



CONSUMER RIGHTS IN THE PRIVATE RENTED SECTOR

SUMMARY OF THE REPORT

INTRODUCTION

The Smith Institute has published a new report, entitled Consumer Rights in the Private Rented Sector, sponsored by the Wates Family Enterprise Trust.

The Financial Inclusion Centre undertook the ground-breaking research and analysis and drafted the report. The report was edited, and an Introduction provided, by Lewis Shand Smith. Leading politician John Healey provided the Foreword.

We think this is one of the most comprehensive attempts to compare and contrast: how well the private rented sector (PRS) performs against other major consumer sectors; and the rights and protections available to millions of private renters with those available to consumers in other sectors of the economy.

The briefing summarises the key findings and recommendations of the report.

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SUMMARY OF THE REPORT

How did we assess the detriment in the private rented sector?

In the report, we deliberately chose a consumer rights model to highlight just how poorly private renters are protected, and how few rights they have. The lack of protection and rights is all the more glaring given the share of household income renters spend on rent and the level of financial vulnerability facing millions of renters.

But, it is not just the fact that spending on rent is one of the largest transactions millions of households make, we must remember that access to decent housing is a fundamental human right.

It is worth stating that a *social justice* case, rather than *consumer rights* case could be made for improving the protection and rights available to private renters. The right to a decent home, to be treated fairly while living in that home, and to be protected from unfair practices is a basic human right in, and of, itself. Indeed, the right to an adequate standard of housing is recognised in international human rights law.

However, we live in a world where people are treated as consumers of services rather than as citizens. So, it seemed appropriate to use a consumer rights model to expose the gaps and weaknesses in the current system of consumer protection available to private renters.

The team used the established consumer outcomes framework (access, choice, quality, value for money, safety, competition, complaints and redress, voice and influence, and externalities) to assess how well the PRS market works for renters.

The report concludes that the PRS is failing 'consumers'. Details of our analysis can be found in **Section 2: How well-functioning is the private rented sector? A consumer perspective** on page 24 of the full report. The comparative analysis is summarised in a table on page 29.

How did we assess consumer protection and rights in the PRS?

We set out to answer the question:

- How does the consumer protection regime in the private rented sector compare to those in the comparator sectors - financial services, utilities, telecoms, transport, and general consumer rights provided as part of the Consumer Rights Act?

To do this we considered in detail:

- The level of rights, protections and support afforded to consumers - in this case private renters.
- The regulatory framework.
- The objectives, powers and duties given to those regulatory bodies, the design of the regulatory system.
- The standards expected of the providers in the market – in this case landlords and other market participants (e.g. letting agents).
- The resources available to regulatory bodies with authority and responsibility for monitoring and enforcing compliance with legislation and regulation.
- The ‘culture’ of regulation in the sector e.g. the willingness of the regulator to set standards for those providing services and enforce against non-compliance.
- Monitoring, supervision, and enforcement.
- How aware consumers are of their rights (if consumers are not aware of their rights, they will be less empowered to exercise those rights, providers will be under less pressure to maintain decent standards, regulatory bodies will be under less pressure to enforce those rights and standards).
- How easy it is for consumers to exercise their rights and obtain redress (having a body of legislation and regulation conferring rights is one thing but if it difficult for consumers to exercise those rights – for example, if it onerous or too costly – then the benefits are undermined).
- Consumer representation (it is accepted that having mechanisms for representing the consumer interest improves the efficacy of regulatory bodies – the regulators that cover the major consumer sectors each have formal and informal mechanisms for representing the consumer interest).

The report concludes that consumer protection standards in the private rented sector compares poorly with that available in other markets, such as financial services, utilities, telecoms, transport, and even basic discretionary consumer goods.

Compared to consumers in the main comparator sectors considered here, private renters are poorly protected. Regulation is not used effectively to maintain standards in the market. Consumers are often better protected when buying *discretionary* consumer products, as a result of the consolidated Consumer Rights Act 2015 and reasonably competitive market forces for consumer goods.

