

What are the real legal requirements and costs of letting a property, and how can we communicate them better to landlords and tenants?



About this report

This report has been created thanks to the support of the TDS Charitable Foundation. The Foundation “*works to advance education about housing rights and obligations in general*”.

In particular, the charity focuses on:

- Best practice in the management of private rented housing;
- Legal rights and obligations of those involved in the provision or management of private rented housing;
- Using alternative dispute resolution for more efficient and effective resolution of disputes between landlords and tenants.

The charity has provided a grant to Kate Faulkner who runs Designs on Property Ltd (designsonproperty.co.uk), to produce a series of reports and surveys on the private rented sector which are designed to increase knowledge on the private rented sector in England and to promote best practice.

Opinions expressed in this report are those of Kate Faulkner and do not necessarily reflect the views of Tenancy Deposit Scheme (TDS) or The TDS Foundation.



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About the authors

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Having enjoyed working in her spare time in residential property, she went on to set up one of the UK's first property portals prior to the advent of Rightmove, then used her experience to help create on- and off-line tools designed to take the stress out of corporate relocations for employees.

From here she moved to set up the Self-Build and Renovation Centre in Swindon, and subsequently helped build and professionalise a part exchange business. Kate was also a Future Homes Commissioner for RIBA.

After gaining so much experience across the property market, Kate embarked on a mission to improve the way people carry out property projects, especially within the private rented sector. So whether it is banishing cowboy builders and rogue landlords, or helping the public approach a property project as simple as hanging a door or as complex as letting or building their own home, Kate is always on hand, either via her consumer website at propertychecklists.co.uk or at the property clinics she runs around the UK, to help landlords, tenants, first-time buyer, self-builders, renovators and investors carry out their property projects in the right way, using qualified people and industry experts.

Kate's consultancy, Designs on Property Ltd, provides help and support to companies and organisations that want to communicate better to the public, or to introduce new products and services which help people carry out their property projects successfully, first time around.

She is fanatical that property facts and figures such as prices and rents should be reported correctly in the media, by the industry, and by organisations and policy-makers involved in the property market.

Kate regularly appears in the national and local media, and comments on TV, radio and in regional and national newspapers on property news items of the day. In this way she continues to pursue her chief objective, which is to help ensure the public get an independent, honest view of what's happening in the residential property market.

This report is part of a series of reports and surveys that Kate will be producing thanks to the support of the TDS Charitable Foundation.

The aim of the research provided is to improve the understanding of the private rented sector and to make recommendations on changes which will impact positively on the experience of landlords and tenants.

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She has ghostwritten several property investment books, edited a number of others on property, business and branding, and continues to work with entrepreneurs to produce literature that supports their business enterprises.



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What are the real legal requirements and costs of letting a property, and how can we communicate them better to landlords and tenants?

Introduction

Over the last 20 years, there has been a huge change in the legislation governing the letting of property, particularly with regard to the health and safety of tenants. More than half of the 147 laws that apply to the Private Rented Sector (PRS) have come into force since buy to let mortgages were introduced in 1996, with several new bills and Acts being passed almost annually.

This has generally had a positive impact on standards in the sector, with the proportion of non-decent homes in the PRS falling from nearly 47% in 2006 to 28% in 2015. However, it has also increased the cost of buy to let and the burden on landlords. Furthermore because the sector has grown in size, the reality is that the absolute number of homes considered to be ‘non-decent’ – ie not meeting the statutory minimum ‘decent homes’ standard – has actually grown slightly, from 1.2 to 1.3 million.

It should be noted that although the measure of a home being ‘non-decent’ does not necessarily deem a property as ‘unsafe’, it is a measure imposed on social homes to help improve the quality

of their housing delivery and the English Housing Survey has applied it to other tenures. Bear in mind therefore that it is not a perfect measure of condition in the issues in the PRS.

Sadly, despite the introduction of all this legislation, there remains a steady stream of additional surveys and media coverage both about tenants suffering bad conditions and unacceptable treatment and, at the same time, about landlords who are under huge financial pressure and simply can't make ends meet.

The question therefore is why, after so many laws have been introduced and so much cost has been incurred, does the problem of health and safety in the rental market still appear to be a major issue?

From previous reports for the TDS Charitable Foundation, a key factor seems to be a lack of enforcement, but with the recent additional powers given to local authorities to impose much more severe penalties, such as fines of up to £30,000, that will hopefully change. It does mean however that landlords need to know and be able to comply with their legal obligations. It is equally important for tenants to know the standard of accommodation they can expect to rent, as well as feeling confident about when and how to complain if they feel their landlords are failing to meet these standards.

There is clearly more that can and needs to be done to help landlords let and tenants rent legally compliant and safe properties. In this report, we examine the key legislation, look at the costs involved in complying with it, and suggest what can be done to improve how the industry communicates these rights and responsibilities.



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SECTION 1

What are the main lettings legal changes since buy to let mortgages were introduced in 1996?

147 'Statutory Provisions' apply to the lettings industry and more than half of those regulations – 76 in total – have come into force since the third quarter of 1996, when buy to let mortgages were introduced, signifying the start of the industry boom.

It took a few years for industry regulators to appreciate the extent of the growth of the Private Rented Sector and, by 2004, it was clear they understood that more regulation was needed. This led to the Housing Act changing the way properties were inspected, licensed and registered and the way in which deposits were handled. Since then, as various elements of the Act have come into force, the number of reviews and amendments to existing laws has increased, as has the amount of new lettings legislation.

Some of the laws that have been passed relate to legal obligations and rights that have not had a direct impact on costs for landlords, such as the Localism Act 2011, which extended the 14-day time limit for registering deposits to 30 days, and the Equality Act 2010, prohibiting discrimination in relation to letting on grounds of any of the protected characteristics. Others, however, have meant an increase in financial outlay and also in the amount of time landlords and/or their agents have to spend carrying out their obligations.

Some of the key legislation that has impacted landlords

The vast majority of legislation passed over the last 20 years has been concerned with improving living conditions for tenants. Here are the most significant legal changes, listed according to the date that the legislation came into force:

1998

Legislation: Gas Safety (Installation and Use) Regulations 1998.

Impact on landlords: It became a landlord's statutory duty to arrange for an annual gas safety inspection of every rented property by a Gas Safe registered engineer (CORGI until 2009).

2005

Legislation: The Regulatory Reform (Fire Safety) Order 2005.

Impact on landlords: Landlords of HMOs and those who have control over common parts of blocks of flats have to carry out a risk assessment on each property and install all fire safety

measures required to mitigate those risks, such as fire doors, fire alarms and smoke detectors, fire extinguishers & fire blankets.

1st October 2006

Legislation: Housing Act 2004 – The Housing Health and Safety Rating System (HHSRS) and mandatory licensing of HMOs.

Impact on landlords: Two key aspects of the Act came into force in 2006. The first, the HHSRS, gave local authorities extended powers to target health and safety issues, listing 29 hazards that it is a landlord's obligation to protect tenants against. The second required all landlords of HMOs of three or more storeys and occupied by five or more persons forming more than one household to secure a licence for the property. It also gave councils discretionary powers to extend licensing to other categories of HMO.

April 2007

Legislation: Housing Act 2004 – Protection of tenancy deposits

Impact on landlords: All deposits taken must now be protected in one of three government-approved schemes (initially within 14 days of receipt; later extend to 30 days as of April 2012, under the Localism Act 2011).

2012

Legislation: Energy Performance of Building Regulations 2007 to 2012

Impact on landlords: New EPC rules require every property to have an EPC before being marketed to let. The certificate must be made available to any prospective tenant when viewing, and the certificate and related information provided to the tenant.

