

Rented Housing Sector: Consumer Research Project

Update Report

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Executive Summary

Introduction

1. The CMA's purpose is to promote competitive markets and tackle unfair practices, with a particular focus on areas where people spend the most time and money, and on those people who need help the most. In our Annual Plan we identified having somewhere to live as a continuing area of focus for the CMA.
2. The functioning of the housing market has a significant impact on the finances and living conditions of almost every person in the UK. This impact is particularly significant at a time when the price of other essentials, such as energy, food and other groceries, and road fuel has increased. Office for National Statistics research¹ published in June 2023 found 35% of UK adults reporting that it was difficult to afford their rent or mortgage payments. For many households, paying their rent or mortgage is their biggest monthly expense. Renters are currently spending on average 21% of their disposable income on rent, and mortgage holders spending 16% on their mortgage and for some people these proportions are much higher.
3. There is currently widespread concern about how well various aspects of the housing market are working. Many of the issues driving this concern are intrinsically linked to legal and policy frameworks and are not within the CMA's sole or direct remit to resolve. But we are determined to ensure that ineffective competition or unfair business practices are not increasing costs, limiting choice or reducing quality.
4. In the course of our ongoing work on leasehold housing we were told about other problems which affected consumers in the Private Rented Sector (PRS). We have carried out a process of wide ranging stakeholder engagement to understand better the consumer protection issues that may be facing people when they rent a property.
5. This report summarises the feedback we received from a wide variety of stakeholders, focusing on but not exclusively concerned with the PRS, from across the UK. We heard numerous concerns about the sector, as well as some positive developments. It is a complex regulatory area spanning several different areas of government policy such as energy, tax and housing standards. Housing policy is largely devolved, with differing legislative frameworks, differing regulatory requirements for those trading in the sector, and different legal systems with different litigation processes for the resolution of disputes. Local authority enforcement differs across the four nations.

¹ Office for National Statistics (ONS), released 14 July 2023, ONS website, article, Impact of increased cost of living on adults across Great Britain: February to May 2023

Next steps

6. The breadth of our stakeholder engagement, and the range of needs the PRS has to meet, mean we have been told about a very wide variety of issues. Given that range, and the evolving legislative environment, our focus has been to consider whether the issues we have heard about are within the scope of our consumer protection powers and whether, if the CMA is well placed to take action, we should investigate further. We are also mindful of the many recent reforms to assist tenants across the UK's nations and of the important proposals for reform in England currently before Parliament in the Renters (Reform) Bill.

Lack of available information to landlords and consumers

7. A consistent theme from stakeholders is that there is a lack of understanding on the part of consumers and landlords about their rights and obligations. Tenants need to engage early in the letting process with the steps necessary to protect themselves, for example by collecting their own thorough evidence of the condition of rented property and understand how to communicate with their landlord when they think things are going wrong. There is also consensus that tenants find it hard to exert their rights against landlords, despite the existing statutory and contractual protections that are in place. This is a significant shortcoming given the importance of the services supplied to over 5 million households.
8. We have been told repeatedly that avoiding the escalation of disputes is a very important element of maintaining a good relationship between landlord and tenant. We think revised guidance for lettings agents should help to raise consumer and landlord awareness of their respective rights and responsibilities because within the PRS the following practices, when undertaken by a landlord or letting agent acting as a trader, may amount to a breach of consumer protection law. For example (and highlighting in bold applicable legal standards):
 - (a) terms in tenancy agreements may be **unfair** if they purport to make the tenant liable for repairs that it is the landlord's legal responsibility to carry out;
 - (b) it may be a **misleading action** to provide tenants with inaccurate information about their legal rights in relation to the tenancy;
 - (c) it may be a **misleading omission** to fail to mention that they receive a commission payment or other benefit for passing work to a third party;
 - (d) it may be an **aggressive practice** to use harassment, coercion or undue influence to convince a tenant to agree to certain contract terms, products or services; and
 - (e) it may be a breach of **professional diligence** to fail to comply with recognised standards, such as those set out in guidance or codes of practice, for landlords or letting agents.

Updating guidance to help landlords and intermediaries understand their rights and responsibilities

9. To assist landlords, tenants and letting agents and other intermediaries to understand their rights and obligations we will revise and update the CMA's Letting Agents Guidance to reflect recent legislative changes, to clarify the rights and duties of landlords and tenants under consumer protection law and to highlight recent developments and issues in the market.
10. To ensure that the revised Guidance is as helpful as possible to businesses and consumers we will investigate four important issues raised with us by stakeholders with a view not just to amending Guidance but, if necessary, also taking enforcement action.
11. The issues we will investigate further are:
 - i) **Zero-Deposit schemes** - normally require tenants to pay a non-refundable monthly fee and/or upfront premium instead of a larger upfront deposit payment. These types of schemes can be helpful to households who do not have access to a large deposit and may ease the issues arising around refunds of deposits when tenants move house. However, it is important that tenants understand the costs for which they may be liable under such schemes, and that the terms of such schemes are fair;
 - ii) **"sham licences"** - we will carry out further work regarding what are known as "sham licences". This is typically where a landlord purports to give a 'licence to occupy' a room within a property when in fact the terms of the contract create a tenancy. The terms of the agreement then attempt to exclude tenants from the rights they ought to enjoy when they enter into what is in fact an assured tenancy. This practice may affect the vulnerable and recent arrivals in the UK such as overseas students. We understand that sham licence practices may exist across the UK however we have seen little data to indicate their prevalence and we will look into this further;
 - iii) **guarantees** - we have seen examples of onerous guarantee clauses which impose very wide obligations on tenants – such as requiring them to provide extensive evidence of assets; and
 - iv) **potentially unlawful discrimination** - we heard about activity that could constitute unlawful discrimination: this includes, for example, advertising properties as not available to housing benefit claimants (i.e. 'no-DSS').
12. Finally, we have also been made aware of issues surrounding retirement homes (these are properties built and aimed at older buyers to create retirement communities) and their impact on the rights and financial well-being of residents and their dependants. There may be problems around event fees which are charges imposed on residents when they leave or sell their retirement homes,

which can be high and unpredictable, potentially limiting residents' choices and financial outcomes.

13. We will look into these issues in more detail before deciding the best course of action and provide a further update on this work before the end of 2023.

1. Introduction

Background

The CMA's mission and powers

- 1.1 The Competition and Markets Authority (CMA) is the UK's principal competition and consumer protection authority. We help people, businesses and the UK economy by promoting competitive markets and tackling unfair behaviour.
- 1.2 We have a range of powers to tackle business practices and market conditions that present challenges for people and lead to poor consumer outcomes. This includes powers to enforce consumer protection law to protect consumers from unfair treatment by businesses and to provide information and advice to people and businesses about their rights and obligations under consumer protection law.
- 1.3 The CMA has several strategic priorities, as set out in our Annual Plan. Our areas of focus for 2023-24 include ensuring that people can be confident they are getting great choices and fair deals, including by protecting people from harmful practices. We have a commitment to be active in key areas of people's spending such as housing.

Overview of the CMA's work to date

- 1.4 Over the past 12 months, whilst conducting work in relation to ground rents and other leasehold issues,² we heard concerns about other housing and accommodation related areas. These largely centred on issues in the **Private Rental Sector (PRS)** and related directly to the CMA's declared intention to prioritise issues concerning 'having somewhere to live'. Consumers, we heard, were affected at all stages of their rental experience including searching for accommodation, entering into contracts, living in and then moving out of their home. High rents and lack of housing were concerns frequently expressed to us, but they were not the only problems we were told about. We had also heard of a series of problems from our ongoing dialogue with Trading Standards.
- 1.5 On 28 February 2023 we opened a three-month period of stakeholder engagement to develop our understanding of the issues faced by consumers, landlords and intermediaries, indicating that we would provide an update on our next steps over the summer. We wanted to understand whether the CMA could use its consumer protection powers to assist consumers, landlords and intermediaries in the rented housing sector, including helping them to be better aware of their rights and obligations and what these mean for them in practice.
- 1.6 This update:

² <https://www.gov.uk/government/news/cma-secures-landmark-commitments-for-leaseholders>

- describes the nature and size of the PRS and notes some recent developments in it;
- sets out the relevant legal framework for the protection of consumers in the sector;
- reviews what we have been told so far by stakeholders and consumers (without attempting to record every concern); and
- identifies the areas where we intend to focus in the next stage of our work.

1.7 The next steps in our work are set out in section 5 below, but in summary those next steps will be:

- to update our Guidance for Letting Agents;
- to investigate further zero-deposit schemes, sham licences, potentially unlawful discriminatory practices and some exceptionally wide requirements to obtain guarantees;
- to review current practices on exit and other event fees in retirement homes; and
- to engage further with stakeholders, and with the Department for Levelling Up, Housing and Communities (DLUHC) in particular, as the Government brings forward important measures to address some of the many problems in the sector through the Renters (Reform) Bill.

1.8 We have, to date, engaged with 40 organisations from across the UK. In our engagement we have met a wide variety of market participants, from lenders to the emerging build to rent sector, through landlords of various types (accidental, single property, those with medium to large portfolios) to letting and estate agents, professional bodies, local and national governments, and organisations representing tenants, many of whom who face considerable challenges. We should emphasise that at this point we have not investigated the activities of individual traders, and we have relied on the voluntary provision of information without engaging our formal powers.

1.9 We have also reviewed complaints submitted to consumer-focused bodies in each of the UK nations about the rented housing sector. These were Citizens Advice in England and Wales, Advice Direct Scotland and Consumerline in Northern Ireland.

1.10 We would like to thank all the stakeholders we spoke to for their constructive engagement and for generously sharing their information, insights and experience. We hope to continue that constructive engagement as our work moves forwards.

2. Overview of the rented housing sector

The housing sector

2.1 In the UK, people live in one of three main types of home:

(i) owner occupied – those households who own their own home, either outright or with a mortgage.

- In 2021/22, 15.6 million households, representing 64% of all households in England, lived in owner occupied properties.³
- In 2021 the proportion was 62% in Scotland,⁴
- 66.4% in Wales⁵ and
- 65.2% in Northern Ireland.⁶

(ii) the Private Rental Sector (PRS) - those households living in property owned by other individuals or corporately.

