

# Scrutiny Inquiry Panel - How do we get a better deal for private sector renters in Southampton?

## ADDITIONAL INFORMATION

Thursday, 29th February, 2024  
at 5.30 pm

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## ADDITIONAL INFORMATION AND PRESENTATIONS

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Wednesday, 21 February 2024

DIRECTOR, LEGAL AND GOVERNANCE

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## Briefing paper: Security stability and overcrowding in Southampton

### Southampton City Council Scrutiny Inquiry in the Private Rented Sector

29 February 2024

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## Introduction

In this briefing paper we describe and evaluate the law governing security of tenure and overcrowding in the private rented sector. Legal security of tenure refers to the legal rights that protect a tenant from eviction and it is widely regarded as being of fundamental importance in housing law and policy. It underpins many other aspects of regulation in the private rented sector, such as regulation of housing conditions and licencing schemes. This is because where tenants are protected from arbitrary eviction, they are enabled to enforce rights of repair or maintenance and make complaints to the local authority about substandard house or unlicensed housing without fear of retaliatory eviction.

At present, private tenants lack effective security of tenure. This is largely because landlords can evict tenants without having to give a reason by using the 'no fault' ground under section 21 of the Housing Act 1988. The 'no fault' ground for possession was central to the deregulation of private renting which was based on the notion that the sector was primarily a source of housing for short term 'transitional' households. However, the revival of private renting has posed major challenges to this notion. Over the past two decades, the private rented sector has become home to growing numbers of families with children, low-income households and vulnerable single households. The persistent unaffordability of ownership and the shortage of social housing mean that these households tend to stay for longer in the sector. Furthermore, the insecurity in the private rented sector has significant implications for local authorities because the ending of an Assured Shorthold Tenancy (AST) has been recognised by the government as a 'significant cause of homelessness', bringing into play local authorities homelessness prevention and other duties with significant resource implications.<sup>1</sup> As a result of these developments, there have been growing calls for reform and there appears to be a political consensus in favour of the Renters Reform Bill which promises to abolish section 21 and expand security of tenure for tenants.

We begin by briefly outlining the wider legal and social context, drawing attention to how the revival of private renting has challenged the vision of 'private renting' that underpinned the Housing Act 1988. We then outline the importance of 'home' to private renters and how evictions from assured shortholds have become a significant cause of homelessness. We then outline the current legal framework governing security of tenure. We describe and evaluate the Housing Act 1988, the Protection from Eviction Act 1977 and the Renters Reform Bill. We conclude with a discussion of alternative approaches and instances of good practice.

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<sup>1</sup> <https://researchbriefings.files.parliament.uk/documents/SN06856/SN06856.pdf>

# 1. Making homes in the ‘revived’ private rented sector

## 1.1 From vision to reality: The changing nature of the sector

In other briefing papers for this scrutiny, we have described the contested history of security of tenure in the private rented sector, and the shifts from the highly regulated private rented sector of the mid-20<sup>th</sup> century to deregulation following the implementation of the Housing Act 1988 and then moves towards reregulation following the Housing Act 2004. We suggest that the private rented sector can now be described as a site of regulated deregulation.

The 1988 deregulation of private renting was part of a broader shift in housing policy in which home ownership was presented as the ‘nature’ tenure of choice and aspiration that was integral to the vision of the ‘property owning democracy’. By contrast, the private renter was reimagined as a ‘transitional’ household, moving through the private rented sector, rather than making a home there. The primary functions of the private rented sector were very much to do with its role as a private economic asset for the landlord, and as a short-term source of accommodation for those moving for work or saving to buy a home. In this vision, strong protections for tenants against eviction and rent increases were presented as unnecessary encumbrances that both undermined the function of housing as an economic asset to the landlord while also restricting the flexibility of the tenant moving for work.

However, as the revival of private renting took hold over the past two decades, the nature of the sector has changed in ways that call into question the assumptions that the sector is simply a source of housing for ‘transitional’ households, which underpins the Housing Act 1988. As discussed in our first briefing paper, the demand for private rented housing has been driven largely by the growing unaffordability of owner occupation and the undersupply of social housing. As more households have been channelled towards private renting, the nature of the sector has changed. There have been significant increases in households with children – accounting for 30% of households. Assuming the national averages are replicated in Southampton, it follows that there are approximately 8,400 families with children living in the private rented sector. The Department for Levelling Up, Housing, & Communities (DLUHC) estimates that a third of such families report difficulties paying the rent and have had problems with damp/condensation.<sup>2</sup>

The shortage of social housing has also meant that the private rented sector provides housing for increasing numbers of lower income households. DLUHC estimate that about one in six private rented households (726,000) are low-income savers while one in ten (473,000) are struggling families without savings and about half of whom report difficulty paying their rent.<sup>3</sup> Finally, the private rented sector has become a source of housing for vulnerable low-income households, often single people with a limiting illness or disability and/or have had problems with homelessness. DLUHC estimate that such households account for one in ten private rented households. Crucially, most of such households expect to remain in the private rented sector for the medium to longer term. Such attitudes are consistent with DLUHC statistics that show that the duration of private sector tenancies has increased in recent years as more households have settled into the sector for the longer term. In 2022, private renters had lived in their home for 4.4 years on average.<sup>4</sup>

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<sup>2</sup> <https://www.gov.uk/government/publications/a-fairer-private-rented-sector/a-fairer-private-rented-sector>

<sup>3</sup> <https://www.gov.uk/government/publications/a-fairer-private-rented-sector/a-fairer-private-rented-sector>

<sup>4</sup> <https://www.gov.uk/government/statistics/english-housing-survey-2021-to-2022-private-rented-sector/english-housing-survey-2021-to-2022-private-rented-sector>

## 1.2. Homes and evictions: The private rented sector

Housing addresses the basic human need for a home. In the UK, and elsewhere, home is frequently understood in association with safety, a sense of belonging and self-actualisation. Housing and home are deeply intertwined with health outcomes, child development, poverty/wealth and opportunity in general.<sup>5</sup> While home is frequently understood as simply a physical structure, many including Lorna Fox-O'Mahony have pointed out that home amounts to much more than a physical structure.

For occupiers, home can be understood as a territory implying security, control and rootedness. It provides a place of identity for the occupier, signifying a continuing connection to geographical space place from which a person or household can access other services and amenities. It also operates as a social and cultural phenomenon, providing a base for relationships.<sup>6</sup> The significance of home is reflected in both domestic law and international human rights law which has long regarded home as involving 'rights of central importance to the individual's identity, self-determination, physical and moral integrity, maintenance of relationships with others, and a settled and secure place in the community'.<sup>7</sup>

Research has found that where occupiers suffer home loss they frequently experience feelings of 'painful loss, continued longing, a general depressive mood, frequent symptoms of psychological, social or somatic distress, a sense of helplessness and occasional expressions of both direct and displaced anger'.<sup>8</sup> These experiences are often exacerbated where children and/or adult dependents are involved. Indeed, the loss of home and the experience of homelessness has particularly negative consequences for children as it can cause significant disruption to their education and social and physical development.<sup>9</sup>

While home is often recognised as being vitally important to homeowners, it has been pointed out that it is 'just as important to renters, particularly long-term renters'.<sup>10</sup> Despite this, the protections provided to the home in England are highly contingent on sectoral arrangement of tenure. For many households in private rented housing, particularly families with children and low-income households, such differential treatment can appear arbitrary. This is particularly the case where such households find themselves renting a home in the sector not by choice, but due to their inability to access ownership or social rented housing.

## 1.3. Private renting and homelessness

The revival of private renting is inextricably connected to the homelessness crisis that has worsened over the past decade. This is most clearly demonstrated by the fact that the ending of an Assured Shorthold Tenancy (AST) has been recognised by the government as a 'significant cause of homelessness'.<sup>11</sup> A recent (2022) House of Commons report outlines that 'In 2010/11, the end of an AST was given as a reason in 15% of cases, rising to a peak of 31% in 2015/16'.<sup>12</sup> This has had

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<sup>5</sup> <https://op.europa.eu/en/publication-detail/-/publication/0c16776d-1e4e-11e6-ba9a-01aa75ed71a1/language-en>

<sup>6</sup> L Fox-O'Mahony, *Conceptualising Home: Theories, Laws and Policies* (Oxford: Hart, 2007).

<sup>7</sup> According to the ECtHR, whether accommodation is classified as a 'home' is a question of fact and does not depend on the lawfulness of the occupation under domestic law see *McCann and Others v the United Kingdom* [2008] ECHR 19009/04 (13 May 2008).

<sup>8</sup> L Fox-O'Mahony, *Conceptualising Home: Theories, Laws and Policies* (Oxford: Hart, 2007) p. 110. Fox points out that the personal consequences of evictions, such as attachment, grief or loss, are seen as intangible, immeasurable and difficult to articulate, which means that they are easily ignored in cost-benefit and legal approaches to evictions

<sup>9</sup> *Ibid*, pp 440-441.

<sup>10</sup> S Fitzpatrick & H Pawson, 'Ending Security of Tenure for Social Renters: Transitioning to 'Ambulance Service' Social Housing?' (2013) 29(5) *Housing Studies* 597, 605.

<sup>11</sup> <https://researchbriefings.files.parliament.uk/documents/SN06856/SN06856.pdf>

<sup>12</sup> <https://researchbriefings.files.parliament.uk/documents/SN01164/SN01164.pdf>

significant implications for local authorities which are, of course, subject to various statutory homelessness duties including the duty to secure accommodation for unintentionally homeless households who fall into a 'priority need' category.

The severe undersupply of public and social rented housing has meant that local authorities have turned to temporary accommodation (eg hotels, B&Bs) as a source of accommodation for households that come within the duty. Since 2010, the numbers of households in England living in temporary accommodation has increased by nearly 90% to approximately 95,000 households (including 120,000 children).<sup>13</sup> This has led to extraordinary increases in local authority expenditure on temporary accommodation. The Local Government Association estimate that councils spent £1.74 billion on temporary accommodation in 2023.<sup>14</sup> It is important to recall that temporary accommodation is a reactive, emergency measure and it not an appropriate long-term solution to homelessness. A study by Shelter found that 'almost half (47%) of families with school age children have been forced to move schools as a result of living in temporary accommodation'.<sup>15</sup> The findings underline the vital need for local authorities to increase the supply of public and social rented housing.

Recognising how the ending of an AST has become a major pathway into homelessness, the government reformed local authority homelessness duty in 2017 by placing additional duties on local authorities including the duty to take actions to prevent homelessness for all eligible applicants who are threatened with homelessness, ie likely to become homeless within 56 days.<sup>16</sup> In carrying out this function, the government Homelessness Code of Guidance suggests that a local authority should first focus on the steps which may enable the applicant to stay in their current home.<sup>17</sup> This can involve mediation with the current landlord, assistance with applying for social housing, or matching them with private landlords.<sup>18</sup>

Although many local authorities have taken positive action to prevent homelessness under this duty,<sup>19</sup> a 2020 report, commissioned by the Local Government Association, found that despite the new preventative duties 'Governments' homelessness policy has not yet focused on preventing homelessness upstream by addressing the key drivers of homelessness, including a lack of affordable housing, income-based unaffordability, and a lack of an integrated prevention approach'.<sup>20</sup> Developing such more proactive integrated homelessness prevention approaches arguable requires, as a first step, that local authorities recognise the important connections between private rented sector enforcement, licencing schemes and local authority tenancy relations and homelessness functions.

