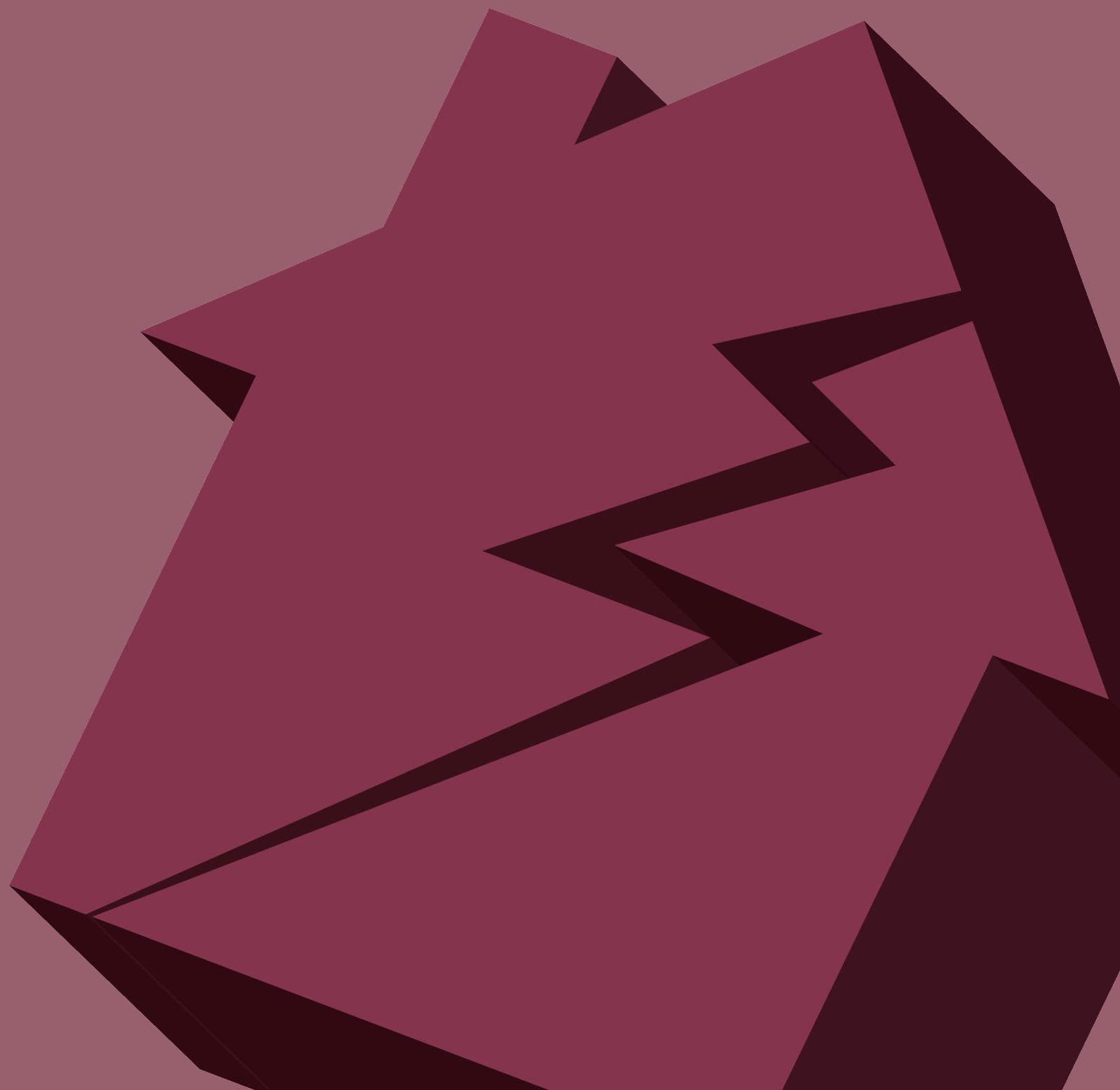


Renting uncovered

Evaluating consumer protections
in the private rental sector



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Executive summary

In most aspects of our lives as consumers, we assume that the goods and services we buy or rent will be safe and functional. If they do not work as promised, they will be repaired or our money will be refunded. For private renters, however, the same basic expectations do not apply. The condition of a rented apartment can be substandard or even unsafe, yet it can be difficult or impossible to have repairs made. Refunds rarely apply at all. As more and more people find themselves renting privately over the long-term, this shortfall in rights is becoming all the more apparent.

