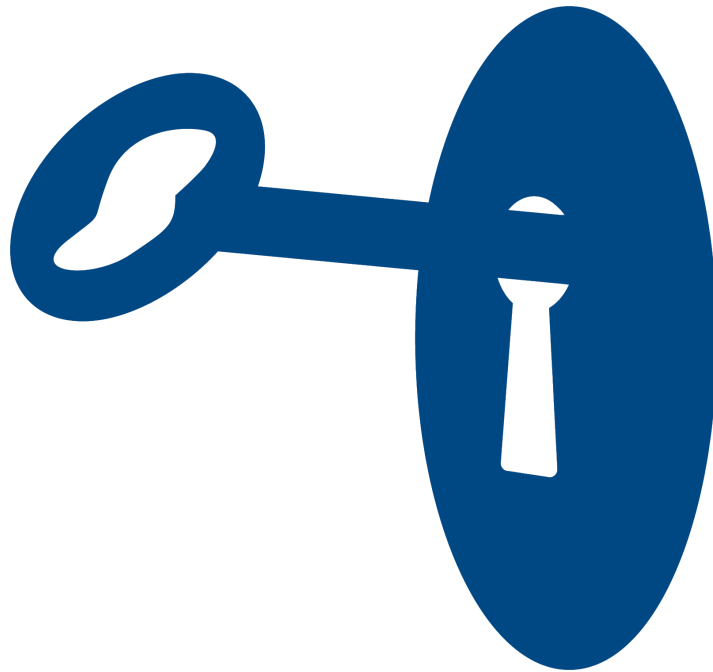


Getting the house in order

How to improve standards in the private rented sector



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Summary

The private rented sector (PRS) is an essential market that provides 4.7 million households with a roof over their heads. This includes 1.7 million families who are raising children in these homes - 3 times as many as a decade ago.¹

The PRS is no longer used as a transitional market people enter between university and buying a home. For example, the number of 35-44 year olds in the sector has increased from 13% to 28% in the last 10 years.² Renters are spending 34% of their annual income on rent.³ Given the number of families who now rent and the costs they pay, it's essential that this market works well.

Despite recent legislation including the Tenant Fees Act and Homes (Fitness for Human Habitation) Act, and government plans to introduce a housing ombudsman, renters do not receive the same level of protection as they do in other essential consumer markets. This research finds that:

Tenants face widespread problems, and often have to resolve these themselves. 3 in 5 tenants experience disrepair, and of these 1 in 5 do not have the problem completely resolved within a reasonable amount of time. 22% of tenants experiencing disrepair end up spending their own time or money fixing the problem.

Regulation in the PRS is complex and confusing. Most tenants (9 in 10) don't know whether a responsibility is theirs or their landlord's, while 1 in 4 landlords were not able to correctly identify any of the potential outcomes of failing to meet their obligations towards tenants. 1 in 3 landlords find it difficult to keep up with rules and regulations.

Enforcement isn't working. Bad landlords aren't being held to account, and laws aren't being enforced.

- Only 1 in 3 landlords who were contacted about disrepair or hazards by a tenant or by Environmental Health carried out repairs
- Just 4% of the nearly 70,000 complaints made to Environmental Health teams resulted in improvement notices⁴

¹ Ministry of Housing, Communities & Local Government, [English Housing Survey, 2016-17](#), 2018

² Ministry of Housing, Communities & Local Government, [English Housing Survey, 2017-18](#)

³ Ministry of Housing, Communities & Local Government, [English Housing Survey, 2016-17](#), 2018

⁴ Generation Rent, [Private renters denied protection from revenge eviction](#), 2019

- No landlords received a banning order in the year to April 2019⁵

In April 2019, the government announced that it will consult on legislation to abolish Section 21 “no-fault” eviction notices in England. This will protect many tenants from retaliatory evictions and is a welcome step in redressing the power imbalance between tenants and landlords.⁶ But tenants experiencing problems will still struggle to protect their rights. Complex regulation and a lack of support for landlords means even good landlords sometimes break the rules. And a failure of proactive enforcement will mean tenants remain reluctant to make complaints and enforce their rights, undermining any security of tenure from government changes.

Recommendation

The government needs to give tenants and landlords clarity on what landlords are responsible for, and make sure that when these aren’t met, enforcement action is taken. **A national housing body should be established to set consistent standards, providing more protection for tenants and making it easier for landlords to do their jobs.** This could mean giving new powers to either an existing institution or a combination of them. Or it could mean creating a new independent body. However it’s constructed, this body should have access to a broad toolkit of interventions which focus on:

- **Setting the right standards:** it could implement measures to standardise and clarify standards for landlords. For example, it could develop a simplified code of practice, or standardise ‘fit and proper person’ tests. Using membership of the new landlord redress scheme, the body could develop a register of landlords and use it to regularly communicate with landlords on new and upcoming regulation. This would make it easier for landlords and tenants to know exactly where they stand.
- **Supporting landlords to meet their obligations:** this body should be a resource for landlords to turn to to answer questions, and provide feedback guidance on regulation. This way, landlords will find it easier to know what their obligations are and follow them - providing a better standard of service for tenants.
- **Ensuring rights are enforced:** a national body should proactively enforce rules. This will take the onus away from tenants to pursue enforcement actions and make it easier to access redress.

⁵ The Guardian, [No rogue landlords issued with banning orders in 12 months](#), 2019

⁶ Citizens Advice, [Touch and go](#), 2018

Background

How are privately rented homes regulated?

The private rented sector is an essential service which provides homes for 4.7 million households. As in other essential service markets, private renters have a range of rights and standards guaranteed by housing law. For instance, tenants are entitled to live in a property that's in a good state of repair, to have their deposit protected, and are protected from unfair eviction. Tenants also have responsibilities such as taking good care of the property.⁷

Recent changes to legislation have added to those rights and protections.

