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Housing, Communities and
Local Government Committee

Private rented sector

Fourth Report of Session 2017–19

*Report, together with formal minutes
relating to the report*

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Housing, Communities and Local Government Committee

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Summary

One in five households now lives in private rented accommodation, with renting becoming an increasingly long-term prospect for many tenants. The vast majority of private rented tenants are satisfied with the quality of their homes. However, our inquiry has focused on the lower end of the market: the 800,000 private rented homes that have at least one Category One hazard, such as excess cold, mould or faulty wiring; the 44% of tenants who said a fear of retaliatory eviction would stop them from making a complaint to their landlord; and the 200,000 tenants who reported having been abused or harassed by a landlord.

The main conclusions and recommendations are as follows:

- **Tenants need further protections from retaliatory eviction, rent increases and harassment so they are fully empowered to pursue complaints about repairs and maintenance in their homes.**
- **A specialist housing court would provide a more accessible route to redress for tenants and we urge the Government to publish more detailed proposals.**

There is a clear power imbalance in parts of the sector, with tenants often unwilling to complain to landlords about the conditions in their homes for fear of retaliation. Consumer rights are meaningless without the ability to use them in practice.

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- **The Law Commission should undertake a review of private rented sector legislation.**
 - **The Housing Health and Safety Rating System (HHSRS) should be replaced with a more straightforward set of quality standards.**

The legislative framework, through which local authorities derive their powers to intervene in the sector, is outdated and too complex. A new approach is required, to bring more clarity for tenants, landlords and local authorities.

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- **Enforcement by local authorities has been far too low and inconsistent.**

While prosecution statistics may not reflect the informal enforcement work undertaken by many local authorities, it is nevertheless striking that six out of 10 councils had not prosecuted a single landlord in 2016. While the Government has introduced a range of legislation in recent years to strengthen protections for tenants and new powers for local authorities – including civil penalties and banning orders for criminal landlords – these powers are meaningless if local authorities do not, or cannot, enforce them in practice.

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- **We heard that local authorities do not have sufficient resources to undertake their enforcement duties.**

- **A new fund should be established to support local authorities with this work, especially those that prioritise informal approaches to enforcement.**

While local authorities have welcomed their new powers to retain civil penalties and rent repayment orders, some felt this did not go far enough. Local authorities that pursue more informal enforcement strategies are unlikely to generate significant funding through civil penalties. Further, many councils told us there was often a financial disincentive to pursue prosecutions against criminal landlords, as the costs of investigations were rarely recovered through the courts.

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- **A national benchmarking scheme should be introduced to support local authorities with enforcement.**
 - **Councils should publish their private rented sector enforcement strategies online.**

We heard that some local authorities lacked the political will to address low standards in the sector. To make the best use of limited resources, local authorities need to work together more effectively and share best practice.

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- **Local authorities should be able to levy more substantial fines, which might stand a chance of breaking the business models of the worst offenders.**
 - **Councils should have power to confiscate properties from landlords committing the most egregious offences and whose business models rely on the exploitation of vulnerable tenants.**

We heard that there was a need for more robust penalties to deal with the worst, criminal landlords. Civil penalties are not strong enough to deter landlords who are prepared to commit the most serious offences.

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- **Decisions to implement selective licensing schemes should be made locally, where there is greater understanding of local needs and politicians are directly accountable to the electorate for their decisions.**
 - **However, the Secretary of State should retain a power to require local authorities to reconsider a decision to implement a licensing scheme that does not meet the strict criteria already set out by the Government.**

We received mixed evidence on the value of selective licensing schemes, reflecting the different circumstances that exist in different parts of the country. We believe that the current process of application to the Secretary of State is too slow, lacks transparency, and is overly bureaucratic and unduly expensive.

Introduction

1. Five years ago, our predecessor Committee undertook a wide-ranging inquiry into the private rented sector and they made a wide range of recommendations. In particular, they called on the Government to review and simplify the legislation covering the sector; give local authorities the tools they needed to enforce the law and raise standards; better regulate letting agents; promote a cultural shift towards longer tenancies; and renew its effort to boost housing supply.¹ The Government took forward many of our predecessors' suggestions. But much has changed since 2013, and we felt that now was the right time to carry out a new inquiry into the private rented sector.

Box 1: Recommendations from our predecessor Committee's 2013 Report which were subsequently taken forward by the Government

- A reformed approach to selective licensing and the mandatory licensing of houses in multiple occupation; the Government extended the criteria for selective licensing schemes in 2015 and committed to extending mandatory HMO licensing.²
- The introduction of a key fact sheet for landlords and tenants, setting out each party's key rights and obligations, and where to seek further advice and information; the Government acted to require landlords to provide certain prescribed information to tenants when creating a new tenancy or renewal after October 2015.³
- To empower councils to impose a penalty charge without recourse to court action where minor housing condition breaches were not remedied; provisions were included in the *Housing and Planning Act 2016* for civil penalties of up to £30,000 as an alternative to prosecution for certain housing offences.⁴
- Where landlords are convicted of letting property below legal standards, local authorities be given the power to recoup from the landlord an amount equivalent to that paid out to the tenant in housing benefit; the Government has since extended the scope of Rent Repayment Orders to cover breaches of improvement notices and illegal eviction.⁵
- A new regulatory model for letting agents; the Government has since committed to introduce regulation for agents and extend the requirement to be a member of a redress scheme to all landlords.⁶

1 [1st Report - The Private Rented Sector](#), 2013-14, Communities and Local Government Committee

2 [1st Report - The Private Rented Sector](#), 2013-14, CLG Committee, paras 49 and 58; [Housing Minister letter to local authorities](#), 11 March 2015; and [Houses in multiple occupation and residential property licensing reforms](#), Ministry for Housing, Communities and Local Government, December 2017

3 [1st Report - The Private Rented Sector](#), 2013-14, CLG Committee, para 25; and [How to rent: the checklist for renting in England](#), Ministry for Housing, Communities and Local Government, January 2018

4 [1st Report - The Private Rented Sector](#), 2013-14, CLG Committee, para 33; and [Housing and Planning Act 2016](#), [legislation.gov.uk](#)

5 [1st Report - The Private Rented Sector](#), 2013-14, CLG Committee, para 37; and [Housing and Planning Act 2016](#), [legislation.gov.uk](#)

6 [1st Report - The Private Rented Sector](#), 2013-14, CLG Committee, para 78; and [Protecting consumers in the letting and managing agent market: call for evidence](#), Ministry for Housing, Communities and Local Government, October 2017

- A requirement for all private rented properties to be fitted with a working smoke alarm and, wherever a relevant heating appliance is installed, an audible, wired-up EN50291-compliant carbon monoxide alarm; Since October 2015, all landlords have been required to install a smoke alarm on every storey of a property used as rental accommodation, and a carbon monoxide alarm in any room used as living accommodation with a burning appliance for solid fuel.⁷

2. The Government has been increasingly active in the sector in recent years. In its written evidence, the Government highlighted the “suite of legislation” it has introduced, designed to “strengthen consumer protection for tenants and tackle rogue landlords.”⁸ This included new laws requiring letting and managing agents in England to belong to a redress scheme; providing protections for tenants against retaliatory eviction; and the *Housing and Planning Act 2016*, which increased civil penalties, extended rent repayment orders and introduced banning orders for the most serious criminal landlords. The Government has also published several consultations in recent months which are likely to affect the private rented sector, including proposals for a single Housing Ombudsman service, the regulation of letting agents, and reforms to HMO licensing. In addition, the Government recently published the Draft Tenant Fees Bill, which will ban letting agent fees charged to tenants at the start of a tenancy. We have undertaken pre-legislative scrutiny of the Draft Tenant Fees Bill alongside this inquiry, and our conclusions and recommendations have been published separately to this Report.⁹

3. The private rented sector has continued to expand since our last inquiry. The English Housing Survey 2016–17 reported that it had doubled in size over the past 15 years, and there are now 4.7 million households in private rented accommodation, representing 20% of all households.¹⁰ In urban centres, particularly London, the proportion is considerably higher. The number of under-35s living in the sector has increased sharply over the past 10 years; in 2016–17, 46% of 25–34 year olds lived in private rented accommodation, up from 27% 10 years previously.¹¹ The number of families in the sector has also grown, with 945,000 more households with children living in the private rented sector than in 2005–06.¹²

4. Private renting has also become an increasingly long-term prospect for tenants. The English Housing Survey 2016–17 found that while 60% of tenants expected to be able to buy a property at some point in the future, just 26% expected to do so within the next 24 months and 41% thought it would take them more than five years.¹³ In 2016–17, a quarter of households in private rented accommodation had lived in the sector for between five and nine years, while a similar proportion had been there for over a decade.¹⁴

7 [1st Report - The Private Rented Sector](#), 2013-14, CLG Committee, para 67; and [Smoke and Carbon Monoxide Alarm \(England\) Regulations 2015](#), legislation.gov.uk

8 DCLG (PR50068), para 3

9 [3rd Report - Pre-legislative Scrutiny of the Draft Tenant Fees Bill](#), 2017–19, Housing, Communities and Local Government Committee

10 Ministry of Housing, Communities and Local Government, [English Housing Survey 2016–17: Headline Report](#), January 2018.

11 *ibid.*

12 Department for Communities and Local Government, [English Housing Survey 2015–16: Headline Report](#), March 2017.

13 Ministry of Housing, Communities and Local Government, [English Housing Survey 2016–17: Headline Report](#), January 2018, para 1.39

14 *ibid.*, para 1.59

5. Given the rise in the number of households living in the sector, and the trend towards private renting being a longer-term prospect for many people, we were concerned that standards were not improving at the lower end of the market. The English Housing Survey estimated that 800,000 private rented homes have at least one Category One hazard, such as excess cold, mould or exposed wiring, while 41% of tenants reported that they had waited an unreasonably long time for repairs that their landlord was legally required to undertake.¹⁵ Furthermore, we were troubled that many local authorities appeared not to be fulfilling their statutory duties to uphold and enforce standards in the sector, leaving many tenants without the protection and support to which they were legally entitled. One Freedom of Information request found that six out of ten councils had not prosecuted a single landlord in 2016, with 80% prosecuting fewer than five.¹⁶ These figures seemed shockingly low, given the evident scale of the problem in parts of the sector.

6. We were keen to find out what the main obstacles were to effective intervention in the sector. Our call for evidence therefore focused on whether local authorities had the powers and resources they needed to enforce standards in the private rented sector and deal with criminal landlords. Linked to this, we wanted to know whether selective landlord licensing schemes were an effective tool for improving the quality of housing in the sector, whether schemes should be extended and how they might be improved. While acknowledging that there are landlords that have had challenging tenants, we wanted this inquiry to focus on the difficulties that tenants face, particularly at the lower end of the market. In particular, we were keen to find out what might discourage a tenant from complaining about the conditions in their home. Finally, we sought examples of the innovative ways in which local authorities intervened to promote affordable, private rented accommodation in their areas.

7. Over the course of the inquiry, we took public evidence from a range of stakeholders, including academics, tenants' and landlords' representatives, local authorities—both those that had implemented selective licensing schemes, and those that had decided against it—professional bodies, and the Government. We received formal written evidence from 83 individuals and organisations, as well as 115 representations through our Online Forum from tenants telling us directly about their experiences in private rented accommodation.¹⁷ We are grateful to all of those who gave oral evidence and made written submissions, and especially to our Specialist Adviser, Professor Christine Whitehead. We are also grateful to the London Borough of Newham for hosting our visit in January and showing us, at first-hand, the excellent work of their housing enforcement team.

8. This report has four chapters. The first considers the quality of accommodation in the private rented sector, the balance of power that exists between tenants and landlords, and what more might be done to support tenants in resolving disputes over repairs and maintenance. The second chapter looks at the legislative framework that underpins local authority enforcement activity and considers whether it is fit for purpose or requires more fundamental reform. In particular, we reflect on the adequacy of the Housing Health and Safety Rating System (HHSRS), and consider how the Homes (Fitness for Human

15 17% of private rented dwellings had at least one Category One hazard: Department for Communities and Local Government, [English Housing Survey 2015–16: Headline Report](#), March 2017, para 4.15; and Citizens Advice, [It's broke; let's fix it](#), July 2017

16 [Rogue landlords enjoy an easy ride as councils fail to prosecute](#), The Guardian, 28 October 2017

17 [Private Rented Sector Inquiry: Online Forum](#), Communities and Local Government Committee, January to February 2018

Habitation and Liability for Housing Standards) Bill could be most effective once it becomes law. Our third chapter examines local authority enforcement processes in the sector and considers why enforcement actions appear to be so low, and what could be done about this. We also reflect on whether selective licensing schemes are effective and the process by which they are implemented. Finally, the report looks at some of the more innovative approaches local authorities have taken to intervening in the sector, to improve the supply of high-quality, affordable private rented accommodation.

1 Quality of accommodation and the balance of power

9. In this chapter, we explore whether conditions in private rented accommodation have improved over the last decade. We also consider whether tenants have the power, both in theory and practice, to challenge their landlords when there are problems with their homes. When launching the inquiry, we were particularly concerned by reports of the growth of so-called ‘lockdown properties’ in London, and reflect on what could be done to address this problem.

