

Briefing paper: Affordability of private rented housing

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Introduction

In recent years, there has been acute inflation of private rents across the UK. The Office for National Statistics (ONS) estimates that in 2023 average private rents increased by 8% in England and 8.3% in Southampton. This has compounded longstanding unaffordability problems in the private rented sector which continues to be the most expensive housing tenure, relative to household income, in the UK. As the revival of private renting has consolidated, the widespread unaffordability of private rents has generated significant housing precarity for private renters, greater government expenditure on rent subsidies, and it has contributed to a wave of tenant organising and growing campaigns by Acorn and other tenant groups for England to follow the example of Scotland and introduce rent controls. Although both Conservatives and Labour appear hostile to rent control, there is a growing recognition, as reflected in the Renters Reform Bill, that more should be done to make private rents more affordable. In this briefing paper we outline the cost of private renting and then discuss the highly contested concept of housing affordability. We consider and apply three different definitions of affordability to the private rented sector. We then outline some important law and policy relating to housing affordability in the private rented sector, drawing attention to the proposals contained in the Renters (Reform) Bill. We conclude our paper by sketching out the contemporary debates about rent control, some instances of good practice, and drawing attention to the important role of the local authority in this area.

1. What is the cost of private renting?

The cost of private renting is often expressed solely in terms of rent levels. While rents typically represent the lion share of the housing costs incurred by the tenant, there is a growing recognition that understanding the cost of private renting requires a broader approach that includes related housing costs. This reveals how tenants may incur a range of direct and indirect housing related costs including rent, tenancy deposits, holding deposits, fees, access to a guarantor, utility costs and council tax. Many of these costs are transactional in nature and so tenants that move more frequently will tend to incur higher costs over time. Furthermore, some housing costs are directly linked to the condition of the dwelling. Tenants living in poor quality and/or overcrowded housing will often incur higher heating and electricity costs.

2. What is affordable housing?

There is no universally accepted definition of affordable housing in England. Indeed, 'affordability' is a highly contested term, and it tends to be understood and used in different ways by governments, NGOs, civil society groups and others. At a general level, the term affordable housing is often used 'to describe housing of any tenure that is judged to be affordable to a particular household or group by analysis of housing costs, income levels and other factors'.¹ It is necessary to unpack this general definition because it offers at least three different, but related, ways of understanding housing affordability which each have distinct advantages and disadvantages.

Defining affordability based on housing costs

Affordability can be defined in terms of housing costs by reference to the market. This definition is often used in government policy. The 'Intermediate rent' tenure involves social landlords offering tenancies at 'affordable rents' which are defined as rents of up to 80% of market rent levels within the local area. Similarly, the National Planning Policy Framework (NPPF) defines affordable rents by reference to 'below local market rents'. The main advantage of this definition is that it offers an apparently straightforward way of understanding affordability. However, the main criticism of this

¹ Wendy Wilson and Cassie Barton, 'What is affordable housing?' House of Commons Library Research Briefing CBP07747, 2023.

definition is that it is entirely dependent on market rents. If market rents are not widely affordable, then 80% of that rent is likely to still be unaffordable to large numbers of renters. Indeed, ‘an analysis of affordable rents in England conducted by Inside Housing using data from the Social Housing Regulator for 2022, found ‘affordable’ rents were double the equivalent social rent in some areas and the consequence was higher housing benefit expenditure.

Defining affordability based on household income

Affordability can also be understood by comparing household incomes with the cost of housing. This is sometimes expressed in terms of a ‘housing cost to income ratio’ which aims to capture the proportion of a household’s disposable income spent on housing. This measure is widely used in studies by governments, academics and NGOs and it is often used to make a judgement as to what proportion of household income should be spent on housing. For instance, *‘The UK government has viewed a ratio of 30 per cent of gross income as unaffordable, while Eurostat treats 40 per cent of net income as the appropriate ‘housing over-burden’ level in its cross-national analysis’.*² The main advantage of this definition is that it can help to capture the more complex interaction of household income and housing costs. However, there are also some limitations to this definition. First, reliable income data and rental data is often not available for small areas, and this makes it challenging to apply in a local context. Second, it tends to involve an unarticulated, but vitally important assumption, as to what counts as an ‘acceptable’ proportion of household income.³ Third, it does not account for whether the remaining or residual income after housing costs is enough to live on’ or ‘whether a household is making trade-offs to keep costs low (eg by choosing overcrowded housing)’.⁴

