

The Private Rented Sector
Commission



INDEPENDENT REVIEW OF THE UK'S PRIVATE RENTED HOUSING SECTOR

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FOREWORD

- 1 Britain's housing sector is broken. For many people, the opportunity to live in a secure, affordable, accessible¹ and good home is out of reach.
- 2 That is set to remain the situation for generations to come unless the system is changed significantly. And that is something Labour has determined to do.
- 3 Fixing the supply of genuinely affordable homes to buy or rent is an essential step to fixing every part of the housing sector. Between 2010 and 2020, the UK experienced the lowest amounts of new homes built since the end of the Second World War.²
- 4 These supply side problems are a consequence of failures of government policy. In 2010 The Conservative-Liberal Democrat Coalition government³ introduced dramatic cuts in capital funds available for affordable housebuilding. Those cuts continue to this day. By 2011, the Coalition's planning reforms had, according to the Daily Telegraph, led to "claims that ministers are "stacking the deck" in favour of developers".⁴
- 5 These actions have contributed to the UK having among the lowest rates of home ownership (65%)⁵ in Europe.⁶ They have meant that the absolute numbers of social housing have fallen so that now in England there are 1.4 million fewer households living in social housing than in 1980.⁷ The cuts have also led to the private rented sector (PRS) more than doubling in size over that same period and overtaking social housing to become Britain's second largest form of housing tenure.
- 6 Labour's plans to restore housebuilding targets and to reform the planning system and the compulsory purchase compensation code⁸ are vital if we are to reshuffle the deck so that more people in Britain can afford a secure home of their own to buy or rent.
- 7 Government policy has long viewed the PRS as best placed to meet short-term housing needs rapidly; such as the need of young, mobile workers to find accommodation quickly and the need of local

¹ <https://www.disabilityrightsuk.org/news/disability-groups-call-more-accessible-housing-private-renters>

² https://cps.org.uk/wp-content/uploads/2023/01/CPS_THE_CASE_FOR_HOUSEBUILDING2.pdf Page 10

³ <https://www.ft.com/content/882ec61e-c275-11e4-bd9f-00144feab7de>

⁴ <https://www.telegraph.co.uk/news/earth/hands-off-our-land/8754027/Conservatives-given-millions-by-property-developers.html>

⁵ <https://commonslibrary.parliament.uk/research-briefings/sn03668/>

⁶ https://twitter.com/giulio_mattioli/status/165349470122252561

⁷ https://england.shelter.org.uk/support_us/campaigns/social_housing_deficit

⁸ <https://www.ft.com/content/87d76063-66a8-4803-b134-45988a5218bd>

authorities to find temporary housing for homeless people. It was never envisaged as the long-term housing solution for a large proportion of the British population. But that is what it has become.

- 8 Using funding and policy support to increase the supply of genuinely affordable homes is essential. A Labour government must decrease the country's dependence on the PRS, particularly for providing homes for renters on lower incomes.
- 9 Currently, eleven million people live in just under 5 million privately rented dwellings in England.⁹ Last October, 2.74 million landlords declared income from renting a property.¹⁰
- 10 While much of the PRS is good, a staggering 21%¹¹ of it is estimated to be below a decent standard for a home. And while many landlords are excellent, far too many are not. The lower end of the sector is blighted with high costs, high rates of eviction, low standards and criminal landlords and agents.
- 11 PRS is the most expensive of all forms of housing tenure and rents are increasing. In 2023 the Centre for Policy Studies noted: "Since 2010, the cost of renting has gone up by 44.5% according to the Halifax. During this period, wages have risen by 30.4% and inflation has risen by 24%. This is hardly a sign of a functioning market.¹²" There is significant regional variation in PRS rents.
- 12 As well as high rents, PRS renters also face a constant threat of being evicted. Ministry of Justice data¹³ demonstrates that in the second quarter of 2023, there was an astounding 41% rise over the previous year with 2,228 households in England removed from their homes due to no-fault evictions. That is the highest level in six years.
- 13 The PRS is also where Britain's poorest people live – and they do so in ever increasing numbers. In 2019, the National Housing Federation¹⁴ estimated 1.3 million children were living in poverty in privately rented homes in England, which was a 69% increase since 2008. It identified how "high housing costs both cause and worsen poverty". Some 100,000 homeless households¹⁵ currently live in

⁹<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/articles/changesinprivaterentalsectorbehaviourengland/february2022tofebruary2023#:~:text=There%20were%20just%20under%205,our%20Census%202021%2C%20Tenure%20dataset.>

¹⁰ <https://www.gov.uk/government/statistics/property-rental-income-statistics-2022/property-rental-income-statistics-2022>

¹¹ <https://publications.parliament.uk/pa/cm5803/cmselect/cmcomloc/624/report.html>

¹² https://cps.org.uk/wp-content/uploads/2023/01/CPS_THE_CASE_FOR_HOUSEBUILDING2.pdf

¹³ <https://www.gov.uk/government/statistics/mortgage-and-landlord-possession-statistics-october-to-december-2022/mortgage-and-landlord-possession-statistics-october-to-december-2022>

¹⁴ <https://www.housing.org.uk/globalassets/files/resource-files/poverty-and-housing-in-the-private-rented-sector---published-31-january-2019.pdf>

¹⁵ <https://commonslibrary.parliament.uk/research-briefings/sn02110/>

insecure, 'temporary accommodation'¹⁶ – much of it sourced from the private rented sector."¹⁷

- 14 Private renters relying on benefits to fund their rent suffer a lack of choice about their housing options and they are often housed in particularly poor conditions.
- 15 The English Private Landlord Survey¹⁸ provides an important insight into the makeup of landlords in the sector.
- 16 Ninety-four per cent of PRS landlords are individual landlords, not companies. Eight-three per cent have fewer than five properties. And while 37.8% regard themselves as 'residential landlords', 'engaged in a full or part time business', the largest group (59%) regard their ownership of a rental property as 'a long-term investment to contribute to their pension'.
- 17 Most PRS landlords (71%) report they are not and never have been members of any of the professional organisations associated with the sector.
- 18 All this led the Affordable Housing Commission to conclude¹⁹ that the PRS is in large part made up of "amateur landlords".
- 19 Even the current government recognises that this situation must be improved. Its Renters (Reform) Bill²⁰ is right to abolish Section 21 of the Housing Act 1988²¹ though, disgracefully, the Conservative right is doing its best to retain no-fault evictions – providing another insight into the government's weakness with its own MPs.
- 20 The Government has therefore announced that it "will align the abolition of section 21 and new possession grounds with court improvements, including end-to-end digitisation of the process", which is a diplomatic means of retreating from its original commitment.²² The government's bill contains significant loopholes and does not offer a properly balanced suite of reforms.
- 21 Many people have shared their personal stories with us and other researchers. Their stories offer an insight into the choices people have to face and the lives people live because of the failures of the

¹⁶ <https://blog.shelter.org.uk/2022/12/not-so-temporary-accommodation>

¹⁷ <https://www.smith-institute.org.uk/wp-content/uploads/2022/10/Temporary-accommodation-at-crisis-point.pdf>

¹⁸ <https://www.gov.uk/government/statistics/english-private-landlord-survey-2021-main-report/english-private-landlord-survey-2021-main-report--2>

¹⁹ <https://static1.squarespace.com/static/5b9675fc1137a618f278542d/t/5e784f7e087a892473a3ff8a/1584942982786/Making+Housing+Affordable+Again+-+Full+report.pdf>

²⁰ <https://researchbriefings.files.parliament.uk/documents/CBP-8756/CBP-8756.pdf>

²¹ <https://www.legislation.gov.uk/ukpga/1988/50/contents>

²² <https://publications.parliament.uk/pa/cm5803/cmselect/cmcomloc/1935/report.html#heading-1>

PRS and the wider housing sector. There is no doubt that across Britain the economic, social, public health and personal consequences of these many failures are considerable.

- 22 Fixing the dysfunctional housing sector and its causes is a clear priority for Labour's government-in-waiting. This report proposes some practical means of applying a framework that would raise standards and improve security for renters across the Private Rented Sector.

Stephen Cowan
May 2024

EXECUTIVE SUMMARY OF RECOMMENDATIONS

- 1 This is an independent report. The conclusions reached in it are solely ours and in no way reflect the views of the people we interviewed, the Labour Party, the Shadow Cabinet or any other individuals or organisation.
- 2 There are two distinct groups of renters who make up the mainstream Private Rented Sector (PRS). There are renters on low incomes who rely on housing support to pay their rent and there are renters who pay for their accommodation themselves.
- 3 Sadly, the PRS is now the default tenure for lower-income households. The PRS is also the sector local authorities rely on to house statutorily homeless families. This report does not seek to offer a comprehensive suite of economic solutions. Instead our Terms of Reference (page 104) focused our work on recommending a framework that could improve renters' rights and raise standards across the sector. The recommendations in this report therefore rest on five points.
- 4 **First**, we recognise that the crisis in the Private Rented Sector (PRS) can only be solved by a holistic approach to fixing all parts of the housing market. Labour will inherit a broken housing market so that will be challenging. It will require significant reform to planning and land development policies to increase the supply of genuinely affordable homes to rent and to buy. That is why Labour's proposed reforms of the planning and compulsory purchase compensation codes are essential. Measures must be taken that urgently increase the supply of social housing so low-income and homeless households do not have to rely on the PRS. Social housing should return to being the second largest sector in the housing market, with home ownership being the first.
- 5 **Second**, a comprehensive, annually updated National Landlords Register (NLR) is the essential mechanism for managing and enforcing standards in the PRS. The NLR should legally require landlords to register themselves, provide details of their properties and rents, and demonstrate compliance with an annually updated PRS Decent Homes Standard. The NLR should also oblige landlords to submit independent evidence of property and management compliance (gas safe certificates, electrical tests, etc.) and include a responsibility to undertake and submit a surveyor's report regularly.

- 6 **Third**, tenants must have security. No fault evictions must go, including the back door no fault evictions introduced by the Conservatives' Renters (Reform) Bill.
- 7 **Fourth**, 'first generation' rent controls freezing or cutting rents will have a detrimental effect on the Private Rented Sector (PRS). But 'third generation' rent stabilization measures are essential and should be used to limit increases within tenancies to the lower of local wage growth and CPI.
- 8 **Fifth**, measures to stop PRS landlords moving to other sectors such as the short term and holiday let sector or the more profitable nightly-paid temporary accommodation and supported housing sector²³ must be introduced to preserve the stock of homes available for long term let.
- 9 A comprehensive explanation of our reasoning is set out in the Full Report. Here is a summary of those findings.
- 10 **The National Landlords Register**
The Renters (Reform) Bill proposes the introduction of a "Private Rented Sector Database".²⁴ We propose a more comprehensive, annually updated digital National Landlords Register which will provide a reliable source of information about the PRS and enable government to manage and enforce standards in the sector efficiently.
- 11 Landlords should be legally responsible for submitting truthful information about themselves, their agents and their properties. That must include data on rents and independently verified evidence of compliance with property and management standards and the new annually updated Decent Homes Standard.
- 12 Each registration and annual update on the NLR should require an annual fee payable by the landlord.
- 13 No rent shall be recoverable in respect of periods when the landlord is not registered nor can landlords bring possession proceedings if they are not registered. Tenants may recover rent paid when the landlord was unregistered by deducting it from current rent and/or obtaining a rent repayment order from the appropriate court or tribunal.²⁵

²³ <https://www.thinkhouse.org.uk/site/assets/files/2779/jrf0223.pdf>

²⁴ <https://publications.parliament.uk/pa/bills/cbill/58-04/0015/230015.pdf>

²⁵ There is precedent for this in section 48 of the Landlord and Tenant Act 1987, though our recommendation goes further. The right to rent should not merely be suspended while the landlord is unregistered but lost altogether. Compare also rent deductions and repayment orders under section 57 of the Rent Act 1977.

- 14 Additionally there should be a fine for a failure to register within a reasonable period of time.
- 15 Failure to register outside a reasonable period of time should be a criminal offence. That will give the police extra powers to tackle rogue/criminal landlords. As this insightful report explains²⁶, many such landlords occupy the lower end of the rental market. Some simply take advantage of renters who have little choice but to put up with poor, unlawful conditions. Other landlords are involved in more widespread organised crime.
- 16 Compliance inspections should be carried out on NLR registered landlords from time-to-time by an inspecting body.
- 17 There are workable precedents for sole traders, companies and organisations having to submit truthful information to government. Notably: HMRC's model²⁷ for self-submission of VAT returns supported by compliance inspections.
- 18 The NLR should include a similar registration requirement for Lettings and Managing Agents. There must be higher standards of practice across these sectors. Agents must register annually and provide details about themselves and their businesses.
- 19 Annual registration fees and fines should fund the NLR and inspecting bodies.
- 20 **Security of tenure**
 - (1) All privately rented homes should be open-ended periodic tenancies that can only be ended on defined grounds, most of them involving default by the tenant.
 - (2) Wishing to sell the property should not be a ground for ending a tenancy.
 - (3) Wishing to occupy the property should not be a ground for ending a tenancy apart from cases falling within the current Ground 1 in Part 1 of Schedule 2 of the Housing Act 1988²⁸; that is, cases where the landlord used to live in the property as their only or principal home and wants to move back.²⁹
 - (4) While lowering the notice period for the ground of antisocial behaviour is reasonable, this ground should be discretionary to avoid the risk of injustice to Disabled people and victims of

²⁶ <https://www.thinkhouse.org.uk/site/assets/files/2210/ch0920.pdf> page 7

²⁷ <https://www.gov.uk/vat-visits-inspections>

²⁸ <https://www.legislation.gov.uk/ukpga/1988/50/schedule/2>

²⁹ The judge should have discretion to require payment of the tenant's removal costs and/or allowance of a rent free period if the landlord failed to give notice and asks the court to dispense with the requirement of notice. We recommend adding to Ground 1 these words: "Provided that the court may impose fair and reasonable terms as a condition for dispensing with the requirement of notice, such as the payment of the tenant's reasonable removal costs and/or the allowance of a rent free period."

domestic violence. Furthermore, we agree with Generation Rent that the threshold for an eviction should remain “likely to cause” rather than “capable of causing” nuisance.³⁰

- (5) Tenancy agreements should take the form set out in the Renting Homes (Wales) Act 2016.
- (6) The workable minimum is six months. There should be no maximum.

21 Society and tenants benefit when the tenant has a secure home and the ability to assert their rights without fear of a revenge eviction. These measures will increase tenants’ security.

22 **Rent stabilization**

The first generation of rent controls seek to impose a control on existing rent levels. They are typically called “hard rent controls” or “rent freezes”. The second generation seeks to govern rent increases both within and between tenancies. They are a development of first-generation measures and seek to allow landlords to account for some cost increases in the management of the property. The third generation refers to measures that restrict the increase of rent within tenancies but not between them. This form of measure implies that rents set at the start of the tenancy are at ‘market’ rates, with subsequent increases governed by the set-out regulations.

23 The overwhelming consensus among economists is that first generation controls, especially rent freezes and cuts, do not work and are harmful. Labour’s Front Bench has already stated that these will not be measures that a new Labour government will seek to adopt. That is a good decision.

24 Similarly, the weight of the evidence is that second generation controls, i.e. between as well as within tenancies, do not work.

25 The following rent stabilization model within tenancies is therefore recommended:

- (1) Annual increases only.
- (2) Four months’ notice of increase.
- (3) No rent review clauses.
- (4) Increases limited to local wage growth or CPI, whichever is the lower.
- (5) There should be one system for England and Wales.

³⁰ We see the force of Generation Rent’s argument that the government’s proposed reduction to two weeks is too short a timeframe to remove someone from their home who has not committed a crime. However conduct which falls short of crime can cause neighbours very great distress. Antisocial behaviour varies infinitely, which is why we prefer to give the Court discretion whether to make a possession order.

- 26 The rent stabilization model recommended above may increase short-term pressures on the supply of PRS lets. However other fiscal and economic factors have also played a role so many were most likely going to leave anyway. Many small landlords are highly leveraged and have been exposed to higher mortgage rates since 2022.
- 27 A way forward is to encourage and incentivise institutional investors and the emerging Build to Rent (BtR) sector to increase the supply of long-term lets through new development, replacing lost Buy to Let stock and contributing to the country's overall housing supply. This will not be straightforward for the reasons explained in Chapter 8 of the Full Report.
- 28 The Labour government should discourage PRS landlords from entering the short-term and holiday let market or the more profitable nightly-paid temporary accommodation and supported housing sector³¹. This should be by regulation and equalising the tax treatment for all forms of private letting.³²
- 29 It is important to stabilize rents and provide certainty for all parties so we have focused on having a system that does that with consistency.
- 30 However, the Commission recognises that certain special circumstances may give rise for a need to freeze or cut PRS rents. This should only be considered as an emergency measure³³ and that power should only rest with the Secretary of State. The powers contained within Section 31 of the Landlord and Tenant Act 1985 would be helpful in these circumstances.
- 31 **Annually updated PRS Decent Homes Standard**
 Demonstrating compliance with an annually updated Decent Homes Standard should be a requirement of the information PRS landlords must register each year on the NLR. The PRS Decent Homes Standard should include:
- A guarantee that the landlord or managing agent has undertaken the most recent training course and passed a test

³¹ <https://www.thinkhouse.org.uk/site/assets/files/2779/jrf0223.pdf>

³² Equalisation is essential, but ideally we would go beyond this so that we are actively disincentivising conversions of properties from long-term let to short-term let and holiday let. This should stem the current loss of stock from the long-term PRS, and also slow down any acceleration of that trend resulting from further regulation. One way to do this is a tourist tax applied to short lets and holiday lets. Scotland has introduced legislation in this area and Wales is preparing to do the same: <https://commonslibrary.parliament.uk/tourist-taxes-in-the-uk>

³³ An emergency freeze or cut may compromise the growth of an investor-backed ethical PRS, as investors typically rely on inflation-linked annual rent rises capped at 5% to obtain their target return. An emergency rent freeze is workable and justifiable as an emergency measure in a purely market PRS, where rents may have risen steeply in line with average wages in the preceding years, such that freezing won't render PRS portfolios unviable. However, in a regulated ethical PRS with tighter margins and stricter rules around rent rises, the prospect of a rent freeze or cut may reduce investor appetite. The answer to this could be to distinguish between Build to Rent (including investor-backed ethical PRS) and the mainstream PRS sourced from existing stock. They are different models that might call for different types of regulation.

- which demonstrates they understand their Decent Homes Standard, public health and other obligations
- Up to date gas, electrical, fire safety and other certificates that guarantee the safety of a home
 - Meeting an agreed EPC rating
 - Meeting an affordable warmth standard
 - Meeting a ventilation standard
 - Meeting a standard for internet connectivity
 - Meeting an accessibility standard which fully complies with Article 19 of the UN Convention on the Rights of Persons with Disabilities³⁴
- 32 The Labour Party has committed³⁵ to ambitious plans to decarbonise Britain and grow the UK economy by becoming a clean energy superpower. Decarbonising homes in what is currently the second biggest housing sector is essential to that mission. The PRS Decent Homes Standard should be a mechanism for targeting high decarbonisation standards in homes. If backed by low interest loans to NLR registered landlords, it will make an important difference.
- 33 **Renters' Charter and Landlords' Code of Conduct**
The Renters Charter and Landlords Code of Conduct are facilitated by having a comprehensive mandatory NLR which measures required compliance with a series of legally enforced standards.
- 34 The Renters' Charter should provide easily accessible information to tenants about their rights (as set out in this report) and responsibilities. It will empower tenants to exercise their rights.
- 35 The Landlords' Code of Conduct should provide a helpful guide to landlords about their rights and responsibilities. It must detail the required standards that need to be met.
- 36 The Renters' Charter and Landlords' Code of Conduct will also provide guidance which courts and tribunals can take into account when deciding whether a landlord or tenant has acted reasonably.
- 37 The Renters' Charter should:
- (1) Set out the new rights tenants have, including security of tenure, rent stabilization and the Decent Homes Standards.
 - (2) Give tenants the right to a 'Tenants' Charter Advice Pack' which clearly explains their rights and obligations at the beginning of a tenancy. It should explain and set out:

³⁴ <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-19-living-independently-and-being-included-in-the-community.html>

³⁵ <https://labour.org.uk/wp-content/uploads/2023/06/Mission-Climate.pdf>

- The tenant’s responsibilities
 - The circumstances in which the court/tribunal can end the tenancy
 - How rent stabilization will work
 - The new rules about pets
 - The tenant’s mechanism for redress with the landlord and specify completion times for works and standards of customer satisfaction.
 - The tenant’s mechanism for redress external to the landlord (with contact details).
- 38 A renter’s right to have pets cannot be absolute and unlimited. The default position should be that the tenant may have pet(s) unless the landlord can prove, the burden of proof being on them, that:
- (1) the proposed pet(s) is savage or dangerous; and/or
 - (2) the proposed pet(s) is likely to alarm or disturb unreasonably other tenants and the public generally; and/or
 - (3) insurance against damage or injury caused by the proposed pet(s) is not reasonably obtainable at a reasonable cost.
- 39 Making it easier for landlords to allow pets by making pet insurance a permitted payment under the Tenant Fees Act 2019 is a sensible and proportionate measure that could make a meaningful difference. Alternatively, landlords and tenants may agree that the tenant should instead pay a modest additional deposit. While insurance or deposits may be required at this stage, we expect that in most cases pets will be permitted and that insurance or additional deposits will become unnecessary because the risk will be taken into account when the rent is agreed with a new tenant.
- 40 All landlords not employing professionally accredited agents to manage their property must undertake regular training. They must pass an independently verified test as a prerequisite for registration on the NLR.
- 41 Lettings and Managing Agents must be responsible for legally ensuring homes are safe and meet public health and Decent Homes and other standards. There should be a requirement for annual training and testing for accreditation to be maintained.
- 42 **Enforcement and adjudication**
The requirement for landlords to submit compliance data to the NLR annually will reduce the burden of inspection on both good landlords and the authorities charged with enforcement. It will allow inspecting authorities to efficiently target their work at those landlords who have not properly registered.

- 43 The bodies required to undertake inspections or enforcement action could be:
- Local authorities
 - The Police/Crown Prosecution Service (CPS)
 - PRS Housing Ombudsman
 - Tribunals and courts.
- 44 We also recommend that:
- The Labour Government should:
 - Place a duty (not just a power) on the police to enforce the provisions of the Protection from Eviction Act 1977.
 - Create a funding mechanism to support local authorities in recruiting expertise and capacity to pursue civil penalties under the Housing and Planning Act 2016.
 - Local authorities should:
 - Have a duty to inspect landlords on the NLR over a set period of years – much as HMRC inspects businesses’ VAT records
 - Adopt targeted means to detect landlords not registered on the NLR
 - Adopt targeted means to detect unlicensed HMOs, including expanding data-sharing and monitoring all on-line platforms advertising private rentals.
 - Work with the police more proactively to enforce the Protection from Eviction Act 1977, and actively pursue prosecutions of offenders in such cases.
 - The Crown Prosecution Service should:
 - Institute procedures for centralising data collection and reporting on illegal evictions.
 - Police services should:
 - Work with councils to make more active use of powers to enforce the Protection from Eviction Act 1977.
 - Review their training around evictions.
- 45 **Intermediate landlords**
- The Supreme Court decided in *Rakusen v Jepson*³⁶ that only the immediate landlord can be ordered to repay rent to the tenant. This is a major source of evasion. As Dr. Julie Rugg points out, one of the worst devices of rogue landlords is to insert an intermediate landlord or a series of intermediate landlords between themselves and the real tenant so as to shield themselves from legal liabilities. While *Rakusen* was a correct decision as a matter of statutory construction, it showed how weak the current law is and underlined the need for Parliament to reverse it by statute so that superior

³⁶ [2023] UKSC 9 and [2023] 1 WLR 1028

landlords can be made liable for the defaults of intermediate landlords.³⁷

46 **The Court and tribunal system**

Reforms of the court and tribunal system lie outside this Commission's terms of reference but a general review should quickly be instigated in government. A review of legal aid is also urgently needed. The inadequacy of legal aid is a key reason why tenants who are threatened with or subjected to illegal eviction are unable to pursue a civil claim. Thus people who are actually entitled to very large amounts in damages have no practical remedy.

³⁷ See the useful press release by Safer Renting at <https://ch1889.org/wp-content/uploads/2023/08/pressreleaseSupremeCourtRakusencase-1.pdf>

THE FULL REPORT

Chapter 1: The growth and structure of the Private Rented Sector

- 1 The object of this Chapter is to give context. In many respects it is an expansion of the Foreword. Subsequent sections make more detailed recommendations than those summarised above. We make our recommendations in the light of the facts set out in this section.
- 2 Between 1980 and 2021/22 the PRS vastly increased as a proportion of all households, rising from 11.9% to 19.1%. The absolute number of privately renting households doubled from 2,043,000 to 4,611,000³⁸.
- 3 The combination of a “markedly benign tax context” until 2015³⁹, buy-to-let mortgages introduced in 1996 and the effective abolition of security of tenure by the Housing Act 1988 encouraged the growth of the PRS.
- 4 In October 2022, 2.74 million landlords declared income⁴⁰ from renting out a property. Figures for England indicate eleven million people live in just under five million privately rented homes.⁴¹
- 5 While there is a National Landlords Register in Scotland, Wales and Northern Ireland, there is not one for England so information on the numbers of landlords, the rents they charge and the standards they operate to is largely based on research and estimates. Landlords of houses in multiple occupation (HMOs) are of course often obliged to register with their local authority. But in 2021, the Centre for Public Data found⁴² that “less than 8% of the private rented sector in England is currently covered by any registration or licensing requirements”.
- 6 The English Private Landlord’s Survey⁴³ and others like it are therefore an invaluable insight. It surveyed landlords’ views on their role and why they became landlords.