- **The Homes (Fitness for Human Habitation) Act** means that from March 2019, any property leased under a new tenancy (and all tenancies from March 2020) must be fit for human habitation and remain so for the length of the tenancy.⁸ The Act ensures tenants have the right to take their landlord to court as a result of disrepair.
- **The Tenant Fees Act** bans all letting agent fees in England and places a cap on tenancy deposits.⁹ Agents and landlords who breach this Act risk fines, banning orders or prosecution, which will be enforced by local authorities and Trading Standards.

The government has also proposed to give private renters much needed protection from “no-fault” evictions by promising **to abolish Section 21 eviction notices, creating open-ended tenancies in England**.¹⁰ This will significantly improve tenants’ security and their ability to raise complaints in the first place without fear of losing their home.

How are standards enforced?

When landlords fail to meet those standards the first step for many tenants is to bring their problem to their landlord or letting agent’s attention.

⁷ <https://www.gov.uk/private-renting>, accessed 4th June 2019

⁸ Guide for tenants: Homes (Fitness for Human Habitation) Act 2018, <https://www.gov.uk/government/publications/homes-fitness-for-human-habitation-act-2018/guide-for-tenants-homes-fitness-for-human-habitation-act-2018>, accessed 4th June 2019

⁹ Tenant Fees Act, <https://www.gov.uk/government/collections/tenant-fees-act>, accessed 4th June 2019

¹⁰ Ministry of Housing, Communities & Local Government, [Overcoming the barriers to longer tenancies in the private rented sector](#), 2019

When this fails to resolve the issue, tenants have 2 main routes to enforce their rights - through Environmental Health teams which sit within local authorities, or through the county court. These bodies have a number of tools at their disposal to resolve disputes and enforce regulation.

i. Enforcement by local authorities

If their home is in a state of disrepair, private tenants can contact their council's Environmental Health team. Environmental Health may then negotiate informally with the tenant's landlord or inspect their home for hazards.

Local authorities have a general duty to take enforcement action where a Category 1 hazard is present.¹¹ There are a range of actions they can take in order to fulfill this general duty (see appendix). They also have the power, but not the duty, to take enforcement action in response to Category 2 Hazards.

Depending on the severity of the disrepair, they may also serve a hazard awareness, improvement, or emergency remedial action notice, or prohibition order immediately if hazards are found.¹² Breaching these notices or failing to act can result in penalties such as prosecution, fines of up to £30,000, banning orders, or being added to the rogue landlord database.¹³ Local authorities are also able to take direct action to support tenants such as carrying out repairs themselves, or issuing Rent Repayment Orders.

ii. Enforcement through court

Tenants are able to take their landlords to court for a range of reasons. This includes occasions where the landlord has failed to protect a deposit or failed to do repairs where a dwelling is not fit for human habitation. Judges can order landlords to pay compensation to their tenants and carry out repairs.

The government has announced its intention to make it easier for tenants to enforce their rights by making it mandatory for landlords to be part of a redress scheme.

¹¹ s.5 Housing Act 2004. Category 1 hazard as defined by the Housing Health and Safety Rating System (HHSRS).

¹² Environmental Health officers have a duty to take enforcement action where category 1 hazards are present, and the option to do this if category 2 hazards are present.

¹³ See appendix for a glossary of these actions.

Government has recognised the fundamental power imbalance between tenants and landlords and has taken action to make it easier for tenants to enforce their rights.¹⁴

Despite some positive changes, the power imbalance between landlords and tenants often prevents tenants from raising issues, or leads to inadequate outcomes. But these won't resolve the widespread problems that tenants face. The following section looks at the nature and scale of those problems.

¹⁴ Ministry of Housing, Communities & Local Government, [Strengthening consumer redress in housing](#), 2018

Research method

The Citizens Advice service covers England and Wales. Housing is a devolved matter and this report focuses solely on England.

This report draws on data from one online survey of 2,127 private renters in England, and a separate online survey of 1,023 private landlords. These surveys were carried out by ComRes between 7 and 17 March 2019 and 7 and 14 March 2019 respectively. The data is nationally representative of all private renters in England by age, ethnicity and region.

Finally, the report includes case studies and data analysis from our network of local Citizens Advice in England.

1. Private tenants experience a wide range of problems

Citizens Advice helped nearly 200,000 people with housing problems in 2018-19—almost 60,000 of those were in the private-rented sector (PRS). Of those:

- 24% needed help relating to repairs and maintenance
- 19% had a problem with tenancy deposit protection
- 16% needed help with rent and other charges (not including letting agent charges).

We also helped 2,700 clients (5% of all PRS clients) who were harassed by their landlord, and 2,100 (4% of all PRS clients) with illegal eviction.

This research finds that the problems we see aren't unusual. Landlords are failing to fix disrepair and meet their legal requirements, which has a knock on effect on tenants' safety and wellbeing.

Landlords aren't meeting their obligations on disrepair

Findings from the English Housing Survey show that 1 in 4 privately rented homes are still classed as "not decent".¹⁵ This means that over a million households are living with disrepair and hazards affecting their health, safety and comfort.

Our research supports those findings. In the past 2 years, 60% of private tenants experienced disrepair that their landlord was responsible for fixing.¹⁶ Of those who experienced disrepair:

- 1 in 6 (15%) said it was a major threat to their health and safety (rising to 1 in 5 disabled people).
- 1 in 2 (49%) said it had a major impact on their level of comfort.

¹⁵ Ministry of Housing, Communities & Local Government, [English Housing Survey 2017-18](#), 2019

¹⁶ 2,127 tenants were asked "While privately renting in the last 2 years, have you experienced problems with any of the following that were not caused by you or anyone you were living with?" and asked to select from the following options classed as disrepair: Heating or hot water; Sanitary facilities e.g. sinks, toilets, baths; Structure or exterior of the property, e.g. roof, windows, doors, gutters, drains; Gas appliances; Electrical wiring; Damage caused by attempting repairs; Other repairs your tenancy agreement says the landlord is responsible for

- 1 in 5 (19%) did not have it fixed within a reasonable amount of time with 1 in 10 saying the disrepair was never completely fixed.¹⁷



Salma is a single mother with two young children. She recently moved into a privately rented property in London. When she moved in there was a large pile of rubbish in the garden, and a leak coming through her bedroom ceiling. She reported both to her landlord, who arranged for someone to repair the roof and remove the rubbish.