Quality of accommodation

10. Government statistics suggest that standards have improved in the private rented sector over the last 10 years. This was the certainly the message from the Minister for Housing and Homelessness, Mrs Heather Wheeler MP, who told us that the proportion of private rented homes that failed to meet the Decent Homes Standard reduced from 47% in 2006 to 27% in 2016, with year-on-year improvements each year until 2014, since when, conditions have remained steady.¹⁸ Several witnesses also highlighted statistics that showed 82% of private tenants were satisfied with their quality of their homes.¹⁹ Dr Julie Rugg told us, “It is important to note that some parts of the market are working [...] If we understand which bits of it are working and why they are working, then we can think about how we can replicate those characteristics across other parts of the market”.²⁰

11. However, these headline statistics do not tell the full story. Shelter and Citizens Advice told us that tenant satisfaction surveys can be unhelpful.²¹ Private renters tended to have very low expectations, whilst other surveys showed they were the least happy with their homes compared with other forms of tenure. Furthermore, both tenants’ and landlords’ representatives told us there was a growing problem at the lower end of the market. David Smith, from the Residential Landlords Association (RLA), said, “there are a number of properties that are good, and that is an increasing number, but the properties that are bad are very bad, and increasingly worse”.²² Kate Webb, from Shelter, highlighted that, while it is certainly true that there has been a decline in the overall proportion of poor quality accommodation, the growth in the sector over the past 10 years meant that the absolute number of non-decent homes—that is, those that do not meet the Government’s statutory minimum standards—had actually increased.²³ The English Housing Survey tells us there were 1.30 million non-decent private rented homes in 2016, up from 1.22 million in 2006.²⁴ We heard that much of this was associated with the age of the housing stock in the private rented sector, where 34% of properties were built before 1919.²⁵

18 Q268 and Ministry of Housing, Communities and Local Government, [English Housing Survey 2016–17: Headline Report](#), January 2018, para 2.13

19 Residential Landlords Association ([PR50011](#)), para 2.1

20 Q3 (Dr Julie Rugg)

21 Q3 (Kate Webb, Shelter) and Q74 (Mette Isaksen, Citizens Advice)

22 Q114 (David Smith, Residential Landlords Association)

23 Q3 (Kate Webb, Shelter)

24 Ministry of Housing, Communities and Local Government, [English Housing Survey headline report 2016 to 2017: section 2 housing stock tables](#), January 2018, AT2.2

25 Q114 (Adrian Jeakings, National Landlords Association)

12. The Mayor of Newham, Sir Robin Wales, described the “shocking, shocking conditions in the 21st Century” that his borough frequently encountered in the private rented sector.²⁶ But it is not the case that poor standards are confined to London. Government statistics showed that, in 2016, there were approximately 800,000 private rented homes in England with at least one Category One hazard, as identified by the HHSRS.²⁷ Such data are reinforced by surveys carried out by Shelter, who told us that 53% of tenants had experienced at least one problem with conditions or repair in the last year, including extremely serious incidents, including electrical hazards (15%) and gas leaks (6%).²⁸ They told us that many homes in the private rented sector severely compromised families’ health and wellbeing and, in the most extreme cases, put lives at risk.²⁹ This was supported by the Chartered Institute for Environment Health, who highlighted a report by the Building Research Establishment which claimed that poor quality housing led to health problems that cost the NHS £1.4 billion, and wider society £18 billion, each year.³⁰

13. Through our Online Forum, we heard directly from private renters about the poor conditions they had suffered.³¹ One submission stated that:

We live in a house full of mould and damp with four young children. Even though we both work full time, we can just not afford agents fees to move out. We have damp and mould in four rooms, faulty electrics and water comes through the living room window when it rains [...] The damp in one bedroom is [...] spreading and the whole family keeps getting ill from it.

14. We heard numerous other examples of poor conditions in the sector through our Forum. One tenant told us about the “severe black mould and damp, leaking plumbing, tiles falling off the wall, heaters broken, no insulation, faulty wiring” in her property. Another reported problems including, “[a] hole in [the] external wall straight into the kitchen, no heat insulation / real heating, and [...] when we flushed the toilet, the waste would flood the shower floor”. The Government’s own statistics suggest that there are likely to be hundreds of thousands of very similar stories across the country.³²

15. Dr Julie Rugg told us that these conditions were disproportionately affecting some groups more than others.³³ She said that those most likely to be affected were single-person households, people over the age of 55 and people in receipt of housing benefit. We heard that it was especially difficult for people on housing benefit to move home when they were dissatisfied with their conditions, as the Local Housing Allowance restricted people to the bottom end of the market and fewer than one in five landlords were willing to let to tenants on housing benefit.³⁴ Worryingly, Citizens Advice told us that families with children were increasingly reporting problems with their homes.³⁵

26 Q148 (Sir Robin Wales, London Borough of Newham)

27 17% of private rented dwellings had at least one Category One hazard: Department for Communities and Local Government, [English Housing Survey 2015–16: Headline Report](#), March 2017, para 4.15

28 Shelter ([PR50028](#)), para 4

29 Shelter ([PR50028](#)), para 3

30 Chartered Institute of Environmental Health ([PR50072](#))

31 [Private Rented Sector Inquiry: Online Forum](#), HCLG Committee, January to February 2018

32 Department for Communities and Local Government, [English Housing Survey 2015–16: Headline Report](#), March 2017, para 4.15

33 Q3 (Dr Julie Rugg)

34 Q31 (Kate Webb, Shelter) and Crisis ([PR50041](#)), para 15

35 Q76 (Mette Isaksen, Citizens Advice)

16. Statistics show that most housing in the private rented sector is of an adequate standard and tenants are broadly satisfied with their homes. However, there continues to be a significant minority of private rented accommodation that is shockingly inadequate. While the proportion of inadequate properties has fallen by almost half over the last 10 years, the absolute number has risen, with 80,000 more non-decent private rented homes than in 2006. Further, we heard that 27% of private rented homes failed to meet the Decent Homes Standard in 2016, the highest proportion of any tenure and more than double the rate found in the social rented sector. With poor conditions likely to disproportionately affect the most vulnerable, including families with children, the Government should not be complacent about improving standards in the sector.

The relationship between tenants and landlords

17. The aim of our inquiry has been to seek evidence on the ability of local authorities to deal with ‘rogue’ landlords, in support of tenants, with a particular focus on the lower end of the market. While we are aware that there are, of course, examples of landlords who have needed to deal with difficult tenants, this chapter focuses specifically on the concerns we have heard from tenants who have had bad experiences in the sector, and makes recommendations accordingly.³⁶

18. The Government has defined ‘rogue’ landlords as those who “knowingly flout the rules and shirk their responsibilities, renting out unsafe accommodation, predominantly to vulnerable people at the lower end of the market”.³⁷ However, many witnesses believed that it was not right to define the private rented sector as being divided between a very small number of ‘rogue’ landlords and an otherwise well-functioning market. Kate Webb highlighted that there were “a lot of shades of grey in between”.³⁸ Dr Rugg told us that, while there were criminals actively engaging in letting properties, a large number of bad landlords were simply “woefully inadequate and ignorant” amateurs.³⁹ The District Council Network referred to the majority of bad landlords “who lack effective management competencies and a good awareness of their responsibilities as landlords”, highlighting that true criminals represented only a very small number of cases dealt with by councils.⁴⁰

19. We heard numerous examples of landlords failing to fulfil their obligations to tenants. In a report published in July 2017, Citizens Advice found that 41% of tenants had waited an unreasonably long time—based on national accreditation timescales—for repairs that their landlord was legally required to undertake.⁴¹ We heard similar evidence through our Forum, where private renters told us about their experiences with landlords who were slow to respond to reasonable requests for repairs.⁴² For example, one submission said:

36 For example, Anonymous ([PR50001](#))

37 DCLG ([PR50068](#)), para 11

38 Q5 (Kate Webb, Shelter)

39 Q6 (Dr Julie Rugg)

40 District Council Network ([PR50053](#))

41 Citizens Advice, [It's broke; let's fix it](#), July 2017

42 [Private Rented Sector Inquiry: Online Forum](#), HCLG Committee, January to February 2018

Last November, the radiator in our daughter’s bedroom broke down and it took three weeks of chasing before the landlord arranged for someone to come and fix it [...] It was nearly a month, in the end, before it was finally fixed. I had informed him that the lack of a working radiator was exacerbating the black mould in her room, but even this information didn’t seem to make our landlord get on with sorting it out.

Many witnesses suggested that this was representative of a fundamental imbalance of power between tenants and landlords, particularly at the lower end of the market.⁴³

20. However, there were also witnesses who disagreed that there was a power imbalance in the sector, including David Cox, from ARLA Propertymark, who told us that “the balance is about right between landlord rights and tenant rights”.⁴⁴

Retaliatory eviction, rent increases and harassment

21. We heard that, for many tenants, the existence of a power imbalance and fear of landlord retaliation made them reluctant to pursue complaints about repairs and maintenance in their homes. Mette Isaksen told us that, according to research undertaken by Citizens Advice, the main reason why tenants were reluctant to complain was due to a fear of eviction, closely followed by a fear that the landlord would increase the rent in retaliation.⁴⁵ They reported that 44% of tenants said a fear of eviction would stop them from negotiating with their landlord over disrepair.⁴⁶ While it was difficult to provide conclusive evidence on the numbers of people who had been evicted in retaliation for raising a complaint, research into consumer perceptions found that 14% of tenants felt they had been penalised for complaining.⁴⁷

22. This was supported by Dan Wilson Craw, from Generation Rent, who told us that some landlords “intimidate their tenants into not reporting problems, knowing that they can get other as-desperate tenants in, if the tenant leaves”.⁴⁸ The evidence we received suggested that fears of harassment were not unfounded. The Association of Tenancy Relations Officers (ATRO) highlighted a survey by YouGov and Shelter that found: over 64,000 renters reported that a landlord had cut off their utilities without their consent; almost 50,000 said their belongings had been thrown out of their home and the locks changed; over 600,000 renters had their home entered by a landlord without permission or notice being given; and over 200,000 reported having been abused, threatened or harassed by a landlord.⁴⁹

23. Such is the level of concern around retaliatory eviction, rent increases and harassment, both Shelter and Citizens Advice told us that they often reminded tenants about the risks of raising a complaint.⁵⁰ Kate Webb said:

43 For example, Shelter ([PR50028](#))

44 Q179 (David Cox, ARLA Propertymark); see also Sobel Thomson, NALS [Q179]

45 Q79 (Mette Isaksen, Citizens Advice)

46 Citizens Advice, [It’s broke; let’s fix it](#), July 2017

47 Q87 (Mette Isaksen, Citizens Advice)

48 Q78 (Dan Wilson Craw, Generation Rent)

49 Association of Tenancy Relations Officers [[PR50025](#)], para 7

50 Q15 (Kate Webb, Shelter) and Q80 (Mette Isaksen, Citizens Advice)

[...] we have to be very clear with people that [...] making a complaint doesn't necessarily mean that their situation will get resolved. It might just mean they are making a homeless application in three months' time [...] We don't tell people that it is best not to complain [...] but it would be deeply irresponsible not to tell people that their landlord has the option to evict them.⁵¹

24. The Government has acknowledged that some tenants may be uncertain about reporting issues to their landlord or agent out of fear of eviction or intimidation, and has described this practice as “unacceptable”.⁵² In oral evidence, the Minister told us that the power imbalance in the sector was “one of our concerns”, and that “we are committed to rebalancing the relationship between tenants and landlords”.⁵³

25. There is a clear power imbalance in the private rented sector, with tenants often unwilling to complain to landlords about the conditions in their homes for fear of retaliation. In our view, consumer rights are meaningless without the guarantee that tenants will be able to use them in practice without fear of retaliation. Tenants need further protection from retaliatory eviction and rent increases, and other forms of harassment, so that they are fully empowered to pursue complaints about repairs and maintenance in their homes when they need to.

Deregulation Act 2015

26. The Government highlighted to us that it had recently legislated via the Deregulation Act 2015 to protect tenants from retaliatory eviction when they report a Category One or Two hazard to their local authority. If the local authority serves an improvement notice or a notice of emergency remedial action, a landlord cannot evict the tenant for six months using the ‘no-fault’, Section 21 eviction process. The Minister described the powers within the Act as “incredibly important for giving protection to tenants on retaliatory eviction”.⁵⁴ During public evidence, the Government committed to undertaking a review of the effectiveness of the retaliatory eviction provisions in the Act, including the extent to which these powers have actually been used in practice.⁵⁵

27. ATRO told us that the Act was “certainly a step in the right direction”, while London Councils described the “positive changes” brought about by the legislation.⁵⁶ However, both highlighted ongoing concerns with the Act. ATRO told us that, “section 33 of the Act leaves the legislation significantly flawed, and potentially gives tenants a false sense of security.”⁵⁷ They said there were several scenarios in which the tenant could be left without protection, including where they approach the local authority without putting a complaint in writing to the landlord, or where no relevant notice is served by the local authority at all—often because the landlord does the work after contact from the local authority, but

51 Q15 and Q17 (Kate Webb, Shelter)

52 DCLG ([PR50068](#)), paras 43–44

53 Q276 (Mrs Heather Wheeler MP, Minister for Housing and Homelessness)

54 Q277 (Mrs Heather Wheeler MP, Minister for Housing and Homelessness)

55 Q284–287 (Becky Parks, Ministry for Housing, Communities and Local Government)

56 Association of Tenancy Relations Officers ([PR50025](#)), para 19, and London Councils ([PR50061](#))

57 Association of Tenancy Relations Officers ([PR50025](#)), para 19

before the service of the relevant notice. London Councils noted that, where tenants are protected from retaliatory eviction through the Act, “six months is still a relatively short length of time for a household seeking security and stability.”⁵⁸

28. We recommend that the Government seek to rebalance the tenant-landlord relationship by providing additional protections from retaliatory eviction and rent increases. The Government should conduct a review of how the protections within the Deregulation Act 2015 are being used in practice and whether they need to be enhanced. We believe the Act should be strengthened to protect tenants from a no-fault Section 21 eviction for longer than the current six-month period. Protections should also be extended to prohibit retaliatory rent increases for a period after making a complaint. We heard concerns that there were several scenarios where tenants might be left without protection under the Act; the Government should ensure tenants are fully protected as soon as they make a complaint to their landlord, letting agent or local authority, not from the point an improvement notice is issued.

