

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

Thursday, 16th November, 2023
at 5.30 pm

PLEASE NOTE TIME OF MEETING

Council Chamber - Civic Centre

This meeting is open to the public

Members

Councillor McEwing
Councillor Evely
Councillor Powell-Vaughan
Councillor Windle
Councillor Wood

Contacts

Democratic Support Officer

Melanie Morley

Email: Melanie.Morley@southampton.gov.uk

Scrutiny Manager

Mark Pirnie

Tel: 023 8083 3886

Email: mark.pirnie@southampton.gov.uk

PUBLIC INFORMATION

Role of Scrutiny Panel Inquiry –

Purpose:

To identify opportunities to improve outcomes for private sector renters in Southampton.

Use of Social Media:- The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting.

By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

Southampton: Corporate Plan 2022-2030

sets out the four key goals:

- Strong Foundations for Life.- For people to access and maximise opportunities to truly thrive, Southampton will focus on ensuring residents of all ages and backgrounds have strong foundations for life.
- A proud and resilient city - Southampton's greatest assets are our people. Enriched lives lead to thriving communities, which in turn create places where people want to live, work and study.
- A prosperous city - Southampton will focus on growing our local economy and bringing investment into our city.
- A successful, sustainable organisation - The successful delivery of the outcomes in this plan will be rooted in the culture of our organisation and becoming an effective and efficient council.

Public Representations

At the discretion of the Chair, members of the public may address the meeting about any report on the agenda for the meeting in which they have a relevant interest.

Smoking policy – the Council operates a no-smoking policy in all civic buildings.

MOBILE TELEPHONES:- Please switch your mobile telephones or other IT to silent whilst in the meeting.

Fire Procedure – in the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

Access – access is available for the disabled. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

Dates of Meetings: 2023/2024

16 November 2023
21 December 2023
18 January 2024
15 February 2024
29 February 2024
18 April 2024

CONDUCT OF MEETING

Terms of Reference

The terms of reference of the Committee are contained in the Council's Constitution.

Business to be discussed

Only those items listed on the attached agenda may be considered at this meeting.

Rules of Procedure

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

Quorum

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

Disclosure of Interests

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "personal" or "prejudicial" interests they may have in relation to matters for consideration on this Agenda.

Personal Interests

A Member must regard himself or herself as having a personal interest in any matter

- (i) if the matter relates to an interest in the Member's register of interests; or
- (ii) if a decision upon a matter might reasonably be regarded as affecting to a greater extent than other Council Tax payers, ratepayers and inhabitants of the District, the wellbeing or financial position of himself or herself, a relative or a friend or:-
 - (a) any employment or business carried on by such person;
 - (b) any person who employs or has appointed such a person, any firm in which such a person is a partner, or any company of which such a person is a director;
 - (c) any corporate body in which such a person has a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
 - (d) any body listed in Article 14(a) to (e) in which such a person holds a position of general control or management.

A Member must disclose a personal interest.

Continued/.....

Prejudicial Interests

Having identified a personal interest, a Member must consider whether a member of the public with knowledge of the relevant facts would reasonably think that the interest was so significant and particular that it could prejudice that Member's judgement of the public interest. If that is the case, the interest must be regarded as "prejudicial" and the Member must disclose the interest and withdraw from the meeting room during discussion on the item.

It should be noted that a prejudicial interest may apply to part or the whole of an item.

Where there are a series of inter-related financial or resource matters, with a limited resource available, under consideration a prejudicial interest in one matter relating to that resource may lead to a member being excluded from considering the other matters relating to that same limited resource.

There are some limited exceptions.

Note: Members are encouraged to seek advice from the Monitoring Officer or his staff in Democratic Services if they have any problems or concerns in relation to the above.

Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

Agendas and papers are now available online at
www.southampton.gov.uk/council/meeting-papers

1 APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)

To note any changes in membership of the Panel made in accordance with Council Procedure Rule 4.3.

2 ELECTION OF CHAIR AND VICE-CHAIR

To elect the Chair and Vice Chair for the Municipal Year 2023-2024.

3 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Democratic Support Officer.

4 DECLARATIONS OF SCRUTINY INTEREST

Members are invited to declare any prior participation in any decision taken by a Committee, Sub-Committee, or Panel of the Council on the agenda and being scrutinised at this meeting.

5 DECLARATION OF PARTY POLITICAL WHIP

Members are invited to declare the application of any party political whip on any matter on the agenda and being scrutinised at this meeting.

6 STATEMENT FROM THE CHAIR

7 INQUIRY TERMS OF REFERENCE (Pages 1 - 6)

Report of the Scrutiny Manager recommending that the Panel discuss, amend and approve a final version of the attached outline inquiry project plan, allowing for sufficient flexibility and the availability of suitable witnesses.

8 INTRODUCTION, CONTEXT AND BACKGROUND (Pages 7 - 46)

Report of the Scrutiny Manager recommending that the Panel consider the comments made by the invited guests and use the information provided as evidence in the review.

Wednesday, 8 November 2023

Director – Legal, Governance and HR

Agenda Item 7

DECISION-MAKER:	SCRUTINY INQUIRY PANEL
SUBJECT:	INQUIRY TERMS OF REFERENCE
DATE OF DECISION:	16 NOVEMBER 2023
REPORT OF:	SCRUTINY MANAGER

<u>CONTACT DETAILS</u>			
Executive Director	Title	Executive Director – Corporate Services	
	Name	Mel Creighton	Tel: 023 8083 3528
	E-mail	Mel.creighton@southampton.gov.uk	
Author:	Title	Scrutiny Manager	
	Name	Mark Pirnie	Tel: 023 8083 3886
	E-mail	Mark.pirnie@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

None

BRIEF SUMMARY

On 14 September 2023 the Overview and Scrutiny Management Committee (OSMC) agreed the terms of reference for a scrutiny inquiry focusing on the Private Rented Sector and getting a better deal for renters in Southampton.

The outline project plan for the inquiry identifies themes for each meeting. This report invites the Panel to note the terms of reference and to amend and approve a final version of the outline inquiry project plan, attached as Appendix 1.

RECOMMENDATIONS:

	(i)	That the terms of reference set out in Appendix 1 be noted.
	(ii)	That the Panel discuss, amend and approve a final version of the attached outline inquiry project plan, allowing for sufficient flexibility and the availability of suitable witnesses.

REASONS FOR REPORT RECOMMENDATIONS

1.	To enable the Scrutiny Inquiry Panel to commence the evidence gathering process.
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ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

2.	There are numerous options that could be included within the draft terms of reference. The version attached reflects the feedback from the OSMC.
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DETAIL (Including consultation carried out)

3.	The OSMC agreed the outline terms of reference for a scrutiny inquiry focusing on the Private Rented Sector and getting a better deal for renters in Southampton on 14 September 2023.
4.	Panel members are invited to note the terms of reference and to amend and approve a final version of the attached outline inquiry project plan. The

	approved plan will then provide the structure to the subsequent meetings of this review, allowing for flexibility and the availability of suitable witnesses.
5.	The outline inquiry project plan identifies that the review will be conducted over 6 meetings of the Scrutiny Inquiry Panel with a final report to be considered at the 18 April 2024 meeting.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue/Property/Other</u>	
6.	Resources to support the scrutiny review will come from existing budgets.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
7.	The duty to undertake overview and scrutiny is set out in Part 1A Section 9 of the Local Government Act 2000.
<u>Other Legal Implications:</u>	
8.	None
RISK MANAGEMENT IMPLICATIONS	
9.	None
POLICY FRAMEWORK IMPLICATIONS	
10.	None

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	None
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Terms of Reference and Draft Inquiry Plan

Documents In Members' Rooms

1.	None
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Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out?	No
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Data Protection Impact Assessment

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out?	No
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Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential
1.	None

How do we get a better deal for private sector renters in Southampton? Scrutiny Inquiry Terms of Reference and Outline Inquiry Plan

1. Scrutiny Panel membership:

Councillor Windle
Councillor Wood
Councillor Every
Councillor McEwing
Councillor Powell-Vaughan

2. Purpose:

To identify opportunities to improve outcomes for private sector renters in Southampton.