But the leak has continued and the landlord hasn't taken further action to fix it. It is now causing mould and the property is developing an unpleasant smell. There is still rubbish in her garden as her landlord did not remove all of it, and she found three knives in the pile. Her daughters are scared and Salma can't sleep in her room anymore because the bad smell makes it difficult to breathe.

Nearly half (46%) of tenants who experienced disrepair encountered some form of additional hardship as a consequence. Of these:



While tenants can take their landlord to court to claim compensation, this is a lengthy, expensive and time consuming process. And in the meantime, tenants continue paying rent to live in properties that are unsafe or not fit for human habitation.

¹⁷ We have considered a reasonable amount of time to constitute fixing a problem affecting tenants' health or safety within 1 week, and a problem affecting tenants' comfort within 3 weeks.

They're not meeting other legal obligations either

Data taken from the Ministry of Housing, Communities and Local Government's English Private Landlord Survey suggests that the majority of landlords are meeting their obligations. For example, almost all landlords surveyed stated they have smoke alarms installed on every floor of their rental properties.¹⁸ However, this sample was taken from landlords registered with a Tenancy Deposit Protection scheme - which indicates they are already aware of and following at least 1 obligation. Despite it becoming a legal requirement in 2007, landlords who don't register their deposits still account for between 10% and 27% of tenancies - leaving a significant amount of landlords unaccountable in this data.¹⁹



Yvette lives with her husband in privately rented accommodation. They have lived in the same property for 4 years, and are up to date on their rent payments. Their property is managed by their landlord.

For the past 3 years, they've been trying to get their landlord to arrange a Gas Safety Check and to address some disrepair issues, such as the fact that several windows in the property won't open. Yvette said they have spent a considerable amount of time trying to contact the landlord, but all their messages have been unanswered. She came to Citizens Advice for information about their rights and for advice on what to do next.

The most recent English Housing Survey data shows that between 10% - 27% of tenancy deposits are still not being protected. This became a legal requirement over a decade ago. Not protecting deposits leaves tenants at risk of unfairly not having their money returned, and not being able to challenge when they don't get it back in full or at all.

¹⁸ Ministry of Housing, Communities & Local Government, [English Private Landlords Polling 2018, 2019](#)

¹⁹ Ministry of Housing, Communities & Local Government, [English Private Landlords Polling 2018, 2019](#)



Raheem spent a year living in a private rented property with his partner and their 2 children. He and his partner paid a £360 deposit for their home. But they were never provided with a tenancy agreement, a receipt for the deposit, or in fact any evidence whatsoever that a deposit was paid.

At the end of the tenancy, the landlord verbally told Raheem that she would not return the deposit because of an outstanding utility bill. Raheem disputes this as the bill was paid.

Raheem came to Citizens Advice looking for help on how to claim his deposit back. He could take his landlord to court, but there isn't evidence of a deposit being taken, and Raheem doesn't have his landlord's contact details. This would make bringing court action for the return of his deposit very difficult.

And protecting deposits isn't the only law which landlords are routinely breaking. We asked 1,023 landlords whether they had met a range of obligations, such as an annual gas inspection or installing and checking smoke alarms. Landlords reported that in the last year, for at least one of their rental properties:



26%

haven't carried out a gas safety inspection



25%

haven't ensured there are smoke alarms on every floor



26%

haven't checked smoke and carbon monoxide alarms were in working order on the first day of the tenancy

We also asked 2,127 tenants whether their landlord had carried out these same obligations:



Our research also finds that 1 in 3 tenants who require a carbon monoxide alarm say they do not have one in every room of their property containing a fuel burning appliance.²⁰

That means that just under 800,000 privately renting households have not had a gas safety inspection. Over 800,000 households don't have a smoke alarm installed on every floor of their home. And over 900,000 households don't have a carbon monoxide alarm despite requiring one.²¹ In total, 1.7 million households have not had at least one of these.²²

Smoke and carbon monoxide alarms are relatively low-cost interventions that could easily be rectified. They have also been a legal requirement since 2015 - so there shouldn't be concerns about landlords needing more time to adjust to the change. These obligations are legal responsibilities which have knock-on effects on tenants' safety and security, putting privately renting households - many of which are families - at risk. Not only does this make homes unsafe, it also erodes the trust that tenants place in their landlords to provide them with a safe and comfortable home.

²⁰ Base: all those who said their home contains a solid fuel burning appliance such as a coal fireplace or log burning stove (1077)

²¹ 17% (rounded) of tenants do not have smoke alarms on every floor (base: 2127 including those who answered "don't know/can't remember"), 19% (rounded) of tenants with a solid fuel burning appliance do not have a carbon monoxide alarm (base: 1077), 17% (rounded) have not had a gas safety check (base: 2127 including those who answered "don't know/can't remember").

²² 37% of households do not have smoke alarms on every floor, do not have a carbon monoxide alarm despite requiring one, or have not had a gas safety check (base: 2127 including those who answered "don't know/can't remember").

Landlords lose their tenants' trust by not meeting obligations

Our research found the trust between landlord-tenant relationships is dependent on whether landlords carried out their responsibilities.

- Almost 3 in 4 tenants (71%) who don't trust their landlord have also not had obligations met by their landlord, compared to 46% of tenants who do.
- Almost 2 in 5 (37%) tenants who don't trust their landlord have encountered disrepair which their landlord hasn't fixed in time. This is twice as many as tenants who do trust their landlord (18%).

It's essential that trust between landlords and tenants is maintained if this market is to deliver good outcomes for renters.