³⁸ <https://www.gov.uk/government/statistics/english-housing-survey-2021-to-2022-headline-report>. See Section 1: households annex tables at Tab AT1_1

³⁹ <https://nationwidefoundation.org.uk/wp-content/uploads/2018/09/Private-Rented-Sector-report.pdf> at pp 81-82

⁴⁰ <https://www.gov.uk/government/statistics/property-rental-income-statistics-2022/property-rental-income-statistics-2022>

⁴¹ <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/articles/changesinprivaterentalsectorbehaviourengland/february2022tofebruary2023#:~:text=There%20were%20just%20under%205,our%20Census%202021%2C%20Tenure%20dataset.>

⁴² <https://www.centreforpublicdata.org/new-report-national-landlord-register-for-england>

⁴³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1078643/EPLS_Headline_Report_2021.pdf

Reasons for becoming a landlord		How landlords view their role	
wanted to let property as a fulltime business	4%	as a full time business	4%
preferred to invest in property rather than other investments	46%	as a part-time business	14%
wanted to supplement earnings/income	34%	as an investment, for capital growth	30%
to provide a home for a relative/child/friend	7%	as an investment, for rental income	47%
as a pension contribution	44%	as a temporary investment	4%
inherited/was given the property	6%	as a long-term investment to contribute to my/our pension	59%
could not afford the mortgage to live in ourselves	2%	as a residential landlord	13%
other	16%	providing housing as an employer	0%
none of the above	2%	other	4%

- 7 The Survey found that:
- The vast majority (94%) of landlords are individuals, not companies
 - 45% have a single property
 - 83% have fewer than five properties - most purchased their properties as some form of investment.⁴⁴
 - Those with fewer than five properties hold 52% of all tenancies and those with fewer than 10 own 70% of tenancies.
 - The proportion of households in the PRS has doubled in two decades to 19% (housing over 4.5 million households).
 - The number of private renters has increased across all age groups, with many more families and older people renting.
 - The churn rate in the private rented sector is higher than in other sectors.
 - Over the past 20 years the proportion of 35 to 44 year olds renting privately has grown from one in 10 (9%) in 2003/04 to three in 10 (29%) in 2018/19, (housing 1.2 million households).
 - Private renters spend more on rent than social tenants.

⁴⁴ Landlords with fewer than five properties are more likely to have an outstanding mortgage on their properties, leaving them more exposed to rising interest rates. This means yields in this part of the sector will be more volatile in response to changes in policy or market conditions, whereas yields for larger portfolio landlords will be more stable.

- The value of the PRS has risen 124% over the last decade, to £1.62 trillion.

8 **Amateur landlords**

The Affordable Housing Commission concluded⁴⁵ that the PRS sector was in large part made up of “amateur landlords”.

- 9 The PRS is characterised by small-scale private landlords, many of whom are homeowners. They invest in one or two properties to rent because it offers (or is perceived to offer) a better return than alternative investments, such as stocks and bonds. As Daniel Bentley, former editorial director at Civitas, explained to the Affordable Housing Commission:

“After its deregulation, private renting became attractive again to small investors. Then, as interest rates and bond yields started falling from the mid-1990s, so these ‘amateur landlords’ chased down the yields on property too – the effect being to drive prices up beyond what many would-be first-time buyers could afford. Many were recycling equity they had acquired on their family home in the same boom. What we’ve seen has been the colonisation of the private housing stock by those with capital at the expense of those without it.”

- 10 The lack of professionalism in the PRS is a main cause of many of its problems. According to the Select Committee Report “Reforming the Private Renting Sector” dated 6th February 2023:⁴⁶

“In 2020–21, some 21% of homes in the PRS were deemed non-decent, as measured by the decent homes standard (DHS), and 12% contained serious hazards, known as category 1 hazards, such as serious damp and mould growth. These figures are higher than those for owner-occupied homes and social housing. The figures for the PRS also vary widely across the country. For example, in Yorkshire and the Humber, 38% of PRS homes were deemed to be non-decent. Furthermore, there is a strong correlation between poor energy efficiency and non-decency. In 2020, 96% of homes with an energy efficiency rating (EER) of band F or G failed the DHS. In contrast, 7% of band C properties and 15% of band D properties were non-decent.”

⁴⁵ Pages 75-77 at <https://static1.squarespace.com/static/5b9675fc1137a618f278542d/t/5e784f7e087a892473a3ff8a/1584942982786/Making+Housing+Affordable+Again+-+Full+report.pdf>

⁴⁶ <https://committees.parliament.uk/publications/33924/documents/185831/default/>

- 11 We don't doubt that the majority of these "amateur" landlords start out with good intentions but discover that the role is harder than they thought and fail to understand or keep up with the regulations. An undefined percentage of them are criminal. There is a widespread consensus from landlord to renters' organisations that there is no place for bad landlords.
- 12 Most of these findings were taken from the English Private Landlord Survey 2018. More up to date but very similar findings are to be found in the English Private Landlord Survey 2021.⁴⁷

	Landlords owning one property	Landlords owning two to four properties	Landlords owning five or more properties
% of landlords	43%	39%	18%
% of tenancies	20%	31%	48%

- 13 The vast majority of landlords are individuals rather than corporations of one sort or another (84%). The above figures are for individual landlords.
- 14 There has been a slight increase in the number of landlords who regard themselves as being engaged in a full or part time business or as residential landlords (4.9%, 13.9% and 19%, a total of 37.8% compared with the total 31% in 2018). The largest group is still the 59% who regard being a private landlord as a long-term investment to contribute to their pension.
- 15 The English Private Landlord Survey 2021 asked landlords if they were currently or previously had belonged to one or more of the main rental property-related professional organisations. The majority of landlords (71%) reported no current or previous membership of any organisation. This is down from 75% in 2018. One in five (21%) reported current or previous membership of the National Residential Landlords Association (NRLA). Eight percent reported current or previous membership of a landlord accreditation scheme, and three percent reported membership of some other professional rental or property organisation.⁴⁸
- 16 In short the Affordable Housing Commission was fair to describe the majority of private landlords as "amateur" landlords.

⁴⁷https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1078643/EPLS_Headline_Report_2021.pdf

⁴⁸ Para 1.20 of the 2021 Survey

- 17 Of course landlords can and do engage letting and management agents. According to para 1.19 of the English Private Landlord Survey 2021 Survey:

"Landlords were asked whether they currently used an agent to let or manage their properties. Nearly half (49%) said they did not use an agent. A similar number (46%) used an agent for letting services, up from 34% in 2018. One in five (18%) used an agent for management services. Landlords with one property were more likely to say they did not use an agent (64%) compared to landlords with two to four properties (41%) or landlords with five or more properties (31%)"

- 18 Unfortunately engaging a letting agent is no guarantee of professionalism and efficiency. PayProp told the Commission that anyone can become a letting agent for a cost of £299. That includes the cost of a one day training session.⁴⁹ Therefore many letting agents are of poor quality. That mechanism is used by a criminal minority to sidestep government legislation on money laundering. It is impossible to put a precise figure on that.

19 **Rogue and criminal landlords and agents**

The database of rogue landlords and property agents, introduced by the Housing and Planning Act 2016 came into force on 6 April 2018. At the time the government estimated there were about 10,500 rogue landlords operating within the PRS.

- 20 There has been an extremely small number of rogue landlords that have been successfully prosecuted⁵⁰ or listed on the Rogue Landlord Database. This is evidently more a consequence of the challenges faced by local authorities than indicative of the number of rogue and criminal landlords.

- 21 Cambridge House, in collaboration with the University of York, gives us a vivid account in its remarkable report "Journeys in the Shadow Private Rented Sector":⁵¹

"This report distinguishes five groupings or types of criminal landlord behaviours:

- *wilfully ignorant landlords who tended to have small portfolios and were letting with no intention of meeting their statutory obligations;*

⁴⁹ It is fair to add that social housing is often no better. Private renters were more likely to be satisfied with repairs and maintenance to their home (75%) compared to both social renters (66%) and leasehold owners (57%). See para 1.26 of the English Housing Survey Private rented sector, 2020-21.

⁵⁰ <https://www.opendemocracy.net/en/landlords-renters-banning-orders-tenants/>

⁵¹ <https://www.thinkhouse.org.uk/site/assets/files/2210/ch0920.pdf>. Thank you to Shelter for bringing it to our attention

- *corner cutters had larger portfolios and maximised their rental income through noncompliance, factoring penalties and fines into their business model;*
- *scammers remained hidden, and often used the internet to swindle tenants – and landlords – through securing and then stealing deposits, or renting property that was immediately sublet or let on the short-let market;*
- *prolific offenders showed a blatant disregard for the law, often acting unpleasantly and with impunity, and were confident about their ability to challenge any attempt at prosecution; and*
- *letting linked to organised crime in which letting might be associated with labour and sex trafficking and the use of rented property as cannabis farms.*⁵²

22 The problem is particularly acute in London. According to the English Housing Survey, landlord and letting agent unwillingness to deal with tenants in receipt of benefits and to undertake 'right to rent' checks has pushed demand to parts of the market in which criminal activity is more likely to take place:

*"London is a place where cultures and languages exist in parallel, sometimes very separately. The PRS is a first home for the vast majority of migrants to the UK, who are vulnerable to exploitation by landlords running or connected to illegal labour gangs, and who may well have encouraged or facilitated the move to the UK. The ethnic and language dimension means that victims of criminal landlordism can become isolated or – conversely – supported by a migrant community network that is not necessarily well acquainted with tenancy law."*⁵³

23 Chapter 4 of "Journeys in the shadow private rented sector" has ten case studies, each more heart-breaking than the last. Here is one extract:⁵⁴

"Diana and her son aged three lived in a room, sharing a bathroom and kitchen. The property was damp, and had exposed electrical wiring. Diana sometimes smelled gas in the hallway, and the front door to the property was patched up with cardboard. The conditions were intolerable, and she complained to the landlord. One day, when she returned home from work with her son, she found that the locks had been

⁵² Journeys in the shadow private rented sector at p 8

⁵³ Journeys in the shadow private rented sector at p 14

⁵⁴ Journeys in the shadow private rented sector at p 47

changed. She had nothing but the clothes she wore, and nothing for her son to change into. The council arranged temporary accommodation, and she contacted the police hoping to be let into the property to retrieve her belongings. The police said that they did not help in these cases."

24 In 2021 the Mayor of London reported⁵⁵ 1,400 complaints on London's Landlord and Agent Checker⁵⁶.

25 The London School of Economics paper "Local London renting under Covid"⁵⁷ contains useful research and analysis. One local authority officer they interviewed explained the horrific situations faced by renters living in the lower end of the PRS but not in receipt of benefits:

"The lowest 5% of the PRS is very grim, with a lot of overcrowding. At the very bottom of the PRS we're really talking about slavery... At the very bottom, new policies don't change things much – these (tenants) don't claim benefits and they aren't properly paid so often they don't have any choice in accommodation."

26 Jacky Peacock of Advice for Renters advises that the problem with rogue/criminal landlords is significant. She said it is difficult to measure the sector accurately. She said the numbers of rogue/criminal landlords are likely to form a much higher proportion of the PRS than current research indicates. And this is a particular problem for low income households who experience little choice but to find housing in the lower end of the PRS. Jacky said most tenants' advisory services deal with dozens of complaints each day and a considerable proportion of them are a consequence of behaviours that are outside any professional standards and should be prosecuted. She explained:

"It's impossible to know the percentage as so many operate below the radar, and there is no clear line between well-meaning landlords (those who saw the advantages of letting but were never told that it involves more than getting a Buy-to-Let mortgage and marketing the properties on Zoopla), and those outright crooks who we have to call rogues because they haven't yet been successfully prosecuted for their crimes."

⁵⁵ <https://www.london.gov.uk/press-releases/mayoral/reports-of-rogue-landlords-soar-during-pandemic>

⁵⁶ <https://www.london.gov.uk/rogue-landlord-checker>

⁵⁷ https://tfl.ams3.cdn.digitaloceanspaces.com/media/documents/Lower_end_of_PRS_June_22_final44.pdf By Kath Scanlon and Fanny Blanc, with Beth Crankshaw and funded by Trust for London June 2022 page 17

27 The NRLA told us:

"We want to see rogue and criminal landlords rooted out altogether, and ensure that it is they, rather than the responsible majority, that end up paying for enforcement action against them."⁵⁸

28 **Professional landlords**

Landlords' organisations such as the NRLA and Property Mark encourage best practice and set their own standards. Membership of these organisations is a positive step but it is of note that 71% of PRS landlords report they are not and never have been members of any of the sector's professional organisations.

29 The NRLA advised:⁵⁹

"... the vast majority of landlords are good landlords, and most tenants have a favourable experience of living in the PRS. PRS tenant satisfaction levels with their current accommodation remains high, at 80%, the same as satisfaction levels with services provided by their landlord, according to the English Housing Survey. These satisfaction levels are higher than amongst tenants in the social rented sector (72% to 75%)."

30 The Build-to-Rent (BtR) sector focuses on the higher end. Companies such as Delancey's Get Living⁶⁰ and Grainger⁶¹ offer innovative, professionally managed homes and services and provide structured rent controls.

31 The BtR is a market mechanism that can help professionalise a key part of PRS.

32 However, this should not be overstated as large firms are not necessarily good landlords. International examples⁶² reaffirm the need for effective regulation.

33 **The increasing cost of private renting**

The Office for National Statistics (ONS)⁶³, found that "around 4 in 10 adults are finding it difficult to afford their rent or mortgage payments".

⁵⁸ NRLA's agenda for the meeting with the Commission on 24th April 2023

⁵⁹ A Housing Market that Works for Everyone Rethinking the role of the private rented sector at p 8. See <https://www.nrla.org.uk/download?document=1553>

⁶⁰ <https://delancey.com/portfolio/get-living/>

⁶¹ <https://www.graingerplc.co.uk/renting-with-us>

⁶² <https://www.nbcnews.com/news/us-news/tenants-fought-one-americas-largest-corporate-landlords-scored-wins-rcna90667>

⁶³ <https://www.ons.gov.uk/economy/inflationandpriceindices/articles/costoflivinginsights/housing> 27/07/2023

- 34 On average, private tenants spend more of their income on housing (32%), compared with those living in their own properties (18%) or in social housing (27%) but there are generational, socio-economic and regional and local variations in rent levels. Rents have increased disproportionately to income in recent decades.
- 35 Whereas private renters spent 10% of their income on housing from the 1960s to the 1980s, rising to 15% in London, the share of income spent on rent has risen to over 30% in recent years.⁶⁴
- 36 In research carried out for the BBC, Dataloft found⁶⁵ “Four in 10 of adults under 30 spend more than 30% of their pay on rent”.
- 37 In December 2022, the ONS report “Private rental affordability, England, Wales and Northern Ireland: 2021⁶⁶” found that London remained the least affordable region with a median rent of £1,430 being equivalent to 40% of median income. But in March 2023, research by the Alan Boswell Group concluded⁶⁷ Londoners pay an average of 53.6% of their wages on rents.
- 38 The OECD defines households as being ‘overburdened’ by housing costs if they are spending more than 40% of disposable income on mortgage or rent. It included⁶⁸ the UK in a list of a handful of its member states where:

“more than half of all low-income private renters are spending over 40% of their disposable income on housing costs”.

- 39 Rents are rising fast. The Resolution Foundation’s “Housing Outlook Q3 2022”⁶⁹ (17.9.22) found that:

“... commercial data such as HomeLet, Rightmove and Zoopla’s rental price indices all indicate that rents for new private tenancies (when private landlords find it easiest to take the opportunity to reset rents to reflect current market conditions) have increased by a staggering 10 to 12 per cent over the year to July 2022. For example, the Zoopla rental index (which shows the annual change in actual private rents paid for new tenancies) soared from under 2 per cent for the period July 2020 to July 2021, to over 12 per cent between July 2021 and July 2022.”

https://cps.org.uk/wp-content/uploads/2023/01/CPS_THE_CASE_FOR_HOUSEBUILDING2.pdf

⁶⁵ <https://www.dataloft.co.uk/dataloft-affordability-ratios-press>

⁶⁶ <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/bulletins/privaterentalaffordabilityengland/2021>

⁶⁷ <https://www.alanboswell.com/news/the-average-cost-of-renting-a-house-in-the-uk>

⁶⁸ <https://www.oecd.org/housing/topics/affordable-housing>

⁶⁹ <https://www.resolutionfoundation.org/publications/housing-outlook-q3-2022/>

40 **Decent standards of homes in the PRS**

The most recent English Housing Survey⁷⁰ demonstrates that

"21% of homes in the PRS were deemed non-decent and 12% contained a category 1 hazard. The figures for social housing and owner-occupied homes were 13% and 5%, and 16% and 10%, respectively.¹³³ The figures for the PRS vary widely across the country. For example, in Yorkshire and the Humber, 38% of PRS homes were deemed to be non-decent.¹³⁴ There is also a strong correlation between poor energy efficiency and non-decency. In 2020, 96% of homes with an energy efficiency rating (EER) of band F or G failed to meet the DHS. In contrast, 7% of band C properties and 15% of band D properties were non-decent."

41 **Evictions and insecurity of tenure**

The number of evictions is accelerating. The Ministry of Justice published its "Mortgage and landlord possession statistics: October to December 2022" on 9th February 2023:⁷¹

"This publication provides mortgage and landlord possession statistics for October to December 2022. In general, we have compared figures to the same quarter in the previous year ...

Landlord possession actions have all increased significantly. When compared to the same quarter in 2021, landlord possession claims increased from 14,436 to 20,460 (42%), orders from 6,865 to 16,158 (135%), warrants from 4,285 to 8,717 (103%) and repossessions from 2,729 to 5,409 (98%).

Mortgage and Landlord possession claims rates have risen across all regions. Increases in possession claims have been recorded in all regions. Private and social landlord claims remained concentrated in London (with 9 and 3 of the highest 10 claim rates respectively)."

42 More recent Ministry of Justice data⁷² show that in the second quarter of 2023, there was an astounding 41% rise over the previous year with 2,228 households in England removed from their homes due to no-fault evictions. That is the highest level in six years.

⁷⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1123670/2020-21_EHS_Headline_Report_revised_v2.pdf

⁷¹ <https://www.gov.uk/government/statistics/mortgage-and-landlord-possession-statistics-october-to-december-2022/mortgage-and-landlord-possession-statistics-october-to-december-2022>

⁷² <https://www.gov.uk/government/statistics/mortgage-and-landlord-possession-statistics-october-to-december-2022/mortgage-and-landlord-possession-statistics-october-to-december-2022>

43 Diversity and equality

The English Housing Survey⁷³ reports that the PRS has more diversity than any other form of tenure.

"The private rented sector is the second largest tenure, with roughly 4.6 million households representing nearly one fifth (19%) of households in England. It is a sector characterised by diversity. Compared to other tenures, the sector is younger and more ethnically and nationally diverse.

...

- *The private rented sector houses the highest proportion of non-UK nationals (74% of HRPs in the private rented sector are from the UK, compared to 92% of social renters and 96% of owner occupiers).*
- *Nearly a quarter of private rented households (23%) have ethnic minority HRPs, compared to 19% of social renters, and 8% of owner occupiers."*

44 The PRS is composed of three types of renter. Renters who pay for their accommodation themselves, Renters on low incomes who experience little choice and have to rely on benefits to pay their rent and non-mainstream renters in the shadow economy.

45 The reported weaknesses and failings in the PRS therefore have a disproportionate effect on Black, Asian and minority ethnic people, as this useful report⁷⁴ also points out:

"The entrenched nature of poor housing in the PRS has been a blight on the wellbeing of many. And because Black, Asian and minority ethnic communities are over-represented in this sector and often live in some of the poorest quality housing, there is a real and material racial inequality."

46 Concerns were raised by many of the people the Commission interviewed about discrimination against Black, Asian and minority ethnic people during the lettings process. It is therefore of note that the Equality and Human Rights Commission (EHRC) has serious concerns about the government's Right to Rent scheme. It stated⁷⁵:

"The UK government's right to rent scheme will increase discrimination against ethnic minorities, according to the Equality and Human Rights Commission (EHRC)."

⁷³ <https://www.gov.uk/government/statistics/english-housing-survey-2021-to-2022-private-rented-sector/english-housing-survey-2021-to-2022-private-rented-sector>

⁷⁴ <https://ageing-better.org.uk/sites/default/files/2021-09/good-homes-for-all-a-proposal.pdf> page 22

⁷⁵ <https://www.equalityhumanrights.com/right-rent-policy-scotland-and-wales-successfully-challenged?return-url=https%3A%2F%2Fwww.equalityhumanrights.com%2Fsearch%3Fkeys%3Dright%2Bto%2Brent>

47 The recommendations that feature in this report are cognisant of and have been strongly influenced by the particular challenges faced by Black, Asian, and minority ethnic people seeking a good home in the PRS.

48 **The PRS, LHA, 'temporary accommodation' and poverty**

There were just short of 100,000 homeless households in temporary accommodation at the end of June 2022, of which 55,610 (59%) were London households. There were 120,710 children in temporary accommodation across England⁷⁶.

49 The number of households living in temporary accommodation has more than doubled in the past decade. Shelter's analysis shows⁷⁷:

"Three-quarters (75%) of households live in poor conditions, including one in five (21%) with a safety hazard, such as faulty wiring or fire risks".

50 The Faculty of Public Health reports⁷⁸ how that is a difficult challenge for low income households:

"Over the past two decades the proportion of those on the lowest incomes in the private rental sector (PRS) has risen (Bailey, 2020, see Figure 1 below), as the amount of social rented housing available has fallen ..."

51 The NAO found that the private rented sector was increasingly populated by low-income households in receipt of benefit support, whose access to other housing might be limited. In August 2023, 1.7 million households in the PRS in England received benefits to help meet their housing costs, equivalent to 35% of all privately renting households.⁷⁹ These figures remain significantly above the levels seen before the pandemic.

52 The Department for Work & Pensions (DWP) estimated that £9.1 billion of housing support was paid to private renters or directly to private landlords in England in 2020-21 (£7.1 billion in 2019-20).

53 Data from the DWP indicated that in around 29,000 instances in 2019-20, households were, or were at risk of being, made homeless following an eviction that was not their fault. The estimated proportion of privately rented homes with serious health hazards

⁷⁶ <https://researchbriefings.files.parliament.uk/documents/SN02110/SN02110.pdf>

⁷⁷ https://tfl.ams3.cdn.digitaloceanspaces.com/media/documents/Still_Living_in_Limbo.pdf

⁷⁸ Page 2 <https://www.fph.org.uk/media/p5rdhsu5/fph-poverty-housing-and-health-briefing.pdf>

⁷⁹ https://england.shelter.org.uk/media/press_release/shelter_responds_to_the_governments_autumn_statement

was 13%, compared with 10% of owner-occupied homes and 5% of social housing.

- 54 Local Housing Allowance (LHA) sets the maximum amount of housing support private renters can receive through Universal Credit or Housing Benefit. Before April 2011, LHA was based on median rents of properties of the same size in each local area. In April 2011, the government reduced LHA rates to the 30th percentile, so LHA would cover the lower 30% of rents in each area. The government then introduced the Benefit Cap in 2013, limiting some households' support with housing costs below the LHA rate.
- 55 Since this time, the government's approach to uprating LHA has been inconsistent and unpredictable, putting private tenants using housing benefits under increasing financial strain and severely limiting their access to housing - while also creating unpredictable investment conditions for current and prospective private landlords across the Buy to Let and Build to Rent models. The Resolution Foundation has warned that the stop-start practice of LHA uprating is causing serious problems for low-income renters⁸⁰.
- 56 LHA rates were frozen from 2016 until April 2020, when the government repegged LHA to the 30th percentile of rents in each area in response to the coronavirus pandemic. In April 2021, LHA was once again frozen, despite rapidly rising private rents in many parts of the country. In the 2023 Autumn Statement, the Chancellor announced that LHA would once again be repegged to the 30th percentile of local rents from April 2024. In all, LHA rates have only been uprated five times in the last 12 years, and on two occasions rates were increased by just 1%.
- 57 This inconsistent approach to uprating LHA rates has led to significant changes in the proportion of PRS homes which are affordable to households using benefits to help pay their rent. As private rents have increased, LHA rates have not kept pace. Low-income renters have been forced to top up their housing benefit to pay rising rents, driving increased poverty and homelessness, which in turn has increased financial pressures on local authorities.
- 58 Privately renting households with children have been particularly badly hit, in part because they are more likely to see their incomes limited by the Benefit Cap - which has been uprated only once since its introduction in 2013. While the decision to uprate LHA in April

⁸⁰ <https://www.resolutionfoundation.org/publications/a-temporary-thaw/>

2024 will provide a lifeline for some households, those hit by the Benefit Cap will receive limited or no additional income.

- 59 The Local Government Association's report 'Evidencing the link Between the Local Housing Allowance Freeze and Homelessness'⁸¹ explained:

"The current LHA effectively sits at the 13th percentile of market rents (compared to the 30th percentile it was set at in 2016). This means that the vast majority of privately-rented households in receipt of means-tested benefit support will not receive full housing support and will need to supplement rent costs from income intended for day-to day-living. This will have an impact on financial resilience and strongly suggests a link to homelessness".