Using a residual income approach to affordability

Another way of understanding housing affordability, that draws on the housing cost to income ratio, is the residual income approach. This defines housing as affordable if *‘a household is able to afford to meet their other basic or essential needs after paying for their housing.’* In this model, *‘the Minimum Income Standard details the income that different households are believed to need to reach a minimum socially acceptable standard of living in the UK.’*⁵ This model was proposed by the Affordable Housing Commission in 2020 and their proposal was based on setting an affordability threshold at the point ‘when rents exceed a third of net equivalised household income’.⁶ This model has the advantage of taking account of related affordability issues, such as housing quality, overcrowding, adequacy of housing benefit, household size and regional variations. The utility of this model depends upon gathering reliable income data and rental data for small areas.

Are private rents currently affordable in England?

Employing each of the three different concepts of affordability makes clear that private rents are widely unaffordable in England. If understood simply in terms of rental costs, widespread unaffordability is apparent in how one quarter (1.2 million) of private rented households rely on housing support (housing benefit/universal credit) to pay their rent.⁷ Recent rent inflation in

² *ibid.*

³ Resolution Foundation, *The housing headwind: the impact of rising housing costs on UK living standards* (Resolution Foundation, 2016).

⁴ Wendy Wilson and Cassie Barton, ‘What is affordable housing?’ House of Commons Library Research Briefing CBP07747, 2023.

⁵ Wendy Wilson and Cassie Barton, ‘What is affordable housing?’ House of Commons Library Research Briefing CBP07747, 2023.

⁶ *ibid.*

⁷ DLUHC, *English Housing Survey 2021 to 2022: headline report* (DLUHC, 2022) para 1.60.

combination with the freezing of Local Housing Allowance rates has exacerbated these issues.⁸ A recent (2023) ONS survey revealed that ‘around 4 in 10 (40%) adults reported finding it very or somewhat difficult to afford their rent or mortgage payments’.⁹

A similar picture emerges when affordability is understood in terms of housing costs relative to household income. The English Housing Survey estimates that private rented housing is the most expensive tenure, relative to household incomes, in England: “On average, mortgagors spent 22% of their household income on mortgage payments, whereas rent payments including housing support were 27% for social renters and 33% of household income for private renters. Excluding housing support, the average proportion of income spent on rent was 36% for social renters and 38% for private renters”¹⁰ Of course, this is a national picture and there are sharp regional variations, with higher housing costs concentrated in London and the south of England.¹¹

Finally, when a residual income approach is taken the unaffordability of private rented housing, and its social impact, is revealed in more detail. A recent (2023) ONS survey revealed that after paying housing costs, around 1 in 5 (21%) renters, who were parents living with a dependent child, reported running out of food and not being able to afford more.¹² This finding is consistent with studies of private renting from 2016 which showed that ‘...at least one in five households in the private rented sector has unaffordable housing – which means that they have high housing costs and have insufficient income left over to afford a minimum acceptable standard of living after paying their rent’.¹³

3. Affordability: Law and policy

For much of the last century, central government have sought to make housing more widely affordable. This has involved a range of law and policy interventions including the mass provision of public rented housing during the post-War era, promotion of more affordable forms of ownership (eg right to buy, shared ownership), measures aimed at controlling the cost of rented housing (ie rent control and rent regulation) and the provision of rent subsidies designed to support tenants meeting the cost of renting (ie housing benefit and universal credit). This section focuses on law and policy measures designed to make rents more affordable in the private rented sector. The section outlines the role of rent controls during the period 1915-1988 and then details how deregulation in 1988 involved a shift away from controlling rents and towards rent subsidies. The section concludes by outlining the proposals contained in the Renters Reform Bill as well as recent reforms addressing other costs associated with renting.

