

Housing Rights

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Policy Response

Review of the Private Rented Sector

February 2016

when everyone has a home

Introduction

Housing Rights welcomes the opportunity to respond to the Department’s discussion paper regarding the review of the role and regulation of the Private Rented Sector.

Housing Rights has been helping people in housing need for over fifty years and is the leading provider of specialist housing advice services in Northern Ireland. Housing Rights works to improve lives by tackling homelessness and housing problems and our policy work is based on the experience of our clients.

In 2014/15, over 40% of all enquiries received related to problems encountered by clients renting privately. As shown in *Figure 1*, analysis recently completed by Housing Rights highlights the widespread issues facing private rented sector tenants. In the nine month period from April-December 2015, the Private Rented Sector was the most common category of enquiries received by our service in 13 out of the 18 Assembly constituencies.

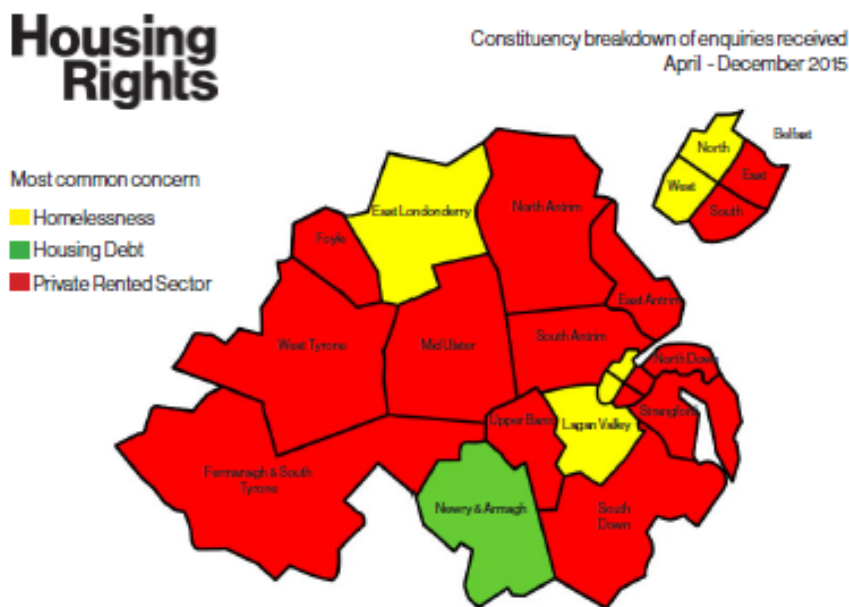


Figure 1: Housing Rights Constituency breakdown of enquires received April - December 2015

Housing Rights also supports the work of Northern Ireland's first Private Tenants Forum which is making a separate response to the Department's discussion paper.

Summary

- **Housing Rights welcomes the review of the Private Rented Sector and supports further regulation which has the objective of enhancing the capacity of the sector to deliver homes which are fit for the future.**
- **The review must tackle key issues relating to affordability; including improving the operation of the tenancy deposit scheme and the regulation of letting agents including the practice of charging letting fees.**
- **Housing Rights recommends that the Department consider the opportunity presented by the review to introduce mandatory landlord licensing. It is clear to Housing Rights that the benefits to both landlords and tenants, as well as to enforcement agencies, vastly outweigh the minimal costs involved which based on the information included in the discussion paper, is calculated to be £1.92 per week for landlords.**
- **Housing Rights welcomes proposals to enhance security of tenure and introduce the option of longer more secure tenancies.**
- **Housing Rights feels strongly that the current minimum fitness standard should be replaced by a more comprehensive Health and Housing Safety Rating System.**
- **Housing Rights views the creation of an independent dispute resolution service as important in the context of preventing homelessness and sustaining private rented sector tenancies. Housing Rights would be pleased to work with the Department in taking forward any proposals in this area.**

Context

Housing Rights acknowledges the current discussion paper's role in progressing the Department's commitment to review the role and regulation of the private rented sector, as outlined in the Housing Strategy Action Plan 2012-17.