- In 2021/22 around 4.6 million households, representing 19% of all households in England lived in the PRS.⁷
- In 2021 the proportion was 15% in Scotland,⁸
- 17% in Wales⁹ and
- 17.2% in Northern Ireland.¹⁰

(iii) social housing – those households living in property owned by local authorities and housing associations.

- In 2021/22 around 4.0 million households, representing 17% of all households in England, lived in social housing.¹¹

³ [English Housing Survey 2021 to 2022: headline report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/english-housing-survey-2021-to-2022-headline-report)

⁴ see Tables to [Supporting documents - Scottish Household Survey 2021 - telephone survey: key findings - gov.scot \(www.gov.scot\)](https://www.gov.scot/supporting-documents/scottish-household-survey-2021-telephone-survey-key-findings)

⁵ [Housing in Wales \(Census 2021\) | GOV.WALES](https://gov.wales/housing-in-wales-census-2021)

⁶ [Census 2021 main statistics for Northern Ireland phase 2 statistical bulletin housing \(people in households\) \(nisra.gov.uk\)](https://www.nisra.gov.uk/statistics/census-2021-main-statistics-for-northern-ireland-phase-2-statistical-bulletin-housing-people-in-households)

⁷ [English Housing Survey 2021 to 2022: headline report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/english-housing-survey-2021-to-2022-headline-report)

⁸ see Tables to [Supporting documents - Scottish Household Survey 2021 - telephone survey: key findings - gov.scot \(www.gov.scot\)](https://www.gov.scot/supporting-documents/scottish-household-survey-2021-telephone-survey-key-findings)

⁹ [Housing in Wales \(Census 2021\) | GOV.WALES](https://gov.wales/housing-in-wales-census-2021)

¹⁰ [Census 2021 main statistics for Northern Ireland phase 2 statistical bulletin housing \(people in households\) \(nisra.gov.uk\)](https://www.nisra.gov.uk/statistics/census-2021-main-statistics-for-northern-ireland-phase-2-statistical-bulletin-housing-people-in-households)

¹¹ [English Housing Survey 2021 to 2022: headline report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/english-housing-survey-2021-to-2022-headline-report)

- In 2021 the percentage was 22% in Scotland,¹²
- 16.5% in Wales¹³ and
- 15.3%¹⁴ in Northern Ireland.

- 2.2 Within these three broad types, there are a number of sub-categories, such as student housing and retirement homes.
- 2.3 The proportion of households in each of the three categories has changed significantly over time. Exact comparisons between the different UK nations are difficult to make as the available data for each nation comes from different sources. However, it is clear that the relative size of the PRS has grown significantly over time in each of the nations of the UK.
- 2.4 According to the English Housing Survey,¹⁵ in the 1980s and 1990s the proportion of households in England in private rented accommodation was steady at around 9% to 11%. It roughly doubled between 2000 and 2013-14 to around 19% and has been fairly stable since then.
- 2.5 Statistics published by the Scottish Government show that in Scotland the proportion of households in the private rented sector increased from 5% in 1999 to 15% in 2016, and fell slightly to 14% in 2019.¹⁶ In Wales, Census data shows that the share of households in the PRS rose from 7.4% in 2001¹⁷ to 17.1% in 2021.¹⁸ In Northern Ireland, Census data shows that the percentage of households privately renting nearly doubled over forty years, from 9.1% of households in 1981 to 17.2% in 2021.¹⁹
- 2.6 In contrast to this growth in the share of households in the PRS, the share of households in social housing has fallen significantly. In England, the social sector housed around 30% of households in 1980, compared to 17% in 2021-22, with much of this fall happening between 1980 and 2000.²⁰ In Scotland, the proportion in social housing fell from 32% in 1999 to 24% in 2019.²¹ In Northern Ireland, the proportion of households in social housing fell from 40.2% in 1980 to 21.2% in 2001, and further declined to 14.9% in 2011 but was little changed between then and 2021 when it was 15.3%. In Wales the proportion in social housing fell from 21.3% in 2001 to 16.5% in 2021.²² The composition of social housing has also

¹² see Tables to [Supporting documents - Scottish Household Survey 2021 - telephone survey: key findings - gov.scot](https://www.gov.scot/supporting-documents-scottish-household-survey-2021-telephone-survey-key-findings) (www.gov.scot)

¹³ [Housing in Wales \(Census 2001 and 2021\) | GOV.WALES](https://gov.wales/housing-in-wales-census-2001-and-2021)

¹⁴ [Census 2021 main statistics for Northern Ireland phase 2 statistical bulletin housing \(people in households\)](https://www.nisra.gov.uk/census-2021-main-statistics-for-northern-ireland-phase-2-statistical-bulletin-housing-people-in-households) ([nisra.gov.uk](https://www.nisra.gov.uk))

¹⁵ [English Housing Survey 2021 to 2022: headline report - GOV.UK](https://www.gov.uk/english-housing-survey-2021-to-2022-headline-report) (www.gov.uk)

¹⁶ [Scottish Household Survey 2019 - Summary Report \(theapsgroup.scot\)](https://www.theapsgroup.scot/scottish-household-survey-2019-summary-report)

¹⁷ [Dataset Selection - Query - Nomis - Official Census and Labour Market Statistics \(nomisweb.co.uk\)](https://www.nomisweb.co.uk/dataset-selection-query-nomis-official-census-and-labour-market-statistics)

¹⁸ [Dataset Selection - Query - Nomis - Official Census and Labour Market Statistics \(nomisweb.co.uk\)](https://www.nomisweb.co.uk/dataset-selection-query-nomis-official-census-and-labour-market-statistics)

¹⁹ [Census 2021 main statistics for Northern Ireland phase 2 statistical bulletin housing \(people in households\)](https://www.nisra.gov.uk/census-2021-main-statistics-for-northern-ireland-phase-2-statistical-bulletin-housing-people-in-households) ([nisra.gov.uk](https://www.nisra.gov.uk))

²⁰ [English Housing Survey 2021 to 2022: headline report - GOV.UK](https://www.gov.uk/english-housing-survey-2021-to-2022-headline-report) (www.gov.uk)

²¹ [Scottish Household Survey 2019 - Summary Report \(theapsgroup.scot\)](https://www.theapsgroup.scot/scottish-household-survey-2019-summary-report)

²² [Housing in Wales \(Census 2021\) | GOV.WALES](https://gov.wales/housing-in-wales-census-2021),

changed over time, with more households renting from Housing Associations and fewer in Local Authority owned accommodation.

- 2.7 The share of households in owner occupied accommodation increased towards the end of the twentieth century but has declined more recently. In England the rate of owner occupation peaked in 2003 at around 71% of English households, and in 2021-2022, it represented around 64% of English households.²³ In Scotland the proportion rose from 61% in 1999 to 66% by 2009 but fell to 62% in 2019. In Wales the proportion of households in owner occupied accommodation fell from 67.8% in 2011 to 66.4% in 2021.²⁴ In Northern Ireland it rose from 49.4% in 1981 to 69.6% in 2001 and fell to 65.2% in 2021.²⁵
- 2.8 These changes in the size and share of the PRS and social housing sector mean that the PRS is having to support a wide variety of people and households. DLUHC notes that the PRS in England ‘contains a wide range of different sub-markets, serving a wide range of different types of households across all incomes, including an increasing number of families’ and it reported that in 2020-21, 30% of households in the private rented sector in England included dependent children.²⁶ A report from 2023 by the Institute for Fiscal Studies, which focussed on lower-income households, found that a ‘steadily growing fraction of low-income households are in the private rented sector, while the share in social housing has declined, as has (in more recent years) the share who own their own home. Younger generations of low-income individuals are now especially likely to be renting privately.’²⁷

Demand and supply in the rental sector

There are signs that housing markets are increasingly ‘tight’

- 2.9 We have been told repeatedly by stakeholders that there is a shortage of property to rent in many areas of the UK. In part this reflects broader trends in supply across the housing market. The supply of new-build housing in England is currently short of the government’s 300,000 annual target, and in Scotland and Wales, the volume of new homes built have remained below the levels delivered before the 2007-08 financial crisis.²⁸
- 2.10 Data for England suggests that the supply of rental properties has not kept pace with demand in recent years. Figure 1 below shows that the overall number of dwellings in England increased steadily between 2001 and 2022, from around 21.2

²³ See Section 1: Households Annex Tables [English Housing Survey 2021 to 2022: headline report - GOV.UK](#) ([www.gov.uk](#))

²⁴ [Housing in Wales \(Census 2001 and 2021\) | GOV.WALES](#)

²⁵ [Census 2021 main statistics for Northern Ireland phase 2 statistical bulletin housing \(people in households\)](#) ([nisra.gov.uk](#))

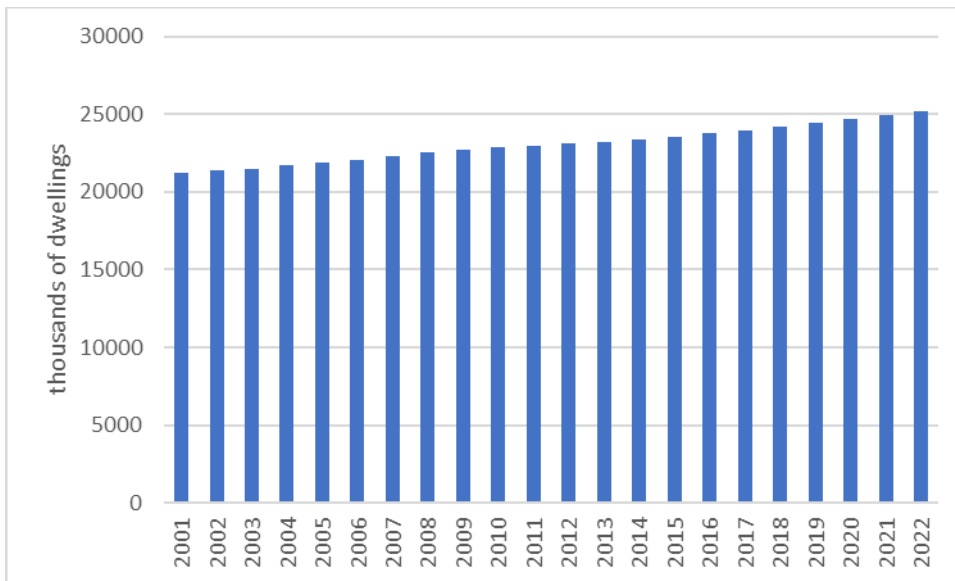
²⁶ ‘The English Private Landlord Survey – Main Report’ May 2022, DLUHC [English Private Landlord Survey 2021: Main report](#) ([publishing.service.gov.uk](#))

²⁷ [Living standards, poverty and inequality in the UK: 2023 | Institute for Fiscal Studies \(ifs.org.uk\)](#)

²⁸ [https://www.gov.uk/government/statistical-data-sets/live-tables-on-net-supply-of-housing](#); [Housing statistics quarterly update: new housebuilding and affordable housing supply - gov.scot](#) ([www.gov.scot](#)) [New dwellings completed by period and tenure](#) ([gov.wales](#)).

