often thought of as a public issue in the sense that it characteristically occurs in 'public' places (such as graffiti on exterior walls or alcohol misuse in parks), much ASB also occurs within residential settings.

Social landlords, for example, have teams and strategies to deal with ASB. Government guidance makes clear that all Registered Providers of social housing "[...] have a responsibility to prevent anti-social behaviour by keeping the neighbourhood and communal areas under their control safe and clean [...] and] should make it easy for tenants to report anti-social behaviour, take complaints seriously and act professionally. They must publish, and provide to you if you ask, documents that set out the types of behaviours they can help to tackle."<sup>202</sup>

It is also crucial in Houses in Multiple Occupation (HMOs) where one house is shared by multiple households. HMO licence conditions require landlords to deal with ASB effectively<sup>203</sup> and licenses can be revoked if landlords fail to address the issue.<sup>204</sup>

Private landlords also need to deal with ASB. The NRLA point out that "It is one of the most common reasons that landlords serve notices seeking possession and one of the biggest causes of stress to landlords and the neighbours who have to live next to an anti-social tenant."<sup>205</sup>

This means that dealing with Anti-Social Behaviour is a key issue for reform of the PRS. Indeed, as the Government guidance recently announced makes clear—citing the 2021 English Housing Survey:

"In the private rented sector, one in three landlords who have ended a tenancy report that they did so because their tenant engaged in antisocial behaviour. Nuisance, criminal and abusive behaviour which impacts people at home is both disrespectful and unacceptable."<sup>206</sup>

201 UK Government Legislation, *Anti-Social Behaviour, Crime, and Policing Act 2014*.

202 DLUHC (formerly MHCLG) guidance *Help with anti-social behaviour for social housing tenants* (November 2021).

203 Shelter, *HMO Licence Types and Conditions*.

204 Housing Rights, *Dealing with antisocial behaviour*.

205 National Residential Landlord Association (NRLA) *Dealing with anti-social behaviour*

206 HM Government, *Anti-Social Behaviour Action Plan*, (2023), p.19, citing (citation 26) the English Housing Survey 2021 Main Report for the statistic.

## 8.1. Why anti-social behaviour matters to residents

The issue of ASB matters significantly to residents. Through our qualitative research, tenants spoke of their experiences with ASB and the negative impact it had on their lives. One tenant recounted the story of a landlord failing to evict a tenant abusing public space for commercial purposes and causing danger to the public:

*"[X local housing provider] need to sort out people living [nearby]. I've got one that's a scrap man and he uses the front of the drive—not even the drive, it's the actual pathway for the public—he uses that as his personal business ground. Smashing washing machines up and leaving massive bits of metal."*

This resident further recounted how teenagers have decided to play a game of kicking residents' doors, especially those lacking in natural surveillance:

*"[Nearby], there's a load of teenagers... old enough to understand not to be anti-social. Because our door is on the side, the damage they're causing by booting that door. Booting it! Not just me. The one down the road as well, she's just had to have a brand new door."*

Some participants highlighted the centrality of drug use and dealing to the issue of ASB:

*"[My housing support worker...] supports me with sorting ASBOs and drugs. It's mainly drugs. It's all the kids round the back of the estate where I used to live as a kid. Mainly all them. It's all the kids out the back of the estate [...] they're flinging stones at people's houses and running away. Causing loads of grief on the corners. Shouting abuse at the bottom of the street. Giving people abuse as they're walking past."*

Another resident related the impact of noise or rowdiness from neighbouring properties:

*"When I was living in [X place], they had a flat above, the one next door to me, they were just having parties night after night. We've got like 20 people, youngsters. But I still didn't get them out. We had to keep going out and keep going out telling them what's going on."*

The impact on residents can also be particularly acute where neurodiversity or disability makes the impact of ASB more severe. As one participant related,

*"My son is autistic. He's downstairs. These teenagers, kicking the door. He got really, really terrified one night and I had to phone the police. They were literally going to boot the door through."*

In particular, the impact on children was felt to be especially disturbing:

*"It's very heart-breaking when you've got to have your kids in. It's where they live. They should be able to interact."*

Another participant related how retaliation can lead to escalation in ASB situation:

*"My neighbour on the opposite side—the window got put through because she'd violently attacked another woman."*

Tenants felt that it was difficult to report and have ASB dealt with by local housing providers and councils. One participant described this situation:

*“The lad next door to me, he’d wired up the electric meter. Plus he was selling cocaine. I had evidence of that. And I just couldn’t get him out. The police... they had him as a sort of like ‘snitch’ as it were. Sort of like if they knew where he was, and other people coming, it made it easier for them.”*

In this case, the participant felt the social landlord was failing to deal sufficiently quickly with the ASB case:

*“I got threatened a couple of times. But I just managed to brave it out as it were until I finally moved. I told them—the Housing Association—and they wouldn’t do anything. Saying “write diaries” and that. I mean, it’s violence! Threatening violence! Unless there’s a quicker process saying “Right, this is happening... Out!”*

An experienced housing and lettings support officer said of requesting landlords and authorities to deal with ASB:

*“[...] it’s a very, very long, long, drawn out process. The council would ask you to keep diaries, to take videos, they’d want you to actually stand up in court against this person. You can win. But it’s not an easy process.”*

When asked what would make a difference, this participant responded:

*“A speedier process, definitely. One where the victim isn’t endangering their own safety or the property’s wellbeing. Because those ladies there saying to me “I wouldn’t want to be going to court. I’d be terrified!” People threaten that they’ll put a brick through your window.”*

Other participants agreed that the threat of violence as retaliation for reporting ASB was a well-known issue locally. Indeed, the majority of the participants said they had installed cameras because of the high prevalence of ASB in the area.

Asked whether landlords should be able to make evictions on grounds of ASB, all agreed that they should. Participants also pointed out how a decline in preventive and support measures for young people was also important. One support worker spoke of the importance of youth services:

*“Before, you had groups of people from youth services walking round doing detached youth work. So, if [name of other participant] reported that to the council, they’d phone the youth services and say, “Hit that area, see about these naughty young people and get them into services”. That’s not there now. It’s just a forgotten thing now. It used to be popular back in the day. [...] There are others, but again, they’re not youth workers.”*

Some felt that an excessively strong political response was unhelpful if it failed to deliver support services to prevent issues in the first place:

*“Our mayor, he’s a “hang ‘em and flog ‘em” is [Mr. X.]: “Oh yeah, these bad people, we need to...” you know. He’d flog ‘em. He’s quite a populist, Trumpist. He has lots of photo opportunities where there’s a house being shut. He’ll be there saying “we want these bad people out of our town”. But they’re not going to leave the town, are they? They’re there. He’s got to deal with them. He’s got to put money into people.”*

The following exchange highlighted the importance of youth services, and the role of local voluntary and community sector organisations:

**Participant 1:** *“There’s no youth services now is there? I’ve never heard of any going on.”*

**Participant 2:** *“There is one, but it’s a voluntary sector project that gets money from everywhere to keep sustaining itself.”*

**Participant 3:** *“If the voluntary sector wasn’t doing what it was doing, it’d just be a shambles. Because statutory services are just doing nothing. That’s what I mean—across the board.”*

**Participant 2:** *“The churches are doing loads of work. Especially with refugees and stuff with nightlife. But there’s very little to do for the kids. And that little is voluntary rather than statutory.”*

## 8.2. PRS excellence when dealing with anti-social behaviour

How can landlords exhibit excellence when dealing with ASB? A baseline level would mean compliance with the law and any local, applicable selective licensing arrangements currently in place.<sup>207</sup> This would also mean understanding what ASB is and what to do in the event of ASB instances and complaints.

Some ways in which it is necessary to deal with ASB are reactive. Once it occurs and landlords are made aware of it, landlords should react promptly. If complaints are made to the local council, landlords should engage positively and promptly with the process put in place to deal with the issue.

Landlords should investigate matters carefully and sensitively by talking with any victims and liaising where appropriate with neighbours and local authority representatives. As with the general approach outlined above, landlords should keep good records of their findings.

Landlords should follow a sensible process of escalation, first aiming to reason verbally with tenants, and then moving to written warnings and cautions.<sup>208</sup> Where these are ineffective, landlords should seek an appropriate and proportionate redress system. This might involve mediation (especially where disputes are between neighbours), identifying social support needs for tenants, starting an official process through the relevant local authority’s team, informing police where criminal offences are suspected, or even applying for a civil injunction.<sup>209</sup>

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207 UK Government, *Private Renting §Anti-social behaviour*.

208 For example, see the approach set out by Barnsley Metropolitan Borough Council as an example: *Dealing with Anti -social behaviour. A guide for Private landlords*.