1st October 2015

Legislation: The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Impact on landlords: A legal obligation to install smoke and carbon monoxide (CO) alarms in all their rented properties which burn solid fuel and ensure they remain in proper working order.

1st October 2015

Legislation: Deregulation Act 2015

Impact on landlords: It became illegal for a landlord to issue a Section 21 Notice to evict a tenant who has made a complaint about housing conditions, if they have not already responded to the complaint adequately. It means landlords cannot make a 'retaliatory eviction', ie simply 'get rid' of a tenant they consider troublesome, when the tenant is only insisting necessary repairs and maintenance are carried out on their home. A Section 21 will also be considered invalid if the tenant has not been given a copy of the government's 'How to Rent' guide.

27th May 2015

Legislation: Consumer Rights Act 2015

Impact on landlords: Greater transparency as letting and management agents became required to display a list of all fees, charges or penalties payable by landlords and tenants on websites, in advertising, in the office and on marketing material such as brochures. Although, due to a lack of enforcement, this appears to have been of little benefit to landlords or tenants.

23rd November 2015

Legislation: The Regulation of Private Rented Housing (Wales) Order 2015

Impact on landlords: All private sector landlords operating in Wales must register both themselves and their properties and obtain a licence if they let and manage their properties themselves.

1st February 2016

Legislation: Immigration Act 2014

Impact on landlords: Right to Rent checks come into force, requiring all landlords to make certain checks to verify the status of every tenant or occupant of a rented property, confirming they have a legal right to live in the UK.

1st April 2016

Legislation: Energy Efficiency (Private Rented Property) (England & Wales) Regulations 2015

Impact on landlords: Tenants living in F and G rated homes can request energy-efficiency improvements and landlords must not unreasonably refuse to carry them out.

1st February 2017

Right to Rent follow up checks became a legal requirement for tenants outside of the EU and Switzerland. If landlords aren't aware or don't carry these checks out, then they can be fined.

6th April 2017

Legislation: Housing and Planning Act 2016

Impact on landlords: Local authorities have been given powers to impose much higher fines on 'rogue' landlords. The maximum civil penalty has gone up from £5,000 to £30,000 and can be handed out to landlords who breach regulations, such as failing to obtain required licences or having damp in their property. The income raised from these penalties will be ring-fenced to help fund further enforcement activity by the council.

Coming into force in April 2018, for which landlords need to prepare now:

Legislation: Energy Act 2011

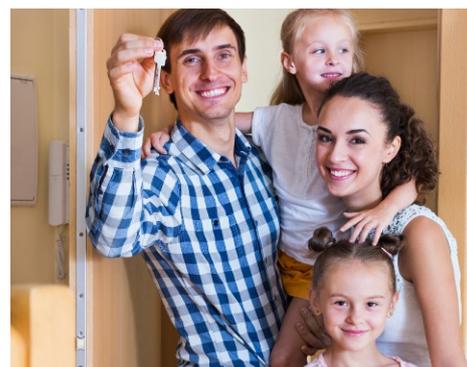
Impact on landlords: It becomes illegal to let a property with an energy rating of F or G. Landlords must therefore make any improvements necessary – such as replacing windows or installing insulation – prior to this date, to secure an EPC showing an energy rating of E or above for their buy to let.

It appears initially that an entirely appropriate lettings legal framework is in place to provide housing in the PRS which is safe to live in. It may appear that there is also provision of the tools required for enforcement of these laws. However, one of our earlier reports on [Enforcement](#) and the amount of housing in the PRS that is still regarded as 'non-decent' which some consider to therefore be sub-standard – 1.3 million homes* in 2015, up from 1.2 million in 2006 (DCLG, English Housing Survey: Headline Report 2014-15) – both suggest that although the laws are appropriate, they are not enough to drive full compliance in the sector.

*While the number of non-decent homes has risen, due to the large increase in properties in the PRS, the higher figure of 1.3million actually represents a lower percentage overall. In 2006 almost half (47%) of rental properties were non-decent, while in 2015 this had fallen to 28%.

We believe this is due to three key issues:

- Too many landlords/agents are still unaware of their obligations and/or choose not to comply with them.
- Too many tenants are unaware of the standard of accommodation their landlord should be providing, and are either unaware of how to demand improvements or lack confidence to do so.
- Local authorities do not know which properties are rented and are therefore unaware of legal violations in their area; when they are aware, they may not be taking enough action to weed out non-compliance.



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Hopefully, over time we will see the latter having a positive impact on conditions in the PRS; however, this relies on councils which are experiencing significant budget and funding cuts to be proactive and invest time and money. Many councils have never prosecuted a landlord, even though they have everything they need to do so. In contrast, authorities like Newham have ploughed substantial investment into enforcement, funded primarily by licensing, and are now seeing the rewards.

It is clear that just bringing in laws to protect tenants isn't enough and MPs and others calling for legal changes can't just think that they have 'done their job' by doing so. Much more needs to be done to highlight the legislation, make sure the responsibilities are clear, and demonstrate the benefits these laws were intended to bring.

A much better job is required to ensure government, councils, lenders, insurance and legal companies, letting agents and landlords work together to deliver safe homes in the PRS. It is also worth considering whether it is realistic to expect tenants or the public in general, to report properties which are sub-standard. Prevention is better than cure – meaning more can be done to ensure properties are let safely, rather than incurring the cost of dealing with issues once the tenant has already moved in.

SECTION 2

Examination of the costs and benefits of these changes

The key benefit of much of the legislation is undoubtedly that properties have become safer for tenants. Landlords and agents who appreciate their responsibilities now have a high degree of responsibility for the health and safety of their tenants. These responsibilities range from removing potential hazards and installing fire safety measures to ensuring the fabric of the property itself is maintained to a good standard.

Where landlords and agents fall short of their obligations, the law prevents them from simply evicting tenants. Councils have now been given the power not only to impose heavy fines but also ban the worst landlords from letting, now and in the future.

While that is good news for tenants and for the quality of the industry as a whole, two issues emerge.

First, it is apparent many tenants lack the knowledge of what is “acceptable” and the confidence to report their landlords.

Secondly, improvements come at a cost. In some areas, prices rising faster than rents and the increased costs of letting property legally and safely can mean the cost of renting a property is out of reach for some tenants. With a lack of regulation of agents and poor enforcement, this can create a perfect environment for rogue landlords and agents to operate and take advantage of vulnerable tenants.



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Part 1: issues with implementation of the laws

“Introducing the smoke and carbon monoxide alarm regulations was a positive step but CO alarms should be also be required to be fitted next to a gas boiler and particularly an open flue boiler. A gas check happens annually but things can go wrong in between checks. Also, testing on the start date of the tenancy is not always practical. If the legislation said ‘on the start date or the move in date’, that would be more workable.

“Electrical safety does not make for a level playing field but more important is the uncertainty of the safety of a property that does not have a current electrical report. Five-yearly mandatory electrical testing would ensure consistency and safety and would be fair for all. This could be for properties which are 10 years old or more. Many landlords are just naïve but just because an agent doesn’t explain that they must ensure their electrical installation and hard wiring is ‘safe’, it doesn’t opt them out of their legal responsibility.

“The compliant agents cannot compete with low cut-price fees as you cannot let a property legally and safely without the right procedures and trained staff in place, which comes at a cost.”

– *Theresa Wallace, Savills*

“There is almost zero implementation of laws – even simple easy wins, like agents not showing their fees in the offices and online, are rarely enforced, yet these cost very little to implement. Clearly where councils can retain fines, this will cause some to use the proceeds to fund the enforcement. However this carries the obvious risk of councils then being motivated to fine, so some appeal/arbitration process would be needed.”