In responding to the Housing Strategy consultation paper in 2012, Housing Rights made clear our view that consideration should be given to proposals which ensure that private tenants enjoy similar standards to people who rent from social landlords. In doing so, Housing Rights particularly highlighted the following areas:

- Improving practices of estate/letting/management agencies
- Regulating pre-tenancy charges such as inventory, credit checks and other 'administration' fees
- Clarifying landlord and tenants rates liability
- Improving security of tenure
- Introducing a statutory definition of overcrowding
- Establishing an independent dispute resolution service to avoid costly litigation and provide effective remedies for tenants
- Supporting the development of a NI private tenants' organisation.

Housing Rights has therefore been particularly conscious of these themes in our examination of the Department's discussion paper.

The continued demand for Housing Rights' specialist advice services from tenants in the private rented sector reminds us that despite the steps which have been taken to improve the sector, there is still significant need for improvement. Accordingly, at the outset Housing Rights wishes to emphasise the critical nature of specialist support, information and advice to private rented sector tenants and the continued need for this provision as steps are taken to professionalise this sector of the housing market.

The following comments deal with each of the discussion paper sections in turn.

1. The Role of the Private Rented Sector

Housing Rights is committed to ensuring that the private rented sector offers a viable and attractive tenure for both current and future tenants. Proposals which would ensure further support is made available to current and future tenants as well as landlords, and which would have the effect of ensuring that the private rented sector is fit for the future, are therefore welcome.

Vulnerability and affordability

The practical implications of the shortage of social housing mean that the private rented sector now houses some of the most vulnerable members of society. Additionally the sector is increasingly used to discharge the statutory duty to people who are accepted as homeless. The general housing policy direction, particularly with the adoption of 'Housing Options' signals that the reliance on the sector looks set to continue.

Housing Rights therefore recommends that further discussion on the role of the private rented sector is mindful of the potential vulnerability of tenants accessing the sector, in order to ensure that the needs of the most vulnerable are paramount.

With 57% of private rented sector tenants currently in receipt of housing benefit, the potential for significant further affordability concerns with changes to benefit entitlement and rising rents, is of real concern.

Issues relating to affordability are the fastest growing area of inquiry from private rented sector tenants seeking assistance from Housing Rights' advice line.

It is in this context that Housing Rights is conscious of the role of Discretionary Housing Payments (DHPs) in meeting the shortfall between housing benefit entitlement and accommodation costs. Whilst it is noted that this area is outside the remit of the current review, **Housing Rights is concerned about the potential for further affordability**

issues if these payments are not targeted towards those most in need and would like to see the current DHP guidance (GC18/06) updated as a matter of priority.

Additionally, the Department will be aware that changes to tax rates for buy to let landlords announced in the Summer Budget are due to be phased in from 2017 onwards.

The changes, which include changes to mortgage interest relief, will mean landlords can no longer offset mortgage payments against rental profits. In addition, it is proposed that the wear and tear allowance will be replaced with a deductible for actual allowable expenses.

Housing Rights is concerned that not only could this contribute to some landlords leaving the sector, but also that costs incurred by landlords will be passed on to tenants, thereby compounding affordability issues.

Housing Rights view this change, and the potential for increase in deposit deductions and disputes which could flow from this, as further cementing the need for an independent dispute resolution service for landlords and tenants (discussed in more detail in 'Housing and Tenancy Management' below).

Information and support to landlords and tenants

Housing Rights view the provision of accurate and accessible information as key to supporting both landlords and tenants. It has been the organisation's experience that this information is required both in relation to specific issues and critically, at specific stages of the tenancy. This is elaborated upon below with specific examples, however Housing Rights would be happy to work with the Department on this issue.