In this briefing note we summarise the rights of private renters regarding safety and repairs in their homes and compare these with the rights of repairs, and the rules governing safety and standards, in other consumer goods and services. The note is written for England as housing policy and legislation is devolved across the United Kingdom.

We start by talking through how consumer rights work on paper. We look first at the main mechanism for redress in consumer goods markets: the law governing refunds and repairs. We then touch briefly on another approach to consumer protection: the local licensing arrangements that govern particular classes of businesses, such as taxi firms and restaurants. In the second part of the note we share some real life case studies that illuminate how the rights of private renters play out in practice.

Overall, the note shows starkly that, while private tenants do have statutory rights to a safe home in good repair, they face substantial barriers to having these rights upheld in practice. The risk of retaliatory eviction by the landlord, a lack of Local Authority capacity to deal with the problem and, in most of the country, a lack of any regime to license landlords, means tenants' rights have no bite. These differences lead to a strange imbalance in consumer protections. In many ways, people are now better protected when buying a toaster than when renting a flat, while taxi drivers are more tightly governed than the landlords who let - and have access to - our homes.

Giving tenants a better deal in the private rented sector will mean fixing these historical anomalies. This means considering:

- How rights to repair could be better applied for private renters, in particular by ending the risk of retaliatory eviction.
- How refund rights could give tenants money back when a rented property quickly turns out to be dangerously uninhabitable, for example by extending rent repayment orders to category 1 or 2 hazards.
- How local licensing could be used to stop the worst offending landlords in the same way licensing is used to stop unhygienic restaurants or unsafe taxi operators.

Part 1: Protections on paper - understanding the law

Consumer rights operate through a number of different legislative mechanisms. In this section, we talk through two of these mechanisms: the law governing refunds and repairs and the law that governs the local licensing of particular classes of business. In each case we compare these approaches with the law that governs the landlord-tenant relationship in the private rented sector. The mechanisms for refunds and repairs and licensing operate in quite different ways but both carry some useful lessons.

Protecting consumers through rights to refunds and repairs

The law that protects consumers through rights to refunds and repairs is longstanding. These rights were spread over a range of legislation most notably the Sale of Goods Act that was introduced 35 years ago in 1979 with other rights outlined in the Unfair Contract Terms Act 1977 and the Enterprise Act 2002. The Consumer Rights Bill (likely slated for royal assent in January 2015 and to come into force from October 2015) brings together this and other relevant existing legislation and introduces new stronger consumer rights. It covers a consumer's legal rights to repair and refund when purchasing or leasing a consumer good.

The key areas in the Consumer Rights Bill relating to rights to repair and refund are:¹

- That a consumer has a right to expect that any good they purchase will be: fit for purpose, as described, of satisfactory quality.
- Right to reject - introducing a fixed period of 30 days (less for perishable goods) in which a consumer may reject a faulty good regardless of contract type.
- If a good develops a fault within 30 days of purchase the consumer is entitled to a full refund from the trader.
- Consumers will be entitled to receive any refund within 14 days of it being promised.
- If a good develops a fault within the first six months from purchase, the consumer is entitled to a repair or a replacement. They only have to accept one such repair or replacement, if the product fails again they are entitled to a full refund.²
- Between 6 Months and 6 years after purchase consumers are entitled to a partial refund if they can prove the product was faulty when they bought it.

Overall, the Consumer Rights Bill consolidates existing consumer rights and strengthens rights to repair and refund faulty consumer goods.

While the laws that govern consumers' rights to refunds and repairs are relatively simple in design, they are quite radical in their implications for the relationship between the buyers and sellers of consumer goods. Rights to refunds and repairs are used extensively by consumers to secure redress. More importantly, because any refund or repair claim quickly bites into retailers' profits, most take significant steps to avoid this

risk, while retailers that consistently sell substandard or faulty goods struggle to operate. The impact of these laws therefore extends far beyond their use.