⁸ <https://www.theguardian.com/society/2023/jun/27/just-5-of-private-rentals-affordable-on-housing-benefit>

⁹ ONS, Impact of increased cost of living on adults across Great Britain: July to October 2023 (ONS, 2023) available at

<https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/expenditure/article/s/impactofincreasedcostoflivingonadultsacrossgreatbritain/julytooctober2023>.

¹⁰ DLUHC, *English Housing Survey 2021 to 2022: headline report* (DLUHC, 2022) para 1.51.

¹¹ ONS, Redevelopment of private rental prices statistics, impact analysis, UK: December (ONS, 2023) available at

<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/articles/redevelopmentofprivaterentalpricesstatisticsimpactanalysisuk/december2023>.

¹² ONS, Impact of increased cost of living on adults across Great Britain: July to October 2023 (ONS, 2023) available at

<https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/expenditure/article/s/impactofincreasedcostoflivingonadultsacrossgreatbritain/julytooctober2023>.

¹³ Lydia Marshall, NatCen, Defining and measuring housing affordability in the PRS using the minimum income standard, October 2016

Rent Regulation (1915-1988)

The Increase of Rent and Mortgage Interest (War Restrictions) Act 1915 was forced upon a reluctant legislature by the Glasgow munition workers rent strike of 1915. It introduced rent control to the United Kingdom in the emergency context of the First World War 1914 - 1918. The Act prevented landlords from profiteering from shortages of 'working class' dwellings during the war years. It also protected landlords by holding mortgage interest rates to August 1914 levels. The provisions were designed to be temporary – there was a sunset clause stating that the provisions would expire six months after the cessation of the war. However, the persistence and intensification of housing shortages during the war could not be quickly resolved once the war was over. The provisions were retained, and their scope was widened in the 1920s. Whilst there was some relaxation of controls during the 1920s and 1930s, rent restriction were fully introduced in 1939.

The post WWII housing shortage was even more acute than that of 1918. To avoid the confrontations of 1915 the Rent Act 1939 reintroduced full rent control. Like the 1915 Act, the measure was intended to last for only six months after the end of the war. However, the legislation remained in place until 1968. Following the end of WWII the private rented sector declined rapidly, reduced by sales to owner occupiers, demolition through slum clearance and local authority acquisition and mass provision of public rented housing.¹⁴ At this time there appears to have been a growing political divide over private renting. In the 1950s Labour considered that private landlordism had failed, and should be replaced by municipal landlordism, whilst for the Conservatives decline was because of rent controls which prevented investment and could be reversed by abolition of controls.

The Conservatives, to phase out rent control, passed the Rent Act 1957 which decontrolled rents after a landlord secured vacant possession. Unfortunately, this provided a major incentive to landlords to remove sitting tenants not necessarily by legal means, which led to the discrediting of the legislation. Labour's victory in the 1964 General Election was related to the response to the 'Rachmanism' that was the consequence of the 1957 legislation. Labour passed the Rent Act 1965 which introduced regulated tenancies with long-term security of tenure and the fair rent system. This system, which was consolidated within the Rent Act 1977, provided for 'fair' rents to be set by independent rent officers according to a statutory scheme that required officers to disregard housing scarcity in determining a 'fair' rent.

It would be foolish to imagine that there was a consensus about rent regulation despite the legislation. Landlords actively avoided the legislation and challenged decisions that tenancies were caught by the Rent Act 1977 in the courts. It was not until the 1985 House of Lords decision in *Street v Mountford* that it became clear that opting out of rent regulation was not available to parties to a tenancy even if the agreement contained an opt out clause.