One suggestion could be to standardise the information available at pre tenancy stage, this could include not only an explanation of the information contained in

the tenancy agreement and the inventory but also information regarding fitness, deposit protection and rates liability.

Housing Rights is receiving an increasing number of enquiries relating to the issue of rates liability for private rented sector dwellings. Housing Rights recognises that the issue of rates liability is outside the remit of this Review; however, this has obvious and major implications for the affordability of PRS tenure for households affected and would encourage the Department to ensure that clearer information on rates liability is made available to tenants at the beginning of their tenancy. The law in this area, as established by Article 20 of the Rates (Northern Ireland) Order 1977 and Article 35 of the Rates (Amendment) Order 2006, is often contradicted by individual tenancy agreements: this has had the effect, when landlords are unable to pay rates, of tenants being pursued for rates which they were not aware they were liable for.

Housing Rights feels that such information could have significant benefit for both landlords and tenants in clarifying their rights and responsibilities, sustaining tenancies and preventing disputes.

2. Supply and Investment

Housing Rights is mindful of the increasingly important role that the private rented sector plays in meeting housing demand and addressing homelessness. According to the most recent Family Resource Survey, 21% of households in Northern Ireland now live in the private rented sector.¹ This is a significant increase from a decade ago, when the figure stood at 10%.

Whilst the private rented sector now plays a significant role in bridging the supply gap, Housing Rights is conscious that should the housing market improve 'accidental' landlords may choose to leave the sector. **The high risk nature of such dependency on a sector which appears to have such fragile underpinnings, underlines the**

¹ DSD, Northern Ireland Family Resources Survey 2013/14, published 22nd October 2015.

need for a comprehensive strategy which identifies appropriate solutions to any current or potential supply problems.

In this regard, Housing Rights is supportive of initiatives to bring empty homes back into use and are aware that the Department is progressing a separate strategy in this regard. As acknowledged by the Department in this discussion paper, however, many such properties are often located in areas of low demand. Accordingly, consideration of appropriate additional schemes to increase the supply of suitable homes are welcome and Housing Rights notes the recent publication by the Department of the Housing Supply Forum Report and Recommendations.

At our recent conference on the future of the Private Rented Sector, the ‘Homes for Good’ social enterprise model which operates in Scotland was discussed as a good practice example of how “tired” private rented sector properties can be brought back to life to provide homes for those who need them. Housing Rights was particularly encouraged by the social impacts for tenants recorded by Homes for Good in their presentation at our conference. These include improved physical and mental health; substantial improvement in housing situation; and progress towards economic activity through training or increased employment.²

Housing Rights is also supportive of institutional investment as a means of improving professionalism in the sector and providing more secure, long term supply of rented homes. Large scale social housing providers with a professional background in housing management such as Housing Associations, which are currently examining models of involvement in the provision of private rented sector, should therefore be encouraged.

² Homes for Good, presentation delivered by Nicola Farrell on 17th November 2015 accessible at: <http://www.housingrights.org.uk/news/prs-conference-2015-fit-future-report>

3. Housing and Tenancy Management

As previously outlined, Housing Rights firmly believes that further regulation is necessary to ensure that the private rented sector is capable of appropriately meeting current and future housing need.

Whilst welcome improvements have been made in terms of both landlord registration and tenancy deposit protection, feedback from our clients indicates that there is a need for further action.

Landlord Licensing

Under the Landlord Registration Scheme Regulations (Northern Ireland) 2012, all private landlords must now provide accurate and up to date information about themselves and their properties to a Registrar. Whilst this has been an important first step in compiling information on private tenancies and those landlords operating in the sector, the Scheme has limited potential in delivering tangible improvements for both landlords who wish to see greater professionalism in the sector, and tenants who seek improved conditions and greater regulation.

Housing Rights feels strongly that the introduction of mandatory landlord licensing placed on a statutory footing, would help to ensure that landlords meet an agreed and impartial standard of diligence in the discharge of their duties, thus assuring tenants across Northern Ireland of a satisfactory and consistent housing tenure.