– *Matthew Lester, Maxine Lester Lettings and Property Management*

“With so many legislative changes, there is a constant need to re-educate and train staff. This is to ensure all landlords are fully compliant with the law and that agents continue to follow the correct procedures. This is time-consuming in terms of roll-out and some extra practices and checks are needed. Other agents’ poor ‘interpretation’ or total lack of knowledge of legislation that affects the rental market means some landlords are left unaware of their obligations and in some instances this has led to a need to educate them about correct practices.”

– *Hannah Davies, Reeds Rains*

Part 2: Costs of legal changes

Some of that cost is absorbed by the industry, but much of it has fallen to landlords, either directly – such as paying to install fire safety measures – or more indirectly, through agent’s fees.

This table shows the direct costs incurred by landlords in complying with current legislation:

Legal requirement	Cost to landlord
Gas safety certificate	£60.00
Energy Performance Certificate	£50.00
Domestic installation (electrical) certificate	£250.00
Smoke detectors and CO alarms	£50.00
Professional legionella risk assessment	£50.00
Professional fire safety risk assessment	£250.00
Right to rent checks by Home Office*	Time to administer
Deposit protection (custodial)	Time to administer
Deposit protection (each)	£15.00
Landlord registration/licensing in certain areas	£400.00
Additional costs for landlords of licensable HMOs	
HMO licence (usually 5 years)	£850.00
Additional fire safety measures (alarms, extinguishers, fire doors, etc)	£3,000.00
Additional costs for Wales	
Landlord and property registration fee	£33.50
Landlord licence (5 years)	£144.00

*Some agents are now starting to charge for Right to Rent checks, and follow-up checks.
(Costs will vary according to location and will be significantly higher in London)

In addition, there are the ongoing costs involved with remaining compliant, such as regular testing of fire safety equipment, and carrying out tasks that are not yet legal requirements, but are advisable – such as instructing independent inventories for check in and check out, to facilitate the deposit protection process. And indeed, keeping up with the legal changes themselves.

What impact has increasing costs had on landlords in real terms?

The following figures relate to a two-bedroom flat on the outskirts of Reading, Berkshire, showing the difference in costs and returns between 2003 – before the Housing Act 2004 and all subsequent legislation came into force – and 2017. It is useful to see the increased costs within the content of house prices, mortgage rates, other costs and rents.

Please note: Figures will differ for London as prices, rents and costs are so much higher

	<u>2003</u>	<u>2017</u>
Property value	£120,000	£178,000
Purchase costs		
Deposit	£30,000	£44,500
Legals	£800	£1,000
Stamp duty	£1,200	£6,400
Mortgage costs	£306	£401
Survey fees	£300	£300
Sub total	£32,606	£52,601
Preparing for rent		
Electrical check	£0	£250
Gas safety certificate	£0	£60
Professional fire safety risk assessment	£0	£250
Smoke detectors and CO alarms	£0	£50
Renovation/repair	£0	£2,000
Pre-tenancy clean	£0	£60
Sub total	£0	£2,360
Costs until let		
Mortgage	£375	£333
Council tax	£115	£458
Utilities (water, gas, electric)	£0	£0
Service/ground rent charges	£60	£360
Sub total	£550	£1,151
Sub total of costs minus deposit	£3,156	£11,612
Total capital invested	£33,156	£56,112

(Annual running costs are on the next page)

	2003	2017
Ongoing annual running costs		
Mortgage	£4,500	£3,996
Agent's fees (fully managed)	£1,014	£1,404
Gas/electric safety certificate/PAT inspection/inventory/deposit protection	£0	£450
Maintenance	£250	£500
Landlord's insurance	£100	£200
White goods replacement (two appliances every 5 years)	£40	£50
Voids (estimate 1 month per year)	£405	£561
Sub total	£6,309	£7,161
Agent's rental income recommendation	£7,800	£10,800
Annual rental income minus running costs	£1,491	£3,639

This example shows that the cost of investing in property due to tax and legal requirements, over and above the increase property prices, means a landlord would have to make the following additional investment:

Stamp duty (3%)	£5,200
Ensuring the property is safe to let	£2,360
Annual expenditure in health and safety checks	£450
Additional investment required from legal/tax changes	£8,010

It is interesting to note that, although the expenditure required to ensure this particular property meets the legal requirements has increased, the only reason the finances for landlords still stack up in this case are due to the unprecedented average fall in mortgage rates.

The impact of Section 24 by 2020

Another strain on landlords' income is the loss of tax relief. From 2020, Section 24 will be fully phased in, restricting the income tax relief landlords can claim on finance costs. Using the figures from the above example, the table below illustrates how this could affect landlords' income, depending on their other earnings.

Landlord with £20k salary (basic rate taxpayer)		Landlord with £60k salary (higher rate taxpayer)	
Taxable profit	£7,635.00	Taxable profit	£7,635.00
Taxed at 20%	£1,527.00	Taxed at 40%	£3,054.00
Mortgage interest x 20%	(£799.20)	Mortgage interest x 20%	(£799.20)
Tax payable	£727.80	Tax payable	£2,254.80
Income, less running costs, less tax payable	£2,911.20	Income, less running costs, less tax payable	£1,384.20



If mortgage rates had not fallen to the levels they have and remained at 5%, or return to this level, income would have dropped to under £1,000 as the table below shows.

	<u>2003</u>	<u>2017</u>
Property value	£120,000	£178,000
Purchase costs	£32,606	£52,601
Preparing for rent	£0	£2,360
Costs until let		
Mortgage	£375	£556
Council tax	£115	£458
Utilities (water, gas, electric)	£0	£0
Service/ground rent charges	£60	£360
Sub total	£550	£1,374
Sub total of costs minus deposit	£3,156	£11,835
Total capital invested	£33,156	£56,335
Ongoing annual running costs		
Mortgage	£4,500	£6,675
Other running costs (as broken down in earlier table)	£1,809	£3,165
Sub total	£6,309	£9,840
Agent's rental income recommendation	£7,800	£10,800
Annual rental income minus running costs	£1,491	£960



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Cost to the industry

The costs so far are just the additional charges paid to comply with health and safety. What is harder to calculate is the real cost to the rest of the industry of the legislative changes, but these are some of the key areas that will have had a financial impact:

For agents

- Training staff to ensure they stay up to date with legislative change
- Additional staff required to carry out the additional work
- Updating of manuals and other paperwork
- Additional tenant and tenancy administration
- Legal team to deal with compliance
- Additional time spent on licensing applications for landlords who are abroad and cannot hold a licence
- Rise in time dealing with often unfounded complaints regarding the deposit and Consumer Protection Rights.

“Over the last 15 years we have gained almost 30 extra requirements when renting and managing properties. These all demand staff time, training and expertise to ensure they are managed competently for our landlords. Over this period average rents have increased at the same rate as average salaries. As our fees are a proportion of rent, our fees have not increased to cover the costs of these new requirements. That is before allowing for the increased operating costs of things such as property portals, software, technology, which are almost all net additional cost.”

– *Matthew Lester, Maxine Lester Lettings and Property Management*

We have had to invest in extra staff to deal with property management and additional local authority queries, staff training and system changes. In addition, taxation has meant some landlords' margins have been squeezed, so they have exited the rental market, while others are choosing to let and manage their properties themselves but then find themselves struggling.

– *Hannah Davies, Reeds Rains*

“We have increased our staff numbers in order to complete the lettings process but in addition the legal minefield that we now operate in means staff need to be trained to understand the laws surrounding the PRS in order to produce tenancy agreements that protect all parties.

“In cases where the landlord lives abroad, they cannot hold the licence for the majority of the schemes. If the managing agent applies and holds it on their behalf, the application can take two-three hours to complete.