- 60 There is an interaction between LHA rate setting policy and the household benefit cap. Because the benefit cap remains frozen, households subject to the cap will not generally benefit from increased LHA rates from 2024. This creates particular challenges for homeless households, many of whom will be subject to the cap and will not be able to find affordable housing options in the PRS as a result.⁸²

- 61 In the long term the most intractable problem is that the private rented sector is not and cannot be the right solution to the problems of lower-income households. Cuts of and limits to Local Housing Allowance (LHA) rates mean that too many cannot afford to pay their rent without cutting down on other essentials like food and heat⁸³. No doubt increasing LHA rates would help but at the cost of introducing a further distortion to an already distorted market.

- 62 As Nationwide Foundation points out:⁸⁴

"Most worrying is that the evidence tells us there is a growing residual slum tenure for private rented sector households on low incomes, whose needs are being neglected"

- 63 The only change in the law that could meet this problem other than increasing LHA rates is to revert to some form of rent setting by the State that will reduce rents to below market rates. As the Affordable Housing Commission says, trying to reduce private-sector rents to

⁸¹<https://www.local.gov.uk/sites/default/files/documents/Evidencing%20the%20link%20between%20the%20LHA%20freeze%20and%20homelessness-Full%20report-pub5Feb20.pdf>

⁸² See <https://www.resolutionfoundation.org/publications/a-temporary-thaw/>

⁸³ <https://nationwidefoundation.org.uk/wp-content/uploads/2018/09/Private-Rented-Sector-report.pdf> and <https://nationwidefoundation.org.uk/wp-content/uploads/2018/09/Vulnerability-report.pdf>

⁸⁴ <https://nationwidefoundation.org.uk/wp-content/uploads/2018/09/Private-Rented-Sector-report.pdf> at p v.

levels comparable to those of social landlords is an unrealistic prospect and fails to recognise that, for those on lower incomes, subsidised social housing is what is needed in most parts of the country. Forcing landlords out of business by making rent levels uneconomic would be counterproductive.

64 The consequences

The inflation of rents places severe burdens on local authorities attempting to discharge their duty to rehouse homeless people. As London Councils points out in its July 2023 report "Supply of Private Rented Sector Accommodation in London":⁸⁵

"Local authorities that lease property for use as TA [temporary accommodation] also face a disadvantage, because the Housing Benefit rebate payable to them by government (to fund LHA paid to tenants living in TA) is held at 90% of January 2011 rates. The gap between what councils must spend to ensure accommodation is provided and what they can recover from central government widens as real rents pull away from these historic figures."

65 Sooner or later this will bankrupt councils. The Local Government Chronicle reported on 13th September 2023⁸⁶ that:

"Bristol reports a potential overspend of £11.1m owing to rising housing costs."

A finance peer review by the Local Government Association found that Hastings BC could be in dire straits due to rapidly increasing housing costs."

The review said if action is not taken, the council's section 151 officer "will be left with little choice but to issue a section 114 notice".

The council reported that its temporary accommodation costs have gone up by more than 400% since 2019 from £730,000 in 2019 to £4.5m in 2022-23."

66 The effects on LHA claimants are just as severe. London Councils points out in its July 2023 Report that:

"Strong rental growth over the past 18 months and the freeze in LHA rates means that the proportion of listings affordable to

⁸⁵ <https://www.londoncouncils.gov.uk/members-area/member-briefings/housing-and-planning/private-rented-sector-supply-london>

⁸⁶ <https://www.lgcplus.com/services/health-and-care/temporary-housing-the-human-cost-of-a-broken-system-13-09-2023/>

LHA claimants is now back to pre-Covid levels, with the absolute number of available properties lower than pre-Covid levels. Without intervention to uprate LHA rates, both the proportion and the number of affordable new lettings will likely fall further as rents continue to rise. In 2022-23, the average across 1 to 4 beds was 2.3% of total listings – which is well below the 30th percentile. This figure is skewed upwards by 1 bedroom properties, with availability of 2, 3 and 4 bedroom properties much lower than this. This all reflects local authority and agent experience, who report that rents at the lower end of market have increased and that it is increasingly difficult to find properties within LHA rates.”

- 67 Dr. Julie Rugg of York University has explored the issue of housing markets where a high proportion of renters use LHA to pay some or all of the rent - Blackpool being the housing sector’s favourite example of this. This creates concentrations of low-income renters with little consumer power in neighbourhoods which were already struggling with ageing, poorly maintained housing in need of investment - which is why they came to attract high concentrations of lower-income renters in the first place. This results in poor prospects for improving homes and a lack of effective choice for lower-income renters, who are stuck choosing between different low-quality, energy-inefficient homes. Meanwhile private landlords operating in such markets demonstrate a strong tendency to set rents at or around LHA levels regardless of quality, giving them no incentive to invest in their properties.⁸⁷
- 68 Dr. Julie Rugg, whose remarkable work on the private rented sector must inspire the greatest respect, told us that the best way to ‘fix’ the sector is to focus on resolving issues surrounding the lower end of the market, housing benefit and the low Local Housing Allowance rates. The LHA no longer reflects market value and for the past four years it has been acting as an effective form of rent stabilization by freezing the amount renters have to spend. We must reconnect the LHA rates to market rates. Her view on rent control is that LHA is a form of rent control that has decimated the market and created all sorts of problems. She does not support rent controls. She suggested that emerging data from Scotland show that they don’t work.
- 69 The solution to these problems lies well outside our terms of reference but it would be remiss of us not to point them out.

⁸⁷ Rugg, J., Wallace, A. (2021) Property supply to the lower end of the English private rented sector, Nationwide Foundation. University of York. p. 65 Accessed online at: <https://www.york.ac.uk/media/chp/documents/Sustainable-Private-Rented-Sector.pdf>
 See also page 181 at https://www.createstreetsfoundation.org.uk/wpcontent/uploads/2023/03/CSF_Create_No_Place_Left_Behind_FINAL.pdf

Government must develop a consistent, predictable approach to LHA rates to give more certainty to tenants, councils, landlords and prospective investors alike.

- 70 However, it is important to recognise that paying private landlords higher rates of rent to temporarily house homeless households not only entrenches instability for the homeless people involved, but it is also bad value for money for the public purse.
- 71 Since 2004, tens of billions of pounds of public money have been paid to private landlords for temporary accommodation. This has contributed to the growth of the PRS as a proportion of the housing market. Had local authorities and other social housing providers been allowed to use these huge amounts of public money to finance the purchasing of homes, instead of renting them, councils and social housing providers would have gained capital assets in the form of thousands of more homes and would also have limited their exposure to spiralling temporary accommodation costs.

Chapter 2: The National Landlords Register

1 **Measure the PRS. Manage the PRS**

As the management thinker Peter Drucker said, “If you can't measure it, you can't manage it.” Measuring key indicators that accurately demonstrate how the PRS is operating is the only way that improvements can be implemented and maintained. We recommend that Labour introduce a comprehensive, annually updated National Landlords Register that compels landlords to provide truthful details about themselves, their properties and rents. It must demonstrate how the landlord adheres to standards including an annually updated PRS Decent Homes Standard.

2 As was pointed out in this London School of Economics paper⁸⁸ by Kath Scanlon and Fanny Blanc, with Beth Crankshaw:

“The many taxes, regulations and incentives affecting the PRS do not form a coherent framework for the sector, and their goals are poorly understood by landlords.”

3 This terms of reference for this report do not include considering taxation or any financial incentives. We can however provide landlords and tenants with a framework that collates necessary information, provides clarity and offers a means of managing standards. The basis of that is the National Landlords Register.

4 The “Private Rented Sector Database”⁸⁹ in the Renters (Reform) Bill is a good start. It provides an opportunity to bring a myriad of legal requirements into one place, with easily accessible information for landlords and tenants alike. Importantly, mandatory landlord registration should include a requirement to provide independent evidence of property and management compliance. Along with existing evidence (gas safe certificates, electrical tests, etc.) there should be an added requirement to submit a surveyor’s⁹⁰ report demonstrating that the property complies with the PRS Decent Homes Standard. In other words, a Property MOT.⁹¹

5 Following a phased transitionary period the above should become mandatory for all lettings and the resulting Registration ID will be required to validate all legal documents relating to the tenancy. This

⁸⁸ https://tfl.ams3.cdn.digitaloceanspaces.com/media/documents/Lower_end_of_PRS_June_22_final44.pdf

⁸⁹ <https://publications.parliament.uk/pa/bills/cbill/58-04/0015/230015.pdf>

⁹⁰ By “surveyor” we do not mean only chartered surveyors. We include Decent Homes “Inspectors” who will be trained in how to inspect a property and complete a form about its condition (as with inspections for Fire Assessments for example). There is no reason why local authorities couldn't offer this paid service too, as they do now with things like pest control. It's just that the cost falls to the landlords, not the taxpayer.

⁹¹ This and the following paragraph are gratefully borrowed from a draft paper being prepared by Jackie Peacock OBE, the Chair of The Lettings Industry Council (a senior officer at Savills) and a well-established and respected property consultant, Kate Faulkner.

will transform standards across the PRS and has the potential to replace current local authority enforcement, including Licensing and the Housing Health and Safety Rating System. This would free up stretched local authority resources to focus on identifying and, if necessary, enforcing against unregistered or wrongly registered landlords.

- 6 The proposed Digital Property Portal will be a National Landlords Register for England. It will bring England into line with similar (although less extensive) models in Scotland, Wales and Northern Ireland who all have registers and with houses in multiple occupation (HMOs).

7 **Recommended Labour's National Landlords Register**

We recommend the National Landlords Register includes the following requirements:

- Mandatory registration followed by annual updates
- Name, address and details of the landlord and any letting and managing agents
- The details must include:
 - A statement that they have completed a landlord training course to understand their obligations.
 - A background check that list previous bankruptcy, criminal activity or banning orders
 - Independent evidence of property and management compliance, including a surveyor's⁹² report demonstrating that the property complies with the decent home standard
 - information on accessibility for Disabled people searching for a suitable home⁹³
- The Landlords must list rents and service charges annually and each time they are changed
- Landlords must register for each property they own:
 - the number of bedrooms
 - the number of reception rooms
 - EPC rating
 - Gas and electrical safety certificates
 - energy provider and performance
- The landlord must update the entries on the register annually or if there is any material change in any of the above circumstances.
- The register must be publicly accessible - anyone can search the register to find out all of the above.
- The landlord pays an annual fee.

⁹² By "surveyor" we do not mean a chartered surveyor only. See footnote 87 above.

⁹³ <https://www.inclusionlondon.org.uk/news/national-property-portal/>

8 **Consequences to landlords for failing to register on the NLR**

We advise the following:

- No rent shall be recoverable in respect of periods when the landlord is not registered
- Tenants may recover rent paid when the landlord was unregistered by deducting it from current rent and/or obtaining a rent repayment order from the appropriate court or tribunal.⁹⁴
- Landlords cannot bring possession proceedings if they are not registered.
- Additionally there should be a fine for a failure to register within a reasonable period of time.
- Failure to register outside a reasonable period of time should be a criminal offence. That will have the effect of giving the police extra powers to tackle the significant number of properties let by rogue/criminal landlords.

9 Registration fees and any issued fines should fund the NLR and inspecting authorities.

10 Listing the rent levels is essential for policy makers to gain an objective view of what people are paying across the market place. That will be particularly important for dealing with the lower and rogue end of the PRS.

11 Compliance inspections should be carried out on NLR registered landlords from time-to-time by an inspecting body.

12 Businesses and organisations operating as sole traders, partnerships, and companies are already familiar with the need to register important information with relevant authorities. This should be the same for PRS landlords. Good examples include: Value Added Tax (VAT) collection - which relies upon quarterly self-assessed submissions followed by compliance inspections within a six year period,⁹⁵ Food Hygiene Rating Scheme⁹⁶ for hospitality businesses, the required compliance with the Environmental Protection Act 1990⁹⁷, and landlords renting out HMOs⁹⁸.

13 The NLR will require both annual submissions and updates of any material changes in conditions. This will provide government with more precise information about the sector and enable government

⁹⁴ There is precedent for this in section 48 of the Landlord and Tenant Act 1987, though our recommendation goes further. The right to rent should not merely be suspended while the landlord is unregistered but lost altogether. Compare also rent deductions and repayment orders under section 57 of the Rent Act 1977.

⁹⁵ <https://www.gov.uk/vat-visits-inspections>

⁹⁶ <https://www.food.gov.uk/safety-hygiene/food-hygiene-rating-scheme#:~:text=At%20the%20inspection%2C%20the%20officer,pest%20control%20and%20other%20facilities>

⁹⁷ <https://www.legislation.gov.uk/ukpga/1990/43/section/34>

⁹⁸ <https://www.gov.uk/renting-out-a-property/houses-in-multiple-occupation-hmo>

to take more efficient and effective measures to manage it and so improve the lives of the 11 million people who live in PRS housing.

- 14 Some 19% of English households live in the PRS. They deserve to know that their landlord and managing agents understands all their legal obligations and they or their managing agent are maintaining their home to a decent legal standard.
- 15 Inspecting five million PRS homes is resource intensive and impractical. So it is logical that the legal obligation is placed on landlords to register themselves and each of their properties and provide truthful details. Local authorities should be required to take enforcement action against landlords letting properties that are not registered and to undertake spot checks on registered properties, particularly where a tenant has complained or where a fraudulent registration is suspected. Where appropriate local authorities should visit without notice.
- 16 Landlord registers exist in three of the nations of the UK. They all have different features.
- 17 **The Scottish Landlord Register**
The Scottish Landlord Register⁹⁹ requires PRS landlords to:
- Renew their registration every 3 years.
 - Provide their details
 - Register their property ownership
 - Provide details of each of the landlord's properties
 - Provide details of any letting or managing agent
 - Provide contact details of the local authority the property is registered with
 - Pay a registration fee of £75 plus £17 per property.
 - Is publicly accessible - anyone can search the register to find out all of the above.
- 18 **Rent Smart Wales**
Rent Smart Wales¹⁰⁰ requires PRS landlords to:
- Renew their registration every 5 years
 - Provide their details
 - Register their property ownership
 - Provide details of each of the landlord's properties
 - Provide details of any letting or managing agent
 - Provide contact details of the local authority the property is registered with
 - Pay a registration fee of £45 if done online. Renew cost £36

⁹⁹ <https://www.landlordregistrationscotland.gov.uk>

¹⁰⁰ <https://rentsmart.gov.wales/en/home>

- Is publicly accessible - anyone can search the register to find out all of the above.

19 **Landlord Registration Scheme in Northern Ireland**

Northern Ireland's Landlord Registration Scheme¹⁰¹ requires PRS landlords to:

- Renew their registration every 3 years
- Provide their details
- Register their property ownership
- Provide details of each of the landlord's properties
- Provide details of any letting or managing agent
- Provide accurate and up-to-date information
- Provide contact details of the local authority the property is registered with
- Pay an online registration fee of £70. Renew cost £36 after 3 years
- Is publicly accessible - anyone can search the register to find out all of the above.
- Encourages landlords to provide voluntary information about the number of bedrooms and reception rooms, energy performance and heating details, the type of glazing and doors, the energy performance and considerations on the potential length of the lease.

20 **Raising practice standards of Lettings and Managing Agents**

As mentioned, engaging a letting agent does not guarantee professionalism. PayProp advised the Commission that anyone can become a letting agent for a cost of £299 which includes the cost of a one day training session. That is a low bar to entry. It is a factor which facilitates rather than deters bad practice and rogue landlords and property agents.

21 Entry fees should be increased for new Letting Agents. Letting Agents should take on a legal responsibility to only advertise or let homes that meet the Decent Homes Standard. As with landlords, they must register on the NLR each year and pay an annual registration fee. They must ensure they undertake regular training and testing to maintain accreditation. Knowingly letting a property that is unfit for human habitation should be a criminal offense.

22 Likewise, Managing agents also have a particular role to play in ensuring that PRS homes they manage are safe and meet the Decent Homes Standard. That should be a legal responsibility. Managing agents must have to register on the NLR each year, pay

¹⁰¹ <https://www.nidirect.gov.uk/articles/landlord-registration-scheme>

an annual fee and undertake regular training and tests to maintain accreditation. Failure to take reasonable action when tenants raise concerns should be subject to a fine. Knowingly allowing a home to remain unsafe for human habitation should cause the managing agent to lose their accreditation and could be a criminal offence.

23 **HMO registration**

A house in multiple occupation (HMO) is defined as “a property rented out by at least 3 people who are not from 1 ‘household’”. PRS landlords renting out face an unlimited fine if they do not register. They must supply information on each HMO which includes an annual gas safety certificate and fire safety measures such as smoke alarms and safety certificates for all electrical appliances.

Chapter 3: Security of tenure

1 No fault evictions

Apart from certain landlords' groups, there is widespread agreement that no fault evictions under section 21 of the Housing Act 1988 have to go.

2 No fault evictions poison the whole sector. Tenants fear that they will be evicted if they complain. They have good cause. As the Select Committee points out in "Reforming the Private Renting Sector":¹⁰²

"The evidence from non-landlord groups, and tenant groups in particular, welcomed the abolition of section 21 unequivocally, even if many thought the proposed sales and occupation grounds, which we discuss later, could undermine its impact. They said its abolition was a "game changer" and would be "foundational" in giving tenants greater security and correcting the power imbalance between renters and landlords by giving the former the confidence to exercise their rights, and that it would reduce the number of people presenting as homeless. Shelter and Glass Door said section 21 was still being abused by a significant proportion of landlords, despite recent legislation aimed at discouraging retaliatory evictions. According to Zacchaeus 2000 Trust (Z2K), a London-based anti-poverty charity, many tenants do not complain to or about their landlord for fear of eviction and feel the abolition of section 21 would "lift a shadow looming over them".¹⁰³ This is supported by the most recent English Housing Survey, which found that 22% of households (150,000) in 2020–21 had considered making a complaint but did not, of which 14% (21,000) were worried about retaliation."¹⁰⁴ (p 15, para 26)

"... in 2015, the then Government legislated to protect tenants from retaliatory evictions by preventing landlords from issuing a section 21 notice within six months of a tenant making a formal complaint: Deregulation Act 2015, section 33; nonetheless, in 2018, Citizens Advice surveyed tenants and local authority environment health officers (EHOs) and found that tenants who had received a section 21 notice were twice as likely to have complained to their landlord, and five times as likely to have gone to their local authority, compared to those who had not complained. Of the EHOs who had been in the profession before 2015, 90% said they had not seen any

¹⁰² <https://committees.parliament.uk/publications/33924/documents/185831/default/>

¹⁰³ <https://z2k.org/wp-content/uploads/2022/10/LUHC-Select-Committee-PRS-Inquiry-2022-FINAL.pdf> See Para 9

¹⁰⁴ <https://www.nao.org.uk/wp-content/uploads/2021/09/Regulation-of-private-renting.pdf> See page 24, Para 2.7.

*reduction in the number of retaliatory evictions since the 2015 measures were introduced: Citizens Advice, Complain and you're out: Research confirms link between tenant complaints and revenge eviction, 24 August 2018*¹⁰⁵ (page 15, footnote 57)

3 **“Longer term tenancies”**

One of the policies announced at Labour Annual Conference 2022 was that “longer-term tenancies will become the norm”. The current norm is assured shorthold tenancies with fixed terms of 6 or 12 months. They have no security of tenure.

4 Longer term tenancies can take one of two forms: the first is longer fixed terms; the second is an open-ended periodic tenancy that can only be brought to an end on defined grounds. The Commission recommends that the evidence is overwhelmingly in favour of open-ended periodic tenancies.

5 **Longer fixed terms**

It used to be thought by both the Labour and Conservative Parties that the key reform would be longer fixed terms. Labour’s 2017 General Election Manifesto said that:

“We will give renters security by making three year tenancies the norm, with control on rent rises so that rents do not rise by more than inflation. We will give renters the option of ending the tenancy with two months’ notice, and explore giving freedom to the Mayor of London to set additional terms for renters in London given the particular pressures that London faces.”

6 Similarly the Conservative Government’s July 2018 consultation document “Overcoming the Barriers to Longer Tenancies in the Private Rented Sector” proposed at p 59:¹⁰⁶

“A minimum three year tenancy but with an opportunity for the landlord and tenant to leave the agreement after the initial six months if dissatisfied. If both landlord and tenant are happy, the tenancy would continue following the break clause.”

7 Labour’s 2019 Manifesto dropped the idea of making three year tenancies the norm:

¹⁰⁵ <https://www.citizensadvice.org.uk/about-us/about-us1/media/press-releases/complain-and-youre-out-research-confirms-link-between-tenant-complaints-and-revenge-eviction/>

¹⁰⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721556/PRS_Longer_Tenancies_Consultation.pdf

"We will give renters the security they need to make their rented housing a home, with new open-ended tenancies to stop unfair, 'no fault' evictions. These will be indefinite tenancies, with the tenant able to leave the property at any time as long as appropriate notice has been given, but with the grounds for eviction tightly specified to issues such as non-payment of rent and mistreatment of the property."

- 8 The Conservatives dropped the idea as well. Their 2019 Manifesto promised:

"We will bring in a Better Deal for Renters, including abolishing 'no fault' evictions and only requiring one 'lifetime' deposit which moves with the tenant. This will create a fairer rental market: if you're a tenant, you will be protected from revenge evictions and rogue landlords, and if you're one of the many good landlords, we will strengthen your rights of possession."

- 9 The Conservative Government's June 2022 White Paper "A Fairer Private Rented Sector" says at p 31:

"We will abolish Section 21 evictions and simplify tenancy structures. To achieve this, we will move all tenants who would previously have had an Assured Tenancy or Assured Shorthold Tenancy onto a single system of periodic tenancies. This will provide greater security for tenants while retaining the important flexibility that privately rented accommodation offers. This will enable tenants to leave poor quality properties without remaining liable for the rent or to move more easily when their circumstances change, for example to take up a new job opportunity. Tenants will need to provide two months' notice when leaving a tenancy, ensuring landlords recoup the costs of finding a tenant and avoid lengthy void periods. Landlords will only be able to evict a tenant in reasonable circumstances, which will be defined in law, supporting tenants to save with fewer unwanted moves."

- 10 The Conservatives' Renters Reform Bill 2023, introduced in the Commons on 17th May 2023 sticks to that proposal. Clause 1 of the Bill inserts a new section 4A into the Housing Act 1988 that provides that all assured tenancies shall be open-ended monthly periodic tenancies.

- 11 Should Labour revert to the idea of longer fixed terms for three years or more? It should not. The Mayor of London's technical paper on the London Model (p 12, para 2.3) offers a way forward:¹⁰⁷

"From a tenant's perspective, even a longer fixed term – such as the three years originally proposed by the Government – presents many of the same problems as existing ASTs [i.e. Assured Shorthold Tenancies]. For example, if a problem were to arise in the final year of a three-year tenancy, tenants would be in the same position as they are currently with a 12-month AST, in that they may feel unable to enforce their rights due to fear of their landlord refusing to renew the tenancy. In addition, it makes little sense for Government to arbitrarily define the length of tenancies."

- 12 Similarly, the Select Committee Report "Reforming the Private Renting Sector" is insightful (p 13, para 22):¹⁰⁸

"The abolition of fixed-term tenancies, combined with the abolition of section 21, would undoubtedly give tenants greater security of tenure. We understand the argument that fixed-term tenancies should remain available where both parties want them, but in practice, given the current shortage of private rental properties, this would likely result in tenants having fixed terms forced on them. A reasonable balance needs to be struck between security of tenure for tenants and a degree of certainty for landlords. We therefore recommend that tenants be unable to give two months' notice to leave until they have been in a property for at least four months. This will give landlords the legal certainty of at least six months' rent at the start of a tenancy."

- 13 **Open-ended periodic tenancies that can only be brought to an end on defined grounds**

This is the way forward. But the devil is in the detail, particularly the detail of the defined grounds on which tenancies can be ended. The Government's proposals are flawed. The Select Committee explains the Government's approach at p 10, para 13:

"As abolishing section 21 will make it harder for landlords to evict difficult tenants, the Government says it will reform the grounds for possession, to make them "comprehensive, fair, and efficient", by striking a balance between maximising

¹⁰⁷ https://www.london.gov.uk/sites/default/files/london_model_technical_paper_-_reforming_prs_tenancies.pdf

¹⁰⁸ <https://committees.parliament.uk/publications/33924/documents/185831/default/>

security for tenants and protecting landlords' right to manage their properties. To do this, it will:

- introduce new grounds for possession for landlords who wish to sell their property or move themselves or close family members into it, although it says it will not allow use of these grounds in the first six months of a tenancy and will prevent the original landlord from marketing or reletting the property for three months following the use of either ground;*
- introduce a mandatory ground where a tenant has been in at least two months' rent arrears three times in the previous three years, regardless of their arrears on the day of the hearing—the White Paper says some tenants avoid ground 8 (rent arrears) by paying off a small amount of arrears (just enough to fall below the threshold of two months' arrears) ahead of the court hearing; and*
- in respect of antisocial behaviour, lower the notice period for mandatory ground"*

14 If enacted, the Renters Reform Bill 2023 ("the 2023 Bill") will do all of these things.

15 At first sight that balancing act sounds reasonable – certainly the amended antisocial behaviour ground is reasonable.¹⁰⁹ But on analysis one soon sees that it is not. The first doubtful provision is making the landlord's wish to sell the property a mandatory ground for possession. The Commission believes the Mayor of London is mistaken in his stated agreement with this proposal (technical paper, paras 3.31 and 3.41-56).