Housing Rights is therefore disappointed that the discussion paper indicates that the Department is not in favour of introducing a licensing scheme for landlords. From the discussion paper it is apparent that the concerns expressed by the Department centre largely on the cost of licensing which would be borne by landlords.

The discussion paper notes that the typical cost for a license which lasts for five years is 'around £500'. It should be pointed out that £500 over 5 years equates to £1.92 per week. It would be reasonable to suggest that this is a price any landlord should be

willing to bear the cost of, in order to be licenced and recognised as wholly diligent and compliant in the execution of their duties.

Furthermore, at our recent conference on the Private Rented Sector, Housing Rights hosted Anthony Quinn, Environmental Health Officer at Newham Council in London. Mr Quinn demonstrated how, in response to concerns regarding property fitness and landlord conduct in the Borough, the Council introduced a Landlord Licensing Scheme which is entirely self-funding.³ By ensuring this Scheme was widely communicated and simple to enforce (a typical clean license can be processed in 22 minutes) the scheme has received positive results. Mr Quinn further reported that the scheme was empathetic to compliant landlords and focussed on non-compliant landlords leading to positive improvements in previously poor landlords.

Housing Rights strongly believes that the introduction of a statutory Licensing Scheme in Northern Ireland could have similar positive effects in:

- Impartially verifying good practice amongst existing reputable landlords;
- Driving behavioural change on the part of non-compliant landlords, resulting in improved property and landlord standards;
- Acting as a framework through which to enforce any regulation of the Private Rented Sector, including any regulation found to be necessary within this Review.

Indeed, a useful model for licensing has already been prepared in the proposed regulations for Houses in Multiple Occupation. The Houses in Multiple Occupation (Bill) makes provision to replace the current HMO registration scheme with a licensing system which is linked to a “fit and proper person” test applicable to all or any persons with responsibility for a HMO and also to local council planning policy, regulation and control. The licensing of HMOs is also linked to certain minimum standards with which the property must comply with.

³ This presentation can be found on our website at this address:
www.housingrights.org.uk/sites/default/files/Anthony%20Quinn%20Presentation%20PRS%202015.pdf

Housing Rights also notes the support for the introduction of Licensing expressed in the draft response to this discussion paper published by Belfast City Council. **It is particularly significant that both Belfast City Council, as the enforcement agency responsible for a significant number of private rented sector accommodation; and Housing Rights, the leading provider of specialist housing advice, agree that landlord licensing is imperative. In any further discussions regarding landlord licensing it is critical that such key stakeholders are engaged in policy design and delivery.**

Overcrowding

Housing Rights' notes the position of the Department outlined in the discussion paper that overcrowding is not a significant issue in Northern Ireland. **Further examination of this issue by the Department however, would be welcome since it is the experience of Housing Rights the key issue with regards to overcrowding is not the *scale* of overcrowding but rather the *severity* of the problem where it exists.** Housing Rights is particularly concerned about the impact that overcrowding can have on the health and wellbeing of those impacted.

Housing Rights acknowledge the views of other stakeholders raising similar concerns about overcrowding. With reference to the situation for example in areas such as the Holylands (as identified by Belfast City Council⁴) as well as the situation of certain minority ethnic groups, such as the Roma community (as identified by the Public Health Agency⁵).

Housing Rights has previously, in evidence sessions on the HMO Bill, drawn attention to the need for a statutory definition of overcrowding which harmonises other commonly applied standards.

⁴ Please see 'Overcrowding in Housing Accommodation' briefing to the Health and Environmental Services Committee, 20th May 2013.

⁵ Please see presentation by D. Wright, Public Health Agency accessible at: <http://www.publichealth.hscni.net/sites/default/files/Denise%20Wright%20-%20Roma.pdf>

Regulation 14D (3) of The Housing Benefit Regulations (2006) allows for children of opposite genders to share a room until the age of 10.

