



National Audit Office



# Regulation of private renting

Department for Levelling Up, Housing & Communities

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**REPORT**

**by the Comptroller  
and Auditor General**

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**SESSION 2021-22  
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HC 863**

## Key facts

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**4.4m**

estimated number of households in the private rented sector in England, renting from at least 1.5 million landlords or more

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**36**

number of key pieces of legislation relating to the private rented sector

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**13%**

estimated proportion of privately rented homes with serious health hazards, compared with 10% of owner-occupied homes and 5% of social housing

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**23%**

estimated proportion of privately rented homes classified as non-decent, rising to 29% for renters receiving housing support

**25%**

proportion of English landlords surveyed who said they were unwilling to let their properties to non-UK passport holders

**£9.1 billion**

estimated amount of housing support paid to private renters or directly to private landlords in England in 2020-21

**65**

number of local authorities in England (out of 308) we have been able to identify as having run a landlord licensing scheme beyond minimum requirements since 2010

**10**

number of landlords and letting agents banned since banning orders were introduced in 2016

**18 months to  
September 2021**

duration of longer notice periods for evictions during the COVID-19 pandemic

# Summary

**1** There are an estimated 4.4 million privately rented households in England. While most tenants have a good experience of renting, those who do not may find it contributes to serious illness, financial issues or homelessness. For example, poor-quality housing can pose serious risks to health and safety through electrical hazards, infestations and damp. Poor conduct by landlords and letting agents, such as overcharging, harassment or illegal eviction, can also affect tenants' wellbeing.

**2** The Department for Levelling Up, Housing & Communities (the Department) – formerly the Ministry of Housing, Communities & Local Government – aims to ensure the rented sector is fair for tenants, and to protect them from such harms. It legislates and creates policies used to regulate the sector, including 36 key pieces of legislation setting obligations for landlords and letting agents and enforcement arrangements. For example, minimum property standards are defined within five different Acts of Parliament, including the Building Act 1984, Landlord and Tenant Act 1985 and Housing Act 2004.

**3** While the Department sets the overall policy and regulatory framework, local authorities are responsible for regulating the sector and ensuring landlords comply with legal obligations. Local authorities choose how they regulate based on local priorities and have a range of investigation and enforcement tools available. All local authorities must issue licences for all properties let to five or more people from different households, known as large houses in multiple occupation (HMOs). However, each authority determines how to administer licences, what fees to charge, whether to set additional conditions or whether to license properties that are not large HMOs. There is no requirement for privately rented properties to be checked before they are let. Local authorities also determine when and how they examine properties or landlords. This differs from social housing, in which a national regulator sets outcome-based standards for how registered providers run their businesses (economic standards), and proactively monitors compliance.

**4** The proportion of households in England living in privately rented accommodation has approximately doubled in the past 20 years, and the sector faces several challenges:

- On average, private tenants spend more of their income on housing (32%), compared with those living in their own properties (18%) or social housing (27%).
- The market is increasingly populated by low-income groups, benefit recipients and families, whose access to other housing options may be limited. The Department for Work & Pensions estimates that £9.1 billion of housing support was paid to private renters or directly to private landlords in England in 2020-21.
- In around 29,000 instances in 2019-20, households were, or were at risk of being, made homeless following an eviction that was not their fault.
- Many local authorities face funding pressures, which can constrain their ability to check properties proactively for non-compliance and therefore places greater reliance on tenants being aware of their rights and reporting problems.
- The sector is highly complex and shaped by intersecting policy areas across government that affect the supply and demand of rented properties. This includes areas outside the Department's remit, such as energy efficiency standards, benefits and welfare, and judicial processes for tenant complaints.

**5** The Department recognises that challenges within the sector affect how it should be regulated, and it is planning large-scale reforms to help address these issues. It has committed to publishing a white paper in 2022, which will provide further details on the proposed reforms.

### **Scope of the report**

**6** This report examines the extent to which the regulation of private renting in England supports the Department's aim to ensure the sector is fair for renters. Our evaluations were based on our good practice guidance on the principles of effective regulation (Figure 4 on page 19), supported by comparisons with other regulated sectors where appropriate. While we did not seek to assess the Department's current work developing reform proposals, we considered it alongside our assessment of the current system.

