



Department for  
**Social  
Development**

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# Review of the Role and Regulation of the Private Rented Sector

November 2015



## Ministerial Foreword

The Housing Strategy, Facing the Future, launched in 2012, sets out a clear vision for housing in Northern Ireland. It is a vision focused on ensuring that everyone has the opportunity to access good quality housing at a reasonable cost. I strongly support that vision and fully appreciate the vital contribution that the private rented sector has made and will continue to make to turn this vision into reality.

It is well known how quickly the private rented sector has grown over the past number of years to become the second biggest housing tenure. It is now of a similar size to the social housing sector and accounts for over 16% of all housing stock in Northern Ireland.

The private rented sector is helping to meet housing need and provide an important housing option for a range of individuals and families. As it has grown, there has rightly been an increased focus on how the private rented sector is regulated. My Department has done a lot in recent years to improve the regulation of the sector.

The aim of the review is to consider the current and potential future role of the sector and assess the effectiveness of current regulation, identifying where improvements can be made to help make the private rented sector a more attractive housing option. Whatever we do, it is important to get the balance right, protecting tenants while ensuring good landlords aren't burdened with unnecessary or cumbersome regulation. Most landlords are good landlords who abide by the law and provide much needed, good quality and well-managed accommodation.

I would like to take this opportunity to thank all of the interested parties who have already engaged with the Department and helped to inform this discussion paper.

I encourage you to consider this paper and respond. I look forward to the results which will inform the future direction for the private rented sector in Northern Ireland. Thank you.



MERVYN STOREY  
MINISTER FOR SOCIAL DEVELOPMENT



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The Housing Strategy Action Plan 2012-2017 commits the Department to undertake a review of the private rented sector. This discussion paper is the first step in the process which will consider both the role and the regulation of the sector.

The private rented sector is an important housing tenure for a range of households which provides people with a flexible housing option. For some it is a long term housing option and for others it is a transitional solution as they seek to move to owner occupation or social housing.

This discussion paper is the first stage of the review and its purpose is to detail the main issues impacting the private rented sector and to encourage views from as many interested parties as possible across Northern Ireland particularly those living and working in the sector.

These views will be used to inform the second stage of the review: a consultation document with firm proposals.

### **Purpose of the Review**

The Department for Social Development's Private Rented Sector Strategy, Building Sound Foundations, launched in 2010, centred on delivering targeted improvements to the regulatory regime and included the introduction of the Tenancy Deposit and Landlord Registration Schemes.

Five years on, it is timely to carry out a review of the role and regulation of the private rented sector.

The key objectives of the review are to:

- assess the contribution the private rented sector currently makes and could potentially make in the future to increase housing supply, meet need and demand;
- identify the key enablers to support the current and potential future role of the private rented sector;
- evaluate the effectiveness of existing regulation of the private rented sector;
- ascertain if there are any unintended consequences in the current system and make recommendations on how these could be addressed; and
- assess the contribution the private rented sector does and could make to supporting the Northern Ireland Executive's Together Building a United Community Strategy which has a clear focus on encouraging more shared housing;

In delivering the objectives outlined above, this document will consider:

- the current role of the private rented sector in meeting housing need;
- the future role of the private rented sector and its potential for further growth;
- the opportunities and challenges that face those involved in the sector including tenants, landlords and landlord representatives; and
- lessons learned from policy developments and regulatory frameworks in place locally, elsewhere in the United Kingdom and internationally.

The review will also take into account policy and practice developments in related fields such as shared housing, housing supply, housing standards, empty housing and regeneration.

## Acknowledgements

The Department has worked with tenant and landlord representative groups, housing professionals, other government departments and other interested parties to identify the key issues impacting on the private rented sector. The Department would like to thank representatives from Housing Rights Service, Chartered Institute of Housing, Royal Institute of Chartered Surveyors, Northern Ireland Housing Executive, Council Environmental Health Officers, Trading Standards, Landlords' Association for NI, National Landlords Association, Smartmove, University of Ulster, Northern Ireland Council for Voluntary Action, the National Association of Estate Agents and any others who were involved in the development of this discussion document.

## How to Respond

The Department will consider all responses provided in writing, preferable in electronic format. While a number of specific questions are posed at the end of each section, respondents should not confine their input to these only as general comments are also welcome. A summary of the discussion questions is included at Annex F and responses should reach the Department by **Friday 5 February 2016**. Information about public events is detailed at Annex G. If you plan to attend the public event on 26 November 2015 the deadline for registering your interest is **24 November 2015** or if you plan to attend the public event on 3 December 2015 the deadline for registering your interest is **1 December 2015**.

Ways you can respond to the publication are detailed below:

- by completing Annex F and emailing it to [housing.policy@dndni.gov.uk](mailto:housing.policy@dndni.gov.uk)
- by post – complete Annex F and forward to:  
Karen Barr  
Department for Social Development  
Housing Division  
Private Rented Branch  
2<sup>nd</sup> Floor, Lighthouse Building  
Gasworks Business Park  
Ormeau Road  
Belfast  
BT7 2JB
- online by accessing <https://www.surveymonkey.com/r/the-Role-and-Regulation-of-the-PRS>

If you wish to seek clarification on this document please contact Karen Barr on tel: (028) 90829278 or by email [karen.barr@dndni.gov.uk](mailto:karen.barr@dndni.gov.uk)

## Copies of this Discussion Paper

This document is being produced primarily in electronic form and may be accessed on the Department's website. If you require access to this document in a different format – eg Braille, disk, audio cassette, larger font – or in a minority ethnic language please contact the Department's Private Rented Branch on 028 90829278 and appropriate arrangements will be made as soon as possible.

## **Confidentiality, Data Protection and Freedom of Information**

Your response may be made public by the Department and placed on the Department's website as part of the discussion process. If you do not want all or part of your response or name made public, please state this clearly in the response by marking your response as 'CONFIDENTIAL'. Any confidentiality disclaimer that may be generated by your organisation's IT system will be taken to apply only to information in your response for which confidentiality has been specifically requested.

Information provided in response to this document, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA)). If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this, it would be helpful if you could explain why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

### **Next Steps**

Once responses are received and collated it is planned to issue a further paper with the Department's proposals for change.

The private rented sector describes a housing tenure consisting of properties owned and let by private landlords. A private tenancy may either:

- last for a fixed number of weeks, months or years (a *fixed term tenancy*); or
- run indefinitely from one rental period to the next (*periodic tenancy*).

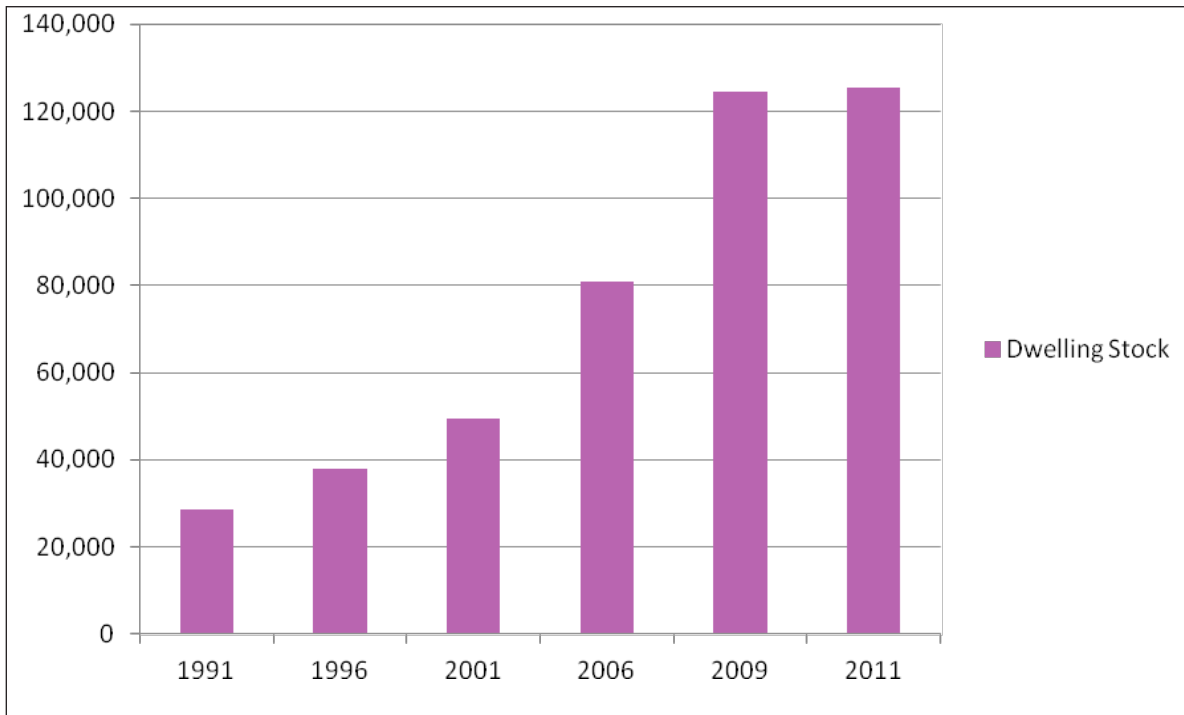
**Private Rented Sector Profile**

The 2011 House Condition Survey estimated that there were 125,400 private rented dwellings and, if vacant properties which were privately rented when last occupied, are included, this rises to 144,500 properties.

