

## **Strengthening consumer redress in the housing market**

### **Generation Rent submission**

Generation Rent welcomes the government's exploration of the issues addressed in this consultation and the opportunity to respond. We represent private renters in the UK and have answered questions 8 to 17, 22 to 28, and 30.

**Q8: What do you consider to be the main problem with redress in the housing market, if any (tick up to three):**

1. There are gaps in redress
2. Worried about the consequences of complaining
3. Other: Size of settlements and lack of wider repercussions means there is little deterrent for companies using sharp practices.

Regarding gaps in redress, the main problem is that there are many things that can go wrong and it is not always clear where the tenant must seek redress. For example, failure to fix disrepair or protect a tenancy deposit is not covered by the redress system, which can create confusion.

**Q9: Which solutions below do you think would best improve redress in the housing sector (please pick up to three)**

1. Schemes all operating to the same criteria/standards
2. Streamlined redress provision in housing (see question 30)
3. Other: Security of tenure and rent certainty for tenants to prevent provider responding to complaint with a no-fault eviction or a rent hike. This would give tenants greater confidence to raise complaints. Generation Rent has made proposals for how a system could work and we note that the government is planning a consultation on longer tenancies. Whether under our current tenancy regime, or a new one, tenants with a complaint must be protected from no-fault eviction and rent rises until their grievance is resolved, with a further period of protection if upheld.

**Q10: Could more be done to improve in house complaint handling for housing consumers?**

- Yes

There should be better communication about the scheme's code of conduct to tenants so that they know exactly what to expect from their agent and, if they have a problem, how their complaints process operates. This would help educate tenants and strengthen their position if they make a complaint.

**Q11: Are there common practices that housing consumers and businesses should be able to expect from a redress scheme, or do different sectors in housing require different practices?**

Yes - there should be common practices for consumers

**Q12: If you believe there should be common practices that consumers should be able to expect from a housing redress scheme, what should they include? (pick as many as relevant)**

- Policies to support awareness raising
- Timeliness of complaint handling
- Codes of practice specific to the sector
- Transparency of decisions

**Q13: Do you think that a redress scheme should publish decisions and the number of complaints relating to different providers? Please explain why.**

Yes. There is no way for consumers to know what the complaints-handling performance of a letting agent is like before using them. If there were a way of comparing them – for example, the number of complaints upheld by a redress scheme in the past three years, along with the number of lettings they did in the same period – then consumers would get a sense of how trustworthy they were. This would be a more effective deterrent of bad behaviour, especially if the level of compensation remains for some agents “a cost of doing business”. Even though tenants do not generally choose the letting agent they deal with (they come with the home), many landlords will go elsewhere if they see that a letting agent has a poor track record. These metrics should be transferred to the new company in the event of a merger or takeover, and transfer between schemes if there is to be more than one.

Furthermore, the publication of decisions – even on an aggregate level – would do more to educate tenants about the complaints process, what kind of behaviour by an agent is unacceptable and what to expect if they pursue a complaint.

**Q14: What is a reasonable time frame for a redress scheme to deal with a complaint?**

More than 2 weeks but less than a month

**Q15: How should a redress scheme support consumers to access its scheme?**

If there is only one scheme, then it ought to be possible to contact every tenanted property in the country thanks to the recently acquired ability of authorities to access deposit protection data. The scheme could send every tenanted property a summary, by post, of its responsibilities and performance (e.g. how many tenants had complaints upheld and what was the average payment, what were the most common issues, etc) on an annual basis.

If there is more than one scheme, then identifying relevant tenants suddenly gets incredibly difficult. This is one reason we should only have one scheme.

A mass mailout would not be foolproof – tenants who are most vulnerable to poor practices will not have their deposits protected, and in other properties an unscrupulous landlord might collect the post so that it fails to reach its intended recipients. But it would add another layer of education about tenants’ rights, which is currently lacking.

Regardless of the structure of the redress scheme, the government should streamline the process of resolving housing problems by establishing an online portal that gave tenants a step-by-step process to identify the body to raise problems with – the redress scheme, their local council, or the courts. It could even allow emails to be sent directly to the schemes or councils, send prompts to follow up, and collect data to help improve communications or enforcement.

**Q16: What kind of sanctions should a redress scheme have access to?**

- Financial award up to £25,000
- Financial award greater than £25,000
- Expulsion from scheme
- Power to make decisions binding
- Referral to enforcement agent/ regulators

Other: public display of firm’s complaints record.

Financial awards could be deducted from the rent, to prevent landlords and agents from delaying payment.

**Q17: Have you encountered any gaps between different issues, ombudsmen and redress schemes in terms of their areas of responsibility?**

The main gap that our supporters encounter is the ability to complain about their letting agent in standard consumer protection terms, but for anything involving disrepair they must raise unresolved complaints with their local authority. Clearly there is a large gap in coverage between tenants who let directly from landlords and through letting agents, which we would support the closing of with the proposed requirement for landlords to join the scheme.