The contrast with the protections available to consumers in financial services is particularly marked.

More details can be found in: **Section 3: Cross-sector comparison of consumer protections in the private rented sector** on page 32 of the full report. The comparative analysis is summarised in a table on page 37.

Policy recommendations

Following the analysis, the report makes a series of policy recommendations to level up the protection and rights available to private renters. These can be found in **Section 4: Steps to improving consumer protection for private renters**, on page 40 of the full report. The key recommendations are:

- Establish a new Private Rented Sector Regulator with a primary objective of ensuring renters are treated fairly. The Regulator would use a risk based approach to regulation¹ to oversee compliance with standards, supporting local authorities in their enforcement role, and ensure both tenants' and landlords' voices are heard.
- Introduce a new open-ended Private Residential Tenancy, with measures to control excessive rent increases, remove no-fault evictions, and increase notice periods for longer term tenants.
- Reform redress and dispute resolution by introducing mandatory membership of the Housing Ombudsman Service for private rented sector landlords and lettings agents.
- Build on the powers local authorities already have and introduce mandatory registration of landlords and letting agents. This would contribute data to a national, searchable register which would be accessible to tenants and enforced by local authorities.
- Build on the Homes (Fit for Human Habitation) Act 2018 and develop a new Private Renting Quality Standard that all tenants can expect their rental property to meet.
- Review the impact of mandatory use of third-party deposit schemes. If found to be insufficiently robust, introduce a new National Tenancy Deposit Scheme.
- Give local authorities the power to levy more substantial fines and tougher penalties for breaches, including the ability to confiscate properties from those landlords whose business model relies on exploitation of vulnerable tenants.
- To better empower renters, the Government should establish an independent Private Renters Panel to represent interests of renters and engage with Government and the new Regulator on policy development.
- Require all landlords to provide better information for tenants, setting out terms of the tenancy, information about the property, information about the landlord and responsibilities of tenants and landlords, and how to access redress through the ombudsman service in the event of a dispute.
- Develop an industry wide information hub – for landlords, tenants, local authorities, and advice agencies – and to use data to underpin a national drive to raise standards.
- Require all local authorities to ensure good quality advice is available locally for private renters and landlords about rights and obligations.

We believe these recommendations are proportionate to the scale of the detriment facing private renters. The regime we outline here is the least this vulnerable group of citizens should have the right to expect in a modern consumer society.

Please note that there have been a number of legislative and regulatory developments in the PRS and other sectors in response to Covid-19 pandemic. Our comparative analysis was based on the relevant legislation and regulation in place at the time of writing some of which may have since

¹ Based on the how many rental properties landlords own/ agents manage, and the risk of harm to renters

been revised. However, the case for fundamental reform of the consumer protection regime for private renters has not changed.

Dealing with Covid-19 impacts

This new report was researched and written before Covid-19 pandemic happened. The measures in this report are intended as longer term reforms of consumer protection in the PRS. Clearly, the economic and financial impacts of Covid-19 on renters requires a separate response. We have also produced a series of recommendations which need to be urgently implemented to protect renters. These can be found on page 20 of our report: *Extraordinary times need extraordinary measures: Proposals to deal with the immediate and longer term financial impacts of the Covid19 pandemic*. This can be found here:

Financial Inclusion Centre

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ABOUT THE FINANCIAL INCLUSION CENTRE

The Financial Inclusion Centre is an independent, not-for-profit policy and research group. Its mission is to promote a financial system and financial markets that work for society. The Centre works at two main levels.

Promoting system-level change We undertake research and develop policy to promote sustainable, resilient, economically and socially useful financial markets that: benefit the environment; encourage responsible corporate behaviours and create a positive social impact; and efficiently allocate long-term financial resources to the real economy.

Promoting economic and social justice We promote fair and inclusive, efficient, well-governed and accountable, properly regulated financial services that meet households' core financial needs. To do this, we undertake research into the causes of market failure in the sector, formulate policies to address that market failure, develop alternative solutions where the market cannot deliver, and campaign for market reform.

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