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<sup>13</sup> MHCLG, Live tables on homelessness, Statutory homelessness live tables, Table TA1.

<sup>14</sup> <https://www.local.gov.uk/about/news/ps174-billion-spent-supporting-104000-households-temporary-accommodation#:~:text=Analysis%20from%20the%20LGA%20reveals,1.74%20billion%20in%202022%2F23>

<sup>15</sup>

[https://england.shelter.org.uk/media/press\\_release/almost\\_half\\_of\\_children\\_who\\_become\\_homeless\\_forced\\_to\\_move\\_schools#:~:text=Shelter's%20research%20found%20that%20more,numerous%20times%20at%20short%20notice](https://england.shelter.org.uk/media/press_release/almost_half_of_children_who_become_homeless_forced_to_move_schools#:~:text=Shelter's%20research%20found%20that%20more,numerous%20times%20at%20short%20notice).

<sup>16</sup> Homelessness Reduction Act 2017.

<sup>17</sup> Homelessness Code of Guidance (MHCLG, Feb 2018), para 12.4.

<sup>18</sup> <https://www.nhas.org.uk/news/article/local-authority-duties-to-prevent-and-relieve-homelessness#:~:text=The%20prevention%20duty%20requires%20an,matching%20them%20with%20private%20landlords>

<sup>19</sup> <https://researchbriefings.files.parliament.uk/documents/SN01164/SN01164.pdf> pp 37-39

<sup>20</sup> <https://www.local.gov.uk/publications/re-thinking-homelessness-prevention>

## 2 Legal security of tenure

### The Housing Act 1988

Under the Housing Act 1988 a landlord can only end an assured tenancy or assured shorthold tenancy, against the wishes of the tenant, by obtaining a court order which necessitates serving appropriate notice. For assured tenancies, s.8 provides that the grounds for possession are limited and comprise a list of discretionary grounds (eg breach of terms), where the court has discretion, and mandatory grounds (eg rent arrears), where the court must make the possession order once the formal requirements are met.<sup>21</sup> This regime also applies to assured shortholds however the vital difference is that tenants with assured shortholds can be evicted under s.21 of the Housing Act 1988 on two months' notice, whether or not they are in fault.

That deregulated position is slightly adjusted by, for instance, limits on situations in which s.21 notices can be served. The law is now quite complex and this chart from the Nearly Legal blog site gives a full picture of the limits on service of s.21 notices.<sup>22</sup> This complexity is problematic for landlords and tenants as ignorance of these legal complexities can and does lead to wrongful evictions. As we have discussed previously, the Renters Reform Bill intends to abolish s.21 no fault powers of eviction. They are to be replaced with a reformed court processes and an extended set of grounds for eviction under s.8. In particular, the government proposes adding a new mandatory ground for sale of the dwelling, family use or the dwelling and repeated rent arrears (ie where a tenant has been in at least two months' rent arrears three times within the previous three years, regardless of the arrears balance at hearing).

While ending 'no fault' evictions will increase security of tenure in the private rented sector, the other proposals in the Bill tend to strengthen landlords right to possession. In addition, the fact that rents are not to be regulated is problematic. It leaves the private rented sector in a state of regulated deregulation. For the law to provide the type of security enjoyed by homeowners it has to provide not only security of tenure but also predictable affordability. In other words, even if an occupier has the right to remain in their home as long as they pay their rent, if that rent can be raised then their security is compromised. The only current limit on payable rent is the market. In a situation where demand outstrips supply that is a very limited protection. In addition, there is a lack of data available to demonstrate what market rents are.

### Protection from Eviction Act 1977 (the PFEA)

The PFEA (as amended by the Housing Act 1988) provides a legal 'floor' for residential occupiers' rights. Behaviour which falls beneath that 'floor' is a criminal offence. In addition, residential occupiers can sue in the civil courts and/or apply for a Rent Repayment Order for breaches of the legislation. Its provisions are augmented by those in the Criminal Law Act of 1977 which criminalise prevents the use of violence in securing access to a property.

The first legislation to protect tenants from unreasonable eviction was passed 60 years ago, the Protection from Eviction Act 1964. It was designed as a temporary measure to prevent evictions pending the enactment of the Rent Act 1965. Crossman at the 2<sup>nd</sup> reading of that Act declared

*For the first time in our history, any landlord who evicts without previously obtaining a court order will be doing a criminal act, which makes him liable to £100 fine or six months' imprisonment. That is progress . . .*

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<sup>21</sup> Housing Act 1988, s. 8.

<sup>22</sup> [Section 21 flowchart - Nearly Legal: Housing Law News and Comment](#)



There was however scepticism about the Act because its success depending on the zeal with which it was enforced.

*There are signs that some police forces continue to be reluctant to take cognisance of these offences on " private property." Nor can the police be entirely held to blame in so refusing. For to prosecute under section 1 involves unravelling the mysteries of section 3. That section is unambiguous in its effect, but the categories of property thereby excluded from the ambit of the Act are such that it would be hardly surprising if a policeman felt that he could not analyse the status of a letting accurately enough to make an arrest for breach of section 1.*

Levy [The Modern Law Review](#), Vol. 28, No. 3 (May, 1965), pp. 336-338 (at page 337)

The current PFEA is a consolidation Act, pulling together provisions protecting tenants set out in previous Rent Acts and replacing and updating protection from eviction legislative provisions. . Whilst the provisions of the 1977 legislation do not replicate the current legislation, the concerns about the need for effective enforcement and the complexity of the legislative provisions remain.

#### The impact of deregulation on the statute

Governments have, since the middle of the 20<sup>th</sup> century, been conscious that changes in the regulatory framework for renting leads to increased illegal evictions and harassment. Therefore, as part of the deregulation of private renting in Housing Act 1988, the legislation included provisions amending the PFEA. It was simultaneously strengthened – by extended the crime of harassment so that it can be committed where acts of harassment are **likely to** as opposed to **calculated to** interfere with the peace and comfort of a residential occupier and by the creation of a further crime of harassment which occurs when the landlord knew or had reasonable cause to believe that his or his agents conduct is likely to cause the residential occupier to give up the occupation of the whole or part of the premises -- and weakened – by creating categories of excluded residential occupiers who are excluded the protections against illegal eviction (see below).

In addition, and in order to further protect tenants against the scandalous repercussions of the decontrol of private renting subsequent to the Rent Act 1957 the Housing Act 1988 (at s.27) created a new tortious remedy for illegal eviction. One commentator (Stewart in her monograph *Rethinking Housing Law*) has however noted that instead of seeing the problem of illegal evictions as one caused by changes in regulatory regimes, it would be better to see it as endemic to private renting, a constant presence in a sector too frequently marked by ignorance, a mismatch of supply and demand and weak enforcement regimes.

#### The provisions of the PFEA 1977

There are two offences contained within the PFEA, illegal eviction and harassment.

##### *Illegal eviction*

The law is contained in s.1(2) of the Protection from Eviction Act 1977. Under this provision, an eviction will be lawful where the landlord follows the required legal procedure for eviction. For tenants these include following the requirements in the housing statutes or – for those excluded from that legislation – a requirement in s.3 of the 1977 Act for court orders to recover possession against tenants who are not otherwise protected.

Following the required legal procedure includes giving proper notice, including a notice to quit under s.5 of the 1977 Act. This provision is not limited to tenants, it protects residential occupiers the definition of which includes tenants and licensees, unless either are in an excluded category. It

provides that an effective notice to quit must give not less than 4 weeks' notice and must be in writing (and must contain such information as may be prescribed).

Excluded occupiers are defined in s.3A of the PFEA and includes occupiers who share with the landlord or a member of their family, holiday lets and those living in hostels. Excluded occupiers, who are generally lodgers, do have some protection from arbitrary eviction. Common law requires that they are given reasonable notice of the termination of their occupation. Reasonable notice will depend upon the circumstances, but it is difficult to imagine that changing the locks whilst someone is at work and not informing them of that, would ever be legal even when the landlord is a resident landlord.

### *Harassment*

There are two harassment offences in the 1977 Act. The first applies to 'any person' who does acts likely to interfere with the peace or comfort of the residential occupier or withholds services and which cause them to leave their home.<sup>23</sup> The word 'likely' was added by the Housing Act 1988, making the offence slightly easier to prove.

The same Act also added a second offence which applies to landlords/agents who does acts likely to interfere with the peace or comfort of the residential occupier(s) or persistently withdraws or withholds services and '(in either case) he knows, or has reasonable cause to believe, that that conduct is likely to cause the residential occupier to give up the occupation of the whole or part of the premises or to refrain from exercising any right or pursuing any remedy in respect of the whole or part of the premises'.<sup>24</sup> There is a defense where the landlord/agent proves they had reasonable grounds for doing the acts or withdrawing or withholding the services in question.

The combined impact of the provisions is not easy for a non-expert to unpick. In essence, the important difference is that when it comes to proving the subjective intention of the person who allegedly committed the offence (what is known in legal terms as *mens rea*) there is an easier test to meet if the offence is committed by a landlord. Non-landlords must intend to cause the residential occupier to give up occupation or their rights under s.1(3), while prosecutors only need to prove that a landlord (or their agent) knew, or had reasonable cause to believe, that their actions would have that result.

However, in many circumstances in practice proving that it was a landlord or their agent who took the action can be very challenging. Where it is not possible to establish it was the landlord or their agent, prosecutors have to establish the higher threshold requiring proof of intent, which is a very high bar to reach. This is also a context in which there are clear incentives on residential occupiers not to complain about potential harassment, due to the potential for retaliatory eviction.

### *Criticisms of the Act*

In a briefing note prepared by Carr, Hunter and Kirton-Darling for DHLUC, written to persuade the Department to include measures to reform the Protection from Eviction Act in the Renters Reform Bill, they wrote:

*The law relating to harassment and illegal eviction contains significant challenges for prosecutors who wish to enforce the law (contributing to widespread inconsistency in prosecution), limited routes for redress for residential occupiers who experience illegal eviction or harassment, and little incentive for landlords to comply with the law.*

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<sup>23</sup> Protection from Eviction Act 1977, s.1(3)

<sup>24</sup> Protection from Eviction Act 1977, s.1(3)(A), (inserted by Housing Act 1988).

### *Complexity*

Whilst the broad range of occupiers protected by the legislation is to be applauded, there is complexity in the Act, particularly in relation to the category of excluded occupiers. Whilst there may be good policy reasons for excluding certain categories of occupiers it makes it difficult to communicate the message that there can be no unreasonable evictions. Moreover, there is a general misconception about the Act. Many people consider that excluded occupiers are excluded from both offences in the Act. That is not accurate; excluded occupiers are not excluded from the protection from harassment.

### *Ignorance*

Closely connected with complexity is the problem of ignorance of the law. It is difficult to communicate in simple terms what occupiers' rights are under the Act. In addition, some landlords deliberately misinform occupiers of their rights by using for instance licences instead of tenancies or putting terms into the agreement stating that you must leave the property within 14 days of the service of a notice, or stating that the agreement is excluded from Protection from Eviction provisions. Ignorance is of course compounded by the fear of retaliatory eviction. It is difficult to complain of acts of harassment for instance if you know that you can be evicted legally on two months' notice.

