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FINANCIAL INCLUSION CENTRE PAMPHLET

A NEW RENTERS AND LEASEHOLDERS PROTECTION AGENCY

SUMMARY

In this paper we call for the creation of a Renters and Leaseholders Protection Agency (RLPA)¹ to protect renters and leaseholders from unfair, unreasonable practices and contribute to improving the quality and sustainability of rented accommodation in the UK.

There is a compelling social justice and consumer protection argument. The authorities recognise that, given the importance of financial services, the complexity of the products, and the lack of consumer sovereignty, a person transacting with the financial services industry deserves the protection of a well-resourced, effective financial regulatory and redress system. Yet, if the same person pays money to rent a property, s/ he is not afforded the same degree of consumer protection. Having a decent home is as important as financial services and detriment can have a huge impact on those affected. Consumer sovereignty is weak in this market. The regulatory anomaly between the two sectors is unfair and surely unsustainable.

But, the unfairness and inconsistency is worse if we consider the profile of renters. Financial consumers tend to be better off than average. Whereas renters tend to be on lower incomes, so the detriment caused can have a disproportionate effect. Similarly, renters tend to be younger and may not have had the opportunity to build up high levels of financial capability leaving them more vulnerable to unfair practices than experienced older consumers. Therefore, if we apply the principles of consumer theory, consumer-renters should be a priority for consumer protection.

DATA ON THE RENTED HOUSING SECTOR²

Data on the size of the rented housing sector, the amount consumers spend on rent, and the level of detriment evident in the sector, demonstrate how anomalous the current system of regulation is – certainly compared to similar goods such as financial products.

The UK private rented sector now makes up 20% of all households in UK, with a further 17% in social housing sector. This means that when the two sectors are combined this is greater than the 31% currently owning property with a mortgage. The private rented sector makes up 30% of households in London. Nearly half (48%) of the under 35s are renting.

Precise data is difficult to come by but we estimate that households spend £64 bn a year on rent (£42.3 bn on private rented properties) compared to £62bn on mortgages. Annual net premiums on key insurance products are: £24 bn on individual personal pension contributions; £30 bn on general insurance; £10 bn on life insurance and annuities; and around £1.5 bn on income protection and other products. In the same period, retail investors contributed around £24bn to investment funds. So, as consumers, households spend a huge amount each year on rent payments, more than they spend on key financial products.

Moreover, it is estimated that private landlords received £9.3 bn in the form of housing benefit in 2013/14 from the taxpayer. There are parallels with the regulation of personal pensions.

¹ Our primary concern are people who rent. But, it makes sense to include leaseholders as they are affected by weak consumer protection standards, too.

² For sources, see Growth in the Rented Sector, Household Spending on Rent

Consumer groups campaigned for price caps on personal pensions because consumers *and* taxpayers were being ripped off (the taxpayer provides tax relief on pension contributions and this was being eaten up by high charges). Making rents more affordable would help consumers and taxpayers. There would appear to be 1.75 million private landlords (define as declaring income from property) – greater than the 1.1 million employed in the highly regulated financial sector.;

DETRIMENT IN THE RENTED HOUSING SECTOR³

Average monthly rents in UK (exc London) are now £771 per month, an increase of 4.4% over the year to end 2015; average rents are £1,540 in London, an increase of 6.2% over the year; inflation was 0.3% over the year to May 2016. A household renting a 2 bed flat in London would have to find £18,000 a year out of their net income to meet the rent. Based on research from 2013-14, tenants in the UK paid an average of 47% of their net income in rent – compared to those with a mortgage who pay 23% of their net income. Renters in London pay more as a share of income – across UK households pay 43% of gross income in rent (inc housing benefit) but in London the figure is 60%.

The UK compares poorly to the rest of Europe. Based on standardised comparisons, UK private renters spend almost 40% of their income on rent in comparison to the European average of 28%; 77% of UK renters have moved in the last five years, compared to 43% across Europe – this is attributed partly to the nature of short tenancies in the UK.

Lower-medium income households who rent spend a greater share of their income on housing than those with a mortgage. Similarly, for households who do rent, lower income households spent a higher proportion of income on rent than medium-higher income households. Consumer detriment in the rental market can have a disproportionate impact on lower income households.

In 2015, landlords in England and Wales issued nearly 154,000 possession claims with nearly 43,000 repossessions (social landlords accounted for the largest share). In contrast, lenders issued nearly 20,000 possession claims with around 5,600 repossessions.

One third (33%) of renters said that they had difficulty keeping up with their rent – 4% were in arrears with their rent. This compares to around 1% of mortgages in arrears. According to Shelter, 39% of renters have had to cut down on heating to pay rent, one-third cut down on food.

