

Communities and Local Government Committee: Private Rented Sector inquiry

Generation Rent response

Generation Rent represents the UK's 12 million private renters, and campaigns for a fair, safe and secure private rented sector.

Do local authorities have the powers and capacity required to enforce standards in the private rented sector and deal with 'rogue landlords'?

Although national statistics suggest that over a quarter of privately rented homes are 'non-decent',¹ there is a real lack of enforcement in councils across the country. Freedom of Information data from the last year found six out of ten councils failed to prosecute a single landlord.²

A more comprehensive 2015 report commissioned by Karen Buck MP estimated that local authorities identify 13,000 Category 1 hazards in private rented homes per year. This is a tiny proportion of the 720,000 private rented homes that the English Housing Survey estimates to contain one or more Category 1 hazards.

The study³ found that in 2013/14 the mean local authority:

- received 433 complaints about conditions,
- carried out 260 inspections of private rented homes,
- identified 70 common Category 1 hazards, and
- issued 17 Improvement Notices, the most common formal enforcement action, which compels the landlord to act.

If councils were resourced properly we would expect the number of inspections to be closer to the number of complaints and the number of Improvement Notices to be closer to the number of hazards.

Gas safety is a related problem, the scale of which is unknown, although analysis of the gas safe register has found 22% of privately rented homes have unsafe gas works.⁴ This excludes the unknown numbers who have no current and valid gas safety certificate.

Local authorities' budgets have been reduced by around 26% since 2010,⁵ meaning they have less resources overall, and many have found savings through reducing their private rented sector enforcement teams.

¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/627686/Private_rented_sector_report_2015-16.pdf

² <https://www.theguardian.com/society/2017/oct/28/rogue-landlords-enjoy-an-easy-ride-as-councils-fail-to-prosecute>

³ <http://sabattersby.co.uk/documents/KBReport2.pdf>

⁴ <https://www.247homerescue.co.uk/landlords-negligent-towards-their-gas-safety-obligations/>

⁵ <https://www.ifs.org.uk/uploads/publications/comms/R121.pdf#page=6>

Given the massive and continuing growth of the private rented sector, which now houses over 12 million people across the whole of the UK, there is currently a mismatch between the capacity held at local authority level and need across the country.

New powers allowing local authorities to impose civil penalties on rogue landlords, avoiding a court case and retaining the fine, may help to provide some resourcing for enforcement, as will the extension of rent repayment orders in cases of breaches of the Housing Health and Safety Ratings System.

However, it remains to be seen how effective these measures are, and employing an enforcement team of environmental health officers to make the most of these powers requires some up-front investment that many councils will not be willing to undertake within the current spending climate.

From April 2018, new regulations on energy efficiency will come into force, meaning that private landlords will not be able to rent out a home which has an energy performance certificate rated below 'E', unless they register an exemption. Exemptions can be granted where improving the energy efficiency of the property would present an 'upfront cost' to the landlord, which cannot be covered by existing energy efficiency schemes.

Guidance⁶ suggests that enforcement of this legislation can fall under either council trading standards or environmental health teams which brings a lack of clarity to the enforcement regime.

The guidance is also general enough to make it unclear how a landlord has shown they have tried to access funding – and enforcement is therefore further undermined.

There is currently almost no enforcement of the current EPC regime – where an EPC is mandatory for all privately rented homes being let – so without further resources, it is questionable whether any of this new legislation can be overseen.

What are the main obstacles to effective intervention in the private rented sector?

In addition to the resources of local authority enforcement teams, two major obstacles to effective intervention are: 1) the lack of oversight of the sector, and 2) the lack of security for private renters.

In this first area, the lack of a comprehensive easy-to-use register of all private landlords and properties means that local authorities and others are not able to easily create a strategic framework for enforcement, based on the properties that fall under their purview.

It is true that tenancy deposit data can now be used to assist councils in understanding where private rented stock is, but this does not cover all properties, and is unlikely to cover those homes with the worst conditions, whose owners may not engage with such schemes.

A comprehensive licensing scheme, covering all privately rented homes, could allow for more details about the property to be shared, and could be constructed in a way where sanctions could easily be brought against those failing to acquire a license or those breaking the terms of a license.