### *The challenge of enforcement*

There is no statutory duty on local authorities to enforce the legislation therefore, unsurprisingly, there is extensive evidence that enforcement is very limited. In answer to a Parliamentary question about prosecutions under the Act, asked in 2021, the answer revealed that, for illegal evictions:

in 2016/17 there were 23 prosecutions; 19 convictions.

in 2017- 18, there were 19 prosecutions; 15 convictions.

in 2018/19 there were 30 prosecutions, 13 convictions.

The figures for unlawful harassment prosecutions for the same years were 34, 11 and 27 with 23, 9 and 5 convictions respectively. The figures for Hampshire during this period show there was one prosecution (which was successful) in the whole county in that period for unlawful eviction and no prosecutions for unlawful harassment. It is probably fair to say that the low level of prosecutions is not an indication of the scale of the problem. What it does reveal is local authority (un)willingness to take action. The data in the answer showed that around half of the prosecutions in England were being undertaken by just two areas, South Yorkshire and the Metropolitan Police.

There is no government data on the total number of illegal evictions. However Safer Renting a London housing charity which carries out an annual count, found that 8,748 cases of illegal eviction and harassment were logged by charities that support victims in 2022, a record high and 12% more than the 7,778 cases recorded the year before.<sup>25</sup> Safer Renting's suggests three longer term reasons for the increase:

- There has been an increase in the number of renters with vulnerabilities who are unable to secure access to a more limited social housing stock;

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<sup>25</sup> [PfEA-2022-offences-count-Safer-Renting-11-2023.pdf \(ch1889.org\)](#)

- An uptick in the number of economic migrants and asylum seekers has created a growing pool of renters with limited knowledge of their housing rights;
- There is a higher proportion of renters reliant on welfare payments to cover some or all their rental costs; and heightened complexities around Universal Credit that landlords are less willing or able to negotiate.

It also suggest three more recent factors are at play.

- Court backlog post-emergency pandemic restrictions may be affecting landlord access to lawful evictions.
- Cost of living crisis: the current cost of living crisis emerged led by a surge in energy costs triggered by the Russian invasion of the Ukraine in February 2022. Domestic and other fuel cost increases is likely to have had a significant impact on the bottom end of the private rental market, particularly HMOs where landlords are more likely to be charging rent inclusive of fuel bills, sometimes without a mechanism for recovering increased costs. It is not possible to assess the scale of this impact.
- Interest rate increases: the sharp rise in inflation resulted in a series of increases in Bank of England base rate from 0.25% at the beginning of 2022 to 3% by the end. Some landlords' finances may have been impacted by consequent increases in Buy-to-Let mortgages interest. Financial difficulties may have provoked some to adopt unlawful ways to achieve vacant possession on their rental properties.

#### *The law and the lack of prosecutions*

The lack of prosecutions was considered by the High Court when the Public Law Project judicially reviewed the failure of Cardiff Council to investigate a landlord who changed the locks and moved new residents in whilst the tenant was staying at a friend's house, leaving the man homeless. During the case the council admitted that it had not investigated a single illegal eviction for at least ten years. An FOI request sent to all Welsh authorities found that the council had no policy in place for dealing with the issue. High Court judge Keyser KC issued a declaration that the council had acted unlawfully in its decision not to investigate the tenant's landlord, and that this unlawful decision had resulted from the council's "systemic failure since 2012 to resource itself adequately".

There are understandable reasons why there is a low prosecution rate by local authorities. They face a risk of costs if the prosecution is unsuccessful which may be particularly high if a landlord opts for a Crown court hearing. They frequently have limited access to expert legal advice in this area. Moreover, sentences for those convicted of offences under the legislation have traditionally been very light. There are calls for new sentencing guidelines to be issued.

#### *The role of the police*

Extensive concern has been expressed about the failures of the police in responding to incidents of illegal eviction and harassment. For instance they tell complainants it is a civil matter, or they fail to understand the situation and actually helping the landlord evict the tenant. The law has not been particularly helpful here. In *Cowan v Chief Constable of Avon & Somerset* [2002] H.L.R. 44, the Court of Appeal held that police officers who had been called to attend an unlawful eviction in progress, but failed to prevent the eviction, were not liable in negligence as there was no duty of care owed to the tenant. The police may be at greater risk when they actively assist a landlord to effect an unlawful eviction, it may make them liable in trespass : *Naughton v Whittle and Chief Constable of Greater Manchester Police* (2010) July Legal Action 29).

In *Jansons v Latvia* (Application no 1434/14) the European Court of Human Rights found the police's failure to ensure a tenant was not evicted from his accommodation was a breach of his rights under Article 8 of the Convention. This opens up the possibility of occupiers taking similar action in the UK if the police have facilitated an illegal eviction or failed to intervene. Thus, local authorities and the police have a lot to gain from working together in connection with the Act and there may be value in developing a local protocol.

### The Renters Reform Bill

The abolition of s.21 no fault evictions will make it easier for a tenant to complain of harassment. However, it may increase the risk of illegal evictions as it will increase the difficulty of legally evicting an occupier. Local authorities need to be aware of this and be ready for a potential spike of illegal evictions in the immediate aftermath of implementation.

There are several measures within the bill that are designed to enhance the role of the local authority in policing illegal evictions and harassment.

The bill

- Places a new duty on councils to enforce landlord legislation including the PfEA
- Amends the PfEA to introduce a power to impose Civil Penalty Notices as an alternative to prosecution for offences under s.1 of the Act
- It extends the investigatory powers of local authorities so that essentially they have the same investigatory powers as are available under consumer protection legislation

What is important at this point is that the new duties on local authorities will put their policies and practices under a great deal more scrutiny.

## 3 Overcrowding

Overcrowding has been a serious housing problem since England's urbanisation and industrialisation in the 18<sup>th</sup> and 19<sup>th</sup> century. Recent figures from the English Housing Survey show that overcrowding is more common in the social and private rented sectors and has, in recent years, risen in both. The pandemic saw an exceptional rise as families and friends shared their homes to create social bubbles. However the overall trend is upward, with the cost of renting being a particular incentive.

The House of Commons briefing paper on overcrowded housing dated November 2023 and available here [SN01013.pdf \(parliament.uk\)](#) summarises the current position as follows:

The EHS estimates that over the three years to March 2022, an average of 8.1% of all social-renting households were overcrowded (325,000 households). 5.3% of all private renting households (237,000 households) were overcrowded in the same period, compared with 1.1% of owner-occupying households (170,000 households). Overcrowding in rented accommodation started to rise in the late 1990s and early 2000s, before dropping off somewhat in the early 2010s. Recent years have seen a further increase in overcrowding. Rates of overcrowding in the social and private rented sectors rose in 2019/20 to the highest levels seen since data collection began but have since fallen to rates of overcrowding seen in 2018/19 and 2017/18.

### Definition

Statutory overcrowding standards, last updated in 1935, are currently provided for in Part X of the 1985 Housing Act. The provisions set two standards: the room standard and the space standard,

either of which can be used to determine whether a house is overcrowded. Both standards are very low (ODPM, 2004) and neither has changed since 1935 when they were originally implemented.

The room standard provides that a house is overcrowded when there are so many people living there that two or more of them, who do not live together as husband and wife and who are aged ten or over and of opposite sexes, are forced to sleep in the same room. A room is any room normally used as either a bedroom *or* a living room and can include a kitchen if it is big enough to accommodate a bed. Moreover, the local authority has to consider possible use of the rooms rather than actual use, so if a couple with two children aged over ten of opposite sexes have a one- bedroom house with a living room, the room standard is not breached as the father can share a room with the son and the mother with the daughter.

The space standard limits the number of people permitted to live in any particular dwelling. This is done either by counting the number of rooms or by looking at room size. Two people can be accommodated in one room, three people in two rooms, five people in three rooms, seven and a half people four rooms and five rooms or more can accommodate ten people. Alternatively the space standard requires that a room to be occupied by two persons should be at least 110 sq ft in area (10.22 sq m), The corresponding minimum sizes for 1.5 persons, 1 person, and 0.5 persons are respectively 90, 70, and 50 sq ft (8.36, 6.50, 4.65 sq m). Under the space standard a child below the age of 1 does not count as a person and a child between the ages of 1 and 10 counts as half a person. Living rooms as well as bedrooms are included in the calculation, so even the increasingly small sizes of new build affordable housing discussed above are unlikely to fall below the standard.

## Enforcement

Breach of the overcrowding standards *may* trigger local authority action. Private and housing association landlords who rent out homes that fall below the standards can be prosecuted. Theoretically individuals could prosecute a local authority landlord who rented out a statutorily overcrowded property, but they would require the authority of the attorney general to do so and no such prosecutions have taken place. Local authorities have failed to use their powers under section 334 of the Housing Act 1985 to prepare and submit a report on the extent of overcrowding in their areas, nor have Governments used their powers to direct that such a report should be prepared.

There is an interesting interface between statutory overcrowding and the homelessness provisions of the Housing Act 1996. Under this legislation, if an applicant can demonstrate that they are homeless, that their homelessness is not intentional and that they are in 'priority need', a category that includes people with responsibility for children, pregnant women and those vulnerable because of old age or mental or physical poor health, a local authority has obligations to either provide or assist in the provision of accommodation. An applicant does not need to be roofless in order to be homeless; if the applicant has accommodation that it is not reasonable to continue to occupy, then they will be considered homeless. Statutory overcrowding has to be taken into account in decisions about whether it is reasonable for someone to continue to occupy their current accommodation. However, statutory overcrowding will not necessarily be determinative of statutory homelessness. Section 177 of the Housing Act 1996 allows a local authority to take prevailing local conditions into account when making its decisions about reasonableness. This might mean that if overcrowding is characteristic of the local area, then living in overcrowding conditions would not be unreasonable.

In addition, families who live in statutorily overcrowded housing may qualify for re- housing under Part 6 of the Housing Act 1996. Section 167 of that Act requires local authorities to set out priorities which include 'people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions'. Government guidance recommends that a higher standard, the

bedroom standard, should be used when assessing levels of overcrowding (DCLG, 2006). The bedroom standard, a statistical measure developed during the 1960s to provide a more realistic assessment of the prevalence of overcrowding, requires that homes have separate bedrooms for each of the following; a married or cohabiting couple, an adult aged 21 years or more, a pair of adolescents aged 10–20 years of the same sex, and a pair of children aged under ten years regardless of sex. But once again, breach of the standards, even the lower statutory standards, provides no guarantee of an allocation of housing. People in overcrowded housing have to compete with others in need of social housing and demand is high.

### Reform proposals

During the passage of the Housing Act 2004 there was a concerted effort by several MPs to update the overcrowding standards. The government introduced a clause to the Bill enabling the standards to be amended via secondary legislation. There has been no attempt since to introduce the necessary secondary legislation. Instead, reliance is placed upon the Housing Health and Safety Rating System. The problem with the HHSRS is that it is very difficult to get the necessary evidence that overcrowding is so severe that it causes a serious hazard to the occupiers. The other tool available to local authorities is licensing where they are assisted by prescribed minimum room standards for HMOs.