16 The Select Committee says at p 19, para 37 and p 22, para 46:

"Generation Rent told us about research it conducted in Scotland following the introduction of a similar sales ground there.¹¹⁰ It found that, of 74 cases where a landlord was granted a possession order under this ground between 2018 and 2020, some 21 properties had not been sold by early 2022 and 10 were still on the landlord register. It said this suggested the landlord had exploited the ground to evict

¹⁰⁹ It is noteworthy that this ground remains a discretionary ground so the court will have the right and duty to weigh up all the circumstances. See para 617 of the explanatory notes to the Bill at <https://publications.parliament.uk/pa/bills/cbill/58-03/0308/en/220308en.pdf>. This ground should be discretionary to avoid the risk of injustice to Disabled people and victims of domestic violence. We agree with Generation Rent that the threshold for an eviction should remain "likely to cause" rather than "capable of causing" nuisance. We see the force of Generation Rent's argument that the government's proposed reduction to two weeks is too short a timeframe to remove someone from their home who has not committed a crime. However conduct which falls short of crime can cause neighbours very great distress. Antisocial behaviour varies infinitely, which is why we prefer to leave it to the Court's discretion whether to make a possession order.

¹¹⁰ This research is to be found at <https://www.generationrent.org/2022/05/25/evictions-in-scotland/>

tenants. One landlord also said that such exploitation was bound to happen. He said it would be very easy to provide evidence of an intention to sell and then, following eviction and once they had relet the property, to say they could not get the asking price. He said it would be impossible for the Government to prevent it.

...

We recognise that the majority of private landlords are responsible and have no desire or financial incentive to evict tenants without good reason, and that for these landlords section 21 feels like an indispensable means of evicting bad tenants, but the blight of unfair eviction and insecurity of tenure experienced by too many tenants today can only be remedied by its repeal. We remain concerned, however, that the proposed sales and occupation grounds, as currently designed, could be too easily exploited by bad landlords and become a backdoor to no-fault evictions."

- 17 This is not speculation but something that has happened in Scotland. International comparisons are striking. Selling the property is not a ground for evicting tenants in many European countries, notably Austria, Belgium, Czech Republic, Denmark, Germany, Greece, Luxembourg, Netherlands and Sweden.¹¹¹
- 18 The counterargument is that only 7% of landlords in the PRS entered the sector "as an investment, for rental income". A far greater proportion (30%) regard it "as an investment, for capital growth". 44% regard it "as a temporary investment" and 59% "as a long-term investment to contribute to my/our pension".¹¹² In other words, government policy at the time implicitly encouraged them to enter the PRS on the basis that they would be able to realise their investment when they retired and taking that away would be a breach of faith.
- 19 We see some force in that. However we think that the Select Committee is right. The sale possession ground will become a back door no fault eviction. If enacted, it should be repealed.
- 20 If we are wrong about that, the new sale ground for possession should be allowed to only stand subject to safeguards against abuse, namely:

¹¹¹ For Germany see pp 34-35 of the Civitas report at <https://civitas.org.uk/pdf/thefutureofprivaterenting.pdf>. For the other nations see pp 15-18 of the OECD report at <https://www.oecd.org/els/family/PH6-1-Rental-regulation.pdf>

¹¹² Pages 75-77 at

<https://static1.squarespace.com/static/5b9675fc1137a618f278542d/t/5e784f7e087a892473a3ff8a/1584942982786/Making+Housing+Affordable+Again+-+Full+report.pdf>

- The ground should not be available to landlords (or those deriving title under them) who acquire title for money or money's worth after publication of the Labour Government's Bill to reform the PRS;¹¹³
- The three month embargo on re-letting or marketing to re-let in the new section 16E(3) of the 1988 Act proposed by Clause 10 of the Bill is too short; it should be one year, this may be readily enforced by requiring the notice to be registered on the Private Rented Sector Database proposed in Part 2, Chapter 3 of the Bill; this can be done by statutory instrument (see Clause 40(8)(c) of the Bill).

- 21 The second doubtful provision is making the landlord's wish to move themselves or close family members into the property a mandatory ground for possession (see the new Ground 1 set out in Schedule 1, para 2 of the Bill). The danger is that this will also become a *de facto* form of no fault eviction.
- 22 This ground is already the law in Scotland under the Private Housing (Tenancies) (Scotland) Act 2016. Unison Scotland has analysed the responses to a recent Scottish Government consultation about how the 2016 Act is working.¹¹⁴ They advise us that:¹¹⁵

"Their responses confirm our suspicions that the reforms introduced in Scotland, which scrapped no-fault evictions and introduced new landlord possession grounds based on the 'need to move themselves or family members in', have become normalised in practice and have led to people being evicted by the "back door", at short notice, with no protection.

UNISON is concerned that if similar policies are introduced in England they will also likely become normalised and give private tenants less security than they have under the current system – unless the measures are tightened. The policies if implemented here will leave many struggling to find suitable and affordable alternative accommodation within a few months of signing a new tenancy, under the proposals set out in the Government's Renters' Reform Bill currently going through parliament. This runs counter to the Government's aim of improving security for private tenants."

- 23 We agree. Such a ground can only be acceptable if closely defined and circumscribed. That is precisely what the current law in England

¹¹³ There is ample precedent for a provision of this kind in residential landlord and tenant law; see for example para (b) of Ground 1 in Part 1 of Schedule 2 of the Housing Act 1988 as it presently stands.

¹¹⁴ <https://www.gov.scot/publications/new-deal-tenants-analysis-report-responses-consultation-exercise/pages/3/>

¹¹⁵ Unison email to the Commission dated 14th September 2023

& Wales does. Ground 1 under Schedule 2, Part 1 of the Housing Act 1988 provides that a landlord shall recover possession if they used to live in the property as their only or principal home and wants to move back. That is perfectly reasonable. Landlords cannot rely on this ground if they or their predecessors in title “acquired the reversion on the tenancy for money or money’s worth”.

24 But the Bill deletes these limitations. There is no good reason to do so. The law as it currently stands has been in this form for many years and no one can suggest that retaining it frustrates reasonable expectations.

25 Generation Rent argues for an amendment of Ground 1 in the Housing Act 1988 so that tenants should receive relocation relief from their landlords, with the final two months of their tenancy being rent-free to offset the cost of the unwanted move. We have some sympathy with this argument but think it would be unfair to landlords in those cases where the tenant has had notice that they are renting the landlord’s former only or principal home. So the tenant knew the risks. In that situation it would not be reasonable to require the landlord to pay removal costs and allow a rent free period when they simply want their home back.

26 However there is a case for giving the court discretion to allow removal costs and/or a rent free period if the landlord failed to give notice and asks the court to dispense with the requirement of notice. We would add to Ground 1 these words:

“Provided that the court may impose fair and reasonable terms as a condition for dispensing with the requirement of notice, such as the payment of the tenant’s reasonable removal costs and/or the allowance of a rent free period.”

27 **Difficulties about open-ended periodic tenancies that can only be brought to an end on defined grounds**

Although we have no doubt that a Labour Government should make such tenancies the default, it may make the development of a pension fund-backed ethical PRS more difficult, as investors often plan to sell homes and benefit from equity appreciation (usually after 30-40 years) in order to fund the lower rents and higher standards we would want to see in an ethical PRS.

28 If these measures make the long-term let PRS a bit riskier and less profitable for private landlords through open-ended tenancies, a new Labour government should consider introducing other measures to

make other undesirable uses less profitable and/or to make other desirable uses more profitable. This is outside the scope of the Commission's terms of reference.¹¹⁶

29 Form of the tenancy agreement

There is an admirable model in the Renting Homes (Wales) Act 2016¹¹⁷, which came into effect on 1st December 2022. It enacts recommendations of the Law Commission, made originally in 2003 and further developed for the Welsh government in 2013.¹¹⁸

30 Nearly a third of the population of Wales – just under 400,000 households – rent their homes. The law governing their relationship with their landlords was an irrationally complicated mess. The Law Commission and the Welsh government have replaced it with a modernised and understandable legal structure in the shape of the 2016 Act. We see every reason to apply that structure in England with appropriate adjustments now that shorthold tenancies are to be abolished.

31 We add that there should be no rent review, landlord's break or forfeiture clauses. This is not controversial. Even the Conservative Government's White Paper and Bill agree.

32 Scottish land law is very different from that of England and Wales and Northern Ireland so we advise leaving this aspect of Scottish law alone pending a review by the Scottish Law Commission.

¹¹⁶ See pages 44-46 here: <https://www.thinkhouse.org.uk/site/assets/files/2779/jrf0223.pdf>

¹¹⁷ <https://www.legislation.gov.uk/anaw/2016/1/contents/enacted>

¹¹⁸ See <https://www.lawcom.gov.uk/project/renting-homes/>

Chapter 4: Rent stabilization

1 **Available models to stabilize rent increases within tenancies**

We've reviewed UK models coming from all levels of government, non-governmental organisations and some American and European models. This review is lengthy and is in Chapter 10 of the report.

2 **Assessment of the different models**

The models split into three groups. In order of un-favourability towards landlords:

- Rent freezes and cuts (first generation measures);
- Rent stabilization within *and between* tenancies (second generation measures);
- Rent stabilization within *but not between* tenancies (third generation measures);

3 **Rent freezes and cuts (first generation measures)**

A policy aimed at freezing or cutting rents is likely to fail and we advise against it. However, as a one-off emergency measure, it may be necessary to freeze or cut rents. We therefore draw attention to the obscure and little used (only once) section 31 of the Landlord and Tenant Act 1985 which could be helpful in these circumstances.

4 **Rent stabilization within *and between* tenancies (second generation measures)**

One snag of rent stabilization *within* tenancies but not *between* them is this. If a tenant goes and there is a re-letting to a new tenant, there is likely to be a sharp increase in rent. As the Select Committee points out at para 125 of its report:

"As already noted, however, the Government has ruled out rent controls at the start of tenancies, meaning rent increases will go unregulated precisely at the point when regulation is most needed."

5 The modelling carried out by the Affordable Housing Commission (AHC) is impressive. The AHC examined the likely impact of controls both within and between tenancies on affordability. Their analysis shows what would have happened if there had been a national policy of indexing rent rises from 2000 to 2017. They chose the index of household incomes (rather than a link to prices) in accordance with their contention that linking rents to incomes is the fairest approach.

6 This calculation shows that pegging rent rises in this way would have led to much lower rents in 2020: nearly half as many PRS tenants would be paying over a third of their incomes in rent (780,000

instead of 1.3 million).¹¹⁹ This is the result of incomes not keeping pace with rent rises over this period. Thus regulating rent rises back in 2000 would have been beneficial for struggling renters.

- 7 The AHC's modelling of the impact of rent regulation within but not between tenancies draws on work by Cambridge academics who analysed the average length of residency of all PRS tenants. This research indicates that 85% of tenants move within four years, and some 70% stay less than two years.
- 8 AHC tell us that, because turnover has been so great over recent years, limiting rent increases within tenancies, but not between them, would have only had a modest impact on affordability. Some 70,000 renters in 2020 would not be paying in excess of a third of their income on rents if, over the period 2000-17, rent rises had been limited within the tenancy in line with household income growth. Compare that with the 780,000 tenants who would not have been paying in excess of a third of their income on rents had the controls applied *between* tenancies as well as *within*. So a control within but not between tenancies would have been about ten times less effective in protecting tenants than a control both within and between tenancies.
- 9 We were initially attracted by the idea that Labour should stabilize rents between tenancies as well as within them. However Professor Christine Whitehead of the LSE, perhaps the leading thinker among British economists on the subject of rent controls, firmly advised us that any form of stabilization *between* tenancies will be harmful.
- 10 Therefore we advise against second generation models.
- 11 **Rent stabilization *within* but not *between* tenancies (third generation measures)**
Stabilization of rents "*within*" tenancies, i.e. *after* the initial contract has been made is a primary focus. Since the new structure will be open ended periodic tenancies the stabilization of rents will necessarily apply so long as the tenant remains at the premises. Thus the market decides the initial rent and stabilization happens afterwards.
- 12 It is obvious from a review of the evidence, particularly that given to the Select Committee, that there is an emerging consensus that rents within tenancies should be stabilized by reference to some suitable index.

¹¹⁹ The significance of a third of income is AHC's very reasonable view that social rents should be set on a rent-to-income ratio of 28% of gross income (equivalent to 33% of net income). See page 152 of the Report.

13 There are two intractable difficulties with the Government's solution of allowing tenants to go to the First Tier Tribunal. First, most tenants won't do it (note the experience in Scotland). Second, the inevitable uncertainties of the legal system make it more difficult for landlords to plan and they take away any certainty about future rental income flows. Rent stabilization ought to be beneficial to both sides.

14 As Holman, Scanlon, Whitehead, Crook and Kemp, point out:¹²⁰

"... the proposals limiting increases to once a year and enabling tenants to challenge unreasonable rent increases through the First Tier Tribunal are minimal. They provide much less protection for tenants than in most other countries that operate similar tenancy arrangements. It is more common to link rent rises in line with a suitable index. This leads to both greater certainty and clarity about what is acceptable and reduces the administrative costs and insecurities associated with legal proceedings. In practice, very few tenants feel able to challenge their rent increase unless it is massively out of line with the market – and in such cases they will probably choose to leave. One advantage of using indices for rent increases is that it helps the market to work by giving sitting tenants knowledge and confidence that increases are in line with market comparables and gives landlords greater certainty about future rental income flows."

15 Professor Christine Whitehead remains of that view and advised us to adopt rent stabilization *within* but not *between* tenancies by reference to an appropriate index.

16 What index is appropriate? We were for a while attracted by the sophisticated proposal made by Grainger PLC to the Select Committee, namely:

"a triple-lock approach whereby landlords are restricted so that they cannot raise rents by more than the lower of (1) CPI, (2) wage inflation or (3) 5%."

17 We refer to this model as "the triple lock". It is notable that very recent research by Generation Rent comments favourably on the Grainger triple lock.

¹²⁰ <https://committees.parliament.uk/writtenevidence/110730/html/>

- 18 However there are three problems with the triple lock. First, it was devised to deal with the top end of the market. Second, Professor Whitehead regards it as too complicated. Third, it does not work during periods of high inflation; Grainger tell us that they now have dropped the 5% and simply use a double lock based on the lower of local wage inflation and CPI.
- 19 We agree with the Affordable Rent Commission that linking rents to incomes is the fairest approach. We are assured by Grainger that data for local wage inflation are sufficiently robust.
- 20 Local initiatives like the rent pressure zones (RPZs) in Scotland and the German policy of *mietpreisbremse* (rental price brake) in particular *angespannten Wohnungsmärkten* (tight housing markets) are not necessarily excluded but we are sceptical. The German experience has in general been very mixed and was unsuccessful in Berlin. The Scottish experience is that RPZs are impracticable if local government has to assemble too much evidence before setting them up.
- 21 **The Commission recommends a third generation rent stabilization model**
Rents stabilization should operate within tenancies and be limited to:
- Annual increases only.
 - Four months' notice of increase.
 - Increases limited to the lower of local wage growth and CPI.
- 22 Landlords will be legally required to annually submit truthful details of the rents they charge for each of their properties on the NLR which will limit rent increases to the above formular. This will also allow relevant government agencies to monitor and enforce rent stabilization.
- 23 Additionally, the Renters' Charter will empower tenants to know and assert their right to rent stabilization.
- 24 There should be one system for England and Wales. Landlord and tenant law is a devolved matter in Scotland and should remain so. Northern Ireland poses special problems that are best left to the democratic process in the Province.

Chapter 5: A Decent Homes Standard

- 1 There is considerable variance in the quality of homes in the PRS. The need for a new Decent Homes Standard has been brought into sharp focus by the tragic case of Awaab Ishak. The Government has enacted "Awaab's Law" though it is not yet in force¹²¹.
- 2 The English Housing Survey¹²² has some interesting analysis on Decent Homes Standards, comparing tenures across England. It reminds us that:

"For a dwelling to be considered 'decent' under the Decent Homes Standard, it must:

- *meet the statutory minimum standard for housing (the Housing Health and Safety Rating System, since April 2006), homes which contain a Category 1 hazard under the HHSRS are considered non-decent*
- *provide a reasonable degree of thermal comfort*
- *be in a reasonable state of repair*
- *have reasonably modern facilities and services."*

- 3 In the same release, the English Housing Survey reported:

"In 2020-21, 23% of private rented sector homes were non-decent. This is higher than in the owner-occupied sector (14%) and the social rented sector (11%)."

- 4 The definition of what defines a decent home has always changed over time. Climate change, the need for greater energy independence, accessibility and rapid technological advancements are just some of the challenges that will change how we live and the homes we live in faster than ever before.
- 5 Inclusion London, Disability Rights UK, Branch Properties and Advice for Renters have called on the Secretary of State to ensure the Renters (Reform) Bill, currently progressing through parliament, includes measures to improve accessibility for Disabled people. They explain¹²³:

"There are around 9.8 million Disabled people in England, who historically have been overrepresented in social housing, the

¹²¹ Section 42 of Social Housing (Regulation) Act 2023. See <https://info.pennington.org.uk/blog/awaabs-law-what-to-expect>

¹²² <https://www.gov.uk/government/statistics/english-housing-survey-local-authority-housing-stock-condition-modelling-2020/english-housing-survey-local-authority-housing-stock-condition-modelling-2020#:~:text=At%20the%20local%20authority%20level,dwellings%20modelled%20as%20non%2Ddecent.>

¹²³ <https://www.disabilityrightsuk.org/news/disability-groups-call-more-accessible-housing-private-renters>

most affordable and secure form of tenure. However, the shortage of social housing has meant that renting privately has become the only option for many Disabled people, with 18.8% of them currently relying on the private rented sector. Despite this, 1 in 3 Disabled renters in the private rented sector are forced to live in homes which are unsuitable for them."

- 6 The Centre for Ageing Better commissioned the Good Home Inquiry.¹²⁴ It pointed out that accessibility, adaptations and maintenance are a problem across all housing sectors. It explained:

"We must prepare for the reality of an ageing population. According to recently published data from the Office of National Statistics (ONS), by 2041, one in four people in England will be aged 65 or over. The fastest increase will be in the 85 years and over age group, with the number of people aged 85 and over expected to double to 3.2 million by 2041. We know that the vast majority of us would prefer to remain living independently in our own homes and communities as we age."

The report went on to contrast this growth in the population of older people with the dangerous consequences of so many homes being inadequate across housing tenures.

"Inadequate adaptation and poor maintenance can easily result in falls and trips in the home – one of the major causes of death or serious injury, particularly among older adults."

Referencing the quality of homes in the PRS it said:

"The private rented sector (PRS) is a trickier proposition. In this sector, a scandalous one in four homes is deemed to be substandard. Greater regulation backed up by better enforcement is required, especially given that the PRS is the fastest growing tenure, and one in which many more of us are growing older."

- 7 A new PRS Decent Homes Standard must keep up with the needs of society. It cannot be static. It must evolve. It should therefore be annually reviewed and any additions to the standard should be applied to the criteria landlords have to meet when they complete

¹²⁴ <https://ageing-better.org.uk/sites/default/files/2021-09/good-homes-for-all-a-proposal.pdf> September 2021

their annual self-assessment on the digital National Landlords Register.

- 8 Jacky Peacock at Advice for Renters stressed the urgent need for standards to be improved across the sector. She said two factors would be particularly important. First, the PRS Decent Homes Standard should contain a requirement for the property to undergo a regular independent assessment by a qualified assessor – much like an MOT¹²⁵. Secondly, the landlord or managing agent must pass a test that demonstrates they understand and can meet their property management responsibilities. Jacky Peacock explained:

"While an MOT indicates a vehicle is in good order, a qualified mechanic is required to do the MOT and a qualified driver is required to drive the vehicle. The only way we can make sure all landlords and managing agents have a minimum professional understanding of their obligations is to require them to be regularly trained and pass a test. Renters have a right to know that the person responsible for safely maintaining their home understands what that involves and makes sure it happens to legal standards."

- 9 Undertaking a thorough PRS landlords training course and successfully passing the PRS landlords test should be a requirement for landlords or the managing agents if the property to be allowed to be let.

10 **A Decent Homes Accessibility Standard**

Disabled Peoples' Organisations and organisations representing older people stressed the importance for a Decent Homes Standard that adopts the Social Model of Disability¹²⁶ and properly accommodates the diverse needs of the people they represent. We recommend:

- a. Tenants have a right to accessibility adaptations
- b. Accessibility adaptations funding should support landlords to make homes accessible and suited to the tenant's specific needs
- c. Decent Homes Accessibility Standards should be applied to all new BtR homes so that more homes are accessible to more people.

11 **Labour's PRS Decent Homes Standard**

The PRS Decent Homes Standard should include:

- a. A guarantee that the Letting Agent is advertising a property that meets the Decent Homes Standard.

¹²⁵ <https://www.gov.uk/getting-an-mot>

¹²⁶ https://en.wikipedia.org/wiki/Social_model_of_disability

- b. Landlord or managing agent has undertaken the most recent training course and passed a test which demonstrates they understand their legal Decent Homes Standard obligations.
- c. Up to date gas, electrical, fire safety and other certificates that guarantee the safety of a home
- d. Meeting an agreed EPC rating
- e. Meeting an affordable warmth standard
- f. Meeting a ventilation standard
- g. Meeting a standard for internet connectivity
- h. Meeting an accessibility standard that fully complies with Article 19 of the UN Convention on the Rights of Persons with Disabilities¹²⁷.

12 **Decarbonising homes and cutting energy bills**

The Labour Party has committed¹²⁸ to ambitious plans to decarbonise Britain and grow the UK economy by becoming a clean energy superpower. Decarbonising homes in what is currently the second biggest housing sector is essential to that mission.

- 13 A good start to decarbonising the PRS would be to raise the Minimum Energy Efficiency Standard (MEES) up to EPC C (Energy Performance Certificate rating C) at the earliest opportunity, meaning that landlords must hit this rating to be able to let out a property.

- 14 The Decent Homes Standard should be a mechanism for introducing high decarbonisation standards in PRS homes.

15 **Funding the PRS Decent Homes Standard**

Landlords will rightly ask how these changes will be paid for.

- 16 Firstly, the Commission concluded that housing should not be made available to let if it is of poor quality which is below the Decent Homes Standard. Businesses across a wide variety of sectors must ensure their products and services are safe for public consumption or use. It is a practical step to apply this ethos to the PRS.

- 17 Secondly, it is in society's interest that PRS standards increase to meet changing needs such as tackling climate change. While financing improvements is outside of this Commission's terms of reference, there was a consensus from many of the people we interviewed that a government-backed loan scheme could offer a value-for-money solution.

¹²⁷ <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-19-living-independently-and-being-included-in-the-community.html>

¹²⁸ <https://labour.org.uk/wp-content/uploads/2023/06/Mission-Climate.pdf>

Chapter 6: The Renters' Charter and Landlords' Code of Conduct

- 1 The Renters' Charter and Landlords' Code of Conduct are facilitated by having a comprehensive mandatory National Landlords Register (NLR) which measures compliance with a series of legally enforced standards.
- 2 **The Renters' Charter**
The primary purpose of the Charter should be to provide an accessible guide, in simple language, that helps tenants understand their rights and obligations. It should be easily accessible to renters and explain in simple language its key provisions, namely:
 - (1) **Security of tenure:** the end to no-fault evictions, including back-door no fault evictions;
 - (2) **Rent stabilization:** annual increases only, four months' notice of increase and increases limited to local wage growth or CPI, whichever is the lower;
 - (3) **Decent Homes:** an annually updated Decent Homes Standard measured and enforced by means of an annually updated National Landlords Register.
 - (4) **Rights and responsibilities:** What the tenant's responsibilities and rights are and how tenants can get access to justice and redress.
- 3 The Charter should be comprehensive and inclusive, taking into account the challenges faced by BAME people, LGBTQ+ people, Disabled people, older people, former Looked After Children, refugees, etc. More consultation should be undertaken on these aspects of the Charter.
- 4 The Renters' Charter should also detail how tenants are expected to act responsibly.
- 5 **The right to have pets**
This cannot be absolute and unlimited. Landlords should be able to object to dangerous or savage pets. The Select Committee considered the problem at pages 53-55, Paras 144-148 of its report. It concluded at Para 148:

"The proposal to make it easier for landlords to allow pets by making pet insurance a permitted payment under the Tenant Fees Act 2019 is a sensible and proportionate measure that could make a meaningful difference. On the other hand, the proposal to make it illegal for landlords to unreasonably withhold consent from those who request permission to have a

pet seems impractical, even if a satisfactory definition of "unreasonably withholding consent" could be produced. We recommend that the Government abandon their promise to legislate to make it illegal to unreasonably withhold consent when a tenant requests permission to have a pet. If it cannot accept this recommendation, it should set out in response to this report what would constitute "unreasonably withholding consent" and explain in what circumstances it would be acceptable to force landlords to accept pets, especially where those landlords have had previous negative experiences of tenants with pets."