The most rapid period of growth took place between 2006 and 2011 when an investor led housing boom resulted in a substantial increase in both supply and demand for private rented accommodation.

The following figure shows the growth in Dwelling Stock in the Private Rented Sector over a 20 year period.

**Figure 1: Growth of Private Rented Sector**





## Landlord and Tenant Profile

According to the 2011 Census there were 95,000 private tenancies (i.e. renting from a landlord or letting agent, does not include those living rent free, renting from a relative or where the landlord lives in the dwelling). As detailed in Table 1 below over 40,000 landlords have registered with the Landlord Registration Register and have given details of over 88,000 properties. This indicates a compliance rate of approximately 90%. Only 2,051 people stated 'Landlord' as their main occupation when completing the 2011 Census.

**Table 1: Number of Landlords and Private Tenancies by Council Area<sup>1</sup>**

District Council	Number of Landlords by Council Area of Residence	Number of private tenancies by Council Area
Antrim & Newtownabbey	2,889	5,758
Armagh, Banbridge & Craigavon	4,258	9,779
Belfast	5,535	23,245
Causeway (Moyle, Limavady, Ballymoney & Coleraine)	3,211	7,187
Derry & Strabane	2,508	6,785
Fermanagh & Omagh	2,473	4,723
Lisburn & Castlereagh	3,559	4,651
Mid & East Antrim (Carrickfergus, Larne, Ballymena)	3,192	6,920
Mid Ulster (Magherafelt, Dungannon, Cookstown)	3,111	5,373
Newry, Mourne & Down	3,977	6,668
North Down and Ards	4,123	7,168
Outside NI	1,924	n/a
<b>Total</b>	<b>40,760</b>	<b>88,257</b>

The Landlord Register also shows that the average number of properties per landlord is 2.24. The majority of landlords (67%) own 1 or 2 properties while only 7% of landlords own 5 or more.

According to 2011 Census, 61% of private rented households had no dependent children in the household while 39% had one or more dependent children. The majority of tenants (72%) are aged between 25-54, 16% are over 55 years and only 12% are under 24 years. The highest proportion of households in the private rented sector are located in Belfast. This is likely to be influenced not only by the larger population but also by the presence of many young professionals and the large student population.

The private rented sector is now home to many households who would traditionally have lived in the social rented sector. There is some evidence for this given that 57% of all private rented sector tenants are in receipt of Housing Benefit. This 57% compares to 79% of tenants who live in the social rented sector and are in receipt of Housing Benefit.

<sup>1</sup> Landlord Registration Database as at 12 May 2015

## Demand

The Northern Ireland Rental Index for the second half of 2014<sup>2</sup> shows an ongoing healthy demand for private rental properties. Waiting lists for social housing and affordability issues for first time buyers alongside economic issues, such as, rising numbers in part time and temporary employment, would indicate that the private rented sector will continue to play an important role in Northern Ireland's housing market.

## Rent Levels

For 2014 the average rent for Northern Ireland was £549, a 2% increase on the average rent for 2013 (£538). The statistics revealed small annual increases in average rents across all property types. Detached properties have the highest average rent (£669) and were 5.1% higher than previous year. Belfast continues to be the main rental market in Northern Ireland representing 41% of all rental transactions in 2014. The average monthly rent across the Belfast City Council Area is £595 for 2014, representing a slight increase (2.4%) on the average for 2013.

## Affordability

Research undertaken by the University of Ulster indicates some affordability challenges in accessing the private rented sector for low-income households. In 2012, the average deposit was £415. As a deposit is normally the equivalent of a month's rent, the average deposit in 2014 was over £500.

While a private tenant can access housing benefit there are many on lower income who have difficulty finding the money to bridge the gap between Housing Benefit and the market rent charged by a private landlord.

Some landlords who have experienced mortgage repayment difficulties – particularly those who bought at the height of the boom with the help of high loan-to-value mortgage are leaving the sector. As house prices continue to rise there is a possibility that a percentage of 'accidental landlords' (those who have only one property that they inherited) may leave the sector. However, given the expected continued demand for private renting from first time buyers unable to afford their first home, as well as the continuing demand outstripping supply for social housing in many areas, the risk of large scale disinvestment is envisaged to be low.

## Private Rented Sector Access Scheme

To address the affordability challenges of accessing the private rented sector for those currently on the social housing waiting list, the Housing Executive initiated the Private Rented Sector Access Scheme. This scheme, operated by SmartMove, seeks to assist the more vulnerable with a rent deposit guarantee and other housing management issues. A new Private Rented Sector Access Scheme was launched in April 2014 and at 31 March 2015 had helped create 241 tenancies and is currently working with 205 private landlords. The aim is that tenants are helped to sustain tenancies and when ready, can move on with a deposit (which they have saved with SmartMove) and experience they have gained with the help and support of the scheme, enabling them to manage a private tenancy independently.

## Houses In Multiple Occupation

The private rented sector is home to a variety of people and households. In some areas there is a high proportion of students and others living in Houses in Multiple Occupation (HMO). This discussion document does not discuss any specific HMO issues as the Department is currently progressing with a new HMO Bill. As such, while HMOs form part of the private rented sector in Northern Ireland they are not specifically included in the review. However, as many tenants in HMOs are living under a tenancy agreement, the issues discussed in this document will have an impact.

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<sup>2</sup> NI Rental Index Issue No 4 H2 2014

## Private Rented Sector in rest of UK/Europe

Across Europe the private rented sector is a popular tenure of choice for a wide range of households. In Denmark, Germany, the Netherlands and Norway, private renting is viewed as a mainstream long term tenure choice and this goes hand in hand with some form of rent regulation. Corporate landlords account for one-fifth or more of the total number of landlords in these countries.<sup>3</sup>

Annex A shows a table summarising high level differences in the private rented sector across a number of European countries and the United States. It focuses on rent regulation, security of tenure and the types of tenants living in the sector.

**The Department is interested in your views on the role of the private rented sector in Northern Ireland. In particular:**

***Q1.1 – Do you agree that further support should be available to tenants living in the private rented sector Y/N?***

***Please provide your reasons***

***Q1.2 – Do you agree that further support should be available to landlords operating in the private rented sector Y/N?***

***Please provide your reasons***

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<sup>3</sup> Private Rental Housing, Comparative Perspectives – Tony Crook & Peter A Kemp

While Northern Ireland's population is growing, the average household size is becoming smaller. As a consequence of the population trend, new homes are needed across the housing stock to meet the increasing demand. The Housing Strategy recognises this supply issue as fundamental to long term economic recovery and housing market stability.

The Regional Development Strategy (RDS) has identified that to meet housing need an estimated 190,000 new dwellings are required over the period 2008-2025 or 11,200 new homes each year across all tenures. The Housing Executive, through their Net Stock Model, has identified a social housing need of 1,500 units per year<sup>4</sup>, but if current backlog issues are taken into account, this figure rises to 2,000 units per year. Private investment would therefore be needed to deliver 9,000 private sector homes annually to meet anticipated demand based on these estimates.

However, new household projection data showing a significant fall in the rate of household formation has recently been published by NISRA (March 2015). These new figures are now being incorporated into a new version of the Net Stock Model which is currently being re-calibrated and will be published later.

It is anticipated that the revised household projections will also impact considerably on the Housing Growth Indicators (HGIs) upon which the RDS data is based. These are also currently being reviewed and it is anticipated that the revised HGIs will be available in the autumn of 2015. Early indications are, however, that the outcome is likely to result in a much lower supply requirement than that the 11,200 per year currently forecast under the RDS.

Since 2008/09, as a result of the economic downturn, private developers have significantly cut back on the supply of new homes. As a result, private sector supply currently rests at around 4,500 - 5,000<sup>5</sup> units per year.

This Chapter examines if the private rented sector has a role to play in addressing supply issues, and seeks to explore the issue of investment in the sector.