Additional measures to rebalance the relationship

29. The Government told us about the additional measures it would bring forward to “rebalance the relationship between tenants and landlords and ensure tenants have access to effective redress”.⁵⁹ This ambition was reiterated by the Minister during the public evidence session, when she said:

We do recognise that more needs to be done to protect tenants, and we are committed to improving the redress for people who experience problems with their housing and to empower them to challenge poor practice.⁶⁰

30. The Government announced that it would make it mandatory for every landlord to be part of an Ombudsman scheme, with the intention that it would be easier for tenants to access dispute resolution over complaints relating to repairs and maintenance. It has yet to be determined whether landlords will need to join the redress scheme if they let their property through an agent.⁶¹ Alongside this, the Government also launched a consultation into proposals to introduce a single Housing Ombudsman, to replace the three redress schemes currently in operation and to close the gaps in protection that currently exist for many private renters.⁶²

31. Mette Isaksen from Citizens Advice told us she was pleased the Government was planning to introduce a mandatory ombudsman for landlords, and said that a non-court-based route to resolve disputes “can be a really positive thing for tenants”. However, she reiterated the concerns around retaliatory eviction, and urged the Government to ensure additional protections would be introduced for tenants.⁶³ London Councils told us they were also in favour of the new ways tenants would be able to make complaints without going to court.⁶⁴

58 London Councils ([PR50061](#))

59 DCLG ([PR50068](#)), para 49

60 Q277 (Mrs Heather Wheeler MP, Minister for Housing and Homelessness)

61 Q281 (Becky Perks, Ministry for Housing, Communities and Local Government)

62 Ministry for Housing, Communities and Local Government, [Open Consultation: Strengthening consumer redress in housing](#), 18 February 2018

63 Q81 (Mette Isaksen, Citizens Advice)

64 London Councils ([PR50061](#))

32. Landlords’ representatives had a mixed response to the Government’s proposals for an ombudsman scheme. David Smith-Milne told us that his business, Placefirst, supported the Government’s plans, and “as a responsible landlord” would welcome an ombudsman scheme.⁶⁵ Adrian Jeakings told us that the National Landlords Association (NLA) also supported the Government’s ombudsman proposals, but were wary of the potential costs to landlords.⁶⁶ However, David Smith from the RLA told us he did not think an ombudsman scheme would be effective, and argued that tenants and landlords had a very different relationship to consumers in other industries. He said that an ombudsman would only be able to award compensation, and that a specialist housing court would be a more effective mechanism for tenants seeking to resolve disputes concerning repairs and maintenance.⁶⁷

33. Indeed, the Government has announced that it is considering introducing a new specialist housing court, telling us its intention was to improve existing court processes and expertise “to achieve quicker and cheaper resolution of disputes”.⁶⁸ The Minister noted that the Government is currently consulting with the judiciary on these proposals.⁶⁹ While further details have yet to be published, it is apparent that this proposal could have particular relevance in the context of the Homes (Fitness for Human Habitation and Liability for Housing Standards) Bill—which we consider in more detail in the next Chapter—and the Draft Tenant Fees Bill. Both Bills give new powers to tenants to take landlords to court directly and, once implemented, a specialist housing court could provide a cheaper and simpler route for tenants to seek redress.⁷⁰

34. Furthermore, in October and November 2017, the Government issued a public consultation on proposals to require all letting agents to be regulated in order to practice.⁷¹ The Government told us that, currently, anyone could operate as a letting agent without any qualifications or professional oversight. Regulation of the industry would require letting agents to satisfy minimum training requirements and comply with an industry code of conduct.⁷² Isobel Thomson, from the National Approved Letting Scheme (NALS), stated that she wanted to see an independent regulator, with approved bodies sitting under it and responsible for accreditation criteria.⁷³ David Cox agreed, urging a similar model to that used to regulate the legal profession; however, he warned against the creation of a massive bureaucracy, citing Rent Smart Wales—founded in 2015—as an example of poor regulation in the sector, reflecting on the limited enforcement activity it undertakes.⁷⁴

35. We agree with the Government that a specialist housing court would provide a more accessible route to redress for tenants, and we see relevance for it in the context of the Homes (Fitness for Human Habitation and Liability for Housing Standards) Bill and the Draft Tenant Fees Bill. We urge the Government to issue more detailed proposals as soon as possible.

65 Q135 (David Smith-Milne, Placefirst)

66 Q135 (Adrian Jeakings, National Landlords Association)

67 Q135 (David Smith, Residential Landlords Association)

68 DCLG (PR50068), para 49

69 Q279 (Mrs Heather Wheeler MP, Minister for Housing and Homelessness)

70 A point made by David Smith in the context of the Homes (Fitness for Human Habitation and Liability for Housing Standards) Bill - Q116

71 Ministry for Housing, Communities and Local Government, [Protecting consumers in the letting and managing agent market: call for evidence](#), 18 February 2018

72 DCLG (PR50068), para 49

73 Q182 (Isobel Thomson, National Approved Letting Scheme)

74 Q182 (David Cox, ARLA Propertymark)

36. We also support the Government’s proposals to make it mandatory for landlords to join a redress scheme, as well as its proposals for a single Housing Ombudsman. *We recommend that the Ombudsman be given sufficient powers and resources to provide tenants with the support they need when challenging inadequate standards in their homes, and to require the payment of compensation to tenants when appropriate. However, new routes of redress will need to guard against the potential for retaliatory action from unscrupulous landlords, which we have highlighted above.*

Tenants’ knowledge of their rights

37. A further barrier to tenants pursuing complaints against their landlords is that many are simply unaware of their rights, a point made by the Government in its written evidence.⁷⁵ Mette Isaksen told us that many tenants who speak to Citizens Advice are simply trying to understand what their options are, and highlighted research that showed 35% of tenants said a lack of knowledge about their rights made negotiating with their landlord more difficult.⁷⁶ Dan Wilson-Craw noted that Generation Rent had spoken to many tenants who had already been served an eviction notice, but did not know they were able to contact their council, or how the council might be able to help them.⁷⁷ Kate Webb suggested it was unsurprising that local authorities were not proactive about publicising their role, given the limited resources they had to support tenants.⁷⁸

38. The Tenancy Notices and Prescribed Requirements Regulations 2015 made it a requirement for landlords to issue tenants with a copy of the Government’s *How to Rent* guide at the start of a tenancy. The Minister told us that these guides were regularly updated, and would be again soon, to include details of the legislation that had recently been introduced.⁷⁹ Nevertheless, despite the requirement for these guides to be provided to tenants at the start of their tenancy, it is apparent that many continue to be unaware of their rights. Bristol City Council recommended that there should also be “comprehensive advertising of tenants’ rights, particularly through social media”.⁸⁰

39. **We note that it is a legal requirement for tenants to be provided with clear information at the start of their tenancies about what their rights are and how they can be exercised in practice. This information will need to be updated by the Government, and tenants informed, as legislation is passed and new rights and routes for redress are made available. The Government should consider new ways of informing tenants and landlords of their rights and responsibilities, in particular through social media.**

‘Lockdown’ properties

40. We received evidence on the emergence of so-called ‘lockdown properties’, particularly in London and the South East, which aim to exploit the large difference between the shared accommodation Local Housing Allowance (LHA) rate and the one-bedroom room rate available to those aged over 35. An internal Government report—released in January 2018, following a Freedom of Information request—explained how it works:

75 DCLG ([PR50068](#)), para 17

76 Q80 (Mette Isaksen, Citizens Advice) and Citizens Advice, [It’s broke; let’s fix it](#), July 2017

77 Q80 (Dan Wilson-Craw, Generation Rent)

78 Q14 (Kate Webb, Shelter)

79 Q297 (Mrs Heather Wheeler, Minister for Housing and Homelessness)

80 Bristol City Council ([PR50074](#))

The basic premise [...] was to convert houses into a large number of very small ‘self-contained’ units, each containing basic cooking facilities, but to also have a shared kitchen so as to be able to claim, for Planning Permission purposes, that the house was a House in Multiple Occupation (HMO) and fell within permitted development rules [...] Typically, a three-bedroom house could be converted into six units which [...] would generate an annual rental of over £56,000.⁸¹

41. Lambeth Borough Council told us that, through this model, tenants were living in potentially dangerous accommodation, planning regulations were being breached, local authority housing benefit regulations were being exploited, and there was a potential to launder money and to evade tax.⁸² Campaigners estimated that there are over 6,000 such properties in London alone, costing more than £1 billion a year to the housing benefit system.⁸³

42. We were told that the powers local authorities need to tackle this problem already exist. Shelter highlighted that there were provisions in housing benefit rules and case law to prevent private landlords charging the one-bedroom LHA rate for extremely small rooms with inadequate cooking facilities. They pointed to DWP guidance published in 2011, which set out the cooking facilities required to qualify for the one-bedroom LHA rate, and an Upper Tribunal decision from 2013, which determined that facilities for cooking “should amount to more than a bathroom sink and an electric socket”.⁸⁴ They told us:

Given that there is already provision in housing benefit rules and case law to stop this practice, there would be little to be gained through additional measures to further tighten housing benefit rules [...] Local authorities should be enforcing DWP guidance and recent case law to prevent landlords in their areas charging over-inflated rents for extremely small properties.⁸⁵

43. The RLA called on local authorities to ensure greater compliance with existing planning laws.⁸⁶ They highlighted that, where a landlord seeks to convert a HMO in which tenants have a bedroom each, but shared kitchen and bathroom facilities, into separate, self-contained units, it constitutes a change in use from a ‘C4’ HMO property to a collection of ‘C3’ properties. This change of use ordinarily requires planning consent and enforcement action could be taken in cases of failure to obtain this.

44. The Minister agreed that local authorities already had the powers they needed to address this issue, and called on them to “robustly tackle abuse of the system and enforce property standards”.⁸⁷ She told us that the Housing and Planning Act 2016 and the Greater London Authority Act 1999 gave local authorities sufficient powers to deal with ‘lockdown’ properties, while upcoming changes to HMO licensing would provide them with an additional means to intervene.

81 [Department of Communities and Local Government Rogue Landlord Funding 2015/16: London Lockdown Project](#), accessed via: www.hanworth.org

82 Lambeth Borough Council (PR50083)

83 [Lockdown landlord convicted for breaches in Planning Act](#), Ourcity.london, 21 July 2017

84 Shelter (PR50086), para 4

85 Shelter (PR50086), para 14

86 Residential Landlords Association (PR50087), para 1.7

87 Q288–9 (Mrs Heather Wheeler, Minister for Housing and Homelessness)

45. We heard that some local authorities in London were already working together to tackle ‘lockdown’ properties in their areas. Lambeth Borough Council told us they had, “taken a proactive approach to assisting tenants in the worst quality privately rented housing as a member of the London Lockdown Project, along with eight other councils”.⁸⁸ The Government report into the London Lockdown Project highlighted that, in 2015–16, the councils involved undertook 3,204 property inspections, 68 raids on properties, issued 785 enforcement notices, and commenced 58 prosecutions.⁸⁹

46. However, we were also keen to find out what more could be done to support local authorities in tackling ‘lockdown’ properties. Kate Webb told us that one route might be to implement a studio LHA rate, to sit between the shared and one-bedroom rates.⁹⁰ Similarly, the Lockdown Project group said that LHA rates needed to be reviewed to ensure they reflected the difference in rental value between lockdown properties and conventional self-contained flats, or that a minimum threshold standard for the self-contained rate should be established.⁹¹ The Minister told the Committee that introducing a link between housing benefit and the quality of accommodation could have unintended consequences, but she committed to review whether the LHA bandings created an incentive to break up family homes into ‘lockdown’ properties.⁹²

47. We believe that lockdown properties are an abuse of both the planning and benefits system and show the private rented sector at its very worst. It is a model of housing that must be eradicated before it spreads any further. However, we heard that the tools to do this appear to be available already. We believe that the Local Government Association has an important role to play in encouraging local authorities to use their existing powers and work collaboratively to tackle this problem.

48. In addition, we recommend that the Government consider introducing a new Local Housing Allowance (LHA) rate for studio accommodation, to reduce the perverse incentive for landlords to break up larger properties into much smaller ones to enable them to benefit from the higher LHA rates payable for one-bedroom properties compared to the shared accommodation rate.

88 Lambeth Borough Council (PRS0083)

89 [Department of Communities and Local Government Rogue Landlord Funding 2015/16: London Lockdown Project](#), accessed via: www.hanworth.org, para 2.3

90 Q40 (Kate Webb, Shelter)

91 As highlighted in: [Department of Communities and Local Government Rogue Landlord Funding 2015/16: London Lockdown Project](#), accessed via: www.hanworth.org, para 3.10

92 Q295 (Mrs Heather Wheeler, Minister for Housing and Homelessness)

2 Legislative powers

49. During this inquiry, we wanted to establish whether local authorities had sufficient powers to address poor standards in the private rented sector. In this Chapter, we explore whether the legislative framework—through which local authorities derive their powers to intervene in the sector—is fit for purpose. In particular, we consider whether the HHSRS merely requires an update to its baseline assumptions or needs a more comprehensive overhaul. Finally, we voice our support for Karen Buck MP’s Homes (Fitness for Human Habitation and Liability for Housing Standards) Bill, while making some recommendations to try to ensure that it is effective once it becomes law.

The legislative framework

50. The Government highlighted the “extensive legislative framework” established under the Housing Act 2004, which gives local authorities the powers they need to tackle poor property conditions and management standards in the private rented sector.⁹³ This included the HHSRS, licensing, management orders, and rent repayment orders. The Government also pointed to the range of legislation it had introduced over the past three years, which, it said, was intended to professionalise the sector, strengthen consumer protection and tackle ‘rogue’ landlords, including:

- *The Redress Schemes for Lettings Agency Work and Property Management Work Regulations 2014*, which introduced a legal requirement for letting and managing agents in England to belong to one of the three Government-approved redress schemes;
- *The Consumer Rights Act 2015*, which introduced requirements on letting agents to publicise a full tariff of their fees, to make clear whether they were a member of a client money protection scheme;
- *The Deregulation Act 2015*, which introduced protection for tenants against retaliatory eviction where they have a legitimate complaint and stopped landlords from serving an open-ended eviction notice at the start of a tenancy;
- *The Smoke and Carbon Monoxide Alarm Regulations 2015*, which required landlords to install and test working smoke alarms on every storey of their property and carbon monoxide alarms in high risk rooms;
- *The Tenancy Notices and Prescribed Requirements Regulations 2015*, which made it a requirement on landlords to issue tenants with a copy of the Government’s How to Rent guide; and
- *The Housing and Planning Act 2016*, which introduced a range of measures to incentivise and resource local authority action against criminal landlords including civil penalties, extended rent repayment orders, tenancy deposit data sharing, banning orders and a database to help local authorities track the most serious offenders. The Act also introduced enabling powers for the enforcement of electrical safety standards and for the introduction of mandatory client money protection.⁹⁴

93 DCLG ([PR50068](#)), para 9

94 DCLG ([PR50068](#)), para 3

51. The Government also committed to legislating further in the coming years. In November 2017, it published the Draft Tenant Fees Bill, which will prohibit letting agent fees charged to tenants at the start of a tenancy, on which we have undertaken pre-legislative scrutiny alongside this inquiry.⁹⁵ In January 2018, the Government announced its support for Karen Buck MP’s Private Member’s Bill on housing standards.⁹⁶ The Ministry has also published several consultations in recent months on policies which are likely to require primary legislation, including on a mandatory ombudsman service for landlords, the introduction of a specialist housing court (discussed in Chapter 1), and the regulation of letting agents.⁹⁷

Sufficiency of powers

52. Most local authorities told us they already had the powers they needed to address low standards in the private rented sector. However—as we will explore later—many said they did not have the resources they needed to enforce those powers. Councillor Robert Lawton explained that, in Bournemouth, while more powers would always be welcome, the greater concern was a lack of resources for enforcement.⁹⁸ Similarly, Andy Fisher, Head of Housing, Health and Communities at Boston Borough Council, told us that “the suite of tools we have in our toolbox is probably among the best in any enforcement role”, noting in particular Parts 1 to 4 of the Housing Act 2004 and the power local authorities had to demand production of documents.⁹⁹ However, he explained that “resource is a very different issue”. The NLA agreed:

Local authorities already have sufficient powers to enforce standards and deal with “rogue landlords” in the PRS. The NLA has been arguing for better enforcement for quite a while and for local authorities to properly utilise the powers they currently enjoy... The drive to improve enforcement activities of local authorities should be aimed at more effective use of these powers, rather than the introduction of new regulations.¹⁰⁰