**7** The report covers:

- the coherence of the Department’s regulatory strategy, and whether this is based on a good understanding of the challenges within the sector;
- the extent to which the Department’s oversight of and support for local authority regulation of providers (landlords and lettings agents) contribute to its aims for the sector; and
- whether tenants are adequately supported to resolve problems and ensure they get a fair deal.

**8** While this report considers the effectiveness of the overall regulatory regime in improving tenant outcomes, we did not audit local authorities or other stakeholders. We considered the potential impacts of regulatory requirements on landlords but did not seek to evaluate how well the sector works for them. We also did not seek to evaluate wider issues that impact on the sector, such as affordability and access to social housing or property ownership.

## **Key findings**

### Regulatory strategy for private renting

**9 Privately rented properties are less likely to comply with minimum safety standards than other types of housing and are more likely to be classified as non-decent.** By law, both privately and socially rented properties must be free of category 1 hazards (serious threats to health and safety). An estimated 13% of privately rented homes, 589,000 properties, fail to meet these standards due to at least one category 1 hazard, and the associated costs to the NHS are estimated to be £340 million a year. This compares with 10% of owner-occupied homes and 5% of social housing. There is also geographical variation, with category 1 hazards ranging from 9% to 21% in different regions of England. In addition, an estimated 23% of privately rented homes are classified as non-decent (rising to 29% for those receiving housing support), compared with 12% of social housing and 16% of owner-occupied homes. Social housing providers have additional regulatory requirements that may partly explain these differences – for example, they are assessed against economic standards by a national regulator and must meet the Decent Homes Standard, which goes beyond minimum safety requirements. In addition, private landlords can currently evict tenants without specific reasons (paragraphs 2.3 to 2.7).

**10 The Department has in recent years taken a piecemeal approach to intervening in the private rented sector and is now looking to take a more strategic approach.**

The Department has introduced legislative changes to protect tenants' rights. In the past decade, this has included mandatory redress schemes for letting agency work, a ban on charging letting fees to tenants and temporary restrictions on evictions during the COVID-19 pandemic. However, the Department does not yet have a strategy for what it wants the regulation of the sector to look like as a whole. Stakeholders we interviewed, including tenant and industry representatives, considered that the system was fragmented and overly complex. As the Department has not evaluated its recent interventions, it also does not know their impact on the overall operation of the market. It is currently defining the strategic objectives of its reform programme and has begun mapping how potential changes might affect the sector (paragraphs 2.8 to 2.11).

**11 The Department's approach is limited by gaps in the data on what problems are occurring and where.** Effective regulation relies on relevant, high-quality data so that intervention and oversight can be directed to where it is needed and regulatory burdens can be minimised. The Department has some insight into how the sector is working, such as on property conditions and tenants' finances, from surveys of landlords and tenants and from engaging with stakeholders. However, it lacks robust data on key issues where regulatory action may be required such as harassment, evictions and disrepair that is not being addressed. The Department also does not know the full costs to landlords of complying with their obligations. Without such data, the Department will struggle to measure the impact of its interventions or establish whether further action is needed. For example, it has limited data to monitor the 2015 changes aimed at preventing retaliatory evictions of tenants who raise complaints. The Department told us it aimed to collect better data as part of its planned reforms, but it has not yet developed a plan to do so. We note that the strategic objectives it is developing are measured largely by data sources it already has, and do not demonstrate that it is considering what other data it needs to properly understand outcomes for tenants (paragraphs 2.12 to 2.14).

**12 The Department works with other parts of government to understand the impact of any related policies on private renting but could do this more consistently.**

For example, since 2020 the Department has sat on a cross-government board with the Department for Business, Energy & Industrial Strategy to oversee implementation of minimum energy efficiency standards in the rented sector. The Department has regular discussions but no formal arrangements with other departments such as HM Treasury and HM Revenue & Customs, covering issues on tax policy and compliance affecting landlords. The Department also worked with the Ministry of Justice and HM Courts & Tribunals Service to put a temporary restriction on eviction proceedings during the COVID-19 pandemic. However, the effectiveness of this joint working is constrained by limitations in the courts data available. The Department has begun to consider how its planned reforms may interact with other parts of government but has not yet established how it will monitor the overall effects on landlords and tenants (paragraphs 2.15 to 2.17).