### **Supply landscape – Opportunity for the private rented sector to adapt**

During the housing boom the private rented sector grew rapidly, principally as a result of the availability and attractiveness to investors of the 'buy to let' market, coupled with soaring house values pricing many out of home ownership. Investment in the private rented sector was driven, at least in part, by the expectation of significant profit from the resale of property rather than from a stream of rental income.

The market context has distinctly changed in the wake of the economic downturn. Those who previously invested are now less likely to benefit from capital growth on their properties, and consequently investment is less attractive. Buy to let mortgage options are now also more constrained. Nevertheless, with homeownership now difficult to secure, especially for first time buyers, and a lack of finance hampering the construction of new private housing, demand for private rented accommodation continues to grow. This landscape offers an opportunity for the sector to adapt, to meet the needs of investors who require new and sustainable business models centring on rental income rather than rapid capital appreciation; tenants who require fit for purpose accommodation at a variety of rental levels; and additionally to contribute to an easing of the supply shortfall that is challenging the housing sector as a whole.

<sup>4</sup> Net Stock Model - NIHE, Northern Ireland Housing Market Review and Perspectives 2015-18.

<sup>5</sup> Based on recent new dwelling start figures from DSD Analytical Services Unit (ASU) and Land and Property Services (LPS).

## Current initiatives in Northern Ireland which can promote investment

The Department for Social Development has taken some modest steps to stimulate the return to use of existing housing and other buildings, primarily as rental accommodation. Examples include:

The **Empty Homes Strategy** which seeks to return empty dwellings to use. Some of these empty homes have the potential to become private rented homes following refurbishment works. This Strategy has been operating in Northern Ireland since September 2013 and is bringing together key players including the Department, the Housing Executive and Housing Associations to maximise the investment impact of refurbishment, particularly at a time when new house building has reduced. Under the Strategy loan funding has been made to two registered Housing Associations to bring empty homes back into use. The scheme recognises that dwellings currently empty may be so because they are situated in areas where there is low or no demand.

In the past the “**Living over the Shops**” (**LOTS**) grant made available over £2m over a 10 year period and created more than 100 new dwellings. A review is underway of the LOTS scheme and the feasibility of introducing a new scheme is being considered, taking into account lessons learnt from the previous arrangements. Government assistance can lever private finance into rundown areas and create vibrancy and renovation, alongside new dwellings. The cost to the public purse for grant aid may be unsustainable to finance going forward and alternative assistance, such as loans, may need to be examined. In the past many LOTS projects came into use within the private rented sector.

## Institutional Investment

The role of large scale institutional investment in the private rented sector has received significant attention in recent years across the United Kingdom and the Republic of Ireland. The UK Government commissioned a review of the barriers to institutional investment in private rented homes, chaired by Sir Adrian Montague. Its 2012 Report highlighted institutional investment as a means of improving professionalism within the sector and providing a more secure, long-term supply of rented homes. Following the Montague Review the UK government established two flagship schemes as a means of kick-starting new institutional investment in the PRS:

A **Private Rented Sector Housing Guarantee Scheme** is currently available across the UK and aims to attract institutional investors to develop large scale private rented sector housing through access to lending under government guarantee. While the scheme has been publicised, and the Department has made local construction industry bodies aware of it, to date there has been little Northern Ireland interest in the scheme. Similarly the **Build to Rent Fund**, which was available in England only, made available £1bn in a scheme where Government shares risk or bridges finance to help schemes to build, manage and let. The investment can be used to cover costs such as land, construction or management costs. Once the scheme is fully let the developer will sell on their interest or re-finance and repay the investment.

**Build to Rent:** in June 2015 three new Build to Rent developments were announced in London taking the total number of new homes to be supplied under the scheme to around 4,200. The first allocation of funding from the £1 billion fund saw £123m awarded under nine contracts to deliver 1,690 homes. Under the second allocation, as of 14 July 2015, £358m has been allocated under five contracts to deliver a further 2,422 homes. There is some debate about whether the fund has added to the net housing stock or rather diverted units from other tenures to the PRS. Additionally as the Build to Rent is based on the market rate its impact is potentially limited on delivering affordable housing.

The £3.5bn Guarantee Scheme is using the Government’s fiscal credibility to raise finance in the bond market to on-lend to new, large scale private rented sector, facilitating a new stream of investment in the private rented sector. In December 2014, PRS Operations Ltd (a subsidiary of Venn Partners LLP) was appointed to manage the Private Rented Sector Housing Guarantee Scheme. PRS Operations is now formally open to applications, and have already engaged with over 130 potential borrowers and the wider industry.

## Opportunities to grow the private rented sector in Northern Ireland

To date institutional investment into the private rented sector across the UK has been very limited. There are a number of key differences between the commercial and residential property sectors which have typically led investors to view the residential property market as less attractive, including: higher management costs, reputational risk, type and level of return, lack of land, tax and legal issues, and the length of the rental period. This said, changes in the structure of the private rented sector may alter the view of institutional investors. There may also continue to be relatively attractive investment opportunities for small to medium scale investment given the continued low-interest rate environment and the modest rates of return available from other asset classes, such as shares.

Across the United Kingdom and the Republic of Ireland **Real Estate Investment Trusts (REITs)** are increasingly active in providing an opportunity for investment in the rental market. REITs are publically traded companies that own and manage property. A REIT must derive 75 per cent of its aggregate income from property rental. REITs could present an opportunity to facilitate large scale limited institutional investment by spreading risk and lowering entry costs to property investment. Shares in REITS can also be sold far more easily than a full property. In addition, instead of a number of small investors each buying a property in a development and individually dealing with the management of their property, REITs facilitate the purchase and management of developments as a single block. The scaling of development ownership offers economies of scale and it is thought that REITs could contribute to professionalising the management of rental properties and the rental sector. REITs require low risk returns and are limited in terms of their penetration of the market, both geographically and in terms of the shortage of large scale residential accommodation. As large scale residential investors, they have a role to play in looking after the mid to upper end of the market in key locations, such as London and the South-East of England. Their level of interest in smaller markets, such as Northern Ireland, is likely to be much more modest. Although it should be noted that there has been a growing interest over the last year from the private sector in providing new purpose built managed student accommodation in Belfast.

**Pension Reform:** Pension reforms that came into effect in April 2015 now allow those aged over 55 to withdraw pension funds to spend or invest as they please. There is early evidence across the UK, including the expansion of the number of buy to let mortgage products, to suggest that many of those accessing their pension pots early are choosing to invest in rental property. Current estimates suggest that over £100 million of funds have been invested in the rental market as a result of the new pension freedom.

In Northern Ireland specifically, the devolution of **Corporation Tax** setting powers, currently being considered by the Government, could result in a reduction in the rate of Corporation Tax in Northern Ireland. This may act as an incentive to investors in the private rented sector, particularly for larger scale landlords who could benefit from reduced taxation depending on their company status. A lower rate of Corporation Tax may encourage the creation of additional jobs, leading to more demand for private rented sector accommodation. This may stimulate the development of additional supply. Institutional investment in private rented housing could bring considerable economic and social benefits, particularly if its focus is on developing good quality new build accommodation which would also help address the current housing supply gap.

## Encouraging Investment from individual or small scale private rented sector landlords

**Tax incentives:** Some commentators suggest that the policy focus should be on increasing the tax advantages for smaller private individual landlords who, according to landlord registration data, dominate the market rather than larger institutions. The Republic of Ireland has introduced the Living City Initiative, which is a targeted tax incentive available in specific designated areas. The Initiative is a scheme of property tax incentives designed to regenerate both historic buildings and other buildings in specified cities. The scheme applies to certain "special regeneration areas" (SRAs) in the centres of Dublin, Cork, Limerick, Galway, Waterford and Kilkenny and intends to encourage people back to living in city centres (living in historic buildings), creating vibrancy in urban areas and encouraging regeneration in the retail heartlands of Central Business Districts. While its primary aim is to incentivise new owner occupiers rather than private rental, similar principles could apply. Tax incentives are offered to refurbish residential and retail premises either to bring them to a habitable standard or to improve already inhabited buildings. Residents will be able to claim tax relief for the cost of the refurbishment works in the relevant Georgian houses at the rate of 10% per year for 10 years against their income, but only for years in which the house is the principal private residence of the person. An ex ante evaluation of the scheme indicates that the significant economic benefits from the initiative outweigh the costs incurred.

While tax incentives provide a range of opportunities, the Northern Ireland Executive does not currently have the power to determine taxation matters.