Calls for a review of the legislation

53. The RLA explained that there were over 140 Acts of Parliament and more than 400 regulations affecting landlords in the private rented sector.¹⁰¹ David Cox told us that successive governments, over 20 years, had sought to find individual legislative solutions to specific problems, rather than looking at the private rented sector as a whole: “they have just passed law after law, and none of it is being enforced”.¹⁰² Shelter said that, while recent legislative developments were welcome and had emerged from good intentions, taken as a whole, the legislative framework was “piecemeal, out-dated [and] complex”.¹⁰³ Isobel Thomson agreed, telling us, “It is a bit like a jigsaw: we have all the pieces but we do not

95 [3rd Report - Pre-legislative Scrutiny of the Draft Tenant Fees Bill](#), 2017–19, Housing, Communities and Local Government Committee

96 [Government supports new measures to improve the safety of tenants](#), Ministry of Housing, Communities and Local Government, 14 January 2018

97 DCLG ([PR50068](#)), para 49

98 Q205 (Robert Lawton, Bournemouth Borough Council)

99 Q205 (Andy Fisher, Boston Borough Council)

100 National Landlords Association ([PR50043](#)), paras 2 and 13

101 Residential Landlords Association ([PR50011](#)), para 2.2

102 Q177 (David Cox, ARLA Propertymark)

103 Shelter ([PR50028](#)), para 11

have the picture”, while arguing that the sector needed a more coherent legal framework.¹⁰⁴ Dr Julie Rugg argued that, “A lot of legislation has been brought in quickly and has not been drafted very well. There is information and changes that come on top of that. It is like a ship with lots of barnacles”.¹⁰⁵

54. We were told that this complexity affected how the legislative framework was used in practice by local authorities. David Smith said that the legislation was “too patchy and complicated, and far too much of it is cross-cutting”, making it difficult for Environmental Health Officers (EHOs) to understand what their powers are and how to use them in practice.¹⁰⁶ Mr Smith emphasised that much of the legislation was very old, and told us that he continues to refer to the Distress for Rent Act, passed in 1737.¹⁰⁷ Dr Rugg agreed that the legislative framework made enforcement difficult for councils:

One of the big issues that relates to some of the legislation is that it tends to split issues between condition-related issues, management-related issues, and issues that relate to letting agents [...] All of these things have been added on to other bits of legislation, and now we are in a situation where it is hard for a local authority that thinks, “Which bit of legislation do I use to deal with this particular problem?” and then finds that none of the bits of the regulation that they have got to work with will deal with that particular problem, because none of it fastens up.¹⁰⁸

55. The complexity of the legislation was an issue our predecessor Committee highlighted in its 2013 Report. They recommended that the Government conduct a wide-ranging review to consolidate legislation covering the private rented sector, with the aim of producing a much simpler and more straightforward set of regulations that landlords and tenants could easily understand.¹⁰⁹ However, the Government did not accept this recommendation, stating in its response that, “a wide-ranging review would introduce uncertainty into the sector and would slow down investment at a time when it is most needed. It would also provide significant and unwarranted upheaval for tenants and landlords.”¹¹⁰ Nevertheless, as outlined earlier, the Government has subsequently introduced a significant number of new laws affecting the private rented sector.

56. We heard from several witnesses that the legislative framework now needed reform. Dr Rugg said that too much time was spent explaining the complexity of the legislation to tenants and landlords, and that “maybe our focus should be on getting rid of some of the complexity”.¹¹¹ However, the Minister’s view was that the existing legislation was “delivering results in terms of improving standards and quality”, and that the

104 Q177 (Isobel Thomson, National Approved Letting Scheme)

105 Q7 (Dr Julie Rugg)

106 Q115–7 (David Smith, Residential Landlords Association)

107 [Distress for Rent Act 1737](#), www.legislation.gov.uk, accessed March 2018 and Q117 (David Smith, Residential Landlord Association)

108 Q7 (Dr Julie Rugg)

109 [1st Report - The Private Rented Sector](#), 2013–14, CLG Committee, para 13

110 [Government response to the Communities and Local Government Select Committee Report: The Private Rented Sector](#), CM 8730, October 2013, page 5

111 Q13 (Dr Julie Rugg)

Government intended to “explain the legislation that is out there, rather than introducing new overarching primary legislation to bring it all together.”¹¹² She also argued that there was no appetite in the sector for a complete overhaul of legislation.¹¹³

57. This was supported by Adrian Jeakings from the NLA, who warned that “tinkering always produces perverse outcomes” and, while the legislation was “probably too complex [...] I would not rush into changing it”.¹¹⁴ Similarly, Melanie Rees told us that the Chartered Institute for Housing would not support a radical overhaul of the framework, but would be in favour of a review, in time, of how newly introduced regulations had worked in practice, and which considered where there had been unintended consequences of the new legislation.¹¹⁵

58. The Government’s recent legislative activity is well-intentioned, but we are concerned that it builds on an outdated and complex foundation. The Coalition Government rejected our predecessor Committee’s recommendation for a much simpler set of regulations for landlords and tenants. However, the volume of new legislation that the Government has introduced in the sector has added to this complexity and, as such, we feel that our predecessors’ recommendation is even more relevant today. We therefore recommend that the Law Commission undertake a review of the legislation relating to the private rented sector and provides guidance as to whether a new approach to regulation in the sector would bring more clarity for tenants, landlords and local authorities.

Legislation on carbon monoxide alarms and electrical safety checks

59. We note that other parliamentary inquiries have also concluded that current legislation can be confusing to both landlords and tenants. For example, in October 2017, the All-Party Parliamentary Carbon Monoxide Group (APPCOG) published a report which found that the that the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 were confusing and risked inadvertently turning landlords into ‘rogue landlords’.¹¹⁶ It called on the Government to amend the legislation to make it explicit and mandatory for landlords to provide carbon monoxide alarms in the rooms of private rented properties containing any fuel-burning appliance.

60. We also heard concerns regarding electrical safety in private rented accommodation. In November 2017, the Private Rented Sector Electrical Safety Standards Working Group made eight recommendations to the Government for improvements to standards in the sector, including calling for mandatory five-yearly checks on electrical installations.¹¹⁷ Electrical Safety First told us they were concerned by the lack of Government action following the publication of the Working Group’s report, as well as the general inadequacy of support given to local authorities to prevent electrical hazards in private rented homes.¹¹⁸ In February 2018, the Government launched a consultation seeking additional evidence

112 Q280 (Mrs Heather Wheeler MP, Minister for Housing and Homelessness)

113 Q280 (Mrs Heather Wheeler MP, Minister for Housing and Homelessness)

114 Q117 (Adrian Jeakings, National Landlords Association)

115 Q233 (Melanie Rees, Chartered Institute of Housing)

116 [Carbon monoxide alarms: tenants safe and secure in their homes](#), All-Party Parliamentary Carbon Monoxide Group (APPCOG), October 2017

117 [Electrical safety standards in the private rented sector: working group report](#), Ministry for Housing, Communities and Local Government, November 2017

118 Electrical Safety First ([PRS0013](#)), para 2.2

on the recommendations made by the Working Group. They explained that their final conclusions would also take into account the findings of the Independent Review of Building Regulations and Fire Safety.¹¹⁹

61. We support the finding of the All-Party Parliamentary Carbon Monoxide Group (APPCOG) that legislation should be amended to make it explicit and mandatory for landlords to install carbon monoxide alarms in the rooms of private rented properties containing any fuel-burning appliance. We also call on the Government to implement the recommendations of the Electrical Safety Standards Working Group as soon as practicable, including the introduction of mandatory five-yearly checks on electrical installations in private rented accommodation.

Housing Health and Safety Rating System

62. The HHSRS, introduced through the Housing Act 2004, came into force in England and Wales in April 2006. It replaced the Housing Fitness Standard, a pass or fail system, which had been in place since April 1990. The HHSRS is a risk-based assessment tool which is used by EHOs to assess the likelihood and severity of a hazard in residential housing to the health and safety of occupants and visitors. EHOs use a scoring system to calculate the seriousness of hazards. If the EHO finds a Category One (serious) hazard, the local authority is required to act, for example by issuing an Improvement Notice, Prohibition Order, Hazard Awareness Notice or by emergency remedial action. Category Two hazards are less serious and councils have more flexibility as to their course of action.

Baseline assumptions

63. The operating guidance, and the baseline assumptions that underpin the HHSRS, have not been updated since 2006.¹²⁰ The Chartered Institute for Environmental Health (CIEH) told us that 97% of EHOs wanted the evidence base of the HHSRS updated, while 53% reported that they were seeing hazards in homes that were not adequately addressed within the existing guidance.¹²¹ While the CIEH called for the retention of a risk-based evaluation system, and did not advocate the return to the pass/fail Housing Fitness Standard, they were one of several organisations who noted that the baseline assumptions in the HHSRS were out-of-date. Andy Fisher agreed, telling us that the sector had improved over the past 12 years, and so what was an acceptable baseline then is now inadequate.¹²² Councillor Simon Blackburn told us that the HHSRS baseline assumptions were “very low indeed. All it helps you to do is deal with the worst bits of it”.¹²³

64. The Minister disagreed; she believed that the HHSRS was working “really, really well” and did not accept that the baseline assumptions were out-of-date, stating that they were “as strong today as they were in 2004”.¹²⁴ She highlighted statistics that showed that the number of properties with hazards had declined from 31% in 2008 to 17% in 2015, and

119 Electrical safety in the private rented sector

120 [Housing health and safety rating system \(HHSRS\) enforcement guidance: housing inspections and assessment of hazards](#), Ministry of Housing, Communities and Local Government, February 2006

121 Chartered Institute of Environmental Health ([PRS0072](#))

122 Q207 (Andy Fisher, Boston Borough Council)

123 Q160 (Councillor Simon Blackburn, Blackpool Council)

124 Q268 and Q306 (Mrs Heather Wheeler MP, Minister for Housing and Homelessness)

credited the HHSRS for this. However, the Ministry did tell us that they would consider whether there was a need for a review of the HHSRS once the Independent Review of Building Regulations and Fire Safety had published its final report later this year.¹²⁵

Wider reform of the HHSRS

65. The HHSRS has been criticised with respect to the limited knowledge of its existence, and lack of understanding about how it works, amongst landlords and tenants, and its inconsistent application and enforcement by local authorities. ARLA Propertymark believed that it should be reviewed with a view to introducing a set of criteria which are easier to use, and argued that the current system was “too complicated and poorly understood by tenants, landlords, agents, and enforcement officers”.¹²⁶ Dr Rugg told us:

I wonder whether we might think about looking at the standards again and think about what is a reasonable standard to be working to and whether that standard is too complicated to work with very easily and cost-effectively [...] If we are expecting landlords to deal with the regulations, they have to deal with somebody who has sufficient knowledge to be able to understand how the system works, and that really posits that information in a group of people who are very heavily under pressure. We need standards regulations that are more readily accessible so that everybody can work with them [...]¹²⁷

66. The HHSRS’s complexity can be seen in the processes for assessing hazards. Kate Webb from Shelter explained that it does not look at a property in isolation, but also at who was living in it, to take account of the fact that a home that is safe for one person might not be safe for another.¹²⁸ Councillor Blackburn also criticised the complexity of the HHSRS, and gave a specific example of the most commonly found Category One hazard—excess cold—and how the HHSRS could fail to protect tenants:

[...] the preventative measures listed that can have an effect on the likelihood and harm of that in the scoring matrix just include tick boxes that refer to appropriate levels of thermal insulation or heating systems with expressions such as “properly sized and sited ventilation.” A property can have all of those things and you can tick all the boxes but it does not mean that it is not excessively cold within that property. It does not mean that the residents will not suffer. It is a binary tick-box approach [...]¹²⁹

67. London Councils highlighted how the HHSRS limited the local authorities’ capacity to act to ensure that items imperative to the integrity of a block’s fire protection system—such as fire-resistant doors—were adequate, unless it could demonstrate the issue posed a risk to a person within a given dwelling. This was particularly concerning in the context of the Grenfell Tower fire, and London Councils called for a “simpler regulatory framework that clarified the responsibilities between building control, local authorities and private sector housing Environmental Health Officers”.¹³⁰

125 Q299 (Anne Frost, Ministry for Housing, Communities and Local Government)

126 ARLA Propertymark ([PR50035](#)), para 8

127 Q9 (Dr Julie Rugg)

128 Q9 (Kate Webb, Shelter)

129 Q157 (Councillor Simon Blackburn, Blackpool Council)

130 London Councils ([PR50061](#))

68. We also heard that the complexity of the system led to the inconsistent application and enforcement of the HHSRS by local authorities. David Cox from ARLA Propertymark told us, “you can have two local authority officers from the same council come and do an HHSRS inspection on the same property and you will get two different results, because it is so complicated”.¹³¹ Similarly, David Smith from the RLA argued that the HHSRS was not working because it was not being effectively utilised by EHOs.¹³² He told us that many EHOs “get lost in the bureaucracy of it, because they choose to”, focusing on one hazard that is of limited importance, while ignoring those that really matter to the tenant. The CIEH disagreed with these representations, arguing that EHOs were fully qualified to understand and apply the law.¹³³

69. When our predecessor Committee investigated the HHSRS in 2013, they argued that, if landlords were to be expected to provide housing of a decent standard, there should be a straightforward way of assessing whether this standard had been met. They called on the Government to “consult on the future of the housing health and safety rating system and the introduction of a simpler, more straightforward set of quality standards for housing in the sector.”¹³⁴ While the Government agreed to undertake a review of the system “to ensure there is a robust framework in place to check that tenants’ homes are safe”, following that review in 2015, it decided not to commit to updating the guidance, arguing that most respondents to their consultation considered the current guidance to be fundamentally sound.¹³⁵

70. We acknowledge that the Housing Health and Safety Rating System (HHSRS) is supported by many environmental health professionals, but the evidence we received indicated that the system is unnecessarily complicated and fails to give tenants, landlords and agents a clear understanding of the minimum standards that are expected in a private rented property. *The Government must immediately update the baseline assumptions within the operating guidance for the HHSRS, which are now twelve years out-of-date. We have already called on the Law Commission to review private rented sector legislation, including the Housing Act 2004, and believe that this should include a review of the HHSRS itself. Ultimately, it is our strongly held view that the Government should introduce a more straightforward set of quality standards for the sector, so that it is clear to everyone—not just to highly qualified professionals—whether a property meets minimum standards. These standards should be higher than those in the HHSRS, reflecting an improvement in housing quality since the system was introduced.*

Homes (Fitness for Human Habitation and Liability for Housing Standards) Bill

71. The Homes (Fitness for Human Habitation and Liability for Housing Standards) Bill 2017–19 is a Private Member’s Bill introduced by Karen Buck MP, which seeks to amend the Landlord and Tenant Act 1985 by extending its obligations to cover almost all

131 Q181 (David Cox, ARLA Propertymark)

132 Q136 (David Smith, Residential Landlords Association)

133 Q232 (Tamara Sandoul, Chartered Institute for Environmental Health)

134 [1st Report - The Private Rented Sector](#), 2013–14, CLG Committee, para 18

135 [Government response to the Communities and Local Government Select Committee Report: The Private Rented Sector](#), CM 8730, October 2013, page 6; and [Review of Property Conditions in the Private Rented Sector: Government Response](#), DCLG, March 2015, page 18

landlords and to modernise the fitness for human habitation test.¹³⁶ Due to rent limits that have remained unchanged since the 1950s, the requirement in the 1985 Act for properties be fit for human habitation has ceased to have effect. The Bill would remove those rent limits, bringing the fitness requirement back into effect. It further provides that, where a landlord fails to maintain a property that is fit for human habitation, tenants would have the right to take action in the courts directly, without the intervention of the local authority. The Government announced its support for the Bill shortly before its Second Reading in the House of Commons, which took place on 19 January 2018.¹³⁷ It will shortly move to Committee stage.

