

## PRIVATE RENTING SECTOR

### A CASE FOR REGULATION

#### Who lives in the PRS?

There are an estimated 4.5 million households living in the private rented sector (PRS) in the UK, that's around 8 million people, with more children in the PRS than in social housing, and an increasing number of pensioners.

Private renting has grown steadily from 14% in 2008-09 to nearly 20% in 2017-18 at the expense of social renting and home-ownership.

Around a quarter of all PRS households are on a low income, with 889,000 claiming housing benefit.

#### What are the problems with the PRS?

The main problems facing private tenants are poor living conditions linked to unprofessional management, lack of effective regulation, limited rights and unaffordable rents.

#### Poor quality housing

While 1 in 8 (13%) social rented homes and 1 in 5 (19%) owner-occupied homes failed to meet the Decent Homes Standard, one quarter (25%) of private rented homes failed this test.

#### Unaffordable rent rises

The amount of housing benefit or universal credit a tenant can get if they rent from a private landlord is based on the Local Housing Allowance (LHA) which was originally set to ensure the recipient could afford the cheapest third of properties in their area. Changes to LHA calculation – including a four-year freeze from 2016 – have meant that the rates have not kept up with the cost of rents in most areas.

As a result, the Chartered Institute of Housing reported in 2018 that LHA rates are now so far out of line with local rents that private renting has

become unaffordable for most low income tenants and that this substantially increases their risk of homelessness.

#### Tenants on benefits excluded

Recent campaigns, involving groups such as Generation Rent, ACORN, London Renters Union and Living Rent Scotland have highlighted the extent to which tenants on benefits have been unable to access the private rented sector.

The Work and Pensions Committee is now conducting an enquiry entitled *No DSS: discrimination against benefit claimants in the housing sector*.

#### Main cause of homelessness

*Homelessness Monitor 2019* reports that homelessness rose by 44% from 39,000 to 56,000 between 2009 and 2017. The main cause of this is the ending of Assured Shorthold Tenancies i.e. eviction from the private rented sector.

#### Limited tenants' rights

Tenants' ability to address these problems is severely hampered by the fact that the vast majority of homes are let on *Assured Shorthold Tenancies* which means that tenants rarely have security of tenure for more than six months or a year.

Few tenants know that they have a legal right to expect better living conditions or to challenge rent increases and are often reluctant to exercise those rights because they run the real risk of losing their home altogether if they complain.

## Lack of effective regulation and 'no-fault' evictions

Although there are many individual laws governing the PRS, there is no overarching regulation of the sector, which leaves cash-strapped local authorities struggling to inspect and enforce standards.

The key feature of shorthold tenancies is the right of landlords to evict tenants using the s.21 "no fault" procedure which simply requires them to serve two months' notice.

If tenants remain after that time, landlords can use the *Accelerated Possession Procedure*, which enables the courts to issue Possession Orders without a court hearing.

Whether or not landlords use this process, their ability to do so hangs like the sword of Damocles over the tenancy, creating an extreme imbalance in the landlord/tenant relationship in favour of the landlord.

Because secure social housing tenancies are in short supply and house prices in most parts of the country are beyond the reach of would-be first time buyers, millions of people are therefore destined to spend most, if not all their lives renting privately.

### The PRS must be made fit for purpose.

- Tenants need a stable environment to bring up families, grow old, and to relate to their accommodation as their home, not just a temporary place to stay.
- Tenants need to feel able to put down roots in their communities, including registering to vote. (There is a close correlation between wards with the largest number of private renters and low levels of voter-registration.)
- Tenants need to be able to understand and assert their tenancy rights.

Labour MP Karen Buck's private members' bill, now the Homes (Fitness for Human Habitation) Act 2018, came into force for new/replacement tenancies on 20 March 2019, and applies to all tenancies from 20 March 2020. This gives landlords a duty to ensure that the homes they let are free from any defects which could seriously impact on tenants' health and safety.

- Tenants must be able to challenge breaches in this duty without having to worry that they could be evicted as a result.

In 2018, the Government launched a consultation on longer-term tenancies, assuming this to mean fixed term contracts of between 3 and 5 years. Evidence of the need for full security of tenure submitted during the consultation led the Government to commit to ending s.21 evictions by abolishing shorthold tenancies.

However, the subsequent changes in the Prime Minister and the Cabinet throw doubt over whether this commitment will be implemented.

### What are Labour's policies?

Labour's New Deal on Housing Mini Manifesto 2017 promises a consumer rights revolution for renters to make all rented houses fit to be called home.

Labour will:

- Raise standards by introducing new legal minimum requirements that ensure homes are free from serious faults. It will also expect renters to treat their properties with respect.
- Empower councils to license landlords and meet their obligations to support vulnerable tenants.
- Identify rogue landlords and introduce fines of up to £100,000 for those who fail to meet new minimum standards.
- Fund tenants everywhere to defend their rights by organising through new renters' unions.

Three year tenancies will be made the norm and rents will not be allowed to rise by more than inflation. Tenants will not be charged letting agent fees and councils will be encouraged to set up local letting agencies.

Labour has also given a clear commitment to ending s.21 evictions. (This can be achieved by repealing all references to assured shorthold tenancies in the Housing Act 1988, which leaves assured tenancies as the default tenancy.) This would mean that all tenancies would be permanent unless there is a breach of tenancy or

other critical reason for the tenancy to end. (Once tenants have security of tenure, there will need to be a widespread campaign of awareness-raising about tenants' rights, including the right to challenge the rent.)

