

A national landlord and property register

How it could work in
practice



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Introduction

In 2019, the Committee on Fuel Poverty recommended ‘that a national mandatory PRS [private rented sector] registration scheme should be set up covering England, and that it should be run centrally but accessed and enforced by Local Authorities locally.’¹ A few months after, the government-commissioned Independent Review of Selective Licensing made a similar call.² Julie Rugg and David Rhodes, at the Centre for Housing Policy, have long called for a national landlord register and a property ‘MOT’³, and others have added their voices in support. Government is now consulting on rogue landlord database reform.⁴

While we are pleased the government is consulting on reforming the rogue landlord database, we don’t believe reforming this will be enough to tackle bad standards. Tenants in the private rented sector must have access to enough information to be able to make informed decisions - as they do in other consumer markets. Only a national landlord and property register will achieve this. It’s also the crucial first step in streamlining processes so there’s better enforcement action to tackle bad behaviour.

This paper draws these proposals together and sets out how a publicly accessible national landlord and property register could work in practice. It forms Citizens Advice’s response to the government’s consultation on the rogue landlord database reform. We don’t see this paper as a definitive model for how a national landlord and property register could work in practice - but would like to see the Ministry for Housing, Communities and Local Government (the Ministry) actively consulting on the issues and solutions that we’ve outlined.

Our proposals are intended for assured shorthold and assured tenancies within the private rented sector. However, legislation could be kept flexible so it can be extended to include other groups - for example, lodgers.

¹ Committee on Fuel Poverty, [Recommendations from the report on Enforcing the Enhancement of Energy Efficiency Regulations in the English Private Rented Sector \(PRS\)](#), 2019

² MHCLG, [An Independent Review of the Use and Effectiveness of Selective Licensing](#), 2019

³ Centre for Housing Policy, [The private rented sector: its contribution and potential](#), 2008, and Centre for Housing Policy, [The Evolving Private Rented Sector: Its Contribution and Potential](#), 2018

⁴ MHCLG, [Rogue landlord database reform](#), 2019

Throughout this paper, we draw upon research and findings from 2 policy reports: 'Getting the house in order: How to improve standards in the private rented sector', published in 2019, and 'Touch and go: how to protect private renters from retaliatory eviction in England', published in 2018.

The remainder of this paper is structured as follows:

- The need for a national landlord and property register
- Options for how it could work in practice, and
- How it will be administered, enforced and financed.

1. The need for a national landlord and property register

Citizens Advice's consumer policy research covers a wide range of regulated and unregulated markets - allowing us to identify the problems people face in particular markets as well as drawing comparisons and lessons about the policies and practices commonly found in a number of markets.

Last year we helped nearly 200,000 people with housing problems - 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 our PRS clients) who were harassed by their landlord, and 2,100 (4% of our PRS clients) with illegal eviction.

Our research found that many landlords in the private rented sector don't know or understand their legal obligations, while renters aren't aware of their rights or don't feel able to enforce them. This is leaving hundreds of thousands of renters living in unsafe and life threatening conditions⁵:

- 3 in 5 tenants (60%) identified disrepair in their home in the last 2 years that was not caused by them and that their landlord was responsible for fixing. 1 in 6 (15%) said the disrepair was a major threat to their health and safety.
- Almost 1 in 3 tenants (32%) said their house did not have a carbon monoxide alarm despite requiring one. This means around 900,000 homes are affected.

⁵ Citizens Advice, [Getting the House in Order: How to improve standards in the private rented sector](#), 2019

- About 5,000 people a year are thought to die as a result of living in a cold home.⁶ This is, in part, because homes in the PRS are usually older and less energy efficient.⁷

This is reflected in the English Housing Survey, which found that 25% of homes in the private rented sector are classed as ‘non-decent’, according to the Decent Homes Standard.⁸

Yet, enforcement isn’t working. Our research finds more than 2 in 5 tenants say fear of eviction prevents them talking to their landlord about repairs, and almost half of people who make a complaint to their local authority or a redress scheme received a Section 21 eviction notice within 6 months.⁹

Even when people do complain, their problems often aren’t resolved.