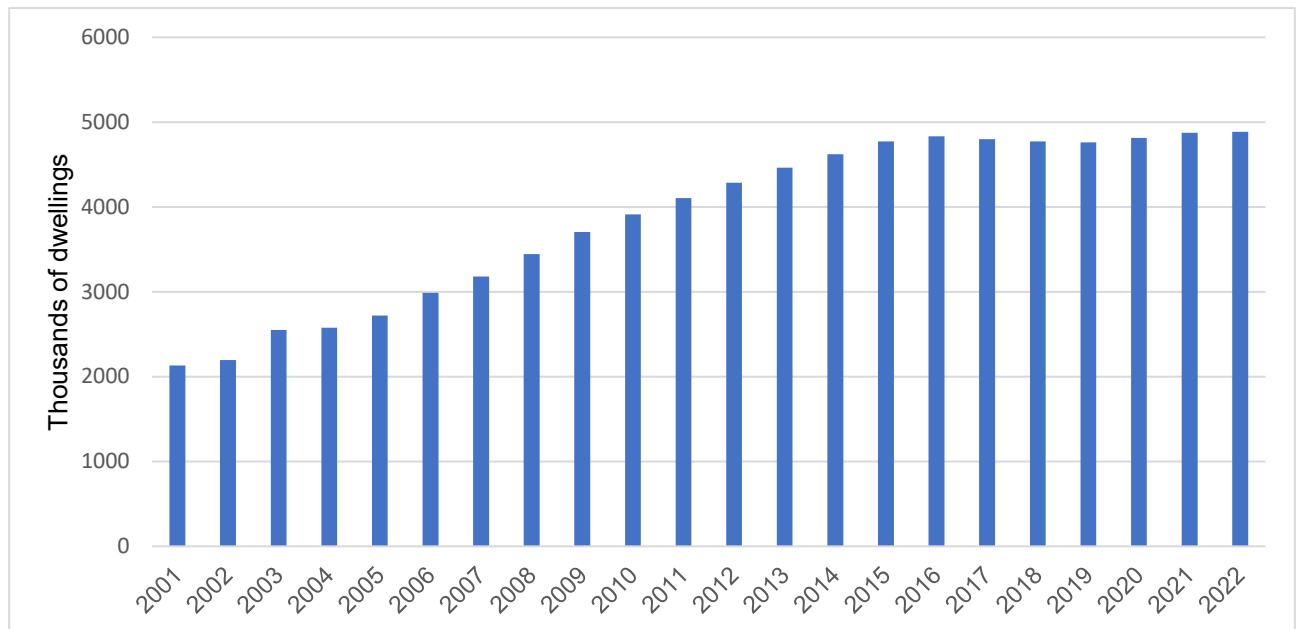
million in 2001 to around 25.2 million in 2022.²⁹ However, Figure 2 shows that the growth of rental properties tailed off from 2015.

Figure 1: Annual estimates of total dwelling stock in England, 2001-2022



Source: DLUHC [Dwelling Stock Estimates, England: 31 March 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/dwelling-stock-estimates-england-31-march-2022)

Figure 2: Supply of Private Rented Dwellings in England 2001 to 2022



Source: DLUHC [Dwelling Stock Estimates, England: 31 March 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/dwelling-stock-estimates-england-31-march-2022)

2.11 There are signs that the PRS is ‘over-heating’ with demand outstripping supply. For example, a Royal Institute of Chartered Surveyors (RICS) survey of its members found that the majority of respondents saw an increase in tenant

²⁹ [Dwelling Stock Estimates, England: 31 March 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/dwelling-stock-estimates-england-31-march-2022)

demand in May 2023, while the majority of respondents also saw a decline in new landlord instructions.³⁰

- 2.12 This has led to increasing rents. The Office for National Statistics recently released data suggesting that ‘private rental prices paid by tenants in the UK rose by 5.1% in the 12 months to June 2023, up from 5.0% in the 12 months to May 2023’.³¹ An article by Which? indicated that the average rent for newly let properties (outside London) had increased by 9.5% in May 2023 compared with a year previously.³² Another indication of relatively high demand may be the length of time that properties remain vacant in the PRS. This varies across regions with most having been in the range of 15-25 days since May 2001. Currently properties in London have the shortest average unlet period across the regions, with an average of 12 days in March 2023, down from 17 days in May 2021.³³

Why might supply of property in the PRS not adequately match demand?

- 2.13 We have been told that in recent years a number of tax and regulatory changes have had negative effects on some landlords. These changes include the introduction of a 3% stamp duty surcharge for existing homeowners who purchase an additional property³⁴ and Section 24 tax changes, phased in between 2017 and 2020.³⁵ The Section 24 changes included the removal of tax relief available to landlords for finance costs (such as mortgage interest and fees), which were previously deductible from the taxable portion of a landlord’s rental income. These tax changes have reduced post tax income for many landlords who buy-to-let.³⁶
- 2.14 Rising interest rates may also have had a negative impact on buy-to-let landlords. In August 2023, the Bank of England increased the base rate of interest to 5.25%, the fourteenth consecutive rise since October 2021. This has led to increases in the interest rates being offered by lenders on all types of mortgage products, including those for buy-to-let landlords. Many mortgage products have been withdrawn and there may have been a tightening of affordability criteria for prospective and existing buy-to-let landlords.
- 2.15 We have been told by various stakeholders representing landlords that other concerns may be leading landlords to exit the rental market or deterring entry. The Renters (Reform) Bill proposes to address a range of important issues to protect tenants and raise the quality of their experience within the PRS. It includes a ban on no-fault evictions, and a requirement on landlords to give at least two months’ notice to increase rents. These changes may increase landlords’ risk by reducing their flexibility to manage their properties which may make some reluctant to rent out property (causing availability to shrink further), and potentially make it harder

³⁰ UK Residential Market Survey, RICS [UK Residential Market Survey \(rics.org\)](https://www.rics.org).

³¹ ONS, released 19 July 2023, ONS website, statistical bulletin, [Index of Private Housing Rental Prices](https://www.ons.gov.uk/housing/rental-prices), UK: June 2023. Note classed as ‘experimental’ so maybe revised.

³² [‘What’s happening to the cost of renting?’](https://www.which.co.uk/news/article/491114), Which?, 15 June 2023.

³³ [Average void periods for landlords in the private rental sector in the United Kingdom \(UK\) from January 2020 to March 2023](https://www.statista.com/statistics/1111111/average-void-periods-for-landlords-in-the-private-rental-sector-in-the-united-kingdom-uk-from-january-2020-to-march-2023/), by region, Statista Research Department, 4 May 2023.

³⁴ [Stamp Duty Land Tax: Residential property rates - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/stamp-duty-land-tax-residential-property-rates)

³⁵ [Restricting finance cost relief for individual landlords - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/restricting-finance-cost-relief-for-individual-landlords)

³⁶ See for example: [‘Has the door closed on buy-to-let?’](https://www.hamptons.co.uk/news/has-the-door-closed-on-buy-to-let/), Hamptons, first published in Spring 2021.

for them to sell their property. We are aware that similar concerns were raised by the Private Tenancies Act (Northern Ireland) 2022.

- 2.16 The government has also consulted on proposals to require landlords in England to ensure that their properties achieve an Energy Performance Certificate (EPC) rating of at least 'C' by 2028. This may mean higher costs are incurred by some landlords with older and less energy efficient properties. The Renters (Reform) Bill has also signalled the potential introduction of higher standards for PRS property in the future via the extension of the Decent Home Standard (currently used in social housing) which could also impose costs on some landlords.
- 2.17 These changes, although beneficial for many tenants, involve imposing more costs and risk on many landlords. Perceived higher regulation and lower returns may be the background for subdued supply, as well as being part of the rationale for higher rents.
- 2.18 At the margins there may also now be other options for landlords aside from selling, such as a move into the short-term letting market (via platforms such as Airbnb). The latter may be an attractive option in tourist areas and some academic studies³⁷ suggest that short-term letting options may have had some negative effects on longer term rental markets.

Numbers of landlords and letting agents

- 2.19 The PRS in England is characterised by a large number of individual landlords, rather than corporations. The English Private Landlord Survey (EPLS)³⁸ suggests that in 2021, 94% of all landlords were private individuals. Further, the EPLS suggests that 43% of landlords owned one rental property (representing 20% of tenancies) and 39% owned between two and four rental properties (representing 31% of tenancies).
- 2.20 According to official data from HMRC,³⁹ 2.74 million unincorporated landlords declared income from rented property in 2020-2021. Of these, 2.71 million (99%) were individuals who declared property income as part of their self-assessment tax return. HMRC also notes that the total income from UK property decreased by 11% between 2016/2017 and 2020/2021, and that this was 'driven by a decrease in both average property income and the number of individuals reporting property income in 2020 to 2021, which fell to 2.74 million in 2020/2021 from 2.79 million in 2019/2020'.⁴⁰

³⁷For instance, [Airbnb and its potential impact on the London housing market - Zahratu Shabrina, Elsa Arcaute, Michael Batty, 2022 \(sagepub.com\)](#).