In 2014/15, 29% of private rented homes did not meet the decent homes standard compared to 14% of social housing. The proportion of homes failing the standard has fallen but given the growth in the sector the total number of private rented homes failing the standards has risen from 1.2 million to 1.3 million since 2006. According to Shelter, 6 out of 10 private renters had experienced a problem over the previous year (2014).

FIC PROPOSALS

Financial consumers can rely on a comprehensive, streamlined statutory system of financial regulation – a powerful Act of Parliament; a well-resourced regulator (FCA) with statutory

³ For sources, see Detriment in the Rented Housing Sector

objectives, duties and powers to authorise, supervise, enforce regulations, and impose sanctions on firms and individuals in the market; and the right to complain and access to redress from the Financial Ombudsman Service (FOS).

The contrast with the rented sector is striking. There is effectively no minimum property standards in England. Private renters do have some rights but these are fragmented and cumbersome to enforce (for example, going through a tribunal system rather than a statutory ombudsman scheme and having to rely on industry run self-regulation schemes).

We cannot rely on competition and market forces to protect renters. Nor can we hope that information solutions will be enough – renters are not short of information on price and availability (although this does need to be improved). The private rental sector seems to be very much a sellers' market, consumer sovereignty is very weak. We think statutory regulation is needed to level the playing field for renters.

The Centre believes that the UK needs a four part strategy to tackle the housing crisis⁴ including an improved system of consumer protection for renters and leaseholders operated by a new Renters and Leaseholders Protection Agency (RLPA). The scope of the new RPLA would include the private rental sector and social housing sector, leaseholders, and lettings agencies. The RLPA would have two main statutory objectives: to protect renters and leaseholders from unfair and abusive practices by landlords and agents; and to contribute to the improvement in the quality and sustainability of the rented accommodation sector.

Renters and leaseholders would have a new set of statutory rights in the form of a new Charter supervised and enforced by the RPLA. Landlords would be required to register themselves and their properties with the RLPA, and comply with minimum 'fit and proper' authorisation requirements, and comply with the statutory rights set out in the new Charter.

The RPLA would have the powers to: authorise landlords and agents; to collect authorisation information from landlords and agents to maintain the register; set fit and proper tests for landlord and agent registration; set rules to implement the rights contained in the Charter; recommend local rent caps; impose directions, fines and other sanctions on landlords and agents (eg. removal from register); and direct local authorities to take action to improve local markets.

In terms of structure, we are looking at two possible models: a central regulator for each of the nations of the UK or more federated structure with a smaller, coordinating authority working with local authorities to supervise and enforce at local authority level. With regards to funding, we considering two options: either direct funding from government or a levy paid by landlords/ buy-to-let mortgage lenders similar to the levy applied by the FCA on the financial services industry.

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⁴ the development of social housing bonds as a cost effective way to fund more social housing; targeted rent controls in designated areas; reform of planning laws and property taxes; and an improved system of consumer protection for renters and leaseholders

INTRODUCTION

Developing policies to tackle the housing crisis is one of the Financial Inclusion Centre's priorities. The Centre is proposing a new Renters and Leaseholders Protection Bill which would establish new, enforceable rights for renters (and, where relevant, leaseholders) and a Renters and Leaseholders Protection Agency (RLPA)⁵. This briefing focuses on the needs of renters.

The rented housing sector has grown significantly over the past decade but the protections afforded renters have not kept pace. The current, fragmented, weak system of consumer protection for renters is in stark contrast to that available to financial consumers – a powerful Act of Parliament, well-resourced regulator (FCA) with statutory objectives, duties and powers to authorise, supervise, enforce regulations, and impose sanctions, rights to complain and redress from an accessible Ombudsman Scheme. This is a major gap in consumer protection given that paying rent is one of the biggest 'purchases' many households will have to make (as a share of net income) and the consumer detriment experienced by renters can be greater than that experienced by financial consumers – especially given the economic vulnerability renters face. The key concerns we have are:

- The level and growth in rents;
- The quality and standard of rental accommodation; and
- The lack of a decent 'consumer protection' regime for renters covering consumer rights, quality standards for homes, rights of redress, and fitness and properness of landlords.

Before we go on to explain the types and scale of detriment renters face, it is worth highlighting some of the key data on the rented housing sector.

GROWTH IN THE RENTED HOUSING SECTOR

Looking at the data on the size of the rented housing sector, the amount consumers spend on rent, and the level of detriment evident in the sector, the weak regulation is anomalous – certainly compared to similar goods such as financial products.

The private rented sector now makes up 20% of all households in England (4.75m⁶), with a further 17% in social housing sector. This means that when the two sectors are combined this is greater than the 31% currently owning property with a mortgage. The private rented sector makes up 30% of households in London. Nearly half (48%) of the under 35s are renting.

The table and chart, below, show the relative growth in the rented sector.

The number of properties owned with a mortgage has fallen by 7% over the three years to 2014-15, by 11% over the five years, and by 18% over 10 years. In comparison, the private rented sector has grown by 11% over three years, 21% over five years, and by 75% over 10 years.