209 Ibid. See § “Options other than getting the tenant to leave”.

Landlords should also have familiarity with the Anti-Social Behaviour Case Review system, and know how to encourage and support a victim through the process of requesting a Case Review (involving multi-agency coordination) where one is appropriate, meeting locally-defined thresholds.<sup>210</sup>

More importantly, though, is a *proactive* approach to prevention as the NRLA rightly point out.<sup>211</sup> This can involve several key measures.

Firstly, related to the issue of good administration, this means having a policy in place—either organised by a good managing agent or run in-house—which clearly states a workable plan for addressing and resolving ASB issues. It should be accessible and understandable to tenants.

Secondly, landlords should take their approach to vetting tenants seriously, ensuring it is legally compliant and follows appropriate and proportionate screening methods which may include credit checks, references from previous landlords, and relevant discussions with referees or employers.

Thirdly, landlords should discuss with their tenants at the beginning of the tenancy the expectation of respectful behaviour towards fellow residents, neighbours, and the local community. The relevant policies around anti-social behaviour should be made clear to the tenant, including what to do should they have any concerns about it.

Fourthly, landlords can exhibit excellence through being proactive about doing what they feasibly can to help tenants feel welcome and well-integrated into the local community. This might include, for example, being prepared to inform them about the local area, its culture, amenities, services, and organisations. For tenants with children or young people, having familiarity with local opportunities in which they can participate—such as youth clubs or sports groups would be an advantage.

Landlords with a small, locally focused portfolio could offer a great deal of care and support in this regard if they know the area well in which their properties are located. If not, they should consider familiarising themselves with the area with a view to becoming a good landlord, neighbour, and community stakeholder. Larger landlords or agents might consider commissioning or creating a bespoke guide for each locality in which they operate, with information about appropriate support services included.

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210 UK Government, Guidance, *Anti-social behaviour case review*, (2023) <https://www.gov.uk/guidance/anti-social-behaviour-asb-case-review-also-known-as-the-community-trigger#full-publication-update-history>

211 National Residential Landlord Association (NRLA) *Dealing with anti-social behaviour*

### 8.3. Reforming the PRS to reduce ASB and strengthen local communities

The issue of anti-social behaviour is a key issue in reforming the PRS. Landlords have to play their part and Government must enable and encourage positive action. Presently, there remains a risk that closing the Section 21 system for eviction will severely limit landlords' ability to deal with ASB.

A survey conducted by the RLA (now NRLA) demonstrated that more than half (51per cent) of all Section 21 notices for possession were issued in cases where tenants had engaged in anti-social behaviour.<sup>212</sup>

This means that closing the system removes a tool which has historically enabled landlords to deal with ASB swiftly. It is crucial, therefore, that any new system enables landlords to play their role in mitigating ASB, including through making prompt evictions where necessary. The replaced system will be a reformed version of Section 8 which will "[...] reform grounds for possession to make sure that landlords have effective means to gain possession of their properties when necessary. We will expedite landlords' ability to evict those who disrupt neighbourhoods through antisocial behaviour"<sup>213</sup>.

"We must support landlords to act efficiently to tackle antisocial behaviour"<sup>214</sup> – UK Government, *A Fairer Private Rented Sector*

The first need is for an expedited court process for ASB possession claims. Courts backlogs—as we have already discussed—are far too long. This means that in addition to creating greater capacity for housing cases in the future, it is also necessary to ensure current cases are effectively prioritised. This is something recognised across the political spectrum through the cross-party Select Committee's recent paper on PRS reform. They write:

"The Government must [...] ensure the courts prioritise and fast-track all possession claims in respect of rent arrears and antisocial behaviour."<sup>215</sup>

Further, the DLUHC Select Committee rightly recognise that there is a debate concerning the interpretation of 'antisocial' behaviour and the implications for whether it should be considered a mandatory or discretionary ground. They are right to point out that, on balance, "[...] the impact of antisocial behaviour on communities and landlords, and the compensating abolition of section 21, justify making this ground mandatory."<sup>216</sup> Based on this, we recommend the following:

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212 Nick Clay, RLA PEARL, *Possession Reform in the Private Rented Sector: Ensuring Landlord Confidence*, (2019).

213 DLUHC, *A Fairer Private Rented Sector* white paper (2022)

214 *Ibid.*

215 House of Commons, Levelling Up, Housing, and Communities Committee, *Reforming the Private Rented Sector*, (2023), p.4.

216 House of Commons, Levelling Up, Housing, and Communities Committee, *Reforming the Private Rented Sector*, (2023), p.23.