Research by Generation Rent found that in 2017-18, local authorities received 67,026 complaints. Subsequent inspections identified 12,600 Category 1 hazards in privately rented homes - but authorities served just 3,000 Improvement Notices.¹⁰

Therefore, tenants are facing widespread problems and are often having to resolve these themselves. 3 in 5 tenants experience disrepair, and of these 1 in 5 don’t have the problem completely resolved within a reasonable amount of time. 22% of tenants who experience disrepair have to spend their own time or money fixing the problem.¹¹

Successive governments have made welcome, but piecemeal, changes to the sector. Despite recent legislation, including the Tenant Fees Act 2019, the Homes (Fitness for Human Habitation) Act 2018, and government plans to introduce a housing redress scheme¹² and abolish Section 21 ‘no fault’ evictions¹³

⁶ 21.5% of all excess winter deaths - [Marmot Review Team The Health Impacts of Cold Homes and Fuel Poverty](#) 2011

⁷ POST - Parliamentary Office of Science and Technology, [Health in Private-Rented Housing](#), 2018

⁸ English Housing Survey, [Private rented sector 2017-18](#), 2019

⁹ Citizens Advice, [Scrapping ‘no-fault evictions’ a groundbreaking shake-up of the private rented sector](#), 2018

¹⁰ Citizens Advice, [Getting the House in Order: How to improve standards in the private rented sector](#), 2019

¹¹ Ibid

¹² MHCLG, [James Brokenshire announces overhaul of broken housing complaints system](#), 2019

¹³ MHCLG, [A new deal for renting: resetting the balance of rights and responsibilities between landlords and tenants](#), 2019

, renters still don't receive the same level of protection as they do in other essential consumer markets. For example, 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.

Part of the issue is that consistent standards are not being set at the start of the tenancy - and this is being institutionalised. For example, the way selective licensing schemes operate mean a landlord could pass a fit-and-proper-person test in one local authority, but not another.¹⁴ This is due to the test being applied subjectively by each local authority. This is not providing the best outcomes for tenants and creates a confusing environment for landlords to operate within.

¹⁴ MHCLG, [An Independent Review of the Use and Effectiveness of Selective Licensing](#), paras 10.12-10.19, 2019

2. How would the register operate in practice?

Introducing legislation to make improvements to the private rented sector has been welcome. But in order to restore public trust in the market, both new and existing laws need to be properly enforced. Right now, the private rented sector is failing to deliver good consumer outcomes.

Tenants need to have confidence that the PRS will provide a warm, safe, secure home for them to live in. Landlords need to be aware of their rights and responsibilities, and deterred from wrongdoing. Local Authorities need to have sufficient resources to be able to take appropriate enforcement action when things go wrong.

The following section brings to life how these core foundations of a national landlord and property register could work in practice.

Introducing a national landlord and property register is the crucial first step in laying the foundations for a well-functioning consumer market. An evaluation of the scheme in Scotland has shown improvements in landlord behaviour, an increased awareness in landlord obligations, and better collaborative working internally in local authorities and externally with other bodies, such as the police.¹⁵ For the scheme to be a success in England, it's important to learn from the evaluations of schemes operating in the rest of the UK.

Creating the register

A national landlord and property register could be created relatively easily, and in a number of ways:

- Primary legislation to expand rogue landlord database reforms to include a national register and requiring all private landlords to join,

¹⁵ Scottish Government Social Research, [Evaluation of the Impact and Operation of Landlord Registration in Scotland](#), 2011

- Through forthcoming legislation to require all landlords are members of a redress scheme,
- Through data sharing between Her Majesty's Revenue and Customs (HMRC), benefits data from the Department of Work and Pensions (DWP), local authorities, the regulation of property agents¹⁶, and titles on land registry, or
- Through a combination of all the above to cross-match different agency information.

Local authorities need to know who is operating as a private landlord.