⁵ Along with a: National/ Local Social Housing Bond(s) to fund new housebuilding; targeted rent controls; and reforms to property and land taxes, and planning system

⁶ Source: DCLG, Dwelling Stock Estimates, Table 2, Dwelling Stock by Tenure, as at 31st March 2001-2015

Table 1: Change in tenure in England, 000s

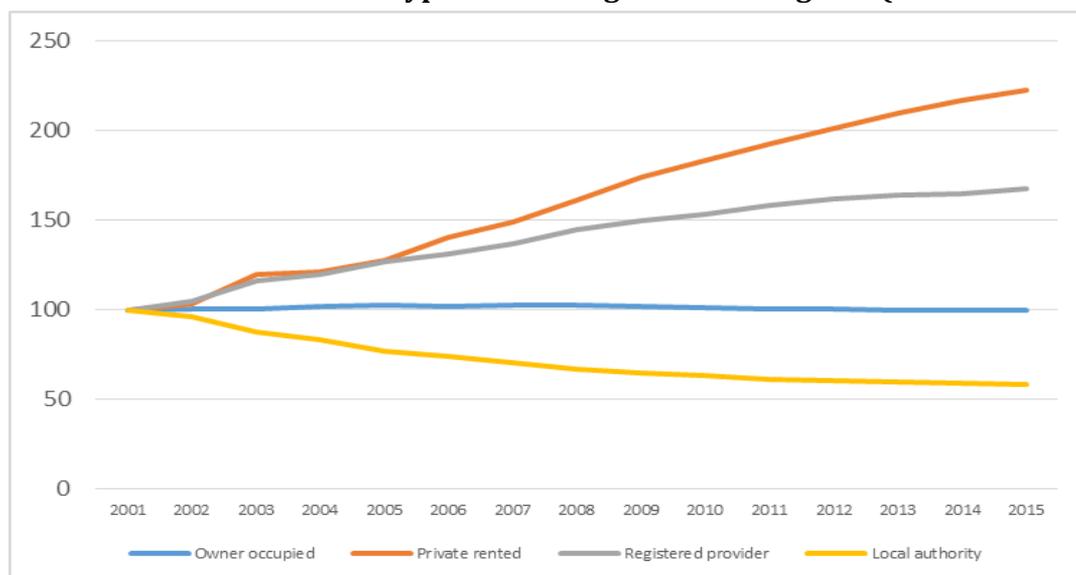
	Owner occupied	Buying with mortgage-adj ⁷	Private rented	Local authority	Housing assoc.	Total social rented	Total renters
2005	15,100	8,616	2,720	2,166	1,802	3,968	6,688
2006	15,052	8,513	2,987	2,087	1,865	3,952	6,939
2007	15,093	8,429	3,182	1,987	1,951	3,938	7,120
2008	15,067	8,215	3,443	1,870	2,056	3,926	7,369
2009	14,968	8,037	3,705	1,820	2,128	3,948	7,653
2010	14,895	7,893	3,912	1,786	2,180	3,966	7,878
2011	14,827	7,635	4,105	1,726	2,255	3,981	8,086
2012	14,754	7,580	4,286	1,693	2,304	3,997	8,283
2013	14,685	7,359	4,465	1,682	2,331	4,013	8,478
2014	14,674	7,105	4,623	1,669	2,343	4,012	8,635
2015	14,710	7,034	4,747	1,643	2,387	4,030	8,777
Change over period							
1 year	0%	-1%	3%	-2%	2%	0%	2%
3 year	0%	-7%	11%	-3%	4%	1%	6%
5 year	-1%	-11%	21%	-8%	9%	2%	11%
7 year	-2%	-14%	38%	-12%	16%	3%	19%
10 year	-3%	-18%	75%	-24%	32%	2%	31%

Source: DCLG, Dwelling Stock Estimates 2015, England, Table 2

There has also been a big growth in the number of households renting from housing associations – by 9% over five years, and by 32% over 10 years. However, there has been a significant drop in the number in local authority rented accommodation – a fall of 8% in five years and by 24% over 10 years.

⁷ There are several estimates for the number and share who own with a mortgage.

Chart 1: Growth in different types of housing tenure in England (rebased to 100)



Source: DCLG, Dwelling Stock Estimates: 2015, England, Table 2

HOUSEHOLD SPENDING ON RENT

Precise data is difficult to come by but we estimate that households spent a total of £64bn⁸ on rent in 2014. Spending on private rents is estimated to be £42bn⁹. We argue that, at the very least, in terms of the consumer protection available renters should be treated like other consumers of services. Spending on rent is one of the biggest transactions households will make. To understand the anomalous position renters are in with regards to consumer protection, it is worth comparing the amount spent on rent with the amount spent on financial products (which are well regulated).