Tenants' rights in the private rented sector

How do rights relating to consumer goods compare to the rights of a tenant in the private rented sector? The rights of tenants, and the responsibilities of landlords, are spread across a number of pieces of legislation and policy:

- Landlord and Tenants Act 1985
- Housing Act 2004
- Environmental Protection Act 1990
- Housing Act 1988
- Protection from Eviction Act 1977
- Defective Premises Act 1972

Landlords have responsibility under Section 11 of the Landlord and Tenant Act 1985 to keep in good repair:³

- The structure and exterior of your home, for example, the walls, roof, foundations, drains, guttering and external pipes, windows and external doors;
- Basins, sinks, baths, toilets and their pipework;
- Water and gas pipes, electrical wiring, water tanks, boilers, radiators, gas fires, fitted electric fires or fitted heaters.

A landlord's responsibility to fix disrepair only arises when they are informed about the problem, either from the tenant or from someone employed by the landlord.⁴ The landlord has a 'reasonable time' to complete the repairs. The time it takes must take into account how serious the disrepair is, whether someone is living in the property and the availability of relevant parts for the repair. There is no definition in law of what constitutes a reasonable time.

Landlords are also legally obligated to ensure that they meet the safety standards set out for private rented housing.⁵ Landlords have specific responsibilities around: gas safety, electrical safety and fire safety.⁶ These standards cover: ensuring gas equipment is safely installed and maintained, the provision of hot water and heating, ensuring the electrical system (e.g. sockets and light fittings) is in good order, and addressing structural issues such as damp and mould.

If a landlord is not fulfilling their responsibilities around safety standards and repair, tenants can turn to their Local Authority for help or they can take their landlord to court.

The second main piece of legislation enshrining tenants' rights is the Housing Act 2004, which gives Local Authorities responsibility for, and powers to deal with, poor conditions and unsafe standards in private rented housing.

The standards for a safe home in good condition are set out in the government's Decent Homes Standard which was first introduced in 2000 for social housing and extended to the private rented sector in 2002⁷. The Decent Homes Standard forms part of Local Authorities' housing strategies.

The Decent Homes Standard requires that:

1. The current statutory minimum standard for housing is met. Dwellings which fail to meet this criterion are those containing one or more hazards assessed as Category 1 under the Housing health and safety rating system (HHSRS) (see below).
2. The property is in a reasonable state of repair. This covers building components such as electrics.
3. The dwelling has reasonably modern facilities and service.
4. The dwelling provides a reasonable degree of thermal comfort.

Under the Housing Act 2004, tenants can make a complaint to their Local Authority's Tenancy Relations Officer or equivalent if their landlord refuses to carry out their obligated repairs and the officer can potentially prosecute the landlord. Local Authorities also have responsibility where there is a hazard in the property or the disrepair in a home is a health risk or causing a serious problem for the public.

- Under Part 1 of the Housing Act 2004, Local Authorities must use the HHSRS to assess housing conditions in their area and must inspect a property if they think a health or safety hazard may exist there. An Environmental Health Officer will inspect the property to assess how dangerous the condition of the accommodation is. The HHSRS is based on 29 categories including, for example: dampness, pollutants, poor sanitation and problems that could lead to accidents. The Local Authority has a duty to take action to deal with Category 1 hazards (the most dangerous problems) and a power (not a duty) to take action for Category 2 hazards.
- If the disrepair is risking a tenant's health and safety it could be classed as a 'statutory nuisance' under the Environmental Protection Act 1990. A 'statutory nuisance' can include a leaking roof, piles of rubbish or dangerous wiring. Tenants can contact the Environmental Health department of their Local Authority. The Local Authority can send an Environmental Health Officer to inspect the property. If the officer finds the disrepair is a 'statutory nuisance', they can either serve a notice to the landlord telling them to carry out the repairs or the council can do the repairs themselves and reclaim the cost from the landlord.

Local Authorities can, as a last resort, use enforcement powers to ensure standards are met. These can include serving a notice to tell landlords to carry out the repairs, the council paying for the repairs themselves and reclaiming the cost from the landlord or in extreme cases making a demolition order.

Refunds for renters?

While the principle of refunds does not generally apply in private rented housing it is interesting to note that there is an instrument by which tenants can in some cases claim financial redress.