3. Background:

- According to the English Housing Survey in 2020 to 2021, the Private Rented Sector (PRS) accounted for 4.4 million (19%) households in England, housing over 11 million people. The sector has doubled in size since the early 2000s but the proportion of PRS households has remained stable at around 19% or 20% since 2013 to 2014.
- The Government White Paper, [A Fairer Private Rented Sector](#) published in June 2022 outlined that everyone deserves to live in a safe and decent home and stated that most landlords and agents treat their tenants fairly and provide good quality and safe homes. However, the white paper noted that this is not universal practice and too many of the 4.4 million households that rent privately live in poor conditions, paying a large proportion of their income to do so, with the threat of sudden eviction hanging over them.
- Poor-quality housing undermines renters' health and wellbeing, affects educational attainment and productivity, and reduces pride in local areas.¹
- In England, despite improvements over the past decade, over a fifth of privately rented homes (21%) are non-decent, and 12% have serious 'Category 1' hazards, which pose an imminent risk to renters' health and safety.²
- Private renters spend an average of 31% of their income, including housing support, on rent. In comparison, those buying their home with a mortgage spent 18% of their household income on mortgage payments and social renters paid 27% of their income on rent.³ The median monthly rent recorded between April 2022 and March 2023 was £825 for England; this is the highest ever recorded.⁴

¹ [A fairer private rented sector - GOV.UK \(www.gov.uk\)](#) - Chapter 2 (P23)

² English Housing Survey 2020 to 2021

³ English Housing Survey 2020 to 2021

⁴ [Private rental market summary statistics in England - Office for National Statistics \(ons.gov.uk\)](#)

- More than one fifth of renters (22%) who moved in 2020-2021 did not end their tenancy by choice, including 8% who were asked to leave by their landlord and a further 8% who left because their fixed term ended.⁵
- In Southampton 29.2% of households lived in private rented sector accommodation in 2021 (approximately 30,000). This is the highest out of our ONS comparator cities⁶ and has increased from 24.9% in 2011.⁷
- Data published in June 2023 identified that the median monthly rent in Southampton was £875⁸. This is £50 higher than the national median.
- A recent private sector stock condition survey has not been undertaken in Southampton, but the 2008 Southampton City Council Private Sector House Condition Survey found that over 28,000 (38%) of privately owned and rented homes in the city do not meet the Decent Homes Standard.⁹
- More broadly, Southampton is a growing city. The population increased by 5.1%, from just under 236,900 in 2011 to around 248,900 in 2021. There are approximately 30,000 higher education students studying in Southampton and both universities anticipate the number of students studying at the institutions to increase over the coming years. These trends create housing challenges for all tenures as well as concerns about affordability, especially for low income households. For example, the average rent for a three-bedroom property in Southampton is £1,100 per month, while the local housing allowance rate for this type of property is £922 per month.¹⁰
- Following the white paper, the Government has published the [Renters Reform Bill](#) and it had its first reading in the House of Commons in May 2023. The Bill seeks to level up the Private Rented Sector and rebalance the relationship between tenants and landlords.
- Local councils play a vital role in regulating and enforcing compliance in the Private Rented Sector. A number of innovative practices have been introduced by local authorities in England that have been designed to improve outcomes for private sector renters.

4. Objectives:

- a) To identify the challenges and concerns of private sector renters in Southampton.
- b) To understand existing plans and opportunities to address the identified challenges.
- c) To identify good practice being employed to get a better deal for private sector renters in the UK and beyond.
- d) To identify what initiatives and approaches could work well in Southampton to improve outcomes for private sector renters.

5. Methodology:

⁵ English Housing Survey 2020 to 2021

⁶ Census 2021 - [Microsoft Power BI](#)

⁷ [How life has changed in Southampton: Census 2021 \(ons.gov.uk\)](#)

⁸ [Private rental market summary statistics in England - Office for National Statistics \(ons.gov.uk\)](#)

⁹ [Housing and Homelessness \(southampton.gov.uk\)](#)

¹⁰ [Local Housing Allowance \(southampton.gov.uk\)](#)

- a) Seek the views of residents and stakeholders
- b) Undertake desktop research
- c) Identify best practice

6. Proposed Timetable:

Six meetings between November 2023 and April 2024

Meeting 1: 16 November 2023

- Introduction, context and background
 - The shape of the private rental sector in Southampton
 - Understanding tenants needs and concerns – Including tenants survey
 - Overview of national legislation and policy
 - How the Council and partners seek to manage and oversee the private rental sector in Southampton.

Meeting 2: 21 December 2023

- The cost of renting in Southampton
 - Feedback from tenants and landlords
 - Local and national data
 - National and local policy
 - Alternative approaches / Good practice

Meeting 3: 18 January 2024

- The condition of private sector rental properties
 - Feedback from tenants and landlords
 - Local and national data
 - National and local policy
 - Alternative approaches / Good practice

Meeting 4: 15 February 2024

- Southampton's HMO Licensing Scheme
 - Analysis of the existing HMO licensing scheme in Southampton

Meeting 5: 29 February 2024

- Security, stability and overcrowding
 - Feedback from tenants and landlords
 - Local and national data
 - National and local policy
 - Alternative approaches / Good practice

Meeting 6: 18 April 2024

- Consideration of the final report

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DECISION-MAKER:	SCRUTINY INQUIRY PANEL
SUBJECT:	INTRODUCTION, CONTEXT AND BACKGROUND
DATE OF DECISION:	16 NOVEMBER 2023
REPORT OF:	SCRUTINY MANAGER

<u>CONTACT DETAILS</u>			
Executive Director	Title	Executive Director – Corporate Services	
	Name	Mel Creighton	Tel: 023 8083 3528
	E-mail	Mel.creighton@southampton.gov.uk	
Author:	Title	Scrutiny Manager	
	Name	Mark Pirnie	Tel: 023 8083 3886
	E-mail	Mark.pirnie@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY
None

BRIEF SUMMARY
<p>For the opening meeting of the inquiry focussing on getting a better deal for private sector renters in Southampton, the Panel will, in accordance with the Inquiry Plan, be considering the following issues:</p> <ul style="list-style-type: none"> • The shape of the private rental sector in Southampton • Understanding tenants needs and concerns • National legislation and policy • How the Council and partners seek to manage and oversee the private rental sector in Southampton.

RECOMMENDATIONS:
(i) The Panel is recommended to consider the comments made by the invited guests and use the information provided as evidence in the review.

REASONS FOR REPORT RECOMMENDATIONS
1. To enable the Panel to compile a file of evidence in order to formulate findings and recommendations at the end of the review process.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED
2. None.