Table 2: Comparative annual spending on rent and financial products

Category	£bn
Total rent	64
- Private rent	42.3
Mortgages	62
Personal pension contributions	24
Retail investment fund contributions	24
General insurance (net premiums)	30
Life insurance and annuities (net premiums)	10
Income protection (net premiums)	1.5

Source: FIC estimates, Generation Rent, Investment Association (IA), Association of British Insurers (ABI), total rent figure is for 2014, rest of data is 2015

⁸ Based on the number of households in UK and average household spending on rent. Data for rent and mortgages relates to 2014. For rent, this includes support provided through housing benefit and rebates

⁹ http://www.generationrent.org/making_money_like_a_landlord

So, as consumers, households spend a huge amount each year on rent payments, more than they spend on key financial products. The fact that, taking into account housing benefit, private renters in England spent 43% of their gross income on rent in 2013/14¹⁰ (52% if housing benefit not accounted for) gives an idea of just how big a consumer ‘transaction’ renting is.

Moreover, it is estimated that private landlords received £9.3 bn in the form of housing benefit in 2013/14¹¹ from the taxpayer. There are parallels with the regulation of personal pensions. Consumer groups campaigned for price caps on personal pensions because consumers *and* taxpayers were being ripped off (the taxpayer provides tax relief on pension contributions and this was being eaten up by high charges). Making rents more affordable would help consumers and taxpayers.

Finally, although not a spending item, there would appear to be 1.75 million private landlords (define as declaring income from property)¹² – greater than the 1.1 million employed in the highly regulated financial sector. So, looking at the rental sector as a consumer market, there are more *suppliers* of rented properties than are employed in the financial sector. Another reason, why the lack of consumer protection and regulation available to renters is anomalous.

DETRIMENT IN THE RENTED HOUSING SECTOR

There is evidence of significant detriment in the market. The key concerns we have about the rented sector are:

- The level and growth of rents in the private rented sector;
- The financial vulnerability of renters;
- The poor quality of many rented homes;
- The vulnerability of renters to unreasonable treatment by landlords (such as repossession); and
- The lack of consumer protection and redress available to renters to deal with these detriments.

Rents in the private rented sector

Recent research by housing market analysts found that average monthly rents in UK (exc London) are now £771 per month, an increase of 4.4% over the year to May 2016; average rents are £1,563 in London, an increase of 6.2% over the same period¹³. As a comparison, inflation was 0.3% over the year to May 2016¹⁴.

The table below provides an idea of the range of rents paid by households renting privately across England and, specifically, in London. Median monthly rents in England are now £650 per month with £1,452 in London. Average rents are higher at £820 for England and £1,727 for London – reflecting the way high rents drag up the averages.

¹⁰ English Housing Survey, 2013-14, Chapter 4, Private Renters, para 4.20

¹¹ http://www.generationrent.org/making_money_like_a_landlord the figure is much greater if the cost of various tax reliefs private landlords can benefit from

¹² <https://www.theguardian.com/money/2016/may/30/number-of-uk-landlords-rises-to-175-million>

¹³ HomeLet Rental Index, May 2016 Edition

¹⁴ <https://www.ons.gov.uk/economy/inflationandpriceindices>

Table 3: Private sector rents, England, monthly

	Average	Lower Quartile	Median	Upper Quartile
England	820	495	650	900
London	1,727	1,150	1,452	1,950

Source: Valuation Office Agency, Private Rental Market Statistics, May 2016, recorded between April 2015-March 2016, Table 1.7¹⁵

Recently, private rents have been rising faster than inflation. The table below shows the change in private rents over the past one, three and five years. Rents in London have significantly outstripped inflation rising by 20% over five years compared to 7.6% for inflation.

Table 4: Change in levels of private rents to May 2016

	Inflation (CPI)	London	GB exc London
1 year	0.3%	3.3%	2.0%
3 years	2.1%	9.9%	5.0%
5 years	7.6%	20.0%	7.9%

