



# Parliamentary briefing: Renters' Rights Bill – House of Lords second reading

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## Renters' Rights Bill – House of Lords second reading

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### Summary

**We welcome the Renters' Rights Bill but are calling for sustained and predictable funding for enforcement. We are also calling for the removal of unnecessary barriers to the use of licensing schemes to improve housing standards.**

### Key points

- We welcome the Renters' Rights Bill but are concerned about the large enforcement burden that the provisions of the Bill will impose on local authorities. Funding must be proportionate, sustained and predictable. It must permit local housing authorities to attract new staff and fund the training of those staff now and in the future.
- We believe the Bill provides an opportunity to remove unnecessary barriers to local authorities using licensing schemes to improve housing standards.
- Licensing is a focused and proactive approach to improving the worst housing and minimises burden on good landlords in other areas.
- We are recommending 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 are concerned about how the role of the new ombudsman will interact with that of local authorities.
- We welcome the proposed private rented sector database as a tool to support the use of tailored enforcement approaches by local authorities.
- 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.
- A list of our recommended amendments to the Bill can be found at the end of the next section of this briefing.



## Our recommendations

### Funding enforcement

1. We welcome the Renters' Rights Bill but are 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.
2. The success of the landlord redress scheme, the private rented sector database and the changes around possession of properties all depend on effective enforcement. The Bill allows for database fees to be passed on to local authorities but there is no comparable source of direct revenue generation for funding enforcement burdens associated with the new ombudsman service. We are recommending that the Bill should be amended to permit ombudsman fees to be used to fund the enforcement costs of the scheme.
3. Local authorities are already severely under-resourced and struggling to meet their existing enforcement burdens. Work by Battersby<sup>1</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.
4. The Bill's heavy reliance on civil penalty notices appears to assume this income will support a significant proportion of the cost of enforcement. Most cases are resolved through informal action, so only a small proportion will result in punitive action through prosecutions or civil penalty notices. Penalty notices do not represent a reliable or predictable source of income. Only half of the amounts charged in civil penalty notices are collected by local authorities.<sup>2</sup>
5. Since the millennium there has been a substantial increase in the range of housing legislation. Additional legal protections are welcome, but all these new protections require effective enforcement. Each new piece of legislation requires further resources from local authority environmental health teams.<sup>3</sup> Local authority regulatory department funding fell by an average of 41% and staff numbers fell by over a third between 2010 and 2020.<sup>4</sup>
6. Other industries fund their regulation through local authority fees (for example planning and building control). The rental sector should limit burdens on the taxpayer by funding local authority regulation. Ombudsman and database registration fee income should be used to ensure the sector contributes much more towards the cost burdens associated with its regulation. Moreover, central government funding will need to be sustained beyond the initial years of the introduction of these new duties and reflect the relative size of the private rented sector for each local authority.

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<sup>1</sup> Stephen Battersby, *Private Rented Sector Inspections and Local Housing Authority Staffing*, March 2018.

<sup>2</sup> National Residential Landlords Association, [The Enforcement Lottery: Local authority enforcement 2021-23](#), May 2024.

<sup>3</sup> National Residential Landlords Association, [Not under-regulated but under-enforced: the legislation affecting private landlords in England](#), July 2021.

<sup>4</sup> Emma Rose, [The UK's Enforcement Gap 2020](#), Unchecked UK, October 2020.



7. Research carried out by Harris et al.<sup>5</sup> found that reliable and consistent funding streams are required to allow local authorities to plan staffing requirements. Decades of unpredictable funding have severely reduced the ability of local authorities to devote resources to recruitment, training and maintaining an experienced inspectorate. 4 out of 5 local authorities rely on agency staff to deliver basic environmental health functions.<sup>6</sup>
8. 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 believe there should be separate fees for the administration of the ombudsman and database schemes. A defined proportion of those fees should be paid to local authorities to cover routine costs involved in providing these regulatory functions.

## Removing unnecessary barriers to the use of licensing schemes

9. We believe that the Bill provides an important opportunity to remove unnecessary barriers to the use of licensing schemes to improve housing standards.
10. Licensing provides a means for local authorities to inspect privately rented housing using enforceable conditions - and to identify and resolve problems - without the need for tenants to have complained. It also provides locally tailored regulation of the sector, burdening landlords only where the risk to health is greatest. It 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.
11. Licensing schemes pay for themselves through the fees that are charged. They therefore provide a sustainable and predictable source of income that enables local authorities to maintain staffing levels and support the training of new officers.
12. Licensing schemes also enable local authorities to target regulation on where it is most needed, i.e. on tackling the worst landlords and supporting the most vulnerable tenants.
13. There is currently a peculiar disconnect in the Housing Act 2004 licensing legislation whereby local authorities can introduce selective licensing schemes to address poor housing conditions<sup>7</sup> but cannot include in the licence itself conditions requiring the physical state of the licensed property to be improved. We are therefore recommending that section 90 of the Housing Act 2004 should be amended by the Bill to enable local authorities to use licence conditions to improve housing 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).
14. Discretionary licensing schemes, which include selective licensing schemes and additional licensing schemes for houses in multiple occupation with less than five occupiers, are expensive

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<sup>5</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.

