

All Party Parliamentary Group for Housing in the North A Fairer Private Rented Sector White Paper – Parliamentary Briefing

6th July 2022, 15.30 – 16.30
Room N, Portcullis House, Westminster

Meeting Notes

A Fairer Private Rented Sector – Parliamentary Briefing Analysis and Implications for the North

Karen Brown, Senior Policy Advisor, Northern Housing Consortium

The government has published its [Fairer Private Rented Sector White Paper](#), aiming to improve standards in the private sector, as part of the mission to level up the country.

These are the key proposals, in what is a significant reform of the private rented sector.

Safe and Decent Homes

Firstly, the reforms require privately rented homes to meet the Decent Homes Standard (DHS) for the first time and with an ambition to halve the number of non-decent rented homes by 2030. (there is currently a review of DHS). The current status is:

- 21% of non-decent homes in the private rented sector
- 13% in the social sector
- 16% among owner occupied homes

This brings standards into line with the social rented sector. Extending a legally binding decent homes standard to the sector is a potential game-changer, but only if there is enough capacity in the system to monitor and enforce it.

There is recognition in the White Paper that it is important that we don't just have the decent homes standard but there is an inability to enforce it.

The new DHS will be a change for both private and social rented tenures, with a greater emphasis on meeting standards for private landlords and an increased focus on energy efficiency for social landlords.

This legislative duty moves towards a proactive system with landlords expected to plan for improvements, rather than a reactive system relying on tenants.

There will be a new right to claim back rent on non-decent homes through Rent Repayment Orders, which are currently underused.

There is an intention to run pilot schemes with a selection of local councils to explore different ways of enforcing standards and work with landlords to speed up adoption of the Decent Homes Standard.

There will be a consulting on applying the decent homes standard to the private rented sector shortly.

Security and Stability

The White Paper confirms the manifesto commitment to abolish section 21 'no fault' evictions and deliver a different tenancy structure. This goes hand in hand with reform grounds for possession to make sure that landlords can gain possession of their properties. Landlords can still evict tenants and grounds around persistent rent arrears and anti-social behaviour.

There will be new grounds to allow landlords to sell or move family members in. If the landlord markets the property and is unable to sell, they will not be able to re-let the property for three months.

One of the surprising announcements was that in the future, most landlords will no longer be able to create fixed term tenancies. Instead of Assured Shorthold Tenancy there will be a single system of periodic tenancies. In the government's words this means "tenants can leave poor quality housing without remaining liable for the rent." Tenants will be able to serve two months' notice to end the tenancy at any time, while landlords will only be able to end the tenancy using one of the new proposed grounds.

With fixed term tenancies gone, automatic rent increases in the contract are also gone and increases to rent will only be allowed once per year.

The White Paper makes clear it does not support the introduction of rent controls, making clear that focusing on allowing an increase in rents only once a year and ending rent review clauses are ways of ensuring a more reasonable approach to rent increases.

It is believed that extra notice of rent increases will give tenants more time to challenge increases if they deem it necessary.

There will also be an investigation into the idea of passport deposits which would help moving around the PRS easier and support tenants to save for ownership. This is different to previous commitment of a lifetime deposit that travels with the person from tenancy to tenancy.

Dispute Resolution

There will be a new single ombudsman, dealing with issues which hold up court proceedings and strengthening of mediation.

Membership of the new Ombudsman scheme will be mandatory for landlords (regardless of whether they use a letting agent - 49% of landlords do not use an agent).

Private landlords can voluntarily join an agent redress scheme or the Housing Ombudsman but, this currently only accounts for approximately 80 to 90 private landlords out of an estimated 2.3million.

This mirrors the social sector and that will be welcome as in independent arbiter in disputes – but the social housing Ombudsman has been an evolution to where it is now. To be successful, it needs to be well-resourced so it can deal with the sheer volume of complaints that tenants will likely raise. The social Housing Ombudsman in the last quarter of 2021 shows a 53% increase in enquiries and complaints compared to the same quarter in 2020.

Local councils will be able to take enforcement action against landlords who fail to join the Ombudsman.

In light of criticisms of too much overlapping regulation, the White Paper commits to exploring streamlining the requirement for landlords to provide details to both an Ombudsman and a digital Property Portal. This will include identifying a viable way to link datasets.

