

Written evidence submitted by the Northern Housing Consortium [RRS 169]

About us

The Northern Housing Consortium (NHC) is a membership organisation based in the North of England. We are the 'Voice of the North' working with councils, housing associations and ALMOs to develop insight, influence and solutions to create better homes and places.

Our response has been informed by consultation with our local authority member organisations who work with private sector landlords across the North East, North West and Yorkshire and The Humber.

Summary of key points

We fundamentally agree that the White Paper represents the right direction for the sector but the foundations upon which the framework stands will make or break the reforms.

- If the whole package of reforms is implemented and coordinated across Government, we can envisage that the empowerment, stability and certainty for tenants will help to balance the responsibility for higher standards between landlords, tenants and local authority teams and generate less churn in the sector over the long term. The Property Portal is a big step forward and being able to identify properties achieves a shift in the sector, putting the obligation onto the landlord to declare a level of decency. But implementing a 'Fairer Private Rented Sector' will require an increased level of public service capacity and this will be an urgent factor in reform.
- Minimum standards and a national framework will support a shared understanding, but local authorities are already operating in a complex landscape of regulation and the reforms offer nothing in the way of rationalising new regulation with existing rules.
- The White Paper is unconvincing in explaining how the reforms will work across Government with multiple departments interacting with the sector. Evidence of a cross-government 'levelling up' approach would provide reassurance that the reforms will be taken forward with collective oversight.
- Time running out to meet energy targets in the sector - enforcement of minimum energy standards across the whole sector is too big a task for local enforcement alone. Urgent clarity is required on Government plans for MEES, and even if this is forthcoming, it remains unlikely that a 2030 target will be comprehensively met, given the strain on local enforcement teams.
- A minimum standard of decency in the private rented sector provides an easy to understand measure and we support this approach but the inspection regime and resources around it will determine its success. The White Paper refers to 'regular, independent checks' which we assume means that local authorities will either carry out or oversee checks. The standard must also interact with HHSRS. These basic foundations will be key determinants of success.
- We are optimistic about the potential of the reforms to raise standards but it is possible that supply could be impacted, placing more pressure on social housing. A large proportion of properties in the private rented sector would require investment well above rental yields or property values to bring stock up to a decent standard. Our assessment in the North is that approximately 360,000 private rental properties

are below decent standard and need upgrade within 8 years. Landlords have previously relied on grants from Government to improve properties and a system relying entirely on fines and enforcement may create a hostile environment. The cost of investment will be a key determinant in decisions to exit the sector, over any concern about new tenancy structure.

1. Will the Government's White Paper proposals result in a fairer private rented sector (PRS)?

The White Paper proposals will rebalance the rights and responsibilities around private renting and tilt the balance further towards tenants. A fair and balanced market should be good for both landlords and for tenants.

We fundamentally agree that this is the right direction for the sector, but the reforms must have practical implementation plans to make them work.

2. What do the proposals in the White Paper and other recent reforms indicate about the role the Government envisages the PRS playing in providing housing nationally?

The sector plays a central role in providing flexible housing choices. Lower income tenants and local authorities depend upon private renting to prevent homelessness. The North faces a 45% shortfall in affordable housing delivery, when assessed against need. The highest shortfall is in the most affordable social rented homes. Lower income tenants and local authorities therefore depend upon private renting to prevent homelessness. The households using the sector has widened and includes more families with children and older households. But the sector is clearly underinvested and yet still unaffordable for many. It is essential that the Government's handling of the design of its proposed legislative changes achieve the right balance between stakeholders.

3. Have the Government's announcements already led to any changes in behaviour in the PRS?

Some local authorities observed increased use of landlords issuing Section 21 notices with the intention of selling properties, others reported little, or no evidence of change in behaviour since the announcement of the tenure reforms. Others said they expect to see more churn in lead up to enactment as those landlords leave the sector.

Local authorities have told us that private landlords are mainly concerned about reforms requiring investment in the property, rather than tenancy reform. Requirement for investment in minimum standards and energy efficiency without any return on investment will influence landlord behaviour. In low value housing markets there is no headroom to borrow and often no real incentive to invest unless forced to do so as a result of enforcement action.

4. Do the proposals for reforming tenancies, including the abolition of Section 21, strike the right balance between protecting tenants from unfair eviction and allowing landlords to take possession of their properties in reasonable circumstances?

Removal of 'no-fault evictions' is a key step towards increased protection for private renters and will allow renters to challenge poor practice and unfair rent increases without fear of eviction.

It will also be important that landlords are able to get their properties back where they have a valid reason to do so.

We believe longer tenancies have the potential to improve relationships between tenants and landlords although in the short-term new tenancies may result in a more selective approach to lettings.