⁶https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/656540/27_09_17_Domestic_Private_Rented_Landlord_Guidance_-_Final_Version.pdf

On the second point, and within the current system of enforcement action that we have, the lack of security that renters face means they are often unlikely to proactively complain about poor conditions or poor management.

This is because they know that a landlord can evict them through the section 21 process, without giving a reason, and many fear that any complaint they make against a landlord can lead to this.

Legislation to prevent ‘revenge evictions’ invalidates section 21 notices for six months where a council identifies a Category 1 Hazard and serves an Improvement Notice. However, councils report few cases of tenants who have been protected⁷, and the low enforcement rates support the case that it is not working as hoped. In any case, councils can provide only temporary protection from an eviction that can then happen later.

Recent polling commissioned by Generation Rent found that one in three (35%) private renters is worried they will have to move home in the next year, compared with 16% of home owners.⁸ The fear of eviction not only undermines the ability of renters to advocate for themselves or make complaints, it also prevents them from their home as truly theirs.

This culture of being unable to treat a rented property like a home, coupled with an arduous and lengthy enforcement process, means that some renters will just leave their properties after failing to get a problem resolved. As a landlord does not have to prove a home is HHSRS-compliant before it goes on the market, this leads to long-term conditions problems that aren’t resolved, just left behind for the next tenant.

How effective are landlord licensing schemes in promoting higher quality accommodation?

Landlord licensing is the most effective tool that local authorities currently have at their disposal for promoting higher quality accommodation, inasmuch as it is vital for aiding strategic and effective enforcement.

To that end, it is most highly effective when in the form of borough-wide selective licensing, as councils such as Newham, Waltham Forest, Croydon, and Liverpool have undertaken.

Over the last five years, Newham has prosecuted 1,217 criminal landlords, and their prosecution action last year accounted for 70% of all action taken across London.⁹

Licensing has supported this by allowing them to properly map their private rented sector, go after suspected landlords that they think have avoided licenses, and provide a self-funding model through license fees paid by landlords.

Licensing also works with the new enforcement powers – Civil Penalties, and extended Rent Repayment Orders – that have been introduced from the 2016 Housing and Planning Act. Newham also became the first council to use a civil penalty against a landlord earlier this year.¹⁰

⁷ <http://www.bbc.co.uk/newsbeat/article/38795177/revenge-eviction-law-not-working>

⁸ http://www.generationrent.org/insecure_tenancies_drag_down_quality_of_life

⁹

http://www.generationrent.org/landlord_licensing_works_yet_the_government_delaying_renewal_of_most_successful_scheme

¹⁰ <https://www.londonpropertylicensing.co.uk/newham-becomes-first-council-country-issue-landlord-civil-penalty>

How effective are complaint mechanisms for tenants in the private rented sector?

Complaint mechanisms are not really functioning for private tenants facing problems in their homes. The issues stated above around enforcement apply when someone is making a complaint about specific conditions in their homes, but in cases of other problems, there are no real means of redress available to tenants.

Citizens Advice found that most tenants aren't taking up any existing mechanisms for complaints, and large numbers are left waiting when trying to resolve a repairs issue through their landlord.¹¹ Their recommendations include property certification prior to letting and the ability for tenants to end a tenancy early where landlord obligations are not met.

This framework of consumer rights is standard across a wide range of markets and would begin moves to modernise the private rented sector and empower the consumers within it.

There are occasions where the tenant can take their landlord to court to resolve problems but for many the cost of hiring a lawyer can be prohibitive, even if the tenant qualifies for legal aid.

More recently complaint mechanisms have been introduced for the lettings industry, where every letting agent is obliged to be a member of a national redress scheme. Data suggests that there is very little use of the redress schemes by tenants.

This may partly be due to a lack of knowledge of the schemes, which have only been in place for two years, but also because of the lack of remedies available through the complaints process.

For more information about this submission, please contact:

Seb Klier
Policy and Campaigns Manager
Generation Rent
sebklier@generationrent.org
07534 725 511

¹¹ <https://www.citizensadvice.org.uk/Global/CitizensAdvice/Its%20broke%20lets%20fix%20it%20-%20Citizens%20Advice.pdf>