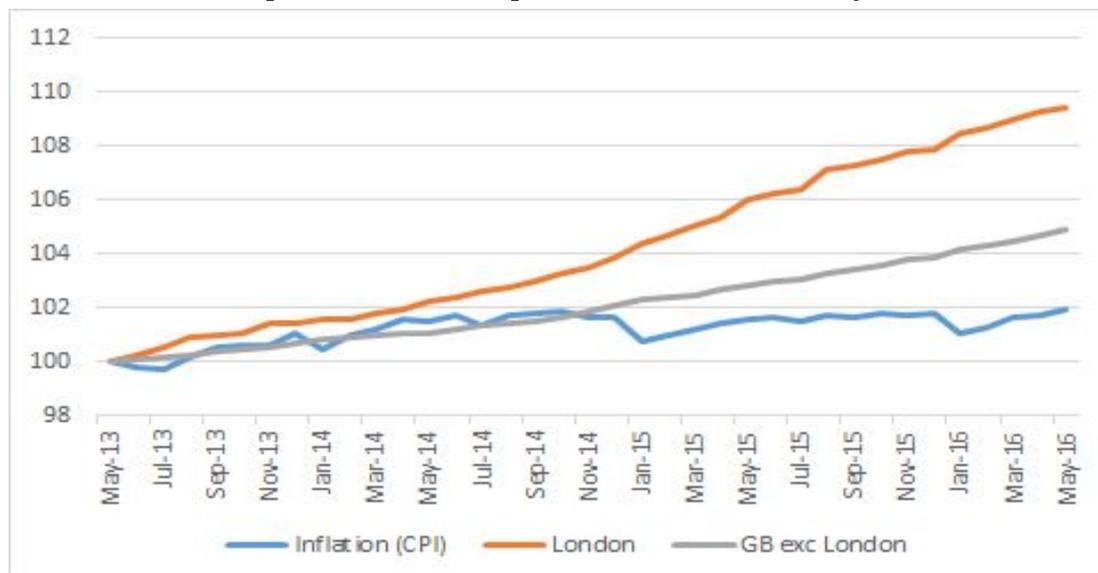
Source: FIC calculations, based on ONS Experimental Index of Private Housing Rental Prices, June 2016, Table 1

Private renters also pay significantly more than housing association or local authority tenants. In London, the average private rent was £298 a week (£277 average) compared to an average of £129 a week (£127 median) for all social housing (local authority and housing association). The number of private renters has risen by 25% over the past five years compared to just 2% in the social rented sector. The failure to build enough social housing means that large numbers of households have no choice but to turn to the much more expensive private rented sector to find somewhere to live.

The chart, below, shows in pictorial form how rents have continued to rise while inflation generally has flatlined.

¹⁵ <https://www.gov.uk/government/statistics/private-rental-market-statistics-may-2016>

Chart 1: Growth in private rents compared to inflation over 3 years



Rebased to 100 May 2013, Source: FIC calculations, based on ONS Experimental Index of Private Housing Rental Prices, June 2016, Table 1

A household renting a 2 bed flat in London would have to find £18,000 a year out of their net income to meet the rent. Based on research from 2013-14, tenants in the UK paid an average of 47% of their net income in rent – compared to those with a mortgage who pay 23% of their net income. Renters in London pay more as a share of income – across England households pay 43% of gross income in rent (inc housing benefit) but in London the figure is 60%¹⁶.

The UK compares poorly to the rest of Europe. Based on standardised comparisons, UK private renters spend almost 40% of their income on rent in comparison to the European average of 28%¹⁷. By way of illustration, if UK renters were paying the same as European counterparts, the total amount spent on private rent would be around £30 bn a year, rather than the current £42 bn.

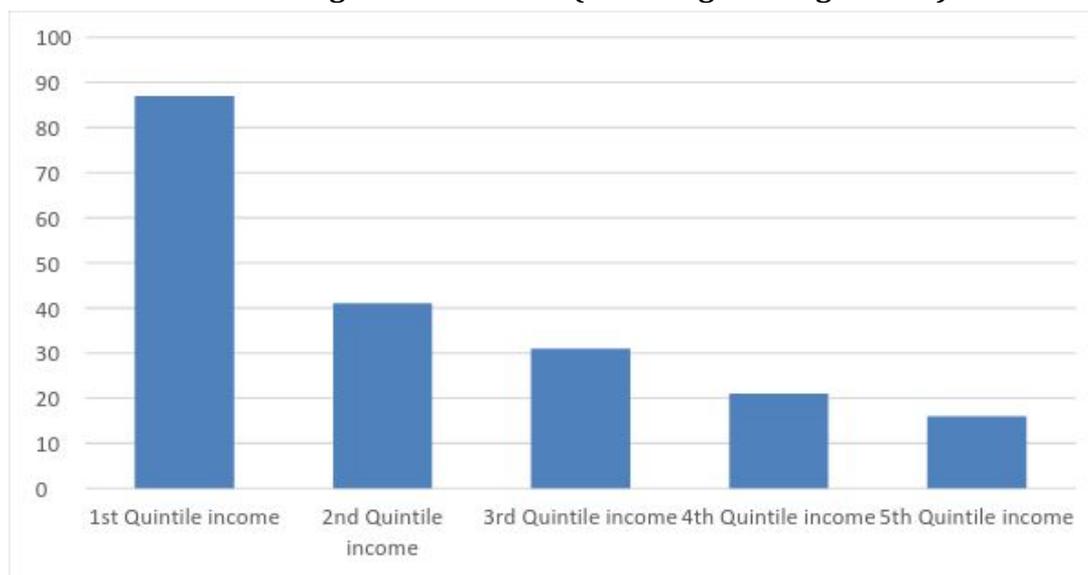
Lower-medium income households who rent spend a greater share of their income on housing than those with a mortgage¹⁸. Similarly, for households who do rent, lower income households spent a higher proportion of income on rent than medium-higher income households.