³⁸ EPLS is a national survey of landlords and letting agents who own/and or manage, privately rented property in England. It is an online survey with a responding sample of over 9000 landlords, all of whom are registered with one of the three government-backed Tenancy Deposit Protection (TDP) schemes. TDP schemes are estimated to cover between 59% to 77% of households in the PRS. 'The English Private Landlord Survey – Main Report' May 2022, DLUHC [English Private Landlord Survey 2021: Main report \(publishing.service.gov.uk\)](#)

³⁹ [Property rental income statistics: 2022 - GOV.UK \(www.gov.uk\)](#).

⁴⁰ [Property rental income statistics: 2022 - GOV.UK \(www.gov.uk\)](#)

2.21 There is little official data as regards the number of letting agencies in operation in the UK. The UK Association of Letting Agents⁴¹ is a professional member owned body which aims to represent the interests of letting and managing agencies within the UK. Its Annual Report in 2022 states that it had 1206 members. Another body, Property Mark,⁴² has a larger membership base (its website suggests over 17,500 members) but these appear to cover not only letting agents but agents who buy and sell property, as well as those involved in property rental.

⁴¹ [About UKALA | UK Association of Letting Agents | UKALA.](#)

⁴² [About us | Propertymark.](#)

3. Legal and policy context

Consumer protection: legal framework and enforcement

- 3.1 All businesses operating in the UK must comply with consumer protection law. The main consumer protection legislation relevant to the CMA's work in the PRS is outlined here.
- 3.2 The **Consumer Rights Act 2015** requires businesses to provide services with reasonable care and skill and protects consumers from unfair contract terms and notices.
- 3.3 The **Consumer Protection from Unfair Trading Regulations 2008 (CPRs)** apply to commercial practices before, during and after a contract is made. The CPRs contain, for example:
- (a) specific prohibitions on misleading actions (regulation 5), misleading omissions (regulation 6) and aggressive practices (regulation 7). Practices may be in breach of these provisions if it results in the average consumer taking (or being likely to take) a different transactional decision; and
 - (b) a general prohibition against practices contrary to the requirements of professional diligence⁴³ where, as the result of any such practices, the average consumer's ability to make an informed decision is (or is likely to be) appreciably impaired and therefore they take a different transactional decision (regulation 3).
- 3.4 Within the PRS, the following practices, when undertaken by a landlord or letting agent acting as a trader, may amount to a breach of consumer protection law. For example:
- (a) terms in tenancy agreements may be **unfair** if they purport to make the tenant liable for repairs that it is the landlord's legal responsibility to carry out;
 - (b) it may be a **misleading action** to provide tenants with inaccurate information about their legal rights in relation to the tenancy;
 - (c) it may be a **misleading omission** to fail to mention that they receive a commission payment or other benefit for passing work to a third party;
 - (d) it may be an **aggressive practice** to use harassment, coercion or undue influence to convince a tenant to agree to certain contract terms, products or services; and
 - (e) it may be a breach of **professional diligence** to fail to comply with recognised standards, such as those set out in guidance or codes of practice, for landlords or letting agents.

⁴³ That is 'the standard of special skill and care which a trader may reasonably be expected to exercise towards consumers which is commensurate with either: (a) honest market practice in the trader's field of activity, or (b) the general principle of good faith in the trader's field of activity' (regulation 2).

3.5 As well as the CMA, there are a number of other bodies which enforce consumer protection law to ensure businesses act appropriately and treat consumers fairly, including national and local Trading Standards. When enacted, the Digital Markets, Competition and Consumers Bill⁴⁴ will restate and update the CPRs with the core objective of protecting consumers from unfair commercial practices. It also proposes greater powers for the CMA including the power to impose fines on businesses that break the law and to order them to compensate affected consumers.⁴⁵

Wider legislative framework

3.6 In addition to the consumer protection laws outlined above, there are several different legislative provisions across England and Wales, Scotland and Northern Ireland that offer protections to tenants.⁴⁶

3.7 In **England** these are:

(a) a requirement that a rented dwelling is fit for human habitation;⁴⁷

(b) a requirement that tenancy deposits be dealt with in accordance with an authorised tenancy deposit scheme;⁴⁸

(c) a restriction on the fees which may be charged to tenants (for example banning fees to view the property, set up the tenancy and leave the property) and a cap on the size of tenancy deposit that can be requested (not more than five weeks' rent if the annual rent is less than £50,000 or not more than six weeks' rent if the annual rent is £50,000 or more);⁴⁹

(d) a series of obligations on landlords to provide the tenant with information including the 'How to rent' guide, information about the deposit protection scheme used to protect the tenancy deposit, a gas safety certificate and the property's energy performance certificate;⁵⁰

(e) a requirement that letting and managing agents become a member of one of two government approved redress schemes (either that run by the Property Ombudsman or by the Property Redress Scheme), which allows tenants to raise

⁴⁴ See [Digital Markets, Competition and Consumers Bill - Parliamentary Bills - UK Parliament](#).

⁴⁵ The Digital Markets, Competition and Consumers Bill will also update the CMA's powers and duties in respect of promoting competition within digital markets and when investigating and enforcing competition law.

⁴⁶ This section does not summarise all relevant laws applicable to landlords and tenants and the requirements set out in this section do not necessarily apply to all types of tenancy agreements and occupation contracts.

⁴⁷ Landlord and Tenant Act 1985, section 9A.

⁴⁸ Housing Act 2004, section 213.

⁴⁹ Tenant Fees Act 2019, section 3 and Schedule 1. See also [How to rent - the checklist for renting in England - March 2023 \(publishing.service.gov.uk\)](#).

⁵⁰ The Assured Shorthold Tenancy Notices and Prescribed Requirements (England) Regulations 2015/1646, regulation 3; Housing Act 2004, section 213 and Housing (Tenancy Deposits) (Prescribed Information) Order 2007/797, article 2; Gas Safety (Installation and Use) Regulations 1998/2451, regulation 36 and Energy Performance of Buildings (England and Wales) Regulations 2012/3118, regulation 6.

complaints about the actions of letting and managing agents and, potentially, secure compensation;⁵¹ and

(f) restrictions on how, and when, a landlord can serve a tenant with a notice for possession.⁵²

3.8 In **Wales** these are:

(a) a requirement for landlords to be licensed, which obliges them to undertake approved training, pass a fit and proper person assessment and comply with a Code of Practice;⁵³

(b) a requirement for agents to be licensed, which obliges them to undertake approved training, pass a fit and proper person assessment, comply with a Code of Practice and be a member of a consumer redress scheme;⁵⁴

(c) a requirement that rented dwellings are fit for human habitation;⁵⁵

(d) a requirement that deposits be dealt with in accordance with an authorised deposit scheme;⁵⁶

(e) a list of permitted fees, which prohibits the charging of, for example, fees to view the property, set up the tenancy and leave the property;⁵⁷

(f) a series of obligations on landlords to provide the tenant with information including information about the authorised deposit scheme used to protect the deposit, a gas safety certificate and the property's energy performance certificate;⁵⁸ and

(g) restrictions on how, and when, a landlord can serve a tenant with a notice for possession.⁵⁹

3.9 In **Scotland** these are:

(a) a requirement that a private landlord register with their local authority to demonstrate that they are a fit and proper person to let houses;⁶⁰

(b) a requirement that letting agents register, which includes an assessment of whether they are a fit and proper person, and that they comply with a Code of

⁵¹ Enterprise and Regulatory Reform Act 2013, sections 83 and 84 and Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014/2359.

⁵² Housing Act 1988, sections 8 and 21.

⁵³ Housing (Wales) Act 2014, Part 1 and Code of Practice for Landlords and Agents licensed under Part 1 of the Housing (Wales) Act 2014 (Appointed Date) Order 2015/1932. See also [Code of practice: Rent Smart Wales \(gov.wales\)](#).

⁵⁴ Housing (Wales) Act 2014, Part 1 and Code of Practice for Landlords and Agents licensed under Part 1 of the Housing (Wales) Act 2014 (Appointed Date) Order 2015/1932. See also [Code of practice: Rent Smart Wales \(gov.wales\)](#).

⁵⁵ Renting Homes (Wales) Act 2016, section 91.

⁵⁶ Renting Homes (Wales) Act 2016, section 45.

⁵⁷ Renting Homes (Fees etc) (Wales) Act 2019, section 4 and schedule 1.

⁵⁸ Renting Homes (Fees etc) (Wales) Act 2019, schedule 2; Gas Safety (Installation and Use) Regulations 1998, regulation 36 and Energy Performance of Buildings (England and Wales) Regulations 2012/3118, regulation 6.

⁵⁹ Renting Homes (Wales) Act 2016, Part 9.

⁶⁰ Antisocial Behaviour etc. (Scotland) Act 2004, Part 8.

Practice, a breach of which can be enforced through the First-tier Tribunal for Scotland (Housing and Property Chamber);⁶¹

(c) a requirement that rented houses are wind and watertight and in all other respects are reasonably fit for human habitation;⁶²

(d) a requirement that tenancy deposits be dealt with in accordance with an authorised tenancy deposit scheme;⁶³

(e) a prohibition on charging a 'premium' (defined as 'any fine, sum or pecuniary consideration, other than the rent, and includes any service or administration fee or charge') in relation to a tenancy and a cap on the size of deposit payable under the tenancy (not more than two months' rent);⁶⁴

(f) a series of obligations on landlords to provide the tenant with information, including a tenant information pack, information about the deposit protection scheme used to protect the tenancy deposit, a copy of any gas safety record and the property's energy performance certificate;⁶⁵

(g) restrictions on how and when a landlord can increase rent as well as a temporary rent cap in place until at least 30 September 2023, which prohibits landlords from raising rent by more than 3%;⁶⁶ and

(h) restrictions on how, and when, a landlord can serve a tenant with a notice for possession.⁶⁷

3.10 In **Northern Ireland** these are:

(a) a requirement that landlords register before they let a property;⁶⁸

(b) a requirement that a rented house is fit for human habitation;⁶⁹

(c) a requirement that tenancy deposits be dealt with in accordance with an authorised tenancy deposit scheme;⁷⁰

(d) a prohibition on a landlord requiring more than one month's rent as a tenancy deposit;⁷¹

⁶¹ Housing (Scotland) Act 2014, Part 4 and the Letting Agent Code of Practice (Scotland) Regulations 2016.