**Finance Availability:** Financial institutions could provide more favourable lending terms to the buy to rent market in Northern Ireland to stimulate growth. Arrears on Buy To Let mortgages (at 2011) were higher than other UK mortgages. While easier access to Buy To Let Mortgages may encourage individual investment in private rented accommodation, the provision of high levels of mortgage assistance on less restricted terms contributed to the financial difficulties experienced by many since 2008. It is unlikely, therefore, that financial institutions will look favourably on developing preferential products for this sector of the market. The possible extension of macro-prudential measures which limit high loan-to-value or high debt-to-income ratios to buy-to-let lending could further constrain the availability of finance.

**The Department is interested in your views on Supply and Investment in the private rented sector. In particular:**

***Q2.1 – Do you agree that the private rented sector should play a role in bridging the identified shortage in housing supply Y/N?***

***Please provide your reasons***

***Q2.2 – Would it be appropriate for Government to incentivise growth and investment in the private rented sector Y/N?***

***Please provide your reasons***

Good quality management standards are important to ensure the private rented sector is an attractive place to live and are vital to the well-being of tenants and communities.

A regulatory framework that works for both tenants and landlords is essential – one that is effective, proportionate and sets standards to ensure quality but is also affordable and does not constrain growth.

The three main aspects which contribute to good management standards are:

- The knowledge and skills of landlords;
- Tenants knowledge of their rights and responsibilities; and
- Regulation in enforcing standards where they fall considerably short of what is expected.

This chapter will explore the range of actions which could reinforce good practice and help root out poor practice. This will include an examination of the current regulation and regulatory intervention practice in other jurisdictions.

### Section 1 – Housing Management

As a result of the Private Rented Strategy launched in 2010 a number of improvements have been made to housing management standards with the introduction of Landlord Registration and Tenancy Deposit Schemes.

To ensure standards continue to rise, current Departmental policy supports the development of a more targeted and effective regulatory framework as outlined in the Private Rented Strategy. This includes supporting landlords who are professional in their approach and who seek to provide a good service and tackling the practices of landlords who do not promote a good image of the sector and undermine the cohesion of communities. The approach to regulation can, therefore, not be a 'one size fits all'.

The majority of landlords provide a decent service and good quality, well-maintained accommodation. This is reflected in figures given in a small follow up survey to the House Condition Survey 2011 which stated that 88% of tenants were either very satisfied or fairly satisfied with the services provided by their landlord/agent. Anecdotal evidence suggests however, that there are a small number of landlords who knowingly flout the law.

#### Landlord Registration

The Department acknowledged in the Private Rented Sector Strategy that councils could only fulfil their role if they had access to relevant and up to date information about the activity in the sector. Since February 2014, following the introduction of Landlord Registration, council environmental health officers have had access to information to enable them to proactively enforce private tenancy law.

All private landlords in Northern Ireland should now be registered. As stated previously there has been positive uptake with over 44,000 registered giving details of over 93,000 properties. A tenant can now search the register and check if their landlord is registered and prospective tenants can choose a property where they know the landlord is registered.

On registration, landlords receive a toolkit which details their obligations and duties under private rented sector law. Landlords are kept up-to-date with any proposed changes and can therefore be more involved in the development of policy relating to the sector.



## Tenancy Deposit

The Tenancy Deposit Scheme came into operation in April 2013. Since then landlords have been required to protect new deposits with an approved Tenancy Deposit Scheme being operated by Scheme Administrators appointed by the Department. Since the introduction of the Scheme the response from stakeholders across the local private rented sector has been generally positive, with almost £23 million of tenants' deposits protected in the first two years of operation.

## Proposed Regulatory Amendments

While the Landlord Registration and Tenancy Deposit Schemes have made improvements to the regulation of the private rented sector, the Department has identified a number of areas under the Private Tenancies (Northern Ireland) Order 2006 (PTO) for potential revision and has drawn up a programme of enhancements which will strengthen the law and assist councils in their role. A table of these amendments can be found at Annex B.

## Enforcement

Any regulation, in order to be fully effective, requires robust enforcement. Better regulation does not necessarily mean 'more' but can mean enhanced focus on enforcement of existing regulation.

Day to day regulation of the private rented sector is the responsibility of the environmental health officers in local councils. They carry out considerable regulatory activity although this does not always result in fixed penalty notices or prosecutions. A number of councils tend to issue warning letters in the first instance which generally results in compliance and where this is not the case, councils pursue landlords with fixed penalty notices or court action.

The Department is working closely with councils to assist them in targeting enforcement action. Councils have indicated that they require flexibility to enforce the law and raise standards. This flexibility would assist them to generate resources and give them opportunities to learn from each other and share best practice.

## Licensing and Accreditation

In 2013 the Northern Ireland Assembly called on the then Minister to consider the introduction of a licensing scheme for landlords operating in the private rented sector.

Private Rented Sector licensing creates a minimum standard for the private rented sector, with landlords needing to declare criminal convictions, meet standards and show that they have adequate systems in place for their tenants to report repairs and defects. It can play an important role when it is strictly focused on discrete areas with specific problems. However, the blanket licensing approach adopted by some local authorities in England was found to have major drawbacks. This is because it impacts on all landlords and places additional burdens on reputable landlords who are already fully compliant with their obligations, thereby creating unnecessary costs for reputable landlords which are generally passed on to tenants through higher rents. The typical cost of a licence is around £500 and lasts for five years. As a result, the landlord may see a reduction in their property's investment value, but the more likely outcome is for tenants to bear most of the burden, especially in areas of high rental demand. The vast majority of landlords provide a good service and the Department does not believe it is appropriate to impose unnecessary additional costs on them, or their tenants. Such an approach is disproportionate and unfairly penalises good landlords.

Houses in Multiple Occupation (HMOs) are an important part of the private rented sector and can provide affordable housing for some of the most vulnerable and disadvantaged groups in society, those on low incomes and students and migrant workers. Because of the higher risks of living in an HMO, they are subject to a higher level of regulation than other rented housing. The Department is bringing forward a new Bill for HMOs which will introduce a system of HMO licensing. The purpose of introducing HMO licensing is to improve standards by ensuring that a landlord or any agent is a fit and proper person, and by checking the standards of physical accommodation as well as tenancy management standards. This provides protection to HMO tenants and their neighbours by making sure accommodation is safe, well managed and of good quality. This revised system of regulation will allow the targeting of houses in a way that is proportionate to the risk presented and will address the added risk to safety associated with living in HMOs.

## **Accreditation**

Landlord accreditation has been used in other jurisdictions to professionalise the sector. The Department's 2009 consultation document, *Building Sound Foundations*, proposed landlord accreditation as a means to improve landlord/tenant management, embed good practice and professionalise the sector. Responses to the draft proposals agreed the need to secure greater professionalism but indicated that a stronger and more rigorous approach was needed so this was not taken forward.

Accreditation is the certification that a product or service has been evaluated independently and meets an agreed standard. In parts of the UK, accreditation of landlords has been a feature of the private rented sector for more than 15 years. It is one way for responsible landlords to improve their knowledge of the sector as well as verifiably promote their services as a good landlord to tenants.

A brief synopsis of licensing and accreditation practice in other parts of the UK is attached at Annex C.

## **Overcrowding**

A study undertaken by the Department in 2011 found that, unlike other parts of the UK (particularly London), overcrowding was not a significant issue in Northern Ireland. This is supported by data from the 2014 Continuous Household Survey which shows household size is reducing (see Table 2).

**Table 2: Number of Persons in household.**

Number of persons in household (1983 to 2013-14)									
<i>All Households</i>									<i>Percentages</i>
Number of persons in household (all ages)	1983	1991 - 92	2001 - 02	2008 - 09	2009-10	2010 - 11	2011 - 12	2012 - 13	2013 - 14
1	20	22	26	28	27	27	27	28	29
2	26	28	29	33	32	32	32	32	32
3	16	16	18	16	17	17	17	17	17
4	17	17	15	14	15	14	14	14	14
5	10	10	7	7	6	7	7	6	6
6 or more	11	7	5	3	3	3	2	3	2
Average household size	3.14	2.91	2.67	2.48	2.51	2.49	2.49	2.48	2.43
Base=100%	2,940	3,107	2,805	2,476	2,764	2,720	2,780	2,712	2,739
<i>Source: Continuous Household Survey</i>									

NB: The CHS is based on a systematic random sample of 4,500 addresses drawn each year from the Pointer list of domestic addresses.

### Anti-Social Behaviour

Anti-social behaviour, while not widespread, can cause distress to individuals and families and undermine community cohesion. Anti-social behaviour can range from minor nuisance to acts of criminality. Given this, there is no single solution to problems of anti-social behaviour. Housing legislation has attempted to provide landlords with some tools to help them tackle anti-social behaviour among their tenants. The Housing (Northern Ireland) Order 2003 introduced powers to allow the Housing Executive, Registered Housing Associations and private sector landlords to deal with anti-social behaviour by or affecting their tenants. Landlords can seek an injunction to restrain any individual over 18 from anti-social behaviour.