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### **Recommendation 12**

The Government should prioritise and fast-track possession claims in respect of antisocial behaviour. The reformed Section 8 ground for possession in cases of antisocial behaviour should be mandatory.

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With this ground in place, there is a further issue. This is clarity from the Government, through statutory guidance, on what constitutes anti-social behaviour of sufficient severity to enable the granting of possession under a reformed Section 8 procedure. This statutory guidance must be able to show which cases of “low-level” antisocial behaviour which are nevertheless a nuisance are eligible for the granting of possession.<sup>217</sup>

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### **Recommendation 13**

The Government should issue statutory guidance on where low-level cases of anti-social behaviour will be eligible for Section 8 possession orders to be issued. The Government should avoid setting an evidential bar too high so as to make such a system unworkable.

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Finally, a great deal of work needs to be done to ensure the effective adoption and implementation of recommendations made by the Victims Commissioner in her 2019 report, *Anti-social behaviour: Living a nightmare*,<sup>218</sup> including greatly improving awareness of the ASB Case Review system, and implementation of it across local authorities. Presently, its usage is staggeringly small—typically just a handful of cases in each local authority. This concern was reflected in our roundtables, during which one very experienced, community-based PRS tenancy and lettings support professional commented, regarding the Community Trigger (ASB Case Review), “I wasn’t aware of that. Not at all.”

One way in which this could be feasible and more accessible is through integration with the proposed Property Portal. The NRLA recommend that the Government should “require local authority and police action on anti-social behaviour to be recorded on the Property Portal”.<sup>219</sup> There is an opportunity here to see how accessibility of the ASB Case Review could be integrated and monitored through the Property Portal, which could enable much more efficient multi-agency coordination and intervention.

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### **Recommendation 14**

In developing the forthcoming Property Portal, the Government should examine how instigation, monitoring, and case management of ASB Case Reviews might be integrated, linking digitally where appropriate with local authority departments, police, and housing providers.

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<sup>217</sup> See the comment of the NRLA on this issue: Sally Walmsley, NRLA, *NRLA’s anti-social behaviour plan shared with minister* (2023).

<sup>218</sup> Victims Commissioner, *Anti-social behaviour: Living a nightmare*, (2019).

<sup>219</sup> NRLA, *Ibid.*



# List of Recommendations

**Recommendation 1:** The Government should make good on its intention to abolish Section 21 of the Housing Act 1988. In doing so, it should simultaneously overhaul Section 8 to strengthen the rights of landlords where appropriate, including stronger grounds for possession for landlords wishing to sell their properties, landlords or their close family members are wanting to move into their property, where there have been repeated serious rent arrears, and where there has been damage to property by tenants or anti-social behaviour.

**Recommendation 2:** The Government should reform Assured Shorthold and Shorthold tenancies and bring about a Standard Tenancy which is periodic, leaving fixed-term tenancies only for the general student Private Rented Sector (PRS) market. This tenancy should be subject to a four-month initial period, after which a notice to quit becomes feasible subject to a two-month notice period.

**Recommendation 3:** The Government should introduce a clear, coherent Decent Homes Standard for the PRS which considers the nuances of the housing stock and profile of the sector.

**Recommendation 4:** To ensure major building works are viable, and therefore to incentivise investment in upgrading the environmental efficiency of residential accommodation, we recommend removing condition (b) from Ground 6 set out in Schedule 2 of the Housing Act 1988.

**Recommendation 5:** The Government should monitor market-led solutions that aim to reduce the problems experienced during the overlap between tenancies and examine the case for whether national roll-outs or pilot programmes would be feasible.

**Recommendation 6:** The Government should fulfil its intention to replicate the existing system of allowing rent increases only once per year, increase the minimum notice period needed for any change in rent to two months, and end the use of rent review clauses.

**Recommendation 7** The Government should review the freeze on Local Housing Allowance. When fiscal headroom allows this could be re-based at 30 per cent of Broad Rental Market Area prices.

**Recommendation 8:** The Government should make clear its timescale for implementation of the Property Portal, aiming to deliver it no longer than two years following the passage of the Renters (Reform) Bill. It should further make clear how the design and testing processes will be aligned to ensure this is feasible. It should enable full integration with, and improvement upon, the Database of Rogue Landlords and Property Agents, as well as examining the possibility for integrating a case management for Anti-Social Behaviour Case Reviews.

**Recommendation 9:** The Government should substantially increase support for local authorities' housing enforcement capacities to drive up standards, prioritising areas with the most severe challenges.

