

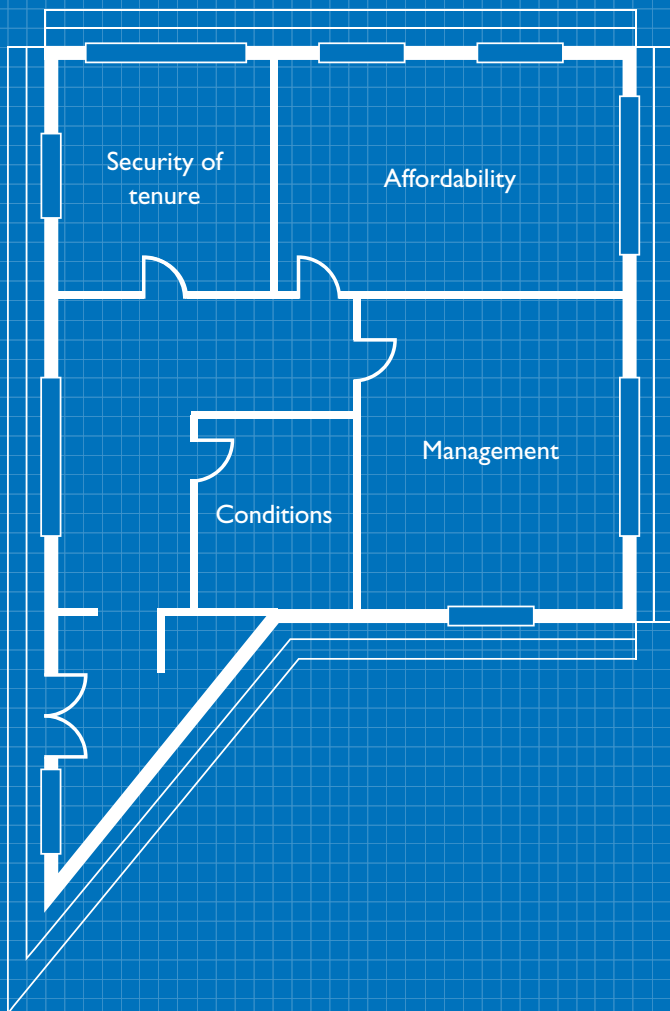
The Renters' Manifesto:  
A blueprint for building  
a new sector in 2015



**GENERATION RENT**

The national voice of private renters

Published June 2014



# Foreword

Private renting has hit the political agenda in a way that hasn't been seen for a generation.

The Department for Communities and Local Government has announced a review into property conditions in the private rented sector (PRS). The Labour Party recently launched their local election campaign with their plans for private renting. Pick up a paper and you'll find a range of housing stories. Or follow the goings on at Westminster and you'll hear the politicians regularly debate the problems renters face.

And little wonder – the problems are legion. As a national organisation representing the 9 million private renters across the country, Generation Rent is well aware of how the PRS is not working for the people who live in it. Across the UK right now, tenants face eviction from their homes at short notice and for no reason, with little time to work out where they'll go next. Conditions within the PRS remain much worse than in other tenures, with the poorest in our country living in damp and mould-ridden accommodation. In fact, more than a third of private rental properties fail to meet the government's own measure for good conditions in the social housing sector, the Decent Homes standard.

Private renting is poorly regulated, and amateur and ignorant landlords cause many of the problems in the sector. When the government does not even know how many private landlords there are in the UK, it cannot make effective policy involving them. If anyone can easily set up business as a letting agent, with almost no checks or vetting, it is unsurprising that tenants often report bad experiences when trying to rent a home.

Private renters are also finding themselves priced out of areas where they want to live and work. Across much of Britain, particularly London and the South East, many simply cannot afford to pay the rent with the wages they earn. This leads to a spiralling benefits bill, going straight into the pockets of landlords. The whole economy stumbles and falls if people of all incomes and positions cannot live near where they can work. We know this is a housing crisis, but its consequences could be much wider.

Yet there remains a sinking feeling – is anything going to be done about a private rented sector that is currently failing so many? Can politicians finally start sticking up for the 9 million people who are currently renting, a number that will only grow in the near future?