Rule 29 of the Housing Selection Scheme awards points for overcrowding where a child aged over 7 is sharing with another child of an opposite gender.

Part X of the Housing Act 1985 states that overcrowding occurs where persons of opposite sexes aged 10 and over must sleep in the same room. Overcrowding has a similar definition in the Republic of Ireland where Section 63 of the Housing Act 1966 states that a property is overcrowded where two persons of opposite genders, being persons of ten years of age or more must sleep in the same room.

We are concerned that the various definitions of overcrowding which can be found in legislation cause confusion and urge the Department to consider the need to introduce a statutory definition which mirrors those used in the administration of housing benefit.

Tenancy Deposit Scheme

Housing Rights welcomes the introduction of measures to strengthen protection for tenants. Despite this, it is deeply concerning that despite the regulations, Housing Rights continues to receive many enquiries from private rented sector clients whose deposits have not been protected. It is disappointing that this is still a common occurrence more than 2 years after the legislation came into force.

Tenant awareness of the scheme and Councils' enforcement functions

Housing Rights remain concerned that adequate information about the scheme's operation and enforcement functions is not reaching all of those impacted.

Research published by the NIHE highlights the results of an online survey carried out with current private rented sector tenants who had a live deposit with TDS Northern

Ireland.⁶ The survey concludes that whilst the vast majority of tenants had received a tenancy agreement (93%) and a Statement of Tenancy Terms (82%), only 55% reported having received a Tenancy Deposit Protection Certificate. Similarly, only 30% of those surveyed were aware of the dispute resolution service.

Furthermore, according to the latest statistics, in 2013/14 there were less than six fixed penalties/court actions across NI and **in 2014/15 there was one fixed penalty and one court case adjourned.**⁷

Housing Rights believes that the DSD should take steps to ensure that local councils are adequately resourced and supported to fully carrying out their enforcement functions.

Necessary amendments to realise the intention of the scheme in practice

Housing Rights believes that the current review of the private rented sector provides an ideal opportunity to improve the operation of the Tenancy Deposit Scheme, by addressing existing anomalies to ensure that the intention of the scheme is fully realised in practice.

Housing Rights recommends that due consideration is given to making necessary amendments to relevant legislation including the Tenancy Deposit Scheme Regulations (Northern Ireland) 2012. Further detail of such amendments is outlined below.

In relation to the protection of tenant deposits, Housing Rights is aware that the Magistrates Court has previously ruled that under Section 19 of the Magistrates' Court (NI) Order 1981, any failure to protect deposit effectively "expires" as an offence after 6 months. This means that any prosecution for failure to protect must be brought within 6 months of the original offence, which would occur at the start of the tenancy. As most tenants do not discover any such failure to protect until after they complete their tenancy (which are normally a minimum of 6 months in length), they are thus unable to prosecute this offence, as it has expired.

⁶ NIHE, Insight Briefing, January 2016 accessed at: http://www.nihe.gov.uk/insight_briefing_january_2016.pdf

⁷ Statistics provided by the DSD

This would appear to go against the intention of the Regulations; which ultimately is to protect a tenant's deposit. **Housing Rights would therefore welcome the review and amendment of relevant legislation, to remove this 6 month limit. This would ensure both increased protection for tenants and improved enforcement for councils, who are currently unable to pursue landlords in cases referred to them, after 6 months of the deposit having been paid.**

Additionally, the current Regulations do not provide for the repayment of a non-protected deposit even if the matter reaches court. This issue has come to light recently after a local council prosecuted a landlord for failing to protect a deposit. The council firstly issued a fixed penalty and subsequently took court action.

Although the landlord was fined by the court (a sum much lower than the original Fixed Penalty Notice), the tenant still failed to get their deposit back as there is no provision in the Regulations to enable a court to order the repayment of a deposit. The resultant impact is that despite a principal aim of the scheme being to avoid court action; in order to recover their deposit, a tenant would be required to take a separate action in the Small Claims Court.

