

# Written evidence submitted to the Renters (Reform) Bill Committee

November 2023

---

## About the Chartered Institute of Environmental Health (CIEH)

CIEH is the professional voice for environmental health representing over 7,000 members working in the public, private and non-profit sectors. Building on its rich heritage, CIEH ensures the highest standards of professional competence in its members, in the belief that through environmental health action people's health can be improved.

Environmental health has an important and unique contribution to make to improving public health and reducing health inequalities. CIEH campaigns to ensure that government policy addresses the needs of communities and business in achieving and maintaining improvements to our environment and our health.

For more information visit [www.cieh.org](http://www.cieh.org) and follow CIEH on Twitter [@The\\_CIEH](https://twitter.com/The_CIEH).

Any enquiries about this response should be directed to:

Mark Hope  
Senior Policy and Public Affairs Executive  
Chartered Institute of Environmental Health  
Email: [m.hope@cieh.org](mailto:m.hope@cieh.org)

## Executive summary

- We welcome the proposals for a ban on no-fault evictions and for a new Property Portal.
- We are concerned, however, by suggestions that the proposed Property Portal removes the need for selective licensing schemes.
- Licensing is a systematic and proactive approach to improving housing standards rather than just collection of information.
- We believe the Bill provides an opportunity to remove unnecessary barriers to local authorities using licensing schemes to improve housing standards.
- We are proposing that local authorities should be able to use licence conditions to improve housing conditions and that the maximum duration of discretionary licensing schemes should be increased to ten years.
- We believe that, although national approaches such as lead authorities promote consistency, local authorities are best placed to regulate the private rented sector in view of the variation between geographical areas.
- We are concerned about how the role of the new ombudsman will interact with that of local authorities.
- We are also concerned about the large enforcement burden that the provisions of the Bill will impose on local authorities and the need for proportionate funding that is sustained and predictable.
- A list of our proposed amendments to the Bill can be found at the end of this written evidence.

## Tenancy reform

1. We support the intention underlying this Bill to provide greater security of tenure for renters. This is a key step towards a self-regulating sector where tenants' fear of repercussions when exercising their rights and ignorance of those rights are no longer major obstacles to effective regulation.<sup>1</sup>
2. We welcome the provisions in the Bill regarding guidance from the Secretary of State for local authorities on the administration of financial penalties. These appear in clauses 11 and 22 in relation to tenancy reform, clause 26 in relation to landlord redress schemes and clause 47 in relation to the Property Portal. In each case they say: "The Secretary of State may give guidance ...". We are proposing, however, that in each case they should be amended to replace the word "may" with the word "must". At present all local authorities have to produce their own internal policies on the administration of financial penalties. Whilst policies can be shared, the production of central guidance would greatly reduce duplication of effort in forming such policies. It would improve

---

<sup>1</sup> Elinor Chisholm, Philipa Howden-Chapman and Geoff Fougere, '[Tenants' Responses to Substandard Housing: Hidden and Invisible Power and the Failure of Rental Housing Regulation](#)', *Housing, Theory and Society*, Volume 37, No. 2, 2020, pp. 139–61.

consistency between authorities and thereby help landlords with properties in more than one local authority area.

3. Fear of rent rises, retaliatory eviction and souring relations with the provider of their home are major disincentives for tenants to exercise their rights. We welcome the abolition of section 21 evictions but are concerned that the Bill introduces a range of eviction grounds which will prove to be more potent than section 21. We would also like to see the period in which a rented property cannot be remarketed following possession under grounds 1 and 1A increased to at least six months. Three months is not sufficient for local authorities to be able to regulate this requirement effectively.
4. Notice periods for eviction which are shorter than the two months that tenants are required to give would seem to put the tenant in an even weaker position. Even if the grounds are discretionary, tenants would be unlikely to put themselves through a court hearing. Under the new provisions they would have less time to seek advice and most would leave within the time period of the landlord's notice. All grounds except conviction for anti-social behaviour should have a two-month notice period.

