

Housing: Changes in the private rented sector

AM Hello, and welcome to the Commons Library Podcast where our experts give you an informed and impartial take on issues being discussed in Westminster and where you live.

I'm Andrew Mackley, and last week I talked to Wendy Wilson, the Housing Specialist in the Social Policy Section of the House of Commons Library. We discussed renting in the private sector, specifically how the increasing size of the private rented sector is affecting government policy in England; how landlords and letting agents are regulated; the extent to which tenants are afforded security of tenure; and the developing debate on rent control; before finally touching upon how private rented sector policies are affecting government housing policy more broadly.

So to begin with, perhaps you could provide some context for us as to what's been happening in the private rented sector recently, or the PRS as it's known?

WW Certainly. Well, in recent years, we've seen a real growth in the private rented sector, and in 2011, it became the second largest tenure in England. Also, the same trend has happened in Scotland, Wales and Northern Ireland, it has grown as a sector. And in 2017/18, the English Housing Survey estimated that there were 4.5 million households renting privately, which is around about 20 per cent of all households in England.

Traditionally, the PRS has been a sector of younger, more mobile households, certainly students and younger professionals, professional couples, before they settle into long-term accommodation, which was often owner-occupation. But these days we're seeing the private rented sector accommodate people, including families with

young children, for much longer periods, so that many children in the private rented sector today will spend their education living in private rented accommodation. And there are differences across the regions, but that's particularly the case in London and the South East, so that is a notable transformation in the make-up of the PRS.

AM Okay, so as you say, the private rented sector in the UK has become the second largest housing tenure, so what effect, if any, has that had on government policy? And I suppose at this point we should remind our listeners that housing is a devolved area, which means that the UK government only legislates for housing policy in England.

WW Well, we've seen a significant shift. The outgoing Labour Government in 2010 had committed to introduce the National Register of Landlords in England, whereas the incoming Coalition Government, with the new Housing Minister, Grant Shapps, quickly said that they would not bring in that register and that there was no intention of increasing the regulatory burden on landlords. But the intervening period has seen a change in approach. As you said, the private rented sector is now the second largest tenure in the UK and it has the worst housing conditions, according to the English Housing Survey. And as households have struggled to access the social rented sector or owner-occupation, it seems that improving standards of housing and management in the PRS has risen up the government's agenda.

There was a Housing White Paper in February 2017 which certainly referred to the private rented sector. There was an acknowledgement that building more homes, increasing the supply of housing across all tenures, would take time. So that in the meantime, the Government would improve safeguards in the private rented sector and do more to prevent homelessness and to help households currently priced out of the market. But there wasn't a great deal of focus on actually increasing regulation in

the PRS, it was more about funding a build-to-rent, that is, and bringing in institutional investment to develop housing specifically for the private rented sector with longer tenancies. There was little focus on regulation, but as we'll see, that is now a really key change in the Government policy.

AM So Government policy since 2010 has been on a bit of a journey then, from a laissez-faire approach to one where there's more regulatory intervention. So perhaps we could get into the detail of that a bit more. What does regulation mean exactly? Are private landlords regulated, for example?

WW Well, there is some divergence here because in Scotland, Wales and Northern Ireland, they do have mandatory Private Landlord Registration, but there's no overarching regulation of private landlords in England. They're not required to register before they let a property. However, the Government does intend to legislate to require landlords to be members of a redress scheme. Despite the lack of overarching regulation, there are a lot of regulatory requirements on landlords in England and these have increased in recent years. I can give you some examples.

Landlords have to protect tenants' deposits in an approved scheme. They have to issue certain information at the start of an assured shorthold tenancy, which is the most common form of tenancy in England. So there's something called a How to Rent Guide, an Energy Performance Certificate, a Gas Safety Certificate, and also details of tenancy deposit schemes. They have to be given to tenants at the start of the tenancy.

Agents have to be members of an approved redress scheme and there are new requirements on letting agents in regard to protecting clients' money. We've seen, since October 2018, mandatory licencing of houses in multiple occupation extended to all HMOs with five or more occupants who do not form a single household. And a



minimum bedroom size in a house in multiple occupation has been introduced very recently. From 20th March 2019, all new tenancies must be fit for human habitation at the start of the tenancy and landlords have to make sure they remain so for the duration of the tenancy. And there are other changes on the cards, so from 1st June, most upfront fees for prospective tenants will be banned. So there are a number of regulatory requirements and there are more coming down the line.

AM Right, so there have actually been quite a number of new regulatory interventions by the Government on landlords, all be them quite relatively ad hoc. It's often said by some landlord organisations that only a minority of landlords are what they term 'rogue landlords', and that's traditionally the argument as to why there should only be light-touch or ad hoc regulation. In your role as the Library's Housing Policy Specialist, you get a lot of casework enquiries coming from Members of Parliament on behalf of their constituents. So what is meant by the term 'rogue landlords' and what does that mean in practice? And how helpful is it when considering landlords as a whole and, by extension, how they're regulated?