The Housing Amendment Bill introduced in the Assembly on 30 June 2015 will enable organisations holding information about anti-social behaviour to disclose such information to social housing landlords by opening relevant data gateways under the Data Protection Act 1998. It has been suggested that the Bill should go further and enable 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. The feasibility of such a provision is being examined.

### Letting Agent Regulation

There is currently no form of letting agent regulation in Northern Ireland and there have been calls from Members of the Legislative Assembly (MLAs) for the regulation of letting agents. This has led to more questions around how they should be regulated and by whom.

Letting agents have a crucial role to play in facilitating a thriving and professionally run sector. Professional organisations such as the Association of Residential Letting Agents (ARLA) and the Property Ombudsman provide members with a Code of Practice and Rules of Conduct to adhere by, encouraging responsible business practice and providing a route of recourse for landlords and tenants should any disputes or grievances arise. Generally speaking letting agents operate in a professional manner and provide a high quality level of service to their landlords and tenants. However, this good practice is not shared by all. The charging of premiums and fees by letting agents is a matter which has caused tenants and prospective tenants serious concern. Evidence of this can be seen through the exercise that was undertaken by Housing Rights Service<sup>6</sup> in 2013 which identified difficulties and issues relating to the practice by some letting agencies of charging upfront fees or premiums in the private rented sector.

<sup>6</sup> HRS Mystery Shopping Exercise on Upfront Fees in PRS May 2013

There have been a range of approaches across the UK dealing with the regulation of letting agents.

In Scotland, since 2012, all tenant charges, other than rent and a refundable deposit, are illegal and the Housing (Scotland) Act 2014 contains provision for letting agent regulation. In England there is no statutory regulation of letting and management agents however all agents must sign up to a redress scheme and in Wales they have introduced compulsory registration and licensing for letting and management agents.

## Section 2 – Tenancy Management

### Security of Tenure

Many tenants choose to live in the private rented sector and have no desire to move on. However the uncertainty around how long they can stay in a property can be a cause for concern. In recognition of the need to provide longer term tenants with a more reasonable period in which to find and move to alternative accommodation should their tenancy end, in 2011, the Department extended notice to quit periods. For tenancies lasting less than 5 years the notice to quit period remains at 4 weeks written notice but the legislative provisions were amended as follows:

- where the length of a tenancy is greater than 5 years and not more than 10 years, the notice to quit period is not valid unless given in writing not less than 8 weeks before the date on which it is to take effect;
- where the length of a tenancy is greater than 10 years, the notice to quit period is not valid unless given in writing not less than 12 weeks before the date on which it is to take effect.

The Private Tenants' Forum was set up in 2012 with support from Housing Rights Service. Their agenda for action proposes a number of improvements for the private rented sector not least a call for greater security of tenure for tenants who wish to put down roots in their local community. Research carried out by the University of Ulster for the Housing Executive and published in January 2014 indicated that 45% of tenants cited family/personal reasons for their choice to live in the private rented sector. Longer tenancies may help these tenants to stay close to their support network.

Many landlords have also indicated a preference for long-term tenants as it prevents the loss of rental income due to periods of voids and the costs associated with new tenancies especially when using letting agents. Longer term tenancies and steady income through rental is particularly attractive to those landlords who bought property with buy-to-let mortgages.

Of the landlords who completed additional voluntary information when they registered with the Landlord Registration Scheme, 22% said they currently had tenancies of longer than 5 years and over half (54%) stated they would lease for longer.

It could be argued, however that barriers to more “stable” renting exist. These include:

- Lack of precedent where landlords and tenants enter into longer tenancies;
- Other players in the rental market such as buy to let lenders and letting agents insisting on shorter term tenancies;
- Lack of confidence by landlords that court processes will allow them to evict tenants who break the terms of their tenancy without enduring undue costs and delays.

These could be overcome by introducing:

- More secure rent contracts;
- Flexible contracts e.g. to allow tenants to decorate their homes as long as they return them to neutral if moving out;
- Stronger rules on eviction – this would involve improving the ability of landlords to evict problem tenants more quickly and at a lower cost.

Security of tenure is a major issue across the United Kingdom and other jurisdictions are currently taking steps to address this.

## Eviction Process

In Northern Ireland when a tenancy comes to an end and a tenant refuses to leave a landlord must seek an order for possession through the normal court procedure. This can be a costly and lengthy process. There are examples of the process taking 2 years and there is an ongoing case that is currently into its third year. Some landlords have stated that this process is not fit for purpose in instances where, for example, the tenant has stopped paying rent and refuses to leave the property. The unwieldiness of the current process can incentivise poor practice including illegal evictions. Table 3 below shows the number of illegal evictions reported by councils over a three year period.

**Table 3: Illegal eviction action in Northern Ireland in the last 3 years**

Year	2012/13	2013/14	2014/15
Number of illegal eviction cases taken against landlords which have been resolved without court action being taken.	98	142	124
Number of landlords prosecuted for illegal eviction	2	3	1

## Fast Track Eviction

In England and Wales there are two main routes that private landlords can take to regain possession of their property. Section 21 of the 1988 Housing Act gives a landlord an automatic right of possession without having to give grounds and Section 8 allows a landlord to seek possession using certain grounds. The fast-track eviction process can only be used where there is an assured shorthold tenancy and a Section 21 notice has been served. An assured shorthold tenancy is a private rented tenancy which started on or after 15 January 1989.

## Control of Market Rents

Northern Ireland has not experienced the same spikes in rent as in other parts of the UK. According to the Homelet Rental Index, the average rent in Northern Ireland 3 months to March 2015 was £583 and the annual variance was 3.7%. Full details are attached at Annex D. The UK regional breakdown shows that only Wales had a lower annual variance at -0.9%. Average rents for Northern Ireland are lower than most other UK regions.

Housing Benefit continues to play a vital role in supporting the private rented sector. At 1 June 2015 there were over 71,000 private sector tenants in receipt of housing benefit compared to over 95,000 total social tenants (both housing association and NIHE tenants).

However, there are private tenants in receipt of housing benefit who are unable to meet the shortfall between the amount of housing benefit they are entitled to and the actual rent charged. As at end July 2015 there were a total of 57,518 private tenants who were assessed using local housing allowance rules. (Persons claiming housing benefit are assessed under various rules depending on the date of the first claim i.e. 71,000 includes all claimants). Out of the 57,518 claims assessed 49,231 claimants experienced a shortfall between what they are required to pay their landlord and the LHA figure. The average shortfall was £21.93 per week although the amount of shortfall varied from case to case.

In the 2014/15 financial year the Northern Ireland Housing Executive paid a Discretionary Housing Payment (DHP) to 15,453 private rented sector claimants at an average figure of £9.64 per week. To qualify for a DHP a person must show they are having difficulty paying the shortfall.

Some tenant groups have called for some form of rent control to be introduced to stabilise rents and help with affordability issues. However, rent control has consistently been shown to be extremely damaging to supply and unfair in the way in which its effects would impact groups of renters in the future (Bourne, 2014). There are also indications that rent control more broadly applied would severely impact on the ability of many landlords to stay in the market.

There are a variety of approaches to rent control across Europe and America. These are tabled for ease of reference in Annex E.

## **Rent Penalties**

In response to bad practice, landlords in other jurisdictions can have the amount of rent they can charge restricted or stopped. There is currently no such regime in Northern Ireland. However where a property built before 1945 and let after 1 April 2007 does not have a certificate of fitness, the amount of rent that can be charged is determined by the Rent Officer for Northern Ireland and this controlled rent applies until such times as the property is made fit.

## **Independent Dispute Resolution/Redress Service**

There is a wide spectrum of private rented sector disputes. These include issues relating to rent increases, rent arrears, unfair eviction and breaking of tenancy terms. There are various means to address such disputes.

In Northern Ireland if a tenant and landlord have a dispute after seeking individual advice from the local environmental health department, Housing Rights Service or a landlord representative body, such as the Landlords Association for Northern Ireland, the only option is to take the dispute to a small claims court. The exception to this is in the cases of tenancy deposit disputes as the 3 Scheme Administrators provide an independent dispute resolution mechanism.

In Scotland dispute resolution is provided via a specific Panel whose role it is to encourage best practice via dispute prevention and mediation.