Rent repayment orders (RROs) are a mechanism under the Housing Act 2004 by which rent or Housing Benefit can be recovered from landlords found to be renting a property without a licence where one is needed (in practice this means houses in multiple occupation [HMO]). The government is currently considering whether these could be extended to include landlords letting out properties found to have serious risks to health and safety. This would be a positive move, extending the scope of RROs to tenants in private housing other than HMO and allowing for financial redress in some of the most serious cases of housing disrepair.

Overall, the summary above suggests that on paper tenants have a number of rights that are ostensibly similar to the right of consumers in other markets. However, tenants' rights are defined less precisely, are more thinly spread over a number of complex pieces of legislation, fall to Local Authorities rather than central regulators or ombudsmen to enforce, and are not, in general, backed up by the hard backstop of a right to refund.

The licensing approach to consumer protection

Refunds and repairs are not the only mechanism used to afford consumers protection against faulty or substandard goods and services. In other consumer markets, particularly services such as restaurants, leisure facilities and hospitality and transport services, a local licensing system is used to ensure firms meet minimum standards.

Particular classes of business, such as restaurants or taxis, must be licensed by their Local Authority before they can operate. The licensing of these businesses means that they must meet certain standards and provide consumers with a minimum level of service. While there is growing interest in the licensing of private landlords, the vast majority of landlords today face no licensing requirements (other than for most HMOs which have to be licensed).⁸

Restaurant licensing law

How does the local licensing of particular consumer services work? In order to run a restaurant the business owner must apply for a license that is issued by a Local Authority. Before opening, a restaurant must meet the requirements of a Food Business Registration inspection. To successfully obtain a license for a restaurant the owner must:

- Have an inspection carried out by a Local Authority representative following application for the license.⁹
- Meet the safety regulations outlined in the Regulatory Reform (Fire Safety) Order 2005 and The Gas Safety (Installation and Use) Regulations 1998.
- Comply with the safety and hygiene standards set out by the Food Standards Agency.¹⁰

Most restaurants now also receive a Food Hygiene Rating which will be available for consumers to see online through the Food Standards Agency.

There are a number of hard backstops sitting behind restaurant licensing law:

- If found to be in breach of any of the requirements of their licence by their Local Authority, the business owner must comply with any recommendations given to improve standards in accordance with the General Food Law Regulation 178/2002 and the Food Safety Act 1990.
- Local Authorities log information about local food safety activity into the LAEMS - a web-based system where Local Authorities can record their cases. This means that all complaints are aggregated and sent to the Food Standards Agency, usually resulting in more regular inspections to ensure that the restaurant is complying with its licensing agreement.¹¹
- When a consumer is dissatisfied with the level of standards provided by a restaurant, they can report a complaint about poor safety or food hygiene practice in a food outlet to the Local Authority. The Local Authority can send a Food Safety Enforcement Team to the premises to carry out a follow up inspection. They will assess the health and safety standards in the restaurant and, where necessary, issue an enforcement notice for the business owner to carry out improvements.¹²

Another example of consumer protection through local licensing is the licensing of taxis. There are two types of licensing scheme for taxis, one for hackney carriages (taxis that you can hail on the street) and one for private hire vehicles (taxis you call to hire). Hackney carriages are licensed under the Town Police Clauses Act 1847, which whilst originally optional has since been made compulsory. Private hire vehicles are licensed under the Local Government (Miscellaneous Provisions) Act 1976.

In both cases, to legally operate a taxi service the vehicle operator must apply for two types of licence: an operator licence, which lasts for a maximum of 5 years, and a vehicle licence, which lasts for up to once year.¹³ In addition they must have already been the holder of a full DVLA driving licence for a minimum of twelve months prior to applying for an operator licence. The vehicle must pass regular servicing and MOT checks and meet the licensing standards set out by the Local Authority.

In addition the operator must undergo a number of personal checks including:

- Fit and proper person checks
- Criminal record checks

- Medical fitness checks

Other licensing checks vary but most Local Authorities also require:

- DVLA checks
- Driving assessment tests
- Local knowledge tests¹⁴

The licensing of restaurants and taxis are examples of consumer protection mechanisms where Local Authorities have responsibility for monitoring and evaluating standards through inspection, and for enforcing action on standards through their right to withdraw a license to operate from an offending business.