¹⁶ English Housing Survey, 2013-14

¹⁷ National Housing Federation, <http://www.housing.org.uk/blog/private-renters-in-uk-pay-double-the-european-average/>

¹⁸ See Table 3: Resolution Foundation, Home Truths: How affordable is housing for Britain's ordinary working families? Table 3 Vidhya Alakeson and Giselle Cory July 2013 © Resolution Foundation 2013

Chart 3: Ratio of housing costs to income (including housing benefit)



Source: English Household Survey, 2013-14, Chapter 4: Private Renters, Fig 4.2

Renters in financial difficulty

In 2015, landlords in England and Wales issued nearly 154,000 possession claims with nearly 43,000 repossessions (social landlords accounted for the largest share). In contrast, lenders issued nearly 20,000 possession claims with around 5,600 repossessions¹⁹. From the table above, we can see that there are just over 7 million homes owned with a mortgage and around 8.8 million renting (private and social). But there were more than seven times the number of landlord repossessions. This means there was one repossession order for every 204 homes rented compared to one repossession order for every 1,250 homes bought with a mortgage.

One third (33%) of renters said that they had difficulty keeping up with their rent – 4% were in arrears with their rent²⁰. This compares to around 1% of mortgages in arrears²¹. According to Shelter, 39% of renters have had to cut down on heating to pay rent, one-third cut down on food.

Landlord behaviour

Concerns have also been raised by campaign groups such as Shelter that tenants can be vulnerable to retaliatory evictions, where a landlord seeks to terminate the tenancy of an assured shorthold tenant in response a request for repairs or if the tenant has asked a local authority for help. Some measures were introduced in October 2015 to protect renters but these only apply to tenancies started after that date²².

Quality of rented homes

In 2014/15, 29% of private rented homes did not meet the decent homes standard, compared to 14% of social housing. One in six of private rented homes are considered to be physically unsafe.

¹⁹ Ministry of Justice, Mortgage and Landlord Possession Statistics, England and Wales, October to December 2015, Statistics Bulletin, February 2016

²⁰ Para 4.23 English Housing

²¹ Council of Mortgage Lenders, <https://www.cml.org.uk/news/press-releases/lowest-arrears-rate-for-more-than-a-decade-in-2015/>

²² See House of Commons Library, Housing Fitness in the Private Rented Sector, Briefing paper, No 7328, May 2016, para 2.6

The proportion of homes failing the standard has fallen but given the growth in the sector the total number of private rented homes failing the standards has risen from 1.2 million to 1.3 million since 2006²³.

To have nearly 30% of a product being substandard would trigger a major clampdown in any other consumer sector. But, this isn't just another consumer sector; it is 1.3 million households living in substandard homes.

According to Shelter, 6 out of 10 private renters had experienced a problem over the previous year (2014); 1 in 11 parents in private rented accommodation said their children's health had been affected.

77% of UK renters have moved in the last five years, compared to 43% across Europe – this is attributed partly to the nature of short tenancies in the UK²⁴. As the table below shows, longer stay renters tend to pay lower rents than those who have been tenants for shorter periods. For example, those renting for between three and four years are paying £20 a week less than those renting for under a year.

Table 5: Rents by length of tenure, £ weekly

	Private renters	Social renters
< 1 year	192	104
1 - 2 years	188	99
2 - 3 years	192	101
3 - 4 years	172	102
5 - 9 years	168	99
10 - 19 years	126	96
20+ years	120	95
All	179	99

Source: English Housing Survey, Annex Table 1.12: Mean weekly rents by length of residence, 2014-15

Summary of detriment in the rented sector

So, to summarise the detriment in this sector:

- Levels of rent in the private sector are much higher than in the social rented sector, and are growing faster than inflation;
- Rents take up a huge share of the incomes of households renting in the private sector;

²³ House of Commons Library, Housing Fitness in the Private Rented Sector, Briefing paper, No 7328, May 2016

²⁴ <https://www.theguardian.com/money/2015/jun/24/uk-tenants-pay-more-rent-than-europe>

- UK private renters pay a much higher share of their income on rent than their European counterparts;
- Renters are more likely to be in financial difficulty than homeowners and much more likely to be subject to repossession action;
- UK renters also seem to face less stable tenancies than their European counterparts; and
- A significant proportion of private rented homes are substandard, much higher than in the social rented sector - the number of private rented homes which are substandard has grown over the past 10 year.

But, despite the sheer size of the rented sector (a higher proportion of households now rent than own their own with a mortgage), and the huge amount spent on rent (£63 bn a year in total), renters can fall back on a very weak system of consumer protection and regulation - certainly compared to, say, financial consumers. We now turn to our proposals for improving the protections and rights available to renters in the UK.