<sup>6</sup> Chartered Institute of Environmental Health, [Environmental health workforce survey report: local authorities in England](#), April 2021.

<sup>7</sup> [The Selective Licensing of Houses \(Additional Conditions\) \(England\) Order 2015](#)



and time consuming for local authorities to introduce. We are therefore recommending 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.

15. If there are issues in the private rented sector which can be addressed through selective licensing schemes, it seems arbitrary for local authorities to be unable to establish such schemes without ensuring that the sector forms a high proportion of properties in the area. We are therefore recommending that the requirement for them to do this<sup>8</sup> should be removed.

### **Other provisions on enforcement**

16. 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 the landlord 24 hours' notice, permitting private conversations with the tenant before the local authority contacts the landlord to notify them if works are required. We are therefore recommending that section 239 of the Housing Act 2004 should be amended by the Bill to remove the requirement to give 24 hours' notice to the landlord and that a similar requirement in clause 126 of this Bill should also be removed.
17. Clause 131, subsection 4, of this Bill provides only a level 3 fine for obstruction. The Housing Act 2004 uses a level 4 fine. The Bill should be changed to align these offences.
18. Universal Credit has replaced Housing Benefit 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 133A of the Social Security Administration Act 1992 should be amended by the Bill to allow local authorities to use the latter type of information.
19. There is some confusion over whether under section 239 of the Housing Act 2004 an officer must be separately authorised to inspect each property or a blanket authorisation can be issued. The latter interpretation is far more practical. Clauses 118 and 126 of the Bill provide equivalent powers. We are recommending that the Bill should be used as an opportunity to clarify this point.

### **Landlord redress schemes**

20. 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

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



and about the funding arrangements for local authorities tasked with enforcing membership of the redress scheme.

21. When the 4.6 million private rented sector households are able to access an ombudsman, the workload will be considerable. 85% of private landlords operating as individuals own 1-4 rental properties and 45% own just one.<sup>9</sup> There will be a wide range of compliance levels. 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**

22. We welcome the proposed private rented sector database as a tool to support tailored enforcement approaches by local authorities.
23. Enforcing national registration would add considerably to the workloads of local authority inspectorates. 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>10</sup>
24. The database would provide a valuable tool to support the use of licensing schemes under the Housing Act 2004. Identification of unlicensed properties would become more straightforward. The database could be used proactively to inform landlords about local authority activities in their area. Selective licensing should be retained to focus enforcement where it is needed most, generating revenue to resource this activity from operators in those areas and minimising burden on compliant landlords in other areas.
25. The private rented sector is composed of a wide range of local sub-markets<sup>11</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, the database will do little to bring about direct improvements in property conditions and management without independent inspections of properties. Self-declaration of property condition is unlikely to be an effective indicator of compliance with the Decent Homes Standard. Certificates will also need to be checked as faults are frequently found in those provided to local authorities.
26. 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 for researchers, with a view to promoting more evidence-based policy decisions.

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<sup>9</sup> Department for Levelling Up, Housing and Communities, [English Private Landlord Survey 2021: main report](#), May 2022.

<sup>10</sup> Welsh Government, [Evaluation of Rent Smart Wales](#), June 2018.

<sup>11</sup> Julie Rugg and David Rhodes, [The Private Rented Sector: its contribution and potential](#), Centre for Housing Policy, 2008, pp. 15-28.



## Decent Homes Standard

27. 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. At present there is no detail on what the updated standard will require. We would like to be part of all discussions around updating and enforcing this standard.

## Enforcement authorities

28. 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 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>12</sup> A lead authority would need to be adequately resourced to carry out its new duties.

29. 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.

## Guidance on civil penalties

30. We welcome the provisions in the Bill regarding guidance for local authorities on the administration of financial penalties. These appear in clauses 17, 42, 59, 60, 67 and 92 and in Schedule 4. In each case they say: "The Secretary of State may give guidance ...". We are recommending, 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. Whilst policies can be shared, the production of central guidance would greatly reduce duplication of effort and improve consistency.