## Landlord redress schemes

5. We broadly support the use of a landlord redress scheme but are concerned by the lack of clarity about interactions between the proposed ombudsman and local authority enforcement bodies and about the funding arrangements for local authorities tasked with enforcing membership of the redress scheme.
6. The Housing Ombudsman Service for social housing already has a large number of outstanding tenant complaints. Social landlords are predominantly large portfolio not-for-profit bodies. When the 4.6 million private rented sector households are able to access an ombudsman, the workload will be substantially higher. 85% of private landlords operating as individuals own 1-4 rental properties and 45% own just one, very often as an investment or pension contribution.<sup>2</sup> The binary rhetoric of a sector composed of good and 'rogue' operators is misleading. Compliance levels are better described as being on a sliding scale from the best to the worst operators.<sup>3</sup> Given the range of compliance levels, complaint levels are likely to be higher than in the social rented sector. It is unclear how the new ombudsman will protect tenants from long delays in dealing with their complaints and unclear who will take the lead if a tenant complains to both the ombudsman and the local authority. The ombudsman should not be another obstacle that stands between tenants and enforcement of their rights.

## The private rented sector database and Property Portal

---

<sup>2</sup> Department for Levelling Up, Housing and Communities, [English Private Landlord Survey 2021: main report](#), May 2022.

<sup>3</sup> House of Commons Housing, Communities and Local Government Committee, [Private rented sector: Fourth Report of Session 2017–19](#), April 2018, p. 11.

7. We welcome the proposed private rented sector database and Property Portal as a tool to support tailored enforcement approaches by local authorities, in particular through the use of licensing schemes under the Housing Act 2004.
8. Enforcing the national registration scheme would add considerably to the workloads of local authority inspectorates. If just 5% of landlords were to fail to register, each local authority using housing enforcement powers would be left with about 700 properties with unregistered landlords to pursue. Information for their own targeted action would be beneficial for local authorities, but it would not make a major difference to the time required for their investigatory activities - it would just make those activities simpler to target.
9. At present the nearest analogous system of national registration enforcement is Rent Smart Wales. The Welsh Government's evaluation of Rent Smart Wales found that in its first two years only 196 fixed penalties had been issued and 13 successful convictions completed owing to a lack of clarity on roles and responsibilities for local authorities and a lack of capacity at local level to enforce the Housing (Wales) Act 2014.<sup>4</sup>
10. The national database would provide a valuable tool to support the use by local authorities of licensing schemes under the Housing Act 2004. Identification of unlicensed properties would become more straightforward. The portal could be used proactively to inform landlords about local authority activities in their area.
11. We support the use of the Property Portal as a single source of information for landlords and tenants. Rent Smart Wales notifies landlords of changes to legislation and the availability of training. However, landlords can opt out of notifications, significantly limiting their impact. This difficulty must be considered when setting up the new systems.
12. The private rented sector is composed of a wide range of local sub-markets<sup>5</sup> which local authorities are best equipped to understand and regulate. A national registration scheme will tell local authorities where rented properties and their landlords are. Aside from collecting basic certification though, the database will do little to bring about direct improvements in property conditions and management. Also, certificates will need to be checked as faults are frequently found in certification provided to local authorities.
13. Licensing provides the only means for local authorities proactively to inspect privately rented housing, removing the need for tenants to have complained. It provides locally tailored regulation of the sector. It also provides a sustainable and predictable source of income that enables local authorities to maintain staffing levels and support the training of new officers. Licence conditions can provide a set of threshold standards for property conditions, overcrowding, management and maintenance, which both landlords and tenants can refer to. Licensing means the market pays for its own regulation, rather than

---

<sup>4</sup> Welsh Government, [Evaluation of Rent Smart Wales](#), June 2018.

<sup>5</sup> Julie Rugg and David Rhodes, [The Private Rented Sector: its contribution and potential](#), Centre for Housing Policy, 2008, pp. 15-28.

relying on the taxpayer, and average costs are little more than the annual price of a gas safety certificate. Licensing also makes major contributions to area-based issues such as crime, anti-social behaviour and waste management, and brings together a range of bodies to focus additional support services for landlords and tenants, improving public health and reducing burdens on the NHS. Licensing brings landlords closer to the regulator, facilitates targeted action where it is needed most, ensures property managers are fit and proper persons and protects vulnerable tenants.<sup>6</sup>

14. The database will provide a valuable source of information on the sector. There are a range of opportunities to match this information with existing English Housing Survey and public health datasets. Consideration should be given to providing access to the data to researchers, with a view to promoting more evidence-based policy decisions.