72. We heard near unanimous support for the Bill, not only from tenants’ advocates, but also from landlords’ associations, professional bodies, and local authorities. Shelter told us it was actively supporting the Bill, highlighting how it brings together existing, and updates defunct, fitness legislation and incorporates the HHSRS into one fitness test that would be determined in the courts.¹³⁸ The NLA expressed their support, in particular for provisions that enable tenants to enforce property standards and fitness considerations for themselves, so they are not reliant on local authorities.¹³⁹ Similarly, the CIEH support the Bill, “because it gives the tenant another avenue to get compensation”.¹⁴⁰

73. Nevertheless, some concerns were raised about how the powers in the Bill might be used by tenants in practice. Sir Robin Wales, of Newham Council, warned that, “tenants will find it very difficult to exercise their powers”, although he noted that this did not mean they should not have the right to do so.¹⁴¹ Councillor Blackburn, of Blackpool Council, questioned whether it was right to place the onus upon the tenant to take legal action against their landlord, arguing that many tenants were highly unlikely to have the time or resources to know how to begin taking legal action. He commented, “We are all free to buy a Rolls Royce, but the vast majority of us cannot exercise that freedom”.¹⁴² Similarly, Andy Fisher from Boston Borough Council told us that, in his experience, “there are not going to be flocks of tenants in a position to secure the independent legal advice to bring claims and cases”.¹⁴³

74. Mette Isaksen from Citizens Advice told us she supported the Bill, but acknowledged that many tenants would not be able, or willing, to go through a court process.¹⁴⁴ She recommended that the Bill be accompanied by a wider set of non-court-based responses to circumstances in which the disrepair is not meeting the fitness for habitation threshold, but where the landlord was nevertheless failing to meet their legal responsibilities. David Smith from the RLA highlighted that it was not only tenants who were reluctant to go to court, but landlords too. He noted the potential applicability of the Bill of the Government’s proposal for a specialist housing court—as discussed in Chapter 1—modelled along the lines of the existing first-tier tribunal.¹⁴⁵

136 [Homes \(Fitness for Human Habitation and Liability for Housing Standards\) Bill 2017–19](#), House of Commons Library, 14 January 2018

137 [Government supports new measures to improve the safety of tenants](#), Ministry of Housing, Communities and Local Government, 14 January 2018

138 Shelter ([PR50028](#)), para 21

139 National Landlords Association ([PR50043](#)), para 23

140 Q237 (Tamara Sandoul, Chartered Institute for Environmental Health)

141 Q158 (Sir Robin Wales, London Borough of Newham)

142 Q158 (Councillor Simon Blackburn, Blackpool Council)

143 Q209 (Andy Fisher, Boston Borough Council)

144 Q93–4 (Mette Isaksen, Citizens Advice)

145 Q116 (David Smith, Residential Landlords Association)

75. The Minister told us that concerns around access to justice were unfounded, as the Government had assessed that “in 99 out of 100 cases”, tenants would not need to go to court.¹⁴⁶ They would have clear visual evidence of their complaint and, knowing that tenants had new powers to act directly, landlords would be motivated to avoid allowing cases to reach court. Anne Frost, Deputy Director of the Private Rented Sector Division at the Ministry for Housing, Communities and Local Government (MHCLG), told us:

The way it is currently drafted, in terms of relying on the HHSRS, means in our view that they will be able to see if there is a hazard that is applicable. Assuming the Bill goes through, we would provide guidance to tenants in any case, but our expectation is that that power provided to tenants will mean that landlords are less likely to want to go to court, because they know that proof is there up front.¹⁴⁷

76. We also heard that local authorities would need sufficient resources to ensure tenants had access to expert advice they need to accurately assess hazards as defined through the HHSRS. Sir Robin Wales told us that, “If it is going to work, councils should support people and that would mean resourcing us”.¹⁴⁸ This was supported by Councillor Tony Newman, representing the Local Government Association (LGA), who noted that frontline services like environmental health were under budgetary pressure, and that without sufficient resources, “we will not be able to act on even the finest of Bills”.¹⁴⁹ The Minister told us that the Bill would incentivise local authorities to act on behalf of tenants, as they would continue to be able to retain any civil penalties.¹⁵⁰

77. Some witnesses noted that the Bill did not contain any additional provisions to protect tenants who take up their rights from retaliatory eviction or rent increases (as discussed in Chapter 1). Councillor Blackburn told us that the provisions within the Bill could “heighten the risk of retaliatory eviction by landlords”.¹⁵¹ Tamara Sandoul pointed out that, where the local authority takes a formal action to protect a tenant in response to a complaint, the tenant would be protected for at least six months, whereas if the tenant goes to court on their own, they will not be protected.¹⁵² On the risk to tenants of retaliatory eviction, Councillor Lawton made the point vividly:

If you are a vulnerable person living in a two-bedroom or one-bedroom flat and there is water running down the wall or whatever, and you go and make a complaint about that particular landlord, his argument would be, “If you do not like it, go somewhere else. I have got 20 people waiting to fill in that space”.¹⁵³

78. We offer our support for Karen Buck MP’s Homes (Fitness for Human Habitation and Liability for Housing Standards) Bill. However, while the Bill is a very positive step-forward, there is a risk that these new rights will be underutilised by more vulnerable tenants at the lower end of the market. To try to mitigate this, we recommend that:

146 Q300 (Heather Wheeler MP, Minister for Housing and Homelessness)

147 Q302 (Anne Frost, Ministry for Housing, Communities and Local Government)

148 Q158 (Sir Robin Wales, London Borough of Newham)

149 Q158 (Councillor Tony Newman, Local Government Association)

150 Q300 (Heather Wheeler MP, Minister for Housing and Homelessness)

151 Q158 (Councillor Simon Blackburn, Blackpool Council)

152 Q237 (Tamara Sandoul, Chartered Institute for Environmental Health)

153 Q209 (Councillor Robert Lawton, Bournemouth Borough Council)

- *The Government take steps to ensure that the new rights granted by this Bill are not illusory, but that tenants—and especially those who are most vulnerable—are able to enforce them in practice. Provision should be made for free and easily-accessible technical and legal advice to support tenants through this process. As it is likely tenants will seek this advice from local authorities, it is vital that they are suitably resourced to provide this additional service.*
- *The Government consider how its proposals for a new specialist housing court act as an appropriate route for tenants to seek redress; and*
- *The Government reflect on how tenants can best be protected from retaliation from their landlords when pursuing their rights under this Bill.*

3 Enforcement

79. In the last chapter, we noted that local authorities had a range of powers to tackle low standards in the private rented sector. We heard, however, that the existence of such powers did not mean that they were enforced. This Chapter explores the issue of enforcement in more detail. We look at rates of enforcement by local authorities, investigate why they have tended to be so low, and make recommendations for how enforcement rates might be improved. We move on to reflect on whether selective licensing schemes are a useful enforcement tool for local authorities, if there is evidence that they lead to an improvement in the quality of accommodation, and whether the process of implementation is fit for purpose.

Enforcement of standards by local authorities

80. We heard that local authority enforcement levels were extremely low in the private rented sector. ARLA Propertymark told us, “Laws are passed but not enforced” and, while there were some local authorities who were proactive, “the vast majority do absolutely nothing”.¹⁵⁴ The NLA agreed, with Adrian Jeakings telling us, “there does not appear to be enough enforcement going on”.¹⁵⁵ This was also acknowledged by the Minister, who told us that low rates of enforcement were “shockingly surprising”.¹⁵⁶

81. The RLA reported that in 2016–17, among the 296 councils in England and Wales that responded to its survey, there were just 467 prosecutions of landlords, despite receiving 105,359 complaints.¹⁵⁷ Dan Wilson-Craw from Generation Rent highlighted statistics that showed the average local authority received 433 complaints a year, of which 260 were inspected, 70 Category One hazards identified, and only 17 enforcement notices issued—suggesting local authorities were not following up adequately on complaints.¹⁵⁸ In this context, the English Housing Survey estimated that there were 800,000 private rented homes containing one or more Category One hazards.¹⁵⁹

82. However, these averages belie the significant variations in enforcement activity, which is heavily concentrated in a very small number of local authorities. Kate Webb from Shelter told us that tenants were subject to a “postcode lottery”, dependent upon the number of officers in a council, whether they favoured a formal or informal approach, and “where they rank in the grand scheme of things”.¹⁶⁰ David Smith from the RLA went further, telling us:

154 ARLA Propertymark ([PR50035](#)) and Q177 (David Cox, ARLA Propertymark)

155 Q114 (Adrian Jeakings, National Landlords Association)

156 Q307 (Heather Wheeler MP, Minister for Housing and Homelessness)

157 Residential Landlords Association Briefing for Second Reading Debate: Homes (Fitness for Human Habitation and Liability for Housing Standards) Bill 2017–19, January 2018

158 Q89 (Dan Wilson-Craw, Generation Rent), highlighting statistics found in: [The challenge of tackling unsafe and unhealthy housing: Report of a survey of local authorities for Karen Buck MP](#), December 2015

159 17% of private rented dwellings had at least one Category One hazard: Department for Communities and Local Government, [English Housing Survey 2015–16: Headline Report](#), March 2017, para 4.15

160 Q10 (Kate Webb, Shelter)

I do not think it is a postcode lottery, because a lottery implies that you might win occasionally. The reality is that with local housing authorities, in terms of enforcement activity, you can point to maybe five or six that are aggressively and actively enforcing, and after that the numbers just die.¹⁶¹

Statistics support this analysis. One freedom of information request found that six out of 10 councils had not prosecuted a single landlord in 2016, with 80% prosecuting fewer than five.¹⁶² The London Borough of Newham was alone responsible for 60% of all prosecutions in London and 50% across the country.¹⁶³

83. However, many local authorities argued that enforcement statistics that focused on prosecutions were not representative of the informal work they undertook in the private rented sector, which they argued was equally effective. Tamara Sandoul of the CIEH highlighted that the HHSRS encouraged local authorities to pursue an informal approach with landlords before following more punitive routes.¹⁶⁴ Andy Fisher told us that Boston Borough Council had only prosecuted three landlords in the last year, but that his team preferred to work with landlords rather than take formal enforcement action.¹⁶⁵ He explained, “Enforcement is the end product. It is very disappointing to have to get to that enforcement route”.¹⁶⁶ Similarly, Councillor Clare Salier told us that the London Borough of Wandsworth had only prosecuted one landlord in the last 12 months, but that “prosecution is a last resort”, highlighting that only a very small number of landlords refused to co-operate with the council to make repairs to their properties.¹⁶⁷

84. We recognise that enforcement activity undertaken by local authorities is often informal in nature and not fully reflected in prosecution statistics. Nevertheless, the evidence is clear that enforcement levels—formal or otherwise—are far too low in the vast majority of local authorities. This strongly suggests that vulnerable tenants are being left without the protection to which they are legally entitled. The Government has introduced a range of new powers for local authorities to intervene in the private rented sector to address low standards. However, these powers are meaningless if local authorities do not, or cannot, enforce them in practice.

85. The RLA identified three reasons why levels of formal enforcement activity undertaken by local authorities were so low.¹⁶⁸ They told us that, first, the legislation was “too patchy and complicated, and far too much of it is cross-cutting”, meaning that EHOs found it difficult to use their powers (as explored in detail in Chapter 2). Second, local authorities had insufficient resources to undertake their enforcement duties. Finally, many local authorities lacked the political will to address low standards in the sector; David Smith explained that, “Not every local authority is prepared to commit aggressively to this area, which is unfortunate”.¹⁶⁹ The evidence we received during the inquiry supports this analysis, and the following sections consider each in turn.