Landlord licensing

How does licensing work when it comes to landlords? As things stand, landlord licensing is seldom used (other than for HMOs). However, Sections 79, 80 and 81 of the Housing Act 2004 do enable Local Authorities to introduce a scheme of selective licensing of private landlords in a specific area that has low housing demand or to tackle antisocial behaviour. To introduce selective licensing the Local Housing Authority (LHA) must prove that the local area is experiencing (or is likely to experience) either of these conditions.

In recent years, as the scale of the private rented sector has grown, and as more evidence has emerged of flaws in the private rented market, there has been growing interest from Local Authorities in using these powers. Research from the LGiU, has found that one third of councils are considering introducing compulsory licensing to tackle unscrupulous landlords in an attempt to reduce health and safety risks in properties and to better protect tenants.¹⁵

For a Local Authority considering putting a landlord licensing scheme in place, there are certain mandatory conditions which must be included in a licence as laid out in Schedule 4 of the Housing Act 2004. Among other conditions licensees are required to:¹⁶

- Present a gas safety certificate annually to the LHA, if gas is supplied to the house;
- Keep electrical appliances and furniture (supplied under the tenancy) in a safe condition;
- Keep smoke alarms in proper working order;

These mandatory conditions apply to all landlord licensing schemes and a LHA cannot introduce a scheme without them in place.

In January 2013, Newham council was the first to launch a compulsory landlord selective licensing scheme across their whole borough covering about 35,000 private tenancies. All landlords in Newham who rent out or let a residential property that is not an HMO must have a selective licence. It is a criminal offence to let a property without

the required licence. Landlords in Newham can face a fine of up to £20,000 for being unlicensed. In these cases, the council can also issue a RRO for up to 12 months rent. A landlord must pay £500 to apply for or renew a licence, which will normally last for up to five years. As part of the Newham licensing regime, landlords must:

- Be able to demonstrate that they are a 'fit and proper' person with regard to criminal offences, unlawful discrimination in relation to business or past contravention of housing law. Failure to meet the fit and proper person test may result in being refused a licence.
- The applicant must also be able to demonstrate satisfactory management and financial arrangements are in place for the rented property.
- They must also sign up to a code of practice, provide a written tenancy agreement, place the tenancy deposit in an approved scheme and have up-to-date safety certificates.

In London, a new Rental Standard (LRS) has been introduced by the Greater London Assembly to drive up standards in the private rented sector. Although it has no statutory power, the standard is intended to encourage practice by awarding an accreditation badge. The LRS includes 12 core commitments which outline the minimum level of service that tenants should expect, including:

- Emergency repairs to be dealt with or made safe as soon as practically possible and normally on the same day that a landlord is notified. Emergency repairs are defined as any defect where there is a risk of danger to the health, safety and security of the tenant or a third party on the premises, or that affects the structure of the building adversely.
- Urgent repairs to be dealt with within three days of the landlord being notified.
- Landlords must respond to tenant complaints promptly and accreditation schemes must have their own complaints process in place if complaints are escalated.

Landlord licensing remains rare but is set to become more common. While Newham has introduced a relatively robust landlord licensing scheme it looks likely that many forthcoming schemes will be weaker.

In most cases, the model being adopted for local landlord licensing will be weaker than that used for restaurant licensing and will have more in common with the model used for licensing taxi firms. In particular, landlord licensing looks likely to be less proactive, not being backed up by the inspections or enforcement patrols that are used to monitor some local restaurant licensing schemes.

Part 2: Protections in practice - learning from real life cases

In part 1, we have summarised the legal mechanisms that protect consumers in key markets for goods and services and we have compared these with the protections for tenants renting from a private landlord. We have noted a number of differences in the legal protections in each case, but how do these legal differences play out in practice?

At Citizens Advice, over 80,000 people came to us last year with a problem relating to a private rented property, and 50,000 people visited the pages of our website related to private tenancies. These cases give us direct experience of how the legal realities of consumer and tenant protection are playing out across Britain.

To give a sense of the nature of the issues, the following provides a series of short summaries of cases we have seen in the past year.

Lara¹⁷ came to her local CAB after being asked to move out of her home by her landlord who had refused to repair the boiler. A gas safety check had found the thermostat was broken and she was left with no heating and hot water. The landlord had sent around some workers who did not fix the problem. Lara became ill with pneumonia due to her cold house and had to be hospitalised. Subsequently, the landlord issued a Section 21 notice to start possession action and evict Lara from her home.