Soraya and her wife have lived in private rented accommodation for 14 months. They don't know if their deposit is protected. They have reported disrepair several times. Some issues have been resolved, but only after long waits and repeated complaints.

A repairman recently came to the property to fix their boiler. He said it was emitting 5 times the safe level of carbon monoxide, which was potentially fatal. Soraya's wife recently had a fit, which they now believe was due to the carbon monoxide. There are no carbon monoxide monitors or smoke alarms in the property.

The boiler has now been condemned, and their landlord said it would not be replaced until winter. Until then, they were told to go without heating, and use an immersion heater for hot water. This will be very expensive. Soraya came to Citizens Advice for help getting a new boiler. She said there were many other problems with the property, but she wasn't confident the landlord would fix them.

Unlike in other consumer markets, tenants have an ongoing personal relationship with their landlord, which can make it particularly difficult to enforce rights. This close relationship is highlighted by the fact that more than half (55%) of tenants say their landlord has the key to their home.

Many tenants are afraid of jeopardising this relationship by complaining, and risk receiving poorer treatment or harassment as a result. This subsequently cuts off their only available enforcement routes.



Jack has been living in the same rented accommodation with his family for the last 10 years. He's had the same landlord over this entire period. Over this time he's had longstanding problems with the landlord. In his 10 years of residence, no repairs have been undertaken. Jack's also worried that the electrics and alarms haven't been checked for years and the gas cooker needs attention.

The landlord also didn't lodge Jack's deposit correctly and received a conviction for this. This has left their relationship in a poor state. Jack's concerned for his family as he has been threatened with eviction and a £200 rent increase. Jack knows that the landlord has 3 or 4 other houses who may be in a similar position to him.

The following two sections look at the two main reasons for ongoing problems in the sector - the complexity of regulation and lack of enforcement.

2. Regulation of housing is too complex

A major cause of the ongoing problems faced by people living in the private rented sector is the complexity of regulation. Neither landlords or tenants are clear about what PRS regulation means for them.

Landlords know they have legal obligations, but often don't know what these look like. And tenants aren't clear how responsibilities fall between them and their landlords. This makes it harder for landlords to follow rules, and for tenants to know when these rules have been broken.

Rules governing the PRS are dispersed across extensive legislation and case law. This is often difficult for tenants and landlords to follow and understand. For example, the date when the Tenant Fees Act will come into force differs between tenancies. The ban is applied to tenancies entered on or after 1 June 2019, but only applies to other tenancies from 1 June 2020.²³

Regulation is often different depending on the exact type of assured shorthold tenancy a renter has entered into - whether it is a fixed term tenancy, statutory periodic tenancy, or contractual periodic tenancy. Many tenants don't know which of these categories they fall under.

Legislation can also be subjective in how it is interpreted. One example of this is the housing health and safety rating system (HHSRS). The HHSRS is a tool developed to help local authorities identify health and safety hazards.²⁴ However, in practice whether something constitutes a hazard is based on the judgment of the inspector.²⁵ And what may be a hazard for one tenant may differ from another e.g an elderly person living alone versus a young family. This is confusing for both tenants and landlords, and has a knock on effect on both the standards people experience and around the enforcement of those standards.

²³ Citizens Advice, [What does the new ban on tenant fees mean for you?](#), 2019

²⁴ Ministry of Housing, Communities & Local Government, [Housing health and safety rating system \(HHSRS\): guidance for landlords and property-related professionals](#), 2006

²⁵ Shelter, [Closing the gaps: health and safety at home](#), 2017

Landlords aren't clear about their obligations

Our research finds that 1 in 3 landlords (31%) admit to finding it difficult to keep up with rules and regulations. While 94% know they have some kind of legal obligation towards their tenants, they don't know what this looks like in practice.

We asked landlords to identify the likely consequences of failing to meet obligations, such as giving tenants a 'How to Rent Guide' or carrying out gas safety checks. A quarter of landlords were not able to correctly identify any of the potential outcomes of failing to meet their obligations towards tenants. Worryingly, all landlords were wrong about at least one potential outcome.

Obligation broken	Potential legal outcomes	% of landlords who couldn't identify potential outcomes ²⁶
Not checking the smoke and carbon monoxide alarms were in working order on the first day of tenancy	Fine of less than £1000; Fine of £1000 - £5000 ²⁷	49%
Not carrying out an annual gas safety check	Fine of £1000 - £5000; Loss of Section 21 'no-fault' eviction powers; Criminal proceedings ²⁸	50%
Entering a tenant's home without 24 hours' notice	Criminal proceedings ²⁹	87%
Not giving tenants the 'How to Rent Guide'	Loss of Section 21 'no-fault' eviction powers ³⁰	96%

We also found that 3 in 5 landlords (60%) think there wouldn't be a consequence for failing to meet at least one of these obligations.

²⁶ Landlords were presented with a list of potential outcomes and were asked "As far as you are aware, what is the legal consequence of the following?". Landlords were classed as being unable to identify outcomes if they did not select all of the potential outcomes of each action, and if they selected outcomes which would not happen.