Spurious claims from tenants for damages under deposit legislation and Consumer Protection Rights for either simple errors or legislation being abused in order to claim compensation from agents goes unpublished but costs businesses money.”

– *Theresa Wallace, of Savills*

For local authorities and government

- Home Office Right to Rent' checks administration
- Follow up right to rent checks
- Administering HMO licences
- Landlord accreditation/registration/licensing (specific areas, not nationwide)
- Creation of guidelines for landlords and tenants
- How to Rent guide, creation and updating

To date, we have yet to see any real evidence of the cost to landlords who don't comply in terms of fines as they are rarely implemented.

GetRentr, which tracks landlord licensing across the private rented sector, report that agents and landlords have been issued with approximately £4.3m in fines and around 300 months of jail time in the past 18 months for licensing offences. As this information came from analysing industry news and local authority Twitter accounts, they suggest this may merely be the tip of the iceberg.

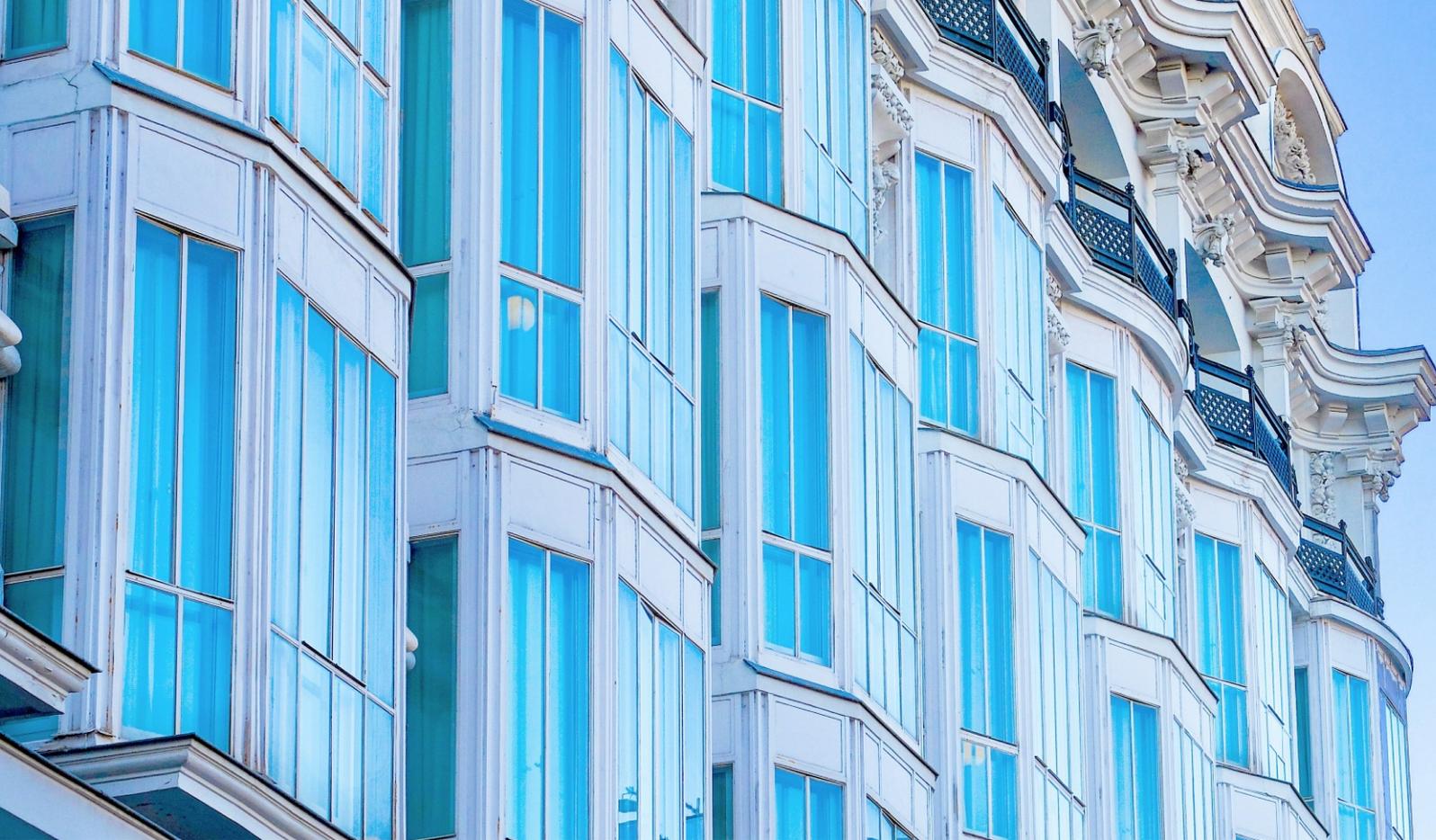


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The big potential cost to landlords...

The cost of getting it wrong. As of April 2017, local authorities have the power to impose civil penalties of up to £30,000 on landlords who break the law – a huge increase from the previous £5,000 maximum. They can issue the fine without having to take landlords to court, share details of offenders via a “rogues’ database” and can ban the worst landlords from letting in the future.

While they are unlikely to be too harsh on first-time offenders who have unknowingly been non-compliant with the law, persistent rogues, those who have seriously endangered the health and safety of their tenants and those who fail to respond properly to any prohibition orders issued will almost certainly be punished.

According to Marcus Jones MP, Parliamentary Under Secretary of State at the DCLG, the maximum fine has been raised because: “...a smaller fine may not be significant enough for landlords who flout the law to think seriously about their behaviour and provide good quality, private sector rented accommodation for their tenants.”

Full guidance: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/606653/Civil_Penalties_guidance.pdf

Part 3: What difference have the changes made?

Standard of accommodation

According to the English Housing Survey 2015-16, although the absolute number of privately rented homes considered 'non-decent' increased slightly over the previous decade, from 1.2 to 1.3 million, as a percentage of the sector the figure has dropped from nearly 47% to 28%. Simply put, that means three-quarters of all rented homes today are 'decent', as opposed to just over half in 2006.

Deeper analysis provided by the EHS Private Rented Sector Report 2014-15 concluded that rented homes are now safer, with the proportion of private renters living in homes with serious hazards halved between 2006 and 2014, dropping from 30% to 15%.

They credit the overall improvement in the condition of privately rented homes to a number of factors, including:

- Improvement in ongoing maintenance work undertaken by landlords
- Improvement in the energy efficiency of rented homes
- More action being taken by local authorities where serious hazards exist in a property.

The contribution of letting agents should not be overlooked, as those which comply with legislation have contributed to the improvement in the condition of rented homes by educating landlords and setting high standards.

Tenant satisfaction

Out of all three tenure types – owner occupiers, social renters and private renters – the PRS has seen the greatest increase in overall satisfaction with tenure, up from 48% of tenants saying they were satisfied in 2004-5 to 65% in 2014-15 (EHS PRS Report 2014-15).

However, when it comes to improvement in the condition and safety of homes, the EHS report found there had been no significant change in the proportion of private renters satisfied with their accommodation since 1994-95. In terms of repairs and maintenance carried out on their home, the proportion of tenants who said they were satisfied even dropped slightly between 2006-07 (67%) and 2014-15 (66%).

However, given that there has not been any increase in how satisfied tenants are specifically with the maintenance and condition of their properties, it's hard to say whether this overall improvement in their feeling about renting is due, in any part, to the legislative changes that have been made to protect their interests and raise standards across the PRS.