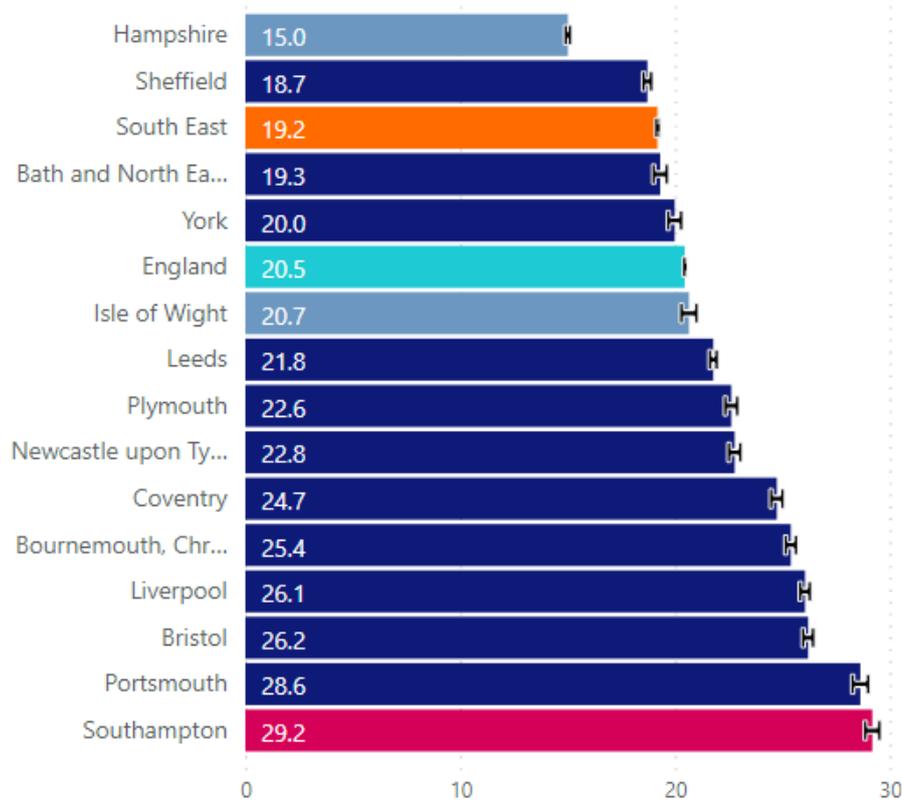
DETAIL (Including consultation carried out)
3. In 2021 29.2% of Southampton’s households lived in private rented sector accommodation (approximately 30,000). This is the highest out of Southampton’s comparator cities ¹ and has increased from 24.9% in 2011. ²

¹ Census 2021 - [Microsoft Power BI](#)

² [How life has changed in Southampton: Census 2021 \(ons.gov.uk\)](#)

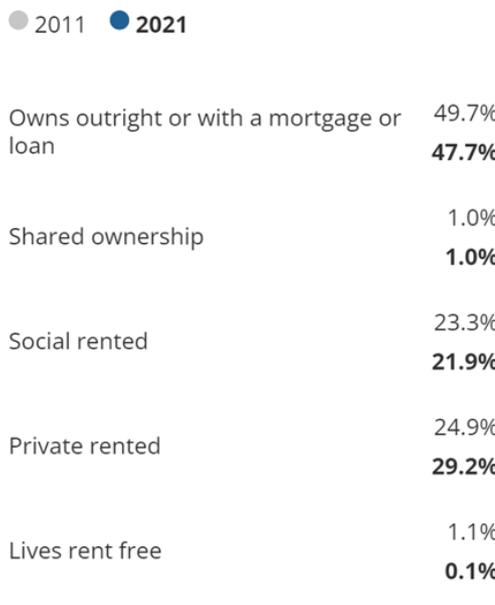
4.

Figure 1 - Tenure of household – Private rented percentage of households, Southampton and ONS Comparators: Census 2021



5.

Figure 2 – Percentage of households by housing tenure, Southampton



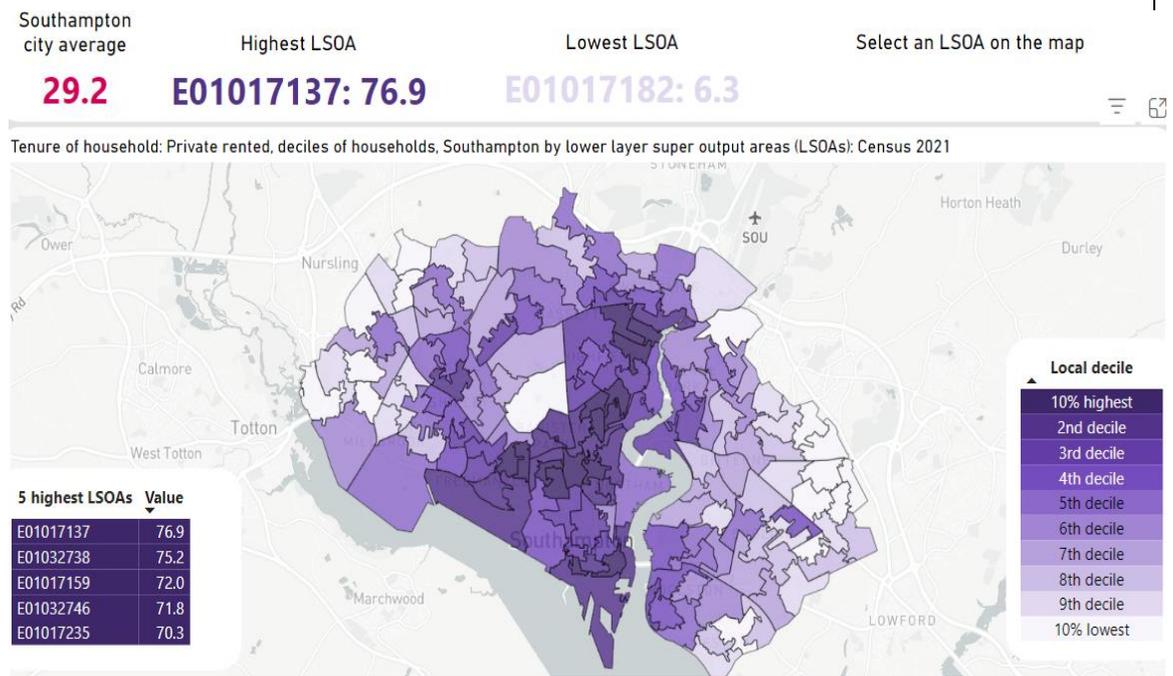
Source: Office for National Statistics – 2011 Census and Census 2021

6.

As identified in Figure 3, the areas of Southampton with the highest percentage of households that are occupied by private renters are located in the central wards of the city, clustered around the inner city and the universities. The highest identified value is 76.9% in the Banister and Polygon Ward.

7.

Figure 3 – Tenure of household: Private rented in Southampton



The cost of renting

8. The ONS Private rental market summary statistics in England from April 2022 to March 2023 identified that the median monthly rent in Southampton was £875³. This is £50 higher than the national median but £123 lower than the South-East median.

2022/2023	Room	Studio	One Bedroom	Two Bedrooms	Three Bedrooms	Four or more Bedrooms	All categories
England Median Rent	£460	£625	£725	£800	£900	£1500	£825
Southampton Median Rent	£420	£600	£700	£900	£1100	£1450	£875

[Private rental market summary statistics in England - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/private-rental-market-summary-statistics-in-england)

Condition

9. A recent private sector stock condition survey has not been undertaken in Southampton. The 2008 Southampton City Council Private Sector House Condition Survey found that over 28,000 (38%) of privately owned and rented homes in the city do not meet the Decent Homes Standard.⁴

Invited Guests

10. To provide context to the information above, and to ensure that the Inquiry Panel have an overview of national and local issues relating to the private rented sector in Southampton, a number of guests have been invited to present at the inaugural meeting of the inquiry:

³ [Private rental market summary statistics in England - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/private-rental-market-summary-statistics-in-england)

⁴ [Housing and Homelessness \(southampton.gov.uk\)](https://southampton.gov.uk/housing-and-homelessness)

- **Conor O'Shea – Policy & Public Affairs Manager, Generation Rent**

[Generation Rent](#) is a campaigning organisation whose mission is for every home in the private rented sector to be safe, secure and affordable. Through their campaigns Generation Rent make sure that the voices of private renters are heard by landlords, by policymakers, and by politicians.