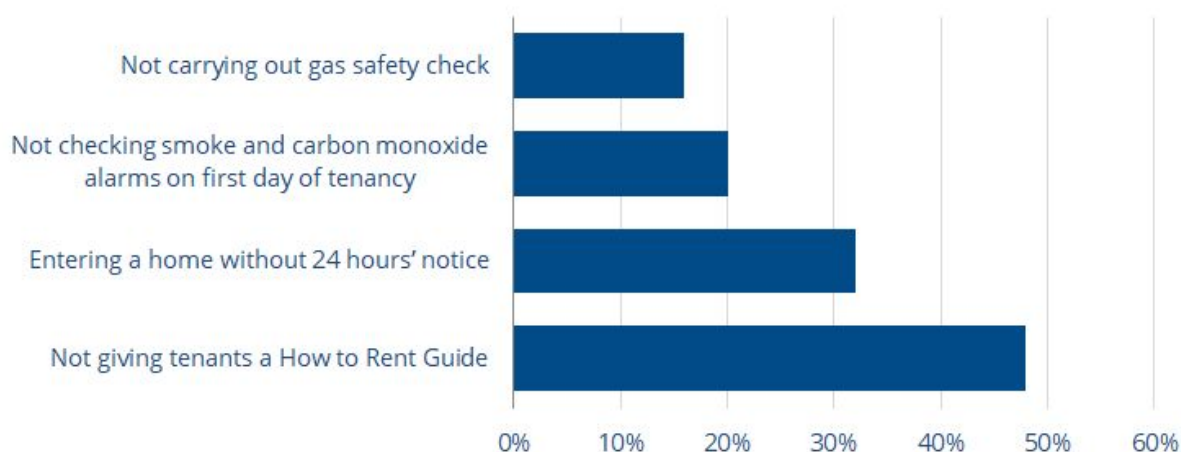
²⁷ Ministry of Housing, Communities & Local Government, [The Smoke and Carbon Monoxide Alarm \(England\) Regulations 2015](#), 2015

²⁸ Health and Safety Executive, [Gas safety - landlords and letting agents](#), accessed May 2019

²⁹ S.11 Landlord and Tenant Act 1985

³⁰ S.39 Deregulation Act 2015

Figure 1: % of landlords who say the most likely potential consequence of each action is no consequence



The difficulty faced by landlords in understanding the regulation of the PRS isn't surprising and there are a number of reasons why they struggle:

- **Many regulations affecting both landlords and tenants aren't clear cut.** For example, landlords must fix disrepair in a reasonable amount of time, but there is no standard definition of what constitutes "reasonable". Likewise, responsibility for disrepair, such as pest infestations and damp, may fall to landlords or tenants depending on individual circumstances.
- **Rules differ between local authorities.** For instance, some local authorities operate selective licensing. In the areas selective licensing applies to, all private rented sector accommodation must be licensed - which means that all landlords must hold a licence after being judged to be a 'fit and proper' person.³¹ Landlords with a licence must adhere to property management and tenant safety standards. However, as of 2019, only 44 councils operate a selective licensing scheme - causing an even patchier national landscape.³²
- **Landlords don't have a centralised body that can answer their questions, clarify rules, or receive regulatory updates.** As a result, landlords risk being out of the loop when new regulation is introduced, misunderstanding rules, and being unaware of the repercussions for breaking rules.

³¹ Chartered Institute of Environmental Health, [A Licence to Rent](#), 2019

³² Chartered Institute of Environmental Health, [A Licence to Rent](#), 2019

Guaranteeing standards for tenants relies on landlords understanding regulations and believing that it will be enforced. In other essential markets, providers must demonstrate their knowledge and ability to adhere to regulations. Energy companies, for example, must fulfil certain obligations - such as making feed-in-tariff payments - or risk having their license to operate revoked by the energy regulator Ofgem.

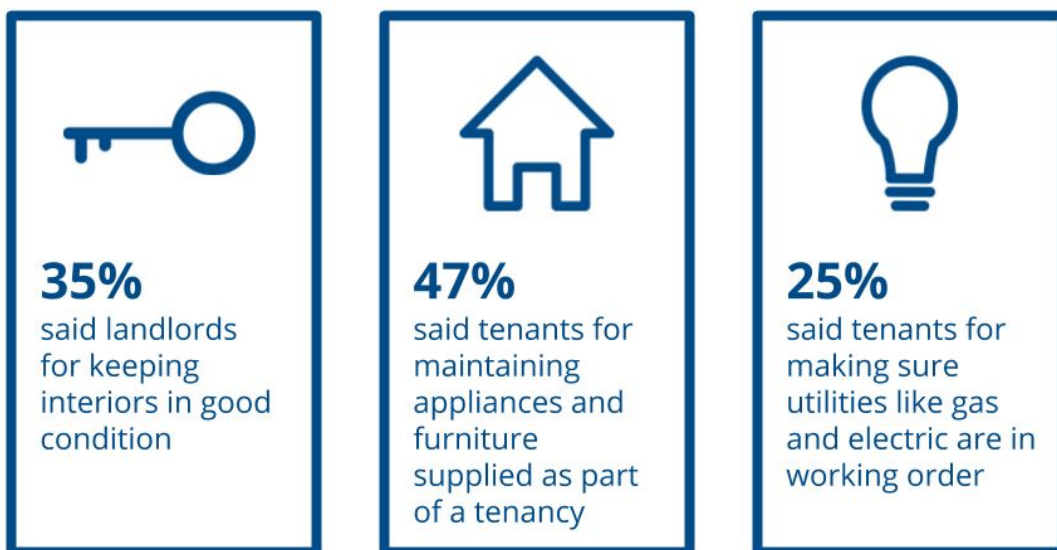
Tenants also don't understand their rights and obligations

Tenants are confident that they know how their responsibilities are split:

- 78% of tenants are confident in their landlord's legal obligations
- 84% are confident in their own obligations as a tenant.

But, when asked to pick between theirs and their landlord's responsibilities, 92% of tenants got at least one responsibility wrong.

Proportion of tenants who were wrong about whether responsibility lies with them or their landlord



Not knowing whether a responsibility lies with you or your landlord means that tenants who experience a problem are less likely to pick up on whether their landlord is meeting their obligations. If tenants don't know when their landlord is breaking the rules, they can't be expected to report it.

3. Current enforcement systems are ineffective

As well as clear rules governing standards for private rented homes, there needs to be strong measures to tackle bad practice to prevent tenants from facing future harm.

While in other markets companies face action from regulators such as the Financial Conduct Authority (FCA) and Ofcom for not fulfilling their obligations, this doesn't exist in the PRS. Relying on tenants to enforce their rights and a lack of proactive enforcement puts tenants at risk and creates a gap in what consumers can expect from their essential service providers.

Tenants struggle to enforce their rights

The current system of enforcement relies on tenants to report breaches of their rights either to their landlord or through a formal mechanism - to Environmental Health or through the court process. They often don't.