According to a 2017 report by Citizens Advice, the situation is worse than identified in the EHS. Their report 'A State of Disrepair' says: *"More than 7 in 10 renters have experienced health and safety issues during their current tenancy. In 4 in 10 of these cases, the issues were present when the tenant moved in."*

So, although only 28% of PRS homes are recorded as non-decent (EHS), if this is accurate, it is worrying that 70% of tenants are experiencing this level of health and safety issues and still choosing (or having no choice) but to move in.

The report also stated:

- 40% of renters have avoided asking for repairs because they are worried about their landlord's reaction.
- Since the Deregulation Act in 2015, 14% of renters have felt penalised for asking for repairs or complaining about the conditions in their home.
- Repairs and maintenance issues are the most common reason tenants contact Citizens Advice.
- Private renters brought more than 16,000 cases relating to repairs and maintenance to Citizens Advice over the last year, although this is a tiny proportion against the estimated 5 million properties rented privately
- More than 1 in 5 tenants (22%) move into homes with existing damp or mould growth.
- 1 in 10 renters (9%) find faulty wiring.
- When repairs or maintenance issues were reported, 62% of tenants said their landlord responded within the required two weeks (under the Deregulation Act 2015). However, 21% said it took longer than two weeks and 13% had no response at all.

These findings indicate that too many landlords/agents are still unaware (or simply don't comply) with their legal obligations with regard to health and safety, both in terms of the condition the property should be in at the start of the tenancy and how they should respond to requests/complaints from their tenants.

"Our perception is there are a few landlords who are unaware of the laws but generally those who flout the law do so because they can. They try to justify it by saying they can't afford it, but until they get forced to they will continue to flout the law. We struggle to get a handful of recalcitrant landlords to agree to costs for compliance issues, or any other issue come to that. We are confident without us nagging and pushing the work would not get done."

– *Matthew Lester, Maxine Lester Lettings and Property Management*

Despite the introduction of the Deregulation Act 2015, preventing retaliatory evictions, there is little evidence that the legislation is working and it does seem to be the most vulnerable tenants who are suffering:

CASE STUDY 1

Liz James, 24, lives in a one-room flat in Leeds, which has faulty electrics, large patches of damp covering almost an entire wall and a window that doesn't close properly, leaving a 2cm gap on one side.

Liz says: "When I first came here I didn't want to move in because of the problems with the front door [but]... I don't want to keep complaining because [the landlord] might kick me out." When asked if she feared a revenge eviction, she replied: "Yes. I'm scared because I've been on the street and it's horrible."

(Source: BBC Newsbeat: <http://www.bbc.co.uk/newsbeat/article/38795177/revenge-eviction-law-not-working>)

CASE STUDY 2

Ayesha and her family live in Yorkshire. For the past 10 months, they have had no hot water or heating in the house for 10 months, which has resulted in very damp conditions and extensive mould. Their bedding and furniture is permanently damp.

Ayesha has repeatedly raised the problems with the landlord, who says he will take action, but never does. She has a periodic tenancy and is worried that she could be evicted at short notice. Fear of becoming homeless has prevented her from taking further action.

(Source: Page 15 <https://www.citizensadvice.org.uk/Global/CitizensAdvice/Housing%20Publications/PRS-AStateofDisrepair.pdf>)

In addition, tenants have fed back that they don't want to complain because they want to renew their tenancy, it would cost too much to move or indeed they don't want to get a 'reputation' as a troublesome tenant, especially in small, rural communities.

This means that although in theory the tenant can complain and not be evicted, they still don't have the confidence to do so. This means relying on the tenant to protect themselves through legislation changes does not necessarily work.

“Although there is evidently a need for tenants to be better educated in their rights and understanding the process for complaining, at the same time, Government, local authorities, lenders, legal and insurance companies as well as landlords and letting agents need to find a way to improve the rental stock before tenants move in, rather than relying on the tenant to sort out a problem during the tenancy.

– *Matthew Lester, Maxine Lester Lettings and Property Management*

Top tips for tenants on how to spot a safe, legally let property

- **Try to rent through an agent that is a member of ARLA, NALS or RICS.** This means they adhere to a code of conduct and are kept fully up to date with new and pending legislation, so can make sure their landlords are informed and the properties they let and/or manage are legally compliant.
- **Query any signs of damp.** If you see surface mould (black spots/patches), water tide marks on walls or see or smell other damp in any property you are considering renting, either don't rent it or raise it with the landlord or agent immediately. Safe properties should be clean and dry.
- **Make sure you receive copies of the gas safety certificate (valid for one year) and Energy Performance Certificate (valid for 10 years) before you sign your tenancy agreement and read both.** The EPC will give you an idea of the heating costs and check the gas report as it should list the gas appliances that are connected and working. It's a legal requirement for every property to have the EPC in place when it is marketed and the gas safety before it is let. Also ask when the electrics were last checked, as it should ideally be within the last five years.
- **Check smoke detectors and carbon monoxide alarms are working.** Smoke alarms are compulsory in all rental properties; CO alarms are compulsory where solid fuel is burned but should ideally be installed in all properties. If you are renting a room in an HMO, flat or maisonette with communal areas, look for fire doors and clear fire exit signs.
- **Make sure all doors and windows open and close properly.**
- **Look at the décor!** Generally speaking, landlords who are conscientious about being legally compliant will also be concerned that the property is presented well.

Finally, remember that no matter how cheap the rent is, every property must legally be safe and secure.

Carrie Alliston, of Hunters, explains why tenants should consider renting from a self-regulated agent

- Self-regulated agents follow the rules of the accreditation schemes and are audited, usually annually.
- Self-regulated agents have structured training plans for the staff, backed up by the accrediting body.
- Procedures; along with proper processes they use such things as checklists for each part of the process, eg new instructions, renewals, checkout, etc
- A good agent will have a robust software system which is not just there to store data – it will be compliant and work in tandem with training to ensure a process is followed and that legislation is adhered to
- They will have Client Money Protection (CMP) – due to become a legal requirement.
- They will have specialist teams, eg for chasing arrears (this can help avoid protracted evictions as a dedicated person can often make more headway and get a better result) and maintenance (which ensures issues are followed up quickly, resulting in better quality properties and happier tenants).
- They will belong to a redress scheme such as The Property Ombudsman (TPO) Scheme and follow their guidelines so the agent knows what to do, when and why, and so give better advice to customers, be they landlords or tenants.

It's clear that when regulation of letting agents comes in, it will make perhaps the biggest difference. Until then, tenants should try as much as possible to rent from self-regulating agents and landlords until that time, choosing the agent/landlord first, then the property.

We are very keen to follow all the latest legislation to fully safeguard our landlords and protect our tenants. We ensure all our agency contracts, IT systems, procedures, practices and training reflect this and are up to date. We have as many 'safety nets' in place to ensure the properties are let legally and safely. All of our teams are constantly re-educated and trained to help ensure landlords are covered and compliant.

Those agents that do self-regulate tend to keep on top of the surge of legislation changes that have happened of late, and by doing so ensure LL are compliant of the law. This tends to in turn attract quality of property and so landlords, which has an ongoing positive effect. The sooner all agents become regulated the better, to protect landlords, tenants and the good people who work for us.

– *Hannah Davies, Reeds Rains*

Has it been worth the cost so far?

Changes often take time to show effect in a marketplace, but we now have a decade of data since the Housing Health and Safety Rating System (HHSRS) and mandatory licensing for HMOs came into force in October 2006. The reality is that, while the proportion of non-decent housing in the PRS has fallen, the actual number of homes failing to meet minimum standards has increased by 100,000. According to the English Housing Survey, there has been no improvement in tenants' satisfaction regarding the quality of their accommodation and seven out of 10 are still experiencing health and safety issues according to Citizens Advice.