This year is the time to make them act. Generation Rent will be campaigning to make housing, and private renting specifically, a central issue of the General Election. This means we will be mobilising renters across the country to show that they are a group worth caring about, and they have electoral power that Parliament must recognise.

The document in your hands sets out a range of ways that the PRS can be improved in the areas that it needs to – that is, affordability, security of tenure, management and conditions. In each section, we set out a major solution to the problem, based on input from a range of stakeholders in the housing sector, as well as other policies that could overhaul how we treat private renting.

Anyone who cares about making the private rented sector fair and sustainable will have an interest in what follows. We want politicians to engage with this process, and for renters to hold them to account. This year is a huge opportunity to build a new private rented sector – a tenure of the best possible homes that works for landlords and tenants alike.

**Generation Rent, June 2014**

# Security of tenure

## **The problem:**

Too many people are renting on short-term contracts – invariably six months or a year – when they would rather have the greater security of a longer tenancy.

Short notice periods also mean that renters often have to undergo the upheaval of moving with little or no time to plan their future or organise their affairs. Outside of a fixed-period contract, tenants can be evicted for no reason – using section 21 proceedings – with just two months' notice. Due to the ease with which this can happen, many renters live in fear of retaliatory eviction if they complain about conditions or the behaviour of their landlord.

## The plan:

# Reforming assured shorthold tenancies (ASTs)

Voluntary initiatives have failed to bring about a shift where renters are able to easily, and as a matter of course, take out longer-term tenancies. And what's more, it does not make sense for a tenant to commit themselves to a longer contract when their long-term income and job prospects are uncertain.

What is needed, then, is a reform of ASTs that gives tenants longer minimum terms as a legal standard but still allows them to leave a property before the end of the term as necessary. Abolishing the use of section 21 would achieve this and provide unlimited security. But there is huge opposition across the landlord industry to such a step.

We suggest a compromise: the introduction of five-year tenancies as a legal minimum, where tenants can give notice after the first year but cannot be evicted without reason under section 21 for five years. This length of contract gives an important amount of security, allowing renters to plan their futures and become involved in their communities. And rent would be set to a certain level to prevent sudden rises forcing tenants out before the end of their contract.

Furthermore, this policy would fundamentally alter the relationship between a renter and both their landlord and the property. With section 21 invalid for five years, renters would no longer fear retaliatory eviction for complaining about conditions, and would be able to develop a more positive relationship with their landlord. Equally, living in a place for a greater length of time would allow a tenant to treat it as their home rather than simply somewhere to live, maintain it and making them more likely to report hazards and disrepair earlier.

Landlords should not fear this policy as it would help to plan their received income over five years, giving reassurance to lenders. It would also help landlords avoid vacant periods in their properties. Mandatory 'no fault' possession should be restricted to specific circumstances, i.e. where the landlord has served written notice at the start of the tenancy to confirm that the property was previously his own home for a certain minimum period and that he may wish to return to it at some future date. Similarly, discretionary grounds for possession might include where the landlord or a member of his family wished to occupy the property.

# Further recommendations:

## **Targeted incentives for landlords**

Any incentives, financial or otherwise, that could be used to encourage landlords to offer assured, non-shorthold tenancies or longer contracts, need to be targeted and not simply applicable to every landlord. While a longer term tenancy is being brought into law, tax incentives that currently apply to private landlords could be altered to apply to those who specifically offer longer-term tenancies of three years or more. Those offering assured tenancies, as is still possible under current law, should be incentivised further:

Shelter have previously proposed changes to income and capital gains tax to make it more economically attractive to let out properties on longer contracts, effectively penalising landlords who only offer short tenancies. Under this model, income tax on rental income would be increased for those offering short-term contracts (here this would be under three years) to make it equal with income tax and national insurance contributions at the level set for self-employed people.

At the same time, capital gains tax rules would be changed so that Entrepreneur Relief would be allowed for sales of homes on long-term tenancies. And the Annual Exempt Amount for properties let for shorter periods would be abolished, providing a disincentive to continue with shorter contracts.