Conor has been asked to provide the inaugural presentation and to outline:

- The key challenges that Private Renters are experiencing in England
- A brief insight outlining the underlying reasons behind the challenges
- Opportunities and potential solutions to the challenges.

Following Conor's presentation, the initial findings from Southampton City Council's Private Renters Survey, attached as Appendix 1, will be discussed.

- **Southampton Tenants Union**

Southampton Tenants Union has been formed to fight for better housing and to reduce the exploitation of tenants in Southampton. The organisation will be present at each meeting of the inquiry and will ensure that the voice of the private renter in the city is heard.

At the 16 November meeting the Tenants Union have been asked to provide a brief overview on the key issues / challenges that have been raised by private sector renters in Southampton. This information can then be compared with the findings from the Private Renters Survey.

- **Representatives from Landlord Organisations**

In addition to the Tenants Union being in attendance at each meeting, representatives from the [National Residential Landlords Organisation](#) (NRLA) and [iHOWZ](#) have been invited to be in attendance to ensure that the voice of the landlord is represented throughout the inquiry.

Liz Mackenzie, Regional Representative from the NRLA, Sam Watkins, Senior Policy Officer at the NRLA and Peter Littlewood, Chief Executive Officer at iHOWZ have been asked to provide an insight into what it is like being a landlord in Southampton.

- **Professor Helen Carr and Dr Mark Jordan from the [People, Property and Community Research Centre, Southampton Law School, University of Southampton](#)**

Professor Carr and Dr Jordan will be expert advisers to the Inquiry Panel and will provide insights at each meeting relating to legislation and alternative practice and approaches. At the inaugural meeting Professor Carr and Dr Jordan will provide an overview of the legislative/policy landscape relating to Private Rented Housing. A briefing paper providing a synopsis of Local Authority regulation of the private rented sector in England is attached as Appendix 2.

	<ul style="list-style-type: none"> • Steven Hayes-Arter, Service Manager for Private Sector Housing & Port Health at Southampton City Council <p>Finally, the City Council's Private Sector Housing Manager will summarise how the Council and partners seek to manage and oversee the private rental sector in Southampton.</p>
11.	<p>The invited guests will take questions from the Panel relating to the evidence provided. Copies of any presentations will be made available to the Panel and will be published on the Inquiry Panel's pages on the Council website:</p> <p>Browse meetings - Scrutiny Inquiry Panel - How do we get a better deal for private sector renters in Southampton? Southampton City Council.</p>
RESOURCE IMPLICATIONS	
<u>Capital/Revenue/Property/Other</u>	
12.	Resources to support the scrutiny review will come from existing budgets.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
13.	The duty to undertake overview and scrutiny is set out in Part 1A Section 9 of the Local Government Act 2000.
<u>Other Legal Implications:</u>	
14.	None
RISK MANAGEMENT IMPLICATIONS	
15.	None
POLICY FRAMEWORK IMPLICATIONS	
16.	None
KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	None
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Southampton Private Rented Sector – Scrutiny Inquiry Panel Survey Report
2.	Briefing paper: Local authority regulation of the private rented sector in England
Documents In Members' Rooms	
1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out?	No
Data Protection Impact Assessment	

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out?		No
Other Background Documents		
Other Background documents available for inspection at:		
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential	
1.	None	

Southampton's private rented sector Scrutiny Inquiry Panel survey report

[Introduction](#)

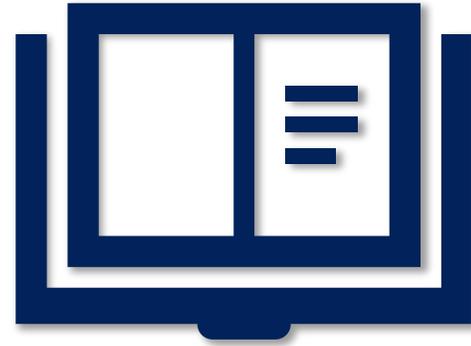
[Who are the respondents?](#)

[Rent, tenancies & living arrangements](#)

- [Who are Southampton's landlords?](#)
- [How long have Southampton's residents been renting for?](#)
- [The cost of renting in Southampton](#)

[Communication with landlords](#)

- [Experiences of interactions with landlords](#)
- [Reporting issues to landlords](#)





Southampton City Council undertook public research into resident experiences of renting in the private sector, to inform the work of the Scrutiny Inquiry Panel into the same issue, due to take place from November 2023.

This online survey took place between **10/10/2023** – **23/10/2023** and received **599** responses. It was distributed to Southampton City Council's People's Panel; a public link was also made available on the Southampton City Council website.

As this research only concerns experiences of renting in the private sector in Southampton, respondents that said they were either not Southampton residents or did not rent privately were not asked to complete the survey; these respondents also do not count towards response totals in the following report.

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This report provides a summary of the survey responses both for the consideration of decision makers and any interested individuals and stakeholders.



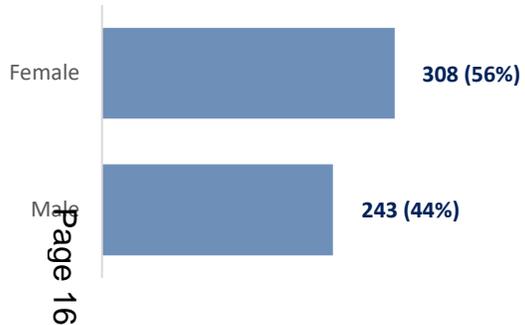
SOUTHAMPTON
CITY COUNCIL



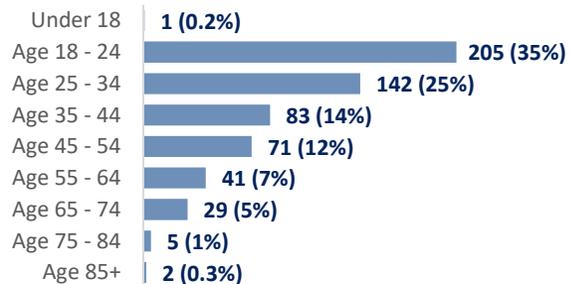
Total responses **599**

Graphs on this page are labelled as count (%).