Looking at some of the estimated costs, as detailed in Part One of this section, landlords have to spend around £650 to prepare a property for legal letting (electrical, gas and fire safety checks and alarms, legionella check) and over £200 for each year that the property is let (gas safety, PAT if appliances are included, inventory and insurance-based deposit protection). On top of that, licensing in England is likely to cost £100-£200 a year (£30 a year in Wales) and there will be other ongoing checks and maintenance to maintain required standards, as per the HHSRS, not to mention the additional health and safety costs for HMOs.

The cost to the government and industry of administering all the legislation will have been enormous.

Given this evidence, it appears that so far, the costs incurred and the laws so far have had some impact, but are failing to make enough of a difference. More needs to be done to communicate and enforce the law, rather than believing changing the law is a panacea to solving health and safety issues in the PRS.



Image: © Mankukuku, Andrey popov, Ongap | Dreamstime.com

SECTION 3

Communication of legal requirements to landlords and tenants

Part 1: How legal requirements/responsibilities and changes are currently communicated to landlords & tenants

A key issue with the introduction of new laws and the amendment of existing rules is how the changes are communicated. It is critical that landlords are aware of their obligations and responsibilities so that:

- tenants are kept as safe as possible
- landlords avoid unknowingly falling foul of the law, particularly as, since April 2017, local authorities have had the power to fine landlords up to £30,000 for non-compliance.

There are currently huge discrepancies in the way information is communicated to landlords and tenants. A landlord can inherit a property, let it to someone they know – or don't know – while a tenant can just put in a postcode where they would like to live, find a property and move in. All without taking any advice or finding out what their rights and responsibilities are.

On the other hand, if a tenant meets a landlord who is a member of a local accreditation scheme or one of the national landlord associations such as RLA or NLA, or they rent from a law abiding agent who is likely to be a member of ARLA, NALS or RICS, then both the landlord and tenant are likely to understand their rights and responsibilities.

However, as anyone can rent a property or be an agent without any qualifications and there is no formal regulation bar a redress scheme for agents, whether the landlord or the tenant has any idea of how to let and their rights and responsibilities is a lottery. In addition, in areas where cheap properties are in short supply, vulnerable tenants can be poorly looked after and, with the lack of enforcement in the PRS, easily be exploited.



Images: © Candan Susoy, Adam Borkowski, Adrian Thompson | Dreamstime.com

How are tenants currently informed about lettings legal requirements?

They should receive information and advice as they move through the renting process – here, we assume they are renting via a letting agent who understands the law and only lets legal and safe properties.

Stage	Legally required information given
Viewing a property	Sight of EPC
Between offer and acceptance	Right to rent checks; deposit explained
Referencing	Understanding the process and the affordability criteria to pass referencing
At signing of tenancy agreement	All pertinent clauses about rights and responsibilities explained – both theirs and the landlord's
At check-in	Copy of gas safety certificate; instruction on how to safely operate all appliances and avoid condensation and mould; information about what to do in case of an emergency; copy of government's 'How to Rent' guide; smoke alarms test
After check-in	Relevant prescribed information relating to deposit issued by agent/landlord

What is currently missing is a clear illustration for tenants about what is and isn't acceptable in terms of the property's condition, some kind of reinforcement of their rights – particularly around retaliatory evictions – and help and encouragement in taking forward a legitimate complaint, especially if the landlord then chooses to manage the property themselves.

If a tenant has found a rental property privately and is dealing directly with the landlord, who lets and manages the property themselves, there is no guarantee the tenant will receive all the information they should. Few organisations the landlord may be working with – such as a mortgage lender, insurance company, or indeed local authority registration scheme in England – requires proof that the landlord is letting the property legally.

In the case of tenants renting on benefits, it is interesting that if the tenant is on the social housing waiting list, the property will be checked to see if it is let legally by requesting the relevant certificates and photos before advertising it. However, those on benefits who are not on a waiting list get little help at all, meaning if they let a sub-standard property or have a poor landlord, the costs of support to solve the issues is so high that few tenants can actually be helped.

TDS Charitable Foundation guide for tenants: <http://www.propertychecklists.co.uk/downloads/20171212>

How are landlords currently informed about what is required to legally let a property?

If a landlord is using an agent to let and manage their property, the agent should be advising them of their legal obligations and highlighting any works that need to be undertaken to comply – both initially and ongoing. Unfortunately as agents only currently need to be members of a redress scheme as opposed to any regulation (bar in Wales and Scotland) and specifically require no training, they may have no idea of the law and may indeed be operating on a rogue or criminal basis. Regulation is planned for letting agents in England in the future, but is likely to take several years to be implemented.

It is only if the agent is a member of ARLA, NALS, RICS or UKALA, that they are likely to inform their landlords about new and upcoming legislation via mailshots/newsletters, explaining what the legislation means for them and what steps they need to take, if any, as they in turn will have signed up to a code of practice to abide by the law.

In a survey of almost 2,000 landlords, carried out in 2015 by HomeLet^{1 2}, 81% of respondents said they use a letting agent for a fully managed service, while 17% said they don't use an agent at all. Give that there are around two million landlords in the UK (according to Paragon) and assuming HomeLet's figures are representative of all landlords, that means there are 340,000 landlords not using a professional letting agent.

Other surveys, such as the one on the Private Rented Sector carried out by Julie Rugg and David Rhodes³, estimate the percentage of landlords using a letting agent at 60%, albeit in an older report.

Table 3.8 : Use of letting agents by private landlords in England

Whether an agent used	1993/94 (%)	2001 (%)	2003 (%)	2006 (%)
Agent used	37	51	47	60
Agent not used	64	49	53	40
Total	100	100	100	100

¹ Homelet Landlord Survey: <https://homelet.co.uk/homelet-rental-index/landlord-survey-2015>

² Homelet: <https://homelet.co.uk/letting-agents/news/article/how-many-landlords-and-tenants-are-there-in-the-uk>

³ Rugg and Rhodes survey: <https://www.york.ac.uk/media/chp/documents/2008/prsreviewweb.pdf>

A more up-to-date survey from the **Council of Mortgage Lenders** suggests:

“Over a third of landlords never used an agent, managing all of their properties themselves. A similar proportion used an agent to manage all their properties fully (bearing in mind that most landlords owned just a single unit). The remainder either used an agent to do some tasks, or for only some properties. BTL landlords were more likely to use agents.”

These surveys suggest that between 340,000 and 800,000 landlords have four primary routes through which to educate themselves about lettings legislation by:

1. Joining a landlords' association

These provide training, support and access to legal advice, as well as an online library of documents and guides, and helpful analysis of current landlord issues. The main organisations are:

Residential Landlords Association (RLA): <https://www.rla.org.uk>

The National Landlords Association (NLA): <https://www.landlords.org.uk>

The Guild of Residential Landlords: <http://www.landlordsguild.com>

2. Becoming accredited via a local authority landlord accreditation scheme

3. Joining a local landlords' group or association

These tend to be run by other landlords and provide useful networking opportunities; some provide greater support and advice.

4. Industry investment in buy to let and landlord help and advice

For example:

Direct Line's Landlord Knowledge Centre: <https://www.directlineforbusiness.co.uk/landlord-insurance/knowledge-centre>

Mortgage Advice Bureau: <https://www.mortgageadvicebureau.com/expert-advice/buy-to-let>

While these associations pledge to keep their landlords educated about the industry and updated on legislative changes and companies provide a lot of free information, the onus is still on the landlord to respond, engage and ensure they understand what they need to do. With the speed of change in the PRS sector, it would only take a long holiday or a stay in hospital to miss an update. Without a knowledgeable and accountable letting agent checking the property, there is no formal confirmation that the landlord has carried out their obligations correctly.