⁶² Housing (Scotland) Act 2006, section 13(1)(a).

⁶³ Housing (Scotland) Act 2006, Part 4 and Tenancy Deposit Schemes (Scotland) Regulations 2011/176, regulation 3.

⁶⁴ Rent (Scotland) Act 1984, sections 82 to 90, Housing (Scotland) Act 1988, section 27 and Private Housing (Tenancies) (Scotland) Act 2016, section 20.

⁶⁵ Tenant Information Packs (Assured Tenancies) (Scotland) Order 2013/20, article 2 and the schedule; Tenancy Deposit Schemes (Scotland) Regulations 2011/176, regulation 42; Gas Safety (Installation and Use) Regulations 1998, regulation 36 and Energy Performance of Buildings (Scotland) Regulations 2008/309, regulation 5.

⁶⁶ Private Housing (Tenancies) (Scotland) Act 2016, Part 4.

⁶⁷ See, for example, Housing (Scotland) Act 1988, section 18 and schedule 5.

⁶⁸ Private Tenancies (Northern Ireland) Order 2006/1459, article 65A and Landlord Registration Scheme Regulations (Northern Ireland) 2014/9, regulation 3.

⁶⁹ Housing (Northern Ireland) Order 1981, article 46.

⁷⁰ Private Tenancies (Northern Ireland) Order 2006/1459, articles 5A and 5B and the Tenancy Deposit Schemes Regulations (Northern Ireland) 2012/373.

⁷¹ Private Tenancies (Northern Ireland) Order 2006/1459, article 5ZC.

(e) a requirement that a landlord provide a tenant with a tenancy information notice, which gives them important information about their tenancy, including their legal rights;⁷² and

(f) restrictions on how, and when, a landlord can serve a tenant with a notice to quit.⁷³

- 3.11 Part 4 of the Equality Act 2010 prohibits discrimination in a range of matters related to housing against people on grounds of any of several protected characteristics, namely disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

⁷² Private Tenancies (Northern Ireland) Order 2006/1459, article 4A and the Tenancy Information Regulation (Northern Ireland) 2023.

⁷³ Private Tenancies (Northern Ireland) Order 2006/1459, article 14.

4. The consumer experience: key issues currently faced by consumers in renting accommodation

Introduction

- 4.1 This section provides an overview of what we have been told are the most pressing issues that consumers currently face when renting a property. We should make it clear that we have been told consistently that the majority of landlords and tenants enjoy good relationships. However, we have also been told that many consumers do face problems. We note below the key problems that we have been told about at the following stages of the rental experience:
- i. pre-tenancy;
 - ii. during a tenancy;
 - iii. at the end of a tenancy;
 - iv. after a tenancy has finished.
- 4.2 As noted above, we were told consistently that there is a shortage of property throughout all areas of the UK, and that the shortage is a significant problem which has tilted the balance between tenants and landlords in favour of landlords. We have also been told that the negative effects of this imbalance are felt particularly acutely by those consumers on lower incomes or with additional housing needs such as those with a disability who are most likely to struggle to pay more. The two main difficulties are that there are too few properties on the market and that rents are high and likely to increase.
- 4.3 We were told that rent increases disproportionately affect those on lower incomes (and those in receipt of benefits) as these were the people most likely already to be in arrears or forgoing other expenditure to meet their rental payments. This was recently illustrated in the Office for National Statistics' (ONS's) statistical bulletin: 'Private rental affordability, England, Wales and Northern Ireland: 2021', which examined lower and higher levels of rent and incomes using quartiles. The ONS compared the lower quartile income (the income that 25% of households are at or below) with the lower quartile rent (the rent that 25% of rental properties are at or below). Using "30% of income" as an affordability threshold, the ONS found that at a country level in England, Wales, and Northern Ireland, high, average, and low rents were:
- all above the ONS's affordability threshold and thus unaffordable for lower income households;
 - all affordable for average-income households in Wales and Northern Ireland, while in England only average and low rents were affordable for average-income households;

- all affordable for high-income households.⁷⁴

4.4 Not all the problems we have been told about in the sector are the consequence of shortage of supply, or of consequential levels of rent. For example, problems in vindicating rights and lack of transparency have other causes. However shortage of supply is broadly considered a serious problem in its own right (as well as a cause of consequential difficulties - many of the concerns expressed to us and noted below reflect problems caused by non-compliance with existing obligations, causing problems for tenants and damaging the reputation of responsible landlords and damaging the reputation of the sector as a whole).

Difficulties prior to entering a tenancy

4.5 Shortage of supply means that consumers often find that the first step towards renting - finding a suitable property at an affordable rent - is the hardest. But finding a property is not the only problem consumers may face before they move in. In addition to their rent, consumers will normally pay a deposit at the start of a tenancy which, despite caps introduced in England, Scotland and Northern Ireland,⁷⁵ can be a significant burden, particularly for tenants waiting for the return of a deposit from a former landlord. Recognising this difficulty, one alternative to a traditional deposit that has developed, is a deposit replacement insurance or guarantee through a private company, commonly known as a “zero-deposit scheme”. These schemes may not require a large payment from a consumer at the beginning of a tenancy but will normally require an up-front payment typically followed by further regular charges during the tenancy. Zero-deposit schemes have become increasingly used by landlords and letting agents, and we have heard a number of concerns about their operation which we set out below.

4.6 Some consumers may also be asked to provide a guarantor not only for their rent and other obligations under a lease but, where a property is in multiple occupation, may be asked to provide a guarantor for the obligations of their fellow tenants who may well be people with whom they have no connection.

Concerns about ‘zero-deposit’ schemes

4.7 Zero-deposit schemes⁷⁶ allow consumers to pay an upfront and/or monthly fee to a scheme provider in lieu of an upfront deposit to a landlord at the start of their tenancy. Zero-deposit schemes are currently unregulated, and we were told that practices of concern relating to these schemes include:

⁷⁴ ‘[Private rental affordability, England, Wales and Northern Ireland: 2021](#)’ Office for National Statistics (ONS), released 19 December 2022, ONS website, statistical bulletin.

⁷⁵ See paragraphs 3.7, 3.9 and 3.10 above. We have been told that caps on deposits in England under the Tenant Fees Act 2019 may in some circumstances have had the unintended consequence of preventing tenants from renting, particularly where they had no guarantor.

⁷⁶ Note that we are not here referring specifically to the activities of Global Property Ventures Limited which uses “Zero Deposit” as a trading name but generically to concerns expressed to us about the activities of some landlords and letting agents marketing the schemes known as zero-deposit schemes.

- (a) landlords or letting agents failing to provide adequate information about the schemes;
- (b) the use of pressure selling tactics, particularly by letting agents, to get tenants to use them; and
- (c) undisclosed commissions.

These practices could all prevent consumers from being properly informed about their potential liabilities under the schemes when deciding whether to sign up and mean they can face unexpected (and potentially unfair) costs later on.

- 4.8 Whilst zero-deposit schemes can be beneficial for some consumers, reducing the need to pay what is often a month's rent upfront, they can increase the overall cost of renting over the lifetime of a tenancy. This is because at the end of the tenancy (i) the scheme will not return any of the fees paid by the tenant (unlike a typical deposit) and (ii) the tenant remains liable to pay for costs (damages and repairs) which would otherwise have been paid from the deposit.

Lack of information available to consumers about landlords and properties

- 4.9 We were told that a major issue for consumers before they begin a tenancy is lack of transparency regarding the property they hope to rent, their potential future landlord and the letting and managing agents they will be required to deal with. This lack of information makes it very difficult for consumers to make a fully informed choice before agreeing to rent a property that is going to be their home, and a major expense, for what is on average a period of more than four years.⁷⁷
- 4.10 There have been developments which, to some degree, address this information deficit. These include public landlord and property registers which allow consumers to identify information about the property and landlord such as those introduced in Scotland, Wales and Northern Ireland, and proposals in the Renters (Reform) Bill to introduce a similar register in England. We also heard about a review site, Homeviews, in the build-to-let sector which provides consumers with an opportunity to share their experiences. Beyond this however there are limited independent repositories of reviews that are accessible to consumers that illustrate the performance of their prospective landlord or managing agent, or the quality or standard of repair of the property itself, before they are required to sign a tenancy agreement.
- 4.11 We were told that the current reliance on the provision of a guide to renting (in England, this is 'How to rent: the checklist for renting in England'⁷⁸) by a landlord to a tenant was flawed as there was scant evidence about whether landlords provided this information and, where such information was provided whether it was provided at a time which allowed consumers to make informed choices. This also

⁷⁷ [English Housing Survey 2021 to 2022: headline report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/103112/english-housing-survey-2021-to-2022-headline-report.pdf)

⁷⁸ [How to rent - the checklist for renting in England - March 2023 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/103112/how-to-rent-the-checklist-for-renting-in-england-march-2023.pdf). Landlords are under similar obligations to provide tenants with information on their rights in Scotland and Northern Ireland (see paragraphs 3.9 and 3.10 above).

means that tenants may be unaware of their rights if the landlord had failed to provide them with this information at the beginning of their tenancy.

- 4.12 One problem that could be assisted by greater transparency about landlords is that some landlords, who have as a matter of law granted tenancies, represent to tenants that they have been granted only licences.⁷⁹ This problem, often termed “sham licensing” is a particular concern where property is let on a ‘per room’ basis. We heard that these licences often purport to allow the landlord and/or letting agent to move the tenant to another room with little or no notice given to the tenant. They may also purport to allow a tenant’s belongings to be sold by the landlord or agent if payment of rent occurs a few days late and sometimes include provisions that any legal costs incurred must be covered by the tenant in the event of a dispute.
- 4.13 This practice is likely to have a disproportionate effect on vulnerable consumers, including recent arrivals to the UK such as overseas students and other migrants, some of whom may have a limited understanding of English.
- 4.14 Although several local authorities have successfully taken action against landlords for this malpractice, we understand that it remains a problem but we do not have data to indicate its extent or distribution.