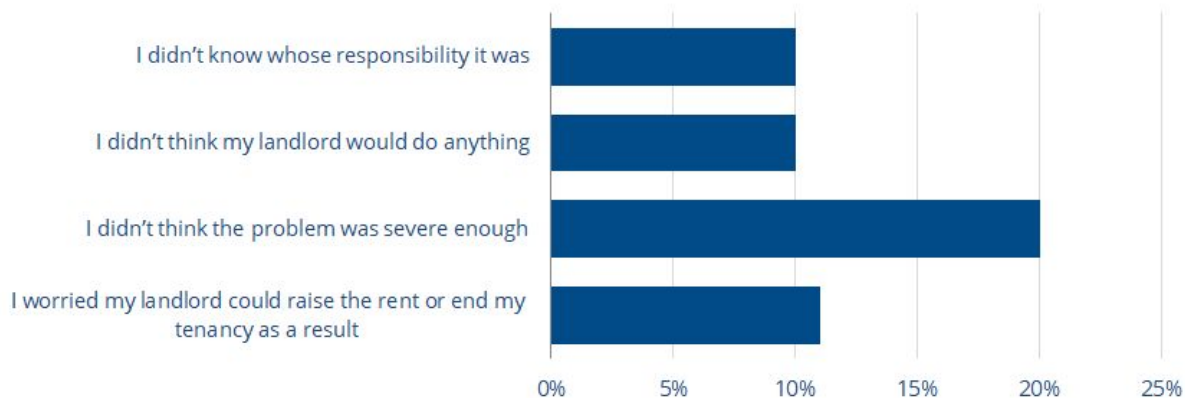
i. Tenants don't report problems to their landlords

13% of tenants who experienced disrepair didn't report it to their landlord at all. And 1 in 8 tenants who experienced a problem affecting their health or safety didn't report it to their landlord, potentially putting themselves at risk.

From the beginning of their tenancy a significant number of tenants are unlikely to raise problems with their landlords, with a third (32%) saying they feel unable to challenge the terms of their tenancy agreement. When tenants experience problems, they don't report them for a range of reasons.

As shown in Figure 2, the most common reason for not reporting a problem was tenants not thinking it was severe enough. This was followed by fear of their tenancy ending or rent increasing. But almost as many tenants didn't report a problem because they didn't know whose responsibility it was, or because they didn't think their landlord would do anything.

Figure 2: Reasons why tenants did not report disrepair to their landlord



ii. Tenants don't use formal enforcement mechanisms

While some tenants are reluctant to report problems to their landlord, tenants experiencing problems are far less likely to use formal enforcement mechanisms.

This research finds that 3 in 5 (60%) tenants have experienced disrepair, but there is a discrepancy in the types of routes they use to resolve it. Of tenants who've experienced disrepair:



Strikingly, 99% of tenants whose landlord has taken an unreasonably long time to complete repairs did not bring a claim for disrepair to court.³³ Primarily, that

³³ Citizens Advice, [Considering the case for a Housing Court: Citizens Advice response to MHCLG's call for evidence](#), 2019

discrepancy is because tenants don't feel confident using those processes. Just 23% of tenants feel confident applying to court.³⁴ On top of this, courts are inherently difficult for tenants to navigate, and don't work for many of them.³⁵

Even when tenants make formal complaints, they still struggle to get their problem resolved. Just 13% of those who pursued some kind of formal action said their problem was fully resolved. This means that the few tenants who make use of the enforcement mechanisms available to them aren't seeing a benefit.

Guaranteeing decent standards for private renters can't rely on tenants to enforce their own rights. A lack of bargaining power and security means tenants are unable to negotiate with their landlord on a level playing field. But even with improved security of tenure, tenants will still face barriers. Tenants need to be confident that their landlord will respond to their complaints and formal routes of escalation need to be accessible for tenants.

Local authorities aren't holding bad landlords to account

There is some degree of proactive enforcement of private tenants rights in England through local authorities. Some local authorities do this to a good level, but others are less successful because of the time and resources needed to enforce complex and often subjective standards. This results in a nationally inconsistent level of enforcement, and means that where landlords are failing to meet their obligations the vast majority are not being held to account.

i. There is a lack of enforcement by local authorities

Research by Generation Rent found that in 2017-18, local authorities received 67,026 complaints. Inspections identified 12,600 Category 1 hazards in privately rented homes - but served just 3,000 Improvement Notices.³⁶

The Residential Landlords Association also conducted freedom of Information requests to local authorities in England and Wales. They found that, in the year 2017-18:

- 2 in 3 didn't launch a single prosecution against a private landlord in 2017-18.³⁷

³⁴ Citizens Advice, [It's broke, lets fix it](#), 2017.

³⁵ Citizens Advice, [Considering the case for a Housing Court: Citizens Advice response to MHCLG's call for evidence](#), 2019

³⁶ Generation Rent, [Private renters denied protection from revenge eviction](#), 2019

³⁷ Simcock, T.J., & Mykkanen, N., (2018). [The Postcode Lottery of Local Authority Enforcement in the Private Rented Sector](#), 2018. Retrieved from:

- 1 in 5 local authorities in England and Wales didn't serve a single Improvement Notice in 2017-18.
- Nearly 9 in 10 (89%) had not used their new Civil Penalty powers to fine rogue landlords.
- 1 in 2 (53%) reported that they did not have a policy in place to use these powers.

And just 4 landlords have been added to the rogue landlord database since these powers were introduced.³⁸ No landlords received a banning order between April 2018-2019.

ii. There is inconsistency between local authorities

In addition, some regulations and enforcement mechanisms vary between local authorities in their design and application. One example of this is the 'fit and proper person' test used for selective licensing schemes. It's possible to be deemed a 'fit and proper person' in one location, but not in another. This means landlords can continue operating in one region even if they can't in another. This inconsistency compounds an already complex system of regulation.