A RENTERS AND LEASEHOLDERS PROTECTION AGENCY (RLPA)

The Centre believes we need a four part strategy to tackle the housing crisis in the UK:

- The development of social housing bonds as a cost effective way to fund the building of more social housing;
- Targeted rent controls in designated areas;
- Reform of planning laws and property taxes; and
- An improved system of consumer protection for renters and leaseholders operated by a new Renters and Leaseholders Protection Agency (RLPA).

The RPLA is the subject of this pamphlet.

Current regulation of the rented sector

The key point we make in this pamphlet is that, compared to financial regulation, the system of regulation and consumer protection available to renters is under-resourced, weak, complex and fragmented.

Financial consumers can rely on: a well-resourced regulator, The Financial Conduct Authority (FCA), with statutory objectives, duties and powers to authorise, supervise, enforce regulations, and impose sanctions on firms and individuals in the market; a right to complain and access to redress from the Financial Ombudsman Service (FOS); and protection from the Financial Services Compensation Scheme (FSCS) if a financial institution fails.

According to a major trade association, there are over 50 Acts of Parliament and 70 sets of regulations covering the private rented sector²⁵ plus various self-regulation schemes. In addition, there is a separate system of regulation for social landlords. Below, we provide a brief summary of some of the main legislation and regulations relating to the rented sector²⁶.

At a general level, despite the obvious need for decent homes, there is no general obligation on landlords to ensure accommodation is 'fit for human habitation'. Since the replacement of the old Housing Fitness Standard by a 'risk-based' assessment called the Housing Health and Safety Rating System (HHSRS) there is effectively no minimum property standards in England²⁷. Local authorities do have powers to compel landlords to tackle serious health and safety hazards. But, as the HHSRS is administered by local authorities, concerns have been raised about the consistency of interpretation and enforcement²⁸. This could become a much bigger concern given the financial pressures placed on local authorities.

Under the current system of regulation, private renters have the right to: live in a property that's safe and in a good state of repair; have a deposit returned when the tenancy ends - and in some circumstances have it protected through a protection scheme; challenge excessively high charges; know who the landlord is; live in the property undisturbed; be protected from unfair eviction and

²⁵ National Landlords' Association, <http://www.landlords.org.uk/about-nla>

²⁶ Note, given the complexity of relevant legislation, this does not cover all the legislative and self-regulatory schemes relating to renting, just some of the key elements.

²⁷ House of Commons Library, Housing Fitness in the Private Rented Sector, Briefing paper, No 7328, May 2016

²⁸ See House of Commons Library, Housing Fitness in the Private Rented Sector, Briefing paper, No 7328, May 2016, paras 3.1, 3.2

unfair rent; have a written agreement if they have a fixed-term tenancy of more than 3 years; and if they have a tenancy agreement it should comply with the law²⁹.

There is a system of self-regulation operated by trade associations such as the National Landlords Association (NLA)³⁰ and Residential Landlords Association (RLA)³¹, and a separate London Rental Standard (LRS)³². These associations run self-regulated accreditation schemes and operate their own complaints processes. There is a Housing Ombudsman (see below) covering social landlords which private landlords can join. But only 80 private landlords covering 35,000 units have joined³³.

There are formal legal procedures which renters can pursue. If tenants have a dispute with a private landlord, they can apply to the First-Tier Tribunal (Property Chamber - Residential Property). The cases renters can apply for include: rent increases for 'fair' or 'market' rates; and leasehold disputes, eg variable service charges, recognising a tenants' association, management disputes. The renter has to present his/ her case to the Tribunal (but can use a lawyer). The tribunal is independent of government and will listen to both sides of the argument before making a decision. If renters are unhappy with the decision, they can ask the Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber) within 28 days of the decision. There are different ways to apply in Wales, Scotland and Northern Ireland. But, again, we do not think that being able to use a tribunal system is a proper substitute for a proper, accessible statutory Ombudsman scheme.

There is also a Tenancy Deposit Scheme which at least provides some protection for tenants' deposits³⁴. Letting agents must also belong to a government approved Ombudsman scheme such as the Property Redress Scheme³⁵ or The Property Ombudsman Scheme³⁶

So, there are some rights. But, the system for enforcing consumer-renters' rights is fragmented. It is not the same as: having an independent, well-resourced regulator to oversee the market, monitor and enforce compliance with rights; and consumer-renters being able to use an independent, easily-accessible statutory Ombudsman rather than going through a tribunal system or making a complaint to a self-regulation scheme run by private landlords trade associations.

Renters in the social housing sector would appear to have more protections. There is a statutory Housing Ombudsman Scheme covering 2,049 Housing Associations (2.9 million properties) and 349 local authorities (1.8 million properties). But, even with an Ombudsman scheme, this still falls short of the consumer protection available to financial consumers, as there is no FCA style supervision and enforcement of 'conduct of business' and fair treatment of consumer-renters³⁷.