In the evaluation of Rent Smart Wales - of which a national landlord register is part - local authorities reported seeing *'an increased number of landlords registered and/or obtaining a licence in their area.'*¹⁷ In order to make sure tenants are living in safe homes and landlords are fulfilling their responsibilities, it's essential that local authorities know who their private landlords are in the first place.

If local authorities know who the private landlords are operating in their area, it will help to streamline their processes for collating information. For example, it will increase efficiency in collecting strong evidence to build cases against rogue and accidental landlords as they won't spend time trying to identify them.¹⁸ The government's Committee on Fuel Poverty - following engagement with local authorities - also concluded that a national landlord register is the only way for landlords to be systematically identified for gathering energy performance certificate ratings.¹⁹

It would also enable local authorities to take relevant enforcement action. For example, once updated with appropriate information they could carry out

¹⁶ MHCLG, [Regulation of Property Agents: working group report](#), 2019

¹⁷ RSM, Evaluation of Rent Smart Wales - Implementation and Delivery Final Evaluation Report, 2018

¹⁸ MHCLG, [An Independent Review of the Use and Effectiveness of Selective Licensing](#), 2019

¹⁹ Committee on Fuel Poverty, [Recommendations from the report on Enforcing the Enhancement of Energy Efficiency Regulations in the English Private Rented Sector \(PRS\)](#), 2019

enforcement activity more easily - to investigate counter benefit and tax fraud,²⁰ and to refocus their resources on locating unlicensed properties.²¹

Tenants need to know that the property they sign a rental agreement on is safe for them to live in.

Once a national landlord and property register is created, it's crucial that tenants are able to extract relevant information to help them make an informed decision.

At a very basic level, tenants need to know whether their property contains any category 1 hazards - the most serious type of hazard²² - before they move in. This links in with our previous research and recommendations around a housing MOT and setting nationally consistent standards.²³

Soraya's story:

Soraya and her wife 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 contractor 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 to get a new boiler. She said there were many other problems with the property, but she wasn't confident the landlord would fix them.

Once the register is developed, the information given to tenants could be extended further. For example, as the official consumer and small business body

²⁰ Centre for Housing Policy, [The Evolving Private Rented Sector: Its Contribution and Potential](#), 2018

²¹ MHCLG, [An Independent Review of the Use and Effectiveness of Selective Licensing](#), 2019

²² Shelter, [Health and safety standards for rented homes \(HHSRS\)](#), accessed September 2019

²³ Citizens Advice, [Getting the House in Order: How to improve standards in the private rented sector](#), 2019

for energy, Citizens Advice publishes a quarterly star rating on energy suppliers.

²⁴ The star rating includes metrics, such as:

- Complaints data
- Ease of contact
- Transparent bills that are easy to understand
- Ease of switching
- Customer guarantees.

This approach is based on our energy supplier price comparison site that allows customers to choose a provider based on price and quality of service.²⁵ If a person knows this level of detail about their energy supplier, they should have access to a basic level of information in the housing market too. Just like getting into a licenced taxi, driving a car with a valid MOT, or using a solicitor who is regulated by the Solicitors Regulation Authority, renters ought to know whether the property they're going to spend an average of 34% of their annual income on is safe.²⁶

One way of delivering this is by creating an interactive portal for tenants and other agencies to cross-reference.

We recognise the fact that some hazards could be assessed without having to view the property. For example, with a car MOT a driver will carry around a logbook. A similar set up could be created in the private rented sector, whereby a landlord submits e-documents/certificates to the landlord and property register to prove they have fulfilled certain obligations. Similar to submitting an annual tax return or annual accounts to Companies House. Some of these documents might include:

- Annual gas safety certificate
- Confirmation of deposit protection
- 5 yearly electrical safety certificate²⁷
- Energy Performance Certificate, and
- Confirming there are appropriate fire/smoke and carbon monoxide alarms fitted in the property.

²⁴ Citizens Advice, [Compare domestic energy suppliers' customer service](#)

²⁵ Citizens Advice, [Compare gas and electricity prices](#)

²⁶ Citizens Advice, [Getting the house in order](#), 2019

²⁷ Once MHCLG have introduced the regulations.