- 6 The Select Committee's comments about insurance are reasonable. Making it easier for landlords to allow pets by making pet insurance a permitted payment under the Tenant Fees Act 2019 is a sensible and proportionate measure that could make a meaningful difference.
- 7 Alternatively, landlords and tenants may agree that the tenant should instead pay a modest additional deposit. While insurance or deposits may be required at this stage, we expect that in most cases pets will be permitted and that insurance or additional deposits will become unnecessary because the risk will be taken into account when the rent is agreed with a new tenant.
- 8 The Committee was right about the difficulty of defining what is meant by the unreasonable refusal of consent to a pet. Covenants forbidding various acts by tenants without the consent of the landlord, "such consent not to be unreasonably withheld" are very common in all types of lease or tenancy agreement, commercial or residential.
- 9 Unfortunately Clause 7 of the 2023 Bill follows that model and provides that:

"It is an implied term of every assured tenancy to which this section applies that—

 - (a) a tenant may keep a pet at the dwelling-house if the tenant asks to do so in accordance with this section and the landlord consents;
 - (b) such consent is not to be unreasonably refused by the landlord ..."
- 10 There is no definition of what constitutes unreasonable refusal. This form of words has caused a cartload of problems in other contexts and interminable litigation.

- 11 We recommend this formulation. Withholding consent to a pet is unreasonable unless the landlord can prove, the burden of proof being on them, that:
- the proposed pet is savage or dangerous; and/or
 - the proposed pet is likely to alarm or disturb unreasonably other tenants and the public generally; and/or
 - insurance against damage or injury caused by the proposed pet is not obtainable at a reasonable cost.

12 **The Landlords' Code of Conduct**

The mandatory requirement for landlords to register and annually update truthful and accurate details onto the NLR will set the standards landlords must adhere to as detailed in Chapter 2 of this report.

- 13 The National Residential Landlords Association (NRLA) has a Code of Practice¹²⁹, as does the Property Ombudsman.¹³⁰ They are good and set out good practice. However, as detailed earlier, 71% of landlords report they are not and never have been members of any of the professional organisations associated with the sector.

- 14 The primary purpose of the landlords' code of conduct should therefore be to provide an accessible guide, in simple language, that helps landlords understand their rights and legal responsibilities to:
- Complete truthfully their annual NLR registration.
 - Expect compliance inspections within a stated period.
 - Pay an annual registration fee.
 - Understand the sanctions for non-compliance.
 - Provide the tenant with a 'Tenants' Charter Advice Pack' which clearly explains the tenant's rights and obligations at the beginning of a tenancy. It should explain:
 - the circumstances in which the court/tribunal can end the tenancy
 - how rent stabilization will work
 - the new rules about pets
 - Set out the tenant's mechanism for redress with the landlord and specify completion times for works and standards of customer satisfaction.

15 **Enacting the Renters' Charter and Landlords' Code of Conduct**

Necessarily the Charter and Code cannot be a substitute for a properly drafted Act of Parliament or Statutory Instrument. Landlord and tenant law is complicated and requires precise language otherwise there will be interminable litigation to establish what the

¹²⁹ <https://www.nrla.org.uk/about-us/code-of-practice>

¹³⁰ https://www.tpos.co.uk/images/documents/Codes/TPOE22-7_Code_of_Practice_for_Residential_Letting_Agents_A4_FINAL.pdf

legislation actually means. The early Rent Acts were enacted in a hurry and were not well drafted. Consequently the Rent Acts gave birth to an inordinately complicated jurisprudence.

- 16 The main statute should give the Secretary of State power to issue the Charter and Code. Such a power would be similar to the power that, for example, the Department for Education has to issue Codes of Practice such as the Schools Admissions Code. This is a very well established practice in all sorts of areas of government.

Chapter 7: Enforcement and adjudication

1 The prerequisite for all landlords to be on the NLR if they want to legally rent out a residential property will enable inspecting authorities to efficiently target their work at those landlords who have not properly registered.

2 Inspection, enforcement and adjudication can be undertaken by:

- Local authorities
- The police/CPS
- PRS Housing Ombudsman
- Tribunals/courts.

3 We recommend:

That an incoming Labour Government should:

- (1) Place a duty (not just a power) on the police to enforce the provisions of the Protection from Eviction Act 1977.
- (2) Create a funding mechanism to support local authorities in recruiting expertise and capacity to pursue civil penalties under the Housing and Planning Act 2016.

Local authorities should:

- (1) Adopt targeted means to detect unlicensed landlords, including expanding data-sharing and monitoring all on-line platforms advertising private rentals.
- (2) Work with the police more proactively to enforce the Protection from Eviction Act 1977, and actively pursue prosecutions of offenders in such cases.

The Crown Prosecution Service should:

- (1) Institute procedures for centralising data collection and reporting on illegal evictions.

Police services should:

- (1) Work with councils to make more active use of powers to enforce the Protection from Eviction Act 1977.
- (2) Review their training around evictions.

4 Complaints should be dealt with by a single redress provider.

5 The Housing Ombudsman's remit¹³¹ and Complaint Handling Code¹³² are a potentially useful structure for managing complaints.

¹³¹ <https://www.housing-ombudsman.org.uk/about-hos/about-us/#:~:text=We%20investigate%20complaints%20and%20resolve,private%20landlords%20and%20letting%20agents>

¹³² <https://www.housing-ombudsman.org.uk/landlords-info/complaint-handling-code>

- 6 Enforcement must be properly resourced. There is a valuable review of local authority enforcement at Paragraphs 70 to 93 of the Select Committee Report.¹³³ There are two key points. First:

"There are huge disparities between levels of enforcement activity by different local authorities. In 2019–20, some 76 councils recorded 11,570 category 1 hazards in PRS homes but served only 2,814 improvement notices. These figures indicate that the numbers of properties being inspected within a local authority area range from 0.1% to 24.2% of the total private rental housing stock. In 2018, one of our predecessor Committees concluded that enforcement levels were far too low in the vast majority of councils and that, as a result, vulnerable tenants were being left without the protection they were legally entitled to." (page 29, para 70)

- 7 Second:

"There was concern about local authorities' ability to deliver the proposals in the White Paper given they remain under enormous financial pressure. In particular, we heard there was a staffing crisis in most local authority housing teams" (page 30, para 74).

- 8 Local government evidently does not have the necessary funding. The current Government's idea that regulation will be self-funding through fees, fines and penalties has not been backed by a comprehensive funding analysis or a workable plan.
- 9 That said, NLR registration fees, fines and penalties could provide substantial levels of funding for inspections and enforcement action. This money should go to the inspection and enforcement authorities.

10 **Adjudication**

The Conservative Government has decided against creating a housing court on cost grounds. It proposes that the First Tier Tribunal deal with rent increases. That falls within its existing jurisdiction. Possession proceedings and other landlord and tenant disputes will remain with the County Court.

- 11 The Scottish Parliament has transferred most private sector housing matters from the Sheriff Courts (the Scottish equivalent of the County Courts) to the First Tier Tribunal Scotland (Housing and Property Chamber). This model cannot be adopted in England

¹³³ <https://committees.parliament.uk/publications/33924/documents/185831/default/>

because there are only five First Tier Tribunals in the country dealing with residential matters. They have only five buildings; one each in Birmingham, Cambridge, Havant, London and Manchester.¹³⁴ Unless the numbers of their judges, staff and buildings were radically expanded, the First Tier Tribunals would be utterly overwhelmed if the housing jurisdiction of the hundreds of county courts around the country were transferred to them.

- 12 The reform of the court and tribunal system lies outside the Commission's terms of reference. A general review of the court and tribunal system should be quickly instigated in government.
- 13 **Intermediate landlords**
The rent-to-rent and the mediated markets obstruct the enforcement of good practice and safe standards in the PRS.
- 14 While the Supreme Court decision in *Rakusen v Jepson* [2023] UKSC 9 and [2023] 1 WLR 1028 was a correct decision as a matter of statutory construction, it showed how weak the current law is. The decision must be reversed by statute so that superior landlords can be made liable for the defaults of intermediate landlords.¹³⁵
- 15 Dr Julie Rugg explained to us why this issue is so important. Mediating agencies are playing an increasing role in the housing benefit market and are becoming oriented towards large-scale procurement and management of rental property backed by investment capital.
- 16 The rise of the mediated market (also known as rent-to-rent) puts an agency between the renter and the landlord, such as companies like MEARS. They rent from the landlord, and then sublet at much higher rates. They often sublet nightly or temporary accommodation to persons referred to them by local authorities. The mediated market is also used for some asylum seeker placements. Assurance of quality is not guaranteed.
- 17 Exempt accommodation is a type of supported housing that is used to house a range of people with support needs, such as homeless people, people who have experienced domestic abuse, prison leavers, and those recovering from alcohol and drug addiction. The LHA applies to most occupiers who rent privately, but not to those renting exempt accommodation (see the Select Committee report on

¹³⁴ <https://www.gov.uk/courts-tribunals/first-tier-tribunal-property-chamber>

¹³⁵ See the useful press release by Safer Renting at

<https://static1.squarespace.com/static/5dd53ca5b73f98154b9db657/t/63ff8254eabbd625c8fa002/1677689428699/press+release+Supreme+Court+Rakusen+case.pdf>

exempt accommodation dated 27th October 2022)¹³⁶. The reason the sector is so open to exploitation is that there is no limit on the amount of benefit that can be claimed for exempt accommodation. It is a “licence to print money”. It needs to be capped.

- 18 Companies like MEARS are conducting an entirely lawful business in an entirely proper manner. But, as Dr. Rugg observes, this is an area open to exploitation and criminality. She and her fellow authors give examples at pp 37 to 38 of their remarkable work “Journeys in the Shadow Private Rented Sector”.¹³⁷

“Degrees of criminality travel beyond intent to defraud on rental payment. Not all housing statutes and regulations are clear about who should be held liable for regulatory infractions and the distinction creates difficulties with assigning responsibility for failure to comply with licensing requirements. For example, in the matter of the duty to apply for a mandatory HMO or selective licence, it is the person who ‘controls’ the property who is liable, and that is not necessarily the owner. Rent-to-rent scams mean that defining responsibility for ‘control’ is extremely problematic. Indeed, in some cases landlords may well exploit a ‘mesne’ or head tenant to encourage them to subdivide the property as a means of arriving at subdivision informally, so increasing and sharing the increase in total rental take from the property. Meanwhile, the landlord evades any liability for breaching Article 4 directives or for failure to license the property as a HMO. If identified by enforcers, the mesne tenant simply disappears.”

¹³⁶ <https://committees.parliament.uk/committee/17/levelling-up-housing-and-communities-committee/news/173906/exempt-housing-and-support-services-are-a-complete-mess-says-committee/>

¹³⁷

<https://static1.squarespace.com/static/5dd53ca5b73f98154b9db657/t/5f4f698b65ce7f08a28efdc4/1599039887282/%27Journeys+in+the+Shadow+Private+Rented+Sector%27+-+Full+Report+August+2020.pdf>. Thank you to Shelter for bringing it to our attention

Chapter 8: Potential effects on the market

- 1 There are many factors besides changes in the law of landlord and tenant which affect the private renting market.
- 2 The PRS may have begun to decline again for reasons that have nothing to do with changes to the law about rents or security of tenure. The Select Committee notes at pp 38-39, para 96, that:

"The evidence appears to suggest that a reduction in supply is at least partly responsible for the imbalance. In 2013-14, the PRS accounted for 19% of all housing. This figure rose to 20% in 2015-16 and remained there until 2016-17, but in 2017-18 it fell back down to 19%, or 4.4 million households, where it has remained ever since. As Ben Beadle, NRLA, said, this equates to a loss of about 260,000 homes in the last five years. The reduction is attributed mostly to changes to taxation in 2015, particularly the withdrawal of tax relief on mortgage interest under section 24 of the Finance Act 2015, although increased regulation, such as HMO licensing, was also cited as a contributory factor. As a result, we were told letting had become financially less attractive, especially to landlords with small portfolios. One landlord said landlords had been subjected to a "war of attrition" over the past 10 years."

- 3 It is quite plain that many landlords dislike the abolition of "no fault" evictions under section 21. So it is possible that the abolition of section 21 will cause some landlords, particularly those with small portfolios, to sell up or leave the market. The reaction of some landlords to the Government's proposals has not been measured: the Select Committee was told that the prospect of the Government's proposals was "spooking the bejesus" out of landlords; one landlord thought the Government was out to "destroy" the sector (see pp 39-40 of the Report).
- 4 The most significant evidence given by academic economics to the Select Committee is that of Nancy Holman, Kath Scanlon and Christine Whitehead, LSE; Tony Crook, University of Sheffield and Peter Kemp, University of Oxford:¹³⁸

"There have been cumulative negative effects mainly on individual landlords, from the tax changes, but also because of the covid-related modifications to eviction processes and timetable and expectations of regulatory change. As stated

¹³⁸ <https://committees.parliament.uk/writtenevidence/110730/html>

above, the direct impact will be on landlords who might expect to use S21 and more generally about uncertainties about how the court proceedings will operate. Both suggest falling supply particularly from individual landlords. These properties may be purchased by larger landlords, leading to some restructuring of the sector as has happened in Ireland, but it is more likely they will leave the sector altogether.

Perhaps more importantly, considerable numbers of landlords will be faced with significant increases in costs if they to comply with the Decent Homes Standard and other requirements. Some landlords will be able to afford the necessary costs to bring homes up to the standard, but many others will not. Nor is it obvious that such changes lead to rent increases to cover these costs. Financing property upgrades will be especially difficult at the lower end of the market, where the cost is likely to be greater and the scope for raising rents to recoup the costs very limited due to the low incomes of the tenants. There will almost certainly be a reduction in properties to rent for lower income tenants.

Overall, the biggest impacts will be on the lower end of the market. A report to the Nationwide Foundation by Rugg and Wallace at the University of York last year suggested:

'A great deal of current supply to the bottom end of the market is being let in circumstances that are not easy to replicate: in particular, there is an aging cohort of landlords with portfolios that were built at a time of flexible financing and benign tax treatment. New entrants to the market will not be able to build their holdings in the same way'.

It concluded that there were multiple reasons, working in combination, why landlords were choosing to exit the market. Taxation changes, the introduction of UC and a swathe of new regulations have 'increased the risks attached to letting whilst at the same time reducing profitability'."

- 5 So it is likely that some smaller landlords will leave the sector. This is already happening. Landlords sold 35,000 more properties than they bought across 2022, according to a Hampton's analysis of data from Countrywide.¹³⁹ Propertymark's "A shrinking private rented

¹³⁹ <https://www.theguardian.com/money/2023/feb/24/it-was-a-massive-shock-the-tenants-facing-eviction-as-landlords-raise-rent-or-sell-up>

sector?" (June 2022)¹⁴⁰ found that 53% of buy-to-let properties sold in March 2022 left the PRS, that 84% of respondents said that the number of new investors in the PRS had decreased in the last three years and that there was a 49% reduction in the number of properties available to let per branch from March 2019 to March 2022.

- 6 No doubt there are other reasons such as profit margins squeezed by increased interest rates after the Truss-Kwarteng economic disaster. Though regrettable, that will not be a long term problem. As the Select Committee points out (p 40):

"100. As we heard, just because landlords sell, it does not mean their properties will necessarily leave the PRS, which means the precise impact of the reforms is difficult to predict. Any property sold would likely end up in one of four places:

- it could remain in the PRS, perhaps having been bought by a larger landlord, resulting in the PRS being consolidated in fewer hands;*
- it could transfer to the short or holiday-let sector, especially in tourist areas;*
- it could enter the owner-occupied sector, either because the landlord or a family member moves in, or because it is sold to an owner-occupier; or*
- it could be bought by a local authority or private housing provider and end up in the social housing sector.*

101. It was generally agreed that the sale of properties by landlords would only be a problem if too many properties entered the short or holiday-let sector; whereas, if enough properties were bought by owner-occupiers, it could reduce demand in the PRS if the buyers had previously been renting. On short and holiday lets, Ben Beadle, NRLA, said he could not believe anyone was surprised about the situation since the Government had "taxed the pants off" landlords in the PRS and that a quick win would be to reset the balance of taxation."

- 7 It is notable that the Select Committee thought that the sale of properties by landlords would only be a problem if too many

¹⁴⁰ <https://www.propertymark.co.uk/resource/a-shrinking-private-renter-sector.html>

properties entered the short or holiday-let sector. There is evidence that this is a risk.

- 8 Propertymark's October 2022 survey "The impact of short-term/holiday lets on UK housing"¹⁴¹ found that:

"The rise of short-term lets (STLs) and its impacts on UK housing is highly localised. 69 per cent of agents believe the rise of STLs will negatively impact the private rented sector (PRS). Increasing the supply of new homes and regulating the STL market are preferred solutions to issues caused by STLs."

- 9 Generation Rent's "Your holiday, our home?" (27.5.22)¹⁴² found that:

"Thousands of properties in Wales and South West England were bought as holiday homes or switched from the private rented sector between March 2020 and August 2021. In the same period rental listings halved, sending rents surging by 17% and 16% respectively.

*...
The popularity of domestic holidays last year, combined with the lack of regulation and tax advantages has fuelled the appetite for holiday homes and deprived renters of places to live. We've heard countless stories of people being evicted so their landlord could start renting to tourists.*

Taking homes out of the residential market prices out people who want to settle down in the place they grew up. That destroys communities and starves local businesses of workers.

The government must step in to incentivise landlords to let to tenants instead of tourists. This involves removing tax advantages from holiday lets, and giving councils powers to license holiday lets and impose substantial council tax premiums on holiday homes. Only by acting can the government ensure that homes are available across the UK for the residents who so desperately need them."

- 10 Generation Rent returned to this issue on 6.12.22. The headline was "29 homes lost per day to the Holiday Homes Sector":¹⁴³

¹⁴¹ <https://www.propertymark.co.uk/resource/the-impact-of-short-term-holiday-lets-on-uk-housing.html>

¹⁴² https://nb.generationrent.org/your_holiday_our_home

¹⁴³ <https://www.generationrent.org/2022/12/06/29-homes-lost-per-day-to-the-holiday-homes-sector/>

"England's housing supply lost nearly 11,000 properties to the second home and holiday let sector between 2021 and 2022, according to our new analysis of local tax data.

This continues a trend of homes leaving the residential sector that has accelerated in recent years. It's equivalent in some areas to the loss of more than 2% of the housing stock between 2019 and 2022. This has led to greater competition for vacant homes and inflationary pressure on prices and rents."

- 11 Shelter told the Commission that there needs to be a range of incentives and disincentives in place to ensure that good landlords do not exit the market due to increased regulatory burdens. This should include disincentivising moves to short-term holiday lets.
- 12 Professor Christine Whitehead emphatically advised us that disincentivising short term and holiday lets was crucial.
- 13 The Labour government should discourage PRS landlords from entering the short-term and holiday let market or the more profitable nightly-paid temporary accommodation and supported housing sector. This should be by regulation and equalising the tax treatment for all forms of private letting.
- 14 Any changes to the PRS bring a risk of a short term reduction in supply for the reasons already explained. The evidence is that the introduction of even the modest and flawed Conservative Bill is likely to encourage a number of smaller landlords to leave the sector. It should, however, be noted that changes in fiscal measures alongside economic drivers are bigger factors in causing small landlords to leave the PRS.
- 15 In summary, Labour should preserve those parts of the PRS that operate high codes of conduct. It must take measures to ensure all landlords operate to agreed high standards. In the long run, the way forward for the PRS is to encourage and incentivise institutional investors and the Build To Rent (BtR) sector.
- 16 This will not be straightforward. Savills' latest update on Build to Rent finds: "The UK's BtR stock now stands at 92,140 completed homes, with a further 59,043 homes under construction. In addition, there are 112,511 homes in the planning pipeline, including those in the pre-application stage. The total size of the sector is therefore 263,694 homes."

- 17 Some of these schemes will have been rendered unviable by changing market conditions, and could perhaps be purchased in bulk with a discount by Local Authorities, Housing Associations or others, who could then let them out at lower rents than would have been possible without the discount.¹⁴⁴
- 18 At any rate, the essential point is that section 21 has to go, however much that may distress some landlords. As the Select Committee says at p 22:
- "We recognise that the majority of private landlords are responsible and have no desire or financial incentive to evict tenants without good reason, and that for these landlords section 21 feels like an indispensable means of evicting bad tenants, but the blight of unfair eviction and insecurity of tenure experienced by too many tenants today can only be remedied by its repeal."*
- 19 One final point about effects on the market. There are reports of huge rent increases in the PRS, particularly in London. Market forces undoubtedly push rents up when housing supply falls short of demand. Rent stabilization may have a beneficial effect on Local Housing Allowance (LHA) as it will limit rent rises within tenancies.
- 20 However we do not have precise information of exactly what rents are. Exact data will only be available if, as we recommend, landlords are required to submit details of the rents they charge for each of their properties as part of their Annual NLR Return.
- 21 More economic modelling should be undertaken to understand the likely effects of rent stabilization on rents, particularly on the rents paid by tenants who rely on LHA.

¹⁴⁴ See https://www.savills.co.uk/research_articles/229130/353636-0 and https://www.savills.co.uk/research_articles/229130/356373-0. It is however notable that the Buy To Let (BTL) market is proving resilient (see <https://www.ftadviser.com/ftadviser-focus/2024/01/09/why-landlords-are-positive-about-buy-to-let-in-2024/>).

Chapter 9: The thinking of economists about rent control

- 1 The most comprehensive recent review of economists' thinking is to be found in "Rent control - A review of the evidence base" by Prof Kenneth Gibb (University of Glasgow), Dr Adriana Mihaela Soaita (University of Glasgow) and Prof Alex Marsh (University of Bristol) published by UK Collaborative Centre for Housing Evidence on 23 February 2022.¹⁴⁵ The best short summary of the economics of rent control is in the admirably lucid report, "Rent regulation in the private rented sector in Northern Ireland", by the Chartered Institute of Housing Northern Ireland (CIHNI).¹⁴⁶ The Commission has gratefully borrowed much of what follows from CIHNI.

- 2 For many years almost all economists have been hostile to rent control. The discussions tended to lack nuance because they did not distinguish between the differing types of rent control. Richard Arnott put this right in his classic 1995 paper "Time for Revisionism on Rent Control?"¹⁴⁷ This is one of his key conclusions:

"... the theoretical analysis of second-generation rent controls should take into account that the housing market is imperfectly competitive. When this is done, whether such controls are harmful or helpful depends on the particular package of regulations adopted, which is the outcome of a political process. Thus, second-generation controls should be judged on the empirical evidence and, since the programs are so varied, on a case-by-case basis."

- 3 He sets out a classification of "three generations of rent control". The first generation is linked to the control of rent levels, the second to the regulation of rents within and between tenancies and the third to the regulation of increases within but not between tenancies.

- 4 The second generation seeks to govern rent increases both within and between tenancies. They are a development of first-generation measures and seek to allow landlords to account for some cost increases in the management of the property, thus improving the incentive for continued investment in improvements and repairs above that of the first-generation measures. An example of this type of measure is an automatic rent increase based on inflation (such as CPI). This could look favourable at times of low inflation, but when

¹⁴⁵ <https://housingevidence.ac.uk/publications/rent-control-a-review-of-the-evidence-base/>

¹⁴⁶ <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-rent-regulation-in-the-private-sector-in-northern-ireland.pdf>.

¹⁴⁷ Journal of Economic Perspectives, Volume 9, Number 1, Winter 1995, Pages 99-120 at <https://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.9.1.99>

there is rampant inflation it could see rapid rental increases over and above what would have applied at market rates.

- 5 The third generation refers to measures that restrict the increase of rent within tenancies but not between them. This form of measure implies that rents set at the start of the tenancy are at 'market' rates, with subsequent increases governed by the set-out regulations. These increases may then be limited by an amount such as an inflation-linked measure or by other means such as property condition/quality. Other forms of this generation of measure, include the regulation of the frequency of rental increases (such as limiting rental increases to once per year, and required notice periods) but not a restriction on the financial level of rent increases.
- 6 Prof Christine Whitehead and Peter Williams of the LSE in their 2018 paper "Assessing the evidence on Rent Control from an International Perspective"¹⁴⁸ argue that in principle third generation measures would be seen to allow rents to reset to market levels at the end of a tenancy, protect renters from substantially large rent increases (depending on the measure used to restrict increases), and provide the landlord with some assurance that increases in costs would be accommodated in rental prices. Their conclusions include this (page 29):

"Rent controls are clearly much more contentious. In practice many landlords do not attempt to maximise their rents, preferring to keep tenants longer term if opportunities allow (and this in turn may mean that the yield is just as high given lower turnover costs and certainty greater). This suggests that many would positively benefit from rent stabilization (third generation rent controls) with a transparent indexation system.

A quid pro quo for accepting such changes would have to be stronger enforcement - something that the RLA often stresses. Both bad tenants and bad landlords must understand there is an active and effective enforcement regime which encourages everyone to meet their obligations and making the whole system work better."

- 7 The CIHNI concluded that:

"The broad consensus across the literature we reviewed is that moving further up Arnott's generations of rent control

¹⁴⁸ <https://www.lse.ac.uk/business/consulting/assets/documents/assessing-the-evidence-on-rent-control-from-an-international-perspective.pdf>

[generation 3 at the bottom and generation 1 at the top] tends to create systems with negligible impact, complicated and unclear outcomes, or at worst undesired effects. At the top of the Arnott typology, first-generation rent controls in modern markets (similar to what is proposed in Northern Ireland) caused a drop in supply as well as a rent reduction in the places we reviewed. The PRS in the Netherlands represents a relatively small eight per cent of the housing stock, and first-generation control is partly credited with the low supply of private rented properties. A short-lived rent freeze in Berlin caused a substantial decline in rental properties there."