The potential for discrimination by landlords and letting agents

- 4.15 Landlords are concerned to let to responsible and solvent tenants who will look after properties that are often a landlord’s retirement investment. However we have been told that the process by which landlords select tenants can lead to unfair and sometimes unlawful discrimination.
- 4.16 We were told that there is a risk of direct discrimination, with landlords automatically ruling out a class of people as tenants of a property because for example they are in receipt of benefits, have children or pets,⁸⁰ or because they have mental health issues or specific needs relating to a disability. Some such discrimination may be unlawful, because it discriminates against people with protected characteristics under the Equality Act 2010 and s75 of the Northern Ireland Act 1998. We are also concerned that some discrimination, for example against families, while it may not directly engage with a protected characteristic, may indirectly discriminate against women.⁸¹
- 4.17 Concerns have also been expressed that requiring extensive guarantees may disadvantage those who are less well-off or who lack a network of support able to provide a guarantor, as too may an insistence on the payment of several months’

⁷⁹ A licence grants only a contractual right to use property whereas a tenancy creates an interest in property which is a more significant and secure right.

⁸⁰ In England the government is legislating to prevent blanket bans on tenant pets and, [as part of the Renters \(Reform\) Bill](#) (introduced to Parliament on 17 May 2023) has indicated its intention to make it illegal for landlords and agents to have blanket bans on renting to tenants in receipt of benefits and with children.

⁸¹ This could be similar to situations which occurred prior to discrimination against recipients of housing benefit being held unlawful. In a 2020 York County Court case the District Judge ruled that “Rejecting tenancy applications because the applicant is in receipt of housing benefit was unlawfully discriminating on the grounds of sex and disability”.

rent up-front. We heard that landlords are increasingly asking for significant advance payments of rent (for example payment of six or even 12 months' rent) and that letting agents or reference companies used by them may require consumers to provide a high-salaried guarantor. Landlords are of course properly concerned that tenants can pay the rent and otherwise comply with the terms of their lease. However terms requiring excessively large upfront payments may be unfair and where landlords take upfront deposits, these must be properly protected. Further, such practices are particularly challenging for those who lack the savings to be able to pay rent in advance, or who may not have a suitable guarantor. In the context of student accommodation such practices can also have an impact on social mobility if they hinder students from less affluent families from pursuing higher education.

- 4.18 Lengthy and potentially intrusive information requests of prospective tenants and their guarantors has also been raised with us as a problem. We were told that this information could potentially be used to discriminate against some consumers on the basis of their personal circumstances and specific characteristics.
- 4.19 The terms of some guarantees are also very wide. Guarantors of students' obligations are, where students live in properties in multiple occupation, sometimes required to guarantee not just the obligations of a particular tenant but those of all the tenants in circumstances where, as noted above, the tenants may have no connection with each other.

Difficulties during a tenancy

Problems for tenants who wish to raise concerns about a property to the landlord

- 4.20 A tenant's first step when problems arise with their property should be to contact their landlord or letting agent to raise the issue. Stakeholders told us that this can be difficult, with landlords and managing agents being sometimes hard to contact or unresponsive to requests.
- 4.21 We were told that tenants are also often reluctant to raise what are sometimes serious issues with landlords or managing agents due to their fear of antagonising them and increasing the risk that they could be evicted in retaliation.
- 4.22 One stakeholder told us that retaliatory evictions by landlords still take place on a significant scale, and that this practice was still a significant deterrent for consumers who wanted to raise legitimate issues about their tenancy but feared being evicted.⁸² Even leaving aside the problem of retaliatory eviction, and the Renters (Reform) Bill will make retaliatory eviction more difficult, it is obviously an uncomfortable position for tenants to be in if they have to take legal action against their landlord.

⁸² 'No fault' evictions are currently banned in Scotland and will be banned in England under the Renters (Reform) Bill (section 21 'no fault' evictions). In Wales, 'no fault' evictions require six months' notice to be provided by the landlord.

Delayed, substandard or incomplete repairs or failure to address maintenance issues

- 4.23 A report published by Citizens Advice in February 2023 found that 2.7 million people living in the PRS experience damp, mould or cold conditions, and that 61% of these have been waiting more than six months and 40% more than a year for these issues to be dealt with.⁸³ We have been told that some landlords use the need for repairs as leverage to charge tenants higher rent, saying that these would only happen if the tenant agreed to pay.
- 4.24 Of course, not all problems with the standard of property are caused by failures by landlords or their agents. We are told that there is often confusion between landlords and tenants as to where responsibility lies. Repairs can be complicated by tenants' actions (or inaction) or by tenants refusing to give landlords access to the property, which can mean that issues requiring only minor repairs at first can escalate to become larger and more costly to resolve.
- 4.25 One stakeholder told us it estimated that there are 600,000 properties in England alone which had a 'category 1' hazard.⁸⁴ This is supported by a Citizens Advice report which in 2015 found that 700,000 private rented households live in unsafe housing.⁸⁵ We were told an extension of the Decent Homes Standard could contribute to bringing such properties into compliance. This stakeholder also told us that there was a marked regional discrepancy in the geographical location of unsafe properties, with approximately 23% located in the North-West but only 8% in the South-East of England.
- 4.26 At present there is no decent homes standard for private rented accommodation, though we understand from its White Paper "A fairer private rented sector" (June 2022) that DLUHC intends to introduce one. We were told that in Scotland a similar set of standards, the 'Repairing Standards', applies to houses in the PRS and that this is likely soon to be followed by the introduction of a 'universal standard' which is not specifically for rented property and will be introduced for all properties.
- 4.27 In addition to our engagement with stakeholders, part of our research into the rented housing sector involved reviewing complaints submitted to consumer-focused bodies in each of the UK nations about the rented housing sector. These bodies were Citizens Advice in England and Wales, Advice Direct Scotland and Consumerline in Northern Ireland. (Whilst consumers can also register complaints through a variety of other channels, including directly with landlords and letting agents, these were not as readily available to us for our review during the initial period of stakeholder engagement. We therefore focused on those complaints received by the relevant consumer bodies for each UK nation.⁸⁶) The complaints

⁸³ '[Damp, cold and full of mould: The reality of housing in the private rented sector](#)' Citizens Advice, February 2023

⁸⁴ A category 1 hazard is a serious hazard which, under the [Housing Act 2004](#), requires local authorities to take action to address this.

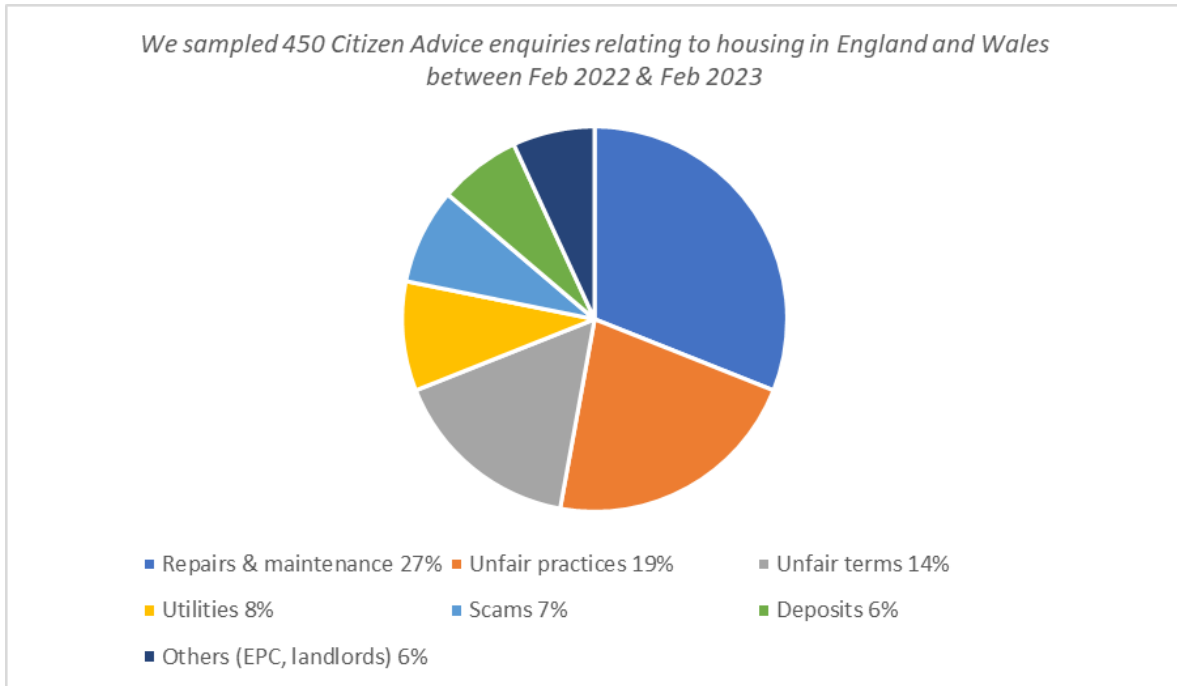
⁸⁵ '[Paying a high price for a faulty product](#)', Citizens Advice, published December 2015

⁸⁶ Each complaint database contained different approaches as to how those complaints were collected and categorised and the amount of information contained in each complaint. This can limit how the data can be interpreted and compared across each nation.

we saw - submitted during the 12-month period from February 2022 to February 2023 - indicate that the standard of repair of let property is a substantial issue.