Since health and safety legislation in particular is considered so important and the penalties are potentially so high if landlords don't comply, it seems that a more structured approach needs to be taken. Without this, the proportion of rented homes considered decent is unlikely to rise above 73% and the number of instances of health and safety, and repairs and maintenance issues experienced by tenants, is unlikely to fall.

Challenges in communicating legislative changes

One key issue is that a lot of lettings legislation is open to interpretation by local authorities and individual health and safety professionals within each area. That makes it very difficult to make a clear declaration about what is legal and illegal, particularly in relation to licensing, planning and fire safety.

Even when the law applies nationally, it is not always clear. For example, the HHSRS, which is used to define hazards within a property, is very complex in the way it classifies the severity of hazards across 29 categories. While it is certainly useful to enable inspectors and assessors to take various risks and vulnerabilities into account, it makes it very difficult for both tenants and landlords to know when something becomes a hazard and at what point a complaint would be legitimate.

There is also an issue with some of the most vulnerable tenants – such as the 20-30% in receipt of benefits – who may not be able to read and fully understand their rights and may not be confident enough to put complaints about repairs and maintenance in writing. As the law currently stands, under the Deregulation Act 2015, complaints made verbally are not considered formal enough to be taken into consideration.



Image: © Skatzenberger, Marad777, creativestockphotos | Dreamstime.com

Part 2: Enforcement of regulations

Until the Housing and Planning Act 2016 came into force in England in April 2017, local authorities had the ability to investigate landlords and their properties but their only option was to prosecute violations of the law. That meant going through the potentially expensive and time-consuming court process so, with limited resources, councils were understandably hesitant to take action against all but the most certain of case winners.

As a result, according to the report below, tenants who complained to the local authority sometimes found they received little or no response and too many landlords got away with providing non-decent or unsafe properties simply because the local council didn't have the manpower or the money to prosecute them.

Report: Local councils guilty of 'softly, softly approach' to rogue landlords

In January 2016, The Guardian¹ published an article written in response to a survey of 120 local authorities in England. The figures, relating to 2013, showed that out of 51,916 complaints received by councils about poor living conditions, only 14,043 homes were inspected by housing officers.

This research² was carried out for Labour MP Karen Buck, whose private members' bill to ensure rented homes are fit for human habitation was talked out by Conservative backbenchers. She was alarmed at the low level of enforcement in the PRS and said at the time: "Far too few of the landlords that let grossly sub-standard properties can expect to have tough enforcement against them," admitting that housing officers lacked the resources to protect the most vulnerable tenants.

In the Guardian article³, the author of the report, Stephen Battersby, a housing consultant, said local authorities were too cautious. "Taking a softly, softly approach to landlords does nothing to discourage those who are undermining the more responsible landlords. It is a strategy that has failed."

The report showed housing officers were four times more likely to respond informally to complaints with a letter or phone call, rather than issuing a formal legal notice. Even where potentially life-threatening Category 1 hazards were found, 18% escaped enforcement action. If a council doesn't serve a hazard awareness notice at the very least in this situation, they are breaching their statutory duties under the Housing Act.

On average, each council prosecuted fewer than one landlord a year.

¹ <https://www.theguardian.com/money/2016/jan/18/local-councils-softly-softly-approach-rogue-landlords-poor-living-conditions>

² <http://sabattersby.co.uk/documents/KBReport2.pdf>

³ Courtesy of Guardian News & Media Ltd

With the new legislation now in effect, a local authority can issue a civil penalty as an alternative to prosecution in the following cases, fining landlords – and rogue agents – up to a maximum of £30,000 per offence. This is an improvement in one sense, but can still rely too much on a tenant or the general public reporting issues:

- Failure to comply with an improvement notice
- Offences in relation to the licensing of an HMO
- Offences in relation to selective licensing
- Contravention of an overcrowding notice
- Failure to comply with management regulations for HMOs.

CASE STUDY

Newham council in London is thought to be the first local authority in the UK to have used their new powers to issue a civil penalty.

The fine was imposed on the landlord of a flat in Plaistow at the end of April 2017, after there was a fire in the block and an investigation by the London Fire Brigade revealed there were no fire alarms in the flat at the time of the blaze.

Council officers subsequently visited the property, which was tenanted, and found there were still no fire alarms. That constituted a serious breach of the landlord's property licence conditions and a Financial Penalty Notice of £5,000 was issued to him.

A spokesman for Newham council said, "Our swift adoption and application of the new powers underlines our commitment to protect tenants from rogue landlords. By failing to install fire alarms, even after a blaze in the block, this landlord clearly showed his reckless lack of care for the safety of his tenants."

(Source: <https://www.lettingagenttoday.co.uk/breaking-news/2017/5/london-council-issues-first-lettings-sector-civil-penalty>)

The Act also included another significant policy, the introduction of a database of rogue landlords and letting agents, currently scheduled to come into force in April 2018. This will enable local authorities to search for previous offences and should help curb the number of landlords who simply move around the country, untracked. As things stand, landlords, tenants, potential employers and other members of the public will not be able to access this information. However, a London '**rogue landlord checker**' has now been launched.

SECTION 4

Recommended improvements to communication

As the Housing and Planning Act 2016 came into effect through 2017, resulting in a significant increase in the level of action taken against rogue landlords, to enforce the laws that previously existed.

“Newham is making strong progress with financial penalties, having issued 78 since May 2017, ranging from £1,000 to £22,000, but they are no panacea and are comparable to prosecutions in difficulty and effort. It is still early days.”

– *Russell Moffatt, of Newham Borough Council*

However, more undoubtedly needs to be done to improve...

- landlords' knowledge and understanding of the legislation they need to comply with to ensure they have a let a property correctly
- tenants' knowledge and understanding about the standard of accommodation they should expect, particularly regarding health and safety hazards
- tenants' understanding of how to raise and escalate complaints about sub-standard accommodation.

How communication with landlords could be improved

While all the information landlords need to know is available to them, it is currently in a lot of different places, with many details either buried or not specific enough, such as the requirement for the frequency of electrical testing.

As it stands, the law simply states that the electrical installation in a rented property must be safe when tenants move in and maintained in a safe condition throughout its duration. The recommendation from Electrical Safety First is that a periodic inspection should be carried out every five years, but there is no legal obligation to do so. Our recommendation is that the law is amended to require checks as standard, perhaps a full inspection every five years and a more simple check every two years.

Letter from TLIC requesting clarity to improve electrical safety in the PRS

THE LETTINGS INDUSTRY COUNCIL (TLIC)
c/o Theresa Wallace, Savills, 1 Church Road, Richmond- Upon-Thames, TW9 2QE

16th October 2016

Gavin Barwell MP
House of Commons
London
SW1A 0AA

Dear Mr Barwell

Support for Clause 122 in the Housing and Planning Act 2016

As chair of The Lettings Industry Council, I am writing to note our support for the recent steps the Government has taken to clarify the requirements of electrical safety in the Private Rented Sector. Clause 122 within the Housing and Planning Act 2016 gives the Government the powers to introduce specific requirements to introduce Electrical Safety Standards within the Private Rented Sector through secondary legislation and we strongly urge the Government to utilise this ability.

The lack of detail within the Landlords and Tenants Act 1985, as to how the electrical safety of a privately rented property should be demonstrated by landlords, creates confusion as to what type of electrical inspection and test is needed and what testing intervals would be considered appropriate. It not only makes things difficult for the landlord it also makes it hard for tenants to know what to ask for if they want proof of the electrical safety standard of the home they wish to live in.

The Letting's Council is an industry stakeholder group, formed in 2014, to provide a united industry voice on issues relating to the private rented sector with a vision to *Inform, Educate and Improve* the sector. Membership of the Council is very wide ranging and includes large well known letting agents, landlord associations, charities that represent tenants and advice organisations, but despite this diversity we are agreed on this issue.