- 8 This is in line with the conclusions at p53 of the UK Collaborative Centre for Housing Evidence report "Rent control - A review of the evidence base" dated 23 February 2022.¹⁴⁹

"...in the absence of specific strong local evidence to the contrary, we concur with the overwhelming majority of studies that conclude that first generation rent regulations should be avoided. In considering the implementation of a new regime of price regulation, we are therefore in the territory of later generation rent regulation and how it interacts with other non-price regulations."

- 9 In short, first generation rent controls like rent freezes or forced rent reductions are usually counter-productive. Second or third generation rent controls are good or bad depending on the particular circumstances.

10 **First generation controls**

The classic form in the UK is the Rent Acts. During the 20th Century the law of private renting changed repeatedly.¹⁵⁰ The first Rent Act was passed as a temporary war measure in 1915. Partial decontrol followed in 1923 and 1933 but full control was re-imposed at the start of the War in 1939. The Housing Act 1957 started decontrol again but Labour Governments introduced regulated tenancies and fair rents by the Rent Act 1965 and extended regulation to furnished tenancies in 1974. During all of these legal changes the private rented sector gradually declined whether the law was good for landlords and bad for tenants or vice versa. The law was a factor but not the main mover.¹⁵¹

¹⁴⁹ <https://housingevidence.ac.uk/publications/rent-control-a-review-of-the-evidence-base/>

¹⁵⁰ See the House of Commons Library briefing "The historical context of rent control in the private rented sector" at <https://researchbriefings.files.parliament.uk/documents/SN06760/snsp-06747.pdf>

¹⁵¹ See also the analysis at pp 28-31 of the Civitas report "The Future of Private Renting" at <https://civitas.org.uk/pdf/thefutureofprivaterenting.pdf>

- 11 Rent control (in the technical legal sense of the rent limit imposed by the Rent Acts before 1965) limited recoverable rents to the rents actually agreed at various dates defined in the legislation. It was a form of rent freeze. It became astonishingly complicated and was almost entirely replaced in 1965. There are no controlled tenancies left.
- 12 Rent regulation (in the technical legal sense of the rent limit imposed by the Rent Act 1965 and subsequent Rent Acts) limited recoverable rents to the “fair rent” fixed for the premises by the Rent Officer. The valuation hypothesis applied by the Rent Officer is “that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms”.¹⁵² In other words, the fair rent is what the market rent would be if supply and demand were in equilibrium. Since supply and demand are not in equilibrium in the real world, regulated rents are markedly less than market rents. Regulated tenancies have almost vanished. There are fewer than 75,000 remaining in the whole of the UK, while there is a total renter population of roughly 4.5 million in England alone.¹⁵³
- 13 The Housing Act 1988 came into force on 15th January 1989. For all intents and purposes it swept away security of tenure and rent control and led to a rapid growth of the PRS.
- 14 Rent freezes have had an unhappy history in recent times. The 2020/2021 Berlin rent freeze is a cautionary tale.¹⁵⁴ Faced with ongoing pressure on prices, a first generation rent control policy was introduced for the city of Berlin in February 2020. This was abolished a mere 13 months later by the German constitutional court, since the “constitutional basis for law-making in the domain of housing markets at the federal state level was shaky”. Nevertheless, the policy applied long enough for its effects to be analysed in part.
- 15 Known as *Mietendeckel* (rent freeze), the policy froze existing rents for five years, after which rises were to be limited to inflation. It also created a cap on rents for new leases. Existing tenants whose rent was more than 20% above the cap could make a claim for it to be lowered.

¹⁵² Section 70 of the Rent Act 1977 <https://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.9.1.99>

¹⁵³ <https://businessyield.co.uk/real-estate/regulated-tenancy>

¹⁵⁴ This account of the Berlin rent freeze is borrowed from p 18 of the CIHNI Report. <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-rent-regulation-in-the-private-sector-in-northern-ireland.pdf>

- 16 Research shows that, unlike the rental brake (more on that later) which has generally struggled to ease pressure on prices, the rent freeze did result in an “an immediate drop in advertised rent prices”. However there was “a substantial decline in rental properties in Berlin” as well as a “large number of units converted from rental to owner-occupied dwellings”.
- 17 There was a substantial, and likely lasting, sharp decline in available rental units in Berlin. There were “increased conversions of rental to owner-occupied units; a reduction in newly built dwellings; and a drop in property advertised for rent.” Counted among the private landlords withdrawing from the market was institutional investor, Blackstone, who “abruptly halted” acquiring residential property in Berlin after several years of purchasing and modernising homes.
- 18 The IFO, an economic research group, noted that the number of regulated properties listed to rent had more than halved since 2017. The tenants who benefit from the policy tend to stay in the property for longer and when they do leave landlords tended to sell the properties rather than re let them.¹⁵⁵
- 19 The whole process did not have a positive effect on tenants as well.¹⁵⁶ While rent in the capital did drop by 7.8%, this was the only positive taken from the policy. Due to the lack of supply, more people were applying to each property vacancy. Immoscout24, which is a Berlin based rental company, reported that an average of 214 people answered each rental advert in January 2021, compared to 128 in the same month last year.
- 20 It is too early to say whether the recent rent freeze in Scotland has had similar adverse effects. Propertymark’s “Cost of Living (Tenant Protection) (Scotland): Letting Agent Insight” (April 2023)¹⁵⁷ is not encouraging. 94% of agents report an increase in landlords selling property when a tenancy naturally comes to an end. 94% of agents say their landlords are now more inclined to raise rents between tenancies as a result of the measures. 93% of agents have had landlords express a desire to withdraw property from the PRS because of the extension of the temporary measures.
- 21 Rent freezes may be a necessary temporary response to economic crisis but the evidence is overwhelming that they do not work in the

¹⁵⁵ This and the following paragraph about Berlin are borrowed from the Landlord Law Blog at https://www.landlordlawblog.co.uk/2021/12/20/rent-control-part-2-a-failed-policy-or-a-lifeline-for-the-current-prs/?doing_wp_cron=1676159255.9542820453643798828125

¹⁵⁶ An FT article dated 29th August 2023 “Extreme renting: limits on rents leave Berlin’s new tenants vying for Homes” paints a depressing picture. This article and the others in the same series show that tight rental markets are an international problem. Professor Whitehead regards the data in these articles as reliable.

¹⁵⁷ <https://www.propertymark.co.uk/static/aa9a261e-209e-4b3d-b345a3e1f8e67fd4/Cost-of-Living-Tenant-Protection-Scotland-December-2022.pdf>

long term, even if they work in the short term, which remains debatable. Certainly they cannot form part of a lasting and stable legal structure.

22 *A fortiori* any model that seeks to *cut* rents (e.g. the Generation Rent proposals, the National Renters Manifesto, the Mayor of London's Blueprint, the New Economic Foundation proposals and the Private Tenancies Act (Northern Ireland) 2022) would shrink the private rented sector whether brought into effect gradually or rapidly. The Commission has every sympathy with these proposals but the overwhelming majority of economists, whether on the right or left, agree that attempts to freeze or cut rents are harmful to tenants overall.

23 As the Affordable Housing Commission says, this form of rent control is likely to have negative consequences:

"With a rent ceiling in place, demand for rental accommodation increases but supply falls. In areas of acute shortages, demand is rationed by sitting tenants not moving, which excludes new entrants, resulting in a misallocation of housing resources. Experience shows illegal or questionable behaviour to exploit the below-market rental scene: bribes, non-refundable deposits, payments for fictitious furnishings and fittings, discrimination, etc.

Private-sector investment will be correspondingly reduced. In areas of less acute shortage where rents are relatively low, this means less investment in the maintenance and modernisation of older stock.

Nor is it likely that the properties will be acquired by first-time buyers; more probable is purchase by less responsible landlords, who can extort a higher yield by spending less.

Institutional investment now going into construction of new (build-to-rent) developments will be deterred."

24 Quite apart from that is the problem of defining the criteria for a reduction. The Mayor of London's Blueprint concedes that:

"One of the significant challenges of designing, implementing, and enforcing a new system of rent control in London is the lack of accurate data on rents charged for individual properties – the Valuation Office Agency, for example, only holds data on average rents."

25 The Select Committee says much the same:

"Currently, there is no easily available and reliable information on market rates in an area, broken down by type of property. Two of the most useful sources of data on rents are the ONS's index of private housing rental prices and the data the VOA collects that determines LHA rates for each BRMA, but it is not clear if either is both reliable and granular enough to be used to determine comparable market rents. The lack of reliable data means the tribunal relies on evidence from both parties, which usually comprises listings on websites such as Zoopla and Rightmove."

Chapter 10: Detailed review of rent control models

- 1 Here we consider UK models coming from all levels of government and then go on to models coming from non-governmental organisations. Finally we set out some American and European models.
- 2 **UK Legislation**
The UK Parliament has adopted three models in the 20th century:
 - Rent control in the technical sense of the rent limit imposed by the Rent Acts prior to the Rent Act 1965.
 - Rent regulation in the technical sense of the rent limit imposed by the Rent Act 1965 and subsequent Rent Acts.
 - The Housing Act 1988 applies to all tenancies created on or after 15.1.89 where the rent does not exceed £100,000 pa. It creates “assured tenancies”. There is provision for independent assessment of rents by the First Tier Tribunal (Property Chamber). The valuation hypothesis is “the rent at which ... the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy” (section 14(1)).
- 3 The provisions of the 1988 Act about rent are for all intents and purposes a dead letter because almost all assured tenancies granted under the 1988 Act are shorthold tenancies for fixed terms of between 6 and 12 months. There is no security of tenure after the expiration of the fixed term so tenants very rarely refer rents to rent assessment committees for fear of a no fault eviction under section 21. Once section 21 is repealed we can expect many more references to the First Tier Tribunal.
- 4 **Proposed UK Government legislation: The White Paper “A Fairer Private Rented Sector” June 2022¹⁵⁸ and the Renters Reform Bill 2023**
The relevant passages of the White paper are at p 38:

4.1 Challenging unjustified rent increases

... This Government does not support the introduction of rent controls to set the level of rent at the outset of a tenancy. Historical evidence suggests that this would discourage investment in the sector and would lead to declining property

¹⁵⁸ <https://committees.parliament.uk/publications/33924/documents/185831/default/>

standards as a result, which would not help landlords or tenants.

*When a landlord needs to adjust rent, changes should be predictable and allow time for a tenant to consider their options. We will only **allow increases to rent once per year** (replicating existing mechanisms) and will increase the minimum notice landlords must provide of any change in rent to two months. We **will end the use of rent review clauses**, preventing tenants being locked into automatic rent increases that are vague or may not reflect changes in the market price. Any attempts to evict tenants through unjustifiable rent increases are unacceptable. Most landlords do not increase rents by an unreasonable amount but in cases where increases are disproportionate, We will make sure that tenants have the confidence to challenge unjustified rent increases through the First-tier Tribunal. We **will prevent the Tribunal increasing rent beyond the amount landlords initially asked for when they proposed a rent increase.**"*

The word "unjustified" is not defined. The Minister told the Select Committee that justified increases means "in line with market rates".

- 5 The 2023 Bill follows the White Paper. The valuation hypothesis in section 14(1) of the Housing Act 1988 will remain essentially the same, namely "the rent at which ... the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy".
- 6 **Legislation of the Scottish Parliament**¹⁵⁹
Part 4 of the Private Housing (Tenancies) (Scotland) Act 2016 regulates how landlords may increase the rent of a private residential tenancy from 1 December 2017. The landlord may only increase the rent once in every 12 months (s.19) and only then if s/he has served the minimum notice in the form prescribed by Scottish ministers (s.22).
- 7 The tenant can refer the proposed rent to a rent officer who has the power to set the rent (s.24, 25), which either party can appeal to a rent assessment committee (s.28-30). The rent officer determines the open market rent with the power only to disregard any increase in value due to the tenant's improvements or any reduction in the

¹⁵⁹We have borrowed this section from "Rent regulation in the private rented sector in Northern Ireland", by the Chartered Institute of Housing Northern Ireland (CIHNI). See <https://www.communities-ni.gov.uk/publications/rent-regulation-private-sector-northern-ireland>

value caused by the tenant's failure to abide by the terms of the tenancy (s.32). Unlike Rent Act tenancies (which continue in existence) the rent officer cannot make a deduction for scarcity.

- 8 Chapter 3 of Part 4 (s.35-43) introduces rent pressure zones (RPZs) – a form of limited local rent control. The local authority can apply to the Scottish minister requesting that all or part of the local authority area be designated as an RPZ. Before the minister confirms the designation s/he must consult with the landlords and the tenants affected (s.40). Once the RPZ is approved any future annual rent increase is limited to the current rent multiplied by the consumer prices index plus one per cent until the RPZ expires (s.38). The minister sets the life of the RPZ up to a maximum period of five years (s.39).
- 9 RPZs have been justly criticised as being ineffectual as it can take councils up to five years just to collate the evidence required to satisfy the designation criteria. As a result, no designations have been made since Part 4 of the Act came into force.
- 10 **Northern Ireland legislation**
A new system of rent regulation was introduced by the Private Tenancies Act (Northern Ireland) 2022. Section 7 of this Act amends the Private Tenancies (Northern Ireland) Order 2006, by restricting the frequency of rent increases to once every 12 months.
- 11 Regulations must be made for this new measure to begin. The same Section inserts Article 5C which allows regulations to be made to freeze rents and/or cut them by up to ten per cent for a period of up to four years.¹⁶⁰ No such regulations have yet been made
- 12 **Welsh legislation**
There is no relevant Welsh legislation.
- 13 **Scotland and London: "Temporary" rent freezes and caps**
The Scottish Parliament, with the agreement and at the urging of the Labour Opposition, has enacted the Cost of Living (Tenant) Protection (Scotland) Act 2022. Initially it froze rents for six months from 6th September 2022 to 31st March 2023. The freeze has now been replaced by a six month 3% cap on rent increases from 1st April 2023.
- 14 The Mayor of London has proposed a two year rent freeze in London to deal with the cost of living crisis.

¹⁶⁰ Also borrowed from CIHNI.

15 These are avowedly temporary measures that, prima facie, do not provide a model for permanent measures. However the temporary in this field has a habit of turning into the permanent. Consider the Rent Acts. The name of the first Act was the Increase of Rent and Mortgage Interest (War Restrictions) Act 1915. The 1st World War ended in 1918 but the Rent Acts are still with us.

16 **Reforming Private Renting: The Mayor of London's Blueprint (July 2019)**

This is a thoughtful and insightful document¹⁶¹. The relevant passages are at pp 33 to 36. They are too long to quote in full. In summary:

- London's unique circumstances mean there is a clear case for devolving powers to the Mayor to determine the right approach for the capital.
- Rent control has a key role to play in improving the affordability of housing in the capital, as part of a package that includes increasing the supply of social housing and rethinking welfare reform.
- Any system of rent control must both tackle problems around affordability and avoid or mitigate potential negative impacts.
- Any system should be implemented gradually over time, and its design should be informed by a robust evidence-gathering process, to address wider impacts and avoid unintended consequences.
- Establish a universal register of landlords: One of the significant challenges of designing, implementing, and enforcing a new system of rent control in London is the lack of accurate data on rents charged for individual properties – the Valuation Office Agency, for example, only holds data on average rents.
- Establish a London Private Rent Commission: This new arms-length body would manage the register referred to above. Its first task would be to use the data from this register and any other sources to design and test the detail of how rent control would operate in London.
- Reduce rents and keep them at more affordable levels: Having established a universal landlord register and collected data on rents for individual properties, an accurate baseline of current market rents could be established. The London Private Rent Commission would then use this data, and wider data on the housing market, to set out a clear approach for how rents for existing PRS homes could be reduced to a more affordable

¹⁶¹ https://www.london.gov.uk/sites/default/files/reforming_private_renting_-_the_mayor_of_londons_blueprint.pdf

level by a defined measure over a period of time, and how rents for new entrants to the sector should be set.

- Incentivise continued investment to support the build-to-rent industry and the high-quality purpose-built rental homes they deliver.
- Interim measures to alleviate the pressure on Londoners whilst the universal register of landlords is being established and the full system of rent control is being implemented by the London Private Rent Commission. The Mayor could implement simple rent stabilization measures, such as caps on rent increases both between and within tenancies.
- The first task of the new London Private Rent Commission would be to review the possible options, balance the interests of government, tenants, landlords and investors, and design and test the best model of rent control for London to recommend to the Mayor.

17 The Mayor’s proposals are in part based on work by the New Economic Foundation (NEF).

18 **Local Government: Affordable rents**

By this we mean the rents charged by local authority and housing associations to their tenants and the rents required by planning authorities when making section 106 agreements with developers for a proportion of affordable housing in permitted developments. They have not yet been applied in the private rented sector other than in cases where there is a section 106 agreement. Arguably they could be applied more generally in the private rented sector.

19 There are six types of affordable rent:¹⁶²

- **Affordable rent:**¹⁶³ Up to a maximum of 80% of market rent. To that extent it is a contradiction in terms because 80% is commonly not affordable. It is not precisely defined apart from the maximum. Many housing associations charge less.
- **Genuinely affordable rent:** A level that has no strict legal definition. Generally the same as social rent, i.e. 50% to 60% of market rents. The term is often used by Labour politicians, who correctly point out that 80% of market rents is commonly not affordable at all.
- **Intermediate rent:** A subsidised rent paid by tenants as part of a rent to buy scheme.

¹⁶² See Inside Housing 11.05.18 “The opaque art of rent setting: London Affordable Rent explained”, the Mayor’s Draft New London Plan, Policy H7 and the Mayor’s London Living Rent ward benchmark data 2019/20 and the admirable House of Commons Library briefing paper “What is affordable housing?” at <https://commonslibrary.parliament.uk/research-briefings/cbp-7747/>

¹⁶³ <https://researchbriefings.files.parliament.uk/documents/CBP-7747/CBP-7747.pdf> at page 7

- **London affordable rent:** London Affordable Rent (LAR) homes are rented by social landlords with rents capped at benchmark levels published by the Greater London Authority. They are lower than the 80% per cent of market rents at which affordable rents can be charged. Similar arrangements operate elsewhere in the country.
- **London Living Rent:** This was first proposed by Stephen Cowan via the London branch of the Labour Housing Group who in 2011 had been charged with developing the housing section of Labour’s manifesto during Ken Livingstone’s 2012 Mayoral bid. The principle was to remove PRS rents from market rates to affordability. A version of it was later introduced by London Mayor Sadiq Khan. The GLA publishes ward-specific benchmark rent levels for London Living Rent homes on an annual basis. These rent levels are based on one-third of the estimated median gross household income for the local borough, varied by up to 20 per cent in line with ward-level house prices, and are capped to reflect the maximum amount a household eligible for London Living Rent could afford. The benchmark rents also vary based on the number of bedrooms within the home.¹⁶⁴
- **Social rent:** Applies to council housing; generally around 50% to 60% of market rents.¹⁶⁵

20 **House of Commons Levelling Up, Housing and Communities Committee Report “Reforming the Private Renting Sector” dated 6th February 2023¹⁶⁶**

The Select Committee did not make any specific proposals but very usefully records the various arguments put to it:

“123. Arguably the biggest concern was around the definition of a “justified” rent increase. At the moment, the tribunal sets rents in line with the market rate in a particular area, and in oral evidence the Minister confirmed that “justified” would mean “in line with market rates”. As Hammersmith & Fulham Council said, however, tenants cannot challenge an unjustified increase if they do not know what a justified increase would be. Currently, there is no easily available and reliable information on market rates in an area, broken down by type of property. Two of the most useful sources of data on rents are the ONS’s index of private housing rental prices and the data the VOA collects that

¹⁶⁴ <https://researchbriefings.files.parliament.uk/documents/CBP-7747/CBP-7747.pdf> at page 10

¹⁶⁵ <https://researchbriefings.files.parliament.uk/documents/CBP-7747/CBP-7747.pdf> at page 7

¹⁶⁶ <https://committees.parliament.uk/publications/33924/documents/185831/default/> We will refer to it as the Select Committee report.

determines LHA rates for each BRMA, but it is not clear if either is both reliable and granular enough to be used to determine comparable market rents. The lack of reliable data means the tribunal relies on evidence from both parties, which usually comprises listings on websites such as Zoopla and Rightmove.

124. *For all those reasons, many submissions supported the idea of limiting in-tenancy rent increases to no more than CPI, or some other measure, such as local wage inflation. Holman, Whitehead, et al. said index-linking would result in greater certainty about what was acceptable and reduce the administrative costs and insecurities associated with legal proceedings, although, as was pointed out elsewhere, the system would depend on tenants and landlords having easy access to this information. As the Housing Quality Network pointed out, the Government has ruled out introducing rent controls that set the level of rent at the outset of a tenancy but has said nothing about index-linking in-tenancy rent increases, which would also bring the PRS into line with the social housing sector. Grainger, the UK's largest professional landlord, proposed a triple lock to limit increases to the lowest of CPI, wage inflation and 5%. The LRU suggested limiting them to the lowest of either inflation and real median income growth. These proposals would mitigate the risk of CPI-linked increases outstripping market rates during periods of high inflation.*

125. *One final objection to the proposals is that, according to data cited by Shelter and backed up by evidence from landlords, most smaller landlords do not increase rents in-tenancy or when a fixed term expires but wait for a change of tenants. As already noted, however, the Government has ruled out rent controls at the start of tenancies, meaning rent increases will go unregulated precisely at the point when regulation is most needed."*

21 **UK proposals from non-governmental organisations**

They include the following (in alphabetical order).

22 **Acorn the Union**

They very kindly met with the Commission and have provided two valuable reports, "Experience of Private Renting" (January 2022) and "Private Renters Affordability Survey 2022" (July 2022). They

corroborate the horror stories in “Journeys in the Shadow Private Rented Sector”. Acorn says this about rent increases:

“Alongside scrapping Section 21, the government must also legislate to stop landlords and agencies from imposing rent hikes otherwise they could raise the rent to an unaffordable amount after a complaint and force tenants out this way. It would be Section 21 by the back door.”

23 Acorn also made two interesting and imaginative proposals. The first is to give sitting tenants the right of first refusal if the landlord wishes to sell. This right already exists in the cases of long leases and regulated tenancies and there is no reason in principle why it should not be extended to all residential periodic tenants.¹⁶⁷ There is also precedent in the late 19th and early 20th Century Irish Land Acts. Of course many, if not most, tenants will not have the funds to buy but it is a sound concept.

24 The second is to discourage use of the various forms of no fault eviction that will remain, particularly the sale and own occupation grounds, by requiring the landlord to pay the tenant’s reasonable removal expenses.¹⁶⁸

25 **Affordable Housing Commission**

The Affordable Housing Commission (AHC) is an independent, non-partisan group established by the Smith Institute with the support of the Nationwide Foundation. It published on 23rd March 2020 a remarkably lucid and valuable report, “Making Housing Affordable Again: Rebalancing the Nation’s Housing System”.¹⁶⁹ The report’s scope is much wider than the private rented sector. We have concentrated on the section that deals with the PRS (Pages 153 to 159).

26 The Commission considered the different options for rent regulation: rent setting, rent caps and rent regulation within tenancies.

27 **AHC on rent setting**

“This is the most interventionist approach involving control by the state over the setting of rents, for example “fair rents” fixed by rent officers. Historical precedent and economic theory suggest this form of rent control is likely to have negative consequences. With a rent ceiling in place, demand for rental accommodation increases but supply falls. In areas

¹⁶⁷ See section 3 of the Landlord and Tenant Act 1987.

¹⁶⁸ Shelter and Generation Rent research separately estimate the average cost of private renters moving home as £1,400 and £1,700 respectively, which may vary significantly depending on where in the country you are. This is the equivalent of two months average rent in England, which renters would need to hold as floating capital to move home.

¹⁶⁹ <http://www.smith-institute.org.uk/wp-content/uploads/2020/11/MakingHousingAffordableAgainFullreport.pdf>

of acute shortages, demand is rationed by sitting tenants not moving, which excludes new entrants, resulting in a misallocation of housing resources. Experience shows illegal or questionable behaviour to exploit the below-market rental scene: bribes, non-refundable deposits, payments for fictitious furnishings and fittings, discrimination, etc.”

“Other likely negative consequences are:

- Private-sector investment will be correspondingly reduced. In areas of less acute shortage where rents are relatively low, this means less investment in the maintenance and modernisation of older stock.*
- Nor is it likely that the properties will be acquired by first-time buyers; more probable is purchase by less responsible landlords, who can extort a higher yield by spending less.*
- Institutional investment now going into construction of new (build-to-rent) developments will be deterred.”*

28 **AHC on rent caps**

“Rent levels can be regulated by capping increases, both for continuing tenancies, where the tenant remains in situ, and for new tenancies, when one tenant moves out and another moves in. Rent rises in all these circumstances can be set in line with an index linked to inflation. This form of rent regulation covering rent increases both within and between tenancies affects the whole PRS market, stabilising rents across the board.”

“Regulation of all rent rises shares some of the downsides of rent setting by a public agency: over time it removes the link to the market and it requires quite extensive enforcement. But it gives greater certainty to the sector (so long as the chosen index is not subject to sudden change). And by regulating rents after a property is re-let on the same basis as when the property is lived in by the same tenant, it removes the incentive for a landlord to evict one tenant in order to obtain a significantly higher rent from a new tenant.”