5. How easily will tenants be able to challenge unfair rent increases under the proposals?

There was agreement in our evidence gathering that any process to challenge increases would have to be inexpensive and straightforward. The 'fair' outcome would depend upon what the tribunal will consider an unfair increase and how they acknowledge market rent.

Market rents indicate an emphasis on rental increases and in the North have continued to rise above LHA rates. Average rents have grown by 11.0% in the UK to Q1 2022 and in the North, Yorkshire & The Humber and the North West have broadly kept pace with that. Last year only 7% of 2-bed properties in the North were advertised below LHA rates, a reduction from 17% in 2020 indicating higher rental prices which will increase as inflation tops 10%.¹

It was felt that retaliatory rent rises could still be a way of ensuring a tenant is forced to move. There is potentially a new role for ombudsman to protect tenants without court action.

6. Does the PRS need its own ombudsman? If so, what powers should it have?

A sector ombudsman as an independent arbiter, as in the social housing sector providing a non-court-based route to resolve disputes could be positive. But there are some obvious differences in the private rented sector which is a more complex landscape factoring in letting agents who already belong to an independent redress scheme.

Some local authority members queried whether the powers for an ombudsman would be duplicated by the strengthened local authority powers thereby replicating the same oversight.

The White Paper does not specify how the ombudsman will be funded but landlords could be further alienated by having to fund the service.

In comparison with the Housing Ombudsman, the jeopardy is different for private landlords, reputational risks of Ombudsman action will hold less sway within the private sector than with social landlords. Financial penalties will have more impact but may overlap with local authorities enhanced powers to issue fines and penalties.

7. Will the proposals result in more disputes ending up in the courts? If so, will the proposals for speeding up the courts service suffice?

The White Paper confirms that a specialist housing court has been ruled out but it is important not to lose sight of the issues that gave rise to its consideration which were to address concerns about the challenges accessing the court process. The resources

¹ [Northern Housing Monitor Private Rented Sector 2022](#)

which would have been spent on a new court should be used to improve the current court system.

Before the pandemic, the number of claims by landlords rose by 31% in the North compared with only 19% in England. Post-pandemic the degree to which landlords were registering claims continued to grow. This may suggest a growing tendency for Northern landlords to seek redress through courts.²

We cannot anticipate if the proposals will lead to more cases going to court but there was agreement in our evidence gathering that it is essential there is Government investment in a far more efficient court process, with more resource and full digitalisation.

Better resourced court systems will not solve every dispute and the benefits of mediation and the role of a new ombudsman were recognised. Success rates for alternative dispute remedies could be higher than through court remedies and the costs are reduced but ultimately this needs independent third-party arbiters in local areas.

8. What impact, if any, will the reforms have on the supply of homes in the PRS?

It is to be expected that the reforms will bring about a reduction in the number of non-decent homes available for letting.

It is too early to say whether the longer-term outcome will be landlords exiting the sector with a subsequent reduction in supply and therefore further pressure on the supply of social rented homes.

Constrained social housing supply has contributed to the growth of private renting in addition to the lucrative business model for many landlords who have been able to operate with little concern for standards or quality. If landlords see the reforms as making their business financially less attractive this could contribute to greater churn and a slowing of growth, or a different type of business model prevailing.

The trajectory of private renting has been upwards since 2010 with growth of 36% between 2010 and 2020 in the North. The size of the sector has fallen back from a peak of 19% in 2016/17 and is now around 17% of households. This marginal decline started pre-pandemic although the pandemic was associated with a further reduction, at least in the North West and North East and this may be compounded by landlords exiting the market (or threatening to do so) in part due to the loss of guaranteed rental payments under universal credit.

Changes in the private rented sector 2019 to 2021

	Private renting households 2021 (,000)	% Private Renting	% change 2019 to 2021
North East	184	15.3	3.4%
North West	533	16.5	-4.6%
Yorkshire & The Humber	468	19.6	-1.0%
North	1,185	17.4%	-0.4%
England	4,434	18.5	-5.9%

Source: English Housing Survey 2020/21

² [Northern Housing Monitor Private Rented Sector 2022](#)

9. What should be included in the new decent homes standard and how easily could it be enforced?

Applying the Decent Homes Standard in the private rented sector and the Levelling Up Mission aiming to halve non-decency by 2030 are positive moves. The new Prime Minister must maintain this commitment to renters.

The latest England-wide statistics suggest that 21% of private rented sector stock is non-decent. In the North, 30% of private rented stock is non-decent, and this rises to 38% in Yorkshire and the Humber, which is also the region outside London most reliant on the private rented sector.³

Good knowledge of private sector housing condition in local areas will be needed to tackle this. This should come from the new property portal but establishing a reliable baseline will be an important early step in moving towards a new standard and populating the portal.