This would open up the possibility of more longer-term tenancies being brought to the market while legislation is devised and implemented. But any move to promote longer contracts in this way would also have to ensure that renters had adequate break clauses, allowing them to leave tenancies earlier (between one and three years) if necessary, with an appropriate notice period given to the landlord.



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Many renters stay in homes for a number of years. Yet they still only have two months to leave when their landlord decides to regain possession of the property, potentially causing massive disruption to their education, work and other life commitments.

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### **Reforming the law around tenant notice periods**

If longer tenancies continue to be facilitated through a purely voluntary approach, this policy would seek to ease the transition of moving between private rented homes when a tenant is evicted. It involves a system whereby longer-term tenants are awarded longer notice periods when they ultimately leave a property.

Many renters stay in homes for a number of years. Yet they still only have two months to leave when their landlord decides to regain possession of the property, potentially causing massive disruption to their education, work and other life commitments. Under an 'earned notice' model, in addition to the two months' notice period given as standard, tenants would have a right to a sixth of their whole tenancy as a notice period, for example. Good tenants who have lived for years without any problems in a property are therefore allowed a notice period that works for them.

This model would mean there is no single fixed date when it is better for a landlord to evict a tenant, just that the longer a

renter is in situ, the longer notice period they are granted.

The length of notice could be capped at a reasonable amount – a year, for example. This would mean families and others with major commitments and connections in an area would have longer to look for alternatives in that area, and plan their move according to other work and life pressures. And they would be able to decide when within that notice period they would move, and plan moving around other commitments, minimising the stress and hassle involved. For example, families could choose to move in the school holidays, or individuals when they were able to take time off work.

These proposals could work in conjunction with the reforms of ASTs, meaning that longer notice periods also accompanied long-term tenure. The alternative facing renters is yet more short notice periods still applying to longer contracts, meaning they have to quickly find a new home at the end of a five-year tenancy.

# Affordability

## **The problem:**

Renting is too expensive for too many people, with demand outstripping supply and people spending years in a sector where huge amounts of their income go towards rent, instead of other parts of the economy.

Regular rent increases also undermine secure tenure, as many people have no option but to move out when the rent is put up. Even moving into the private rented sector is difficult for too many, as renters have to somehow find large up-front letting agent fees and deposits.



## The plan:

### A permanently affordable private rented sector

As detailed in Generation Rent's paper, *Buying out of the Bubble*, a secondary market of new private rented homes, built by government and sold to buyers at close to cost price, is one way to produce affordable homes for renters.

To make these homes affordable, public land would be requisitioned by government. Buyers in this market would be able to rent out their homes, but only at a greatly reduced rate of rent, reflecting the fact they had bought the properties cheaply – effectively buying into a rent cap at the time they make their investment.

Those who chose not to rent them out would have access to vastly cheaper housing to buy. The money recouped from sales could be reused again and again by government to build more homes. Such a policy would mean there would be cheap homes not subject to the open market, and rental properties with affordable rents on a permanent basis, not subject to the housing bubble and property speculation.

The basis of this policy is a scaling up of the Community Land Trust model to a market impacting level. The creation of this secondary, bubble-free market would enable consumers to decide whether to speculate on property and land prices or to consider investing at a cheaper, non-speculative level. To see the full details of a secondary housing market, go to [www.generationrent.org](http://www.generationrent.org)



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Implemented by various planning authorities, New Homes Zones would be strategic sites focused on delivering low cost developments of mixed tenure, with incentives for businesses to build.

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### **Increasing the housing supply**

There is broad political and public consensus that a central priority must be to build more homes across the country to meet demand and in turn bring down house prices and rents. Shelter and KPMG's recent report, *Building the homes we need*,<sup>1</sup> sets out a wide range of proposals to make this happen within the first parliamentary term of a new government from 2015.

These proposals are grouped within four broad areas for reform – the land market, house building market, affordable housing investment, and strategic local leadership. Generation Rent supports the report in its entirety but would highlight three key policies:

#### **1. Introduce 'New Homes Zones'**

Implemented by various planning authorities, these zones would be strategic sites focused on delivering low cost developments of mixed tenure, with incentives for businesses to build.