## Rent reviews

Current legislation governing shorthold tenancies in England and Wales allows landlords to include a 'rent review' clause in the tenancy agreement. This might, for example, refer to an annual rent increase in line with the Retail Price Index or a straight percentage increase each year.

If there is no such clause in the agreement, landlords can seek to negotiate a rent increase informally with tenants. However, if no agreement can be reached, landlords can only lawfully increase the rent by serving a Notice proposing a rent increase from a date not less than four weeks after the notice is served.

Provided this is issued in the correct form, tenants have the option of either taking no action, and paying the new rent when it becomes due, or referring the Notice to the First Tier Property Tribunal, who have the power to determine a reasonable market rent for the property.

In practice, this procedure is not understood by most landlords or tenants and is rarely used. Landlords simply demand more rent and tenants pay it.

(Given the current size of the PRS, if the current law became widely understood and used, the tribunal service would be unable to cope, and it would be extremely costly.)

Alternative means of controlling rents need to be considered.

## What else needs to change?

In summary, the key changes that are needed to transform private renting are,

- 1) A national regulatory scheme requiring all landlords to register their lettings, providing evidence of fitness for human habitation along with gas safety certification, Energy Performance Certificates, and other relevant data including the landlord's or agent's

competence to manage the property and the tenancy.

- 2) A national, regularly updated Rent Database (which might be part of the national regulatory scheme)
- 3) The abolition of shorthold tenancies so that, with limited exceptions such as lodgers, all tenants have full security of tenure
- 4) A national system of ensuring that tenants are made aware of their tenancy rights and where they can seek help to implement these
- 5) A system of rent controls to govern rent increases, with regionally set and reviewed Desired Rent Levels.

## What does Labour Housing Group say?

LHG policies as agreed at its AGM 2019 are as follows:

- a) Open-ended tenancies, and abolition of Section 21 evictions
- b) Landlord to give at least 3 months' notice if they want to move in, with relocation costs paid by the landlord
- c) A ban on Section 8 evictions for no fault for at least the first year of a new tenancy, or where there are sitting tenants
- d) Annual in-tenancy rent rises to be limited to wage inflation or CPI
- e) LHG also calls for all landlords to be required to be individually trained and accredited before they are allowed to let properties as part of the national registration scheme.

### Sources

- [English Housing Survey 2008-09](#)
- [English Housing Survey 2017-18](#)
- [Labour's New Deal on Housing Mini Manifesto 2017](#)
- [No DSS: discrimination against benefit claimants in the housing sector.](#)
- [Homelessness Monitor 2019](#)
- [The Chartered Institute of Housing's report Missing the target: Is targeted affordability funding doing its job? August 2018](#)

## A London initiative

In July 2019, the Mayor of London announced a call for powers to introduce rent controls in London. Since 2010, rents in London have risen three times as fast as average earnings, with around a quarter of London renters paying more than 50% of their income in rent.

The main features of the model proposed for London are:

- 1) a Landlords and Rent database to record all landlords, their properties and associated rents;
- 2) property-linked rent controls and a Desired Rent Level, to which all rents would be reduced over time;
- 3) a private rents index and
- 4) an independent PRS body to design and administer a rent control system.

Given the escalation of property prices as well as rents, the key challenge is finding a system that reduces rents, without the knock on effect of reducing house prices penalising those pushed into negative equity.

## WHAT IS THE LABOUR HOUSING GROUP?

**The Labour Housing Group is a lobbying group that is affiliated to the Labour Party and dedicated to the development of a socialist housing policy.**

**You can contact us at**

**<http://labourhousing.org/#main-contact-form>**

**You can join us at**

**<http://labourhousing.org/account/join>**

**Read more at Red Brick**

**<https://redbrickblog.wordpress.com/>**

## What happens elsewhere?

There may be lessons to learn from elsewhere. In parts of New York, for example, *a system of rent stabilisation sets the maximum for rent increases*, with a Rent Guidelines Board meeting annually to decide the maximum a landlord can charge.

Scotland introduced the power for local authorities to designate Rent Pressure Zones (RPZs) where rent increases would be limited to CPI+1%; *but no RPZs have been created as there is not enough data on rents available to justify such zones*.

In Scotland, there is a similar system to England and Wales that enables tenants to refer rent increases that are deemed unreasonable to the Rent Service. The security of tenure provided by Scotland's Private Residential Tenancies gives tenants the confidence to apply, but in practice, *the lack of rental data means that decisions taken are opaque*.

For this reason, a Members Bill is in process, a key element of which is a cap on all rent increases of CPI+1%.

The bill also proposes a system of rent data collection, which would be relatively straightforward as Scotland already has a mandatory register for all landlords, so rents could be added to the information required to be held on the register.

In Northern Ireland, there is a system of rent controls for properties that do not meet the fitness standard. Such a system in England might result in a rush of tenants applying to court under the Homes (Fitness for Human Habitation) Act for a decision on unfitness, to trigger the rent control, though if the tenant's home is unfit, we would argue that the tenant should not be living there at all.

Germany has a clear legal framework set out in the Civil Code, as well as high levels of awareness of this framework among landlords and tenants, and easy access to advice and information. There is also a standard tenancy agreement written in plain language.