The NHC is a core-participant in the Government-led review of the Decent Homes Standard which has identified existing thermal comfort requirements as one of the most dated elements of the current Standard.

Thermal efficiency the private rented sector is typically poorer than in the social rented sector and Government has indicated it is minded to set an EPC C target for both rented sectors⁴. It is now two years since Government consulted on this minimum standard for the private rented sector, and yet there is still no official response to the consultation⁵. Government should urgently confirm the EPC C MEES Standard for the private rented sector, with a 2030 deadline. This will have the effect of accelerating progress towards meeting one element of an enhanced Decent Homes Standard, whilst the remainder of the Standard is finalised and confirmed.

One of the advantages of housing quality being enshrined as a levelling up mission is that it requires commitment from all Government departments and the coordination of resources. There is a particular risk in relation to the energy efficiency elements of implementing a Decent Homes Standard in the private rented sector, given these rest with BEIS and responsibility for the review lies with DLUHC.

In replicating the same standard for social and private rental stock it is recognised that the private sector has more varied, and older stock. Private landlords will face the same if not greater challenges in maintaining decency and in meeting higher thermal efficiency standards e.g., an understanding of which measures to install, how to get it right first time and how to limit disruption to tenants. But private landlords will not benefit from the same economies of asset management as social landlords.

The Statutory Minimum criterion in the Decent Homes Standard must align with other regulations applying to the private rented sector to ensure that landlords have a clear understanding of the requirements and that local authorities are able to enforce standards. This includes MEES, HHSRS and the provisions of the Homes (Fitness for Human Habitation) Act. Local authorities want to see the revised HHSRS be aligned with the Decent Homes Standard, and with MEES, alongside licensing; alongside

³ [Northern Housing Monitor Private Rented Sector 2022](#)

⁴ Via the 2020 MEES Consultation in the PRS; and in the Autumn 2021 Heat and Buildings Strategy for the Social Rented Sector.

⁵ <https://www.gov.uk/government/consultations/improving-the-energy-performance-of-privately-rented-homes>

better use of data, matched with the right level of enforcement capacity and the empowering of tenants alongside the ability to access justice through the courts.

Local Authorities use HHSRS daily to issue improvement notices on failures around modern facilities, state of repair and poor condition and are unclear what if anything the Decent Homes Standard will add to their ability to enforce good quality. The White Paper describes HHSRS as 'part of the pathway to applying the Decent Homes Standard' and promises to 'streamline the process that local councils take in inspecting properties to assess hazards.' This will be essential to make the framework operational.

There are useful lessons to be learned from the Scottish Government's approach with the [Tolerable Standard](#) which requires local authorities to adopt a strategic approach to dealing with housing below the standard, an approach which opens possibilities to align enforcement to the existing use of selective licensing.

The White Paper commits to running pilot schemes with a selection of local councils to explore different ways of enforcing standards. This will be necessary, but selection must recognise that local authorities face different issues with housing stock variation including rural areas.

10. Overall, what additional pressures will the proposals place on local councils, and how many of these will require new burdens funding

New burdens include:

- Property Portal: The operation of the Portal is to be determined but it is assumed that new burdens will arise from additional compliance checking and desktop related work and tenant enquiries.
- Decent Homes Standard. Depending upon the framework for the standard, it seems likely that housing teams will be required to carry out, or oversee, 'regular independent checks' (possibly similar to the current EPC assessment model) to ensure compliance with the standard – this is a significant additional role.
- Ombudsman. Working with a new Ombudsman and with tenants making them aware of their rights and the role of mediation will fall onto local authority teams.
- Rogue Landlord Database. The proposals require a higher level of inclusion on the database.
- National oversight of local councils' enforcement. Requirements for councils to report on their housing enforcement activity and comply with a national framework for fines will carry an administrative burden.

As has been seen in the social housing sector, greater awareness for tenants of routes to redress generates greater demand for services. While tenants' greater confidence in reporting poor conditions will be beneficial to standards in the long run, local authority private housing teams will need to be bolstered if they are to make the reforms work.

Severe constraints on capacity are reported even without new burdens, limiting their ability to effectively use the existing enforcement tools.

The change in average net spend per local authority in the North between 2010/11 and 2018/19 stood at -54% for housing services compared to a reduction of 34% in the rest of England. This means that councils in the North now spend 1.9p of every £1 on housing including private sector teams, compared to 3.7p in the rest of England.⁶

Some local authority teams report being fearful about the resources needed to regulate and monitor the reforms.

The White Paper commits to establishing a local council sounding board to understand front line challenges. The assessment is urgent to establish the resourcing needs across local authorities' private sector housing function.

August 2022