Demonstrating compliance to these obligations through the portal could also be helpful for landlords to prove they've carried out their legal obligations. For example, in possession cases.

However, there might be some category 1 hazards - such as damp and mould, sanitary, and structural issues - that might need investigation or assessment from an Environmental Health Officer. There are a few options for how to tackle this and streamline existing processes:

- The landlord could certify on a yearly basis that they have assessed the property themselves, the property is in good condition and installations and appliances are in good working order,
- A tenant could flag on the landlord and property register that they have concerns around those particular property standards for either the landlord or local authority to investigate, or
- A local authority could use existing knowledge and national data to map out/identify properties in their area that might be at risk, and channel resources into investigating those properties.

There might not be a need for all category 1 hazards to be assessed on a yearly basis - such a structural issues or damp and mould. The Ministry should consult on and asses this further. We discuss streamlining processes in more detail later in this paper.

They also need to know their landlord is fit to carry out their duties

For this market to be professionalised and brought in line with other consumer markets, tenants need to be able to make informed decisions. Beyond the need to make sure the property is in safe and working order, a tenant also needs to make sure that the landlord providing the service to them is able to do so effectively.

Linked to the national landlord and property register, tenants need to be able to see if their potential landlord has received a banning order or if they've had a court order made against them following an unlawful eviction and/or harassment against a previous tenant. If the landlord has received a banning order then they shouldn't be letting out the property and the tenant should be

made aware. It might also be appropriate for a tenant to see if their prospective landlord has received a civil penalty or if there is an outstanding improvement notice, hazard awareness notice, or emergency remedial action applied. Tenants will then be able to decide if they want to proceed with the tenancy, or will at least know what to keep an eye-out for and to make sure any outstanding issues do get resolved.

A register could also be an opportunity to standardise fit and proper person tests. Fit and proper person tests are already a feature of selective licensing schemes²⁸. However, as these schemes are conducted through local authorities and are applied subjectively, it's possible for a landlord to pass this test in 1 area and not in another. For this scheme to work effectively, landlords need to be held accountable to the same consistent standards - wherever they operate.

Standardised training could have a part to play here. For example, as part of Rent Smart Wales, landlords have to do some basic training about their rights and responsibilities as a landlord to get a licence, comply with licence conditions and also abide by a Code of Practice²⁹ - all of these could be replicated in England. Training could be conducted as part of the online portal.

Given there are an estimated 2.7 million landlords operating in England³⁰ it's essential that there are no cases of mistaken identity. Therefore, at the time of collating the register, the central body responsible should collect information regarding the landlord's name and the land registry title. These details should be provided to prospective tenants ahead of signing a tenancy agreement to enable them to check the register and make an informed decision. They should also be provided to the tenant clearly in writing in their tenancy agreement for them to refer back to. It should be a requirement that this is updated when a landlord buys or sells a property.

This would also link in with government's plans³¹ to introduce legislation making it mandatory for landlords to be members of a redress scheme. If tenants know who their landlord is - and their contact details - it makes it easier to introduce

²⁸ MHCLG, [An Independent Review of the Use and Effectiveness of Selective Licensing](#), 2019

²⁹ Welsh government, [Code of practice](#), 2015

³⁰ Treasury written question - Landlords: taxation - [answered on 25th February 2019](#) by Rt Hon Mel Stride MP, Financial Secretary to the Treasury and Paymaster General

³¹ MHCLG, [James Brokenshire announces overhaul of broken housing complaints system](#), 2019

written complaints processes, which can be used as evidence when seeking redress.³²

³² Citizens Advice, [Redressing the Balance](#), 2018

3. Who should administer and enforce the register?

For all this to work, renters and landlords need to know the register will be properly administered and that landlords' obligations will be enforced. That's why we've previously called for a national housing body to be established to set consistent standards, providing more protection for tenants and making it easier for landlords to do their jobs.