#### **2. A National Housing and Infrastructure Investment Bank**

Based on an established lender in the Netherlands, the National Housing Bank could be owned by government and shared with local authorities or as a not-for-profit vehicle to provide lending for affordable housing providers.

#### **3. Integrate major new infrastructure with new homes**

This proposal involves placing housing within the long-term, £100 billion plan of capital investment set out by government over the next Parliament, which currently includes major national infrastructure but nothing for housing. For example, Shelter state that 'Settlements of 1500 units could be planned in the long term alongside major transport investments like Crossrail, HS2, electrification of the West Coast line and any new airport capacity.'

1. Shelter and KPMG, 2014, *Building the homes we need*. [http://www.shelter.org.uk/\\_\\_data/assets/pdf\\_file/0019/802270/Building\\_the\\_homes\\_we\\_need\\_-\\_a\\_programme\\_for\\_the\\_2015\\_government.pdf](http://www.shelter.org.uk/__data/assets/pdf_file/0019/802270/Building_the_homes_we_need_-_a_programme_for_the_2015_government.pdf)

# Further recommendations:

## **Controlling maximum rents for properties**

To tackle the immediate affordability crisis in parts of the UK, government could introduce a control on rent levels, linked to average earnings and not to the current imbalance between supply and demand. Work would need to be undertaken to ensure 'average' levels were not pushed up by extremely high earners in certain areas.

Guideline rents could be published, as per the Valuation Office Broad Market Rental Areas used to set housing benefit caps, but based on smaller areas such as electoral wards. The Valuation Office would be the appropriate body to hold, update and publish this data, but it could commission valuations, for example from housing associations which employ rental evaluators for their own stock.

Tenants who felt that the specific conditions of their homes were such that a lower rent should apply could have the right to ask the Residential Property Tribunal Service to determine their rent. Landlords offering high quality accommodation might also be able to request determination of a higher rent.

Currently this policy has received a mixed political reception and been criticised on the basis that it will restrict supply in the market and investment in existing stock. Generation Rent does not believe that rent controls necessarily undermine the private rented sector. We also believe that until Britain's housing supply is massively increased and properly distributed, which is a process that will take many years, tenants need protection from exploitative rents.

## **Limiting annual rent increases**

A different kind of controlled rent proposal involves allowing landlords to set the initial level of rent and then have maximum annual increases linked to an index over the term of the tenancy, to stop sudden rent hikes and to make costs predictable for renters. Inflation has been suggested as a relevant index but a more appropriate measure could be wage levels.

Such a policy requires increased security of tenure to stop renters being forced out when rents are put up, as set out in the tenure section of the manifesto. A functioning example of this model is the rental market in Germany.



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A modern-day, and very expensive feature of private renting, is the huge fees paid to letting agents for services that are often unclear and overcharged.

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However, in themselves second generation controls do not actually solve the affordability crisis, but just shield some renters from its worst excesses. Furthermore, normalising annual rent rises across the whole sector may mean that some people who currently enjoy a stable rent across many years will start to be hit by regular increases.

### **Banning letting agents' fees for tenants**

A modern-day, and very expensive feature of private renting, is the huge fees paid to letting agents for services that are often unclear and overcharged. These can range from 'administration', through to drawing up contracts and putting together an inventory. There is no standard process across the industry and with fees sometimes close to £1000 for new tenants, they are completely out of proportion to the services offered. When a tenant moves, or even when they sign a new contract on the same property, the process is often repeated and more fees are charged.

Letting agent fees for tenants should be banned. The service that agents provide is in finding new tenants for a landlord who wants to let out their property and the

charge should be placed there. Landlords are in a much better market and economic position to negotiate fees downwards, leading to lower fees across the industry and a better letting service as agents compete on delivery and professionalism to win landlords' business.

### **Tenancy deposit support**

A huge upfront cost involved in moving into the private rented sector is the size of a tenancy deposit, typically equating to six weeks' rent in many cases. For individuals moving to a new area for work, being able to save up this kind of money is often very difficult, and may lead to young and disadvantaged people getting into debt.

Establishing a deposit bond scheme within a new tenancy deposit scheme would overcome this economic barrier. The tenant would pay one week of deposit up front and a week's worth of deposit per month for three to five months thereafter, meaning the whole deposit (a month or six weeks' rent) is held after six months.