We would recommend that any decision about the type of electrical inspection and testing which is considered and the frequencies of such is discussed with a broad range of industry stakeholders to ensure a balance is struck between ensuring appropriate safety whilst not over-burdening landlords. However, we are very supportive of any steps the Government take to provide policy certainty in this area and to reduce the risks of electrical installations and appliances in privately rented properties.

We have a number of industry stakeholders who would be keen to participate in any industry discussions which you co-ordinate to reach an agreeable outcome on this issue and would gladly provide you with their contact details if this would be of interest.

In the meantime we would be very grateful if you could keep us up to date with any progress made in this area of extreme importance.

Yours sincerely

Theresa Wallace FNAEA, CRLM, FARLA
Chair - The Lettings Industry Council (TLIC)

The Deregulation Act 2015 is currently not specific enough about how quickly a landlord must make repairs, simply stating it must be within a 'reasonable' timescale, leaving it open to interpretation from the landlord's perspective and making it hard for their tenant to know when they can legitimately make a complaint. It should be specified, for example, remedial works must be started within four weeks and completed within eight weeks.

A simple document or checklist could then be made available to landlords, outlining the minimum standard criteria, key legal obligations and the reason/benefit of each. It could feature two clear statements:



The best tenants pay the highest rents for homes that are safe, secure and in the best condition.



If you fail to fulfil your legal obligations, you could face fines of up to £30,000 for each offence and a banning order, preventing you from letting in the future.

While self-regulated agents tend to be very good at communicating with their landlords, the 340,000 or more who don't use an agent are currently rather removed from the information that is available. If landlords were required to be accredited, their chosen scheme could be obliged to provide them with this clear documentation and ongoing updates when there are legal changes.

How communication with tenants could be improved

There is a lot of information made available to tenants, but a lack of any follow-up to ensure they have read what they have been given and understand it.

They may know they can complain if their landlord is breaking health and safety rules, but many tenants are unclear on exactly what hazards look like. A visual guide with images of different hazards, such as various stages of damp and loose carpets, would be helpful.

The onus could also be put on agents and landlords to be more proactive in following up with tenants. It could be made a legal requirement that periodical checks are made within the first two months of a tenancy and then once more within the first year, and that the tenant must be present. That would allow the agent or landlord to check for, explain and remedy any issues before they became a hazard, show the tenant things like early signs of mould and explain what they can do to help avoid the problem recurring.

Given the importance of how a tenant reports maintenance and repairs issues under the Deregulation Act 2015, it could also be a requirement that a standard template be made available to them, along with a document that simply and clearly details the process and timescale their landlord must adhere to.

The argument for mandatory landlord registration and/or licensing across England

All the information and advice on lettings regulations is out there so, providing communication can be improved, the main problem that remains is a lack of regulation and that can only be solved by tighter legislation.

It seems apparent that unless a rented property is inspected by an appropriate person, who is qualified to certify that it is legally compliant, there will continue to be rogue landlords and agents who slip through the net. The current hurdle is that nobody actually knows exactly how many or which properties are rented, nor who is letting them. Requiring every tenant to tick a box on the council tax form will be much more effective than relying on landlords to register both themselves and their properties – as is already the case in Wales and Scotland. Knowing which properties are being tenanted would make it much easier for local authorities to make checks and quickly identify when a problem is brought to their attention whether that property and landlord are registered. The maximum £30,000 fine could be imposed immediately on any landlord who hadn't registered.

An alternative to mandatory licensing could be a requirement for all landlords to belong to an accreditation scheme or use an agent that is regulated. This would take advantage of the many excellent schemes and associations that are already in existence. The Accreditation Network UK has [a directory of all landlord accreditation schemes in the UK](#).¹ Such an approach would negate the need for any government and industry spend on legislating and setting up a new licensing scheme; no two schemes are the same and they are expensive, with time-consuming application forms. And if every landlord had to register and was then sent the minimum standard checklist, it should be borne in mind there would be no need for licensing.

With the proper regulation of letting agents, there would be much more control on the quality of information landlords and tenants are receiving. Currently, as anyone can set up a letting agent, especially in areas where there is a shortage of stock, it means poor practice in the industry is inevitable.

¹ Accreditation Network UK directory: <http://www.anuk.org.uk/schemes-near-you#national>

Summary: 7 steps that could be taken to benefit the whole industry

1. Regulation of letting agents

There are far too many agents operating in the PRS who are not members of a trade scheme and have little ability or requirement to keep up with the law, bar their membership of a redress scheme. However, even if they are expelled from a redress scheme it can still take years for Trading Standards to close them down. It is good news that this has now been granted by the government.

2. Proof landlords will let legally before being given funding and insurance

If we focus on prevention of poor properties coming onto the market, we can ensure new properties and those being re-insured are complying with the law. Currently landlord properties are being funded and insured with little knowledge of whether they are being let legally. That's like allowing people to insure cars on the road without having an MOT – this shouldn't be acceptable, especially from the lenders' and insurers' perspective.

For example, it is likely landlords are currently funded and insured on properties which can't be legally let from April 2018 as they are F or G rated. Lenders and insurance companies should be contacting landlords with these EPC ratings to advise them they need to upgrade and if they don't, their funding and insurance will be withdrawn.

3. Mandatory landlord accreditation

This would enable distribution of clear guidelines for letting legally compliant properties and information on changes to the law for landlords. This in turn gives tenants confidence they're renting from a decent landlord, whose details are held by a local or national scheme. It would also allow for the creation of a national database of landlords and their properties to be created. This would extend the reach of the industry to the 340,000 or so landlords who do not currently use a letting agent.

4. Eliminating ambiguity from current legislation

Timescales that are defined as 'reasonable' or are only advisory should be made specific. This would give landlords greater clarity on their obligations and give tenants definite deadlines for making complaints. The industry has been calling for years to make the electrical laws as clear as those for gas safety.

5. The creation of a clear document stating landlords' legal obligations

Rather than having to search different resources to find out exactly what they need to do, every accreditation scheme, letting agent and industry association could have the same simple information that is distributed to every landlord. This needs to be supported by a promotional campaign funded either by the industry and/or government.

6. Simplification of the HHSRS hazards

Giving tenants a simple, illustrated document to help them recognise health and safety issues and know what they can raise as a valid issue would be helpful, particularly to the most vulnerable tenants. It should feature a template for raising a complaint and a clear statement that they can complain without fear of eviction and give contact details of their local Citizens Advice.

7. Requirement for agents and landlords to follow up with tenants

Periodical checks within certain time frames, requiring the tenant to be present, should be made to ensure tenants understand how to recognise hazards and what they can do to help prevent them.

Top 5 resources for landlords

- [RLA information on 'legal musts' for landlords](#)
- [Propertychecklists.co.uk](#) – free independent education and information service for landlords and tenants
- [Home Safety Guidance](#) – independent, expert advice about safety in the home
- [Direct Line for Business Knowledge Centre](#) – fire safety regulations for landlords
- [Accreditation Network UK \(ANUK\)](#) – details of all accreditation schemes in the UK

Top 5 resources for tenants

- [Gov.uk](#) – Government information on tenants' rights and responsibilities, including their landlord's safety responsibilities
- [The Government's How to Rent guide](#)
- [Home Safety Guidance](#) – independent, expert advice about safety in the home
- [Propertychecklists.co.uk](#) – free independent education and information service for landlords and tenants, with a free Q&A service and downloadable tenant guide
- [The Lettings Industry Council](#), which aims to inform, educate and improve the Private Rented Sector.