**Q18-21**

Not relevant to us

**Q22: Should the requirement for private landlords to belong to a redress scheme apply to all private landlords?**

Yes. A scheme that covers all landlords would help to avoid situations where, for example, tenants deal directly with a landlord after the initial interaction with the agent, and the agent has no responsibility if any complaints arose.

There are other benefits of requiring all landlords to belong to a redress scheme if the data was shared with other authorities:

- It would allow the government to communicate directly with landlords about their responsibilities and changes to legislation
- It would help HMRC ensure that all landlords were paying enough tax
- If property details were registered as part of the scheme it would help local authorities to target enforcement resources more effectively
- It would allow the government to police any systems of incentives it decides to introduce. Landlords might claim a benefit in return for providing a better set of terms to their tenants that went beyond the statutory minimum. But without a way for a tenant or enforcement officer to check independently what a landlord's obligations are, there would be nothing stopping the landlord from offering only the statutory tenancy terms. The redress scheme could provide the means to record and communicate such obligations.

**Q23: Who is best placed to provide a redress scheme for private landlords?**

A single ombudsman for the private rented sector

**Q24: How should redress scheme membership for private landlords be costed?**

A tiered system according to the number of properties a landlord lets.

This would prevent small landlords paying disproportionately more than larger scale landlords. It could also allow the collection of information about the properties themselves – i.e. their addresses, which would assist with enforcement.

**Q25: How should the requirement to be a member of a redress scheme be enforced and by whom? And are there any other markets we can learn from in order to ensure compliance by a large number of small scale providers?**

Trading Standards would be best-placed to enforce the redress system in the same way that they are now, though we have concerns that they are not currently funded sufficiently. One additional challenge of enforcing the requirement on landlords is that they don't have the same office/website setup that letting agents do, so there is less ability for the authorities to check compliance.

It would also be difficult for a tenant to check that a landlord is registered before they apply for a tenancy, in the same way that they can currently check a letting agent. Tenants might only have an address to go on, and if they did have a full name of the landlord, it might be a very common one.

One solution would be to include information about a landlord's properties in the online checking system. The tenant could enter their prospective home's postcode, check that the address appears, and that the name matches that of the person who is purporting to let the property.

**Q26: What should the penalty for initial non-compliance be? If a financial penalty, what would be an appropriate level of fine? (tick as many as appropriate)**

- Financial penalty [please give details on suggested level of fine in the box below]
- Criminal offence
- Banning order
- Loss of right to evict tenants under Section 21

All of the above. The fine could be the standard £5000 levied on non-compliant agents, with continued non-compliance subject to a banning order. To encourage tenants to report unregistered landlords they should be protected from no-fault eviction.

**Q27: How can Government best ensure that landlords are aware of their requirement to belong to a redress scheme?**

In addition to online information, direct communication via deposit protection schemes and HMRC may be good ways to reach landlords who are already doing the right thing. For landlords who are below the authorities' radar, a campaign targeting their tenants might be an option – as anyone could check if their landlord was on it and report non-compliance anonymously.

**Q28: Are there any other voluntary or medium term measures that could be implemented to improve redress for tenants in the private rented sector ahead of any legislative changes?**

A portal could be created now to e.g. allow tenants to easily find their letting agent's redress scheme.

The government may currently have enough information about tenanted properties – through deposit protection data – to undertake a communications campaign to raise awareness of the redress schemes. Messages could be tested in different local areas to see what prompts more complaints to the ombudsmen.

Protections from retaliatory evictions could be strengthened for existing complaints within the redress system.

**Q29**

Not relevant to us

**Q30: Should we streamline redress provision in housing, and if so, what would be the most effective model? Please explain below what you see as the benefits and challenges of the options.**

Yes - One ombudsman for each sector of the housing market (e.g. one for home buying, one for new build homes, one for private rented sector, one for the social sector, one for leaseholders)

To simplify the complaints system for private tenants, and to help the ombudsman more effectively reach the consumers they are set up to protect, we support the creation of a single ombudsman for the private rental market. We would not oppose combining it with the Housing Ombudsman to create one that covered all rental homes.

There are grey areas between social housing and private rented housing – some private landlords are already members of the Housing Ombudsman, while some social landlords provide homes on Assured Shorthold Tenancies. For that reason, there could be an option for landlords to join either the social housing or the private rented sector schemes. This is where similar standards would help to ensure that tenants would be treated fairly whoever their landlord was.

Either way, we would support a Single Front Door approach, especially if this incorporated a process that could direct tenants to contact their local authority or other bodies for issues that fell outside of the ombudsman's remit.

A further grey area relates to shared ownership – an area outside of our organisation's focus, but one which combines elements of new build, leasehold and rent. This adds support for creating a Single Front Door.