²⁹ <https://www.gov.uk/private-renting/your-rights-and-responsibilities>

³⁰ <http://www.landlords.org.uk/support-advice/landlord-accreditation>

³¹ <http://www.rlaas.co.uk/>

³² <http://www.arla.co.uk/info-guides/london-rental-standard.aspx>

³³ The Housing Ombudsman Annual Report and Financial Statements 2014-15, p3

³⁴ <https://www.tenancydepositscheme.com/tenants-FAQs.html>

³⁵ <https://www.theprs.co.uk/>

³⁶ <https://www.tpos.co.uk/about-us>

³⁷ The Homes and Communities Agency (HCA) is more akin to the Prudential Regulation Authority (HCA)

FIC PROPOSALS

The Centre is proposing the introduction of a new Renters and Leaseholders Protection Bill which would establish new enforceable rights for renters and a new Renters and Leaseholders Protection Agency (RLPA). The devolved nature of housing policy in the UK means specific agencies are likely to be needed for each of the four nations.

RLPA Objectives and powers

The new RLPA would have two main statutory objectives:

- To protect renters and leaseholders from unfair and abusive practices by landlords and agents; and
- To contribute to the improvement in the quality and sustainability of the rented accommodation sector.

The scope of the new RPLA would include the private rental sector and social housing sector, leaseholders, and lettings agencies.

Renters and Leaseholder Rights Charter

Under a new Act, renters and leaseholders would have a new set of statutory rights in the form of a new Charter supervised and enforced by the RPLA, and access to redress. These rights would cover:

- A general right to be treated fairly by landlords set down in a binding tenancy agreement
- A right to a suitable quality and standard of accommodation (including but not limited to overcrowding, health and safety standards, functioning amenities, and a 'fair' price)
- A right of tenure and protection from eviction (unless landlord complying in reasonable circumstances), and a right to be treated fairly when in arrears
- A right to be protected from unreasonable rent increases
- A right to true, fair and timely information – pre and post contract – on the quality and total cost of renting accommodation and notice of changes to rent
- A right to privacy
- A right to complain, access to mediation and obtain appropriate redress from independent redress scheme
- Protection of deposits

Relevant provisions would apply to letting agencies including:

- Banning agencies from charging fees to tenants
- Requirement to act fairly, transparently, and honestly.

RLPA Duties

The RLPA would have the following main duties:

- To maintain oversight of the rental sector
- To publish data and research on the rental sector
- To supervise and enforce the new statutory rights

- To authorise landlords and lettings agents, maintain and publish the statutory register of approved landlords and lettings agents
- To coordinate with relevant authorities in pursuit of its statutory objectives
- To operate an accessible complaints, mediation and redress scheme
- To publish information on rights, operate a helpline/ website

Landlords and lettings agents would be required to register themselves (for landlords, this would include their properties) with the RLPA, and comply with minimum 'fit and proper' authorisation requirements, and comply with the statutory rights set out in the new Charter.

RLPA powers

The RLPA would have necessary and appropriate powers to ensure statutory objectives are met including but not limited to:

- Powers to authorise landlords and agents
- Powers to collect authorisation information from landlords and agents to maintain the register
- Setting fit and proper tests for landlord and agent registration
- Setting rules to implement rights set out above
- Power to recommend local rent caps
- Ability to impose directions on landlords and agents
- Ability to impose fines and other sanctions on landlords and agents (eg. removal from register)
- Ability to direct local authorities to take action to improve local markets
- To enable supervision and enforcement, powers to collect information from landlords, agents and local authorities, publish information, and share information with other relevant authorities and institutions (such as mortgage lenders)

Structure and funding

In terms of structure, we are looking at two possible models:

- A central regulator for each of the nations of the UK³⁸; or
- A more federated structure with a smaller, coordinating authority working with local authorities to supervise and enforce at local authority level.

In both cases, it would require the creation of a new RLPA or to fundamentally change the role of the Homes and Communities Agency. With regards to establishing a whole of market Rented Sector Ombudsman, it would make sense to build on the existing Housing Ombudsman.

With regards to funding, we are considering two options: either direct funding from government or a levy paid by landlords/ buy-to-let mortgage lenders similar to the levy applied by the FCA on the financial services industry.

³⁸ So in effect, we would have an RLPA for England and Wales (E&WRLPA), Scottish RLPA (SRLPA), and Northern Ireland RLPA (NIRLPA)

NEXT STEPS

These are very much preliminary ideas to improve the level of consumer protection available to renters. Much more thinking is needed on the most effective structure and funding mechanism for the RLPA(s).

We would very much welcome hearing views from potential partners who are interested in taking forward the proposals.

Financial Inclusion Centre**July 2016****ENDS**