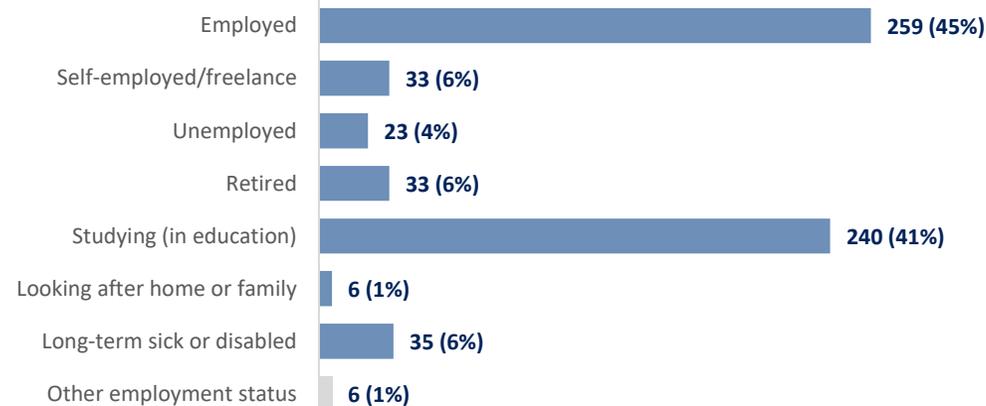
Sex



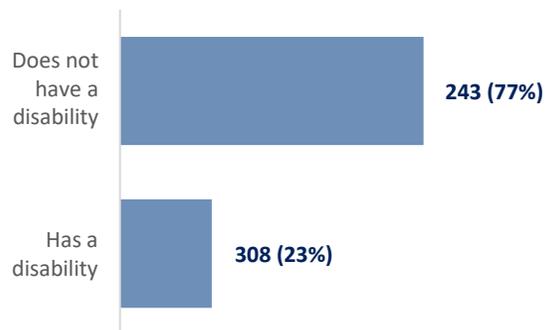
Age



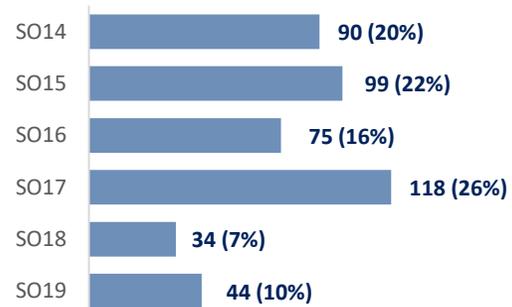
Employment status



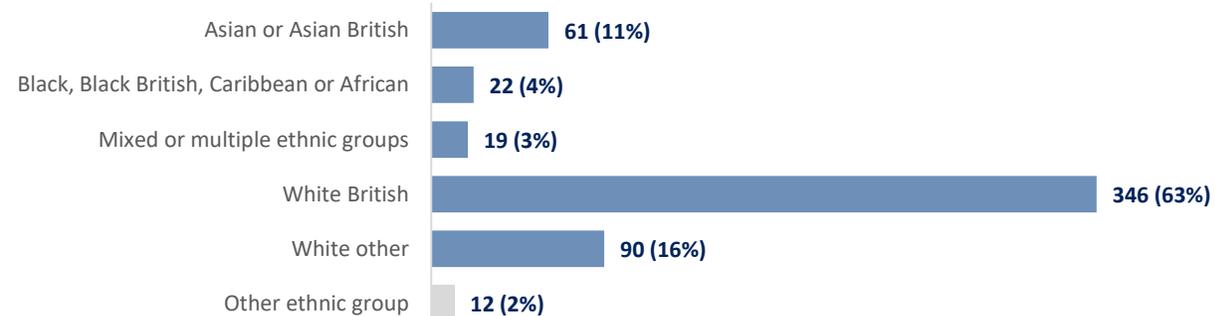
Disability



Postcode



Ethnicity





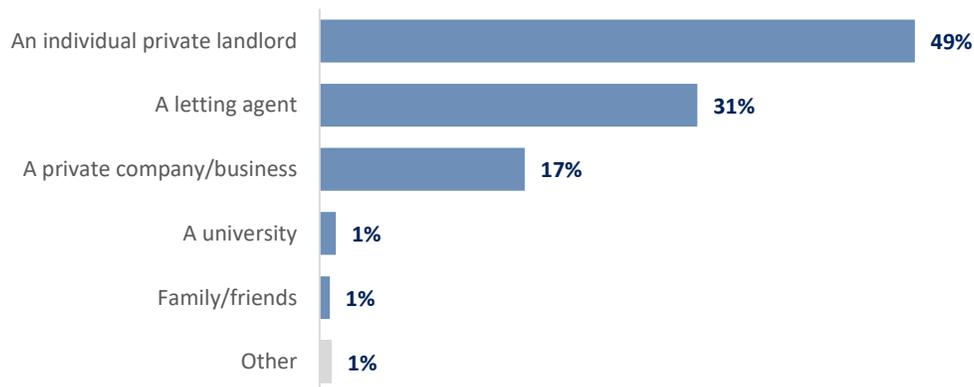
Rent, tenancies & living arrangements





Question 3 | Who are you currently renting from?

Respondents | 599

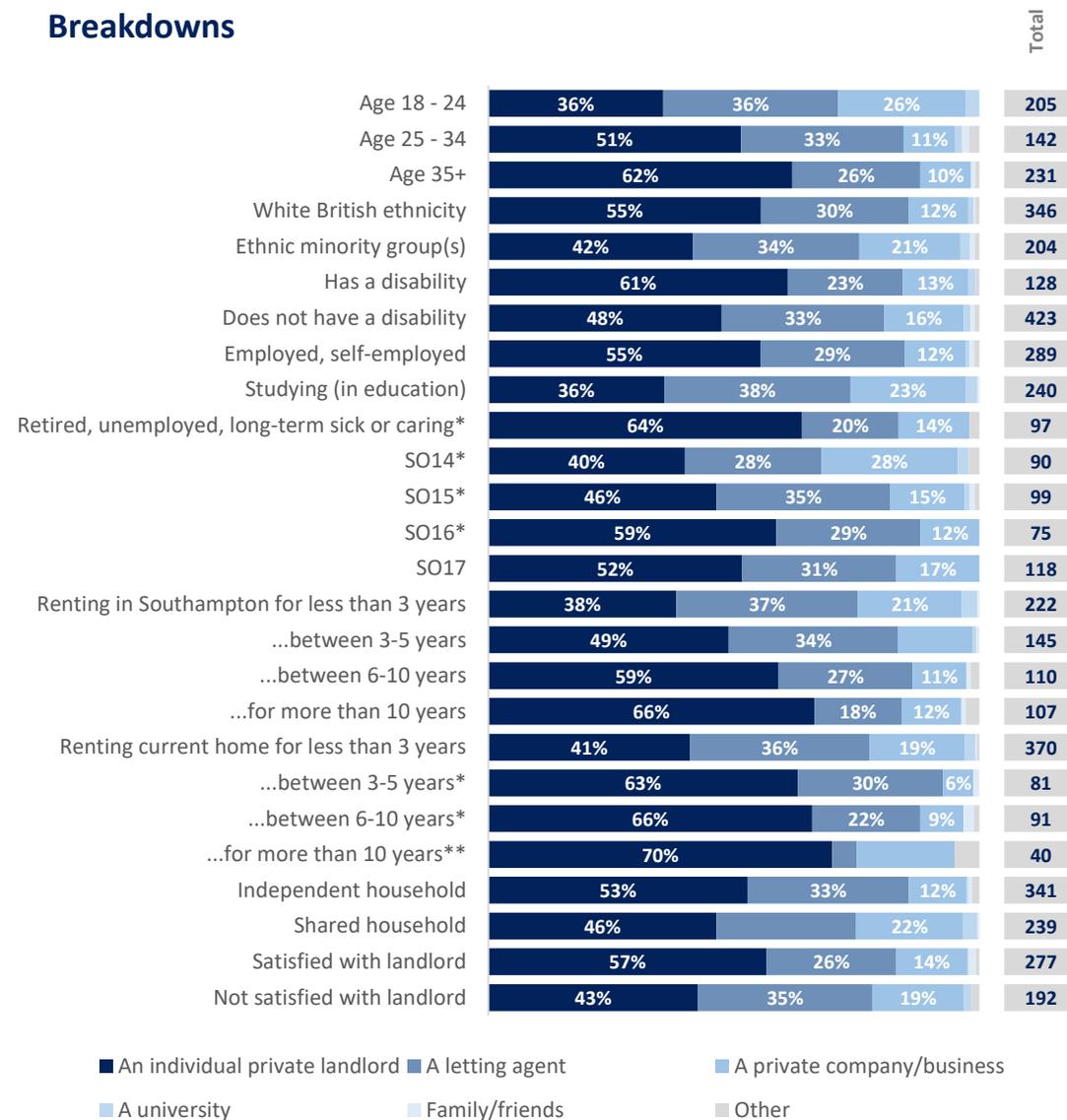


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Key findings

- 62% of those aged over 35 rent via an individual landlord, as opposed to 36% of those aged 18 -24, who rent by individual landlords and letting agents at 36% each and private businesses at 26%
- 55% of respondents of a White British ethnicity rent by individual landlords, 13% points more than respondents from ethnic minority groups (42%)
- 61% of respondents with a disability rent from individual landlords, 13% points more than those that do not have a disability (48%), with the latter renting from letting agents 10% points more than the former (33% to 23%)
- Renting from individual landlords is most common among respondents in SO16 (59%), and is the least common in SO14 (40%), however in each postcode, renting from individual landlords is the most popular response
- Renting from individual landlords is more common among respondents that have been renting for longer: 66% of those that have been renting in Southampton for more than 10 years, and 70% of those that have been renting their current home for more than 10 years
- 57% of those that said they were satisfied with their landlord rent from an individual landlord