## Regulating landlords and letting agents

**13 There is considerable variation in the approaches and regulatory activity of local authorities.** The 308 lower-tier or single-tier local authorities in England are each responsible for regulating the private renting market in their own area. We found a wide range of approaches and levels of regulatory activity. For example, some authorities inspect almost no properties while others inspect a large proportion of their market, and we were only able to identify 65 out of 308 that have chosen to license more properties than the minimum requirement since 2010, due to data limitations. We also found low use of some regulatory tools such as banning orders and penalty notices – only 10 landlords and letting agents have been banned by local authorities since new powers were introduced in 2016 (paragraphs 3.4 and 3.5).

**14 The Department has limited insight into which local regulatory approaches are effective in ensuring landlords comply with their legal obligations, and in what circumstances.** The Department has limited data on what tools and approaches are used by local authorities and therefore cannot meaningfully analyse which are more effective at improving compliance and protecting tenants. To examine what might be possible with better data, we analysed the limited data available to look for relationships between regulatory approaches and several outcome indicators. We found that local authorities that are more active in inspecting properties were more likely to see fewer category 1 health and safety hazards and a better improvement over time in compliance with energy efficiency requirements. We were unable to identify other trends due to data limitations – for example, there were no robust data on local authorities' regulatory approaches and the Department retains geographical data on property conditions for the latest five years only (paragraphs 3.6 and 3.7).

**15 The Department has taken steps to understand the behaviours of different landlords, which may allow more targeted use of regulation in future.** Private landlords in England, numbering more than 1.5 million, have varied characteristics and include both commercial investors with many properties and accidental landlords who may never have intended to let property. For regulation to be effective in influencing providers, it is important to understand the incentives and behaviours of different types of provider, and how they might respond to different regulatory tools and approaches. The Department has segmented the landlord population, categorising them as either 'good practice', 'meeting legal requirements', 'mixed compliance' or 'lower compliance and awareness', and explored common characteristics within these categories. However, it has not yet made the analysis available to local authorities. The Department also regularly engages with landlords and letting agents through trade bodies to gain insight into current developments (paragraphs 3.8 to 3.10).

**16 Local authorities we interviewed told us they could regulate better with more support and sharing of good practice from the Department.** Stakeholders and academics have highlighted the challenges that local authorities face in adopting best practice, including staffing and wider resourcing challenges, the complexity of the legislative framework and the variety of local team structures. The Department provides guidance on legislative changes and before the COVID-19 pandemic it engaged with local authorities directly through roadshows and newsletters. Local authorities we interviewed found these helpful but identified common areas where they would like more support and sharing of best practice, such as setting civil penalties or cross-team working in two-tier authorities. Authorities we interviewed that had applied to the Department for selective licensing schemes also said the process was resource-intensive, slow and they received little communication from the Department, which made it a barrier to enforcement (paragraphs 3.11 to 3.14).

#### Providing support to tenants

**17 There are limited redress options for tenants when things go wrong.** Redress mechanisms, such as dispute resolution services, are a common feature of well-designed consumer markets. They provide a more accessible path to resolving disputes than the legal system, can be used to provide insight and trigger intervention by regulators and provide valuable data and insight on the prevalence of problems. In the social rented sector, all housing providers must be part of an ombudsman scheme. This is actively used by tenants, with 7,881 complaints closed in 2019-20. In 2018, the Department introduced mandatory redress arrangements for letting agency work. However, private landlords are not required to be members of a redress scheme. The redress scheme administrators we interviewed indicated that voluntary membership among landlords is very low, and there are no formal data on overall membership levels (paragraphs 4.3 to 4.6).

**18 Tenants face a number of barriers in enforcing their rights, such as costs and lack of awareness of their rights.** The regulatory system relies heavily on tenants enforcing their own rights, since there are limited redress arrangements and the system requires neither the licensing of most landlords nor inspections of properties. This means tenants must often negotiate with landlords directly or take action through the courts, which comes with costs and a risk that the action is unsuccessful. Surveys estimate that 35% of tenants say a lack of knowledge of their rights made negotiating with their landlord difficult, and that 22% of private renters who considered making a complaint to their landlord or letting agent had not done so. Other barriers raised by stakeholders we interviewed included a lack of recourse to public funds, tenants having a poor understanding of the options available to them, language barriers and distrust of services among tenants, and a complex system (paragraphs 4.7 to 4.9).