**Recommendation 10:** The Government should work to increase substantially the capacity of the courts to handle housing cases in a timely fashion. Long term, it should look to introduce a specialist Housing Court, staffed by judges with specialist expertise in housing issues. All housing cases could then travel through a single body with the institutional insight needed to process them more quickly and effectively than at present.

**Recommendation 11:** The Government should introduce a single Ombudsman for the PRS, making membership of it mandatory for all private landlords.

**Recommendation 12:** The Government should prioritise and fast-track possession claims in respect of antisocial behaviour. The reformed Section 8 ground for possession in cases of antisocial behaviour should be mandatory.

**Recommendation 13:** The Government should issue statutory guidance on where low-level cases of anti-social behaviour will be eligible for Section 8 possession orders to be issued. The Government should avoid setting an evidential bar too high so as to make such a system unworkable.

**Recommendation 14:** In developing the forthcoming Property Portal, the Government should examine how instigation, monitoring, and case management of ASB Case Reviews might be integrated, linking digitally where appropriate with local authority departments, police, and housing providers.

# Conclusion

This paper has highlighted both the crucial role played by PRS homes in our housing ecosystem, as well as acute issues that are occurring within it. As our data analysis shows, far more young, low-income households are living in the PRS than ever before as the supply of social housing is insufficient to meet our needs across the country.

As testimonies related above highlight, lacking a decent, safe, secure home is crucial to family wellbeing, children's education, job opportunities, and the feeling of being able to put down roots in the community. In turn, participants have clearly related to us how the safety and quality of a home can be severely undermined by unprofessional landlords. Tenants worry about taking up issues with landlords for fear of being issued a no fault eviction notice.

As we have maintained in previous research, this is why a reset in the dynamic between tenant and landlord is needed. We are pleased that the key proposals to abolish Section 21 and make tenancies periodic have been included in the Renters (Reform) Bill.

We have also highlighted the importance of balancing tenancy reform with the goal of not undermining investment and supply in much-needed rental accommodation from the many good landlords in the marketplace—particularly at the affordable end of the market. Reforming Section 8 is one part of this, and we are pleased that the Government has proposed strengthened grounds for possession in the Renters (Reform) Bill, including in respect of sale, occupation by family members, and anti-social behaviour.

We know that a key issue negatively affecting both tenants and good landlords is a lack of effective enforcement by local authorities. As Eddie Hughes MP rightly highlights in the Foreword to this report, the Property Portal to be introduced in the Renters (Reform) Bill will enable a step change in transparency and efficiency.

We welcome constructive Parliamentary debate on the Renters (Reform) Bill and strongly encourage MPs to back its key measures.

However, there is a material risk that the policies could be hamstrung on arrival by an inefficient court system which has already been described as “broken” and a lack of enforcement resourcing. As the number of Section 8 cases increases, an effective, high-capacity, well-resourced, accessible housing justice system is needed. We encourage close scrutiny of the Government's proposed measures to increase court case capacity and urge them to go further and faster. The clearest way this can happen—recommended by previous CSJ reports and the Commons select committee—is the introduction of a specialist housing court.

The Government should likewise substantially increase support for local authorities' housing enforcement capacities to drive up standards, prioritising areas with the most severe challenges.

This report has also highlighted recommendations for the Private Rented Sector which go beyond what is in the Renters (Reform) Bill. We would encourage this and successive Governments to continue looking to introduce a Decent Homes Standard for the Private Rented Sector which takes into account the nuances of housing stock within it.

The Government should continue to monitor market-led solutions for reducing the financial burdens of deposits between tenancies and examine the case for whether national roll-outs or pilot programmes would be feasible.

Statutory guidance on low-level cases of anti-social behaviour should be issued, and the Government should examine how ASB Case Reviews could be more effectively managed to increase uptake of this existing mechanism for the benefit of PRS tenants, landlords, and local communities.

To 'raise the roof' and build a better PRS, landlords also have a role to play. This report has examined how PRS housing providers—landlords large and small—can look to offer excellence in their service across each of the areas we have discussed. We have highlighted how an ethos of viewing private rental accommodation as a professional service sector is crucial, and how landlords operating at scale have distinct opportunities to do this.

These recommendations for landlords and government, many of which are included in the forthcoming legislation, will enable us to raise the roof in terms of PRS housing excellence in England. We encourage MPs to back the key Renters Reform measures, Government to continue developing the sector as a whole, and landlords to strive for a spirit of excellence, particularly in communities and for tenants with low incomes.





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