



Chartered
Institute of
Housing

What you need to know about government's plans to improve the private rented sector



What you need to know about government's plans to improve the private rented sector



**Chartered
Institute of
Housing**

Over the past couple of years the government have announced a number of measures to reform the private rented sector in England.

These changes have been announced in a piecemeal fashion. A number of them were first included in the Housing and Planning Act 2016 and then further reforms were announced during the subsequent Autumn Statement 2016, Budget 2017 and via a number of separate consultations. This briefing draws together all of those changes to provide an overview of the government's plans to improve the sector, what they will mean in practice and when they took/are due to take effect.

Tackling rogue landlords

The [Housing and Planning Act 2016](#) contained a number of measures aimed at giving local authorities a better range of tools and powers to take action against rogue landlords operating in their area.

Civil penalties

Since April 2017 local authorities have been able to issue civil penalties to landlords or letting agents who commit certain offences. These represent an alternative to seeking a prosecution through the courts, speeding up the process in many cases. Local authorities are also allowed to retain the proceeds from these penalties to help fund their enforcement work.

Offences that authorities can issue a civil penalty for include failing to comply with an improvement notice or an overcrowding notice and breaches of a licensing scheme.

The local authority determines the size of the fine, although they are expected to take a number of specific factors into account. The maximum penalty that can be applied for a single offence is £30,000.

Rent repayment orders

Also from April 2017 the scope for tenants or local authorities to apply for a rent repayment order was greatly expanded.

Rent repayment orders allow a tenant (or where the tenant is receiving housing benefit or universal credit, the relevant local authority) to apply to a tribunal for up to 12 months' worth of rent to be refunded. They can apply when certain offences, such as failing to comply with an improvement notice or breaches of a licensing scheme, have been committed. It is also possible to apply for a rent repayment order where a landlord has breached a banning order.

Rent repayment orders can only be issued to landlords, not letting agents, and are paid on top of any other fines that may be issued.





Banning orders

In addition to the above, since April 2018 local authorities have been able to seek a banning order preventing a landlord or a letting agent from continuing to operate. Banning orders will be issued for a minimum period of 12 months and there is no maximum. They are intended to provide a new tool to enable local authorities to tackle repeat offending.

Banning orders will only be issued where a landlord has been convicted of certain offences. These fall into three broad categories:

- housing offences – the landlord or agent must have received a criminal conviction for an offence, not just issued with a civil penalty
- immigration offences – letting to someone who is not qualified to rent a property in this country due to their immigration status
- other criminal offences – certain other criminal offences, such as fraud, the production, possession or supply of illegal drugs or certain violent or sexual offences. The offence must have taken place at the property or relate to the individual's role as a landlord/letting agent.



Database of rogue landlords

Also from April 2018, a new database of rogue landlords has been established. The database is intended to be used by local councils and should improve data-sharing between authorities, making it more difficult for rogue landlords to commit repeated offences in different areas. Any landlord or letting agent who is subject to a banning order will be added to the database.

In addition landlords or agents who have been convicted of a 'banning order offence' (ie: an offence where the local authority could have sought a banning order, but has chosen not to) or who has received two or more civil penalties in the last 12 months may also be added. However this is at the local authority's discretion.

Homes (Fitness for Human Habitation) Act 2018

In addition to the measures from the Housing and Planning Act 2016, a further Act has recently been passed. Unlike the measures set out above, which all provide further powers for local authorities to tackle rogue landlords, this will give tenants a right to take their landlord to court directly if their property is not safe. It applies to both private and social landlords.

The Act will apply to all new tenancies created from 20 March 2019 and to all existing tenancies from 20 March 2020.

We have also published a more detailed [briefing](#) on the Act for CIH members.



Extending licensing and regulation

Extending HMO licensing

From October 2018 government extended the scope of mandatory licensing for homes in multiple occupation (HMOs).

Previously landlords were required to obtain a licence from their local authority to let a HMO anywhere in England if it was:

- comprised of three or more storeys, and
- there are five or more people, from two or more separate households living there.

The changes removed the three storey rule so that many more houses require a licence. The rule changes also mean that some flats, including those that are situated above shops, now require a licence if they are occupied by five or more people, from two or more separate households.

