



## **Levelling up the Private Rented Sector**

iHowz Landlord Association<sup>1</sup> submit this paper as a comment on the outline proposals in the briefing paper of the Queens Speech 2021<sup>2</sup>, and in the White Paper on Levelling Up<sup>3</sup>.

We would like to take this opportunity to add our suggestions that we consider would be helpful for the proposed White Paper on the Private Rented Sector (PRS) due in 2022.

iHowz have polled landlords on their views to these proposals, and reference to this poll is made where appropriate.

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<sup>1</sup> iHowz Landlord Association have been in existence, in one form or another, since 1974; based in the Southeast, it supports landlords over the country.

<sup>2</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/986770/Queen\\_s\\_Speech\\_2021\\_-\\_Background\\_Briefing\\_Notes..pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/986770/Queen_s_Speech_2021_-_Background_Briefing_Notes..pdf) (page 113)

<sup>3</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1052706/Levelling\\_Up\\_WP\\_HRES.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1052706/Levelling_Up_WP_HRES.pdf) (page 226)

## **Summary of Recommendations**

In this paper, iHowz recommends:

1. A national standard should be agreed for all residential rental properties.
  - a. Proof of that would be in the form of *Rental Safety Certificate*.
  - b. Against that standard, tenants should have the right to report breaches to the Local Authority.

Tenants have inherent security of tenure, and they should not be in fear of eviction if they report unsatisfactory conditions as the Deregulation Act 2015 prevents retaliatory evictions.

2. The formation of a property register for all rental properties as an alternative to Licensing (as in recommendation above).
3. A Redress Scheme (with refundable fee) for complaints by tenants
4. Landlords operating their own portfolios should be required to undertake recognised professional accreditation training and CPD.
5. Landlords should have the ability to evict unsuitable/non-rent paying tenants, within a defined period without the need to attend court.
6. Non-self-contained rooms in an HMO should not be given an individual Council Tax rating; or alternatively be reduced to 50% of normal band 'A'.
7. The recommendations in our separate Section 21 paper, proposing enhanced tenant protections based on length of tenancy, be adopted.
8. Landlords who operate their own portfolios should be given the offer of claiming business status or continuing as an activity (as in France).
9. Landlords should be treated the same as other investors and self-employed businesses
  - a. Landlords should not be required to pay an additional 3% Stamp Duty on each additional property purchased.
  - b. Similarly, they should not be required to pay an 8% surcharge on their capital gains.
  - c. Interest on mortgage payments should be allowed in full up to the additional rate.
10. They should be allowed to roll-over the Capital Gains Tax (CGT) tax.
11. A landlord who houses homeless people should be granted 12 months of no taxation in respect of that person.
12. Re-instate the link of Local Housing Allowance to CPI.
13. Rogue Landlord / Agent Registers made public as should public access to data on local authorities' investigations and enforcement on the PRS and social housing

Our principal proposal is a 'root and branch' review of the current system, rather than the 'tinkering at the edges' of this highly regulated sector, poorly served by an overstretched, legal system.

We strongly recommend that anyone wishing to operate a rental property business be appropriately trained and accredited as they will be dealing with tenants' homes.

## **Background**

The Rent Act of 1977<sup>4</sup> gave tenants security of tenure, and regulated rents. Whilst a good deal for tenants, it made it difficult for landlords to run a profitable business; and, as a result re-investment fell with many landlords selling up, and within a few years there were insufficient rental properties for the demand.

From 1985, various Acts gave a level playing field: the Landlord and Tenant Acts of 1985<sup>5</sup> & 1988<sup>6</sup>; then Housing Act 1996<sup>7</sup>

These Acts taken together are responsible for the current Private Rented Sector (PRS), firmly cemented by the introduction of Buy to Let mortgages in 1996<sup>8</sup>

Together, they introduced the Assured Shorthold Tenancy, whereby the tenant was assured they had security of tenure (for at least 6 months), and that the landlord had the right to evict using a Section 21 notice.

This resulted directly in the PRS increasing from housing 9% of families in 1985, to a peak of 20.3% in 2017<sup>9</sup>. However, recent research has shown several landlords leaving the sector<sup>10</sup> resulting in a deficit of supply, and the accompanying rise in homelessness<sup>11</sup>.

## **Main points for consideration, with recommended solutions.**

The 1985/88 Acts are now 35 years old, with renting as the option of choice for many, and the only real option for the lower paid, a review is necessary.