The White Paper makes clear that a specialist housing court is not being taken forward with the costs of introducing a new housing court outweighing the benefits. Instead, there are proposals to improve court processes targeting the areas that hold up possession proceedings. These include: county court bailiff capacity; paper-based processes; a lack of adequate advice about court and tribunal processes, and a lack of prioritisation of cases.

Better Compliance and Robust Enforcement

A new Property Portal will be launched - described as a single 'front door'. Landlords will be legally required to register their properties.

This has advanced the conversation from a landlord register which the APPG had previously supported and is likely to put more emphasis on registering properties and what landlords need to do on quality of homes.

DLUHC research published with the White paper confirmed that in the absence of comprehensive data about the PRS, too much time was spent identifying landlords, agents

and properties. LAs have to use a wide range of data which is time consuming and erodes LA capacity to take enforcement action.

This is good news for LAs and private renters. It should contribute significantly to driving up standards and accountability. Tenants will know something is wrong just from the fact that a landlord is not on the portal.

Enforcement action can be taken for a landlord not being on the portal.

It's not yet known how the Portal will be operated and populated. DLUHC will explore creating a lead operating authority to run the future portal. Also, consideration will be given to future proofing the portal to support reducing the number of non-decent rented homes by 50% by 2030.

It's worth noting, there is already a Database of Rogue landlords which is only open only to LAs. The White Paper refers to the intention to incorporate some of the functionality of that Database – the Database will be changed by mandating entry of all eligible offences on the Database and making offence data publicly viewable.

Next steps include extensive testing of potential solutions for the portal.

Stronger enforcement powers for local councils

The research published with the White Paper raised questions about the extent to which local authorities can improve poor standards in the PRS, despite having a large number of powers and enforcement tools already.

The reforms commit to helping local councils pursue the worst offenders by stripping away red tape, including increasing local councils' investigative powers to target illegal business activity, enabling them to require financial information. All eligible offences will be included on the Database, there will be a lower threshold for civil penalty entry and fines will be strengthened.

An assessment is still needed of the resources required for local authorities to regulate effectively, with consideration given to the size, types and quality of private rented properties and the demographics of renters. Ahead of the Bill there is a commitment to establish a local council sounding board to understand front line challenges, inform implementation, and share best practice.

The White Paper talks about “national oversight of local councils’ enforcement” - exploring requirements for councils to report on their housing enforcement activity.

This is an element that always comes through very strongly from research that there is significant variation in local authority approaches to enforcement – “postcode lottery”.

The White Paper will create a level playing field for landlords and there is a clear expectation that there will be a standard level of enforcement. The White Paper says, “We expect local councils to prioritise Private Rented Sector enforcement in the same way as public health.”

There will be a national framework for setting fines, based on clear culpability and harm considerations.

There are different drivers to why LAs approach enforcement differently, some use the full range of tools and legal powers at their disposal while others emphasised ‘informal’ activity or negotiation with landlords.

The reforms build on existing powers through Selective Licensing. LA’s interviewed for the DLUHC survey favoured all forms of licensing schemes because of the powers to inspect and enforce, and the setting of clear standards. Mandatory licensing was unanimously thought to have helped improve standards and conditions.

Finally, the government proposals will make it directly illegal for landlords or agents to have blanket bans on renting to families with children or those in receipt of benefits. The practice is already unlawful but is still widespread. The government proposal is not yet clear on how it plans on legislating this or how this will be properly enforced on the ground.

Tenants will have the right to request a pet in their property, which the landlord must consider. One in three private renters live with children, and nearly 40% of private renters rely on benefits, yet these issues continue to be problematic, so it is good to see these addressed.

In conclusion, from the LA point of view, there will be concerns about how to be the ‘regulator’ for these new reforms. As part of the planned reforms, there is a need to ensure a full understanding of the cumulative impact of proposed changes on tenants, landlords and the housing market as a whole. In doing this, it will be necessary to work closely with other departments to understand how the reforms may affect or be affected by other policy areas such as benefits and tax.

Dan Wilson Craw, Deputy Director, Generation Rent

We have between 15-20% in Northern regions who rent privately.

Many of the PRS/housing crisis issues stem from supply – it's a landlord's market and they can call the shots. Cities like York and Manchester see huge demand and rents are rising, as well as other cities to a lesser extent, giving bad landlords the chance to bully tenants. The WP will help in this regard with rent rising and security.