During this time, government would underwrite any default from the tenant, but only once a landlord alerted the scheme of the potential for this. To incentivise this scheme for landlords, and therefore allow renters to avoid paying an up-front deposit, government would pay a £30 protection scheme fee per person, meaning landlords make a modest saving by accepting “pre-protected” tenants, but ensuring tenancy deposit protection scheme costs are covered.

As the scheme would target new renters and young people, it could also act as a vehicle for channelling information to tenants on their rights and responsibilities in their new homes and as new employees. This policy would therefore act as a potential channel for work skills, life skills and debt management programmes.

### **Increase the Rent a Room tax break**

The Rent a Room Scheme currently lets you earn up to a threshold of £4,250 per year tax-free from letting out furnished accommodation in your home. However, this limit was set in 1997 and reflects a weekly rent of about £80. Increasing it to £100 per week would reflect inflation and be a small move towards increasing housing supply, by encouraging more homeowners to take in lodgers across the country. As a small and easily implementable measure, this would help with the current lack of housing, helping to act as a downwards pressure on rents in some areas.

### **Right to Buy in the PRS**

Currently, when a landlord decides to sell a tenanted property, the Right of First Refusal is available, collectively, to ‘qualifying tenants’ (long leaseholders and Rent Act regulated tenants). This collective right should be extended to all tenants, with an appropriate discount to those who have been renting for more than five years and/or who have invested in improvements to their homes above a certain value. Where there is only one tenant, they should have the same right of first refusal before the property can be placed on the open market.

If tenants offer to purchase for a price which the owner does not accept, the property could not be sold on the open market for a price below that offered by the tenants or their nominated purchaser.

# Management

## **The problem:**

Despite the fact they are overseeing a person's home, private landlords and letting agents have to do very little to prove they are professional and trustworthy.

A great deal of the bad experiences that tenants report are a result of amateur and incompetent landlords and letting agents, who look to make a profit without knowing how to manage their properties. Simply put, both industries need to be professionalised. And at the same time, there needs to be a better system for tackling rogue and criminal landlords and agents to drive them out of the private rented sector.

## The plan:

# A national register of landlords and reformed PRS licensing

Mandatory registration of landlords, linked to licensing, would mean that government would know for the first time exactly how many landlords are operating in the PRS, allowing communication with them to support the professionalisation of the sector. The policy would be funded by a fee paid by each landlord, at a level that wouldn't be a burden to the individual but would make the scheme cost-neutral.

The incentive for registration, in addition to it being a legal requirement, would be a registration number (which tenants could check for validity) that must appear on all advertisements for properties available for letting, on the tenancy agreement, on all rent demands and all legal documents such as notices requiring possession, and all applications to court.

Landlords avoiding registration would likely be the worst offenders in the sector. Limited local authority resources could be targeted to enforce against them, with likely PRS households identified through council tax records and other measures. A national register of landlords would also enable HMRC to crack down on landlord tax evasion, and useful advice to be targeted at

landlords and tenants about their rights and responsibilities. Lessons in this area could be taken from the successful licensing scheme currently taking place in the London Borough of Newham.

Accompanying this should be a reformed and simplified private rented sector licensing scheme, meaning all privately rented properties require a licence, rather than just houses in multiple occupation (HMOs) and properties in areas facing anti-social behaviour and housing under-demand. A simplified system covering the whole sector would mean less bureaucracy for local authorities and would clarify that licensing be focused on ensuring decent living conditions and property management.

The most efficient and cost effective registration body for this purpose should be explored. It may be necessary to establish a new body for this purpose or it may be possible, for example, to extend the data held by the Land Registry.

Those operating without licences would face heavy fines that would be returned to the local authority, incentivising enforcement and ensuring that local authorities received



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Generation Rent believes that anyone undertaking lettings agency or tenancy management should have to hold a licence to do so, one that can be revoked if the holder is unfit.

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adequate funding. While a national scheme is being introduced, the trigger points for local authorities to introduce area-wide selective licensing should be expanded to include poor quality conditions and housing stock, allowing licensing schemes to tackle these problems explicitly.