## 4. Reforming security of tenure in Scotland

The debates currently taking place about the abolition of ‘no fault’ evictions in the Renters Reform Bill are remarkably similar to the discussions in Scotland that preceded the passage of the Private Residential Tenancy (Scotland) Act 2016. In many ways this Act goes much further than the Renters Reform Bill in extending legal security of tenure for tenants. This is because it abolished no fault evictions, introduced indefinite tenancies and variable notice periods and made all grounds for eviction discretionary – thereby allowing a tenant to raise a defence in every eviction case. This reform operates in tandem with earlier reforms to the homelessness framework which place an obligation on landlords to inform the local authority where they plan to evict a tenant.<sup>26</sup>

The Scottish reforms were preceded by wide ranging debates involving the Scottish Association of Landlords (SAL), a national landlords association, and Living Rent, a national tenants’ union, that were aired via an extensive government consultation process.<sup>27</sup> Concerns were raised that the changes, particularly the abolition of no fault evictions, would cause banks to stop lending to landlords, that it would cause landlords to ‘leave the sector altogether, or sell their rental properties in Scotland and buy instead in England’ and that the Tribunal system would be overwhelmed by the evictions case load.<sup>28</sup> Over seven years since the commencement of the Act, the evidence on these claims is mixed but suggests that these concerns were overstated.

There has been a decline in the size of the private rented sector which has declined from 15% (360,000 households) in 2017 to 13% (320,000 households) in 2022.<sup>29</sup> However, this cannot be simply attributed to the Act. During the same period, there have been increases in the size of the social rented sector, which reflects the abolition of the right to buy in Scotland and the increased

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<sup>26</sup> The Homelessness etc. (Scotland) Act 2003

<sup>27</sup> E Walsh ‘Security of tenure in the private rented sector in England: balancing the competing property rights of landlords and tenants’ in B McFarlane and S Agnew (eds) *Modern Studies in Property Law, Volume 10* (Oxford: Hart, 2019) pp 212-214.

<sup>28</sup> *Ibid*, p 213.

<sup>29</sup> <https://www.gov.scot/publications/scottish-household-survey-2022-key-findings/pages/3/>

rates of construction of social housing in Scotland.<sup>30</sup> There are signs that landlords have exited the market through sales but it also appears that many landlords have exited the market by changing the use of their property to short term lets eg, via AirBnB, which are not subject to Private Residential Tenancy (Scotland) Act 2016.<sup>31</sup> In response, the Scottish government introduced the Short Term Lets Licensing Scheme which took effect in 1 October 2023. This requires operators to apply for a licence before accepting bookings and demonstrate compliance with mandatory conditions including the requirement of applying for planning permission where they operate in a short term let control area.<sup>32</sup>

There is no evidence that banks have stopped offering Buy-to-Let mortgages to Scottish landlords, nor are there signs that such mortgages have become much more difficult to acquire. Indeed, it appears that such mortgage products continue to be offered in much the same way as before.<sup>33</sup> Equally, concerns that the new Tribunal system would be overwhelmed by the volume of eviction cases has not come to pass. Indeed, in an early study of the Tribunal, Malcolm Combe found that while the workload of the First Tier Tribunal has been high, there were positive signs ‘about the transparency and clarity of reasoning in the published decisions, and the case management discussion do seem to provide a welcome opportunity for parties and indeed the FTT to address matters when they are usefully engaged’.<sup>34</sup>

## Conclusion

As the revival of the private rented sector has taken hold in England, the features of the sector have changed significantly. Many of these changes contradict the vision of private renting which underpinned deregulation by the Housing Act 1988. Far from a source of short-term housing to ‘transitional’ households, the private rented sector has become home to growing numbers of families with children, low-income households and vulnerable single households. The persistent unaffordability of ownership and the shortage of social housing mean that these households tend to stay for longer in the private rented sector.

The revival of the private rented sector has significant political implications, both nationally and at the local level. Approximately 19% of all households in England, and 29% in Southampton, now live in the private rented sector. The fact that there is a substantial constituency of voters now living in the private rented sector is reflected in the cross party consensus that has developed around the Renters Reform Bill which proposes to abolish ‘no fault’ evictions and extend security of tenure for renters.

In many ways the debates about the Renters Reform Bill in England echo the debates that took place in Scotland around the passage of the Private Residential Tenancy (Scotland) Act 2016. It is now nearly seven years since that reform was implemented and the evidence suggests that abolishing no fault evictions and extending legal protections against eviction did not bring about a collapse in the private rental sector, buy-to-let mortgage lending, or the workings of the First-tier Tribunal. However, the evidence suggests that national and local policy makers should be aware that reforms that strengthen security of tenure in the private rented sector will likely have wider implications – for

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<sup>30</sup> <https://www.gov.scot/publications/scottish-household-survey-2022-key-findings/pages/3/>

<sup>31</sup> <https://www.gov.scot/publications/short-term-lets-licensing-statistics-scotland-to-30-june-2023/>

<sup>32</sup> <https://www.mygov.scot/short-term-let-licences/legal-requirements-for-short-term-let-licences>

<sup>33</sup> <https://www.onlinemoneyadvisor.co.uk/buy-to-let/scotland/>

<sup>34</sup>

[https://pure.strath.ac.uk/ws/portalfiles/portal/94892024/Robson Combe JR 2019 The first year of the First tier private residential tenancy.pdf](https://pure.strath.ac.uk/ws/portalfiles/portal/94892024/Robson%20Combe%20JR%202019%20The%20first%20year%20of%20the%20First%20tier%20private%20residential%20tenancy.pdf)



instance there may be a rise in illegal evictions, new calls for regulation of short term lettings and demands for more supply of public and social housing.

The revival of private renting is inextricably connected to the homelessness crisis, that has worsened over the past decade, and has had major implications for local authorities. The ending of an assured shorthold tenancy is the main pathway into homelessness. The severe shortage of public and social rented housing means that local authorities have increasingly turned to temporary accommodation to meet their homelessness duties and expenditure by local authorities has risen to £1.74 billion by 2023. It is important to recall that temporary accommodation is a reactive, emergency measure and it not an appropriate long-term solution to homelessness. There is a vital need for local authorities to increase the supply of public and social rented housing.

The sharp increases in expenditure on temporary accommodation by local authorities in recent years demonstrates that there are major cost implications for local authorities that do not take proactive action to improve stability for private tenants. Of course, adopting a more proactive regulatory approach involving stock condition surveys, enforcement action at each level of the regulatory pyramid, and supporting tenant relation and homelessness officers preventing evictions and ensuring tenancies continue involves significant initial expense. However, once an integrated proactive approach is up and running, it can reduce costs for the local authority, particularly in terms of expenditure on temporary accommodation. Furthermore, private sector enforcement is self-financing in that fines raised are ring fenced for further enforcement activity. Finally, and most importantly, a proactive approach can help ensure greater stability for private tenants which can in turn lead to better educational and health comes for growing numbers of children living in the sector.

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### Enforcement

- DLUHC should work with local authorities to identify why inspections rarely lead to prosecutions or civil penalties being issued. In particular, they should look at the costs of enforcement, the complexity of the legislation, and the value of informal enforcement action. They should then use this information to develop a holistic strategy around enforcement in the PRS, which can then be used by local authorities such as Southampton. Furthermore, guidance should be issued to local authorities or legislative changes implemented to address this.
- The Government should help tackle the shortage of EHOs by providing a training fund, as well as targeted training on underutilised enforcement, to help councils like Southampton retain and build up a team of qualified staff to assist in enforcing standards in the PRS.
- Increased funding for local authorities overall so they are adequately funded.
- The NRLA advocates using council tax records to identify tenures used by the private rented sector and those landlords in charge of those properties, which doesn't require self-identification. This makes it harder for criminal landlords to operate under the radar should a formal complaint be raised against the landlord by a tenant and further investigation is needed. Unlike discretionary licensing, the council would not need to consult and could implement changes immediately.
- Training, education, and association membership support for local landlords in Southampton to allow landlords to demonstrate to tenants and Southampton that they keep fully up to date with legal requirements and their obligations on a regular basis. It can also demonstrate commitment to high-quality lettings and can boost the ability to attract good tenants with the use of the accreditation certificate and logo. This training can apply from anyone to new landlords entering the sector, to established landlords who wish to refresh their knowledge about new legislation which affects the sector.

### Security, stability, and overcrowding

Regarding the proposed rentals reform bill, the NRLA has submitted a series of evidence to the Rentals Reform Bill Committee outlining the amendments needed for the legislation to work for both tenants and landlords in the sector. The amendments summarised below:

- **COURT REFORM:** The NRLA wants the government to press ahead on court reform and the digitalisation of the possession process. At present it is not entirely clear when court reform will be concluded, or it will address the timelines of legitimate possession cases. With that in mind, we believe that consideration should be given to a longer transition period after commencement. This would allow pre-existing assured shorthold tenancies to end naturally, avoid pressures caused by ending tenancies early, and allow time for court reform to be implemented.

Responsible landlords need to have confidence that the Bill's measures will not hinder their ability to repossess a property swiftly and efficiently for legitimate reasons such as rent arrears and anti-social behaviour.

- **RENT INCREASES:** Provisions in the Bill around rent increases and rent in advance may cause unnecessary and avoidable consequences, The NRLA recommends that a more flexible approach is taken that allows for negotiation between tenant and landlord in these areas.

As it is currently drafted in the bill, there is a clause that prohibits landlords from taking rent payments of more than one month in advance. This is presumably to prevent landlords from introducing fixed terms by the back door by having very long rental periods. However, if this is indeed the intended purpose, this legislation may inadvertently lead to unintended and undesirable outcomes.

Where tenants have poor or hard to assess credit histories, such as people from overseas (so international students for example that come to study in Southampton), landlords will first seek to obtain a UK-based guarantor so that any debt can be enforced if needed. If not available, seek upfront rent payments, usually covering six or twelve months in advance. This is done to mitigate risk against someone with unknown or riskier background. If this is not possible, those tenants are likely to find themselves excluded from the sector.

Regarding the statutory procedures for increasing rent- the Government has introduced provisions requiring that rent increases can only be done by a statutory mechanism. If the Government is intent on tying rent increases exclusively to a statutory procedure, then steps must be taken to ensure that the tribunal is appropriately resourced. The Government should look to provide accurate, up to date figures on local market rates so that tenants understand whether challenging the proposed new rent is likely to be successful or, in some cases, whether it may be detrimental as the tribunal is able to set a higher rent where relevant.

- **STUDENT TENANTS:** Ensuring that the student market is not damaged is also a key concern. The student sector of the PRS is likely to be particularly affected by the reforms through the loss of fixed terms and Section 21, which have provided a solid foundation upon which to operate on a cyclical basis.

We are proposing that all forms of student housing are treated consistently to avoid creating a two-tier system that damages renters' ability to secure a home for the academic year. At the committee stage of the bill, the Government introduced an amendment to enable student landlords to end a tenancy for the purposes of re-letting to incoming students but limited its application to student landlords of HMOs.

A further amendment has now been proposed to broaden the ground's application to landlords of one- and two-bedroom student properties (which do not fall under HMO classification), to ensure that the entire student private rented sector can continue to function.

- **ANTI SOCIAL BEHAVIOUR:** The NRLA continues to highlight the problems landlords face when dealing with anti-social behaviour and the limited powers and support they have with which to tackle it. The Bill will modify the wording of ground 14 from "likely to" to "capable of" causing nuisance, which could make proving anti-social behaviour is taking place easier, so tenants causing ASB for their neighbours and the landlord can be dealt with more swiftly.

Another change to the Bill could mean that landlords can rely on evidence like text messages or emails from neighbours when seeking possession using the ASB grounds. At the current moment, 'hearsay' evidence does not have to be considered by the courts.