The quality of homes in the North is typically worse than the national average, with 21% of home in Yorkshire unsafe compared to the 12% national average and just 33% are EPC C, compared to 40%.

In the North East, the quality is relatively good. HMOs as a sub-sector is an issue. Leeds has 120,00 HMOs and these are at a higher risk of being of poor quality. The Abolition of Section 21 is a key policy in the Paper, and something we've been campaigning on for years. This puts a lot more power and comfort in tenants' hands and should give them more confidence to challenge standards.

A Landlord Property Portal will allow tenants to find whether their landlord is logged and find assurance that they have met minimum compliance and whether they've been convicted or fined. The Ombudsman changes address a gap and provides consumer rights to those who rent directly and have no other point of complaint.

There are issues with relying on over-stretched councils and having to go through the courts but the Ombudsman presents a good addition. Finally the Decent Homes Standard expanding into the PRS will present good changes in principal, halting a decline in the undermining of the quality of rented stock generally.

James Wood, Policy Manager, National Residential Landlords Association

Whilst headline commitments to strengthening possession grounds, speedier court processes and mediation are helpful, the detail to follow must retain the confidence of responsible landlords, as well as improving tenants' rights.

The NLRA will be analysing the Government's plans carefully to ensure they meet this test. A failure to do so will exacerbate the housing crisis at a time when renters are struggling to find the homes they need.

The eventual legislation needs to recognise that government actions have led to a shortage of supply in the sector at a time of record demand. It is causing landlords to leave the sector and driving up rents when people can least afford it.

NRLA has successfully campaigned for positive change, with the white paper announcing landlords will be allowed to ask for pet insurance as a condition of tenants keeping animals, something currently prohibited. Landlords will be obliged to consider a tenant's request to have a pet, but can decline with good reason.

The Government has also committed to reforming the court system and making local authorities more accountable when it comes to housing standards, as well as introducing new mandatory grounds for landlords (or their families) wishing to move back into a property, or sell it.

The NRLA welcomes the Government's promises on possession grounds and court reform. But we call on the Government to provide more detail, especially with respect to what will replace the Section 21 eviction clause.

We have long argued that a workable replacement is needed if Section 21 is to be abolished. This is crucial if landlords are to be able to evict in legitimate circumstances, for example if anti-social behaviour is displayed by a tenant. The introduction of a replacement system is also vital if landlords are to retain confidence in the sector and to continue to provide the homes for rent that the country so urgently needs.

The NRLA has identified five major areas of concern, and in the coming weeks will be campaigning for change at the highest level. Ministers need to support landlords to remain in the sector and continue to invest at a time when demand for rental home is hitting record highs. We have also identified potential issues with the plans that could deem them unworkable in practice.

We will be asking ministers to:

- End the anti-landlord rhetoric and back the majority of landlords providing good quality home to rent.
- Address issues that will arise in the student market as a result of plans to introduce indefinite tenancies.
- Come up with firm principles as to how councils and police can support landlords to tackle anti-social tenants quickly and effectively.
- Reform the courts BEFORE Section 21 powers are removed to tackle lengthy waits for possession.
- Abolish local licensing once the new property portal is introduced.

*Anna Tankerville, Assistant Manager Private Sector Housing & Community Safety,
Gateshead Council*

Decent Homes Standard

If a clear standard and a clear obligation to comply will allow us to move away from a system where a landlord commits no offence if they let substandard accommodation, unless the Council has already told him otherwise, then this is a great move.

DHS gives the opportunity to consolidate legislation, energy efficiency, hazards, repair.

Note of caution: against the reference in this chapter to explore a system of 'regular independent checks'. Like EPC model? Private sector inspections of PRS stock, paid for property by property by every landlord? Imposes an unnecessary burden on good landlords. There are Landlord a Council would never prioritise for proactive inspection because their standards are excellent, they would get caught up in this. £300 per inspection? Or around £500 for 5 years for a landlord licence? This investment in the private sector inspectors would divert Landlord funding away from Councils and into the private sector, and with much less achieved with the spend.