### **Licensing of letting agents**

Licensing of letting agents, linked to a fit and proper person test would mean that the industry could be subject to certain uniform standards, opening the way to regulation around letting practices. To qualify for a licence, agents should be able to demonstrate adherence to high professional standards such as those required for membership of the Association of Residential Letting Agents (ARLA). Generation Rent believes that anyone undertaking lettings agency or tenancy management should have to hold a licence to do so, one that can be revoked if the holder is unfit.

Estate agents are already licensed and this ensures a professional industry that meets certain standards, protects people's money and works in a transparent way. Licensing should be linked to client money insurance to guarantee that neither landlords nor tenants will lose money if a company goes out of business and ensures that rogue agents cannot operate easily.



# Further recommendations:

## **Local authority letting agents**

Local authorities should be encouraged to set up not-for-profit letting agents or commission others to do so. Student unions should be involved in any partnership to ensure that students are also properly protected. Such agencies should offer services to all residents and landlords or properties in their area, as well as a full management service. Such agencies should not be restricted to finding and managing accommodation for homeless families or other local authority nominated tenants because this can distort the local market and disadvantage nominated tenants and other tenants as well as landlords.

Management of properties by not-for-profit letting agents might be offered as an alternative to enforcement action where landlords are not meeting the physical or management standards required.

## **Large-scale, professional management bodies**

The majority of landlords own just one property. And many problems in the sector stem from amateur landlords who are not equipped to help their tenants and maintain their properties to a decent standard.

An alternative to this may be a model in which amateur landlords hand over their property to a large-scale, professional management company, one that would be responsive to tenants and guarantee standards across a large number of properties. This could be encouraged through the tax system or other potential incentives. A REIT-style (Real Estate Investment Trust) vehicle would be ideal for this, though current rules make it difficult to access. Also allowing such vehicles to become SIPPs (Self Invested Personal Pensions) would make them significantly more attractive, though currently residential property is not allowed within a SIPP.

Essentially, Generation Rent believes the clustering of properties into effective management companies would reduce the harm to tenants of incompetent landlordism, while giving landlords a more cost-effective investment in return. We would advocate the creation of a REIT-style residential rental property vehicle with the right to convert it to a SIPP.

## Reforming tenancy deposit schemes

### i) Insurance

Tenancy deposit schemes have vastly improved the ability of renters to retrieve their deposit at the end of a contract. Before their implementation, landlords or agents would routinely keep deposits. Now a disputed deposit is held in a scheme in which mediation takes place when the amount to be returned is disputed. Two types of scheme exist: custodial (where the deposit is held in a neutral account), and insurance-based (where the landlord retains the deposit but pays to insure it). However, if a landlord is expelled from a scheme, for breaking its rules for example, or if they just choose to leave, then the deposits they hold are no longer insured. Although tenants are given this information, in practice it means tenants are not protected from the worst type of landlords.

Deposit protection schemes should protect a tenant's deposit for the whole tenancy, not just for as long as the landlord chooses to be in a scheme. Although a landlord is breaking the law if they leave a scheme and refuse to re-protect a deposit, the responsibility is on the tenant to pursue them through the courts. Instead, schemes should operate so that a deposit is underwritten by government for the length of the tenancy in the cases where a landlord walks off with the money. This would mean that tenants' money was protected in every single case. Alongside this, a system should be put in place for tenants to 'passport' deposits, moving across from one tenancy to the next without having to receive their deposit back and have it protected in their next tenancy.

### ii) Arbitration

In the deposit protection system we have right now, if a deposit is disputed then it goes into arbitration – a process that can take many months. Because of this, rogue landlords can put in a fraudulent claim, knowing that they are exerting pressure on a tenant who needs the money for their next deposit and will sacrifice some money in order to get the bulk of it back. A different model that could be considered would see both sides paying for arbitration where there is a dispute with the innocent party getting all the money back, including the fee they have contributed. This removes any motivation for rogue landlords to cheat the system, knowing they will lose the money they put towards arbitration. Lower income tenants should apply for a fee exemption, as with court fees.