## Enforcement authorities

15. Whilst recognising that the appointment of a lead enforcement authority could promote consistency, we would like to see more clarity about the Government's intentions in this area. Changes should not undermine the autonomy of individual local authorities and indeed the work of the lead authority itself. Our review of primary authorities found that primary authority officers report that the costs of running the schemes are rarely fully recovered. The unrecovered time and resources combined with reductions to local authority budgets mean that primary authority duties are impacting on their authorities' ability to carry out other statutory functions.<sup>7</sup> A lead authority would need to be adequately resourced to carry out its new duties.
16. The cost of lodging an appeal with the Tribunal Service is relatively low, but the costs to the local authority of defending itself against such an appeal are substantial. Tribunal Service hearings and decisions for private rented sector housing cases vary widely. The system would benefit from a review and the provision of clearer guidelines, particularly if it is to handle more housing cases.
17. Schedule 3, clause 10, subsection 6, of the Bill makes provision that, when the Tribunal Service is reviewing a financial penalty, the amount of the penalty cannot be increased. This sets a perverse incentive for landlords to lodge an appeal not in order to clarify whether the law has been adhered to but more as 'good business'. We are proposing that this subsection 6 should be removed. If the appeal is reviewing the local authority decision to penalise an operator, the Tribunal Service should be able to revise the penalty up as well as down. This would help to prevent vexatious appeals.

---

<sup>6</sup> Henry Dawson, [\*The role of Housing Act 2004 licensing In addressing the needs and issues of stakeholders in the private rental housing sector of England and Wales\*](#), PhD thesis, Cardiff Metropolitan University, November 2020.

<sup>7</sup> Chartered Institute of Environmental Health, [\*Perspectives on Primary Authority\*](#), November 2019.

## Removing barriers to the use of licensing schemes to improve housing standards

18. We believe that the Bill provides an important opportunity to remove barriers to the use of licensing schemes to improve housing standards.
19. There is currently a peculiar disconnect in the Housing Act 2004 licensing legislation whereby local authorities can introduce selective licensing schemes to address poor property conditions<sup>8</sup> but cannot include a directly enforceable requirement relating to property condition as a condition of the licence itself. We are therefore proposing that section 90 of the Housing Act 2004 should be amended by the Bill to enable local authorities to use licence conditions to improve property conditions. We are suggesting that the wording of subsection 90(1) should be brought into line with the wording of the equivalent provision for licensing of houses in multiple occupation in subsection 67(1).
20. Discretionary licensing schemes are very expensive and time consuming for local authorities to introduce. Their introduction also involves considerable uncertainty when they are subject to the Secretary of State's ability to veto them.<sup>9</sup> We would therefore like the general approval for schemes to be reinstated in place of the current requirement for approval for schemes covering more than 20% of the local authority area. We are also proposing that sections 60 and 84 of the Housing Act 2004 should be amended by the Bill to increase the maximum duration of discretionary licensing schemes from five to ten years. This would allow local authorities to advertise longer term posts and to include training of new staff in discretionary licensing schemes. It would also provide more time for local partnerships formed through such schemes to become embedded and effective.
21. At present environmental health officers must give 24 hours' notice to landlords and tenants when inspecting property conditions under the Housing Health and Safety Rating System (HHSRS). This is not required for licensing or for inspections assessing the management of houses in multiple accommodation. It gives the landlord 24 hours' notice that the tenant has complained. The landlord can then appear at the inspection, which can be an intimidating experience for a tenant. Local authorities should be able to conduct such visits without giving 24 hours' notice, permitting private conversations with the tenant before the local authority contacts the landlord to notify them if works are required. Tenants should be able to obtain an inspection under the Housing Act 2004 without having to inform the landlord. We are therefore proposing that section 239 of the Housing Act 2004 should be amended by the Bill to remove the requirement for 24 hours' notice.
22. When the Housing Act 2004 was originally drafted, most social support was provided through Housing Benefit. Since this time, Universal Credit has replaced Housing Benefit

---

<sup>8</sup> [The Selective Licensing of Houses \(Additional Conditions\) \(England\) Order 2015](#)

<sup>9</sup> Chartered Institute of Housing and Chartered Institute of Environmental Health, [A licence to rent](#), January 2019.

for many claimants. Local authorities are allowed to use Housing Benefit information and should be allowed to use equivalent Universal Credit information. We are therefore proposing that section 237 of the Housing Act 2004 should be amended by the Bill to allow local authorities to use the latter type of information.