This inconsistent approach makes it harder to hold landlords to account. While 55% of landlords have failed to meet at least one obligation to their tenants, only 1 in 5 landlords said they have been contacted, either formally or informally, by Environmental Health, and 1 in 4 received a formal complaint from a tenant about a property.

iii. Enforcement is ineffective

Even when landlords are contacted by Environmental Health or receive a complaint from a tenant, not all of them respond appropriately. 2 in 5 of all complaints were because of failing to fix disrepair in a reasonable amount of time, or the presence of a health and safety hazard in the tenant's home. Of these landlords, only 37% said they carried out repairs as a result. That means that 63% did not address the issue after being held to account.

³⁸ The Guardian, [No rogue landlords issued with banning orders in 12 months](#), 2019



Blessing is pregnant, has a long-term health condition and receives Universal Credit. She has been living in a ground floor flat that was poorly converted from a garage. She has a prepayment meter for gas and electricity, but her landlord charges her an additional £20 each time she tops up her card. She had no heating over the winter as she couldn't afford it.

The flat recently had a problem with the water supply which caused an overflow. Her landlord sent their partner to fix it, but this wasn't properly done and Blessing has been using a pan to catch the overflow ever since. She also said she was made to feel very uncomfortable when the partner entered her flat to carry out repairs.

Blessing's adviser spoke to their local Council's housing department, who described this particular landlord as 'notorious', and said they own a number of properties in the area. However it was not clear to the adviser what, if anything, would be done to prevent future misconduct

Landlords aren't confident in the effectiveness of enforcement. Even where landlords are following the rules, they lack confidence that regulation is strong enough to keep others in check. The majority (2 in 3) of landlords agree that current enforcement does not do enough to deter rogue landlords. Strong regulation is used effectively to hold service providers to account for poor actions in other markets. For example, the FCA is able to fine and ban companies and individuals for bad behaviour.³⁹

³⁹ E.g fining The Carphone Warehouse almost £30 million for mis-selling insurance in March 2019

Conclusion and recommendations

Complicated regulation is leaving landlords confused about what their obligations are, and tenants uncertain about who is responsible for resolving problems. Any enforcement action relies on proactive tenants - despite many tenants not knowing when their landlords are breaking the rules. A lack of oversight and effective deterrence is failing to hold bad landlords to account and enforce tenants' rights, even when landlords are breaking the law.

Regulation needs to address this confusing and patchy landscape. For this to be possible, consistent standards, such as standardising the 'fit and proper person' test and a code of practice for landlords, need to be set across the entire private housing market.

Rules in the private rented sector need to be enforced

Both landlords and tenants agree current enforcement systems need to be changed. For example, almost 9 in 10 tenants (89%) agree with the statement that landlords should be able to show they have some kind of good practice code at the start of a tenancy.

Our polling of landlords found that:

- 65% think current enforcement systems don't do enough to deter rogue landlords
- 80% agree they should be able to turn to one place for information about their role and responsibilities
- 75% agree having a single national body responsible for standards would make their job easier

There needs to be a national body which sets standards and enforces rules in the private rented sector

As identified by landlords, one way to improve the enforcement of rules in the PRS would be through the creation of a single national body responsible for standards. That body could help bring standards in the private rented sector up to the level of other essential services by fulfilling three core functions:

1. Setting consistent standards

Current regulation and enforcement is inconsistent and confusing for both landlords and tenants and a local approach to setting and assessing standards allows these inconsistencies to continue. For example, it's not clear what constitutes a reasonable amount of time to fix disrepair, as there is no set definition. Likewise, the 'fit and proper person' test used as part of selective licensing differs between local authorities. And selective licensing itself is inconsistently applied across the country - it's only in place in 44 councils.

The standards landlords have to meet need to be simplified and made nationally consistent. A national body could implement a range of measures designed to bring up standards across the sector, create consistent expectations and requirements, and lay the groundwork for proactive ongoing monitoring.

Measure	Benefits
<p>Create a standardised rental contract⁴⁰</p> <p>Create a standardised tenancy contract for use across social and private renting, so that all tenancies are underpinned by the same basic terms. This would make it easier for tenants and landlords to understand their responsibilities, and prevent rogues from inserting unfair terms into contracts.</p>	<p>This would make it easier for tenants and landlords to understand their rights and responsibilities, and tackle the inconsistencies which currently lead to unfair outcomes.</p>
<p>Develop and implement a 'Housing MOT' standard⁴¹</p> <p>Before being able to rent a property, it should have passed a standardised 'MOT' inspection that would ensure all properties meet a certain minimum standard. Once the standard has been developed and approved, the MOT itself could be delivered by independent practitioners.</p>	<p>This would prevent unsafe properties entering the market, remove the burden of property oversight from local authorities and from tenants, and create a more neutral environment for judging property conditions. It would bring together all existing requirements and clarify the regulatory landscape.</p>
<p>Standardise the 'fit and proper</p>	<p>This would clarify the role and</p>

⁴⁰ As recommended by the Law Commission

⁴¹ As recommended by Julie Rugg and David Rhodes

<p>person' test In areas operating selective licensing, landlords must prove they are 'fit and proper' to be a landlord. But there is no set definition of 'fit and proper', which has led to inconsistencies between local authorities.</p>	<p>responsibilities of a landlord and ensure standards are consistently applied.</p>
<p>Create a national register of landlords Using membership of the new landlord redress scheme, the body could develop a national landlord register.</p>	<p>This would enable regular communication between landlords and the national body/bodies regarding incoming regulations and consultations. Doing this would give clarity to landlords on their role and responsibilities.</p>

2. Supporting landlords to improve standards

The complexity of regulation and of the PRS itself mean even where landlords try to meet standards in the sector, they fall short. A national body could play a crucial role in supporting landlords to understand and meet their obligations.

Landlords need support to keep up with changes in regulation and when interpreting those rules. The close personal relationships specific to the PRS as a market mean that there will always be unique challenges facing tenants and landlords. Regulation of the market needs to be responsive to those complex circumstances and go beyond simply sanctioning landlords who break the rules.