The register could sit under this national body.

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, by developing a simplified code of practice, standardise 'fit and proper person' tests, and nationally consistent training. The body could regularly communicate with landlords on new and upcoming regulation, and provide landlords with standardised tenancy agreements that make clear the landlord and title on land registry. 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 if they have questions, or need 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.

More information on how this could operate can be found in our report ['Getting the House in Order: How to improve standards in the private rented sector'](#).

Another way to enforce new rules is to make sure there are adequate deterrents. Introducing significant fines (staggered by the number of properties owned) would be a simple way of cracking down on non-compliance.

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.

We don't envisage enforcement action to be either civil penalties or banning orders. There are a range of sensible tools in the middle that might be appropriate. For example, if - through the portal held by the national body - it becomes apparent that a landlord has not updated the gas safety certificate for a property, a notification could be sent to a local authority. If a landlord has lapsed on gas safety, it's likely to be an indicator that they're failing on other obligations too. Local authorities could then target their resources at supporting accidental or amateur landlords to understand what their obligations are and to redress the issue informally. A national body overseeing the portal could help them to do this.

There is widespread support for a simplified landscape.

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 polling³³ 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 1 place for information about their roles and responsibilities, and
- 75% agree having a single national body responsible for standards would make their job easier.

A national landlord and property register would also make it easier for local authorities to carry out their homelessness prevention work if they know where all the landlords are in their area.

Any legislation introduced will need to be watertight. For example, Rent Smart Wales includes the term 'agents' which applies to anyone collecting the rent -

³³ Citizens Advice, [Getting the House in Order: How to improve standards in the private rented sector](#), 2019

including the spouse of a landlord.³⁴ Therefore, any contact with the tenant is in some way regulated. The Ministry should consider replicating this approach.

³⁴ Housing (Wales) Act 2014, Schedule 1, Part 1, Paragraph 2

4. Financing the register

Government has already announced its intention to legislate and make sure all private landlords are a member of a redress scheme³⁵, and 44 local authorities report operating selective licensing schemes across England³⁶. It's essential that any new landlord and property register introduced does not duplicate processes and overcharge landlords.

While there may be initial set-up costs that could be recovered through the scheme - such as the administration, IT systems and oversight of the national landlord and property register - there are several options for how a register could be financed:

- Government could inject funding to set up the scheme and landlords could be charged a slightly reduced amount to reflect this,
- Landlords pay a small fee (between £33-£80)³⁷ mapping how the different schemes operate in Wales, Scotland or Northern Ireland - for instance, depending on the number of properties and how they apply,³⁸
- A 'polluter pays' principle, whereby landlords who fail to sign up to the scheme are fined and this money goes towards the running of the scheme,
- A combination of all of these measures.

³⁵ MHCLG, [James Brokenshire announces overhaul of broken housing complaints system](#), 2019

³⁶ MHCLG, [An Independent Review of the Use and Effectiveness of Selective Licensing](#), 2019

³⁷ For similar schemes in Scotland, Wales and Northern Ireland the registration/licence lasts for 3-5 years for the cost.

³⁸ Shelter Scotland, [landlord registration](#), accessed 2019; Rent Smart Wales, [FAQs](#), accessed 2019; NI direct, [Register as a landlord or renew your landlord registration](#), accessed 2019

Appendix

Figure 1 - enforcement actions

Action	Consequence
Banning order ³⁹	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 add landlords who've received a banning order to the rogue landlord database. ⁴⁰ 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.
Improvement notice ⁴¹	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.
Hazard awareness notice ⁴²	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

³⁹ 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.

⁴⁰http://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

⁴¹ Can be served where a Category 1 or 2 Hazard is present, s.11 and s.12 Housing Act 2004

⁴² Can be served where a Category 1 or 2 hazard is present, s.28 and s.29 Housing Act 2004

	it will lead to further enforcement.
Notice of emergency remedial action ⁴³	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.

⁴³ Can be served where a Category 1 Hazard is present, s.40 and s.41 Housing Act 2004.

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