Bernard approached his local CAB in London expressing concern for the poor safety standards in his privately rented home. The house was suffering from damp, mould and condensation in every room. The client was very worried about the health conditions of his young children. This problem persisted for four years but the landlord did nothing to remedy the situation. When the client approached the Local Authority for help he was informed that they were unable to assist him because he was not a council tenant.

Nancy and her daughter were evicted after they asked their landlord for repairs to their privately rented home. They had been receiving electric shocks in the shower. An electrician told them it was not safe for them to live in the flat in light of dangerous electric currents running through the bathroom wall. When Nancy pursued the landlord to fix the problem he evicted them through Section 21 possession action.

Lucy rented a property from her landlord in June 2007 and the landlord stated that the deposit should be stated as zero to simplify things even though she paid a deposit. When she renewed her tenancy in 2014 the same thing happened again and the landlord documented the deposit as zero. Now she has left the property and is struggling to get her deposit back

as it has not been placed in a deposit protection scheme. She came to her local CAB to understand her options and to understand the process of taking her landlord to court to get her deposit returned

Alex works full-time and lived alone in a rented flat. He was expecting his fiancée and 1 year old child to join him. His fixed term 6-month tenancy ended in September 2013 and then continued on a periodic basis. There was an extreme damp and mould problem in the flat: the walls had turned green and Alex's clothes were being destroyed by the extremely poor conditions. He complained to the Local Authority's Environmental Health team who put the landlord on notice of the required repairs. The landlord responded by returning Alex's deposit - which had not been protected in a tenancy deposit scheme - and issued him with a Section 21 notice.

Maria, a single mother, approached a CAB in Surrey for help in November 2013. She and her daughter had lived in their flat for three years. A large crack developed in one of the walls, and water started to enter her home. She complained to her Local Authority's Environmental Health team and the landlord eventually fixed the problem. However, between reporting the problem and the repair being completed she was issued with a Section 21 notice. Even though the landlord made the repair, Maria felt that she still lost her home as a result of complaining about the disrepair.

In February, Zara came to her local CAB in London for help after reporting repair issues repeatedly to her landlord to no avail. She has four children and was worried that the severe mould in the bathroom and children's bedrooms could be damaging their health. It had already caused the window frames to rot and damaged several of their belongings. That wasn't the only issue. Zara couldn't cook for the children because the oven door was missing and the cooker was broken. The CAB helped her to send a complaint with accompanying pictures to the local Environmental Health Officer, who inspected the property and issued an informal notice for improvements to the landlord. Shortly afterwards the landlord issued Zara with a Section 21 notice and she was forced to move out of the property as a result of the landlord's subsequent possession action.

These short case studies reflect the kinds of problems we see daily in the private rented sector. The story they tell is mirrored in national data. While tenants have a number of rights to a decent standard of housing on paper, in practice an inability to pursue these rights means they are of little value. The English Housing Survey indicates that over 37% of private rented properties in England are classified as "non-decent" compared to 25% of owner occupied and 20% of social rented homes.¹⁸

Why do tenants find in practice they have few rights? Looking through our caseload, three particular reasons stand out:

First, complexity. Seeking redress or taking court action against a landlord to get repairs made can be a long, complicated and expensive process. This can be seen, for example, in the procedure private tenants need to follow if they choose to pay for repairs themselves and deduct these costs from their future rent.¹⁹

The steps involved in this procedure are:

- Step 1 – report the repairs to the landlord. It is best to do this in writing and give the landlord reasonable time to do the work. Keep a copy of the letter or email.
- Step 2 – if nothing happens, write to the landlord again telling them that you will do the repairs yourself unless they arrange for the work to be done. Keep a copy of the letter or email.
- Step 3 – allow a further reasonable period of time for the landlord to do the work. If nothing happens after this time, get three quotes for the cost of the work from properly qualified contractors.
- Step 4 – write to the landlord again enclosing copies of the quotes and giving them a final chance to do the work, for example, within two weeks. The letter should warn that, otherwise, the tenant will do the work themselves and deduct the cost from the rent. Keep a copy of your letter.
- Step 5 – if there is no response, arrange for the contractor who gave the lowest quote to do the work.
- Step 6 – pay for the work and send a copy of the receipt to the landlord and ask for the money to be paid back to you. Keep a copy of your letter.
- Step 7 – if the landlord does not pay back the money, the tenant can deduct the cost from future rent, but not other charges such as service charges. Send the landlord a breakdown of the amounts to be deducted, when they will start and when they will end. Keep a copy of your letter.²⁰