## Funding enforcement

23. We are concerned about the large enforcement burden that the provisions of the Bill would impose on local authorities and the need for proportionate funding that is sustained and predictable.
24. The success of the landlord redress scheme, landlord registration, the national database and the changes around possession of properties all depend on effective enforcement. The Bill allows for local authorities to recoup costs of enforcement from penalty notices and for the Secretary of State to provide grants etc. to support enforcement work.
25. Local authorities are already severely under-resourced and struggling to meet their existing enforcement burdens. Work by Battersby<sup>10</sup> found an average of 2.46 environmental health officers for every 10,000 private rented sector dwellings in London boroughs and 2.2 in metropolitan and unitary authorities. This is not sufficient to deal with the existing numbers of tenant complaints.
26. In these circumstances it is not appropriate to rely on funding from taxpayers and from penalty notices to fund the enforcement of this new legislation. Ombudsman and registration fee income could be used to ensure the sector contributes much more to its own regulation. Moreover, funding from the Secretary of State will need to reflect the relative size of the private rented sector for each local authority.
27. A report from the Chartered Institute of Housing and the Chartered Institute of Environmental Health<sup>11</sup> and research carried out by Harris et al.<sup>12</sup> found that reliable and consistent funding streams are required to allow local authorities to plan staffing requirements and manage budgeting in a very constrained environment. The approach to funding that is currently envisaged would only exacerbate the difficulties faced by local authorities in this respect. We would suggest that local authorities should receive ring-fenced funding based on the number of private rented sector dwellings registered in their areas in order to reflect their relative enforcement burdens. We would also suggest that, in order to increase transparency, the Bill should be amended to require separate fees to be paid for the administration of the ombudsman and database schemes.

---

<sup>10</sup> Stephen Battersby, [Private Rented Sector Inspections and Local Housing Authority Staffing](#), March 2018.

<sup>11</sup> Chartered Institute of Housing and Chartered Institute of Environmental Health, [A licence to rent](#), January 2019.

<sup>12</sup> Jennifer Harris, Dave Cowan and Alex Marsh, [Improving compliance with private rented sector legislation: Local authority regulation and enforcement](#), UK Collaborative Centre for Housing Evidence, August 2020.

## Decent Homes Standard

28. We welcome, in principle, the proposed application of the Decent Homes Standard to the private rented sector. We remain of the view, however, that the various standards need to be consolidated to provide clarity for landlords, tenants and local authorities.

## List of proposed amendments

### *Requiring guidance on financial penalties*

Clause 11, page 15, line 27, leave out “may” and insert “must”

Clause 11, page 17, line 23, leave out “may” and insert “must”

Clause 22, page 27, line 27, leave out “may” and insert “must”

Clause 26, page 37, line 4, leave out “may” and insert “must”

Clause 47, page 51, line 24, leave out “may” and insert “must”

These amendments would ensure that the Secretary of State was required rather than permitted to provide guidance for local authorities on the administration of financial penalties.

### *Allowing financial penalties to be increased on appeal*

Schedule 3, page 79, line 36, leave out lines 36 to 38

This amendment would enable the Tribunal Service to revise financial penalties up as well as down.

### *Increasing the maximum duration of discretionary licensing schemes*

To move the following clause—

(1) The Housing Act 2004 is amended as follows.

(2) In section 60, subsection (2), for “five” substitute “ten”

To move the following clause—

(1) The Housing Act 2004 is amended as follows.

(2) In section 84, subsection (2), for “five” substitute “ten”



These amendments would increase the maximum duration of discretionary licensing schemes from five to ten years.

*Enabling licence conditions to be used to improve housing conditions*

To move the following clause—

(1) The Housing Act 2004 is amended as follows.

(2) In section 90, for subsection (1) substitute—

- “(1) A licence may include such conditions as the local housing authority consider appropriate for regulating all or any of the following—
- (a) the management, use and occupation of the house concerned, and
  - (b) its condition and contents.”

This amendment would enable local authorities to use licence conditions to improve property conditions.

*Allowing local authorities access to Universal Credit information*

To move the following clause—

(1) The Housing Act 2004 is amended as follows.

(2) In section 237, for subsection (2) substitute—

- “(2) This section applies to any information which has been obtained by the authority in the exercise of functions under—
- (a) section 134 of the Social Security Administration Act 1992 (c. 5) (housing benefit), or
  - (b) The Welfare Reform Act 2012 (universal credit), or
  - (c) Part 1 of the Local Government Finance Act 1992 (c. 14) (council tax).”

This amendment would allow local authorities to use Universal Credit information.

*Removing the 24 hours’ notice period for HHSRS inspections*

To move the following clause—

(1) The Housing Act 2004 is amended as follows.

(2) In section 239, leave out subsection (5)

This amendment would remove the requirement for 24 hours' notice to be given to landlords and tenants when property conditions are inspected under the HHSRS.