**19 The Department finds it difficult to target guidance and support schemes towards vulnerable tenants due to limitations in its understanding of tenants' experiences.** There is a wide variety of tenants in the sector, from those in short-term student accommodation or hoping to buy a home, to lower-income renters and those receiving housing support who may be eligible for social housing. Many of these will be vulnerable in different ways. For example, estimates indicate that approximately 35,000 privately renting households live in properties unsuitable for their illness or disability, and 7% of privately rented properties were overcrowded in 2019-20 (which doubled to 15% during the COVID-19 pandemic). Some also experience discrimination, with an estimated 25% of landlords unwilling to let to non-UK passport holders and 52% unwilling to let to those on Housing Benefit. The Department collects some demographic and satisfaction data through surveys, but does not have a sufficient understanding of the causes and impacts of tenant experiences. This means it cannot provide tailored guidance and support to those who need it most (paragraphs 4.10 to 4.14).

## **Conclusion**

**20** The private rented sector in England has grown to house more than 4.4 million households, and there is evidence that a concerning proportion live in unsafe or insecure conditions with limited ability to exercise their rights. In recent years, the Department has made various regulatory changes aimed at improving experiences for renters, including banning letting fees and introducing temporary protections during the COVID-19 pandemic.

**21** However, the way that private renting is regulated means that these changes are not effective in ensuring the sector is consistently fair for renters. There are differences in the extent to which landlords comply with the law in different regions, and tenants from certain demographic groups experience worse property conditions or treatment. The Department is not proactive in supporting local authorities to regulate effectively. Furthermore, it does not yet have a plan to improve the significant gaps in data that prevent it from identifying where problems are occurring, which regulatory approaches work well at a local level, or the impact of regulation on the vulnerable. The Department is developing potential reforms to the sector and plans to publish a white paper. As part of this work, it will need a clear vision for what it is trying to achieve and an overarching strategy for how to address the challenges raised in this report, working across central and local government where necessary, if it is to meet its overall aim to provide a better deal for renters.

## Recommendations

**22** The Department is planning to introduce reforms to the private rented sector and our recommendations are aimed at supporting this process. The Department should do the following:

- a Define an overall vision and strategy for the regulation of private renting.**  
This should include consideration of how the sector should be regulated and how it is affected by other policy areas.
- b Be more specific in setting out what its reform programme is intended to achieve.** In doing so, it should set the desired outcomes, key performance indicators and success measures, and clearly demonstrate how they link to the overall vision for the sector.
- c Report publicly on progress against its aims for the sector and the impact of its legislative interventions.** It should use regular reporting in an open and transparent way to enable public understanding and assessment of progress.
- d Improve the quality and availability of data in the sector to support good decision-making at both national and local level.** It should work to understand the barriers it faces in getting good data and plan to address this in the reform programme.
- e Do more to identify and promote good practice among local authorities and support them to use it.** To achieve this, the Department should work to understand the barriers local authorities face in regulating, and evaluate which tools are most effective in which circumstances. It should also ensure it has enough capacity to achieve this, as well as to provide an appropriate level of continued support.
- f Review whether current local authority enforcement powers are adequate.** It should engage with stakeholders, particularly local authorities, to identify which powers and tools are or would be most helpful to local regulation, where they should be placed and how awareness of their use could be improved. This should include consideration of the different tools required to support landlords who want to comply as well as enforcing against those who do not.
- g Review whether current dispute resolution arrangements for private renters are appropriate.** It should consider in particular whether the arrangements are accessible for all tenants, provide appropriate redress when things go wrong and give the Department sufficient insight into emerging issues.
- h Improve its understanding of differential outcomes and experiences among private renters and use this to inform how support and intervention are targeted on those most in need.** It should continue to develop its work to understand different types of tenants and use this understanding to design its regulatory approach.