Housing Rights believes that the Regulations should be reviewed so that a court can rule for a tenant's deposit to be repaid.

Furthermore, Housing Rights recommends that if financial penalties imposed by the Court are to adequately deter landlords from non-compliance with the scheme and avoid court action, these should not be in an amount less than the fixed penalty notice.

At present the Regulations only protect deposits paid on or after 1 April 2013. However, there are many tenants who have paid a deposit prior to this date who continue to live in the accommodation to which the deposit relates. **Housing Rights believes that all private tenants, regardless of when they paid their deposit, should be afforded**

the same protection for getting their deposit back, rather than having to resort to the Small Claims Court.

The inclusion of a dispute resolution mechanism as part of the Scheme was put in place to reduce the number of deposit issues ending up in court. **Housing Rights believes that the wording of the legislation should be reviewed so as to ensure certainty regarding the status of adjudicators' decisions.**

An emerging issue being dealt with by Housing Rights Helpline advisors relates to the liability for deposit protection in the situation whereby a sub tenant pays a deposit to a head tenant. Housing Rights view the potential for this emerging issue to become more widespread in the context of the incoming changes to be introduced as part of Welfare Reform. Accordingly Housing Rights feel that the current review is an opportune time for the Department to consider the complexity of the operation of the Tenancy Deposit scheme in the particular situation of sub tenants and sub landlords.

Enforcement

Any regulation is only as good as the enforcement procedures which accompany it: therefore, and as outlined in reference to the Tenancy Deposit Scheme above, **Housing Rights strongly recommend that the Department take this opportunity to review the enforcement powers included in the Private Tenancies (Northern Ireland) Order 2006.** Our experience of this legislation is that since the focus is on enabling, rather than requiring, Councils and Council agencies to take action under the Order: this lack of compulsion to act can often result in the spirit of the legislation being undone. Housing Rights recognise that with competing priorities and increasing pressure on resources, enforcement agencies will naturally focus their energies on their responsibilities which have been made mandatory.

Housing Rights would therefore recommend that the Department should consider strengthening this legislation. **This must be combined, as recognised in the Discussion Paper, with greater assistance from the Department for Councils on**

practical enforcement procedures, and greater flexibility for Councils to share best practice and mutually improve standards in this area.

Additionally, Housing Rights is mindful of the resources required by Councils to adequately enforce and monitor existing and future regulation. The example of Newham Council's landlord licensing model discussed elsewhere in this response, which is self-funding, could be appropriately considered here. Allowing Councils to retain the resources accrued through licensing could provide the resources for enforcement.

Anti-social behaviour

Anti-social behaviour can have major impacts on the quality of life on individuals affected, and even the broader community. Housing Rights has extensive experience of giving advice to tenants affected by anti-social behaviour, as well as tenants accused of anti-social behaviour.

The Discussion Paper references the Housing (Amendment) Bill currently proceeding through the Assembly, and suggests that provision could be made *'enabl[ing] social landlords to share relevant information with a registered private landlord to enable anti-social behaviour to be addressed in a more consistent way across housing sectors.'* Housing Rights would be highly concerned by any such provision.

Where social landlords (whether NIHE or housing associations) are legally speaking "public bodies", and thus subject to greater accountability through equality and human rights legislation, private landlords are not. Housing Rights would therefore be concerned about any mechanism of information-sharing between social landlords and private landlords.

Letting Agent regulation

Housing Rights welcomes the acknowledgment by the Department of the serious impact on tenants and prospective tenants, of the practice by some letting agents of charging additional administrative fees. **Housing Rights recommends however that steps taken to regulate letting agents are not limited to the charging of additional fees, but are more wide reaching.**

In relation specifically to letting fees, the widespread nature of this practice was confirmed in research carried out by the Private Tenants Forum in 2013 in a 'mystery shopping' exercise, with the majority of those letting agents sampled, confirming the charging of additional fees.⁸ This research pointed to the charging of upfront fees of as much as £100 by some agents to cover routine services such as credit checks and administrative costs. These costs are in addition to the common to the requirement of a deposit (normally equivalent to one month's rent), and one month's rent in advance.