### Landlord taxation

According to the UK's biggest specialist Buy-to-Let lender, Paragon, landlords are making an average 16.3% return on their investments every year. Despite this profitability, landlords straddle the line between sole traders and companies. Given the degree to which landlord amateurism harms tenants, Generation Rent believes the tax system should be differentiated, to benefit only those landlords who are willing to professionalise their operations.

## **i) Wear and tear**

The 10% 'wear and tear' allowance, available to landlords letting furnished homes, is fundamentally flawed for a number of reasons. Firstly, it rises with the rental value rather than being indexed against inflation, which would more accurately reflect maintenance costs. Secondly, the landlord receives this benefit without any checks that they are spending this money on the maintenance of the property. Thirdly, any loss in value of the property is recouped in capital appreciation. And finally, landlords can recoup maintenance costs from their tenants by withholding deposits at the end of a tenancy and so are being paid twice for wear and tear. At a more basic level, there is no logical reason why the taxpayer should be giving a tax break to this class of small business person, but not to other small businesses.

We advocate the abolition of the wear and tear allowance in its current form. The options for its reform include:

- a. Making maintenance costs a normal cost of doing business, one that has to be accounted for like any other small business, but with no additional financial benefit.
- b. Alternatively, allowing the sum saved from doing away with the wear and tear allowance to be repurposed as a benefit only for those who transfer their property into a REIT-style vehicle as described above.

## **ii) Landlords and capital gains tax**

Generation Rent believes the scale of the capital gain return for landlords actively fuels the house price bubble and that softening this return would help calm the housing market. Furthermore, landlords are known to engage in CGT 'flipping' in order to benefit from Private Residence Relief (PRR). This means tenants are at risk of eviction if house prices go up – through no fault of their own. We would call for PRR to only be available to landlords who can prove a property has been their private residence for three years or more.

## **Model Tenancy Agreements**

Currently landlords are not obliged to provide tenants with a written tenancy agreement. This means that there is often confusion and misunderstanding about the exact terms of a tenancy, leading to problems between landlords and tenants. Making written tenancy agreements mandatory would be a positive step towards promoting better tenancy relations, and ensuring that problems are discussed and resolved between the two parties, rather than being escalated. A model tenancy agreement, written in comprehensible language that could be adapted for different properties, would be a simple way to take this forward. In line with The Law Commission's draft Renting Homes Bill 2006, tenancy agreements should contain mandatory clauses which clearly set out the statutory rights and obligations of both parties.

# Conditions

## **The problem:**

Right now, landlords can rent out their properties privately without certifying that they are free from hazards and poor conditions such as damp, mould and vermin.

This means vulnerable tenants are often forced into substandard accommodation, without being able to make a complaint or assert their rights. Moreover, enforcing against landlords is expensive and difficult for the environmental health teams in local authorities, when it should be the landlord's responsibility to show their property is fit for habitation before it is put on the market.

## The plan:

# Linking decent conditions to the right to rent out property

Rather than relying on tenants complaining to their local authorities about conditions, Generation Rent proposes a requirement that private landlords provide evidence that their properties are decent, linked to PRS licensing. Normally that evidence would be a surveyor's report. Landlords would fund the inspection which could be based on the existing Housing Health and Safety Ratings System (HHSRS). They could ask for an inspection from the local authority, or alternatively fund an independent, qualified third party to make the assessment. Once this inspection has proved the property is hazard-free, the landlord would be granted a licence. This system would be underpinned by strong sanctions for landlords who allow tenants to live in substandard conditions.

### **Reforming the legal standards for private rented conditions and Housing Health and Safety Ratings System**

The current legislation implies in every contract of letting that the premises will be fit for human habitation at the start the tenancy, and for its duration. The standard of fitness that applies is the same that existed in other housing legislation before it was amended in 1989. The implied term also only applies to tenancies where the annual rent

is a maximum of £80 in London and £52 elsewhere.

The law should be updated to incorporate current health and safety legislation so in every tenancy it is implied that the home is fit for human habitation and that there are no category 1 hazards as assessed under the HHSRS, and the premises should remain free of any. The rent limits would also have to be removed to make this applicable to the modern-day private rented sector.