- **PETS:** The NRLA recognises the importance of pets in providing companionship for many tenants. We support the Bill's principles, which will give tenants the right to request permission to have a pet in their property, a request that landlords must consider and cannot unreasonably refuse. However, as currently drafted, the Bill does not make it clear that a request should be made for each individual pet. Without clarification on this point, there is a danger that a landlord's approval for one pet might be misconstrued as an endorsement for any number and type of pets, even when the accommodation may be unsuitable for a specific type of pet.

The NRLA welcomes the Bill's provision to amend the Tenant Fees Act 2019, allowing landlords to require tenants with pets to have insurance to cover the additional risk of property damage. However, requiring tenants to pay a monthly insurance fee could potentially result in higher costs for tenants than a one-off 'pet deposit premium'. As such, the Bill should be amended to allow such a deposit premium to be charged where it is more cost effective for the tenant.

The NRLA accepts that section 21 repossessions are ending and is committed to working with all parties to ensure the replacement system is fair and workable for both tenants and responsible landlords. We believe that the Bill lays the foundation for potentially effective reforms of the sector. Particularly on areas like strengthened grounds for possession and the property portal.

It is important to emphasise that the wholly unacceptable practices of a small group of landlords are not representative of the sector. The reality is that the vast majority of private tenancies are ended by the tenant. In 2021/2022, 77% of private renters voluntarily left their last tenancy, an increase from 73% the previous year. In contrast, only 4% mentioned leaving because their landlord or agent asked them to, a decrease from 6% the previous year<sup>1 2</sup>.

Tenants in the private rented sector are more satisfied with their accommodation than those in social housing. 80% of private renters are satisfied with their current accommodation, compared to 75% of social renters<sup>3</sup>.

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<sup>1</sup> <https://www.gov.uk/government/statistics/english-housing-survey-2021-to-2022-private-rented-sector>

<sup>2</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1088486/EHS\\_20-21\\_PRS\\_Report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1088486/EHS_20-21_PRS_Report.pdf)

<sup>3</sup> <https://www.gov.uk/government/statistics/english-housing-survey-2021-to-2022-private-rented-sector>

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# Private Housing enforcement in Southampton

Steven Hayes-Arter – Service Manager

Agenda Item 8

Appendix 3

# Private Housing enforcement in Southampton

- **Enforcement of the sector in the City – issues, demand, our approach**
- **HMO licensing in Southampton – Mandatory & additional – effectiveness of schemes on sector**
- **Present & future challenges – new legislation & regulation**

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# Southamptons private sector

**Private rented sector accounts for approx. 28,000 properties**

**Spread throughout all wards across the city.**

**Mixed tenure and property types. From bedsits to large HMOs.**

**Huge variation in age and quality of stock, from pre-war terrace to modern purpose-built blocks & houses**

**Variable standards in terms of repair and upkeep**

**Provides an integral part of the housing market ensuring there is accommodation for the needs of the population.**

# Enforcing the City's private sector

- **Reactive inspection of properties using Housing Act 2004 part 1 powers (HHSRS)**
- **These are only where tenants have made complaints or raised issues**
- **This includes HMOs (not covered by licensing) & all other private rented accommodation (excluding social housing)**
- **Proactive programme of inspection and enforcement of high-rise fire safety risks (cladding) in partnership with Fire authority**
- **SCC has received some funding from DLUHC for this programme of work**
- **Mandatory HMO licensing**
- **Additional HMO licensing. No current scheme but part of future plans**

# Enforcing the City's private sector

- All work carried out across two teams – Private Sector Housing & HMO licensing.
- PSH team consists of 3.5FTE & currently 2FTE EHO apprentices largely providing support for the High-Rise fire safety programme. All staff are funded from the Capital fund.
- HMO licensing team of 6.5FTE funded by licence fees.
- 10 FTE covering enforcement of sector of approximately 28,000 properties.
- Demand for services & lack of resources means that all PSH service requests are triaged.

# Enforcing the City's private sector

- Service demand – consistent year on year

Case Type	19/20	20/21	21/22	22/23	23/24	Grand Total
Housing - Disrepair of HMO	67	45	54	80	72	318
Housing - Disrepair of Non-HMO	219	160	172	235	193	979
Housing - Empty Properties	60	62	57	87	88	354
Housing - Immigration	18	9	7	12	6	52
Housing - Overcrowding	87	124	66	59	84	420
Hsg Advice/Information Only	4	10	5	16	22	57
<b>Grand Total</b>	<b>455</b>	<b>410</b>	<b>361</b>	<b>489</b>	<b>465</b>	<b>2180</b>

# Enforcing the City's private sector

- **Inspections of properties**

	2019/20	2020/21	2021/22	2022/23	2023/24	Total
HHSRS inspections	48	24	42	88	63 (so far)	265

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**Pandemic had significant impact from 2020 to 2022.**

- **All service requests are triaged, and inspection is only carried out where likelihood of significant hazard (Cat 1, HHSRS) is identified.**
- **Numbers indicate less than 20% of complaints lead to inspection.**
- **Housing cases are often lengthy & prolonged due to legislative rules.**
- **Officers will have to visit property multiple times to serve notices and check compliance**

# Enforcing the City's private sector

- Main issues affecting the private stock
- Damp & Mould – significant increase over last two winters
- Excess cold – lack of effective fixed heating or broken and poorly performing appliances. Lack of insulation.

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## Electrical safety

## Vermin

	2019/20	2020/21	2021/22	2022/23	2023/24
Damp & mould	71	47	48	103	116
Broken heating & electrics	36	32	27	30	52
Rats or bedbugs	12	29	15	25	25

# Enforcing the City's private sector

- Where significant hazards (Cat 1 HHSRS) are identified the LA is required to take enforcement action.
- Various enforcement notices available under Housing Act 2004
- Most commonly used are Improvement & prohibition notices
- Failure to comply with notices is an offence and can lead to prosecution and or service of Civil Penalty Notices.
- Approach published in Private Sector Housing Enforcement Policy, including Civil Penalty Policy.
- Civil penalties are a relatively new power and SCC is yet to issue one. This will change going forward.
- Income from Civil Penalties can be used to support Private housing enforcement.

# Enforcing the City's private sector

- **Enforcement notices served by PSH team**

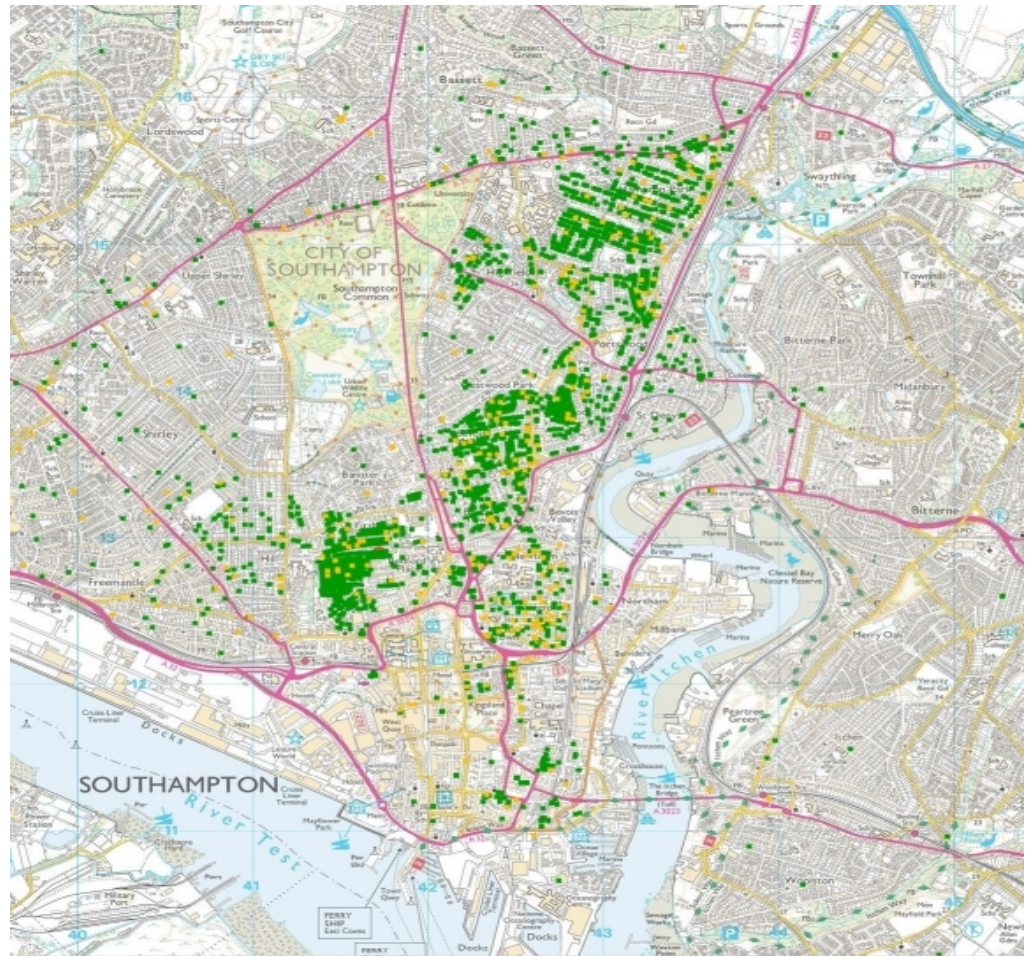
Case Type	19/20	20/21	21/22	22/23	23/24	Grand Total
Housing Act 2004 s11	15	2	9	6	14	46
Housing Act 2004 s20 - Prohibition Order	1		2		3	6
Housing Act 2004 s239 - Intended Entry	1	1	2			4
Housing Act 2004 s43 - Emergency PO			1		1	2
Housing Act 2004, Section 12			1		1	2
Housing Smoke + CO2 Alarm Regs 2015	8	2	2			12
<b>Grand Total</b>	<b>25</b>	<b>5</b>	<b>17</b>	<b>6</b>	<b>19</b>	<b>72</b>

- **Notices are generally issued after required work is not completed**
- **Landlord is charged for notice**
- **Failure to comply is an offence and can lead to prosecution**
- **Fortunately, compliance rates are very high and prosecution levels are very low currently. Two in past five years.**



# Mandatory HMO licensing

- There are approximately 6000-7000 HMOs in Southampton.
- In the city we have between 2300- 2500 Mandatory HMOs, which require licensing every five years.
- The majority of the HMOs are situated within the central wards of the city, predominantly in Bevois, Bargate & Portswood.