Housing Rights believes that this practice, which affects landlords as well as tenants, may be illegal under Article 3 of the Commission on Disposals of Land (Northern Ireland) Order 1986, which states:

“any stipulation which has the effect, on a disposal of land, of obliging the person acquiring the land to pay commission (including fees, charges, disbursements, expenses and remuneration) due to an agent acting for a person disposing of the land, is void by virtue of this Order. In addition, in relation to lettings of land, any stipulation which has the effect of obliging the tenant to pay commission due to an agent acting for the landlord in connection with rent reviews or rent renewals/extensions is void by virtue of this Order. Money paid by a person under a stipulation which is void by virtue of this Order, is recoverable by the person.”

Housing Rights would therefore recommend that the Department assess this legislation in determining the most appropriate policy approach with regards to

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<http://www.housingrights.org.uk/sites/default/files/policydocs/HRS%20Mystery%20Shopping%20Exercise%20on%20Upfront%20Fees%20in%20the%20%20PRS%20May%202013.pdf>

letting agent regulations. Housing Rights are particularly encouraged by the practice in place in Scotland, whereby all tenant charges (other than rent and a refundable deposit) are illegal under the Housing (Scotland) Act 2014.

Security of tenure

The private rented sector has, by default, become a long term housing option for many who are unable to afford to own their own home or have their housing need met in the social housing sector. **Despite this, concerns continue to exist about the sustainability of the sector principally because of the short (often 6 months) and insecure tenancies offered by private landlords.** Research carried out by Policis and the University of York on behalf of Housing Rights in 2012 pointed to a perception amongst vulnerable homeless people that the private rented sector is less secure with higher risk of eviction.⁹ More recent research carried out on behalf of the NIHE by the University of Ulster¹⁰ confirmed this perception; almost two fifths (38%) of those wishing to leave the private rented sector indicated that their preference for the social sector related to security of tenure.

The Department's consideration of encouraging the option of longer-term tenancies is therefore welcome. As the Discussion Paper acknowledges, living in the private rented sector is now a long-term pattern for many households: 22% of PRS landlords have had tenants for 5 years or more, whilst 45% of tenant households cited family or personal reasons for their choice to live in the sector. As the private rented sector is currently the tenure of many households seeking to build long-term homes, we strongly support steps by the Department to encourage longer and more secure tenancies.

⁹ Ellison, A. et al. For Housing Rights (2012) "Meeting the housing needs of the most vulnerable in the private rented sector in Northern Ireland", accessible at:

<http://www.housingrights.org.uk/sites/default/files/policydocs/Meeting%20the%20Housing%20Needs%20of%20Vulnerable%20People.pdf>

¹⁰ Gray, P. Et al for NIHE (2014) 'Living in the Private Rented Sector: the experiences of tenants' p.24, accessible at: http://www.nihe.gov.uk/living_in_the_private_rented_sector.pdf

Eviction

Whilst eviction is clearly an action of last resort, Housing Rights remains concerned about the impact on tenants who access our helpline for advice and support. In our experience, the situation can be avoided where landlords and tenants seek to resolve any issues or difficulties as early as possible.

In this regard, Housing Rights would encourage the Department to give consideration to the creation of an independent dispute resolution service (considered in more detail below) which could address any disputes in the private rented sector without the need for court.

With specific regards to the practice of illegal evictions, Housing Rights feel that increased provision to landlords and tenants of information (detailed in section 1 of this response) regarding tenancy agreements and then rights and safeguards which relate to tenancies could decrease the risk of this practice. Additionally, enforcement agencies should be supported with sufficient resources to take action against those landlords engaged in the practice.