Levelling Up – is it appreciated that the Council PRS inspector often sits within an environmental health function, and that for every housing inspection, attention is also paid to other deprivation related issues, probation appointments being missed, children missing school, signs of mental health problems, waste issues that negatively affect neighbourhood satisfaction, people that need support or encouragement to engage with their communities and move towards work, identification of previously missed care needs etc. The list could go on.

Stability and Security

Abolition of S21 and simplification of tenancy structures:

Ability for a Council to issue financial penalties for offences relating to the new tenancy system is welcome.

There is a role for legislation that empowers tenants to act themselves but when this is the only protection or deterrent, tenants that are not able to act are further disadvantaged. Recognise all the recent legislative change that has sought to empower tenants. These are not the tenants that are the poorest, that are living in the worst housing and that are being actively exploited by criminal landlords. These are not the tenants that a Council PRS team spends 95% of their time proactively seeking out, or helping when they ask for help

Gateshead has been filling this legislative gap using ASB powers; deposit protection contraventions (a power given only to tenants in 2004), failure to allow rent payment by bank transfer, or to provide rent receipts, failure to provide details of how to report a repair. Where is the ability in the paper to tackle these 'conduct issues' other than by the proposed ombudsman? Result will be tenants that are able and motivated and not scared will challenge, others will not.

Support to help tackle illegal eviction is referred to in this chapter, which is welcome. Protection from Eviction Act 77 is drafted in a way that is very difficult to use, other than if a landlord changes the locks. 'Intent to cause' and 'does acts calculated to interfere' are very difficult points to prove. Gateshead is using ASB Community Protection Notice instead, but again this is a system of warnings, notices and only then an offence – not good enough, change is welcome.

Dispute Resolution and Rent Increases

Expansion of RROs to cover repayment for non-decent homes is great. Ability of a tenant to leave unsuitable and unsafe housing without being liable for rent is also good.

New Ombudsman covering all landlords will allow tenants to raise issues previously excluded, i.e., conduct, repairs, and conditions – those issues more likely to be the responsibility of the LL and not the MAG.

Membership mandatory – Council power to act against LL that fail to join. Let's hope the detail of this 'take action' isn't warnings, applications to a FTT or anything other than prosecute/financial penalty.

A note of caution: this again supports only able/motivated tenants.

Will all the additional empowerment of tenants nudge those landlords that may not have done the right thing into changing their behaviour without Council resources, so that we can reserve our attention for those hardened criminals that we need to proactively identify? That's a positive. Will all of the references to 'Council can take action (financial penalty?)' actually enable us to resource this?

Compliance and Robust Enforcement

Legal requirement to register property on the 'Portal', Councils – enforcement action against Landlords that fail to join.

Paper refers to; explore the integration of compliance and legal requirements to maximise the benefits; 'you will be required to submit evidence of DHS compliance on the Portal' – brilliant.

Tenant access, all sounds good, but becomes a little wishy washy when data protection is referred to.

'Link with ability to let' – excellent. Practically how? Surely, we can get ourselves together to link with 'ability to receive UC direct payment', that should be within our gift. Direct payment is generally reserved for those tenants that are least able to manage their own affairs – and that are also the easiest to exploit by Landlords. As a very minimum we must link the receipt of direct UC payment with the compliance with portal requirements. Lets try and achieve more than that!

Mandatory entry of all eligible offences on the residential landlord database because 'all offences are serious' is welcome.

Making offence data publicly available is good. However, why not take this opportunity to require a LL to manage their own portal record, i.e., onus on them to upload details of their offences, i.e. be responsible for their own residential landlord database entries, further fines if they withhold information from the portal.

Residential landlord database – application process being the responsibility of a Council after they have been through the underlying enforcement, and when they know the LL does not operate outside of their administrative boundary has resulted in low entries where there has been discretion. Not because we don't want to, but at that point, we judge it has less value than moving on. The same officer making the residential landlord database entry is the same officer answering the phone to more tenants that need help, and carrying out more housing inspections, and Gateshead are probably not alone in prioritising this over residential landlord database entry.

Minimum fine for most serious offences to reduce the arbitrary reductions of fines by FTT, great.