# Mandatory HMO licensing

- Legal requirement for LAs to license larger HMOs in their area
- This covers all HMOs with 5 or more residents from 2 or more households. There are some exemptions such as those owned or managed by Educational establishments.
- Regulations impose certain mandatory conditions that HMOs and licence holders must meet.
- These include standards for minimum rooms sizes (sleeping accommodation), fire safety & provision of gas safety certificate
- [Housing Act 2004 \(legislation.gov.uk\)](https://www.legislation.gov.uk)
- <https://www.legislation.gov.uk/uksi/2018/221/made>
- In addition LAs can set local licence conditions in relation to management, use and occupation of the HMO

# Mandatory HMO licensing

- Southampton CC has its own published HMO standards that cover all HMOs in the city, including those not requiring licensing.
- See [Guidance on standards for Houses in Multiple Occupation \(HMOs\) \(southampton.gov.uk\)](https://www.southampton.gov.uk)
- This sets out the requirements for room sizes, amenities, fire safety, conditions & management.
- Requirements will vary depending on HMO type, e.g. shared tenancy, bed sit type etc.
- SCC uses the Mandatory minimum room sizes for all HMOs.
- Fire safety requirements based on LACORS guidance [guidance-on-fire-safety-provisions-for-certain-types-of-existing-housing.pdf \(cieh.org\)](https://www.cieh.org) and Fire risk assessment (which landlords must carry out)

# Mandatory HMO licensing

- Breakdown of Mandatory HMOs by ward
- Wards not listed have <30 HMOs

Ward	No of licensed Mandatory HMOs
Bevois	600
Portswood	540
Bargate	430
Swaythling	300
Freemantle	170
Bassett	100
Banister & Polygon	72
Shirley	49

# Mandatory HMO licensing

- Every HMO is inspected prior to licence being issued.
- Either by SCC HMO surveyor or Accredited independent surveyor (CIEH or RICS certified)
- Landlord has option if application is within 3 months of property becoming licensable or renewal date.
- Landlord pays reduced fee if using independent surveyor.
- Independent surveyor issues 'certificate of compliance' to verify HMO meets SCC standards, in order to obtain full licence.
- SCC carries out auditing of percentage of these properties to ensure standards are met

# Mandatory HMO licensing

- **SCC HMO surveyor may issue the HMO licences with specific conditions attached. E.g. improve fire detection within specified time period.**
- **These conditions are then checked to ensure compliance.**
- **This conditions monitoring is a vital part of the licensing programme.**
- **Failure to comply with any condition is a breach of the licence and can result in enforcement action & ultimately the revocation of the licence.**
- **Could result in issue of Civil Penalty Notice and or prosecution.**
- **Successful prosecutions can lead to banning orders.**
- **15 HMO landlords have been prosecuted since 2014**
- **Compliance now very high**

# Mandatory HMO licensing

- **HMO licensing is an effective tool in managing the condition and impact of HMOs**
- **In Southampton, licensing of HMOs has led to a 75% reduction in complaints from tenants relating to their conditions.**
- **50% reduction in complaints about HMOs from neighbours and residents. Particularly in regards noise nuisance, waste and anti-social behaviour.**
- **This has been achieved through Mandatory & Additional HMO licensing over the past 10 years**

# Additional HMO Licensing

- **Southampton City Council has also operated three additional HMO licensing in certain wards within the city over the past ten years.**
- **Additional licensing schemes (under part 2 of the Housing Act 2004) allow LAs to licence smaller HMOs, and 'cluster flats within purpose-built student blocks.**
- **Any HMO with 3 or more persons forming 2 or more households. Essentially any HMO not captured by the Mandatory scheme**
- **Schemes have covered the four central wards of Bevois, Bargate, Portswood & Swaythling and also the western wards of Shirley, Freemantle, Bassett & Millbrook.**
- **The most recent scheme covering the central wards ended on September 30<sup>th</sup>.**



# Additional HMO Licensing

- **Additional schemes can only run for five years & run on a ‘cost recovery’ basis.**
- **Schemes cannot be ‘renewed’. An Additional HMO licensing scheme is designated under delegated powers & requires public consultation & Cabinet approval.**
- **Scheme must meet with prescribed conditions set out in the Housing Act 2004 part 2. e.g. must meet the legal threshold. [Housing Act 2004 \(legislation.gov.uk\)](https://www.legislation.gov.uk)**
- **Schemes can be subject to Secretary of State approval & withdrawn if legal threshold is not sufficiently met.**

# Additional HMO licensing

- **Designation of Additional HMO licensing scheme dependant on meeting legal test. Most notably;**
- **A Local Authority must consider that a significant proportion of the HMOs in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.**
- **An LA must have also considered whether there were any other courses of action available to them, that might provide an effective method of dealing with the problem or problems in question, and**
- **that making the designation will significantly assist them to deal with the problem or problems (whether or not they take any other course of action as well).**

# Additional HMO Licensing

- **First designation made in 2013. Majority of evidence used for justification came from 2008/9 Stock Condition & HMO survey of City.**
- **Estimated approx. 4000 HMOs would be licensed.**
- **Scheme saw approx. 3600 licensed**
- **At end of 5 years, compliance rate with conditions at 62%**
- **Successful but still work to do.**
- **Second designation in western wards (Shirley, Freemantle, Millbrook & Bassett) introduced in 2015.**
- **Estimated approx. 1500 HMOs, but only 600 licensed by end of scheme in 2020.**
- **Compliance very high at 80%.**

# Additional HMO Licensing

- **Third designation introduced in Autumn 2018 covering same central four wards as first scheme (2013).**
- **Justification for further scheme due to compliance rate (62%) indicating that management of some HMOs was still not sufficient.**
- **Scheme was smaller than first designation, reducing from approx. 3600 to 2200 HMOs due to changes in Mandatory licensing in 2018.**
- **Scheme was as previously well supported and overall compliance very high, ending at approx. 90%. So a significant improvement from 2018.**
- **Success of scheme however makes further designations less easy to justify.**
- **In order to satisfy the legal tests, robust case needed that licensing is the most effective tool to ensure sufficient management of HMOs**

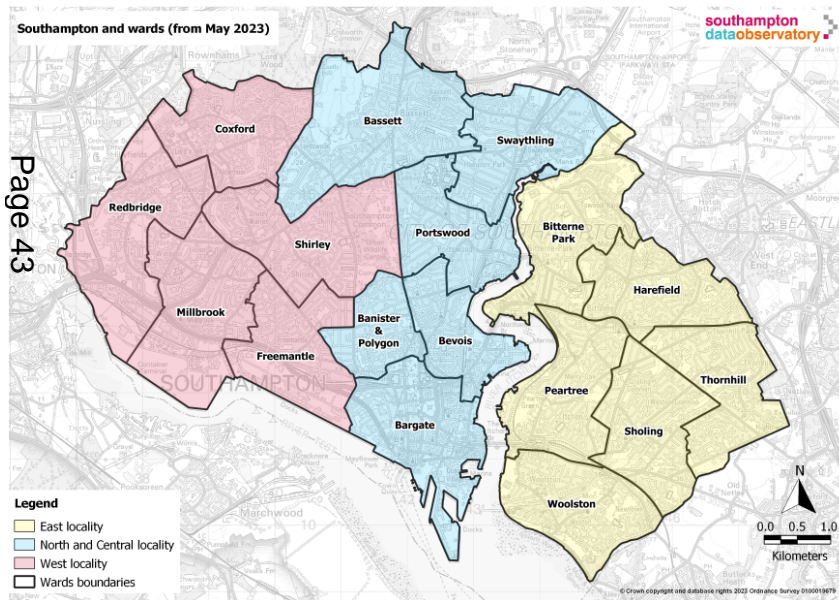
# Additional HMO licensing – past & future

**2013-2018 - first Additional HMO licensing designation, covering Bargate, Bevois, Portswood & Swaythling – approx. 3600 HMOs**

**2015-2019 – second additional HMO licensing designation, covering Freemantle, Shirley, Millbrook & Bassett – approx. 600 HMOs**

**2018-2023 – Third designation, covering same four wards as designation one (Bevois, Bargate, Portswood & Swaythling) – approx. 2,200 HMOs**

**2024-2029 – Current proposals looking at an Additional HMO licensing designation covering, Bargate, Banister & Polygon, Bevois, Freemantle, Shirley, Portswood, Swaythling & Bassett. This incorporates all areas previously covered by past schemes – would capture approx. 2,800-3000 HMOs**



# Additional HMO Licensing – future plans

- Previous additional licensing has captured approx. 2800 HMOs across the city. (Mostly within central spine)
- In conjunction with Mandatory it has resulted in approx. 5000 HMOs of the estimated 6-7000 in the city being covered by licensing.
- Very effective tool to ensure HMO stock is safe and well managed
- Now looking at proposing a further additional designation in 2024 to capture the majority of the City's HMOs & keep standards high.

# Additional HMO Licensing – future plans

- **Data from past schemes shows us where the HMOs are located (wards)**
- **98% of the City's known HMOs could be licensed by designating a new scheme covering 8 wards;**
  - Banister & Polygon
  - Bevois
  - Bargate
  - Swaythling
  - Portswood
  - Bassett
  - Shirley
  - Freemantle

# Additional HMO Licensing – future plans

- Designation would capture between 2800-3000 HMOs including all of the Purpose-Built Student accommodation blocks.
- Ideally SCC would have new data sets for the city from a more recent stock condition survey to support the case for a new designation.
- So far this has not been commissioned due to costs far exceeding budget. (Cost circa £500k, budget £125K)
- Report can however go forward for Cabinet approval and public consultation using HMO data from past ten years of licensing.
- Risk of challenge, but support has been strong previously from crucial partners and supporters.
- Hopefully benefits of new scheme are clear and would be supported by the Scrutiny committee?



# Selective licensing

- The committee has heard case studies from other LAs on the use of Selective licensing.
- Can be used separately or in parallel with Additional HMO licensing
- Requires legal tests to be met, similar but not the same as additional HMO licensing.
- More challenging to gather evidence, lots of data required, ideally stock condition survey needed beforehand.
- Has potential to target parts of sector that are otherwise hard to reach or engage with, smaller non-HMO market.
- Can be used to raise income for private sector housing enforcement work and lead to increased enforcement activity
- Resource intensive & costly to set up, but options to 'outsource'.

# Selective licensing

- Circa 20,000 Private rented properties not covered by HMO licensing schemes.
- No landlord registration required so sector can slip under the radar.
- Selective licensing can target some or all of these, depending on ambition of LA.
- Larger schemes capturing more than 20% of sector require SoS approval but small schemes do not.
- Many LAs start small e.g. targeting a small number of certain wards
- In Southampton the wards most likely to meet criteria would be the central areas.
- This could mean certain wards require all PSH & HMOs to be licensed.
- Selective licensing could be a useful tool to tackle the sector in our city

# Future plans & challenges

- **Additional HMO licensing has been very successful in Southampton & further designations should hopefully continue to ensure that the HMO sector is well managed and provides safe accommodation.**
- **The schemes pay for themselves (cost recovery) and we already have a well established team in place & through additional scheme income, ability to increase resources.**
- **Selective licensing has the potential to help regulate other parts of the private rented sector**
- **A small scheme should be justifiable and would allow us to gauge its effectiveness as a tool in our City.**
- **However consideration is needed on whether this is out-sourced or completed in-house. There are of course significant financial implications in the introduction of selective licensing.**

# Future plans & challenges

- **Current and future work programme around high-rise fire safety (cladding) is putting pressure on already stretched resources.**
- **Work needs to continue through 2024/25 to address issues on several blocks within the city.**
- **New guidance on damp and mould and changes to HHSRS – Changes already introduced for social housing, private sector likely to follow. Landlords have already been issued new guidance. Complaints have effectively doubled over past two years and this is stretching resources.**
- **Renters Reform Bill will see biggest shake up in years to private renting. Increased focus on rent repayment orders likely to see increased demand on PSH team resources.**
- **Decent homes standard extended to PRS – would likely impact PSH team**

# Renters reform Bill – Decent Homes standard

- Likely to see implementation in late 2024
  - Biggest changes to rental sector in years
  - New powers to require landlords to make properties decent
  - Expectation that LAs will prioritise PRS enforcement
- Page 51
- Legislation likely to be brought in as part of Renters (Reform) Bill
- Will see Decent Homes Standard applying to all PRS & will have a major impact on sector.
- Probability that many houses will not meet standards and demand for inspection and assessment will be high.