The complexity of procedures like this, and the time involved in the process, is one reason private tenants do not commonly pursue their rights.²¹

Second, Local Authority capacity. Local Authorities face difficulties in carrying out their responsibilities due to limited resources and, as a result, efforts to tackle poor conditions in private rented housing are generally reactive.²² In 2005, concerns were raised about how Local Authorities would meet their obligations under the Housing Act 2004. Over half of all local housing authorities had fewer than five full-time staff members working on private sector housing.²³ Research also shows that Local Authorities find the prosecution of landlords for renting properties in poor conditions to be a long and complex process.²⁴ Also fines can vary greatly, reducing the incentive for authorities to take such action.²⁵

Third, and most importantly, a private tenant considering a complaint against a landlord is at risk of being evicted.

Section 21 of the 1988 Housing Act allows landlords to give tenants just two months' notice in writing and then regain possession of a property at court without needing to prove a ground for possession. In practice, there are limited defences to a possession action under Section 21 once the fixed term has elapsed or after 6 months from the start of the tenancy if the tenancy is periodic. The only "defences" to possession sought under a Section 21 notice, retaliatory or not, are procedural issues such as:

- Technical problems with the validity of the notice;
- Failure to protect the tenancy deposit in a Government approved tenancy deposit scheme;
- Failure to secure a license where the premises is a HMO.

Currently, the freedom that the landlord has to serve a Section 21 notice leaves tenants powerless to enforce their rights to live in a safe, decent home enabling rogue landlords to shirk their statutory and contractual responsibilities to repair and maintain their property. Estimates suggest that as many as 200,000 people have faced eviction in the last year after asking for their landlord to fix a problem in their home.²⁶

In light of the risk of retaliatory eviction, private tenants in many of the situations outlined above would be advised by Citizens Advice that pursuing a landlord for the enforcement of their rights is risky.

Conclusion

In this short note we have looked at how consumer protections compare, on paper and in practice, to the protections afforded to private renters. There are, of course big differences between renting a property and buying or renting a good or service in other markets. And there may be good reasons that approaches in different markets would not easily translate.

Nonetheless, there is growing concern about the treatment of tenants in the private rented sector, a market that has grown rapidly in importance while legislation has struggled to keep up. In this context, it is interesting to learn from the mechanisms that are used to protect consumers other markets. In some cases, this comparison reveals anomalies that are hard to justify. In many senses:

- Consumers have stronger rights to repair when leasing a car than renting a flat. If a car leased under a long-term rental agreement turns out to be in unacceptable condition, there is a right to reject within 30 days; a right to a repair and then refund if a fault develops within six months; and a right to a partial refund if a fault develops within six years. By contrast, while there are statutory obligations on landlord to repair a fundamental fault in a rented property, a landlord can evict a tenant with a Section 21 Notice if they pursue these rights to repair.

- Consumers have far stronger refund rights when paying for a consumer good than when paying for a flat. Faulty consumer electronics are eligible for a full refund. But if a rented house quickly turns out to be dangerously uninhabitable, a tenant is not eligible for a refund even on paper. In theory, a tenant could follow the actions in the Pre-Action Protocol for Housing Disrepair Cases, and then sue their landlord for damages. But any tenant attempting this on a periodic tenancy would be at risk of eviction through a Section 21 notice.
- Taxi drivers are more tightly governed than landlords. Taxi service operators are required by law to hold an operator and vehicle license, requiring both to meet clear standards, including the driver passing a 'fit and proper person' test. In many councils this includes undertaking a criminal record check. The vast majority of landlords face no test (unless the Local Authority has introduced their own selective licensing scheme).