161 Q114 (David Smith, Residential Landlords Association)

162 [Rogue landlords enjoy an easy ride as councils fail to prosecute](#), The Guardian, 28 October 2017

163 Q159 (Sir Robin Wales, London Borough of Newham)

164 Q232 (Tamara Sandoul, Chartered Institute for Environmental Health)

165 Q213 (Andy Fisher, Boston Borough Council)

166 Q204 (Andy Fisher, Boston Borough Council)

167 Q211–3 (Councillor Clare Salier, London Borough of Wandsworth)

168 Q115 (David Smith, Residential Landlords Association)

169 Q115 (David Smith, Residential Landlords Association)

Resources for enforcement

86. As we have noted, resources are at least as much of an issue for local authorities as the powers available to them. The LGA emphasised the financial challenges which they say will mean “a funding gap of at least £5.8 billion by 2019–20”.¹⁷⁰ Crisis told us that 1,272 jobs were lost in environmental health offices between 2010 and 2012, while the Chartered Institute of Housing highlighted that local authorities had reduced spending on enforcement activity by a fifth between 2009–10 and 2015–16, an average annual reduction of £8.75 per privately rented home in England.¹⁷¹

87. These statistics are even more stark when considered from a local perspective. ARLA Propertymark highlighted that Birmingham City Council only had five EHOs to cover a city of 1.1 million people.¹⁷² Andy Fisher explained that he had just 1.6 people in his housing enforcement team, for the entire town of Boston.¹⁷³ Derby City Council’s Housing Enforcement Team said they, “still don’t have enough enforcement capacity to really get on top of the problem” in the private rented sector.¹⁷⁴ We expect there must be many more similar stories from local authorities across the country. We heard from several councils that the low level of resources available for enforcement made it difficult to attract sufficiently trained and suitably competent EHOs.¹⁷⁵

88. The Government told us they recognised that enforcement was difficult and complex work, and highlighted the changes brought in through the Housing and Planning Act 2016, which allowed local authorities to keep money received through civil penalties—up to £30,000—and rent repayment orders, where rent was paid through state benefits, and reuse it for housing enforcement purposes.¹⁷⁶ The Minister described these changes as, “a massive incentive for councils to do more”.¹⁷⁷ The Government also introduced the Controlling Migration Fund in 2015, which made £100 million available over four years for local authorities to tackle local service pressures associated with recent increased migration, including criminal landlords. In light of these measures, the Government called on local authorities “to assess their priorities and allocate their resources accordingly”.¹⁷⁸

89. Local authorities welcomed the new powers and funding brought forward by the Government. However, many, including London Councils, noted that while civil penalties could now be spent on enforcement, it was too early for councils to know how much funding this would generate and therefore to have the confidence to start recruiting more staff on this basis.¹⁷⁹ It is also logically the case that those local authorities that prioritised informal enforcement activity would not be able to benefit from the income received through civil penalties they had not levied. Bristol City Council and Boston Borough Council both told us that they had successfully bid under the Controlling Migration Fund and had used the funding to undertake work in addition to their core statutory housing functions.¹⁸⁰ The Minister confirmed that there was £47 million still to be allocated from the Fund, and that it would be reopened for bids in the summer.¹⁸¹

170 Local Government Association ([PR50029](#)), para 3.7

171 Crisis ([PR50041](#)), para 18, and Chartered Institute of Housing ([PR50031](#))

172 ARLA Propertymark ([PR50035](#))

173 Q204 (Andy Fisher, Boston Borough Council)

174 Shelter ([PR50028](#)), para 17

175 For example, Q211 (Andy Fisher, Boston Borough Council) and Q212 (Councillor Clare Salier, London Borough of Wandsworth)

176 DCLG ([PR50068](#)), para 14

177 Q307 (Heather Wheeler MP, Minister for Housing and Homelessness)

178 DCLG ([PR50068](#)), para 15

179 London Councils ([PR50061](#))

180 Q204 (Andy Fisher, Boston Borough Council) and Bristol City Council ([PR50074](#))

181 Q310 (Heather Wheeler MP, Minister for Housing and Homelessness)

90. Concerns were raised with us around the ability of local authorities to recover costs from prosecutions. The LGA highlighted that, although some of the powers and tools were available to councils to allow them to recover some of their costs, these were “rarely sufficient to meet the full cost” of enforcement activity.¹⁸² A criminal court can order an offender to pay just and reasonable costs, which can include the prosecutor’s costs of investigating.¹⁸³ However, where those costs are disproportionate to the fine imposed, they are unlikely to be awarded in full, especially where the cost of investigating officers would have been incurred anyway because they are employed by the prosecuting authority and carrying out their normal duties.¹⁸⁴ We heard that this created a disincentive for local authorities to prosecute criminal landlords. Councillor Lawton told us:

[...] you have to be careful that a decision to prosecute is not coloured by the cost to the council [...] If you spend £5,000 prosecuting Mr A or Mrs X and you get £100 back, understandably, given the budget pressures we are under these days, you might get that bit in the local paper and you start to wonder whether it was worth it. I know this is a terrible indictment, but it is a fact of life.¹⁸⁵

Councillor Salier agreed: “If you put on a new burden and make it cost-neutral, we have to say, “How much are we getting back for carrying out that prosecution?””.¹⁸⁶ The Minister told us she was “frankly appalled” and “hugely disappointed” by such sentiments, explaining:

I hear what you are telling me but I do not accept that. It is that council’s duty to do that. I am sure that if any leader of any council heard their officers talk about a cost-benefit analysis on this, that would be outrageous. It is their duty to do this on behalf of clearing rogue landlords out of it.¹⁸⁷

91. The level of fines levied, both through civil penalties and prosecutions in the courts, were also considered to be too low by many local authorities. Sir Robin Wales believed that many of the worst, criminal landlords, considered the civil penalties and fines to be a cost of business:

If people are running businesses where they break the law, the punishment needs to break the business model [...] Landlords get caught, they pay a fine, and it is part of the business model [...] If you have 25 people in a home, which is not unusual [...] that is £12,500 per month. I am sorry, but we think there needs to be confiscation of the property. There needs to be a proper thing that says, “Your business model will be broken. If we catch you doing these things consciously, we will take the property.” [...] That means fines will have to be properly substantial.¹⁸⁸

182 Local Government Association ([PR50029](#)), para 4.4

183 Prosecution of Offences Act 1985, s 18; *Associated Octel Ltd* [1997] 1 Cr App R (S) 435

184 *BPS Advertising Ltd v London Borough of Barnet* [2006] EWHC 3335 (Admin). See, generally, Archbold, *Criminal Evidence, Pleading and Practice* 2018 para 6–34.

185 Q222 (Councillor Robert Lawton, Bournemouth Borough Council)

186 Q222 (Clare Salier, London Borough of Wandsworth)

187 Q308–9 (Heather Wheeler MP, Minister for Housing and Homelessness)

188 Q155 (Sir Robin Wales, London Borough of Newham)

Other local authorities agreed that fines were often far too low. Andy Fisher highlighted an example in Boston, where a landlord had committed 23 breaches of the Housing Act, and received a fine of just £10,000.¹⁸⁹ Councillor Lawton supported this, explaining that “some of the fines levied are pitiful”—often just £100 or £200—particularly in the context of the thousands of pounds local authorities spend in taking criminal landlords to court.¹⁹⁰

92. *We have received evidence that civil penalties are not strong enough to deter landlords who are prepared to commit the most serious offences, and fines issued through the courts are often insufficient to make prosecutions worthwhile. We believe local authorities should have the power to levy more substantial fines, which might stand a chance of breaking the business models of the worst offenders. Further, local authorities should have the power to confiscate properties from those landlords committing the most egregious offences and whose business model relies on the exploitation of vulnerable tenants. Coupled with the banning orders which came into force in April, this would act as a more powerful deterrent than the existing provisions.*

93. *We believe that courts should require offenders to pay costs that reflect the actual costs to local authorities of enforcement action. There should be no financial disincentive for local authorities to fulfil their statutory duties and pursue prosecutions against criminal landlords.*

94. *Additional funding should also be made available by the Government through a new fund to support local authorities that primarily undertake informal enforcement activities and are unable to benefit from funding through civil penalties.*

Political will

95. While reduced resources are clearly a factor in low rates of enforcement in the private rented sector, this cannot explain the significant variation in activity between local authorities. The London Borough of Newham faces the same resource pressures as any other authority, and yet accounted for 50% of all prosecutions in the country. Sir Robin Wales told us that Newham “took a decision that it was more important to do this than most other things”, which suggests that there may also be a question of political will and the prioritisation of resources.¹⁹¹

96. The Association of Tenancy Relations Officers described the “striking lack of consistency across authorities which cannot credibly be explained by local factors other than a lack of will, commitment or knowledge”.¹⁹² This was supported by David Smith-Milne from Placefirst, who told us that the quality and calibre of leadership within a local authority made a key difference as to whether enforcement of standards was effective.¹⁹³ David Smith from the RLA highlighted the “hard work” Newham had put into making its enforcement teams work so well:

189 Q213 (Andy Fisher, Boston Borough Council)

190 Q210 (Councillor Robert Lawton, Bournemouth Borough Council)

191 Q159 (Sir Robin Wales, London Borough of Newham)

192 Association of Tenancy Relations Officers ([PR50025](#)), para 9

193 Q133 (David Smith-Milne, Placefirst)

The reality is that most local authorities want to do what Newham are doing but without doing all of the really hard work that Newham had to do to make that happen. It is important to bear in mind that there is a huge amount of effort that has gone on in Newham, in terms of immigration, the police, HMRC, and the TROs, building proper policies and putting a vast level of effort into really tackling these issues. Unless every local authority does that, simply throwing money at it is not enough.¹⁹⁴

97. Tamara Sandoul from the CIEH told us “it is about leadership, exactly” and local priorities for resource allocation within councils.¹⁹⁵ She explained that, where environmental health teams were well resourced, they tended to be more proactive and perform better. In many local authorities, there was a lack of alignment between different departments, including building control and planning, housing enforcement and trading standards.¹⁹⁶ Ms Sandoul called for better joint working between departments and external organisations, or the transfer of all housing duties to a single department. This was supported by Alison Farrar, from the Chartered Trading Standards Institute, who explained that while trading standards and environmental health teams work in different ways, there were “plenty of opportunities for collaboration” and that this was “something that we would be happy to develop in some areas”.¹⁹⁷

98. It was also noted that there were opportunities for local authorities to promote the sharing of information between council tax and enforcement teams, to help councils identify private rented properties in their areas.¹⁹⁸ As confirmed in correspondence with the Minister, local authorities have existing powers under the Local Government Finance Act 1992 to collect data for the purposes of Council Tax administration, while Section 237 of the Housing Act 2004 allows data that has been collected for this purpose to be used for the exercise of the local authority’s housing functions.¹⁹⁹ Furthermore, the Housing Tenure Information Working Group recently confirmed that councils already have scope to collect housing tenure information through their council tax registration forms.²⁰⁰

99. It is clear that local authorities have fewer resources to enforce standards in the private rented sector than they did in 2010. However, this does not fully explain the variation in enforcement levels that exist between different local authorities. It is clearly the case that some local authorities have placed a higher priority on addressing low standards in the private rented sector than others have done. We believe this disparity in effective action can only be resolved through political leadership.

100. We call on local authorities to reflect on whether their Environmental Health, Trading Standards and other relevant departments are suitably aligned to promote enforcement activity, and whether effective mechanisms exist to work collaboratively with neighbouring authorities. Local authorities should also make full use of their existing powers to obtain information about the tenure of a property on Council Tax returns, which should then be used by enforcement teams to identify private rented properties in their areas.

194 Q115 (David Smith, Residential Landlords Association)

195 Q246 (Tamara Sandoul, Chartered Institute for Environmental Health)

196 Q230 (Tamara Sandoul, Chartered Institute for Environmental Health)

197 Q230 (Alison Farrar, Chartered Trading Standards Institute)

198 Q238 (Melanie Rees, Chartered Institute of Housing)

199 [Letter from the Minister for Housing and Homelessness to the Chair](#), 13 March 2018

200 National Landlords Association ([PRS0043](#)), para 8

101. To support local authorities with enforcement activity, Councillor Salier recommended that a national benchmarking scheme be established by the Government. Such a scheme could provide council officers with clear targets on what is expected of them, as well as comparisons to other local authorities. Best practice could be shared between housing enforcement teams in different councils, encouraging co-operative working and maximising the use of limited resources.²⁰¹

102. *We believe that a national benchmarking scheme should be introduced—funded and administered by the Government and implemented through the Local Government Association—to support local authorities with their enforcement activity. Local authorities should publish data on the number of complaints they receive and how these are resolved, whether through informal routes or more formal enforcement mechanisms, while local residents should be able to compare enforcement levels in their areas with similar authorities across the country.*

103. *It is also apparent that there is greater scope for local authorities to work together and share best practice, and to make more efficient use of limited resources. To support this, and to provide greater transparency for residents, local authorities should publish their enforcement strategies for the private rented sector online.*

Selective licensing

104. Section 80 of the Housing Act 2004 permits local authorities in England and Wales to implement selective licensing of privately rented properties in areas experiencing low housing demand and/or suffering from anti-social behaviour.²⁰² The same Act also introduced a new licensing regime for Houses in Multiple Occupation (HMOs). In areas with selective licensing, all private landlords are obliged to obtain a licence. The local authority is permitted to take enforcement action against any landlord who fails to obtain a licence, or does not achieve the minimum acceptable requirements. The Government told us that it would undertake a review of the current selective licensing framework before the summer.²⁰³

105. In 2013, our predecessor Committee urged the Government to give councils greater freedom over when licensing schemes can be introduced and more flexibility over how they are implemented.²⁰⁴ Consequently, in April 2015, the Government broadened the criteria under which selective licensing may be introduced, so that a designation can now be made if the area to which it relates satisfies one or more of the following conditions: low housing demand (or is likely to become such an area); significant and persistent anti-social behaviour; poor property conditions; high levels of migration; high level of deprivation; or high levels of crime.²⁰⁵ It has also extended licensing for HMOs.

106. The LGA told us that, “While landlord licensing schemes will not be appropriate in every council area, they can have significant benefits for landlords and tenants”.²⁰⁶ The RLA supported targeted, specific licensing, because it “helped to break up tenant ghettos

201 Q207 and Q211 (Clare Salier, London Borough of Wandsworth)

202 [Selective licensing of private landlords \(England & Wales\)](#), House of Commons Library, 9 June 2017

203 Q312 (Heather Wheeler MP, Minister for Housing and Homelessness)

204 [1st Report - The Private Rented Sector](#), 2013–14, CLG Committee, para 49

205 [Selective licensing in the private rented sector: a guide for local authorities](#), Department for Communities and Local Government, March 2015

206 Local Government Association ([PR50029](#)), para 5.1

and spread tenants out across the whole area”—although they continued to oppose borough-wide schemes.²⁰⁷ The Minister told us that, where schemes were shown to be working well, the Government wanted to “make sure this good practice spreads out to other areas that are similar”.²⁰⁸

107. We heard that there were several advantages for local authorities that implemented selective licensing schemes. Sir Robin Wales—who was responsible for implementing the high-profile, borough-wide licensing scheme in the London Borough of Newham—believed that licensing allowed councils to set tougher basic conditions for private landlords to meet.²⁰⁹ For example, licensed landlords were required to inspect their own properties every six months and provide gas safety certificates to the council. Councillor Blackburn told us that selective licensing gave council officers the ability to “get behind the front door of properties that we would never otherwise have gotten into”.²¹⁰ He highlighted the multi-agency approach adopted in Blackpool, which enabled officials to intervene in situations that would have otherwise remained hidden. Councillor Newman explained that selective licensing increased the likelihood of a positive outcome when criminal landlords are prosecuted, noting the “very clear focus to a set of conditions that should be met”.²¹¹

108. Local authorities that had implemented selective licensing schemes cited improved enforcement statistics as proof of their success. The London Borough of Newham told us they had issued 39,321 licences to 26,072 landlords and, since 2013, 1,225 prosecutions had been brought against criminal landlords, with 28 having been banned from the sector.²¹² In Waltham Forest, where a borough-wide licensing scheme had also been implemented, the council had prosecuted 60 private landlords between February 2016 and April 2017, resulting in fines and costs of approximately £200,000.²¹³ In Blackpool, there were 875 properties licensed, 752 schedules of work and 87 formal notices issued, and 16 prosecutions.²¹⁴