In total government estimate that the changes mean that an additional 175,000 properties will become subject to a licensing scheme.

Regulation of letting agents

At present letting agents are not regulated but are required to join a redress scheme.

However government has now confirmed that it intends to introduce a mandatory system of regulation for agents. Agents will be required to obtain a qualification to practice and a new regulator will be established with powers to take action against those who do not comply with the rules. Government has not yet confirmed when these changes will be introduced.

Regulation is not expected to extend to landlords, although government has also announced that it will require all landlords to

join a redress scheme. Details of this measure, including the timetable for its introduction have still to be confirmed.

Reducing costs for tenants

Banning Fees

Private tenants typically face high upfront costs when letting a property and this often makes it difficult for some to find a home that they can afford. However from 1 June 2019 most of the fees that letting agents currently charge for their services will be banned. This includes, for example administration fees for drawing up tenancy agreements and fees to cover the cost of reference checks.

Security deposits will also be capped at a maximum of five weeks' rent and holding deposits at a maximum of one week's rent.

Making homes more energy efficient

From April 2018 landlords are no longer permitted to let homes which do not achieve a [minimum energy efficiency rating](#) of band E. There are a number of grounds on which landlords can ask for an exemption, including cost. However government has recently consulted on potential changes to these rules which may result in more landlords being required to bring their homes up to standard.

Improving security for tenants

In April 2019 government announced that it intends to greatly increase the level of security offered to tenants by abolishing section 21 (the so called 'no fault' ground for eviction



**Chartered
Institute of
Housing**

commonly used by private landlords). Section 21 allows a landlord to end a tenancy without specifying a reason for doing so and with only eight weeks' notice. It is available to landlords after the initial fixed term period (usually six or 12 months) of the tenancy have elapsed.

Government's proposal, which is similar to measures already introduced in Scotland, is to give tenants 'open ended' tenancies which the landlord can only ever end for one of a number of specified reasons. These would include existing grounds for possession, such as rent arrears, and some new grounds, such as them needing to sell or move back in to the property. It is not yet clear what, if any, restrictions there might be on rent increases during a tenancy.

A consultation is expected to be published on the detail of the proposal shortly.

What does CIH think?

CIH broadly supports the measures set out in this briefing.

The private rented sector is becoming an increasingly important part of our housing system, with the latest figures showing that it houses 20 per cent of all households. The quality of both accommodation and the way it is managed is by no means universally poor, but it is widely acknowledged that it is extremely variable. 27 per cent of privately rented homes do not meet the decent homes standard, more than in any other tenure.

There is a particular problem at the bottom end of the market where unscrupulous landlords exploit, often vulnerable, tenants who have few other housing options. Targeted action to address this issue is therefore welcome. However the lack of resources within many local authorities remains a major barrier to efforts to tackle rogue landlords.

Government figures show that between 2009/10 and 2015/16 there has been a 19 per cent fall in the amount of money local authorities are spending on enforcing standards in the private sector. Some of the measures that have been introduced, such as new civil penalties, may help to address this, in part. However government could still do more to support councils to make better use of these powers, for example by providing better guidance and 'seed funding' to enable them to bring in additional resources. Over the longer term, it is likely that many of these teams will be able to become self-financing.

Letting agents also have a major role to play in driving up standards in the sector. However at the moment there is considerable evidence to demonstrate that examples of poor practice are common. This is particularly the case with regards to the fees which are charged to tenants, which often greatly exceed the cost of providing services and in some cases duplicate fees which are also charged to landlords. We have previously called both for letting agents to be properly regulated and for them to be banned from charging fees to tenants, and so we particularly welcome those measures.

Finally, we are pleased that the government are considering measures to increase the use of longer tenancies. As the sector continues to grow it is increasingly housing many people for longer periods, including a growing number of families with children. While many private renters do value the flexibility of six-12 month tenancies, it is clear that there is a growing group of tenants whose needs are not being met adequately by the currently system. Furthermore the ending of an assured shorthold tenancy (most commonly used by private landlords) is now the most common cause of homelessness.