WW Sure. Well, there's no agreed definition of a 'rogue landlord', and, clearly, at one end of the scale, there are landlords who demonstrate criminal activity, so they let properties in very poor conditions, they breach licencing requirements, and they can illegally evict tenants. You could take banning order offences as a guide, a failure to comply with an improvement notice or an overcrowding notice served by a local authority environmental health officer. Or a breach of a house in multiple occupation licencing and management regulations can result in a local authority applying for a banning order against a landlord. That would also cover gas and fire safety breaches.

So at one end of the scale, you could say that if a landlord commits a banning order offence, that they are a 'rogue landlord'. And they're often described as a minority of

all private sector landlords, but across the sector, there are a larger proportion of landlords who could be described as amateur. For example, landlords who don't fully understand the rights and obligations that are created when a tenancy is entered into. So, for example, landlords who don't give tenants all the required information at the start of a tenancy and who don't fully appreciate their repairing responsibilities. I think it's important to recognise that letting premises is a business, but not all landlords seem to appreciate that.

AM So a relatively common way in which people rent privately is through a letting or a managing agent, although, of course, that's not always the case. Nevertheless, they're an important part of the private rented sector, PRS. So to what extent is there any sort of regulatory oversight of them?

WW Again, there's no overarching regulation of agents in England. There are different sorts of agents: some manage properties on behalf of landlords, whereas others will just source tenants for landlords, and that very much depends on the sort of contract a landlord enters into with the agent. An agent who is contracted to manage properties for a landlord must observe the same requirements as I've already outlined, for example, protecting tenants' deposits and providing tenants with the required upfront information. And a number of agents are members of professional bodies, such as the Association of Residential Letting Agents, and for those agents, they have to adhere, or they should adhere, to the professional body's code of practice.

We can contrast the situation in England currently with that in Scotland in Wales, where registration or licencing schemes for agents have been introduced and agents have to undergo approved training before they can actually operate. However, the government has said that they do intend to introduce regulation of letting agents in

England and that a nationally approved qualification is going to be introduced, so that's on the cards.

AM Okay, so at the moment, no oversight of agents but perhaps something in the pipeline, but has there been any sort of government intervention at all?

WW Yes, agents have to be members of a government approved redress scheme so that both landlord and tenants can use the redress scheme if they believe that the agent is not performing well. I've already mentioned the Tenant Fees Act 2019 will provide that from 1st June, most upfront fees for prospective tenants will be abolished. And as I've said, the government has committed to introduce regulation of agents and there is a working group, chaired by Lord Best, currently working on that regulatory regime and we're expecting a report at the end of July 2019.

AM Oh, right. So bearing all this in mind, to what extent can tenants in private rented accommodation enjoy some form of security of tenure?

WW Well, in England, the assured shorthold tenancy offers no long-term security of tenure. Once the fixed term has ended, the landlord can serve a Section 21 notice which will trigger a process to seek a 'no-fault' ground for eviction. That means the landlord can generally recover possession of their property without proving fault on the part of the tenant. But today, the Government has announced an intention to consult on new legislation to abolish Section 21 evictions. So we'll have to wait and see what the consultation says, but it looks as though that would happen alongside revisions to what's called the Section 8 eviction process, to make that easier and less complex for landlords to use if they are seeking to evict tenants for rent arrears, antisocial behaviour, that sort of thing.

The immediate reaction from the Residential Landlords Association is that landlords could withdraw from the market. However, it does remain to be seen what changes the Government plans to make alongside the abolition of Section 21. Section 21 has been described by the RLA in the past as the landlords' Holy Grail.

AM So at the moment with Section 21 very much part of the private rented sector and the legal framework, in what circumstances do landlords choose to use it?

WW Well, you would think that the 'no-fault' ground for eviction would be used when a landlord wants to sell their property, or simply wants to move out of the market altogether. However, landlords argue that they use Section 21 where there *is* a reason to evict the tenant, classically, rent arrears, because the alternative to Section 21 takes too long and it is complex. So that puts a different perspective on it, and it wasn't intended to be used for those reasons, but, clearly, landlords are using Section 21 where they would normally be seeking eviction on the breach of a tenancy.

AM So, as I said at the outset, the private rented sector is now the second largest tenure in the UK and this is having an effect on rent prices, they're famously high, particularly in London and the South East. With this there's been an increased focus on the affordability of private rented housing, particularly for lower income groups in 2017/18. For example, the medium rent for a two-bedroom property in London was around half the monthly salary of a London resident working fulltime. In England as a whole, the proportion was 26 per cent. So as a consequence, there's been a developing debate on how to tackle this issue of affordability. Notably, there's been discussion on the merits of rent control. So perhaps you could possibly outline the main aspects of this debate and how it relates to what we've been discussing about the private rented sector in England.

