

# Regulation of housing conditions in the PRS

Professor Helen Carr and  
Dr Mark Jordan  
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# Outline

The development of the law

The current regulatory context

Housing conditions in England and Southampton

Alternative approaches and good practice

# The development of the law

## Private law

- Terms implied into contract
- Started in 19th century and recently updated in Homes (Fitness for Human Habitation) Act 2018

## Public law

- Local authorities enforcing standards since 19<sup>th</sup> century
- Limits on effectiveness
- Relies on action by occupiers when there are housing law deserts, general ignorance of the law, insecurity of tenure and declining supply
- Public law relies on properly resourced pro-active local authorities

# The Housing Health and Safety Rating Standard (HHSRS)

Part 1 of the Housing Act 2004

Risk-based assessment tool to triage local authority enforcement

29 hazards which can be assessed at either Category 1 or Category 2

Actions include improvement notices, prohibition orders, emergency remedial action

Valuable tool which could be used more extensively and creatively

Tenants have little say in the system but can claim RROs for breach of improvement notices and prohibition orders

Simplification and production of base line standards is in the works

# Landlord's repairing obligations

S.11 of the Landlord and Tenant Act 1985

- Keeping in repair structure and exterior and installations

Homes (Fitness for Human Habitation) Act 2018

- Homes must be fit for human habitation at the commencement and throughout the tenancy

Valuable tools limited in effectiveness

- General ignorance of law
- Legal limits
- Professional help invaluable

Problem of retaliatory eviction

- Limited protection from s.33 of the Deregulation Act 2015

# Renters (Reform) Bill



Abolition of s.21 will constrain retaliatory eviction



Landlords redress scheme may provide a more accessible way to enforce standards for tenants



Extension of Banning Orders



Extension of Decent Homes Standard to PRS enforced through civil penalties and RROs and a duty on local authorities to ensure housing meets the standard

# Decent Homes Standard (DHS)

Applies to social rented housing, updated in 2006 and proposed to apply to private renting

To meet the standard a property has to:

1. meet the current statutory minimum standard for housing (it must be free of category 1 hazards, assessed through the HHSRS)
2. be in a reasonable state of repair;
3. have reasonable facilities and services; and
4. provide a reasonable degree of thermal comfort eg EPC band E

Older dwellings are much more likely to fail and housing will not have adequate space/facilities if it is overcrowded

# Enforcing the Decent Homes Standard?

Considerable increase in size of PRS which now accommodates 19% of English households (29% in Southampton)

Despite widespread licencing schemes, PRS has the worst conditions eg English Housing Survey (2021):

- 14% of PRS homes have a category 1 hazard (ie 3,900 homes in Southampton)
- 23% of PRS homes do not meet the Decent Homes Standard (ie 6,400 homes in Southampton)

This is likely to be a conservative estimate given the profile of housing in Southampton and the results of 2008 stock condition survey (2008)

**Renters (Reform) Bill promises to double scope of enforcement**



# Proactive responsive regulation

Renters Reform Bill is likely to have significant regulatory and resource implications for local authorities

The limits of complaint driven reactive enforcement are clear

Adopting a more proactive and responsive regulatory approach can:

- Demonstrate compliance
- Develop novel data led enforcement practices
- Eg NHS hospital admissions data and Indices of Multiple Deprivation data can be mapped onto housing conditions survey to target enforcement

Success depends upon regular housing stock condition surveys

# Conclusion

Housing in England – and Southampton – in very poor condition

This has health and financial consequences

A fairly extensive legal framework has not eliminated poor standards in the private rented sector

What is required is:

- Landlords to understand that the maintenance of property requires regular investment
- Local authorities to be more pro-active on housing standards
- Tenants to feel free to exercise their rights and use RROs and the courts as appropriate

# YOUR QUESTIONS