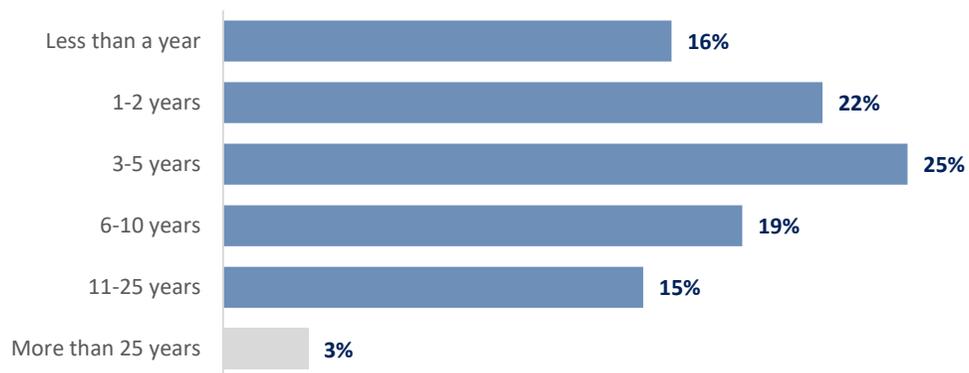
Breakdowns





Question 5 | How long have you been renting from private landlords in Southampton?

Respondents | 584

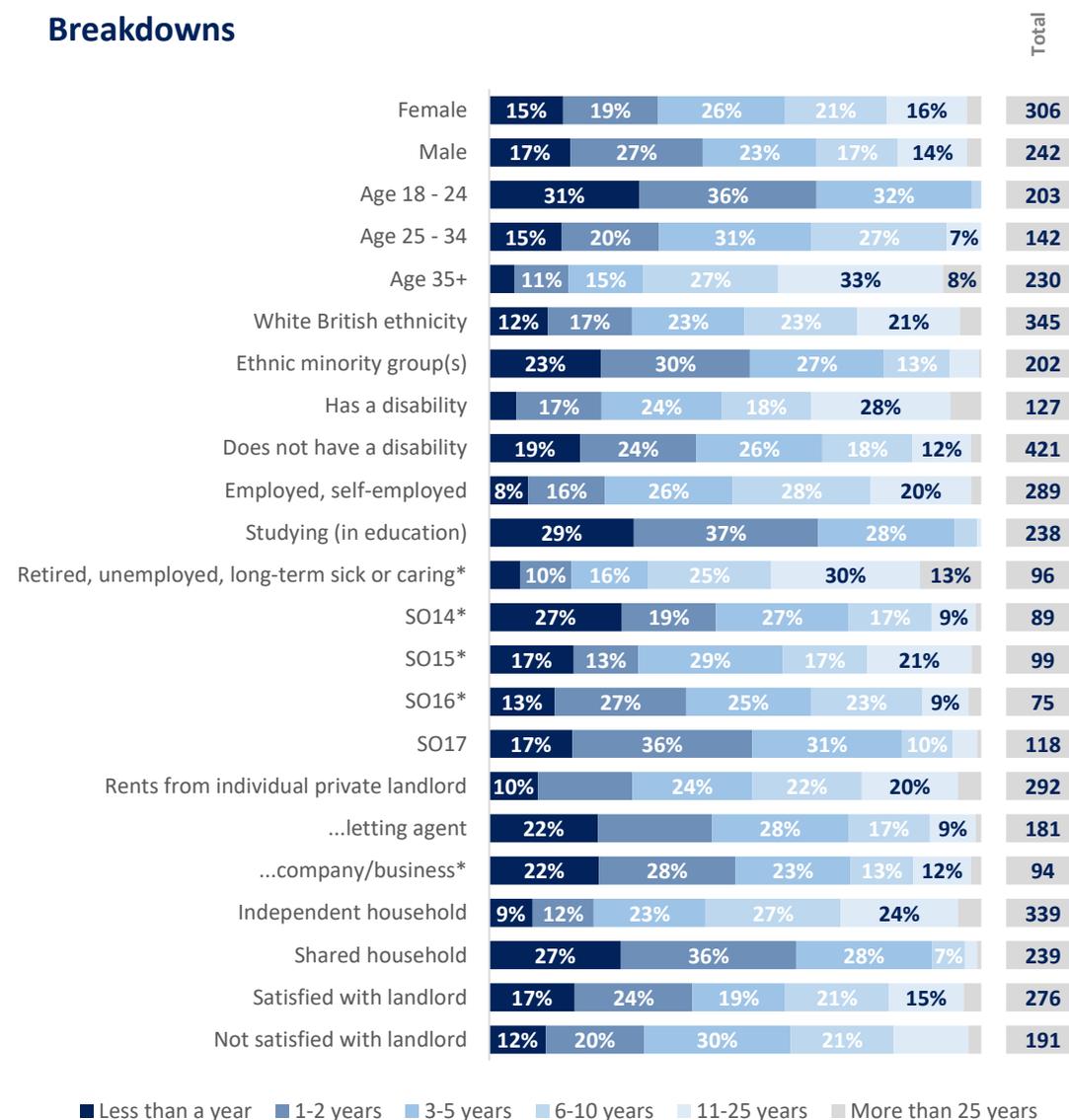


Page 19

Key findings

- Male respondents said that they'd been renting for 1-2 years 8% points more than women, 27% to 19%
- Shorter amounts of time spent renting were more common among ethnic minority respondents than White British respondents; 53% of the former said they'd been renting for 1-2 years or less, compared to the latter, who responded the same at 29%
- It should be noted that some breakdowns show a pattern in response numbers which suggests a large number of undergraduate student respondents: respondents aged 18 – 24, respondents in education, respondents in postcode SO17, and those living in a shared household all show responses split roughly into thirds, between rental periods of less than a year, 1-2 years, and 3-5 years – these marry up with the three academic years of a standard full-time undergraduate degree. SO17 is also the main postcode of the University of Southampton's Highfield campus, with the lower response rate for rental periods of less than a year possibly explained by the number of students in halls of residence in their first year of study
- Residents that have a disability said that they've been renting for longer than those that do not have a disability; 28% of respondents with a disability have been renting between 11-25 years, compared to 12% of those without a disability

Breakdowns



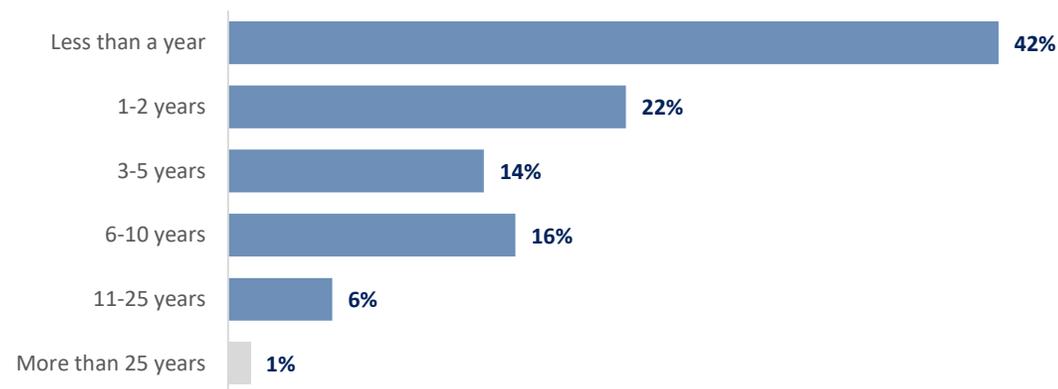
Legend: ■ Less than a year ■ 1-2 years ■ 3-5 years ■ 6-10 years ■ 11-25 years ■ More than 25 years

*Less than 100 respondents; **less than 50 respondents.