WW Sure. I think I'd say to start with that we need to acknowledge that the very high rents in London and the South East are not necessarily replicated all over the UK. The rise in rents has been actually fairly close to the rise in individual earnings at national level. For example, rents in Great Britain rose by 15 per cent between 2011 and 2018, while earnings for fulltime employees rose by 14 per cent. But rents have certainly outpaced earnings in some regions. So it very much depends on demand and pressures within the local housing market and local incomes.

That said, there is no rent control in the traditional sense in the private rented sector and hasn't been in new tenancies created since January 1989. So this adds to the insecurity that assured shorthold tenants feel, and when they seek to renew their tenancies they know that the landlord can increase their rent beyond inflation. The Government has consulted on barriers to longer tenancies and they have been referencing the possibility of limiting rent increases within a three-year tenancy, for example, to the Retail Price Index. And this is generally referred to within the sector as rent stabilisation rather than rent control, which generally involves an absolute ceiling on rents.

AM So that's the case in England, but there are different policies elsewhere in the UK, aren't there? So particularly in Scotland there have been changes relatively recently.

WW That's right. Scotland has introduced a new, what's called a Private Residential Tenancy for new tenancies created after December 2017, and with those tenancies, it's open to the local authority to apply to Scottish Ministers to have the area designated as a rent pressure zone. And if so designated, the rents in those areas are limited to the Consumer Price Index plus one per cent. It's a little early to say what the impact of that will be and there is no rent control in Wales and Northern Ireland.

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- AM So what sort of consequences would rent control have on landlords and the sector as a whole if it was introduced?
- WW Well, landlords argue that they would leave the sector; their operating margins can be tight, and they have faced other changes in recent years. So they've faced increases in Stamp Duty and also restrictions on tax relief, and that's been phased in since April 2017. There's a possibility that lenders might be less willing to offer buy-to-let mortgages and that landlords might be less willing to invest in their properties and keep them up to standard as their operating margins are squeezed. But, on the other hand, there's support for rent controls from organisations such as Shelter and Generation Rent, on the basis of affordability. So there are some arguments around the introduction of rent controls or stabilisation and linking rents more to regional incomes.
- AM So we noted at the beginning that Government policy on the private rented sector since 2010 has changed and developed in recognition of the fact that increasing numbers of people and families are living in private rented accommodation. So how, therefore, has this affected broader Government policy on housing? And will it become more important as a part of Government housing policy in the long term?
- WW Well, as I've said, the Housing White Paper February 2017 emphasised the need to increase housing supply and measures to increase home ownership. So the references in that White Paper to the private rented sector focused on build-to-rent, bringing in institutional investment to the sector and delivering three-year tenancies with rents increasing at the Retail Price Index. But we're just over two years later now and we're seeing a change in approach. It's clear there's a recognition that the private rented sector is going to remain a significant sector for some time.
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And that's illustrated by support for legislation to improve housing conditions, a new Fitness for Human Habitation test, commitments to regulate agents and to have landlords join a redress scheme, more discussion around how to create longer tenancies. And all of that has culminated in today's announcement to consult on the abolition of Section 21 'no-fault' evictions. I think it's fair to say that that was unthinkable in 2017.

AM Fascinating. So that's the Government's policy; what about the Labour Party's policy, with regard to the private rented sector, are they committed to anything specific on this? And if so, how does it fit into their broader policy on housing?

WW Well, Labour has for some time had some policies on the private rented sector that supported more regulation. Just this year, the Shadow Housing Secretary, John Healey, pledged that the next Labour Government would protect private renters in England from eviction with new indefinite tenancies, based on rules currently in place in Germany. There has also been some reference to rent control in certain areas. Sadiq Khan has called for powers to introduce rent control in London. So Labour has definitely expressed support for more regulation in the sector.

AM Thank you very much for that, Wendy. We can see that it's a developing situation, particularly with today's announcement. And in order to see how this progresses, you and your colleagues in the Commons Library will keep us updated as and when things change?

WW I will. After today's announcement, I'll be updating the recently published paper on comparing the private rented sector policies in England, Scotland, Wales and Northern Ireland, and there is a separate paper on private rented housing, the rent control debate.

AM Excellent. Well, thank you very much for being here.

WW Thank you, Andrew.

AM And that's it for this episode of the Commons Library podcast. For relevant briefing papers on the private rented sector remember to look at the episode notes published alongside our recording on our website. To keep up to date with what our researchers are working on, visit commonslibrary.parliament.uk and follow us on Twitter @commonslibrary. The Commons Library Podcast is a House of Commons production. The producer is Grace Rowley, the editor is Chris Blanchett, and the presenters are Andrew Mackley and Eleanor Davis. Music is by Tom Mackley.

So that was the final episode in this series of the Commons Library podcast. We hope to return with a new series later in the year, so please let us know what you thought of this series by rating and reviewing, or filling the feedback survey on our website. Your feedback will help us make improvements for our next series. Until then, thanks to all the Commons Library researchers who spoke to us, and thank you to you for listening.