Citizens Advice helps private tenants battling rogue landlords every day. Although private tenants do have some rights akin to those in other consumer goods and services, cost, lack of Local Authority capacity and retaliatory evictions prevent people from making use of their rights. Preventing retaliatory evictions would go some way to ensuring that the legal rights of private tenants are enforceable. While Local Authority capacity is a challenge, the introduction of landlord licensing schemes should also be a priority for local leaders. Finally, there is a case for extending the use of rent repayment orders to cover properties shown to present serious risks to health and safety. Together these steps would help to bring the rights of renters closer into line with the rights consumers have come to expect in other markets.

References

- 1 These rights only apply to inherent faults, and are not relevant to problems which emerge due to fair wear and tear – unless the product developed a fault so quickly as to indicate that it was not ‘satisfactory quality.’
- 2 Similarly to private rented sector housing, repairs to consumer goods must be carried out within an undefined ‘reasonable’ amount of time and this can lead to vast delays.
- 3 The Act states that where a short lease of less than seven years or periodic tenancy is in place then the landlord is responsible.
- 4 Except the common parts of building where the tenant does not have to give notice of disrepair.
- 5 Under the Housing Act 2004
- 6 Under the Gas Safety (Installation and Use) Regulations 1998 and the Regulatory Reform (Fire Safety) Order 2005.
- 7 Department for Communities and Local Government, A Decent Home: Definition and guidance for Implementation, 2006
- 8 Under the Housing Act 2004, most HMOs are subject to mandatory licensing by their Local Authority. These HMOs are three storeys or more, occupied by five or more persons, occupied by persons living in two or more single households. HMO licences are valid for a maximum of five years and landlords can be fined up to £20,000 for renting out an unlicensed HMO. Local councils also have discretion to introduce additional licensing of other types of HMOs which are not subject to mandatory licensing.
- 9 www.food.gov.uk/business-industry/caterers/startingup [Accessed 5 Dec. 2014]
- 10 Food Standards Agency, Food Hygiene: A Guide for Businesses, 2013.
- 11 www.food.gov.uk/about-us/fsacomplaintsprocedure [Accessed 5 Dec. 2014]
- 12 www.food.gov.uk/business-industry/caterers/food-law-inspections [Accessed 5 Dec. 2014]
- 13 www.gov.uk/private-hire-vehicle-operator-licence-outside-london [Accessed 9 Dec. 2014]
- 14 Institute of Licensing, Overview on taxi law, 2009.

- 15 LGiU and Electrical Safety Council, House Proud: how councils can raise standards in the private rented sector, 2013.
- 16 House of Commons Library Standard Note: SN/SP/4634, Selective Licensing of Privately Rented Housing (England & Wales), 2014.
- 17 Real names have not been used.
- 18 DCLG, 2012. English Housing Survey 2010/11, Table 16. As defined by the DCLG, a decent home is one which does not have any category 1 hazards as defined by the HHSRS, is in a reasonable state of repair, and has reasonable and modern facilities and thermal comfort.
- 19 Private tenants do not have a right to simply withhold rent because of a landlord's failure to do repairs. However, in some cases they can do the repairs and recover the cost from future rent. This is risky as you must follow a specific procedure otherwise you put yourself at risk of possession action that could lead to eviction.
- 20 See Citizens Advice Adviceguide page: www.adviceguide.org.uk/england/housing_e/housing_repairs_in_rented_housing_e/housing_disrepairwhat_are_your_options_if_you_are_a_private_rented_tenant_withholding_rent_because_of_disrepair.htm
- 21 The other deterrent is the threat of s.21 possession action available to the landlord.
- 22 LGiU and Electrical Safety Council, House Proud: how councils can raise standards in the private rented sector, 2013.
- 23 Joseph Rowntree Foundation, Implementing new powers for private sector housing renewal, 2005.
- 24 LGA, Prosecuting landlords for poor property conditions, 2013
- 25 LGA, Prosecuting landlords for poor property conditions, 2013
- 26 www.england.shelter.org.uk/news/march_2014/shelter_exposes_true_scale_of_revenge_evictions [Accessed 28 Nov. 2014]

Our aims

- To provide the advice people need for the problems they face.
- To improve the policies and practices that affect people's lives.

Our principles

The Citizens Advice service provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. We value diversity, promote equality and challenge discrimination.



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National Association of Citizens Advice Bureaux.

Registered charity number: 279057

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Produced by: Citizens Advice
Published: January 2015