29 The AHC examined the likely impact of this approach on affordability. Their analysis shows what would have happened if there had been a national policy of indexing rent rises from 2000 to 2017 (using Family Resources Survey data). They chose the index of household incomes (rather than a link to prices) in accordance with their contention that linking rents to incomes is the fairest approach.

30 This calculation shows that pegging rent rises in this way would have led to much lower rents today: nearly half as many PRS tenants would be paying over a third of their incomes in rent (780,000 instead of 1.3 million).¹⁷⁰ This is the result of incomes not keeping pace with rent rises over this period. Thus regulating rent rises back in 2000 would have been beneficial for struggling renters.

31 **AHC on regulating only within tenancies**

"The lightest form of rent regulation involves limiting rent rises but only during ongoing tenancies. The rent can be reset at the prevailing market level wherever there is a change of tenant."

"The Commission's modelling of the impact of in-tenancy rent regulation draws on work by Cambridge academics who analysed the average length of residency of all PRS tenants. This research indicates that 85% of tenants move within four years, and some 70% stay less than two years."

"Because turnover has been so great, limiting rent increases within tenancies over recent years would have only had a modest impact on affordability. Some 70,000 renters today [i.e. 23.03.2020] would not be paying in excess of a third of their income on rents if, over the period 2000-17, rent rises had been limited within the tenancy in line with household income growth. So it is about ten times less effective in protecting tenants than rent caps."

32 **AHC conclusions**

The current legal position will change when the Conservative Government delivers on its commitment to removing section 21 "no-fault" evictions. But unless there is some form of regulation over rent rises within tenancies, unscrupulous landlords will be able to force tenants to move out, despite the change in the law, simply by insisting on huge increases in the rent.

"The Housing Act 1988 (Section 22) does make provision for tenants in assured tenancies to go to the First-Tier Tribunal if they believe their rent is being increased beyond local market rents. Tenants who live in areas where rents are rising faster than wages get little to no protection. In addition, the incentive for tenants to request repairs is blunted because

¹⁷⁰ The significance of a third of income is AHC's very reasonable view that social rents should be set on a rent-to-income ratio of 28% of gross income (equivalent to 33% of net income). See page 152 of the Report.

landlords would be awarded the market rent as soon as they brought their property up to standard.”

- 33 Rent controls in the form of rent setting by a governmental agency are not a sustainable solution. Trying to reduce private-sector rents to levels comparable to those of social landlords is an unrealistic prospect and fails to recognise that for those on lower incomes, a subsidised social housing product is what is needed in most parts of the country. Forcing landlords out of business by making rent levels uneconomic would be counterproductive.
- 34 The practical way forward is to introduce rent regulation that constrains rent increases in line with an indexed amount.
- 35 The AHC recommends that new rent regulations be introduced alongside the legislation ending section 21 “no-fault” evictions. Annual rent increases would be limited to an index of income growth for a fixed period. Charging more than the permitted rent increase would be an offence, with the landlord facing a fine and having to return the excess rent to the tenant.
- 36 For rents subject to an increase-linked cap which are over time diverging from market rents, the AHC sees the merits of rents being recalibrated every five to 10 years in line with the local market. At current levels of turnover, this would cover 85% of tenancies.
- 37 **Ageing Better**
They kindly met with the Commission and have produced a series of helpful reports. Here are some of the main findings:
- Since 2011-12, the proportion of people aged 45 to 54 living in the private rented sector has increased by over 50% to 740,000 households, or 17% of this age group. And the proportion of people aged 50 to 64 renting has nearly doubled over the past decade to 11% or 477,000 households in 2021-22.
 - Most older people are living on fixed incomes while rents continue to rise. The mean rent for the private renter sector is now £209 per week, according to this year’s English Housing Survey, while the full basic state pension is just £141.85 a week. Today’s private renters may struggle to meet these costs as they get older and are reliant on fixed incomes. The stereotype that all older adults are wealthy homeowners is a persistent one. But the growing number of people over 45 who rent, rather than, own their home runs counter to it.
 - Many of the chronic health problems experienced by older people, including respiratory conditions and reduced mobility,

have a direct link to poor housing. In addition, the temporariness of housing and frequency of moves, something more frequent in the private rented sector, contribute to feelings of instability in the home. Chronic stress resulting from prolonged exposure to insecure living conditions can lead to major negative effects for mental health.

- Their report from 2018 sets out the case for why adapting homes is so important and notes there are particular challenges around legislating for adaptations within the private rented sector.

38 **Civitas January 2015 report “The Future of Private Renting”¹⁷¹**

Civitas proposed indefinite tenancies. As to rent:

“Once freely agreed between the tenant and the landlord, rents should not normally be allowed to rise above inflation. The measure used could be CPI, or possibly – given that much of the pain in recent years has resulted from falling real incomes – average wage growth. Tenants would be protected from unaffordable price rises; landlords would lose the ability they currently have to maximise their returns; but they would have the security of a steady income stream and less turnover in their tenants, minimising vacancy periods and other costs arising from ‘churn’.”

39 These measures should be combined with a wider range of incentives for private landlord investors:

“In order to balance out a move to greater regulation, which is intended ultimately to reduce rental yields, I should consider using more of those incentives which have been used over many decades to promote investment (particularly that which is long-term in nature) in private rented accommodation overseas. This could include some combination of capital gains tax exemptions after a suitable period of time, depreciation allowances and making potential rental losses tax deductible. The precise nature, application and extent of these incentives should be determined by how large the government wishes the private rented sector to be and what role it wants it to play.”

40 New build for private renting should be encouraged, particularly by institutional investors:

¹⁷¹ <https://civitas.org.uk/pdf/thefutureofprivaterenting.pdf> Pages 39-41.

"Future investment in the private rented sector should be strongly guided towards new-build accommodation, to increase the cash being channelled into new constructions while reducing demand (and so price inflation) for existing homes. This could be done using a combination of the incentives mentioned in point 3, above, as well as an exemption for newly-built accommodation from the indefinite tenancies and rent ceilings proposed in points 1 and 2. Central to this strategy must be the growth of institutional investors in private renting, who may be more inclined to offer long-term tenancies with rent rises agreed in advance. For them and for smaller investors in new-build, longer tenancies with predictable rent rises could be encouraged without being mandatory, on the understanding that they are contributing to the housing stock and so helping to alleviate pressure for housing overall."

41 **Generation Rent proposals**

The initial proposals were set out in December 2014 in "The Rent's too high: 21st century rent control".¹⁷² It is mainly Alex Hilton's work and strongly supported by Diane Abbott MP. The main proposals are:

- Affordability - the maximum rent would be calculated along council tax bands, with a monthly maximum rent amounting to half of the annual council tax band for a home;
- Transparency - the cap would be based on understood property values and would be set by local authorities, accountable to residents who may want to argue for different limits;
- Flexibility - the calculation above would not be an absolute cap. Landlords would be free to charge rents over and above the limit set, but all rent charged above that level would be subject to a 50% surcharge;
- Fairness - all the proceeds from the surcharge would go into a ring-fenced fund for social house building, therefore ensuring the profits from the PRS helped alleviate the housing crisis.

42 Generation Rent's current proposal is set out in Paragraph 2 of the National Renters Manifesto:¹⁷³

¹⁷²https://d3n8a8pro7vhtml.cloudfront.net/npto/pages/1186/attachments/original/1418644476/Rent_Control_v6.pdf?1418644476

¹⁷³https://d3n8a8pro7vhtml.cloudfront.net/npto/pages/7224/attachments/original/1572865626/MANIFESTONational_Renters_Manifesto_revised.pdf?1572865626

"Rent controls which bring down rents to 30% of local income

Rents in England eat up household income and push people into financial hardship. One in four private renters in England lives in poverty. Over half of the families with children living in private rented accommodation are below the poverty line. We need rent controls that bring rents down to 30% of median local income, following the accepted yardstick of affordability. Rent controls should be introduced incrementally, to prevent negative consequences for current tenants, and should be accompanied by a massive increase in public housebuilding."

- 43 Generation Rent was wise to drop the proposed monthly maximum rent amounting to half of the annual council tax band for a home. In Hammersmith & Fulham, for example, that would have produced enormous rents. At the time of the "The Rent's too high: 21st century rent control" proposals the lowest council tax band was Band A, up to £40,000. A monthly maximum of £20,000 would have helped no one then and would help no one now.
- 44 Generation Rent kindly met with the Commission. It was very enlightening. They have produced a very useful analysis of various forms of rent cap. They have found that a double lock (i.e. the lower of IPHRP¹⁷⁴ and wage growth in each year) and the triple lock (i.e. Grainger model based on lowest of wage growth, CPI and 5%) produced the fewest unaffordable increases. Aside from market-based regulation, the Grainger triple lock had the fewest increases above the market.
- 45 They have also produced a very important report about the use of the sale possession ground in Scotland¹⁷⁵.
- 46 **Grainger PLC**
Grainger is the UK's largest listed residential landlord and leader in the fast-growing build-to-rent (BtR) sector, providing about 10,000 rental homes worth over £3.2bn across most major cities in England to over 20,000 customers. It is investing a further £2.4bn into new BtR schemes across the country comprising about a further 10,000 homes. One might have supposed that it would support the immoderate responses of some landlords. Far from it. Its written evidence is among the most sophisticated and nuanced given to the Select Committee.¹⁷⁶ It says this about rent increases:

¹⁷⁴ Index of Private Housing Rental Prices

¹⁷⁵ <https://www.generationrent.org/2022/05/25/evictions-in-scotland/>

¹⁷⁶ Grainger's evidence is at <https://committees.parliament.uk/writtenevidence/110554/html/>

“38 By removing an explicit link to rent reviews and inflation, the critical link in the investment model is broken. Such a link underpins the model’s attractiveness.

The current inflationary environment is unique and is the only reason that CPI-linked rent reviews seem excessive. Historically, CPI has been lower than general market rental growth.

Wage inflation would be a good alternative measure for determining appropriate rent creases (to ensure that affordability and ability to pay does not deteriorate), and only currently where wage inflation lags CPI does this have a potentially negative impact on affordability.

OBR forecasts that while earnings will lag CPI in 2022 and 2023, they will outpace CPI in 2024 to 2026, and Oxford Economics predicts that market rents will rise faster than CPI in 2023 and beyond.

As such, Grainger is keen to see:

- A reconsideration of the removal of CPI as an appropriate reference point for annual rent increases.
- Consideration of an alternative solution in the form of a triple-lock approach whereby landlords are restricted so that they cannot raise rents by more than the lower of (1) CPI, (2) wage inflation or (3) 5%.
- The Government ensure that any future legislation considers that ‘No DSS’ bans do not inadvertently allow people to live in homes that they cannot afford in the long term.”

47 It is notable that Generation Rent’s research is favourable to the Grainger triple lock (see above).

48 Grainger came to see us and it was extremely helpful. We are sure that they provide an excellent service to the higher end of the market. However it became apparent that the triple lock did not work in a period of high inflation and that it did not provide a model for all parts of the PRS.

49 **Holman, Scanlon, Whitehead, Crook, and Kemp (evidence to the Select Committee)**¹⁷⁷

As we said earlier, the most significant evidence given by academic economists to the Select Committee was that of Holman, Scanlon, Whitehead, Crook, and Kemp.

"First, as compared to most comparable countries, the proposals seem to be only a partial solution. In particular, the proposals limiting increases to once a year and enabling tenants to challenge unreasonable rent increases through the First Tier Tribunal are minimal. They provide much less protection for tenants than in most other countries that operate similar tenancy arrangements. It is more common to link rent rises in line with a suitable index. This leads to both greater certainty and clarity about what is acceptable and reduces the administrative costs and insecurities associated with legal proceedings. In practice, very few tenants feel able to challenge their rent increase unless it is massively out of line with the market – and in such cases they will probably choose to leave. One advantage of using indices for rent increases is that it helps the market to work by giving sitting tenants knowledge and confidence that increases are in line with market comparables and gives landlords greater certainty about future rental income flows."

55 **HQN Ltd (evidence to the Select Committee)**

HQN was founded 25 years ago to improve housing services provided by local authorities and housing associations. Para 5.2 of its written evidence¹⁷⁸ deals with rent increases:

"Rent increase cap: The White Paper redresses the balance of power between landlords and their tenants with renters securing rights they have not enjoyed since 1988. However, the government is not proposing to address excessive rents in the sector and the affordability crisis in much of the PRS. Ministers may not want to cap rent levels themselves but there is a case for capping rent increases to CPI or RPI. If this is accepted by government, it would bring the PRS in line with the social housing sector where ministers set annual price caps on rents charged by social landlords. As such, this could be seen as contributing to the 'levelling up' agenda."

¹⁷⁷ <https://committees.parliament.uk/writtenevidence/110730/html/>

¹⁷⁸ <https://committees.parliament.uk/writtenevidence/110426/html/>

72 **Joseph Rowntree Foundation (evidence to the Select Committee)**¹⁷⁹

"The aim of improving tenants' ability to challenge excessive rent increases through the First Tier Tribunal also relies on tenants knowing, and then proactively exercising, their rights. Analysis of the recent reforms to the PRS in Scotland found that tenants had very limited awareness of their tenancy rights or how the reforms would affect them. A far simpler approach would be to place reasonable restrictions on landlords' ability to increase rents to unsustainable levels.

We recommend that the Government goes further and limits the amount a landlord can increase the rent within a tenancy, for example by connecting rent rises to inflation (CPI), local earnings growth, or whichever is lower in any period.

A landlord would still be able to increase rents between tenancies, but this proposal would ensure that tenants are protected from unreasonable in-tenancy rent increases.

The impact of this on landlords should be limited, with the English Private Landlord Survey 2021 finding that most landlords (64%) already tend to keep the rent at the same level when tenancies are renewed under the current system.

The economic backdrop to this White Paper is an accelerating cost of living crisis, with asking rents in some parts of the country far outstripping inflation. It is clear that a mechanism for limiting the amount a landlord can increase the rent within a tenancy would provide private renters in existing tenancies with much-needed protection as asking rents rise significantly."

73 **National Residential Landlords Association (NRLA)**

They kindly met with the Commission. It was a positive and constructive meeting. NRLA has 105,000 members (there are 2m PRS landlords in the UK). They own an average of 8 properties each, covering 700,000 homes.

¹⁷⁹ <https://committees.parliament.uk/writtenevidence/110835/html/>

74 The NRLA's main points included the following:

"The NRLA's objective is for a rental market that is fair and workable for both tenants and responsible landlords.

We want to see rogue and criminal landlords rooted out altogether, and ensure that it is they, rather than the responsible majority, that end up paying for enforcement action against them.

... there can be no doubt that landlords with small portfolios are currently critical to the provision of private rented accommodation, and the impact of any measures that could make the sector less attractive to them should be carefully thought through.

The NRLA is focussed on a replacement system for Section 21 repossessions that is fair and workable for tenants and landlords.

We want to see disputes between tenants and landlords dealt with without the need to go to court wherever possible. The NRLA has previously proposed the development of a new publicly funded ACAS-style tenant/landlord conciliation body.

...

With the exception of purpose-built student accommodation, the Government's plans would turn all student tenancies into periodic or open-ended agreements. However, as the LUHC Committee warns: "abolishing fixed-term contracts here could make letting to students considerably less attractive to private landlords, as the student market mirrors the academic year and benefits greatly from 12-month fixed tenancies." That is why the Committee argues that "not exempting the student PRS could push up rents or reduce the availability of student rental properties, at a time when the market in many university towns and cities is already very tight."

...

It is vital that reform of the sector ensures courts have the tools and resources to take swift action, using the relevant discretionary grounds for possession, to tackle ... the "scourge of anti-social behaviour."

...

The tragic case of Awaab Ishak should be a wake-up call. Whether in the social or private rented sector no tenant should ever be expected to live in housing that is unsafe or poses a risk to their health, or indeed life.

Whilst legislation is clearly important all the rules in the world mean nothing unless they are properly enforced ... Without enforcement, too many criminal and rogue landlords feel they can get away with providing sub-standard housing with impunity.

Freedom of Information data obtained by the NRLA shows that:

- *Over half of local authorities in England did not issue any civil penalties against rogue or criminal landlords between 2018/19 and 2020/21.*
- *Two thirds of councils have not prosecuted any rogue or criminal landlords for offences related to standards in, or the management of, private rented housing over the same period.*
- *More than half of local authorities were unable to provide accurate information about the number of complaints they had received about the private rented sector.*

...

Those landlords bringing the sector into disrepute need to be the ones to pay for enforcement activity against them through civil penalties. However, central government also needs to provide upfront, multi-year funding to help councils build the capacity to tackle bad practice. Too often, pots of money provided by government for this purpose have been one-off or short-term, making it difficult for local authorities to plan for the long term. As such, we call for:

- *An initial multi-year funding settlement for councils to support enforcement activity in the rental market. This would give them the chance to plan with certainty over a number of years, recruit staff and kick start the enforcement activity that will enable them to charge civil penalties against criminal and rogue landlords.*
- *Once established, this will become revenue-generating, and the fines from civil penalties can then be used to invest in enforcement activity, therefore reducing local authority reliance on central government grants."*

75 The NRLA has also published a number of valuable papers, notably "A housing market that works for everyone". We have already quoted from it.

76 **Nationwide Foundation**

We met the Nationwide Foundation and it was very interesting. It is one of the main movers in the Renters' Reform Coalition (see below). It has commissioned very valuable research into the private

rented sector by David Rhodes and Julie Rugg of the University of York, "The Evolving Private Rented Sector: Its Contribution and Potential" and "Vulnerability amongst Low-Income Households in the Private Rented Sector in England".¹⁸⁰ Among the more important aspects of this research are the analysis of the buy to rent market and its explanation of how the private rented sector does not - and probably cannot - serve low-income households properly:

"Most worrying is that the evidence tells us there is a growing residual slum tenure for private rented sector households on low incomes, whose needs are being neglected".¹⁸¹

- 77 Other valuable resources include "RentBetter - Research on the impact of changes to the private rented sector tenancy regime in Scotland" (May 2022) and its "Plan for better renting in Greater Manchester" (March 2023).¹⁸²

- 78 The conclusions of the May 2022 Scotland paper are in line with the Generation Rent findings:

"All tenants in Scotland on the PRT now have stronger rights than through the previous tenancy regime, but the experiences of the 2021/22 sample of tenants suggests that this is unlikely to have had much impact for lower income tenants. Renters at the lower end of the market have to tolerate lower affordability, poorer housing conditions, and have much less choice in the market which results in less market power. This lack of choice is critical in the power relationships between tenant and landlord, because lack of suitable alternatives means fear of consequences of rent being increased or losing your home, and therefore landlords are challenged less. For the few who do choose to pursue formal justice through the First Tier Tribunal this experience is generally intimidating and unsatisfactory."

- 79 Perhaps the most valuable resource that Nationwide has commissioned is the report of the Affordable Housing Commission (see above).

- 80 We will come to Nationwide's comments about rent control when we get to the Renters' Reform Coalition.

¹⁸⁰ <https://nationwidefoundation.org.uk/wp-content/uploads/2018/09/Private-Rented-Sector-report.pdf> and

<https://nationwidefoundation.org.uk/wp-content/uploads/2018/09/Vulnerability-report.pdf>

¹⁸¹ <https://nationwidefoundation.org.uk/wp-content/uploads/2018/09/Private-Rented-Sector-report.pdf> at p v.

¹⁸² <https://nationwidefoundation.org.uk/wp-content/uploads/2022/05/Wave-2-Executive-Summary-AE100522.pdf>

https://assets.ctfassets.net/6sxvmndn0s/3XPorqr0Hewhs5f28VbCK3/6fb8e32ee3572f5e3d0311c388d13d1f/Plan_for_better_renting_in_Greater_Manchester_final.pdf

81 Indigo House, funded by the Nationwide Foundation, are completing their final report¹⁸³ following a 5-year research into Scottish tenancy reform. This will include key findings on the changes delivered in Scotland including more recent rent controls. They expect to publish their report in June 2024.

82 **New Economics Foundation (2019 proposals)**

The New Economic Foundation published "Getting rents under control - How to make London rents affordable" on 19th July 2019.¹⁸⁴ The report includes very useful tables of international comparisons (mostly European) at pages 5, 8 and 9. The central proposals are at Paras 3.2 to 3.4:

"3.2 PROPERTY-LINKED RENT CONTROL

The evidence shows that within-tenancy rent controls do not generally make rents affordable in the long run, as rents are increased to market levels with every new tenancy. In addition, even with the additional security of tenure which would be implemented through the London Model, the ability to increase rents between tenancies can create incentives for landlords to find loopholes in the rent control system which would enable them to evict tenants in order to be able to increase rents.

Rent control in London should therefore be linked to a property, not to a tenancy. This would remove incentives to evict tenants, and enable rent control policies which could significantly increase the overall affordability of rent in the long term.

3.3 A DESIRED RENT LEVEL

The Private Rent Index, set out in section 3.4 below, would limit rent increases on an ongoing basis. However, in London a system of rent control should also allow policymakers to begin by reducing rents in real terms, given the existing gulf between rents and incomes and the need for greater affordability in the short and medium term.

To achieve this, we propose that London's rent control system should allow a Desired Rent Level (DRL) for each home to be set. The move to such a rent level would be implemented over a period of years, as opposed to overnight.

¹⁸³ <https://nationwidefoundation.org.uk/final-wave-of-research-launched-to-unveil-long-term-impacts-of-scottish-tenancy-reform>

¹⁸⁴ https://neweconomics.org/uploads/files/NEF_RENT-CONTROL_WIP3.pdf

There are various ways that the Desired Rent Level could be determined. These include:

- Limiting rent increases to a given amount below wage growth for a defined number of years. For example, rents rises could be limited to 2% below median average wage growth for five years, to enable wage growth to catch up with rental growth.*
- Reducing rents by a fixed percentage below the current market level. For example, reducing rents by 1% a year for four years could potentially cut rents by 20% in real terms for renters relative to where rents would otherwise be if the market was left unregulated.*
- Setting rents based on a formula that reflects average incomes. For example, through a stepped annual decrease, bringing rents down to a third of median local incomes over time.*

Mechanisms for determining the Desired Rent Level that are based on market rents at the start of the process can perpetuate the current situation whereby properties with very similar characteristics can have very different rents. This could be addressed through an additional property-related mechanism, to reflect the size, location, upkeep, and other characteristics of each home in the level of rent. This would give points and a corresponding monetary value to each of these features, which would inform a property's DRL. Using utility or points to set rents is an approach taken in Sweden and the Netherlands. However, this would require extensive additional data gathering and enforcement.

A Desired Rent Level would also need a mechanism for determining the rents of new builds and new entrants to the PRS. Some options for setting rents on new private rented homes include:

- 'Rent mirroring', using information about similar homes from the online database. 'Rent mirroring' is a feature of both the German and Danish systems.*
- Exemptions from rent control for new build properties for a defined period of time, which could also help to incentivise the delivery of new homes. For example, new builds are exempt from Swedish rent controls for 15 years, and new builds since 2014 are exempt from Berlin's 'rent brake'.*
- New build premiums, which could also be part of a points system.*

3.4 A PRIVATE RENT INDEX *Once the Desired Rent Level is reached for a home, ongoing caps on annual rent increases would be determined by a Private Rent Index. This index might take into consideration local wage growth, house price indexes, wider consumer inflation, borrowing costs, and other relevant variables to determine an affordable percentage rise or fall for tenants and landlords.*

We believe the most important factor in the index should be tenants' ability to pay, i.e., it should be weighted significantly by local wage growth. Once the Desired Rent Level levels have been reached, the Private Rent Index would prevent runaway rents inflating at a much faster rate than wage growth, as has happened in London in the recent past."

- 83 There are three striking points in these proposals. First, they include positive reductions in the absolute level of rents, phased in by stages. That would be very desirable if one could avoid the adverse consequence of a reduction in supply. The NEF is alive to that risk. They say at Para 2.2:

"Risks to housing supply would need to be mitigated: *Any decrease in rent, and therefore landlord profits, such as that imposed by rent control, could decrease the attractiveness of the sector as an investment. Current landlords exiting the sector could have negative effects for current tenants, decrease the supply of homes currently in the PRS, and disincentivise the building of new homes. Further work would need to be undertaken to understand these risks, and it is essential that appropriate mitigations would be developed to support the gradual introduction of rent controls. In addition, rent controls should be introduced alongside a suite of policies to address the housing crisis, including a large increase in social housebuilding, which may help to mitigate against these risks."*

- 84 Second, the "Desired Rent Level" is reminiscent of the fair rents fixed by Rent Officers under the Rent Acts from 1965 onwards, though fixed on a different and not yet defined hypothesis.
- 85 Third, the proposals are understandably tentative and are dependent on further research and information gathering.
- 86 **Paragon Banking Group**
 Paragon provides banking and financial services to PRS Sector. It is a lender that supports over 70,000 customers and operates in the

higher and more professionalised end of the PRS market. Their customer base is primarily investors, entrepreneurs, and SMEs, with 75% of their lending going to limited companies. A third of lending is linked to student accommodation.