Complaints in England and Wales

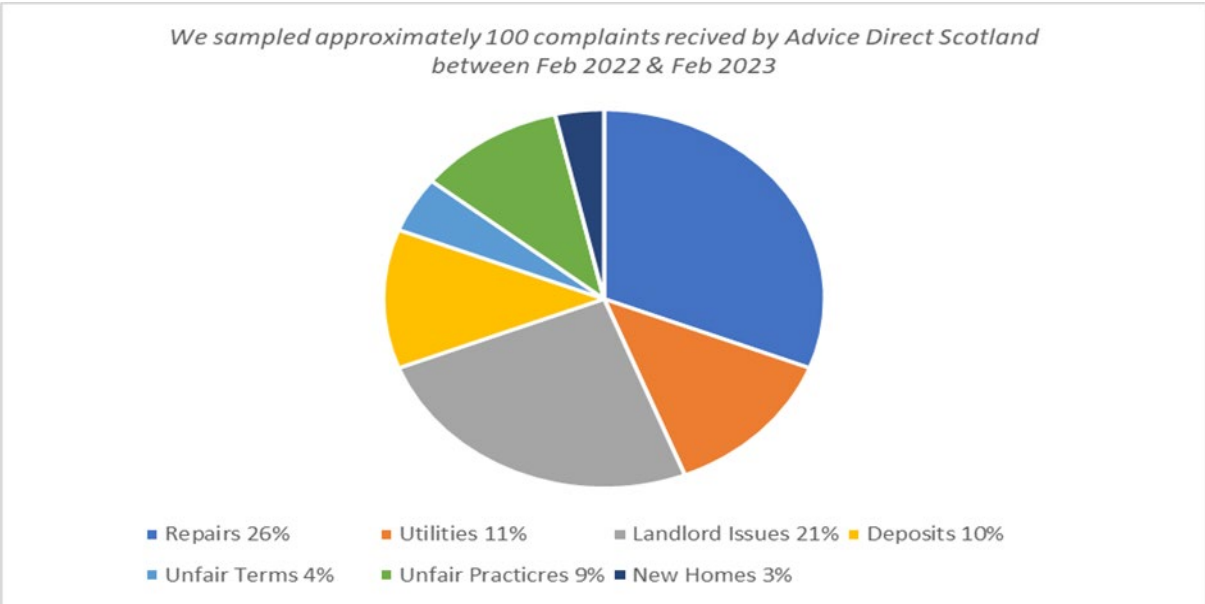
4.28 We reviewed approximately 450 complaints from the Citizens Advice database. The biggest area of concern was repairs and maintenance, with just over a quarter of the complaints relating to such issues. These included complaints about repairs not being carried out to a satisfactory standard, damp and mould not being effectively addressed, and insulation being of a poor standard.



Complaints in Scotland

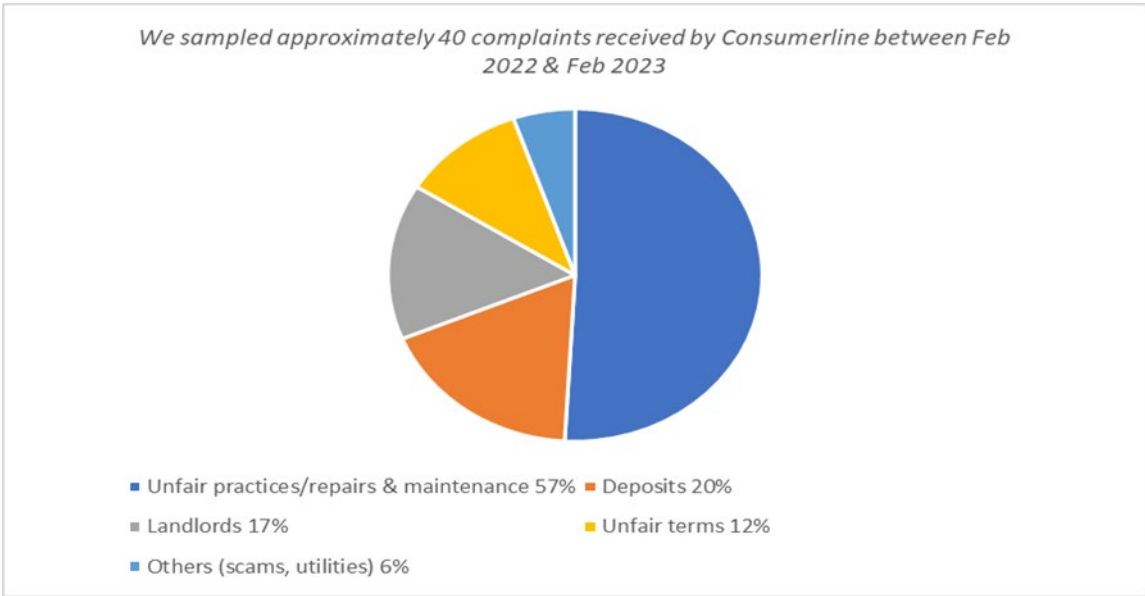
4.29 Our source for complaints relating to Scotland was Advice Direct Scotland. We reviewed approximately 100 complaints and, as with England and Wales, the most frequent cause for complaint was repairs and maintenance.

4.30 Other significant areas of complaint raised by consumers in Scotland related to deposits and rent arrears; problems communicating with unresponsive landlords; disputes with estate agents; and landlords engaging in illegal evictions and harassment.



Complaints in Northern Ireland

4.31 We reviewed around 40 relevant complaints from Consumerline relating to accommodation in Northern Ireland. The main areas of focus again were unfair practices including repair and maintenance issues. Other areas of significant concern were: difficulties faced by renters in getting their security deposits back; disputes with management companies; and check-out fees being charged to students when vacating their accommodation.



4.32 While the overall number of complaints is small, and unlikely to reflect the totality of issues that arise between landlords and tenants, it is nonetheless striking that across the UK there is consistency in the prominence of issues relating to repair and maintenance.

Inaccurate or missing Energy Performance Certificates (EPCs)

- 4.33 A problem noted by Citizens Advice, that of tenants living in cold conditions, may reflect an issue similar to repair and maintenance, which is energy efficiency investment and EPC certification. Anecdotal evidence provided by some of the stakeholders we consulted suggested there are currently approximately 250,000 properties in the UK without an EPC.
- 4.34 The sector expects that future standards will require rental properties to have an EPC level of C or above, as proposed in the 'Minimum Energy Performance of Buildings (No. 2 Bill)' which is currently in the UK Parliament.⁸⁷ Several stakeholders we spoke to expressed concern that the costs of improvements for every rental property to meet such a standard (if feasible at all) will likely have an adverse impact on the supply of housing stock in the PRS.
- 4.35 EPC ratings, unique identifiers and the relevant assessment and assessor, could be included in the Property Portal in the Renters (Reform) Bill and could lead to improved compliance. The government intends the Property Portal to be a 'one stop shop' for landlords - allowing them to access relevant guidance and to understand their obligations - whilst also increasing transparency about landlords and property for consumers during their property search, a process which is often time consuming and expensive.

Inadequate improvements to the energy efficiency of older housing stock

- 4.36 We heard concerns that there are too few incentives for landlords to invest in energy efficiency as tenants are usually responsible for paying energy bills. We were also told that there can be a large disparity between the costs of energy efficiency improvements (which we were told can exceed £14,000 for a typical rental property) and the costs which landlords are prepared to pay.
- 4.37 Some stakeholders expressed concern that there is a lack of available data regarding the existing housing stock properly to inform policy decisions about the measures needed to achieve a minimum standard of EPC level C or above across the PRS.
- 4.38 The maintenance of property in good repair is a matter of importance to landlords and tenants. The tenancy agreement, and the law in England and Wales, may require the tenant to keep the property in good repair, and this may impose a significant repairing responsibility on the tenant. However tenants do not always understand the extent of their legal responsibility. There are some features of let property that it is always the landlord's responsibility to fix (such the structure and exterior of the property and installations for the use of water, gas, electricity, heating, and sanitation).⁸⁸
- 4.39 It is very important that both parties (landlord and tenant), and also letting or managing agents where they are involved, understand their respective obligations and facilitate the maintenance of let property. We have been told repeatedly that it

⁸⁷ [Minimum Energy Performance of Buildings \(No. 2\) Bill - Parliamentary Bills - UK Parliament.](#)

⁸⁸ Landlord and Tenant Act 1985, section 11; Housing (Scotland) Act 2006, section 14; and Private Tenancies (Northern Ireland) Order 2006, articles 7 and 8.

is best if concerns about repair are resolved early without escalation and we were impressed by the work done by Housing Rights in Northern Ireland to bring landlords and tenants together to help both sides understand how situations had to be resolved. Housing Rights is a tenant facing organisation that from our engagement with landlords' representatives also has the respect of many landlords. The introduction of a decent homes standard in England and the plans for a new ombudsman, provided in the Renters (Reform) Bill, should also be important steps towards helping landlords and tenants ensure that property is maintained in a good condition.

Difficulties at the end of a tenancy

- 4.40 One of the key reforms of the Renters (Reform) Bill will be the abolition of section 21 of the Housing Act 1988, which allows landlords to make no-fault evictions. Although the proposal to abolish section 21 was welcomed by the tenants' groups we spoke to, some stakeholders tempered their enthusiasm with a warning that landlords might be able to use exemptions to the abolition of no-fault evictions, for example the ability to cite an urgent family need for the property, to evict a tenant then swiftly re-rent their property to another tenant willing to pay a higher rent.

Difficulties after a tenancy / between tenancies

- 4.41 The end of a consumer's tenancy will not necessarily mean the end of their relationship with their landlord or letting agent. Consumers may often need to engage with a landlord or letting agent beyond the end of their tenancy in order to receive a refund of their deposit or to discuss any deductions that have been made from it.

Late or withheld payment of deposits

- 4.42 Since 2007, landlords have been legally obliged to place tenancy deposits in a government-approved deposit protection scheme within 30 days of receipt. Landlords should return all of a tenant's deposit if the tenant has met the terms of their tenancy agreement, with deductions from the deposit permissible by the landlord to compensate for any damage caused to the property or furnishings beyond reasonable wear and tear, for cleaning costs, or for unpaid rent. Deposit protection schemes do a good job of safeguarding deposits though we were told they are used less in Northern Ireland by comparison with the rest of the UK.
- 4.43 However, many tenants need their deposit returned quickly so they can use it for their next tenancy. We were told that some landlords view deposits as additional income and that there can be a problem with landlords making unrealistic wear and tear deductions for items which are significantly past their expected lifespan. Equally, tenants frequently do not take steps to record the state of their property at the start of a tenancy and may find it difficult to provide evidence of the pre-existing state in the case of a dispute. We were also told that many tenants view it as inevitable that they will incur some form of charge at the end of their tenancy and that it is not uncommon for landlords to fail to return deposits within the required 10-day period following the end of the tenancy. Tenants may, we were

also told, be unaware of consequences of not following specific check-out procedures, which can sometimes be onerous, contravention of which (even inadvertent) can lead to further retentions.