109. However, David Cox from ARLA Propertymark told us that, far from demonstrating success, these statistics were evidence of failure. He set out the London Borough of Newham’s prosecution record:

Newham have done 1,200 prosecutions, or 240 a year, out of 47,000 properties. That is 0.5% of properties in their area that they have done anything about and have done prosecutions. I would note that that is with 140 officers. They have 40 police officers, 100 enforcement officers and they have done 240 prosecutions a year. That is less than two prosecutions an officer. If that is what is classed as success—and it is classed across the industry as the most successful licensing scheme in the country—really what does that say? It is pitiful.²¹⁵

207 Q119 (David Smith, Residential Landlords Association)

208 Q312 (Heather Wheeler MP, Minister for Housing and Homelessness)

209 Q153 (Sir Robin Wales, London Borough of Newham)

210 Q160 (Councillor Simon Blackburn, Blackpool Council)

211 Q164 (Councillor Tony Newman, Local Government Association)

212 London Borough of Newham ([PR50078](#))

213 London Councils ([PR50061](#))

214 Q159 (Councillor Simon Blackburn, Blackpool Council)

215 Q183 (David Cox, ARLA Propertymark)

110. Low levels of enforcement within selective licensing areas were a key concern for many of our witnesses. Dr Julie Rugg told us that there was little empirical evidence that selective licensing schemes had a beneficial impact on the quality of private rented accommodation where they have been implemented, and that many appeared to be, “a bureaucratic exercise of making lists of people, charging amounts of money, receiving those moneys and just maintaining lists”.²¹⁶ David Smith from the RLA agreed, telling us, “there is no substantive evidence that licensing does anything better than get people to have licences”, while David Smith-Milne of Placefirst said, “the lack of evaluative evidence is a real concern”.²¹⁷ The lack of such evidence was not denied by advocates of selective licensing, with Sir Robin Wales telling us, “I cannot, if I am honest, say that I have absolute proof” of a general increase in the quality of private rented housing in Newham since the introduction of licensing in 2013.²¹⁸

111. Having received written evidence primarily from local authorities who were in favour of selective licensing schemes, we proactively sought evidence from councils that had considered, but ultimately rejected, such schemes for their areas, to ask them why they had taken this approach. Councillor Lawton told us that Bournemouth Borough Council had rejected selective licensing was because they were concerned costs would be passed on to tenants in higher rent. He explained:

[...] If you charge a landlord £500 per unit over five years—the licence would last for five years—it is £100 a year. That is £2 a week, and they would probably increase the rent by that amount. As I said earlier, although the people at the higher end of the market could probably afford that, people at the lower end may find it difficult. It really could just tip the balance against them.²¹⁹

He was also concerned about the possibility of judicial review from landlords’ representatives, and the potential cost that could be incurred as a result. Councillor Salier told us that, in Wandsworth, it was felt that only a very small number of private rented properties were of an insufficient standard, and that selective licensing would not be the best use of council resources, and would place an unfair burden on the majority of landlords who were doing a good job.²²⁰ In Boston, consultation responses indicated that landlords, tenants and businesses were unanimous in their opposition to selective licensing, and that “we were prejudicing everybody for the risk of the minority and that, instead, we should be focusing our enforcement action on targeting the worst”.²²¹

112. Furthermore, the British Property Federation highlighted several selective licensing schemes that they felt had not been well-deployed, or failed to meet their objectives.²²² One example was Manchester City Council, which decided to withdraw their selective licensing scheme after five years, stating: “Members and landlords have criticised the scheme as being overly bureaucratic, with too much effort focused on the paperwork and administration and not enough on tackling the poorer landlords through enforcement

216 Q23 (Dr Julie Rugg)

217 Q119 (David Smith, Residential Landlords Association) and Q121 (David Smith-Milne, Placefirst)

218 Q160 (Sir Robin Wales, London Borough of Newham)

219 Q219 (Councillor Robert Lawton, Bournemouth Borough Council)

220 Q219 (Clare Salier, London Borough of Wandsworth)

221 Q219 (Andy Fisher, Boston Borough Council)

222 British Property Federation ([PR50069](#))

and prosecution”.²²³ They also noted Rochdale Council which, despite having had selective licensing for 10 years, continued to have problems of “poor quality landlords offering very poor quality and often illegal properties for rent”.

113. We also heard suggestions for alternatives to selective licensing schemes. ARLA Propertymark told us that local authorities should adopt collaborative approaches to tackling issues within the private rented sector, citing as an example the London Rental Standard—a voluntary minimum set of rules that landlords and letting agents must agree to adhere to in order to operate in London.²²⁴ This enabled local authorities to target their resources on intelligence-led enforcement, rather than the administrative burdens of a licensing scheme. The NLA strongly advocated landlord accreditation as an alternative to licensing, explaining that it looked to work with local authorities to address issues using existing powers and encourage engagement with the local landlord community.²²⁵ The British Property Federation supported proposals for a national register of landlords, which would provide a registration number to be used in all interactions with public bodies.²²⁶

Application process for selective licensing

114. Since April 2015, local authorities have had to seek approval from the Secretary of State for selective licensing schemes which would cover more than 20% of their geographical area or would affect more than 20% of privately rented homes in the area. In correspondence with the Minister, it was confirmed that—of the seven applications that the Secretary of State had considered since 2015—one had been rejected completely, two were confirmed in part, and four had been confirmed in full.²²⁷

115. We heard that this application process was not fit for purpose. Councillor Blackburn told us that it took 20 weeks for the Government to respond to Blackpool Council’s application for a selective licensing scheme, far longer than the eight weeks it should have taken according to Government guidance.²²⁸ The London Borough of Newham also experienced delays with its recent application to the Government, leaving a significant gap between the expiry of the old licensing scheme and the commencement of its replacement.²²⁹ Councillor Blackburn was also concerned that the Minister’s decision was “heavily dependent upon the advice of civil servants”, who could not be expected to appreciate the local challenges in different parts of the country.²³⁰

116. Others objected in principle to the application process. The LGA told us that, “requiring approval from the Secretary of State for licensing in a large area is an unnecessary intervention in local decision-making and should be removed”.²³¹ Councillor Blackburn described the process as “contrary to the spirit of localism”, while Bristol City Council expressed their view that, “authorities should be able to make informed local decisions themselves on what is best to improve the private rented stock in their areas”.²³² Even

223 As found in [Selective licensing of private landlords \(England & Wales\)](#), House of Commons Library, 9 June 2017, page 25

224 ARLA Propertymark ([PR50035](#)), para 16

225 National Landlords Association ([PR50043](#))

226 British Property Federation ([PR50069](#))

227 [Letter from the Minister for Housing and Homelessness to the Chair](#), 13 March 2018

228 Q166 (Councillor Simon Blackburn, Blackpool Council)

229 Q159 (Sir Robin Wales, London Borough of Newham)

230 Q166 (Councillor Simon Blackburn, Blackpool Council)

231 Local Government Association ([PR50029](#)), para 5.6

232 Q166 (Councillor Simon Blackburn, Blackpool Council) and Bristol City Council ([PR50074](#))

local authorities that had decided against implementing a selective licensing scheme of their own, agreed with the principle that the decision should ultimately rest with the local authority concerned.²³³ However, in response, the Minister highlighted the importance of having a high threshold for the implementation of selective licensing schemes:

Believing in localism, they will come to me with the evidence, and the evidence will say whether it is acceptable or not. There has to be a high threshold. If we are bringing in very strong laws and a quite bureaucratic workload for different groups, which therefore will have a knock-on effect on cost, let alone the licence to register at all, then it has to have a high threshold. That is appropriate.²³⁴

The Minister later confirmed that the application process would form part of the review of selective licensing that was due to take place before the summer.²³⁵

117. We have received mixed evidence on the value of selective licensing schemes, which reflects the different circumstances that exist in different parts of the country. Our predecessor Committee called on the Government to bring forward proposals for a reformed approach to selective licensing, which would give councils greater freedom over when licensing schemes can be introduced and more flexibility over how they are implemented. We support the changes the Government has introduced since then, including the extension to HMO licensing and the broader criteria that were introduced for selective licensing. The Government has said that it intends to review the current selective licensing framework before the summer, and this will be an opportunity for further improvements to the selective licensing system.

118. We believe that the current process of application to the Secretary of State is not fit for purpose. Decision-making is too slow, lacks transparency, and is overly bureaucratic and unduly expensive. In our view, decisions to implement such schemes should be made locally, where there is greater understanding of local needs and politicians are directly accountable to the electorate for their decisions. *We recommend that the Government therefore remove the 20% cap above which local authorities must seek permission from the Secretary of State to implement selective licensing schemes because it is contrary to the spirit of localism. However, we believe that the Secretary of State should retain a power to require local authorities to reconsider a decision to implement a licensing scheme that does not meet the strict criteria already set out by the Government, and should monitor the effectiveness of schemes once they have been implemented.*

233 Q220 (Councillor Clare Salier, London Borough of Wandsworth, and Councillor Robert Lawton, Bournemouth Borough Council)

234 Q321 (Heather Wheeler MP, Minister for Housing and Homelessness)

235 [Letter from the Minister for Housing and Homelessness to the Chair](#), 13 March 2018

4 Innovative approaches in the private rented sector

119. While the focus of our inquiry has been on the ability of local authorities to tackle low standards in the private rented sector, we were also interested to hear about the innovative approaches many were taking to promote high quality and affordable private rented accommodation in their areas.

Council-owned private rented properties

120. The LGA highlighted that many local authorities had responded to a shortage of good quality private rented accommodation by developing their own portfolios for market rents.²³⁶ For example, Birmingham City Council had built 92 homes for private rent through a wholly-owned company. Similarly, the London Borough of Newham told us about their wholly-owned company, Red Door Ventures, which builds homes for private rent, to generate a long-term return for the council.²³⁷ To date, Red Door Ventures has built 59 properties, with a further 615 at planning stage and an intention to build a further 2,500.

121. As well as building new homes, many local authorities were buying and regenerating older housing stock for rental. For example, Councillor Blackburn told us that Blackpool Council had set up a private housing company—My Blackpool Home—for which the council had been successful in attracting £28 million of borrowing from the Treasury through the Regional Growth Fund.²³⁸ The money was used to purchase and renovate poor quality private rented housing:

[...] we found a property for sale that was converted into 12 bedsits, which was on the market for £150,000. We bought it for £150,000 and spent £300,000 on it, so the total investment was £450,000. We turned it from 12 bedsits into three very pleasant, very high-quality, three-bedroom flats. We are able to rent that out to tenants and to make a return of between 6% and 7% a year.

122. Councillor Newman highlighted the work of the Co-operative Councils' Innovation Network (CCIN) and its recent report on the role for local authorities in Community-Led Housing (CLH).²³⁹ CLH refers to schemes where the community is involved in key housing decisions, and includes housing co-operatives, community land trusts, tenant management organisations, co-housing, community self-build schemes and self-help housing groups that renew empty homes. CCIN's report promoted good practice and innovation by councils in this area, and called for CLH to be "added to the strategic mix to increase the supply of homes that local people can afford".²⁴⁰

236 Local Government Association ([PR50029](#)), para 6.1

237 London Borough of Newham ([PR50078](#))

238 Q169 (Councillor Simon Blackburn, Blackpool Council)

239 Q169 (Councillor Tony Newman, Local Government Association), and subsequent correspondence, 15 March 2018; referring to [Community-Led Housing: a Key Role for Local Authorities](#), Co-operative Councils' Innovation Network, January 2018

240 Correspondence from Councillor Tony Newman, 15 March 2018

Other innovative approaches

123. As well as building and renovating properties for rental at market rates, we heard about several other innovative approaches local authorities had taken to support tenants in the private rented sector. The District Council Network highlighted examples including Rent Deposit Schemes, through which districts could negotiate down excessive rents in private rented properties where a deposit for the rent in advance is provided, and Empty Homes Initiatives, where local authorities offer grants to owners of empty properties on agreement that they will be rented under certain criteria or through a council's leasing scheme.²⁴¹ Bristol City Council told us about their bond scheme for the private rented sector, where the council pays a bond to a landlord, subject to an upfront inspection to ensure the property is compliant with agreed standards.²⁴²

124. Referring to such schemes, the Minister told us, "I know councils who have been doing it for 20 years, and I am amazed other councils have not".²⁴³ She highlighted the example that many local authorities provide a property management service for landlords, which was far cheaper than through a professional letting agent. In the Autumn Budget 2017, the Government announced funding of £20 million to support people at risk of homelessness to access and sustain tenancies in the private rented sector.²⁴⁴ This would include a rental deposit scheme, although detailed proposals have yet to be published.

125. We support the innovative approaches adopted by many local authorities to increase the supply of high-quality, affordable private rented accommodation in their areas. We note that the Government announced funding of £20 million in the Autumn Budget 2017 to develop private rented sector access, including a rental deposit scheme, and we urge it to roll-out such innovative schemes and proposals. The Local Government Association has an important role to play in supporting local authorities to share best practice in these areas.