Question 6 | How long have you been renting your current home?

Respondents | 582

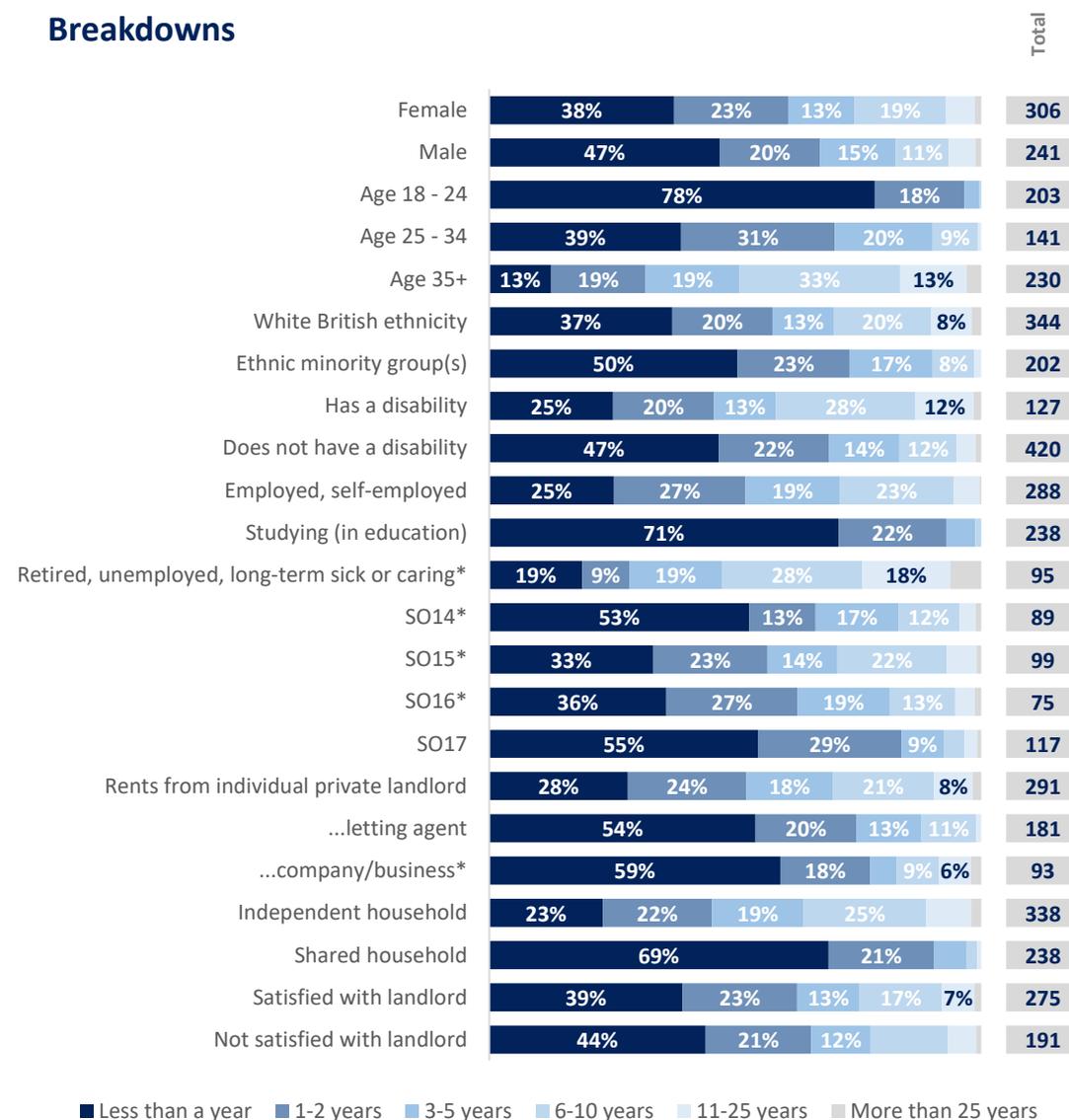


Page 20

Key findings

- The duration of ongoing tenancies are shorter than the length of time respondents said they've been renting overall; while 15% of respondents said that they've been renting in Southampton between 11-25 years, for this question, 6% of respondents said they've been renting their current home for the same amount of time. Similarly, 42% of respondents said that they've been renting their current home for less than a year, compared to 16% that said they've been renting in Southampton generally for the same duration
- Again, tenancies of an ongoing duration of less than a year are most common in student demographics: 78% of 18-24 year-olds; 71% of those in education; 55% of residents of postcode SO17; and 69% of respondents living in shared households
- More men said they've been renting their current home for less than a year than women (47% to 38%), and respondents from an ethnic minority background said they've been living in their current home for less than a year 13% points more than respondents of a White British ethnicity (50% to 37%)
- Over half of respondents in postcode SO14 said they'd been renting their current home for less than a year (53%)
- Longer-term tenancies were more popular as a response with respondents that have a disability than those without; 42% of the former have been renting their current home between 6-10 years or more, while 17% of respondents without a disability said the same

Breakdowns

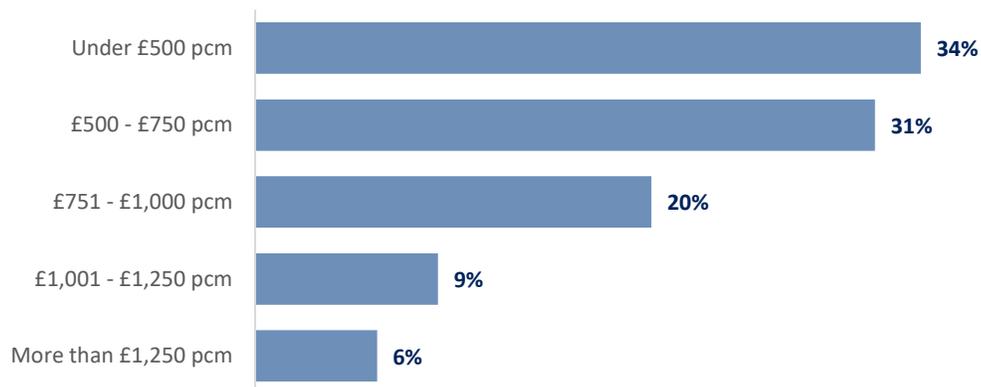


Legend: ■ Less than a year ■ 1-2 years ■ 3-5 years ■ 6-10 years ■ 11-25 years ■ More than 25 years

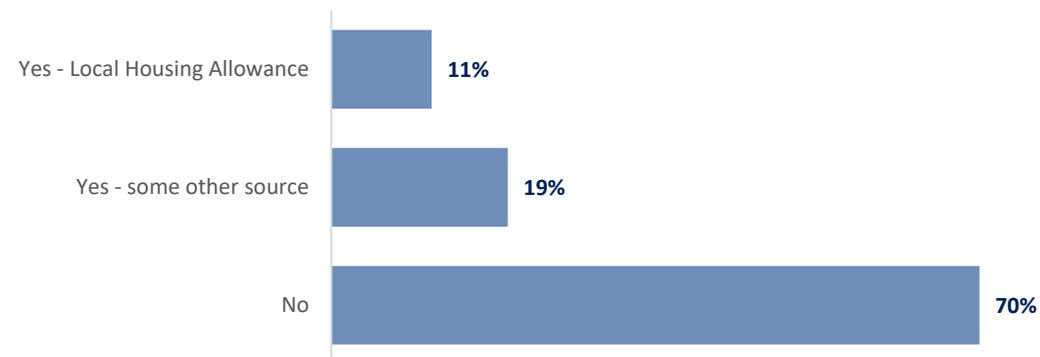
*Less than 100 respondents; **less than 50 respondents.