# Renters Reform Bill - Decent Homes standards

- **Impact on LAs (SCC)**
- **Government will be publishing new operating & enforcement guidance for LAs**
- **Proposing changes to the HHSRS to produce a simpler means of banding the results of assessments**
- **Potential for significant impact on PSH team and SCC resources.**
- **Hopefully the extent of the impact will be identified prior to new law**
- **Ideally additional funding will be made available to LAs to resource this work.**

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# Going forward

- **The PRS will continue to be integral and a large part of the housing market and need in Southampton**
- **Demand likely to rise**
- **Standards at risk of falling if enforcement of sector is not prioritised appropriately**
- **Service therefore needs to be effectively resourced and all available enforcement tools need to be considered.**
- **Future additional HMO licensing and selective licensing within the city are the most appropriate tools currently available and need to be considered**

# Any questions?

Thank you. If you have any issues relating to HMOs please contact

[HMO@Southampton.gov.uk](mailto:HMO@Southampton.gov.uk)

[uk](mailto:private.housing@southampton.gov.uk) for other housing issues email

[private.housing@southampton.gov.uk](mailto:private.housing@southampton.gov.uk)





# Licensing and enforcement

Southampton Tenants union



# Why we are all for licensing?

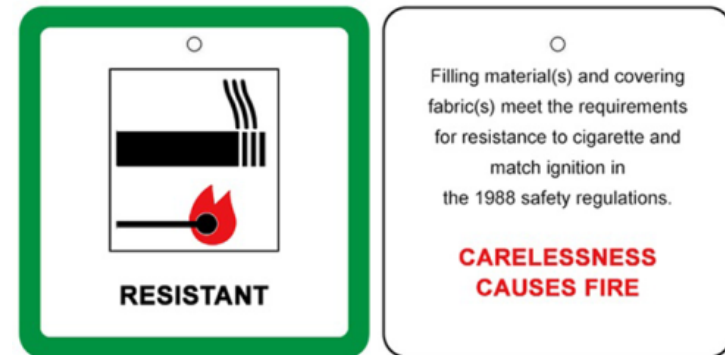


You wouldn't eat from a food outlet that looks like this.

# Scrutiny for safety is everywhere



Page 57



So why only HMOs are licensed and the rest is hit and miss?

# Why we aren't all landlords licensed?

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We spend most of our time in our homes

# Licensing is not enough. Tenants need a voice.



**There is still no online scheme where tenants can report disrepair. Public awareness is an effective deterrent.**

# Box ticking exercises are not enough.



Landlords often save money by doing cosmetic changes without tackling the original problem.

# Not just box-ticking but clock-ticking exercises?

Timescales at the moment can mean tenants in homes with disrepair can be susceptible to prolonged danger of harm and health issues, even death. (Awaab Ishak died shortly after his second birthday in December 2020.)

# Penalties and Rent Repayment Orders

“A notice of intent must be given no later than 6 months after the authority has sufficient evidence of the conduct to which the penalty relates, or at any time when the conduct is continuing.”

Page 62

“Before applying for a rent repayment order, the local housing authority must give the landlord a notice of intended proceedings; 13 · A notice of intended proceedings must be served within 12 months of the date on which the



# Refund but no compensation?



Rent re-payment orders allow for up to 12 months' worth of rent to be recovered, but aside from this there is no possibility of compensation being paid to a tenant to account suffering and harm they are caused by living in an unfit property.

# In accessible legal help

Legal routes are unavailable to most tenants as they are so expensive and rich landlords would be able to hire better legal assistance anyway. This should be rectified to reflect the suffering incurred by bad landlords who do not keep their properties in adequate shape – simply repaying rent is not enough, as this would be equivalent to simply being awarded a refund if you get food poisoning and are hospitalised after eating at a restaurant!

# Key questions



**Benefits claimants see rent repayment orders cut dramatically or even set to zero value – why?**

**This is clearly discriminatory towards those who access welfare for no reason except apparent spite.**

# Key questions



**How many banning orders have been handed out in the past year, and the past 5 years?**

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Expanding the means of enforcement against bad landlords is pointless if the council will not also get serious about tackling those landlords and ejecting them from the PRS. We need a strong approach to give bad landlords a real kick and reassure tenants that local government is able and willing to protect them.

# Key questions



**How does the council provide accommodation for tenants whose landlord has been subject to a banning order?**

Page 60 We cannot simply make people homeless if their housing is not suitable due to their landlord breaking the law, so there needs to be a pragmatic solution which takes into account the personal situations of different tenants. Some may want and be able to stay in their rented home, others may want or have to move into emergency accommodation or social housing. Tenants must come first in enforcement. Would the council set aside some of the income from penalties to cover the cost of securing a new

# Key questions



How does the council set the penalty for a breach in standards?

It is not clear other than that it is assessed based on harm caused, and landlord culpability. In some cases a landlord who has caused significant harm but who is assessed to have “low culpability” can get away with a relatively low penalty.

This could lead to very unsatisfactory outcomes considering that culpability is a highly subjective factor while harm caused to the tenant is entirely objective.

# Key questions



It seems wrong that somebody could seriously harm another person through the operation of their business, be legally held responsible, and yet still get away with a large profit! Additionally, for landlords who have multiple properties and who come under investigation over one of them, will the other properties be investigated proactively to determine whether breaches may be occurring on a wider scale?

**Thank you!**





# Overview of Homelessness in Southampton and the link to the private rented sector.

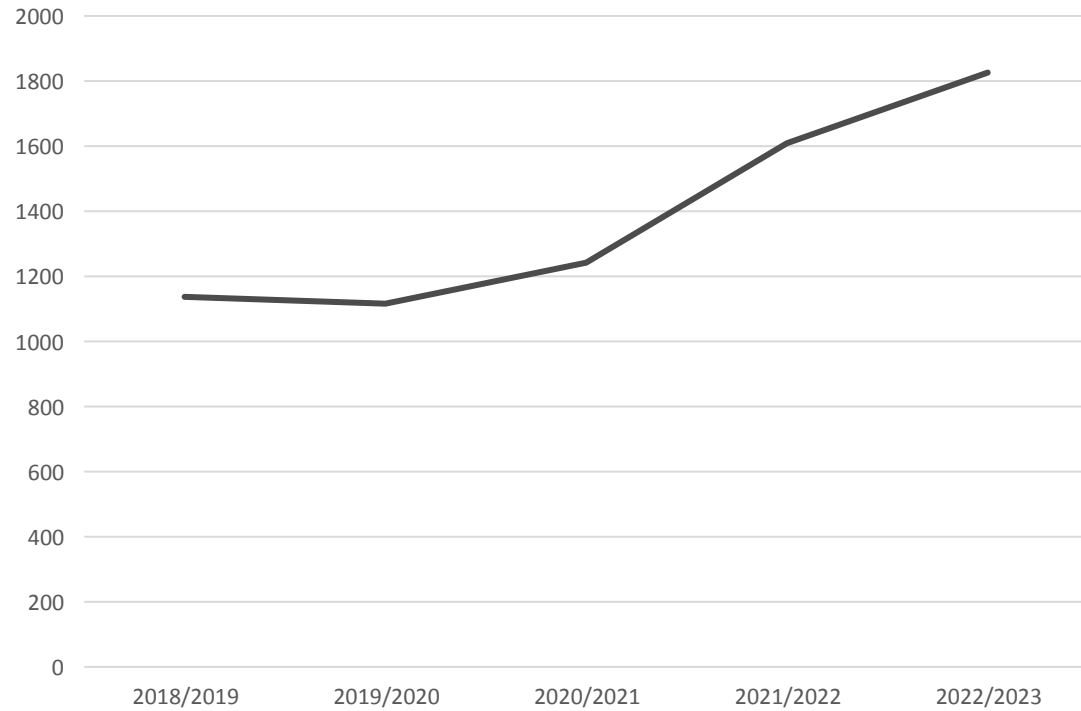
29<sup>th</sup> February 2024

# Homelessness in Southampton – the demand

- Local authorities have a duty to provide advice and information to people on housing issues even if they are not threatened with homelessness.
- The number of households approaching the authority has increased over the past few years
- One of the top three reasons households in Southampton become homeless is due to being asked to leave from the private rented sector

# Homelessness Approaches

Number of Homelessness approaches



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Years	Number of Homelessness approaches
2018/2019	1137
2019/2020	1116
2020/2021	1242
2021/2022	1609
2022/2023	1826

# Reasons why Households become Homeless in Southampton

The top three reasons that households become homeless in Southampton is:

- Family or Friends no longer willing to accommodate
- End of private rented tenancy – assured shorthold
- Domestic Abuse

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The top reasons why households become homeless from private rented accommodation:

- Landlord wishing to sell or re-let the property
- Tenant's experiencing financial difficulties
- Increase in rents

# Housing options for households

The main ways in which we assist households that become homeless are:

- Work with both tenants and landlords to resolve any issues where possible to enable the tenant to remain in the property;
- Assist households in securing alternative private rented accommodation
- Provide financial assistance to help households find alternative accommodation
- For the local authority to have the best opportunity of preventing homelessness it is important that households approach us as soon as they are aware that their tenancy may be at risk
- So far this year we have assisted over 300 households into the private rented sector

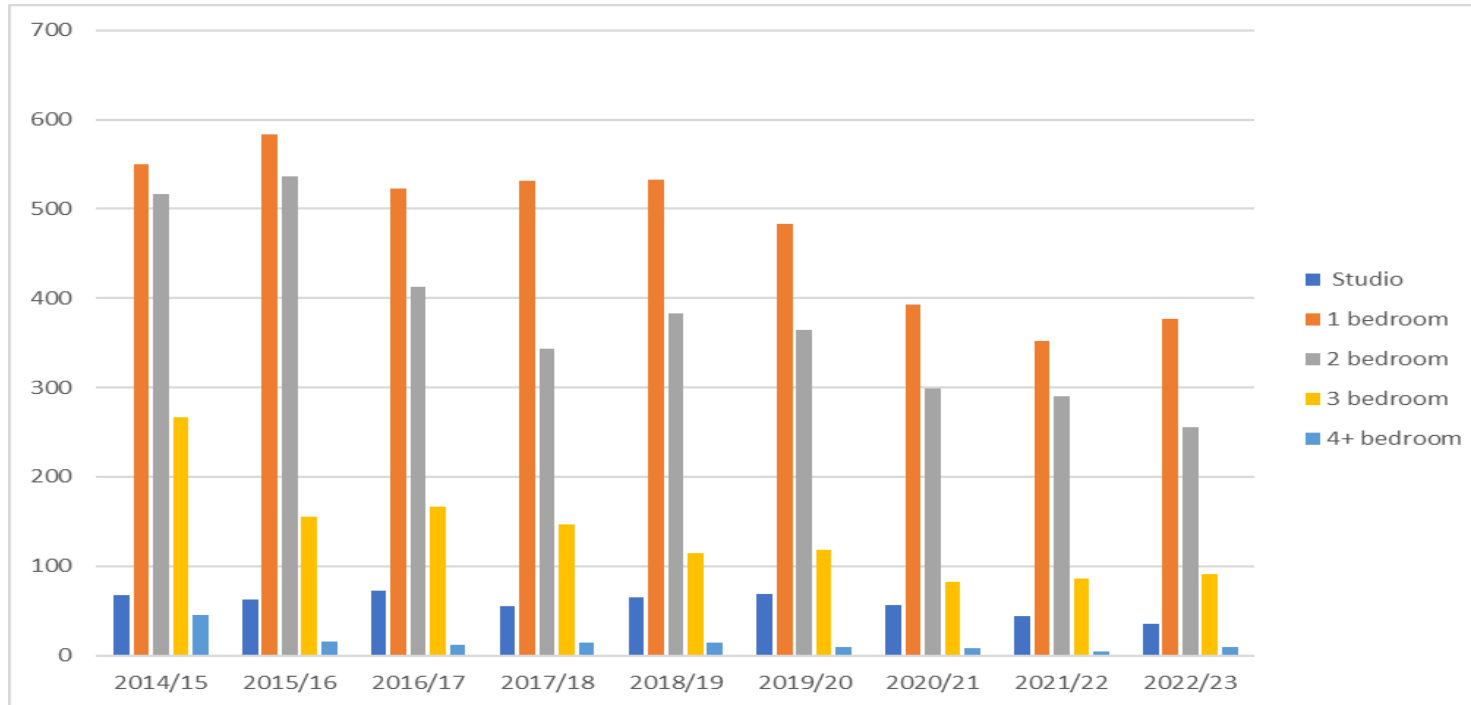
# Housing Need/Housing Register

7,666 live applications on the Housing Register

Property Size	Numbers Waiting	Wait Times (with priority)	Wait Times (no priority)
1 bed	4304 (includes 1481 eligible for older persons housing)	2 years 3 months	4 years 8 months
2 bed	1498	2year 4 months	4 years 9 months
3 bed	1,548	9 years	11 years 5 months
4 bed +	316	10 years 1 month	12 years 6 months