**The Department is interested in your views on Housing and Tenancy Management in the private rented sector. In particular:**

***Q3.1 – The Department should consider making changes to the Landlord Registration Scheme. Do you agree? Y/N***

***Please provide your reasons***

***Q3.2 – The Department should consider making changes to the Tenancy Deposit Scheme. Do you agree? Y/N***

***Please provide your reasons***

***Q3.3 – Is licensing of landlords needed in Northern Ireland? Y/N***

***Please provide your reasons***

***Q3.4 – Is Landlord Accreditation needed in Northern Ireland? Y/N***

***Please provide your reasons***

***Q3.5 – Do you think the private rented sector needs to be further professionalised? Y/N***

***Please provide your reasons***

***Q3.6 – Are there other amendments to the Private Tenancies Order that should be considered? Y/N***

***Please provide your reasons***

**Q3.7 – Is further regulation of the private rented sector necessary? Y/N**  
**Please provide your reasons**

**Q3.8 – Do you agree that longer-term tenancies are a good thing? Y/N**  
**Please provide your reasons**

**Q3.9 – Are the current notice to quit periods appropriate? Y/N**  
**Please provide your reasons**

**Q3.10 – Is the current eviction process fit for purpose? Y/N**  
**Please provide your reasons**

**Q3.11 – Is overcrowding an issue in the private rented sector in Northern Ireland? Y/N**  
**Please provide your reasons**

**Q3.12 – Do you agree that the regulation of letting agents needs to be addressed? Y/N**  
**Please provide your reasons**

**Q3.13 – Do you agree there should be an alternative means to resolving disputes other than small claims court action? Y/N**  
**Please provide your reasons**

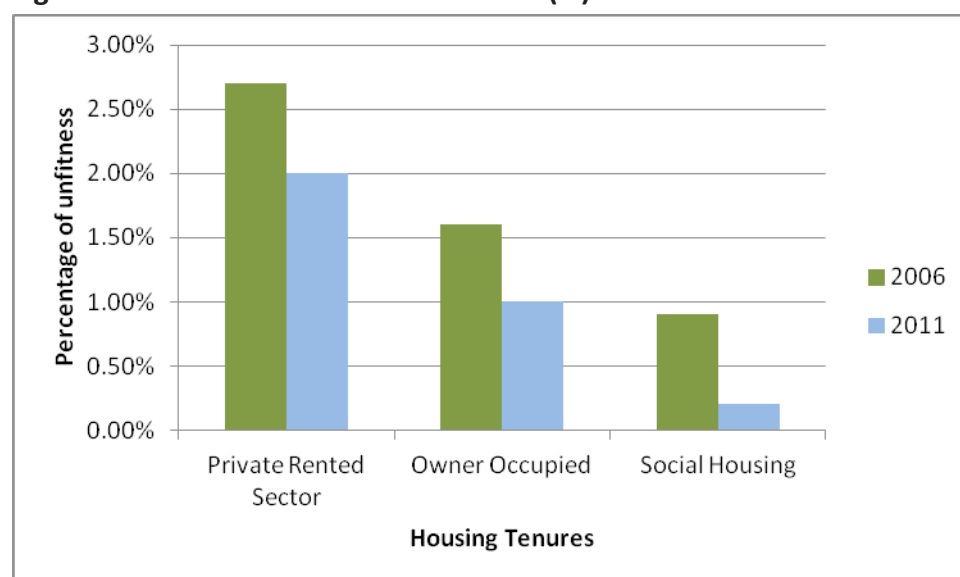
The quality of our housing has a significant bearing on our well being. Most housing in Northern Ireland is of a good standard however, there are homes which fail to meet modern expectations and standards. Inadequate housing can increase the risk of ill-health and disability. There is also some evidence of links between inadequate housing and poor mental health, lower educational attainment, unemployment and poverty. Addressing inadequate housing has the potential to foster wide ranging benefits especially amongst the most vulnerable.

Inadequate or ‘unfit’ housing in Northern Ireland is currently defined in relation to the housing fitness standard. This chapter seeks to detail the statutory requirements on landlords which already apply, and to examine the opportunities and the appropriateness of putting in place additional specific housing standards applicable to private rented accommodation beyond the statutory minimum.

### Housing Fitness Standard

The Housing Fitness Standard is the statutory minimum physical standard which focuses on the most basic structural standards for human habitation, and is applicable to every dwelling in Northern Ireland. The implementation of the 2006 Private Tenancies Order has had a positive impact on fitness levels in the private rented sector (see Figure 2). However, according to the latest House Condition Survey, published in 2011, some 7% of all unfit dwellings were in the private rented sector, meaning that 2% of private rented homes were estimated to be unfit, and those homes would not have met the statutory housing fitness standard.

Figure 2: Unfitness Rates 2006 and 2011 (%)



The Department’s Housing Strategy commits to review the fitness standard across all tenures and to put in place an enhanced statutory minimum standard. Proposals are under development and the Department will seek public views on change in due course. This separate document will provide a detailed examination of the fitness standard across all tenures and will allow interested parties an opportunity to comment on all aspects of the standard which is equally applicable to the private rented sector. The review of the housing fitness standard examines the opportunity to introduce additional criteria in relation to matters including thermal comfort, safety (electrical, fire and gas safety), domestic security and the prevention of falls in the home.

### Fitness and Rent Control

Currently in Northern Ireland all properties built before 1945, where a private tenancy commenced after 1 April 2007, must meet the fitness standard, in order to attract a market rent. A proof of fitness of a private rented home, through the mechanism of a certificate of fitness, must be acquired by qualifying landlords from Environmental Health within the council where the dwelling is located. This process requires a council



official to inspect the premises and enforce the requirement for any works necessary to meet the standard. In the absence of a certificate of fitness the dwelling can remain rented out, however there are rent restrictions applied until the dwelling meets the criteria of the standard.

When the Private Tenancies Order became operational in 2007, a decision was taken to prioritise the properties in the poorest condition, which were generally older properties. Therefore the requirement fell on those dwellings constructed before 1945. It was intended that, as time progressed, this date would be kept under review and there now may be an argument that this provision be extended, and that further or all private rented sector properties should have a certificate of fitness in place in order to attract a market rent.

## Repairing Responsibilities

Aside from the statutory minimum housing fitness standard, there are additional repairing responsibilities which are specific to the private rented sector. In all cases, a landlord and tenant can agree a suitable division of responsibility for repairs and maintenance, with the exception of gas and electrical appliances and furniture safety. However, where a tenancy commenced after 1 April 2007 and where the statement of tenancy terms does not provide a clear division of responsibility for repairs, the law imposes default terms.

Across the UK and in the Republic of Ireland, minimum housing standards are established, delivered and enforced through a variety of statutory and administrative provisions. In Scotland in addition to its statutory minimum standard (the Tolerable Standard) the Government adopted a statutory Repairing Standard, specifically applicable to the private rented sector and contained in the Housing (Scotland) Act 2006. The Scottish Repairing Standard extends the provisions of the statutory minimum tolerable standard and requires a landlord to undertake a pre-tenancy check of the property and make good on any necessary works. There is also a role for the Private Rented Housing Panel to require a private landlord to adhere to the standard. This can protect the landlord in safeguarding their property and to the tenant in ensuring that the home they rent is fit for habitation and purpose.

## Gas, Electrical & Fire Safety

The Scottish Government has further extended provisions in respect of private rented standards with the requirement from 1 December 2015 that mandatory checks on electrical installations (and appliances provided by the landlord) be undertaken by landlords every five years. This is aimed at improving both electrical and fire safety provision within the private rented sector. The position is somewhat different in Northern Ireland where there are a range of regulations governing the safety of installation of both gas and electrical appliances. Landlords are required by law (Gas Safety (Installation and Use) Regulations (Northern Ireland) 2004) to ensure that all gas appliances are kept in good order and that an annual safety check is carried out by a tradesman who is registered with CORGI (Council for Registered Gas Installers).

Currently the landlord is responsible for ensuring that electrical installations (fixed wiring, etc) are safe to use. If the landlord provides any electrical appliances as part of the tenancy (for example, cookers, kettles, toasters, washing machines, immersion heaters, etc) the *Electrical Equipment (Safety) Regulations 1994* requires the landlord to ensure the appliances are safe when first supplied. Each time the property is re-let, it will be classed as supplying to that tenant for the first time.

Current Building Regulations require the installation of fire alarms when new building works take place. Fire safety guidance also strongly recommends the installation and maintenance of fire alarms in all properties. However there is no statutory obligation to comply with this advice.

In October 2015, new law was introduced to impose duties on certain landlords in England (who are not social landlords) to mandate the installation and maintenance of smoke and carbon monoxide detectors. The Regulations will require those landlords to install smoke alarms on every floor of their property, and to test them at the start of every tenancy. Landlords would also need to install carbon monoxide alarms in high-risk rooms, such as those where a solid fuel heating system is installed.