## Scrutiny of regulations

31. The implementation of the Bill will be determined by regulations covering approximately 38 separate areas. We are recommending that the Bill should be amended so that regulations relating to the private rented sector database, which affect local authority operations and funding, will be subject to the affirmative procedure to provide more opportunity for scrutiny. We would like the Government to engage in a meaningful dialogue with us to ensure the regulations function appropriately within the existing enforcement regime.

32. The regulations made under this Bill should be presented to Parliament in aggregated groups, as a coherent whole, so that Parliament can see and understand their simultaneous impact and permit sufficient time to debate them. This will help to reduce confusion arising from duplication of standards and overlapping jurisdictions amongst regulatory bodies.

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<sup>12</sup> Chartered Institute of Environmental Health, [Perspectives on Primary Authority](#), November 2019.





## List of recommended amendments

### *Permitting ombudsman fees to be used to fund the enforcement costs of the scheme*

Clause 66, page 102, line 43, after “regulations.” insert—

- “(5A) The Secretary of State may direct the landlord redress scheme to pay to local housing authorities or into the Consolidated Fund the amount it receives in respect of the fees it charges, or any part of that amount.
- (5B) If the Secretary of State is the landlord redress scheme
- (a) subsection (5A) does not apply, and
  - (b) the Secretary of State may pay to local housing authorities the amount it receives in respect of fees it charges, or any part of that amount.”

This amendment would permit ombudsman fees to be used to fund the enforcement costs of the scheme.

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

Insert the following new Clause—

#### **“Use of licence conditions to improve housing conditions**

In section 90 of the Housing Act 2004, 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 new clause would enable local authorities operating selective licensing schemes to use licence conditions to improve housing conditions.

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

Insert the following new Clause—

#### **“Increases to duration of discretionary licensing schemes**

- (1) The Housing Act 2004 is amended as follows.
- (2) In section 60(2), leave out “five” and insert “ten”.
- (3) In section 84(2), leave out “five” and insert “ten”.

This new clause would increase the maximum duration of additional HMO licensing schemes and selective licensing schemes from five to ten years.





## *Removing the 24 hours' notice period for inspections*

Insert the following new Clause—

### **“Removing the 24 hours' notice period for inspections**

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

(2) In section 239, for subsection (5) substitute—

“(5A) Before entering any premises in exercise of the power conferred by subsection (3), the authorised person or proper officer must have given at least 24 hours' notice of his intention to do so—

(a) to the occupier of the premises (if any), or

(b) to the owner (if the premises is unoccupied).

(5B) A notice need not be given to the occupier of the premises if the occupier (or any occupier) has waived the requirement to give notice.”

Clause 126, page 150, leave out subsection (1)(c)

Clause 126, page 151, leave out subsections (2) and (3)

These amendments would remove the requirement for 24 hours' notice to be given to landlords when property conditions are inspected under the HHSRS and a similar requirement in clause 126 of this Bill.

## *Increasing the fine for obstruction*

Clause 131, page 153, line 35, leave out “3” and insert “4”

This amendment would increase the fine for obstruction to match the one used in the Housing Act 2004.

## *Allowing local authorities access to Universal Credit information*

Insert the following new Clause—

### **“Use of information obtained for certain other statutory purposes**

(1) The Social Security Administration Act 1992 is amended as follows.

(2) In section 133A(2), after “for use in connection with” insert “enforcing the landlord legislation, the exercise of any functions under Parts 1 to 4 of the Housing Act 2004,”.

(3) In section 133A(3), in the appropriate place insert—

““the landlord legislation” has the meaning given by section 107 of



## the Renters' Rights Act 2025""

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

### *Requiring guidance on financial penalties*

Clause 17, page 28, line 1, leave out "may" and insert "must"

Clause 42, page 57, line 5, leave out "may" and insert "must"

Clause 59, page 89, line 17, leave out "may" and insert "must"

Clause 60, page 90, line 19, leave out "may" and insert "must"

Clause 67, page 105, line 7, leave out "may" and insert "must"

Clause 92, page 122, line 7, leave out "may" and insert "must"

Schedule 4, page 210, line 18, leave out "may" and insert "must"

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

### *Making regulations relating to the private rented sector database subject to the affirmative procedure*

Clause 140, page 159, line 17, after "66," insert "77," and after "78," insert "80, 81, 82,"

This amendment would make regulations relating to the private rented sector database subject to the affirmative procedure.

### **Further information**

For further information please contact Mark Hope, Senior Policy and Public Affairs Executive, at [m.hope@cieh.org](mailto:m.hope@cieh.org) or on 020 7827 5822.