Deregulating rents and rent subsidy (1988-present)

The private rented sector was deregulated by the Housing Act 1988. One of its primary tools was the introduction of the market rent for all new tenancies commencing after 15 January 1989. Fair rents were abolished for these new tenancies, and parties could contract out, via rent review clauses, of the very limited rent control that was retained. Section 13 of the Act provided a mechanism for annual rent increases in periodic tenancies where there was no rent review, following service of a notice. For most tenancies only one month's notice of a rent increase is required. Section 14 of the Act gives tenants an opportunity to refer the rent increase to the First Tier Tribunal in circumstances where the rent requested is above the market rent. However, the insecurity of tenants in the private rented sector has proved a major disincentive to challenging rents under this provision ie tenants

¹⁴ Peter Kemp, *Private Renting in Transition* (London, Chartered Institute of Housing, 2004).

holding with an assured shorthold could be evicted on the ‘no fault’ ground with only two months’ notice.¹⁵ There are also difficulties in proving that a rent is above market levels as there is a lack of data on market rent levels.

At the time, it was understood that removing legal restrictions on rents and promoting market rents would lead to rent inflation. Policy makers promised that rent subsidies, in the form of housing benefit, would “take the strain” of rent increases.¹⁶ Yet the combination of rent increases and the general revival of private renting from the 1990s onwards contributed to dramatic increases in state expenditure on rent subsidies. In 2016, UK state expenditure on housing benefit related to private rents was £9.3 billion – nearly double the amount paid a decade earlier. At the same time, approximately a quarter of private rented households in the UK relied on housing benefit to pay their rent.¹⁷ In 2010 the Coalition Government identified a need to address growth in Housing Benefit (HB) expenditure. UK Governments since 2010 have sought to reduce HB spending by limiting and freezing Local Housing Allowance (LHA) rates. In their 2018 report on ‘The evolving private rented sector’, Rugg and Rhodes point out that the LHA has acted as a ‘stringent mix of both first and second generation rent control.’ The recent autumn statement (November 2023) ended the freeze on housing allowances meaning that Local Housing Allowance will be linked to the lowest 30% of market rents from April 2024 providing an extra £800 per annum support for low income renters. However, there are concerns that rental inflation will rapidly erode the change which appears to be a one-off unfreezing. LHA will once more be frozen from 2025 -26.

The Renters (Reform) Bill

The Renter’s (Reform) Bill maintains market rents as a key feature of private renting thereby continuing with regulated deregulation paradigm. However, the government proposals aim to ensure that rent increases become more predictable. The Bill proposes to:

- Limit rent increases to once a year
- Increase the minimum notice landlords must give of a rent increase to two months
- End the use of rent review clauses in tenancy agreements

Furthermore, the abolition of s.21 of the Housing Act 1988 means that there are likely to be many more challenges to rent levels made to the tribunal. For some commentators this is the equivalent of bringing rent control in by the back door as the tribunal will in effect be deciding what the market rent is. However the tribunal will be required to make the decisions on evidence of comparable rent levels so the suggestion of rent control by the back door is unpersuasive. Moreover evidence of scarcity of supply is so overwhelming at the moment that it is difficult to understand that market rents will be on anything other than an upward trajectory. A consequence of the abolition of s.21 will mean that landlords will be using the grounds of possession relating to rent arrears much more often in future. If there are extensive evictions under these grounds it may well indicate the extent to which the market rent is actually unaffordable for tenants.

The Renters (Reform) Bill increases the grounds for eviction available to a landlord where the tenant is in rent arrears by introducing a new Ground 8A into the Housing Act 1988. This new ground enables the recovery of possession where there are persistent rent arrears over a three year period. It requires that at least two months (or 8 weeks dependent upon when the rent is paid) rent is

¹⁵ Since 1996, the AST became the default tenancy.

¹⁶ HC Deb 30 January 1991 cc 939-40.

¹⁷ Wendy Wilson, Francis Hobson and Roderick McInnes, *The rent safety net: changes since 2010* House of Commons Library Briefing Paper SN05638, 2021).

unpaid for at least a day on at least three separate occasions. This ground is in addition to the existing grounds for possession. It is fair to say that there has been limited judicial scrutiny of these grounds as landlords are likely to use s.21 where there are rent arrears to avoid costs and uncertainty of litigation.