The matters that should be examined, taking a holistic view are (in no particular order):

- **For Tenants**
  - security of tenure, whilst adhering to the contract agreement
  - to rent a property maintained to appropriate standards
  - not have Band A Council Tax imposed on them by a cash-strapped Councils
  - improved signposting for reporting and escalating tenancy issues, e.g., overcrowding, repairs, antisocial behaviour, and illegal eviction
  - enforcement of deposit return on a timely basis
  
- **For Landlords**
  - carry out all necessary referencing/credit checks prior to offering a property
  - to be allowed access during a tenancy for carrying out necessary inspection maintenance or required certification
  - be able to quickly evict a tenant carrying out Anti-Social Behaviour (ASB)
  - able to evict a tenant in arrears, without the requirement to attend court
  - to speed up the recovery of abandoned property
  - ability to gain possession for change of circumstances, refurbishment, or sale
  - option to be treated as a business for tax purposes
  - Financial support with planning relaxation for energy efficiency improvements

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<sup>4</sup> <https://www.legislation.gov.uk/ukpga/1977/42/body>

<sup>5</sup> <https://www.legislation.gov.uk/ukpga/1985/70/contents>

<sup>6</sup> <https://www.legislation.gov.uk/ukpga/1988/26/contents>

<sup>7</sup> <https://www.legislation.gov.uk/ukpga/1996/52/contents>

<sup>8</sup> <https://www.ft.com/content/f5785194-cc7c-11e3-9b5f-00144feabdc0#axzz3RMMoNLND>

<sup>9</sup> <https://www.thisismoney.co.uk/money/mortgageshome/article-3260218/Number-households-renting-private-landlords-hits-30-year-high-home-ownership-drops-levels-seen-1985.html>

<sup>10</sup> <https://www.mortgagestrategy.co.uk/news/growing-number-of-landlords-leaving-market-goodlord/>

<sup>11</sup> [https://england.shelter.org.uk/media/press\\_release/274000\\_people\\_in\\_england\\_are\\_homeless\\_with\\_thousands\\_more\\_likely\\_to\\_lose\\_their\\_homes#:~:text=More%20than%20274%2C000%20people%20are,are%20currently%20without%20a%20home.](https://england.shelter.org.uk/media/press_release/274000_people_in_england_are_homeless_with_thousands_more_likely_to_lose_their_homes#:~:text=More%20than%20274%2C000%20people%20are,are%20currently%20without%20a%20home.)

## **Property Conditions**

The current review of HHSRS being conducted by the DLUHC (Dept for Levelling Up, Housing and Communities) must be reported on at the earliest possible moment, and it should include a full review of the Decent Home Standard<sup>12</sup>, which should relate to both the PRS and Social Housing.

Additionally, the review of EPC's and the Minimum Energy Efficiency Standard (MEES) conducted by BEIS (Dept for Business, Energy and Industrial Strategy) must be reported on.

A national standard should be set for the condition of all rental property at the time a property is on the market and let. Proof of this should be in the form of a *Rental Safety Certificate*.

This *Rental Safety Certificate* would link to all required documentation:

- Gas Inspection Report (CP12) } where required
- EPC
- Electrical Certificate

It would be accessed by the Unique Property Reference Number (UPRN). Currently, the EPC is a public document, accessed by anyone; we believe the electrical and gas certificates should also be publicly available.

Additionally, a report on the property condition (probably an HHSRS report) should be available for all rental property. Any Category 1 matters would have to be rectified, and a new property condition report issued before renting the property. This condition report would need to be valid when renting a new property but would not require renewing during an existing tenancy.

It would then not be necessary for all rental property to be inspected under national [LA] licensing.

### **Recommendation 1**

A national standard should be agreed for the rental property.

Against that standard, tenants should have the right to report breaches to the Local Authority.

Proof of compliance with the standard would be in the form of *Rental Safety Certificate*.

Tenants have inherent security of tenure, and they should not be in fear of eviction if they report unsatisfactory conditions, as the Deregulation Act 2015 prevents retaliatory evictions.

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<sup>12</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/7812/138355.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7812/138355.pdf)

## **Licensing vs Redress Scheme vs Landlords Register**

Licensing in its many forms has cost landlords' large sums of money for little benefit and inconsistent reporting of outcomes.

Although all discretionary schemes were designed for a fixed period, very many Local Authorities have renewed them and clearly see them as an income producer.

If the national rental property standard (referred to earlier) were introduced, licensing would be unnecessary, apart from the original reason – to control the small number of poorly managed properties.

Additionally, the introduction of a Redress Scheme (like the current agents' scheme<sup>13</sup>) would further negate the need for licensing, where tenants should be made to pay a small application fee, which would be fully refundable if their complaint were upheld, this would minimise the inevitable vexatious claims made.