A national body would be able to take steps such as improving communications around rules and their interpretation as well as intervening to support landlords before tenants enter an enforcement process.

Measure	Benefits
<p>Develop a simplified code of practice for landlords⁴² This will clearly lay out requirements and expectations of landlords. It could clarify what is a 'reasonable' length of time in which to carry out</p>	<p>This would ensure landlords who manage their own property are held to the same standards as managing agents.</p>

⁴² As is currently being developed for letting agents

repairs, and details on how landlords can honour a tenant's right to 'quiet enjoyment'. This should mirror the code of practice being developed for property agents.	
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3. Ensuring rules are proactively enforced

Where rules are broken, they are poorly enforced. Too many tenants are reluctant to complain to their landlord and formal enforcement is ineffective. The current system relies too much on tenants to enforce their own rights and enforcement by local authorities is ineffective. Without proactive enforcement of renters' rights there is no deterrence for bad landlords and good landlords are undercut by those that don't follow the law.

Recent changes will make some difference. Abolishing Section 21 will give tenants more security when raising a complaint. And proposals for landlords to be members of a redress scheme will make it significantly easier for tenants to access redress if their landlord is not meeting their obligations. However, given that the landscape of regulation is far too patchy and complex for even well-intentioned landlords to easily navigate, these changes won't resolve the scale of other problems.

Tenants lack the power to enforce their rights and often fear repercussions for doing so. This will still be the case even with the abolition of Section 21 notices. A proactive national body would take the onus away from tenants to pursue action when their landlord fails to meet their obligations.

For individual tenants, the lack of such a body is often surprising.



Marty recently reached the end of a tenancy. When he tried to get his deposit back, he realised it had not been protected. He was eventually able to get the deposit back in full, but it took a long time and was very difficult.

Marty said he didn't want any compensation. But he asked an adviser if there was a body he could report the landlord in question to, to prevent another person going through the same difficulty in future. His adviser explained that there is no such body.

Establishing a national body

Establishing a body, or a combination of bodies, to hold responsibility for setting national standards will be key in delivering these outcomes. There are different options for how this could be set-up. For example:

- A new independent body that sits outside of the existing institutions
- A new body that sits within an existing institution but is legally independent
- Appointing an existing institution to fulfil this role.

To be successful, the body should have a new set of powers, be sufficiently resourced to deliver its role, have a defined scope for its work, and have objectives that set a clear direction of outcomes it should achieve.

While there is an evident gap in how effectively standards are being set and enforced in the PRS, there's a risk of causing further detriment in the sector if reforms are approached badly. This would ultimately lead to poor outcomes for both landlords and tenants.

Government has made a start to showing it's committed to reforming the PRS. But now they need to go further to make sure the 4.7 million households living in privately rented homes are getting a fair deal.

Appendix

Figure 3. Local authority enforcement actions

Action	Consequence ⁴³
Hazard awareness notice ⁴⁴	Advises tenants and landlords of the existence of hazards and next steps. Failing to act on this is not an offence in itself, but there is a possibility that it will lead to further enforcement.
Improvement notice ⁴⁵	Sets out strict timescales to complete improvement works. Failure to comply can result in prosecution or a civil penalty of up to £30,000. Local authorities can also complete works if a landlord fails to do so.
Notice of emergency remedial action ⁴⁶	Used where a Category 1 hazard poses an imminent risk to health or safety. Allows councils to serve an immediate prohibition order or carry out remedial works.
Prohibition order ⁴⁷	Stops the use of all or some of a property where there are serious health and safety risks to occupants. Can be revoked once identified works are undertaken. Failure to comply can result in a banning order, prosecution, a Rent Repayment Order or a civil penalty of up to £30,000.
Banning order ⁴⁸	Issued by local authorities. Bans landlords and letting agents from renting out residential accommodation, engaging in letting agency work, or engaging in property management work for a minimum of 12 months. Local authorities must also

⁴³ Shelter, [Enforcement options](#), accessed 4th June 2019; Citizens Advice, [Local authority help with repairs - notices and orders under the Housing Health and Safety Rating System](#), accessed 6th June 2019

⁴⁴ Can be served where a Category 1 or 2 hazard is present, [s.28](#) and [s.29](#) Housing Act 2004.

⁴⁵ Can be served where a Category 1 or 2 Hazard is present, [s.11](#) and [s.12](#) Housing Act 2004 .

⁴⁶ Can be served where a Category 1 Hazard is present, [s.40](#) and [s.41](#) Housing Act 2004.

⁴⁷ Can be served where a Category 1 or 2 Hazard is present, [s.20](#) and [s.21](#) Housing Act 2004.

⁴⁸ Under s.15(1) of the Housing and Planning Act 2016, a local housing authority in England may apply to the First-tier Tribunal for a banning order against a person who has been convicted of a banning order offence.

	add landlords who've received a banning order to the rogue landlord database. ⁴⁹ Breaching a banning order can result in a prosecution, a civil penalty of up to £30,000, or a Rent Repayment Order.
Civil Penalty	A fine of up to £30,000 per offence. There is no minimum penalty. It's available to local authorities as an alternative to prosecution where landlords fail to comply with improvement notices.
Rent Repayment Order ⁵⁰	Either an occupier or a local authority can make an application to the First-tier tribunal for a rent repayment order. It requires a landlord or agent who has committed a relevant offence to repay rent or housing benefit/universal credit. ⁵¹

⁴⁹http://england.shelter.org.uk/legal/housing_options/private_rented_accommodation/banning_orders. A full list of banning order offences can be found in the Schedule of the Housing and Planning Act 2016 (Banning order offences) Regulations.

⁵⁰ s.40 Housing and Planning Act 2016.

⁵¹ More details:

https://england.shelter.org.uk/legal/housing_options/private_rented_accommodation/rent_repayment_orders#_edn1

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Published June 2019

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