Increased national oversight of Council enforcement, excellent, we genuinely welcome this. Even in a Council that recognises proactive demand reduction style work, it is very difficult to raise the profile of housing enforcement. Oversight will help, what gets measured gets done. There are multiple reference to Councils taking action in the paper, and many of these will rely on financial penalties. Go further than suggesting minimum fines. Create the matrix for everyone to use. Local choice is not necessary in designing a matrix, and this is the reason that 2 years after Housing and Planning Act 2016 only 20 of 300+ Councils were found to be financial penalty 'superusers' (NRLA freedom of Information press release). Many Councils have learned a great deal from FTT involvement in their financial penalty cases, and have much to offer in the development of a matrix for all.

Discussion on the White Paper

Discussion will be informed by senior leaders from the Northern Housing Consortium's membership of Housing Associations, Local Authorities, and ALMOs who have been invited to offer their perspective.

Katy Bird, Strategy, Research and Improvement Manager, Believe Housing

I work in strategy and research for Believe Housing. One concern we have, in Durham, is that property prices are low. When you consider the investment needed many will leave the market. As a social landlord we will have to rehouse many people because of this. We've begun to see this increasing and while we love the idea of the PRS being held accountable we may have to deal with these consequences. Durham CC have just mad 41% of properties selective licensed, we will begin to see people evicted and we don't have houses.

Jacqui DeRose, Group Chief Executive, Progress Housing Group

Pleased to see more work done in the PRS - asked for more controls and measures for a while. The PRS is a growing sector. There are positives in there but we're concerned about landlords who are small-scale – people who've bought through discount – and understand what the impact will be on estate. We've got a lot of people moving from PRS into the social sector too and we need to get a good understanding of the consequences of this legislation.

Charlie Norman, Chief Executive, MSV

One thing we're trying to organise is a project with Arc4 to look into our work on the PRS and historical interventions we've made, like an ethical lettings agency. Many smaller players are leaving the PRS and with the Devolution Trailblazer there's been work to look at strategic interventions and what we can do, as well as a Good landlord Licensing Scheme. From a GM perspective we're investing in this.

Dave Hickling, Legal and Policy Officer, Private Housing Standards, Sheffield City Council

I'm council officer in Sheffield. We're looking primarily at illegal evictions and tenancy harassment. These legislative interventions will make a big difference. I'm also the chair of tenancy Relations Officers. These changes could mean that the PRS can become a sustainable tenure and great for tenants in that they won't have fear of no-fault eviction. The sector will become a much less comfortable place for bad landlords. However, the protecting of these rights becomes all the more important. LAs must be aware that they have to step up and act on complaints and intelligence and how they are going to gear-up support.

Tracy Harrison, Chief Executive, Northern Housing Consortium

It would be interesting to hear the thoughts from others on the application of the DHS to the PRS, and perhaps the consequences of landlords leaving the sector?

Helen Clipsom, Outreach Manager, Bradford Council

I run the Private Rented Options Team in Bradford. We have options to allow private landlords to come into our scheme and give housing to those on waiting lists. There are a lot of different people who find themselves owning and renting property. We have an awful lot of landlords who only own 1-2 properties as they want to invest in property but don't have much money. Many of these landlords don't have the resources to bring properties up to standards. There is a concern for us in this area. Our properties are inspected and brought up to minimum standards but people are willing to rent houses below standards off books due to a shortage. Many places will see large swathes moving to this tenure and swearing that they aren't renting a property.

Paul Broadhurst, Service Manager - Private Sector Housing, Leeds City Council

I'm service manager for private housing in Leeds, around 20% of the housing stock. We have selective licensing in two of the poorer areas in Leeds. We have problems with those who don't apply and investigating and chasing this. We have people who place the license in someone else's name but live abroad. I have concerns about who will carry out this regulation, and who will enforce it. We have a high density of HMOs here, and their regulation may supersede others. We must be cautious in understanding that these standards will not be a panacea and that the baseline may be too low.

Additional Information:

- The Northern Housing Consortium's initial summary of *A Fairer Private Rented Sector* can be found [HERE](#).
- [No Home Left Behind](#), the APPG Housing in the North's Inquiry into Property Standards in the North's Private Rented Sector represents 18 months of working in close collaboration with Local Authorities, Housing Associations, Combined Authorities, those representing both tenants and landlords, and third sector organisations.
- [Lockdown, Rundown, Breakdown](#) is a study which highlights the lived experience of people who were living in poor-quality, non-decent, accommodation in lockdown and sets out their coping strategies.

Close