### **Recommendation 2**

The formation of a property register for all rental properties as an alternative to Licensing (as in recommendation above).

### **Recommendation 3**

A Redress Scheme (with refundable fee) for complaints by tenants

## **Training**

All landlords should be encouraged to undertake training courses.

Landlords operating their own portfolios should be required to undertake recognised professional accreditation training and CPD.

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## **Eviction for Rent Arrears**

If a Landlord serves a Section 8 eviction notice for provable rent arrears, and the tenant refuses to leave it is currently necessary to hold a full court hearing.

All too frequently, the tenant does not attend these hearings to hear the judgement made against them.

This is a waste of the courts, and the landlords, time and money.

If the rent arrears are more than the appropriate amount (currently 2 months), and are fully provable, there should be no need for a court hearing if the arrears are un-opposed.

### **Recommendation 5**

To give landlords the ability to evict unsuitable/non-rent paying tenants, within a defined period without the need to attend court.

<sup>13</sup> <https://www.gov.uk/redress-scheme-estate-agencies>

## **Council Tax**

Traditionally, Houses in Multiple Occupation (HMO's) were assessed as one tax rate unit with the landlord responsible for the payment, which was then recovered from the tenants in a fair and proportionate system.

Over the past few years, many Local Authorities have been referring HMOs to the Local Valuation Officer (VOA) for re-valuation. The usual result being all non-self-contained rooms in a property being set with a banding of 'A' Council Tax; this can equate to 25% of a tenant's rent.

### **Recommendation 6**

Non-self-contained rooms in an HMO should not be given an individual Council Tax rating; or alternatively be reduced to 50% of normal band 'A'.

## **Proposed removal of the Section 21**

This subject has been dealt with in a separate paper – attached.

### **Recommendation 7**

The recommendations in our separate Section 21 paper, proposing enhanced tenant protections based on length of tenancy, be adopted

## **Landlords as a Business**

Landlords operating their own property portfolios are treated as an 'activity' for taxation purposes, whereas agents doing similar are treated as a business.

### **Recommendation 8**

Landlords who are on the Landlord Register and operate their own portfolios should be given the offer of claiming business status or continuing as an activity (as in France).

## **Taxation**

Over the years landlords have had various relief removed whilst being required to pay higher rates of taxation than other activities/businesses.

For example, when a private landlord sells an investment property and invests the capital into another property, they have to pay Capital Gains Tax (CGT) with no indexation or tapering, reducing the capital available to re-invest.

### **Recommendation 9**

Landlords should be allowed to roll-over the Capital Gains Tax (CGT) tax.

OR

Landlords should also be allowed indexation/tapering on all investment properties.

Landlords should not be required to pay an 8% surcharge on normal capital gains. Similarly, they should not be required to pay an additional 3% Stamp Duty on each additional property purchased.

Interest on mortgage payments should be allowed in full.

### **Landlords Letting to the Homeless**

Letting to Homeless person offers more challenges than letting to an employed person. There are many reasons for this, including no background; cash; lack of references. Providing a tenancy to a homeless person offers a route to employment and is significantly cheaper than the alternatives.

#### **Recommendation 10**

A landlord who houses homeless people should be granted 12 months of no taxation in respect of that person.

### **Local Housing Allowance (LHA)**

LHA's were introduced to streamline benefit payments, whereby landlords and tenants alike would know the rate they would be paid, rather than the previous claim by claim approach.

Originally (2008) set as the average of local rents (50th percentile or median), they were dropped to be the 30th percentile in 2011. Then in 2012 they were capped, rising annually by the Consumer Price Index (CPI). Finally, in 2015, all LHA rates were frozen for 5 years; then frozen again in 2020, though the some high-cost areas receive a 3% uplift in LHA rates.

Whilst many landlords try to accommodate tenants at the LHA rates, their costs are rising, and it is proving difficult for landlords and tenants alike to manage under this regime.

#### **Recommendation 11**

Re-instate the link of LHA to CPI.

### **Miscreant landlords**

There are landlords who don't fully comply with rules and regulations. This might be due to a misunderstanding of the complexity of letting, in which case all landlords should be trained (as mentioned above).

Unfortunately, there is a small minority of landlords who deliberately chose not to follow rules and regulations. The Government chooses to call these miscreants 'Rogues', we prefer to call them 'Criminals'.

A database of rogue landlords and property agents was started in 2018 but is maintained and only available to Local Authorities. We are given to understand that it is virtually empty, having 10 entries.

#### **Recommendation 12**

Rogue Landlord / Agent Registers made public as should public access to data on local authorities' investigations and enforcement on the PRS and social housing