Control of additional costs of private renting

Whilst administrations since the implementation of the Housing Act 1988 have been reluctant to interfere with the marketisation of rents, there has been a greater willingness to control other costs associated with renting in the private rented sector. Tenancy deposits have been regulated since the Housing Act 2004 and the Tenant Fees Act 2019 constrains the type and amount of fees that can be demanded in connection with a private rented tenancy.

4. The arguments for and against rent control

The increasing unaffordability of private renting combined with the rise of tenant organising across the UK, has led to re-emergence of debates about rent control. They reveal familiar political fault lines between tenant organisations, which tend to be uniformly in favour of controlling rents, and landlord organisations, which are united against control. These political disagreements are also reflected in the sharp disagreements within the academic studies on rent control. This section outlines different rent control systems, critically interrogates claims about rent control, and outlines some arguments for and against rent control.

Generations of rent control

Studies of rent control often talk of different ‘generations’ of rent controls. The first generation is presented as relatively crude ie a rent freeze as in the 1915 legislation. Second generation rent control tends to regulate rents by allowing rent increases for specified reasons such as for inflation or a maximum percentage increase – the UK’s Fair Rent regime in the Rent Act 1977 is a good example of this. Third generation rent controls combine intra-tenancy rent regulation with inter tenancy decontrol. Probably better described as rent stabilisation, third generation rent control allows rents to rise once a tenancy is terminated for the purposes of agreeing rent for a new tenancy. Current developments in Scotland and Ireland, where rents increases are restricted in hot spots, termed ‘rent pressure zones’, are examples of third generation rent control. However, a careful analysis of Scottish controls leads Marsh et al to conclude that the rent pressure zones introduced there have been largely symbolic rather than effective, mainly due to the lack of meaningful data on rent levels at a local level.¹⁸

Rent control and the decline and revival of private renting

Rent control is frequently blamed for the decline of the private rented sector following the First World War while deregulation of rents by the Housing Act 1988 is often presented as bringing about the revival of the sector. However, such broad claims about the role of the law must be carefully interrogated because they often tend to ignore wider housing developments. The decline of private during the 20th century is inextricably linked to the extensive state promotion of owner occupation and social renting which encouraged the transfer of private rented dwellings, and indeed, private renters to other tenures. For much of this period, landlords could obtain higher returns by selling repossessed or vacated rent-controlled properties for owner occupation and indeed many properties were sold to sitting tenants. The poor reputation of the private rented sector (which preceded rent control) is also argued to have discouraged people becoming private landlords.

¹⁸ Alex Marsh, Kenneth Gibb and Adriana Mihaela Soaita, ‘Rent regulation: unpacking the debates’ (2023) 34(4) *International Journal of Housing Policy* 734-757.

Similarly, by deregulating rents the Housing Act 1988 helped to create investment conditions that were highly favourable for private landlords. However, the revival of private renting reflects a range of demand and supply factors, that extend beyond deregulation, including the introduction of Buy-to-Let mortgages and the lack of viable and affordable alternatives to private renting - as discussed in our first briefing paper.

Contemporary evidence for rent control.

The UK Collaborative Centre for Housing Evidence produced a review of rent control in 2022.¹⁹ The research team considered an exceptionally wide range of literature on rent control including theoretical and empirical economic research and social sciences literature. The state of the debate might be summarised by observing that many economists consider rent control to be a demonstrably bad idea, but they have largely failed to convince anyone other than committed free-market politicians, hence the continuing popularity of rent control policy as the proposed solution to a range of affordability-related problems. There are some economists who are favourable to rent control. A number of studies of rent control systems in the US have found that rent regulation is effective in limiting rent increases, that there is no evidence that rent regulations reduce the overall supply of housing, and that rent regulations can play an important role in promoting neighbourhood stability and protecting long-term tenants.²⁰

Although there is a growing literature on rent control in the US, there is a real lack of UK based research. The empirical study of rent control in the UK is now extremely dated (it is a literature that largely tailed off in the 1980s) and the institutional structures of the UK housing market have subsequently changed substantially. The recent evidence base therefore inevitably comprises studies from cities in other countries. Yet, the current UK housing system differs from both the US system and most European systems in important and relevant ways. Furthermore, housing systems are becoming more diverse within the UK. These characteristics make the discussion of rent control particularly susceptible to analytical over-reach: there is a risk that results generated in quite different contexts are incautiously or uncritically applied to the UK.