- 4.44 Delays in responding to deposit requests or requiring consumers to go to court to challenge the deductions a landlord create additional barriers for consumers at a time when they need funds to move to a new property (moving costs, rent advance and a deposit for the new property). However we also heard about initiatives from businesses aiming to address these end of tenancy deposit issues which utilise information technology and improved processes to improve the quality of, and to speed up, the deposit return process.

Consumers with specific needs and other vulnerable groups

- 4.45 We were told that some consumers with financial difficulties who seek accommodation may have additional needs which make it even more difficult for them to find a suitable property. For example, some low earners may struggle with literacy or find it particularly challenging to meet the requirements of landlords and letting agents to rent a property and, when living in rented accommodation, lack a true understanding of their rights and obligations, leaving them vulnerable to unscrupulous landlords.
- 4.46 Such consumers may also face additional difficulties if they seek to challenge landlord or letting agents' behaviour, particularly if they require legal support to do so. Cases will not come to court immediately and we were told that there are parts of the country where consumers can find it very difficult to get legal aid which makes it extremely difficult for them to obtain affordable representation.
- 4.47 We have been consistently told that, notwithstanding the substantial corpus of statutes designed to assist tenants, it is hard, often very hard, for tenants to exert their rights against landlords. In England, the government has introduced legislation through the Renters (Reform) Bill establishing a new statutory Ombudsman which will allow tenants to seek redress without charge where their landlord has failed to deal with a complaint about their tenancy.

Lack of awareness of the required standards

- 4.48 Departing from the specific problems encountered by consumers we were told by some stakeholders that there is a general lack of understanding of housing standards amongst many landlords and tenants. In England landlords are only required to meet a minimum standard of safety, for example in relation to their gas and electrics. The Government has stated it will bring forward legislation to apply a Decent Homes Standard to the private rented sector at the earliest opportunity. We have noted above that problems about repairs are a significant component of complaints made to, for example, Citizens Advice in England.

Professional standards

4.49 Since policy in this area is devolved in Scotland, Wales and Northern Ireland, there are different registration and licensing requirements for landlords and/or letting agents in each jurisdiction. As set out in section 3:

- in England, letting agents (but not landlords) are required to register with a redress scheme which allows tenants to raise complaints about the actions of letting and managing agents and, potentially, secure compensation;⁸⁹
- in Wales, letting agents and landlords are required to be licensed, which obliges them to undertake approved training, pass a fit and proper person assessment, comply with a Code of Practice and, in the case of a letting agent, be a member of a consumer redress scheme;⁹⁰
- in Scotland, private landlords are required to register to demonstrate that they are a fit and proper person to let houses⁹¹ and letting agents are required to register to demonstrate that they are a fit and proper person and to comply with a Code of Practice;⁹² and
- in Northern Ireland, landlords are required to register before they let a property.⁹³

4.50 We have heard from a range of stakeholders that, where there is an absence of 'professional standards' within the industry, this can make it very easy for almost anyone to enter the market without restrictions. We heard from stakeholders about examples of landlords and letting agents operating shell companies only to dissolve those companies when issues are raised or enforcement action is taken, before establishing a similar company shortly afterwards. It was generally felt these landlords and letting agents are a small minority of businesses operating in the sector, but that their actions gave the sector a bad reputation.

4.51 We have also heard that, even where landlords or letting agents are required to comply with a Code of Practice, there is little to no ongoing monitoring of compliance or their fitness to remain on the register or licensed. As a result, any enforcement is largely, or entirely, through tenants notifying potential breaches. Since this requires tenants to have an understanding of the obligations contained in such a Code of Practice, and reporting potentially places tenants at risk of retaliation, there may be concerns about the extent to which enforcement is sufficient to raise standards.

⁸⁹ Enterprise and Regulatory Reform Act 2013, sections 83 and 84 and Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014/2359.

⁹⁰ Housing (Wales) Act 2014, Part 1 and Code of Practice for Landlords and Agents licensed under Part 1 of the Housing (Wales) Act 2014 (Appointed Date) Order 2015/1932. See also [Code of practice: Rent Smart Wales \(gov.wales\)](https://gov.wales/code-of-practice-rent-smart-wales).

⁹¹ Antisocial Behaviour etc. (Scotland) Act 2004, Part 8.

⁹² Antisocial Behaviour etc. (Scotland) Act 2004, Part 8, Housing (Scotland) Act 2014, Part 4 and the Letting Agent Code of Practice (Scotland) Regulations 2016.

⁹³ Private Tenancies (Northern Ireland) Order 2006/1459, article 65A and Landlord Registration Scheme Regulations (Northern Ireland) 2014/9, regulation 3.

- 4.52 Several stakeholders we spoke to support the regulation of letting agents, mandatory qualifications for licensed agents carrying out certain reserved activities in the sector and the creation of a new regulator. The latter two points were also two of the key proposals made by the Regulation of Property Agents Working Group in its final report of July 2019.⁹⁴
- 4.53 While there is a debate about whether letting agents should be regulated, we recognise that there is a call from within and outside the world of letting agents for up-to-date standards to increase awareness of rights and obligations.

Redress related issues

- 4.54 Since 2014, letting and managing agents are required to be a member of a redress scheme to provide landlords and tenants access to independent redress if their agent cannot resolve issues to their mutual satisfaction. We heard concerns that redress schemes have too little traction with tenants and landlords. Complainants need to exhaust the complaints process of the agent which can take up to three months before complaints are accepted by redress schemes. The second stage can then take a further three to six months to resolve. We also heard complaints that the levels of financial awards available through redress schemes are low and often insufficient to cover the time, effort and costs of pursuing a complaint to resolution. We have also heard from stakeholders who are concerned that there is currently no oversight of other issues with landlords and letting agents.

⁹⁴ 'Final Report', Regulation of Property Agents Working Group, published July 2019.

5. Conclusions and next steps

5.1 Given the size and importance of the UK's rented housing sector to those who make their home in it, it is most important that landlords and intermediaries comply with their consumer protection law obligations and treat consumers fairly. While most landlords provide decent homes, we have heard about many difficulties encountered by tenants. In the next phase of our work, we will review and revise our Guidance for Letting Agents to reflect recent changes in the law and to ensure that market practices, which may reflect conditions of supply and demand, but which are contrary to consumer protection law, are understood. We will also further investigate:

- (i) the nature and marketing of 'zero-deposit' schemes (as referred to in paragraphs 4.7 to 4.8 above);
- (ii) sham licences (as referred to in paragraph 4.12 to 4.14 above);
- (iii) unlawful discrimination (as referred to in paragraphs 4.15 to 4.16 above); and
- (iv) the scope of guarantees (as referred to in paragraphs 4.17 to 4.19 above);

with a view either to issuing more specific guidance and advice or to taking enforcement action.

5.2 In addition, late in our stakeholder engagement, we were told of concerns about exit and other event fees in the retirement homes sector. This is a matter on which our predecessor organisation, the Office of Fair Trading, has previously taken undertakings⁹⁵ and we propose to review practices in the sector with a view to considering whether further undertakings or guidance are necessary.

5.3 We will continue to engage with stakeholders across the UK to strengthen consumer protection in the rented housing sector. As part of this engagement, we propose to issue "quick guides" for tenants offering practical advice about how to look after their interests and in particular how to avoid disputes with their landlord. In doing so we hope to work with bodies representing landlords and letting agents, and with bodies with experience assisting consumers to resolve disputes, to promote an approach which properly balances the interests of responsible landlords and consumers.

5.4 We will also engage with the public to understand their experiences of the issues we've identified. We will make a further announcement on our case page⁹⁶ about how to contact us.

5.5 We will continue to observe developments in the sector over time. We have noted above that there are important reforms being made under the Renters (Reform)

⁹⁵ <https://www.gov.uk/cma-cases/retirement-homes-hidden-exit-fees-investigation>

⁹⁶ [Rented housing sector consumer research project - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/cases/rented-housing-sector-consumer-research-project)

Bill and by the governments of the devolved nations. The introduction of the Property Portal is an important development that can help to promote transparency about landlords and let property for tenants. We will write to DLUHC to offer our support in thinking about how it can be developed to maximise its benefits for consumers. The new property ombudsman is another important development. In due course we will write to the new ombudsman to share our views on the application of consumer law to tenancies.

- 5.6 Housing remains a key concern for the CMA. If we identify further or additional issues as our work develops, we will consider whether further intervention is appropriate.

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A. List of stakeholders consulted to date

Age Northern Ireland

Birmingham Council

British Property Federation (BPF)

Centre for London

Citizen Advice

Citizens Advice Scotland (CAS)

Crisis UK

Cymorth Cymru

Department for Communities, Northern Ireland

Department for Levelling UP, Housing and Communities

Dexters

Disability Action, Northern Ireland

Generation Rent

Grainger PLC

Homeviews

Housing Rights, Renters Voice

Joseph Rowntree Foundation

Justice for Tenants

Landlord Accreditation Scotland

Large Agents Representation Group (LARG)

Llywodraeth Cymru (Welsh Government)

National Residential Landlords Association (NRLA)

National Trading Standards Estate and Letting Agency Team (ELATs)

Nationwide Building Society

Newham Council

Northern Ireland Housing Executive (NIHE)
Northern Ireland Landlords Association
Northern Ireland Tenancy Deposit Scheme
Northern Ireland Trading Standards Service/Consumerline
Paragon Banking Group
Propertymark
Red Cross, Northern Ireland
Safeagent
Scottish Government
Shelter
Simon Community, Northern Ireland
Tenancy Deposit Scheme
The Depository
The Property Ombudsman
Unipol