Alongside this, there needs to be a review of how the Housing Health and Safety Ratings System (HHSRS) works and where it applies. Rather than relating solely to traditional homes, it should be reformed to apply to any residential accommodation. This way, those renters who have chosen to live on boats or in park homes are still protected from hazards by the local authority. Live-in landlords should also be covered by the legislation to ensure lodgers are protected too.

Finally, local authorities should be able to retain the fines they get from enforcement, which currently goes to central government. This would allow environmental health teams to be better funded, and encourage more prosecutions.

# Further recommendations:

## **Making tenure secure where there are hazards within a property**

The Department for Communities and Local Government are currently formulating a response to their consultation on private rented sector conditions, including measures to limit the use of section 21 by landlords where category 1 or 2 hazards are found within a home (that is, reported to the local authority and identified through an environmental health inspection).

Shelter has also led a strong campaign on limiting the use of section 21 in such circumstances. This would mean that tenants could not be evicted while a process to improve the property was underway, driving up standards and stopping retaliatory eviction. Such proposals would also have to involve local authorities taking better enforcement action against category 2 hazards.

The DCLG consultation also considered whether rent repayment orders (RROs) could be used as a further penalty for landlords where hazards are found. RROs do provide a financial incentive for tenants to take forward complaints, even after they have left a property. They are also judicious in compensating those who have had to endure poor conditions unnecessarily.

## **Greater proactive local authority enforcement**

It has been argued that the system we have for maintaining conditions in the private rented sector would work effectively if it was better resourced and better able to take on more proactive inspections. Where licensing is taking place, as is the case in Newham, it has allowed for targeted inspections, making it easier to take on the worst landlords, to bring a legal case and to levy large fines. Ensuring that prosecutions take place, and changing the system so the local authority can retain the fines, would allow a council to better fund its environmental health team.



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Where local authorities are housing homeless people in the private rented sector, they should use this position to develop a positive relationship with landlords and insist on good conditions before housing people.

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Government should also consider other simple and transparent ways to punish landlords where conditions are poor – through the use of fixed penalty notices in cases where environmental health officers find category 1 hazards, for example. Where local authorities are housing homeless people in the private rented sector, they should use this position to develop a positive relationship with landlords and insist on good conditions before housing people to drive up standards in the sector. Pre-tenancy checks should be made by rehousing organisations before tenants are placed in new accommodation.

### **Mandatory periodic testing of electrical fittings and appliances and installation of smoke and carbon monoxide alarms**

In the same way that it is a legal requirement to undertake a gas safety inspection each year in a privately rented home, mandatory electrical testing, paid for by landlords, should be introduced to protect tenants from the risk of fire and electrical shocks. This requirement would be non-onerous – Electrical Safety First recommend a mandatory test every five years, or on a change of tenancy – and inexpensive. A further safety measure to accompany this should be a legal requirement for landlords to fit all PRS properties with smoke and carbon monoxide alarms, which again exist as low-cost but potentially life-saving measures for tenants.

# New housing mechanisms

The infrastructure that will improve private renting:

## 1. A new Landlord and Tenant Act for the 21st century

Rather than consider laws piece by piece, it is time to re-evaluate all legislation relating to private renting and make it relevant and proper for the twenty-first century, bringing together the policies outlined in the manifesto. As the private rented sector grows and becomes a longer-term tenure, it is only right that the whole legal framework relating to it is reviewed.

## 2. A government Department of Housing

To show a new commitment to housing, Government should form a new department with a visible and committed Secretary of State for Housing. The department would bring together private rented sector oversight, social housing and the housing benefits system as well as business functions related to skills, planning and house building, all policy areas that are currently scattered over separate departments.

## 3. Review the legal mechanisms used for housing disputes

The current legal system for housing cases is too often not functioning properly. Government should conduct a wide-ranging review into the role of the courts system in processing housing cases with particular consideration of whether a new housing court or tribunal should be founded to concentrate housing law expertise and to free up time within the rest of the court sector.

If you would like to discuss further any of the policies outlined in this document, please contact Generation Rent at [sebklier@generationrent.org](mailto:sebklier@generationrent.org)



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