In other jurisdictions in the UK, non regulatory alternatives to supporting prioritisation of safety in the private rented sector are planned (e.g. encourage the fitting of carbon monoxide alarms).

## Energy efficiency

In Northern Ireland, if a property is being sold or let, either privately or through an agent, an Energy Performance Certificate (EPC) for that property must be produced by an accredited energy assessor. The penalty for not complying is £200 and fines can be issued by council building control officers more than once. There is currently no minimum EPC rating required in order to rent out a domestic property in Northern Ireland.

In England and Wales, from April 2018 private landlords will be prevented from commencing a new lease where the EPC of that dwelling is an “F” or “G” rating (although there are some specific exemptions detailed below). An additional requirement to secure an EPC E rating or higher for private rented properties with existing leases will come into force from 1st April 2020.

Exemptions to these regulations will include:

- where cost effective savings have been implemented but EPC remains below an 'E' - in line with 'Green Deal Golden Rule';
- where improvements require green deal funding and they or their tenant fails the credit check ;
- where contractually or legally required third party consent cannot be secured;
- where the tenant withholds consent ;
- where an expert states that measures will reduce a property's value by 5% or more; or
- where wall insulation will damage the property.

These provisions do not extend to Northern Ireland and views are sought on whether this represents an appropriate model for consideration.

***The Department is interested in your views on property standards, in particular:***

***Q4.1 – Do you agree that it is important to enforce minimum property standards in the private rented sector? Y/N***

***Please provide your reasons***

***Q 4.2 – In relation to fitness what specific areas warrant further improvement and what means should be used to drive improvement (i.e. through regulation or some form of non-regulatory route such as guidance)?***

***Q 4.3 - Should the current system of applying rent control to unfit properties built before 1945 be extended to include other private rented property? Y/N***

***Please provide your reasons***

***Q4.4 - Should consideration be given to introducing standards similar to those in place in other parts of the UK around requirements to install additional safety measures, such as smoke alarms and carbon monoxide detectors, and requiring periodic electrical inspections? Y/N***

***Please provide your reasons***

***Q 4.5 - Should consideration be given to requiring a minimum standard of energy efficiency for all private rented properties as in England and Wales? Y/N***

***Please provide your reasons***

Section 75 of the Northern Ireland Act 1998 requires the Department, in carrying out its functions relating to Northern Ireland, to have due regard to the need to promote equality between all the Section 75 groups. Without prejudice to these obligations, the Department is also required, in carrying out its functions relating to Northern Ireland, to have due regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

### EQUALITY CONSIDERATIONS

Section 75 of the Northern Ireland Act 1998 requires the Department in carrying out its functions to have **due regard** to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without.

Without prejudice to the obligations set out above, the Department is also required, in carrying out its functions relating to Northern Ireland, to have **regard** to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

Apart from proposals to make some technical, minor changes to the Private Tenancies Order, this discussion document does not propose any changes therefore there will be no adverse impact on any Section 75 category. The Department has completed Equality Screening exercises on both the Review of the Role and Regulation of the Private Rented Sector and Amendments to the Private Tenancies Order and has concluded that there are no adverse impacts anticipated. Both screening documents can be viewed at:

<https://www.dsdni.gov.uk/dsd-equality>. The Department however welcomes views or comments on any equality impact that has not been identified.

### REGULATORY IMPACT

The Department will use evidence gathered prior to and as a result of feedback from this discussion document to develop a draft partial Regulatory Impact Assessment (RIA). This will assess any likely impact in terms of costs, benefits and risks to businesses and, in particular, to small businesses.

A draft Regulatory Impact Assessment will be published as part of the future consultation on proposals, which will form part of the next phase.

## The private rented profile across a number of European countries and the United States

Country	PRS % of stock	Increase in last decade	Rent regulation	Security of Tenure	Types of Tenants
Australia	25%	Yes	None. Market rents with no limit on rent increases	Mainly short-term tenancies which become monthly periodic ones after first term.	Broad mix covering wider range of households.
Denmark	19%	No	Rents regulated and based on a cost formula; rent increases allowed for additional costs; rents after improvements to vacant dwellings based on local comparators.	Long-term security; limited term tenancies permitted in very few circumstances.	Students and others outside labour market over-represented.
England	17%	Yes	None. Market rents including rent increases, with very limited recourse to independent tribunal.	Depends on type of tenancy; limited beyond first term (assured shorthold, on which most lettings are based); more security beyond first term (assured tenancy)	Broader mix including more households with children.
Germany	47%	No	Initial rent freely negotiated but up to limits set locally; limits on subsequent increases; more allowed after modernization and energy efficiency investment.	Yes indefinite leases	Broad range of household types.
Netherlands	10%	No	Yes. Initial rent regulated (except most expensive dwellings) based on a points system; rent increases also regulated.	Yes indefinite leases	Younger and older households; income range similar to social rented tenants.
Norway	21%	Yes	Rents of new leases may not exceed current market rents; increases (after 3 years) must confirm to increases in local markets and CPI	Yes generally indefinite leases, but time limited is also possible	Low income and also younger households.
Spain	16%	Yes	Not for initial rent (subsequent increase via CPI)	Long-term but not indefinite leases mainly	Low income and younger households plus immigrants; larger households increasing.
US	32%	No	No (except in four states; prohibited in 34 states).	Limited beyond first term	Generally younger, mobile, 'non white' and lower income households.

Country	PRS % of stock	Increase in last decade	Rent regulation	Security of Tenure	Types of Tenants
Republic of Ireland	28%	Yes	<p>Under Section 19 of the Residential Tenancies Act 2004 landlords cannot charge more than the open market rate for the apartment or house. The landlord cannot review the rent more than once a year unless the accommodation has changed substantially. This might, for example, constitute a complete refurbishment or another major change. You can ask your landlord to review the rent if:</p> <ul style="list-style-type: none"> <li>• You think it is more than the current market rate for the property or</li> <li>• You want a new review and more than a year has passed.</li> </ul> <p>The landlord has the right to review the rent annually. However the landlord must give you at least 28 days notice (in writing) before increasing the rent. If there is any dispute about the amount of rent or about arrears of rent, either side can refer the dispute to the Private Residential Tenancies Board (PRTB). You must contact the PRTB before the date the new rent comes into effect or within 28 days of getting the notice, whichever is later.</p>	<p>Periodic and fixed-term tenancies are the most common type of tenancy in Ireland. Tenants have security of tenure for 3 ½ years after an initial six-month period. This is called a Part 4 tenancy.</p>	

Country	PRS % of stock	Increase in last decade	Rent regulation	Security of Tenure	Types of Tenants
Scotland	11%	Yes	<p>Consultation paper gone out 6/10/14 on rent levels. Currently for all assured tenancies the rent is market led. During a tenancy the level of rent increase can be negotiated between landlord and tenant however for shorter assured tenancies the rent level often remains fixed throughout the tenancy. Any increase should be at least a year apart under a statutory assured tenancy. Tenant can refer case to Private Rented Housing Committee for a ruling on the rent level.</p>	<p>Consultation paper gone out 6/10/14 on security of tenure. Currently originates from 1988 Housing (Scotland) Act. Assured Tenancy and a short assured tenancy are in existence. A short assured tenancy is the most common in the PRS. Landlord must give the tenant an AT5 form before they sign their tenancy agreement or move in. Initial let must be for at least 6 months after which landlord has the right to reclaim possession.</p>	<p>Broad range of tenants more recently growth in number of younger people including those with families and those that want to stay in the sector longer term</p>
Wales	14%	Yes		<p>Same as England however consultation has just ended on 14/10/14 on Renting Homes model contract as part of Renting Homes Bill due to be introduced in national assembly spring 2015</p>	<p>Diverse make up of students, families, single people but since 2008 economic downturn increasing used by many more Welsh households as a longer term housing option.</p>
Northern Ireland	16.5%	Yes	<p>Market rent is charged. Rent increases should be detailed on tenancy agreement. Tenant to be given notice prior to any increase (28 days)</p>	<p>Fixed Term tenancies or Periodic tenancies are standard with notice to quit periods.</p>	