# Supply : SCC Housing Register Lettings since 2014

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Studio	68	63	73	55	65	69	57	44	35
1 bed	550	584	523	531	533	483	393	352	377
2 bed	517	537	413	343	383	365	299	290	256
3 bed	267	155	166	147	114	118	83	86	91
4 bed	45	16	12	14	14	9	8	5	9
Totals	1447	1355	1187	1090	1109	1044	840	777	768



## Importance of Private Sector Housing in Southampton



Approx. 25,000 private rented properties in the City. Spread throughout city with high concentrations in central wards



Due to the limited availability of social housing in the city. Households are looking for alternative housing options rely on the private rented sector to try and resolve their situation



We want to work with landlords and tenants more to sustain existing private rented accommodation and also assist those who need to move to new accommodation

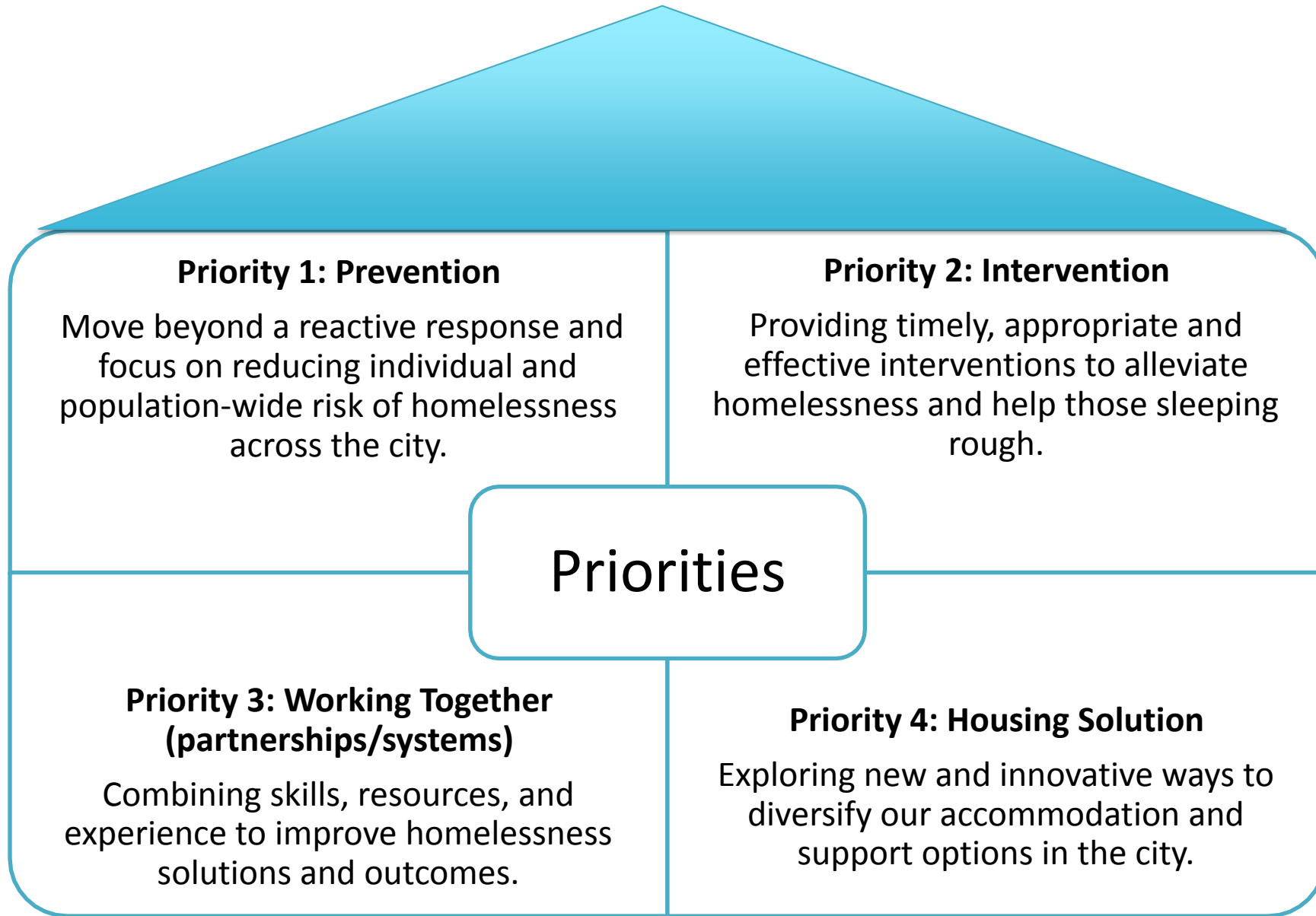


## Homelessness and Rough Sleeping Strategy 2024-2029

We have recently launched our five-year homelessness and rough sleeping strategy which sets out our vision over the next 5 years. For further information please see [Homelessness and Rough Sleeping Strategy 2024-2029 \(southampton.gov.uk\)](https://www.southampton.gov.uk)

Our vision “A city where everyone has a safe place to call home”





# The work SCC are undertaking to work with the private rented sector



Reviewing our landlord offer and considering models around leasing options, our rent deposit scheme



We are looking to work with landlords at the earliest opportunity to provide support where we can to prevent homelessness



Consider better ways we can engage with landlords in the private rented sector



Consider whether a landlords forum would be beneficial to landlords in Southampton



We are working on a call before you serve project to consider better ways we can work with landlords



Looking at good practice examples that are being carried out by other local authorities e.g BCP provide grants to the landlords to improve the standard of private rented sector properties in return for nomination rights to be the properties

# Any questions?

Maria Byrne, Service Lead Housing Needs & Welfare,

# Security, stability and overcrowding

Professor Helen Carr and  
Dr Mark Jordan  
February 29<sup>th</sup> 2024

# Outline

Homes in the ‘revived’ PRS

Page 84  
Legal security of tenure

Reforming security of tenure

SCC Inquiry: Issues, challenges, outcomes

# The revived PRS: Vision vs reality

Deregulation of PRS was based on the vision of the sector as a source of housing for ‘transitional’ households

The revival of PRS has challenged this vision:

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- 1 / 3 are families with children (8,400 households in Soton)
- 1 / 3 are low income/struggling/vulnerable households
- Average renter has lived in their home for 4.4 years & many expect to stay for medium/longer term

Growing understanding that tenant ‘homes’ are not just physical structures they are deeply intertwined with health outcomes, child development, poverty/wealth and opportunity in general

# PRS instability and homelessness

- Ending of an AST is a ‘significant cause of homelessness’ (31% of cases in 2015/16)
  - The use of ‘no-fault’ evictions has increased by almost 50% since 2022

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Instability has major regulatory and resource implications for local authorities

- Triggers homelessness prevention & other duties eg proactive tenancy relations
- Lack of social housing has meant growing use of highly expensive temporary accommodation (£1.74 billion in 2023)
- 47% of families with children were forced to move schools as a result of living in temporary accommodation (Shelter, 2023)



# Legal security of tenure

Protection from Eviction Act 1977

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Housing Act 1988

Renters Reform Bill

# Housing Act 1988

- Regulated deregulation

s.21 no fault eviction the norm

increasing limits on use of s.21

retaliatory evictions unlawful

evictions when breach of licence requirements

- Increasing avoidance of the limited statutory protections

incorrect use of licences

- Unaffordability and market rents probably key cause of instability

# Protection from Eviction Act 1977 (the PfEA)

- Statutory protections from unreasonable evictions have existed since the mid 20<sup>th</sup> century
- Amendments have responded to projects of regulation/deregulation and fears of spikes in evictions
- Illegal evictions are a chronic problem in the sector
- Current legislation outdated, complex and little understood
- Poor enforcement of base line protections
- Problematic police response

# 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

# Reforms in Scotland

- Private Residential Tenancy (Scotland) Act 2016 abolished no fault evictions & extended protections for tenants
- Impact?
  - Slight decline in PRS but increase in SRS
  - Signs that landlords have exited the market and turned to ‘short term lettings’ but new regulation of this activity (2023)
    - Buy to let mortgages remain widely available
    - The Tribunal are effectively dealing with caseload
- Indicates how reforms to security of tenure have effects on illegal evictions, short term lettings, social housing etc

# SCC Inquiry: Key issues

- In England, the PRS is the most insecure, unaffordable, and unsafe source of housing, relative to other tenures
- SCC Inquiry tends to confirm that the problems associated with the PRS nationally are equally, if not more, prominent in Southampton eg Failing the Decent Homes Standard
- Following sustained increases, 1 in 3 households now live in the PRS in the city (as opposed to 1 in 5 nationally)
- Growing pressure from central government and significant regulatory changes

# SCC Inquiry: Challenges

1. Lack of meaningful data on the PRS is a fundamental challenge
  - a) Stock condition survey
  - b) Data on rents and evictions in the city
2. Regulatory changes: The Renters Reform Bill will:
  - a) Reform security of tenure
  - b) Apply Decent Homes Standard – double scope of enforcement!
  - c) Expand enforcement powers eg CPNs, RROs
  - d) Impose new enforcement duties on local authorities
3. Limited resources
  - a) Instability in PRS contributes to rising homelessness and growing cost of temporary accommodation

# SCC Inquiry: Outcomes

- The problems in the PRS are not simply about ‘a few bad apples’
  - The limits of reactive, complaint-based enforcement are clear
  - The scale of insecurity, unaffordability and unsafe housing indicates a systemic problem which requires a systematic response by SCC

Page 94 • We suggest adopting a proactive regulatory approach, that anticipates national reforms, involving:

- regular data gathering eg stock condition surveys
- Collaboration with stakeholders ie tenant unions, landlords, third sector, University etc
- taking the full range of enforcement action ie CPNs, prosecutions, and expanding licencing schemes
- a culture shift that regards PRS enforcement, licencing, tenancy relations and homelessness services as integrated and mutually reinforcing in getting better outcomes for tenants



# YOUR QUESTIONS

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