The UK Collaborative Centre for Housing Evidence report (2022) indicates some key considerations for policy makers considering rent control:

- A vision of where policymakers wish to take the private rented sector based on an appreciation of how it works now, its multiple internal functions, and its important interactions with the wider housing system;
- Based on this vision, a clear sense of the nature and design of rent regulation proposed; how and in what circumstances it is triggered; and how it is later wound down (the sunset clause); as well as how it would complement existing and proposed non-price regulation;
- In order to achieve this clarity over policy objectives, design and operation, a strong commitment to a comprehensive, operational data strategy is required that will enable policymakers to undertake ongoing monitoring of the PRS within a clear market analysis strategy operating at the agreed market area level.

¹⁹ Alex Marsh, Kenneth Gibb and Adriana Mihaela Soaita Rent Control: a review of the evidence base 2022 available [Rent control: A review of the evidence base : CaCHE \(housingevidence.ac.uk\)](https://housingevidence.ac.uk)

²⁰ J. W. Mason, 'Considerations on Rent Control' (2019) <https://jwmason.org/slackwire/considerations-on-rent-control/>.

- Throughout these three stages there should be a commitment to drawing on the evidence base where it provides direction and also, where there is no conclusive evidence, a suitable degree of caution and reference to the data and evidence generated locally. At the same time, policy development and monitoring should be grounded throughout in deliberative and consultation mechanisms that give effective voice to tenants, as well as other stakeholders.

In summary the review recognised:

- The importance of recognizing different models and generations of rent control practice when appraising the evidence.
- The importance of acknowledging the interconnectedness of rent regulation with the wide range of actual and possible forms of non-price regulation.
- The need for assumptions that are more strongly empirically grounded as the foundation for economic models.
- Recognition of the importance of both local politics and ideological trends (and that these are not immutable). The relative stalling or lack of recent theoretical development in the relevant economics literature. System design needs to be tailored to local characteristics.
- There is a gap between practical evidence, data and monitoring of local housing markets and policy advice regarding the design and implementation of rent control (Wheatley, et al, 2019, is an honourable exception). Specifically, this translates into the absence of grounded understanding of landlord supply structure, how segments of rental markets function and operate with different degrees of interdependence, and the extent to which local markets are volatile and subject to external shocks.

Conclusion

The longstanding unaffordability of private rented housing for large numbers of households in England is apparent both when affordability is defined based on housing costs and when it is understood in relation to household income. In recent years, acute inflation of rents has exacerbated the unaffordability of private rented housing and is likely to lead to greater rent arrears and evictions in the coming years. This has further undermined the notion that rent subsidies are capable of ‘taking the strain’ of the market rent system which is operating in the context of a severe undersupply of social housing. In this context, it is unsurprising that old debates about rent control have re-emerged in recent years. Given the rise of tenant organising across England and growing campaigns by Acorn and other tenants’ movements, it is likely that these debates will become more prominent in the coming years. Amidst these debates it is important that the role of the local authority is not overlooked. Although local authorities presently have few powers in relation to private rents, historically local authorities played a major role in making housing more widely affordable through the construction and provision of public rented housing. Local authorities are uniquely well placed to gather data on rents at a local level and they have a significant voice in shaping national and local debates around housing affordability. In recent years, there have been calls by the Mayor of London as well as local authorities for the devolution of additional powers in relation to private rents and this has the support of the Labour party. As such, local authorities may yet have a greater role to play in this area in coming years.

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