87 Paragon kindly met with the Commission and made a number of very valuable points.

88 The headline policy messages from Paragon are these:

- It is concerned about how the shift to periodic tenancies in the 2023 Bill will impact on students, as all fixed-term contracts would effectively be banned. This would disproportionately impact groups who depend on cyclical accommodation, which are students primarily, and their landlords.
- Whilst Paragon supports most of the new reforms, they are concerned about the slow speed that can be expected for anti-social tenants, and the impact that protracted evictions might have on other tenants. The new reforms could create up to 20,000 more hearings and the Ministry of Justice cannot cope. Therefore, a specialist housing court is needed to speed up the process, invoking digital and virtual court hearing methods wherever possible.
- Paragon is supportive of the proposed new property portal in the Renters Reform Bill, but it must allow access for lenders, tenants and landlords, and critically good data sharing between public and private organisations. This will ensure that lenders can block rogue landlords from their own services, and that they can report rogue operators themselves.

...

- The scrapping of tax relief on mortgage interest payments in 2016 (under George Osborne), together with changes to the wear and tear allowance, has caused stagnation in the market and squeezed viability for small landlords. The wear and tear allowance previously meant landlords would get an automatic 10 per cent discount on their tax bills for furnished lets to cover repairs to their properties for wear and tear. Instead, they now need to show actual expenses on repairs to offset against tax bills.
- Lenders cannot currently access London's rogue landlords database. This is a problem because it means that lenders cannot contribute to the database, nor stop lending to rogue actors. GDPR is the main limiting factor in this, and data sharing between public and private organisations needs to be better to help keep rogue landlords from operating in the market.

- The private rented sector has improved substantially over the past few decades in terms of housing standards and energy efficiency, and that can sometimes be forgotten. In 2008, the number of non-decent PRS homes was 44%, which has now fallen to 23%.
- Paragon is supportive of professionalising the sector and the broad proposals in the Renters Reform Bill, subject to the caveats outlined above in their headline policy messages.

89 **PayProp**

PayProp is a leading payment and reconciliation platform for the residential lettings industry that automates rental payment administration. They kindly met with the Commission. It was a useful and constructive meeting. Their policy message was that to improve the operation of the Private Rented Sector, there must be an overarching independent regulator who oversees landlords, letting, estate and managing agents and who has 'teeth' to hold them to account. This should be done by creating and enforcing minimum knowledge and competency standards across the sector, to raise the bar and professionalise the sector. This should be complemented by a mandatory code of practice and associated training/certification that requires those operating the sector to demonstrate professional knowledge, such as is the case in Wales or Scotland. An approach is also needed to strengthen national monetary policy and anti-money laundering regulations to ensure that private rents are not used as a means for 'washing' illegal money.

90 **Propertymark**

Propertymark is the leading professional body for estate and letting agents, commercial agents, auctioneers, valuers and inventory providers comprising nearly 18,000 members. They kindly met with the Commission. It was an exceptionally interesting meeting.

91 They have published a lot of valuable research. Notable papers include:

- "A shrinking private rented sector?" (June 2022): The key findings were that 53% of buy-to-let properties sold in March 2022 left the PRS, 84% of respondents said that the number of new investors in the PRS had decreased in the last three years and that there was a 49% reduction in the number of properties available to let per branch from March 2019 to March 2022.
- "The impact of short-term/holiday lets on UK housing" (October 2022): The rise of short-term lets (STLs) and its impacts on UK housing is highly localised. 69 per cent of

agents believe the rise of STLs will negatively impact the private rented sector (PRS). Increasing the supply of new homes and regulating the STL market are preferred solutions to issues caused by STLs.

- “Cost of Living (Tenant Protection) (Scotland): Letting Agent Insight” (April 2023): 94% of agents report an increase in landlords selling property when a tenancy naturally comes to an end. 94% of agents say their landlords are now more inclined to raise rents between tenancies as a result of the measures. 93% of agents have had landlords express a desire to withdraw property from the PRS because of the extension of the temporary measures.

92 They gave a very useful briefing paper. In their view supply was the most pressing issue affecting letting agents and there was concern that increased pressure from legislative change is shifting landlord opinion on investing in the PRS. Consequently, plans to abolish Section 21 will take away many of the protections which have allowed the PRS to grow since the late 1980s and will dissuade landlords from reinvesting or deter new entrants into the market.

93 Key recommendations included:

- Redress schemes should be for fully managing landlords only - the requirement for landlord redress should be limited only to those landlords who do not use an agent to let and manage their property. This is because letting agents are already required to register with a redress scheme and therefore tenants have access to independent redress.
- License and regulate letting agents - there are no minimum standards to work in the sector and there are no statutory rules to ensure letting agents are suitably qualified.
- Additionally, agents who are not members of a professional body do not have to meet minimum competency standards.

94 There should be no rent controls as this discourages investment and would reduce the overall supply of property in the PRS.

95 PropertyMark’s representatives were familiar with the figures in the Affordable Housing Report about landlords’ attitudes. They preferred the expression “incidental landlords” to “amateur landlords” but absolutely agreed about the need for greater professionalism in the PRS.

96 One of their representatives made a particularly interesting point about rent increases. He himself let out a number of properties and rarely if ever increased a sitting tenant’s rent. That was part

benevolence and part good business. You don't want to lose a good tenant. The financial loss from a void for a month takes up to 12 months to recoup.

97 **Renters' Reform Coalition (evidence to the Select Committee and "Safe, secure and affordable homes for all: A renters' blueprint for reform")**

Renters' Reform Coalition (RFC) is a coalition of 20 organisations committed to working together to ensure the Renters' Reform Bill delivers the safety, security and improvements needed for the 11 million private renters in England:¹⁸⁵

"Once Section 21 is abolished and it becomes harder to evict tenants without good reason, there will be greater risk of landlords using other methods to force renters out.

For instance, if a landlord were to increase the rent suddenly to a level above which a tenant could afford, they would have no choice but to leave. This would have the same effect as receiving a Section 21 notice - the household would no longer be able to continue the tenancy.

Fear of this happening would perpetuate issues currently associated with Section 21, including renters not feeling confident to make complaints about conditions and retains the existing imbalance of power between tenants and landlords.

The government must therefore ensure that rent increases are not used to force renters out, operating as a de facto unfair or retaliatory eviction.

Proposals to limit the first-tier tribunal's powers to rule only that rents go down or stay the same is a positive first step to ensuring renters feel confident to challenge unreasonable rent rises.

However, in its current form, the rent tribunal process is not fully equipped with the powers to protect renters from landlords using rent hikes to force eviction. This is because rent tribunal adjudications are tied to market rents, meaning any increase is legitimate if the final rent is comparable to market rents in the local area. This means that the rent tribunal service offers no protections for people renting in the

¹⁸⁵ <https://committees.parliament.uk/writtenevidence/110778/html/>

lower end of the market, who can only afford to rent at below-market levels.

Instead of continuing to allow the first-tier tribunal to link adjudications to local market rents, the government could explore linking to a different measure. One alternative measure suggested in the renters' movement is the lowest of either inflation or real median income growth.

Recent public polling carried out by Opinium for the Renters' Reform Coalition found that 74% of the public would support government action to prevent private rents increasing by more than the rate of wage inflation, including 74% of people who voted Conservative at the 2019 General Election."

- 98 The Renters' Reform Coalition (RRC) has also published the very useful "Safe, secure and affordable homes for all: A renters' blueprint for reform".¹⁸⁶ The main recommendations include many matters that go beyond our terms of reference. Although we broadly agree with the RRC recommendations we will concentrate on its rent proposals:

"Once Section 21 is abolished, tenancies should be open-ended, providing greater stability and preventing the continuous cycle of moving that many renters find themselves trapped in."

This is no longer controversial.

"A minimum of four months' notice would give renters security and enable them to plan for the future."

We agree.

"By empowering the tribunal to limit rent increases within tenancies to a different measure, such as the lowest of either inflation or real median income growth, the government could ensure that landlords are prevented from using rent increases to secure a no fault eviction."

We broadly agree. See above.

"The government must act to bring rents down so that everyone has a home they can afford to rent, where they can

¹⁸⁶ <https://www.rentersreformcoalition.co.uk/sites/default/files/RRC%20Blueprint%20for%20Reform.pdf>

live and flourish. A number of policy mechanisms have been suggested to improve the affordability of rents in the private rented sector, including building social housing, improving overall housing supply, aligning Local Housing Allowance with private rents, and introducing rent stabilization measures. It is likely that action will need to be taken on multiple fronts to truly alleviate the current affordability crisis."

We agree but the number of policy mechanisms proposed shows the complexity of the problem.

99 **Shelter (evidence to the Select Committee)**

Shelter came to see us and it was very useful indeed. The focus of Shelter has largely been on getting rid of section 21, ensuring that other grounds for possession such as intent to sell or to live in the property do not become a backdoor form of no fault eviction and on improving regulation.

100 Shelter does not have an official position on rent controls and stabilization but its representatives believed that you need first to rebalance the landlord and tenant relationship through better regulation of standards and tenant security before then progressing into rent controls. Shelter does favour rent stabilization within a tenancy period and indexed limits to rent increases and would likely back any position put forward by renters' unions.

101 Shelter makes a very telling point about adopting a system that only regulates rents within tenancies:¹⁸⁷

"We must not be under any illusion that these proposals will make private renting significantly more affordable during this cost-of-living crisis.

We know that generally, most landlords do not increase the rent during the course of a tenancy or when a fixed term period expires. 28% of landlords who have renewed or extended a tenancy in the past five years increased the rent, while 70% left the rent unchanged.

Landlords are far more likely to increase the rent when setting up a new tenancy (47%).¹⁸⁸

¹⁸⁷ <https://committees.parliament.uk/writtenevidence/110833/html/>

¹⁸⁸ Online survey conducted by YouGov Plc. Total sample size was 1037 landlords offering long term residential tenancies in England. Fieldwork was undertaken between 8th- 22nd October 2021.

This correlates with available data on rent increases. Official ONS statistics show that rents have overall increased by 3% in the 12 months preceding June 2022. This includes in-tenancy rent increases and new lets. However, unofficial data from Rightmove shows that for new tenancies, rents have increased more than 20% in some areas."

- 102 There is abundant evidence to support this point. According to paras 2.10 and 2.11 of the English Private Landlord Survey 2021 (26.5.2022):¹⁸⁹

"Landlords were asked, for their last letting to a new tenant, whether they had increased, decreased or kept the rent the same, compared to the previous tenancy. Nearly half (45%) of landlords increased the rent, just over one third (35%) kept the rent the same, and 8% decreased the rent ...

Landlords were also asked, for the last time they renewed or extended a tenancy, whether the rent had been increased, reduced or kept the same. Nearly two thirds of landlords (64%) kept the rent at the same rate, just over a quarter (26%) increased it, and a small number of landlords (4%) decreased the rent ..."

103 **Unison**

Unison came to see us and we had a very useful meeting. Unison's key asks are to:

- Repeal Part 1 Chapter II (Assured Shorthold Tenancies) of the Housing Act 1988 which includes Section 21, and abolish no-fault evictions (to prevent private tenants from being unfairly evicted from their homes when they are not at fault).
- Reform private sector tenancies in line with the Private Renting (Tenancies) (Scotland) Act 2016 so that they are open-ended, (have no fixed term or time limits, have longer notice periods of a least three months) and can only be terminated where the landlord uses specified grounds for possession.
- Overhaul Section 8 of the Housing Act 1998 and introduce an effective, transparent Alternative Disputes Resolution (ADR) that tenants and landlords can understand and access easily as part of the process.
- Legislate to introduce a system of rent controls that provide private tenants with protection from unpredictable rent increases (frequency of review); excessive rent increases (rent

¹⁸⁹ <https://www.gov.uk/government/statistics/english-private-landlord-survey-2021-main-report/english-private-landlord-survey-2021-main-report--2#chapter-1-profile-of-private-landlords>

- capping), to stabilize rent levels and to encourage landlords to set initial rent levels to those that households can afford.
- Introduce a new Housing Ombudsman for the Private Rented Sector or expand the role of the existing Housing Ombudsman, enabling the office to cover both the social and private rented housing sectors with the powers necessary to ensure that landlords comply with any recommendations and the staffing necessary to ensure the office addresses complaints within reasonable timescales.
 - Seek to bring parity to the regulatory landscape between the social and private rented sectors - so that the same (or similar) levels of regulation that now apply to social landlords (and those proposed) also apply to private landlords (especially with regards to health & safety and quality of housing).
 - Introduce a National Landlords Register; and allow councils to introduce borough-wide landlord licensing schemes setting out minimum standards of landlord accreditation, to ensure that both renters and landlords are aware of their rights and obligations, to deter rogue landlords and to drive up standards in private renting, with appropriate funding/resource made available to facilitate councils running the schemes.
 - Ensure greater enforcement of the Consumer Protection from Unfair Trading Regulations 2008 including an increase in the number of staff that fulfil the functions involved in effectively regulating the Private Rented Sector to improve housing conditions, support tenants and to deter and detect criminal behaviour by private landlords and lettings agents.
 - Extend the Decent Homes Standard to the Private Rented Sector; to include minimum regulatory standards to ensure homes are decent, well maintained and free from serious disrepair.
 - Introduce a strategy for addressing the special housing needs of vulnerable people - including the elderly and people with disabilities, such as wheelchair users - to make sure all new homes are built to accessible and adaptable standards, and meet the future needs of elderly people currently renting in the private sector who are unable to meet their housing costs when they retire.

104 **The USA**

Rent regulation of one form or another exists in a small minority of States, cities and municipalities. The best known and most closely studied is that of New York City (NYC). There are two types; rent control, often referred to as a “first generation” measure, and rent stabilization, often referred to as a “third generation” measure

though its current form in NYC since 2019 is less favourable to landlords and is arguably more accurately categorised as “second generation”.

- 105 Rent control seeks to limit rent increases and often subjects them to an upper limit or ceiling. There is “vacancy decontrol”; rents are agreed at market rates when a new tenancy is granted after a vacancy. Rent controlled tenancies are dying out. Rent control applies to only 1% of units in NYC and is being phased out as tenants die or move out.
- 106 Rent stabilization is less sweeping. It generally refers to rent regulations that limit rent increases within but not between tenancies. In NYC it is a much more widespread programme, covering about 44% of rental units.¹⁹⁰ According to the 2021 NYC Housing and Vacancy Survey (HVS), there are about 16,400 rent controlled apartments and about 1,048,860 rent stabilized apartments.¹⁹¹
- 107 Rent stabilization is alive and well in NYC and has recently been strengthened by the Housing Stability and Tenant Protection Act of 2019. The 2019 Act was upheld by the 2nd Circuit Court of Appeals in *CHIP v NYC Rent Stabilization* (6th February 2023).
- 108 Rent stabilization in NYC applies to units in buildings with six or more units built between 1st February 1947 and 1st January 1974 (buildings built or renovated after 1974 and that have tax benefits may also be rent stabilized as long as those benefits continue). Benefits to tenants from rent stabilization include limits on annual rent increases (determined annually by the NYC Rent Guidelines Board) and a guaranteed right to renew.¹⁹²
- 109 The NYC Rent Guidelines Board determines the maximum allowable rent increase (in percentage terms) for a one or two-year lease. It also sets the maximum increase landlords can charge when there is a change in occupancy. The system also allows landlords to increase rents to cover certain capital improvements. The maximum rent increase for a change in occupancy was previously 20 per cent, but the recent Housing Stability and Tenant Protection Act of 2019 removed this allowance entirely. The Act also decreased the amount that can be recouped from major capital improvements to two per cent of rent (down from six per cent in NYC). Another change in the

¹⁹⁰ <https://bungalow.com/articles/rent-control-in-nyc-everything-you-need-to-know>

¹⁹¹ <https://rentguidelinesboard.cityofnewyork.us/resources/faqs/rent-control/>

¹⁹² Borrowed from Urban Institute’s Rent Control What Does the Research Tell Us about the Effectiveness of Local Action? at page 3. https://www.urban.org/sites/default/files/publication/99646/rent_control._what_does_the_research_tell_us_about_the_effectiveness_of_local_action_1.pdf

2019 law was the abolition of decontrol for high-rent properties and high-income tenants, which had been introduced in 1993.¹⁹³

110 The Community Housing Improvement Program (a Landlords' group) estimates that 20,000 units are sitting vacant because of the law, increasing pressure in an already heated housing market.

111 **Germany and other international models**

They are too various to summarise briefly. The OECD gives a very helpful summary pp 15-18 of its report on Rental Regulation.¹⁹⁴ So does the New Economic Foundation at pages 5, 8 and 9 of its report.¹⁹⁵ The German experience is worth special mention but must be treated with caution because Germany's social attitudes and history since the War are so different from Britain's (see pp 34-35 of the Civitas report "The Future of Private Renting" for a very useful explanation of the history and a very positive but rather outdated assessment of the German rental system).¹⁹⁶

112 Germany is notable in that private renting is accepted by the public as a positive alternative to home ownership. Buying a home is something done later in life – first-time buyers have an average age of 40. More households rent privately than own their own home and the social housing sector is very small.¹⁹⁷

113 Most private rented tenancies are indefinite in length. A tenancy may be ended by the tenant with sufficient notice and by the landlord only in limited circumstances. Tenancies last 11 years on average.

114 Medium levels of overall regulation have long applied to Germany's private rented sector. Regarding rents, third-generation rent control was the established method of regulating prices after traditional controls were repealed in the early 1970s. This third-generation control was known as *Vergleichsmietenregelung* (comparable rent regulation) and it primarily restricted the amount and frequency of rent rises for existing tenants. Initial rents were also controlled but not strictly regulated – they could exceed local rents for similar homes by up to 20 per cent – although charging more than this formed a criminal offence.

115 Since 2015 a new second-generation rent control system has been introduced that more strictly limited the amount of rent chargeable

¹⁹³ This summary is borrowed from the CIHNI Report at <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-rent-regulation-in-the-private-sector-in-northern-ireland.pdf> at p 22.

¹⁹⁴ <https://www.oecd.org/els/family/PH6-1-Rental-regulation.pdf>

¹⁹⁵ https://neweconomics.org/uploads/files/NEF_RENT-CONTROL_WIP3.pdf

¹⁹⁶ <https://civitas.org.uk/pdf/thefutureofprivaterenting.pdf>

¹⁹⁷ This and the following paragraphs about Germany are gratefully borrowed from CIHNI.

for new tenancies in previously let homes. Known as *Mietpreisbremse* (rental price brake), the policy restricts rents in designated *angespannten Wohnungsmärkten* (tight housing markets) to within ten per cent of the *Mietspiegel* (rent index) of local comparable rents.

- 116 The impact of *Mietpreisbremse* has been complicated and there are grave doubts about its effectiveness as a policy. It has failed to consistently ease rent price growth overall.
- 117 The Berlin rent freeze of 2020/2021 is a special case as referred to earlier.

TERMS OF REFERENCE

- 1 Based on trailblazing efforts of Labour in power in Wales, Labour will take the private renting reform agenda forward, introducing a new renters' charter which will give tenants more choice and control over their homes. The charter will include:
 - (1) The right to have pets
 - (2) The right to make reasonable alterations to ensure their house feels like a home.
 - (3) The right to request speedy repairs
 - (4) Ending automatic evictions for rent arrears
 - (5) Ending Section 21 no fault evictions
 - (6) Introducing four-month notice periods for landlords
 - (7) Introducing a National Landlords Register
 - (8) Making deposits more portable, fairer, and more flexible.¹⁹⁸
- 2 Labour will introduce licensing for letting agents and a new code of practice, ensuring all letting agents must be sufficiently qualified.
- 3 Labour will introduce also legally binding 'Decent Homes Standard 2' updated for the next decade and will apply and enforce it to all PRS buildings. This new standard will include:
 - (1) Affordable warmth standards
 - (2) A mission to decarbonise homes
 - (3) Requirements for modern ventilation
 - (4) Reasonable standards for internet connectivity
- 4 In January 2023 it was announced¹⁹⁹ that Stephen Cowan would conduct a widespread independent review of the PRS and how we can make our plans for reforming private renting work in practice.
- 5 The review will explore several questions:
 - (1) How could longer term tenancies work in practice, what is the workable minimum and maximum for tenancies, what are the benefits to tenants and what are the potential pitfalls and impact for the market?
 - (2) What models are available to stabilize rent increases within tenancies, how are they best delivered (at national or local level), what would be the impact on landlord yield long-term, what would be the short -term implications on supply/demand.
 - (3) How could a renters' charter, and the key provisions within it best be legally enacted, enforced and adjudicated at a local level.
 - (4) What does best practice for landlord and estate agents look like and how can it be expanded into a code of conduct.

¹⁹⁸ There are practical problems about portability. It has been dropped by the Government as not feasible; there may be a dispute whether Landlord 1 is entitled to retain all or part of the deposit because of damage to the property. That dispute might take weeks to resolve and in the meantime Landlord 2 will demand a deposit at the outset of the new tenancy. Labour should consider a fund to enable Local Authorities to offer deposit guarantees or loans.

¹⁹⁹ <https://www.standard.co.uk/news/politics/labour-review-private-rental-homes-lisa-nandy-stephen-cowan-b1056191.html>

THE PRIVATE RENTED SECTOR COMMISSION

Stephen Cowan – Commission Chair



Stephen Cowan has been the leader of the London Borough of Hammersmith & Fulham since 2014 when he led his team to the first of three landslides.

Between 2002 to 2006, Stephen was deputy, then chair of the Housing Committee for the Association of London Government (now London Councils) where he established a new housing policy unit.

In the run up the 2010 general election, Stephen warned against punitive housing²⁰⁰ and social policies²⁰¹ being tested by the Conservatives' in their flagship borough. These were quickly adopted by the incoming Conservative-Liberal Democrat government.

He was vice chair of the London branch of the Labour Housing Group between 2010 to 2013. He helped develop housing policies for the 2012 London Labour Mayoral manifesto and came up with the concept of a 'London Living Rent'.

In office, he introduced a firm approach to negotiating with property developers which included challenging the credibility of viability reports²⁰². His administration has won record Section 106 and CIL funding enabling it to begin building 3000 affordable homes. In 2019, Stephen won back two council estates²⁰³ from the controversial former Earls Court scheme²⁰⁴.

Stephen has led a series of policy firsts in his borough which include; free adult social care²⁰⁵, free breakfasts for all primary school children²⁰⁶, an ethical debt policy²⁰⁷ and a first-of-its-kind high growth 'inclusive industrial strategy'²⁰⁸ which has attracted upward of £6 billion in growth investment and transformed the borough into an economic centre in science, tech, engineering, maths, medicines and media (STEMMM) industries.

In 2020, Stephen helped found the Labour Local Government Campaigns Cooperative²⁰⁹ and remains an active member of its team. Prior to becoming a council leader, Stephen ran a training business during which time he worked with hundreds of companies.

²⁰⁰ <https://www.theguardian.com/uk/davehillblog/video/2009/oct/09/housing-london-tory-social>

²⁰¹ <https://www.independent.co.uk/voices/commentators/johann-hari/johann-hari-welcome-to-cameron-land-1962318.html>

²⁰² <https://www.facebook.com/HFLabour/videos/585853051549959>

²⁰³ <https://www.mirror.co.uk/news/politics/labour-saves-council-estates-conservative-20985043>

²⁰⁴ <https://www.thetimes.co.uk/article/the-people-v-capital-counties-wq8bqfkd>

²⁰⁵ <https://www.lbfh.gov.uk/publications/corporate-plan/hf-plan-2023-2026/creating-compassionate-and-inclusive-council/independent-living#:~:text=Since%202015%2C%20H%26F%20has%20been,than%20what%20they%20can%20afford.>

²⁰⁶ <https://www.facebook.com/100058110460235/videos/311115729799960>

²⁰⁷ <https://www.lbfh.gov.uk/news/2017/11/ethical-debt-collection-hf-end-use-bailiffs#:~:text=In%20simple%20terms%2C%20it%20means,paid%20and%20over%20what%20period.>

²⁰⁸ Summary on page 9 <https://www.progressivebritain.org/wp-content/uploads/2022/08/Future-industries-v1.3.pdf>

²⁰⁹ <https://www.lgcampaigns.com>

William Hunter – Contributing editor



William Hunter is a retired barrister. At the Bar his specialisms included property and landlord and tenant law.

William has been a Labour Party Officer in Hammersmith & Fulham since the 1980s. He is currently the Secretary of Hammersmith and Chiswick Labour Party and Chair of Hammersmith & Fulham Local Campaign Forum.

He was formerly the Chair of Riverside Studios and a Governor of Lady Margaret School. William was awarded the Freedom of the Borough in 2022 for his voluntary service to Hammersmith & Fulham.

Rose Grayston – Contributor



Rose Grayston has worked on housing for New Economic Foundation and Shelter. She is the co-author with Toby Lloyd and Neal Hudson of 'Reboot: building a housing market that works for all'²¹⁰ for the Joseph Rowntree Foundation.

Rose has managed and led successful campaigns to reduce borrowing rates for local authority housebuilding, reform English planning rules to incentivise the delivery of affordable homes, and build political, public and media support for reform of England's broken land and housebuilding systems.

Jacky Peacock OBE – Contributor



Jacky Peacock OBE is the founder and Head of Policy at Advice for Renters²¹¹ and currently chairs its Board of Trustees.

Jacky established Advice for Renters over 30 years ago to provide specialist legal advice and support services to private renters and others in housing need.

Jacky currently facilitates Fairer Housing²¹², which brings together families who are hardest hit by the housing crisis to explore the fundamental reasons for the crisis and develop ensure their voice is heard in calling for solutions.

²¹⁰ <https://www.jrf.org.uk/housing/reboot-building-a-housing-market-that-works-for-all>

²¹¹ <https://adviceforrenters.org>

²¹² <https://www.fairerhousing.com>

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