

# Policy Briefing: Promoting Responsible Letting in the Private Sector

## Summary Paper

This paper provides a summary of Housing Rights Service proposals for the private rented sector. It looks at how regulatory reform and the provision of information and training are much needed to improve tenancy management and physical standards of accommodation in the private rented sector in Northern Ireland.

The full paper is available at [www.housingrights.org.uk/policy](http://www.housingrights.org.uk/policy)

## Introduction

The private rented sector plays an extremely important role in today's housing market and will continue to do so. With the shortage of social housing and home ownership still out of reach for many, government is looking increasingly towards the private rented sector to provide alternative viable housing options. In our view the sector is not yet fit for this purpose. Housing Rights Service believes that a strategic framework is needed to ensure responsible letting in the private rented sector. The aim of a new private rented strategy should be to promote the sector as a suitable housing option by improving management standards and physical conditions of accommodation. Having studied best practice in other jurisdictions, we recommend that the framework incorporates the following key complementary measures – all of which are aimed at driving up standards within the sector:

- **mandatory registration and compliance with approved Code of Practice on tenancy management**
- **a landlord/tenant dispute resolution service**
- **tenancy deposit protection and**
- **information and training on tenancy law.**

## Landlord registration

Landlord registration alone will not solve all problems in the private rented sector. It will however lay the foundation for a more consistent and robust approach to addressing both the issues of bad management practices and poor fitness standards. A register would better enable local councils to progress enforcement action more effectively, help reduce time spent on searching out landlords' names and contact details and ultimately drive up standards in the sector. Once registered, landlords should be issued with a license. Part of this license condition would be to follow guidelines laid down by an approved Code of Practice recognised by the courts. Conforming to this Code of Practice would quite simply require landlords to abide by their legal obligations under relevant legislation governing both the private sector and equality law. In our view this in itself has the potential to significantly improve landlord practices in the sector. Critical to the success of a registration scheme is that it must be mandatory. A voluntary system will do nothing to address bad management practices. It will be unable to provide sufficient incentives to persuade substantial numbers of landlords into self-regulation, not least the minority who persist in disregarding their legal obligations.

### Key elements of registration

- Mandatory for all private landlords (i.e. compelling them to provide their name, a contact number and a contact address and details of their properties).
- A license to be provided to landlords on condition that they follow guidelines set down in an approved Code of Practice.
- Registration would provide landlords with access to a dispute resolution service. (If landlords fail to register, access would be denied.)

- Councils should assess the fitness of all properties constructed before 6<sup>th</sup> November 1956 of registered properties.
- Relevant information on rights and responsibilities should be made available to landlords and tenants.
- Powers to modify inclusions and exclusions of who should register should be included in the legislation.
- Failure to register should result in prosecution and fines.
- Post registration the enforcement body should have the power to de-register landlords if they fail to comply with their legal requirement /license conditions.
- The registration scheme should be introduced on a phased basis to avoid the massive influx of registration applications, which would be repeated on renewal.
- At development stage it should be widely consulted on by interested stakeholders.

## Dispute resolution

A tenant/landlord dispute resolution service, incorporating mediation and arbitration, should form an integral part of any responsible renting initiative for the private sector. Our experience has shown us that seeking redress through the court system can prove to be a hindrance and deter some tenants from pursuing their legal rights thus denying their access to justice. A dispute resolution service could minimise the stress, cost and reluctance of many to progress their issues through the court system. It would, in our opinion, save time and money for both landlords and tenants and free up court time.

### Key elements of a dispute resolution service

- Access to the scheme should only be available to those landlords who register. Tenants should still have access to the service where the landlord is not registered.
- It should be able to deal with all generic queries/disputes.
- It should be designed to encourage tenants to progress their issues. E.g. it should be informal and quick with no legal representation required.
- The service should appoint independent and experienced mediators and arbitrators to deal with disputes.
- Landlords should be prohibited from evicting tenants when a dispute is in progress.
- Landlords and tenants should be compelled to use the service before exerting the legal system.
- There should be a two tier system offered, mediation and then arbitration.
- Council/Public buildings should be used to reduce costs for dispute hearings.

## Tenancy deposit protection

The problem of tenancy deposit retention has long been a major concern for many private tenants. In our experience as availability of private rented accommodation has proliferated so too has the prevalence of deposit retention by landlords. The only recourse available to tenants at present is through the small claims court. We are aware

that seeking redress through the court system can prove to be a hindrance and deter many tenants from pursuing what they believe to be a bona-fide claim on their deposit. Therefore Housing Rights Service believes that a tenancy deposit protection scheme should be devised to ensure deposits are safely managed and not withheld unreasonably.

Having researched the various tenancy deposit schemes, Housing Rights Service recommends a custodial type scheme similar to the one legislated for in England and Wales. This scheme would be preferential as there would be no cost to either landlords or tenants for its use. The scheme is financed by the interest generated on deposits which are held in a designated bank account.

### **Key elements of a tenancy deposit protection scheme**

- Private landlords should be required to pay deposits into a Custodial type deposit scheme.
- There should be no fee payable for its use with the interest generated by the deposits covering the cost of the scheme.
- To reduce the likelihood of disputes over deposits, landlords and tenants should carry out a detailed inventory and also record the condition of the property when both are present.
- Tenants should receive information explaining the purpose of the deposit.
- Landlords should provide tenants with confirmation that their deposit has been paid into the schemes designated bank account.
- Information should accompany the above detailing what to do if a dispute arises relating to the deposit.
- Tenants should be made aware of the circumstances in which the landlord would be eligible to retain all or some of the deposit.
- Landlords and tenants would have access to the dispute resolution service.

### **Provision of information and training**

The Housing Executive's publication "*The Private Rented Sector in Northern Ireland*" reported a lack of knowledge amongst landlords on key issues. It also emphasised that there is no central contact point for landlords to obtain information regarding recent policy developments or legislative changes relating to the sector. Approximately half of landlords surveyed indicated that they did not receive any information on their rights and responsibilities as a landlord. Two thirds felt they had insufficient information on their rights and responsibilities as landlords and felt they required more information on how to deal with issues such as problem tenants. Out of the vast majority of landlords who believed more information was needed, they felt the Housing Executive could provide this. The report also stated that District Councils play a key role in providing information but landlords may not be aware of the role they play in the sector.

Once again to achieve optimum success we believe mandatory registration should be devised to assist in dissemination of information to landlords and offering accredited

training. By improving landlord practice through information and training the sector will invariably become more professional and reputable. Offering landlords easy access to information and training at reduced rates could act as an incentive for mandatory registration. Likewise it is equally important that tenants receive accessible information about their rights, responsibilities and how to obtain independent advice.

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### **Further information**

*In producing this briefing, Housing Rights Service in conjunction with the Department for Social Development NI conducted extensive research into other regulatory approaches used in other jurisdictions. Our recommendations are based upon the experiences of the other regions and specifically tailored for Northern Ireland. More information on these schemes has been included in the full document's Appendices.*

The full paper is available at [www.housingrights.org.uk/policy](http://www.housingrights.org.uk/policy) or contact:

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