Independent dispute resolution service

Housing Rights are mindful of the limited access that private rented sector tenants have to compliant and dispute resolution services, in comparison with their social rented sector counterparts.

Currently the only alternative dispute resolution mechanism available to private tenants is in relation to getting a tenancy deposit returned at the end of the tenancy term. Under the Tenancy Deposit Scheme, access to an adjudicator is pivotal. Outside of tenancy deposit disputes, the only option for private tenants to resolve a housing matter is to resort to court action.

It is the experience of Housing Rights that the use of dispute resolution mechanisms such as mediation can have the potential to prevent homelessness

and sustain tenancies. Housing Rights advisors often act as an informal mediator in that they may contact a landlord and/or the agent to discuss the matter at hand and come to a resolution. Referrals may also be made to the local council Environmental Health Departments which have a role to play in enforcing certain aspects of housing law e.g. illegal eviction.

Housing Rights strongly welcomes proposals which would increase the range of options available to tenants, particularly those living in the private rented sector. In the context of our work, Housing Rights is aware of a range of independent dispute resolution models such as those operating in both the Republic of Ireland and Scotland. **Given our experience, Housing Rights would welcome the opportunity to be involved in discussions with the Department on this matter.**

4. Property Standards

Concerns with property standards are not limited to the private rented sector but of those enquiries we receive from tenants living in this sector of the housing market, high numbers relate to repair issues.

Housing Rights believes that this review affords an opportunity to wholly replace the current Housing Fitness Standard with the enhanced Housing Health & Safety Rating System (HHSRS), which is currently operational in England and Wales.¹¹

It is widely accepted that the current Standard is not sufficiently rigorous, and overly simplistic in defining a property as either 'fit' or 'unfit'. Rather than amending this system, there is now an opportunity to replace it with the HHSRS. The HHSRS is a comprehensive review of all aspects of a given dwelling, along with a consideration of the potential impact of defects upon occupants' health. We feel that this system has the

¹¹ Housing Rights (2014) Policy Briefing on the Housing Health and Safety Rating System

capacity not only to improve fitness standards but to ensure that the impact of housing standards on people's health has a clearer focus in both policy and practice.

Housing Rights would suggest that the effectiveness of the HHSRS could be further maximised by making it a condition of any Licensing Scheme. Housing Rights is aware that the Department intend to carry out a separate consultation into fitness standards and Housing Rights is pleased to be able to contribute to the Working Group which has been established to take this forward.

Similarly, Housing Rights welcomes the focus in the discussion paper on models elsewhere in the UK which include requirements to install additional safety measures such as smoke alarms, carbon monoxide detectors and requiring periodic electrical inspections.

Research recently carried out by Electrical Safety First showed that private renters are more likely to be at risk of injury due to electrical faults.¹² Housing Rights notes that mandatory electrical checks were recently introduced in Scotland from 1st December 2015, Housing Rights would encourage a similar approach to be adopted in Northern Ireland.

Conclusion

Housing Rights is happy to discuss any of the above issues in further detail with the Department. Furthermore Housing Rights would encourage the Department to ensure that private rented sector tenants themselves are involved meaningfully in discussion around any proposed changes to the private rented sector. Research commissioned by Housing Rights by Dr Jenny Muir and Mary McMahon which identifies how 'easy to ignore' groups, such as could be involved in housing policy¹³ may be of use to the

¹² For further please see: <http://www.housingrights.org.uk/news/electrical---safety---first---focus---ni%E2%80%99s---private---rented---sector>

¹³ Muir, J et al (2015) 'Involving Everyone Including 'easy to ignore' groups in housing policy and strategy development in Northern Ireland' accessed at: http://housingrights.org.uk/sites/default/files/Easy%20to%20Ignore%20Full%20Report%20-%20June%202015_0.pdf

Department in this regard. Housing Rights would be pleased to assist the Department in facilitating engagement with tenants as the proposals outlined in this discussion paper are advanced.

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