241 District Council Network ([PRS0053](#))

242 Bristol City Council ([PRS0074](#))

243 Q328 (Heather Wheeler MP, Minister for Housing and Homelessness)

244 [Autumn Budget 2017: Building the homes the country needs](#), HM Treasury, para 9

Conclusions and recommendations

Quality of accommodation and the balance of power

1. Statistics show that most housing in the private rented sector is of an adequate standard and tenants are broadly satisfied with their homes. However, there continues to be a significant minority of private rented accommodation that is shockingly inadequate. While the proportion of inadequate properties has fallen by almost half over the last 10 years, the absolute number has risen, with 80,000 more non-decent private rented homes than in 2006. Further, we heard that 27% of private rented homes failed to meet the Decent Homes Standard in 2016, the highest proportion of any tenure and more than double the rate found in the social rented sector. With poor conditions likely to disproportionately affect the most vulnerable, including families with children, the Government should not be complacent about improving standards in the sector. (Paragraph 16)
2. There is a clear power imbalance in the private rented sector, with tenants often unwilling to complain to landlords about the conditions in their homes for fear of retaliation. In our view, consumer rights are meaningless without the guarantee that tenants will be able to use them in practice without fear of retaliation. Tenants need further protection from retaliatory eviction and rent increases, and other forms of harassment, so that they are fully empowered to pursue complaints about repairs and maintenance in their homes when they need to. (Paragraph 25)
3. *We recommend that the Government seek to rebalance the tenant-landlord relationship by providing additional protections from retaliatory eviction and rent increases. The Government should conduct a review of how the protections within the Deregulation Act 2015 are being used in practice and whether they need to be enhanced. We believe the Act should be strengthened to protect tenants from a no-fault Section 21 eviction for longer than the current six-month period. Protections should also be extended to prohibit retaliatory rent increases for a period after making a complaint. We heard concerns that there were several scenarios where tenants might be left without protection under the Act; the Government should ensure tenants are fully protected as soon as they make a complaint to their landlord, letting agent or local authority, not from the point an improvement notice is issued.* (Paragraph 28)
4. We agree with the Government that a specialist housing court would provide a more accessible route to redress for tenants, and we see relevance for it in the context of the Homes (Fitness for Human Habitation and Liability for Housing Standards) Bill and the Draft Tenant Fees Bill. We urge the Government to issue more detailed proposals as soon as possible. (Paragraph 35)
5. We also support the Government's proposals to make it mandatory for landlords to join a redress scheme, as well as its proposals for a single Housing Ombudsman. *We recommend that the Ombudsman be given sufficient powers and resources to provide tenants with the support they need when challenging inadequate standards in their homes, and to require the payment of compensation to tenants when appropriate. However, new routes of redress will need to guard against the potential for retaliatory action from unscrupulous landlords, which we have highlighted above.* (Paragraph 36)

6. We note that it is a legal requirement for tenants to be provided with clear information at the start of their tenancies about what their rights are and how they can be exercised in practice. This information will need to be updated by the Government, and tenants informed, as legislation is passed and new rights and routes for redress are made available. The Government should consider new ways of informing tenants and landlords of their rights and responsibilities, in particular through social media. (Paragraph 39)
7. We believe that lockdown properties are an abuse of both the planning and benefits system and show the private rented sector at its very worst. It is a model of housing that must be eradicated before it spreads any further. However, we heard that the tools to do this appear to be available already. *We believe that the Local Government Association has an important role to play in encouraging local authorities to use their existing powers and work collaboratively to tackle this problem.* (Paragraph 47)
8. *In addition, we recommend that the Government consider introducing a new Local Housing Allowance (LHA) rate for studio accommodation, to reduce the perverse incentive for landlords to break up larger properties into much smaller ones to enable them to benefit from the higher LHA rates payable for one-bedroom properties compared to the shared accommodation rate.* (Paragraph 48)

Legislative powers

9. The Government's recent legislative activity is well-intentioned, but we are concerned that it builds on an outdated and complex foundation. The Coalition Government rejected our predecessor Committee's recommendation for a much simpler set of regulations for landlords and tenants. However, the volume of new legislation that the Government has introduced in the sector has added to this complexity and, as such, we feel that our predecessors' recommendation is even more relevant today. *We therefore recommend that the Law Commission undertake a review of the legislation relating to the private rented sector and provides guidance as to whether a new approach to regulation in the sector would bring more clarity for tenants, landlords and local authorities.* (Paragraph 58)
10. *We support the finding of the All-Party Parliamentary Carbon Monoxide Group (APPCOG) that legislation should be amended to make it explicit and mandatory for landlords to install carbon monoxide alarms in the rooms of private rented properties containing any fuel-burning appliance. We also call on the Government to implement the recommendations of the Electrical Safety Standards Working Group as soon as practicable, including the introduction of mandatory five-yearly checks on electrical installations in private rented accommodation.* (Paragraph 61)
11. We acknowledge that the Housing Health and Safety Rating System (HHSRS) is supported by many environmental health professionals, but the evidence we received indicated that the system is unnecessarily complicated and fails to give tenants, landlords and agents a clear understanding of the minimum standards that are expected in a private rented property. *The Government must immediately update the baseline assumptions within the operating guidance for the HHSRS, which are now twelve years out-of-date. We have already called on the Law Commission to review private rented sector legislation, including the Housing Act 2004, and believe*

that this should include a review of the HHSRS itself. Ultimately, it is our strongly held view that the Government should introduce a more straightforward set of quality standards for the sector, so that it is clear to everyone—not just to highly qualified professionals—whether a property meets minimum standards. These standards should be higher than those in the HHSRS, reflecting an improvement in housing quality since the system was introduced. (Paragraph 70)

12. We offer our support for Karen Buck MP's Homes (Fitness for Human Habitation and Liability for Housing Standards) Bill. However, while the Bill is a very positive step-forward, there is a risk that these new rights will be underutilised by more vulnerable tenants at the lower end of the market. To try to mitigate this, we recommend that:
- *The Government take steps to ensure that the new rights granted by this Bill are not illusory, but that tenants—and especially those who are most vulnerable—are able to enforce them in practice. Provision should be made for free and easily-accessible technical and legal advice to support tenants through this process. As it is likely tenants will seek this advice from local authorities, it is vital that they are suitably resourced to provide this additional service.*
 - *The Government consider how its proposals for a new specialist housing court act as an appropriate route for tenants to seek redress; and*
 - *The Government reflect on how tenants can best be protected from retaliation from their landlords when pursuing their rights under this Bill. (Paragraph 78)-)*

Enforcement

13. We recognise that enforcement activity undertaken by local authorities is often informal in nature and not fully reflected in prosecution statistics. Nevertheless, the evidence is clear that enforcement levels—formal or otherwise—are far too low in the vast majority of local authorities. This strongly suggests that vulnerable tenants are being left without the protection to which they are legally entitled. The Government has introduced a range of new powers for local authorities to intervene in the private rented sector to address low standards. However, these powers are meaningless if local authorities do not, or cannot, enforce them in practice. (Paragraph 84)
14. *We have received evidence that civil penalties are not strong enough to deter landlords who are prepared to commit the most serious offences, and fines issued through the courts are often insufficient to make prosecutions worthwhile. We believe local authorities should have the power to levy more substantial fines, which might stand a chance of breaking the business models of the worst offenders. Further, local authorities should have the power to confiscate properties from those landlords committing the most egregious offences and whose business model relies on the exploitation of vulnerable tenants. Coupled with the banning orders which came into force in April, this would act as a more powerful deterrent than the existing provisions. (Paragraph 92)*

15. *We believe that courts should require offenders to pay costs that reflect the actual costs to local authorities of enforcement action. There should be no financial disincentive for local authorities to fulfil their statutory duties and pursue prosecutions against criminal landlords. (Paragraph 93)*
16. *Additional funding should also be made available by the Government through a new fund to support local authorities that primarily undertake informal enforcement activities and are unable to benefit from funding through civil penalties. (Paragraph 94)*
17. It is clear that local authorities have fewer resources to enforce standards in the private rented sector than they did in 2010. However, this does not fully explain the variation in enforcement levels that exist between different local authorities. It is clearly the case that some local authorities have placed a higher priority on addressing low standards in the private rented sector than others have done. We believe this disparity in effective action can only be resolved through political leadership. (Paragraph 99)
18. *We call on local authorities to reflect on whether their Environmental Health, Trading Standards and other relevant departments are suitably aligned to promote enforcement activity, and whether effective mechanisms exist to work collaboratively with neighbouring authorities. Local authorities should also make full use of their existing powers to obtain information about the tenure of a property on Council Tax returns, which should then be used by enforcement teams to identify private rented properties in their areas. (Paragraph 100)*
19. *We believe that a national benchmarking scheme should be introduced—funded and administered by the Government and implemented through the Local Government Association—to support local authorities with their enforcement activity. Local authorities should publish data on the number of complaints they receive and how these are resolved, whether through informal routes or more formal enforcement mechanisms, while local residents should be able to compare enforcement levels in their areas with similar authorities across the country. (Paragraph 102)*
20. *It is also apparent that there is greater scope for local authorities to work together and share best practice, and to make more efficient use of limited resources. To support this, and to provide greater transparency for residents, local authorities should publish their enforcement strategies for the private rented sector online. (Paragraph 103)*
21. We have received mixed evidence on the value of selective licensing schemes, which reflects the different circumstances that exist in different parts of the country. Our predecessor Committee called on the Government to bring forward proposals for a reformed approach to selective licensing, which would give councils greater freedom over when licensing schemes can be introduced and more flexibility over how they are implemented. We support the changes the Government has introduced since then, including the extension to HMO licensing and the broader criteria that were introduced for selective licensing. The Government has said that it intends to review the current selective licensing framework before the summer, and this will be an opportunity for further improvements to the selective licensing system. (Paragraph 117)

22. We believe that the current process of application to the Secretary of State is not fit for purpose. Decision-making is too slow, lacks transparency, and is overly bureaucratic and unduly expensive. In our view, decisions to implement such schemes should be made locally, where there is greater understanding of local needs and politicians are directly accountable to the electorate for their decisions. *We recommend that the Government therefore remove the 20% cap above which local authorities must seek permission from the Secretary of State to implement selective licensing schemes because it is contrary to the spirit of localism. However, we believe that the Secretary of State should retain a power to require local authorities to reconsider a decision to implement a licensing scheme that does not meet the strict criteria already set out by the Government, and should monitor the effectiveness of schemes once they have been implemented.* (Paragraph 118)

Innovative approaches in the private rented sector

23. We support the innovative approaches adopted by many local authorities to increase the supply of high-quality, affordable private rented accommodation in their areas. We note that the Government announced funding of £20 million in the Autumn Budget 2017 to develop private rented sector access, including a rental deposit scheme, and we urge it to roll-out such innovative schemes and proposals. The Local Government Association has an important role to play in supporting local authorities to share best practice in these areas. (Paragraph 125)

Formal minutes

Tuesday 17 April 2018

Members present:

Mr Clive Betts, in the Chair

Mike Amesbury	Mr Mark Prisk
Helen Hayes	Liz Twist
Andrew Lever	Matt Western

Draft Report (*Private rented sector*) proposed by the Chair, brought up and read.

Ordered, That the Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 125 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Fourth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned until Monday 23 April at 3.45 p.m.]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Monday 8 January 2018

Kate Webb, Head of Policy, Shelter; **Dr Julie Rugg**, Senior Research Fellow, Centre for Housing Policy, University of York; and **Professor Ian Loveland**, the City Law School, University of London

[Q1–72](#)

Monday 22 January 2018

Dan Wilson Crow, Director, Generation Rent; **Mette Isaksen**, Policy Researcher, Citizens Advice

[Q73–112](#)

Adrian Jeakings, Chairman, National Landlords Association; **David Smith**, Policy Director, Residential Landlords Association; **David Smith-Milne**, Managing Director, Placefirst

[Q113–146](#)

Monday 29 January 2018

Councillor Tony Newman, Member of LGA Environment, Economy, Housing and Transport Board, Leader, London Borough of Croydon; **Sir Robin Wales**, Mayor, London Borough of Newham; **Councillor Simon Blackburn**, Blackpool Council

[Q147–175](#)

David Cox, Chief Executive, ARLA PropertyMark; **Isobel Thomson**, Chief Executive, National Approved Letting Scheme

[Q176–202](#)

Wednesday 21 February 2018

Andy Fisher, Head of Housing, Health and Communities, Boston Borough Council; **Councillor Robert Lawton**, Cabinet Member for Housing, Bournemouth Borough Council; **Councillor Clare Salier**, Cabinet Member for Housing, London Borough of Wandsworth

[Q203–225](#)

Melanie Rees, Head of Policy, Chartered Institute of Housing; **Tamara Sandoul**, Policy Manager, Chartered Institute of Environmental Health; **Alison Farrar**, Lead Officer, Chartered Trading Standards Institute

[Q226–264](#)

Monday 26 February 2018

Mrs Heather Wheeler MP, Minister for Housing and Homelessness, Ministry of Housing, Communities and Local Government; **Becky Perks**, Private Rented Sector Policy Lead, Ministry for Housing, Communities and Local Government; **Anne Frost**, Deputy Director, Private Rented Sector Division, Ministry of Housing, Communities and Local Government

[Q265–381](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

PRS numbers are generated by the evidence processing system and so may not be complete.

- 1 Anonymous ([PRS0001](#))
- 2 Anonymous ([PRS0056](#))
- 3 ARLA Propertymark ([PRS0035](#))
- 4 Ashwini Maheswaran Foster ([PRS0081](#))
- 5 Association for the Conservation of Energy (ACE) ([PRS0051](#))
- 6 Association of Tenancy Relations Officers ([PRS0025](#))
- 7 Blackpool Council ([PRS0064](#))
- 8 Bournemouth Shared House Association ([PRS0005](#))
- 9 Bristol City Council ([PRS0074](#))
- 10 British Property Federation ([PRS0069](#))
- 11 Chartered Institute of Environmental Health ([PRS0072](#))
- 12 Chartered Institute of Housing ([PRS0031](#))
- 13 Cornwall Residential Landlords Association ([PRS0070](#))
- 14 Country Land & Business Association (CLA) ([PRS0047](#))
- 15 Countrywide Plc ([PRS0057](#))
- 16 Crawley Borough Council ([PRS0032](#))
- 17 Crisis ([PRS0041](#))
- 18 Department of Communities and Local Governemtn (DCLG) ([PRS0068](#))
- 19 District Council Network ([PRS0053](#))
- 20 East Midlands property owners Ltd ([PRS0016](#))
- 21 Electrical Safety First ([PRS0013](#))
- 22 Generation Rent ([PRS0030](#))
- 23 Greater London Authority ([PRS0021](#))
- 24 Hull City Council ([PRS0044](#))
- 25 Hunters Property Group ([PRS0037](#))
- 26 Julie Carr ([PRS0006](#))
- 27 Kat Hall ([PRS0007](#))
- 28 Labour Group - Warwick District Council ([PRS0036](#))
- 29 London Borough of Tower Hamlets ([PRS0079](#))
- 30 Leeds City Council ([PRS0033](#))
- 31 Liverpool City Council ([PRS0054](#))
- 32 Local Government Association ([PRS0029](#))
- 33 London Borough of Hackney ([PRS0027](#))

- 34 London Borough of Lambeth Council ([PRS0083](#))
- 35 London Borough of Newham ([PRS0078](#))
- 36 London Councils ([PRS0061](#))
- 37 Manchester City Council ([PRS0073](#))
- 38 Mind ([PRS0049](#))
- 39 Mountley estates Ltd ([PRS0002](#))
- 40 Mr Andrew Wernick ([PRS0008](#))
- 41 Mr Blair Thorpe ([PRS0076](#))
- 42 Mr Chris Daniel ([PRS0003](#))
- 43 Mr Chris Daniel ([PRS0080](#))
- 44 Mr David Tyler ([PRS0018](#))
- 45 Mr Jonathan Knowles ([PRS0026](#))
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- 70 Southend-on-Sea Borough Council ([PRS0088](#))
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- 72 Stephen Battersby ([PRS0063](#))
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- 83 Zacchaeus 2000 Trust (Z2K) ([PRS0075](#))

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All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

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First Report	Effectiveness of local authority overview and scrutiny committees	HC 369 (CM 9569)
Second Report	Housing for older people	HC 370
Third Report	Pre-legislative scrutiny of the draft Tenant Fees Bill	HC 583