**PROPOSED AMENDMENTS TO THE PRIVATE TENANCIES (NI) ORDER 2006 (PTO)**

<p><b>Tenant to be provided with a rent book (Rent Book Regulations)</b></p> <p>Amend Article 5 of the PTO by inserting a clause along the lines of Article 4(2) of the PTO.</p>
<p><b>Repairs and maintenance</b></p> <p>Insert new Article after Article 11 which creates an offence if landlord does not comply with requirements of Articles 7 and 9.</p>
<p><b>Notice of Unfitness / Disrepair</b></p> <p>Amend Articles 18(4) (notice of unfitness) and 19(4) (Notice of Disrepair) of the PTO to specify a period of less than 21 days to require a person to carry out work where there is imminent danger.</p>
<p><b>Functions of the appropriate district council</b></p> <p>Create an offence similar to that in Article 28 of the PTO for Article 36 if a person obstructs an authorised officer of the council from entering the property.</p>
<p><b>Landlord's application: ancillary provisions</b></p> <p>Amend Article 34(3) of the PTO to waive the 28 day period where both parties agree with the information supplied.</p>
<p><b>Tenant's application to have dwelling-house inspected</b></p> <p>Amend Article 35(5) to remove the option as there is no longer need to allow a landlord to make representations to the council.</p>

## LICENSING AND ACCREDITATION IN OTHER JURISDICTIONS

	Licensing	Accreditation
England	<ul style="list-style-type: none"> <li>• Not a blanket approach;</li> <li>• Selective licensing in place;</li> <li>• Typical license costs £500 for 5 years</li> </ul>	<ul style="list-style-type: none"> <li>• NLA Accreditation is based on landlord development and is a national scheme that all tenants in England, Scotland and Wales can recognise as a mark of quality.</li> </ul>
Wales	<ul style="list-style-type: none"> <li>• Mandatory Licensing</li> <li>• Housing (Wales) Act; 2014 requires private landlords and agents to be licensed</li> </ul>	<ul style="list-style-type: none"> <li>• Landlord Accreditation Wales is a voluntary accreditation scheme run by Cardiff County Council on behalf of the 22 local authorities in Wales.</li> </ul>
Scotland	<ul style="list-style-type: none"> <li>• Only owners of HMOs are required by law to have a license from the local authority where the property is situated;</li> <li>• Landlord Registration includes a 'fit and proper person test'</li> </ul>	<ul style="list-style-type: none"> <li>• Landlord Accreditation Scotland is a voluntary scheme that provides support to landlords and letting agents by providing training and access to advice and information.</li> </ul>



UK Regional breakdown – All rental amounts are taken over the 3 months preceding the date shown

UK Region	Average Rent 3 months to March 2015	Annual variance
Northern Ireland	£583	3.7%
Scotland	£631	7.5%
Wales	£577	-0.9%
North East	£520	3.8%
North West	£671	5.6%
Yorkshire & Humber	£611	7.0%
East Midlands	£605	5.9%
West Midlands	£643	7.1%
East Anglia	£769	5.9%
Greater London	£1,427	8.9%
South East	£893	5.5%
South West	£851	13.7%

## International Overview of Rent Regulation (Taken from European Quality of Life Survey 2012)

Country	Initial Rent Setting Regulated	Rent Increases Regulated	Exemptions
Belgium	No	Yes	Short term contracts
France	Yes	Yes	Let for the first time Renovation cost is greater than one year's rent
Germany	Partial	Partial	Relay leases, fixed rent contracts and index linked contracts.
Ireland	No	No	N/A
Netherlands	Yes	Yes	Rent in excess of €700/month
Sweden	Yes	Yes	Newly constructed rental properties (but prior agreement on the rent level from a local tenants' association) Privately let tenant-owned apartments and one-dwelling buildings (since February 2013)
Switzerland	No	No	N/A
UK	No	No	N/A
New York City*	Yes	Yes	On vacancy and legal rent reaches \$2,500+ Legal rent of \$2,500+ and tenants annual federal adjusted gross incomes is \$200,000+ for each of the two preceding calendar years.
Washington DC**	Yes	Yes	Federally or District-subsidised units Built after 1975 Owned by a private individual – no more than 4 rental units in the District. Vacant when the Act took effect
Ontario**	No	Yes	Not occupied for any purpose before June 17, 1988; No part of rental unit has been previously rented since July 29, 1975; or No part of the building was occupied for residential purposes before November 1, 1991.

## Review of the Role and Regulation of the Private Rented Sector

### Role of the Private Rented Sector

We want to make the Private Rented Sector a more attractive housing sector where people choose to live. We are asking for your views on issues impacting the private rented sector. Your views will help shape future policy proposals. Thank you for taking the time to complete these questions

1. Please select from the list below the title that best represents you

- |                         |                          |                       |                          |                      |                          |
|-------------------------|--------------------------|-----------------------|--------------------------|----------------------|--------------------------|
| Landlord                | <input type="checkbox"/> | Tenant                | <input type="checkbox"/> | Letting Agent        | <input type="checkbox"/> |
| Landlord Representative | <input type="checkbox"/> | Tenant Representative | <input type="checkbox"/> | Estate Agent         | <input type="checkbox"/> |
| Council Representative  | <input type="checkbox"/> | Housing Professional  | <input type="checkbox"/> | Other Government     |                          |
| MLA                     | <input type="checkbox"/> | NIHE                  | <input type="checkbox"/> | Department           | <input type="checkbox"/> |
| Voluntary Organisation  | <input type="checkbox"/> |                       |                          | Member of the Public | <input type="checkbox"/> |

2. Do you agree that further support should be available to tenants living in the private rented sector?

Yes

No

Please provide your reasons

3. Do you agree that further support should be available to landlords operating in the private rented sector?

Yes

No

Please provide your reasons

## Review of the Role and Regulation of the Private Rented Sector

### Supply and Investment

4. Do you agree that the private rented sector should play a role in bridging the identified shortage in housing supply?

Yes

No

Please provide your reasons

5. Would it be appropriate for Government to incentivise growth and investment in the private rented sector?

Yes

No

Please provide your reasons

## Review of the Role and Regulation of the Private Rented Sector

### Housing and Tenancy Management

6. The Department should consider making changes to the Landlord Registration Scheme. Do you agree?

Yes

No

Please provide your reasons

7. The Department should consider making changes to the Tenancy Deposit Scheme. Do you agree?

Yes

No

Please provide your reasons

8. Is licensing of landlords needed in Northern Ireland?

Yes

No

Please provide your reasons

9. Is Landlord Accreditation needed in Northern Ireland?

Yes

No

Please provide your reasons

10. Do you think the private rented sector needs to be further professionalised?

Yes

No

Please provide your reasons

11. Are there other amendments to the Private Tenancies Order that should be considered?

Yes

No

Please provide your reasons



12. Is further regulation of the private rented sector necessary?

Yes

No

Please provide your reasons

13. Do you agree that longer term tenancies are a good thing?

Yes

No

Please provide your reasons

14. Are the current notice to quit periods appropriate?

Yes

No

Please provide your reasons

15. Is the current eviction process fit for purpose?

Yes

No

Please provide your reasons

16. Is overcrowding an issue in the private rented sector in Northern Ireland?

Yes

No

Please provide your reasons

17. Do you agree that the regulation of letting agents needs to be addressed?

Yes

No

Please provide your reasons

18. Do you agree there should be an alternative means to resolving disputes other than small claims court action?

Yes

No

Please provide your reasons

## Review of the Role and Regulation of the Private Rented Sector

### Property Standards

19. Do you agree that it is important to enforce minimum property standards in the private rented sector?

Yes

No

Please provide your reasons

20. In relation to fitness what specific areas warrant further improvement and what means should be used to drive improvement. (i.e. through regulation or some form of non-regulatory route such as guidance)?

21. Should the current system of applying rent control to unfit properties built before 1945 be extended to include other private rented property?

Yes

No

Please provide your reasons

22. Should consideration be given to introducing standards similar to those in place in other parts of the UK around requirements to install additional safety measures, such as smoke alarms and carbon monoxide detectors, and requiring periodic electrical inspections?

Yes

No

Please provide your reasons

23. Should consideration be given to requiring a minimum standard of energy efficiency for all private rented properties as in England and Wales?

Yes

No

Please provide your reasons

## Review of the Role and Regulation of the Private Rented Sector

### Contact Details

24. Are there any other comments you would like to make?

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25. If you wish to be kept up to date with progress on the review please give your name and contact details

Name	
------	--

Email Address	
------------------	--

Phone Number	
-----------------	--



## Public Events

There will be two public events as outlined below in addition to events with tenant representative groups. We would encourage you to attend these events so that you can share your thoughts on the discussion document and voice any concerns you may have. To book your place please visit [www.lani.org.uk](http://www.lani.org.uk) or send an email to [housing.policy@dndni.gov.uk](mailto:housing.policy@dndni.gov.uk)

### **Event 1**

City Hotel

Queens Quay

Londonderry

BT48 7AS

**Date:** 26 November 2015

**Time:** 7.00 pm

### **Event 2**

Conference Hall

Stranmillis College

Stranmillis Road

Belfast

BT9 5DY

**Date:** 3 December 2015

**Time:** 7.00 pm