Question 9 | How much do you currently pay each month for your rent, excluding utility bills and Council Tax? Respondents | 391

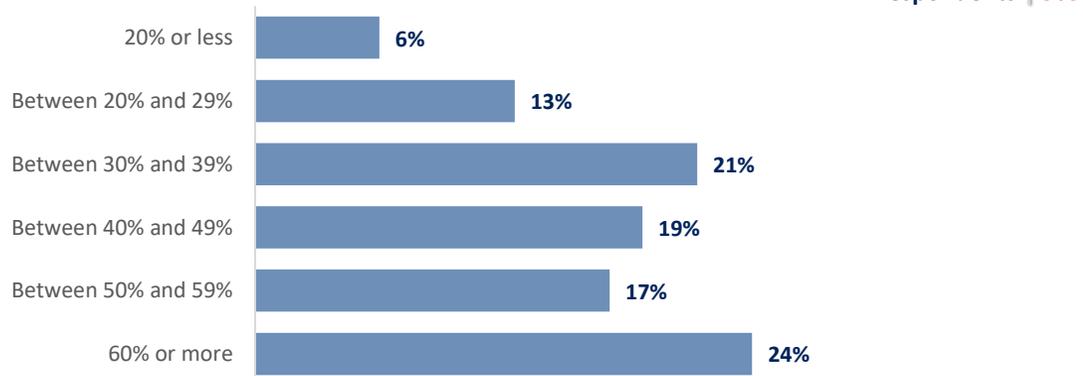


Question 11 | Do you receive any financial help with your rent? Respondents | 571

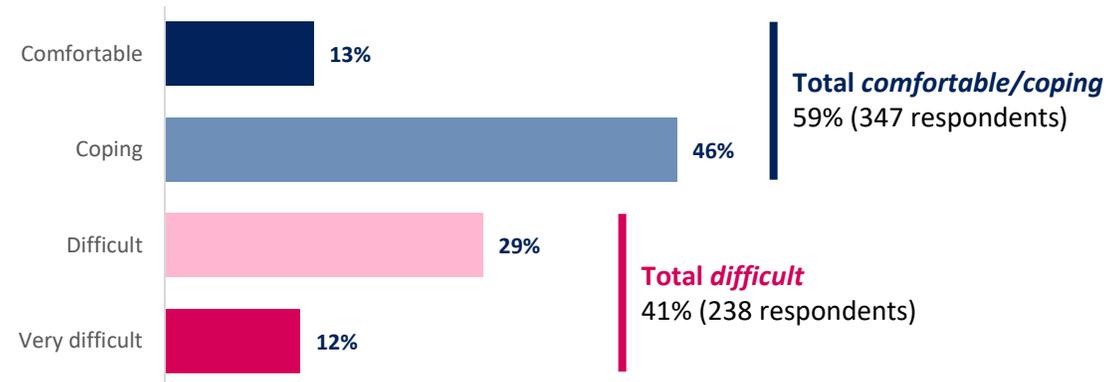


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Question 10 | How much of your monthly income do you currently spend on rent? Respondents | 565



Question 12 | Which of the following best describes your household finances? Respondents | 585





Question 9 | How much do you currently pay each month for your rent, excluding utility bills and Council Tax? *free-text question*

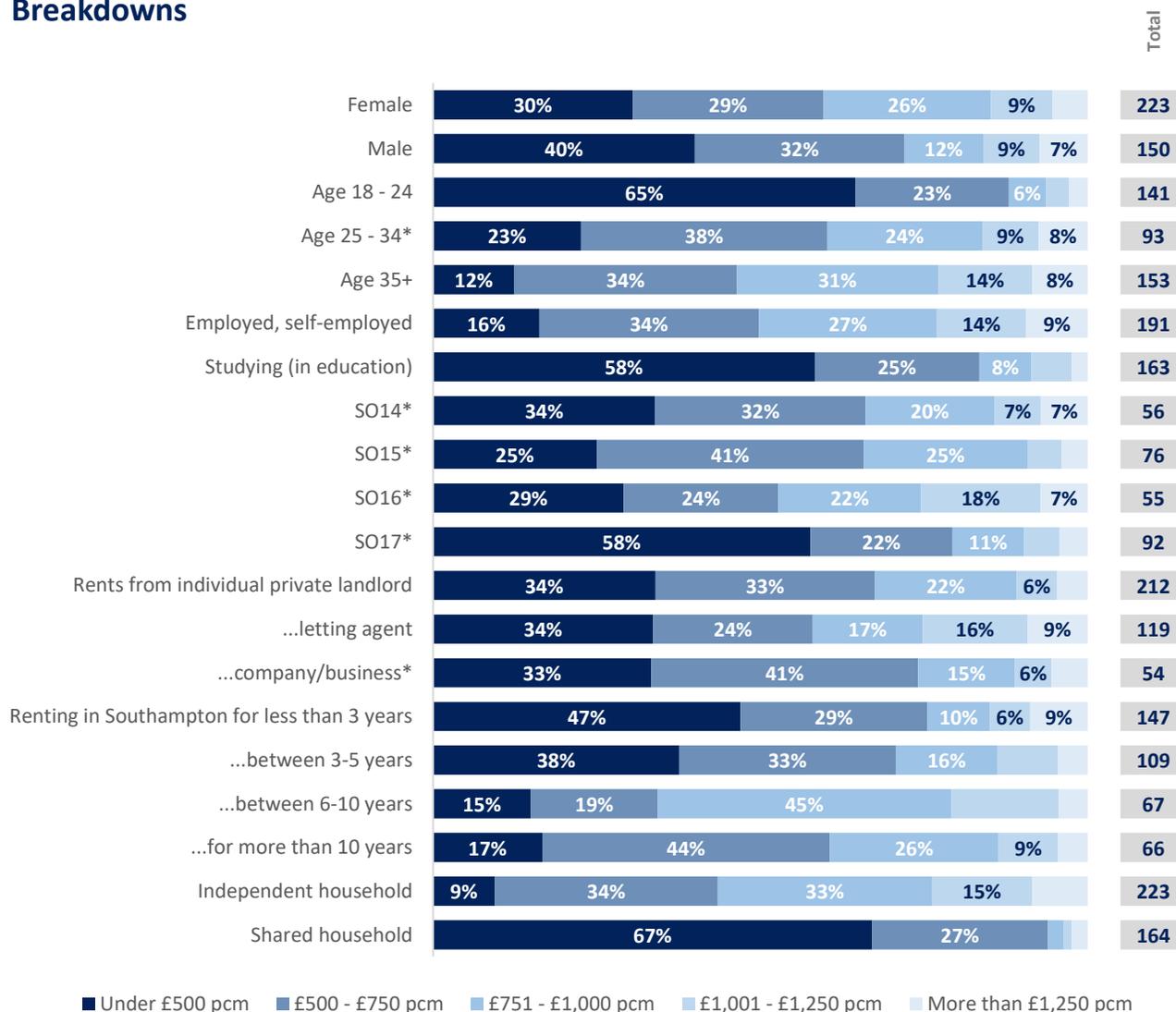
Respondents | 391

Key findings

- Men said that they paid less than £500 pcm in rent 10% points more than women, 40% to 30%
- The proportion of respondents saying that they pay more than £750 pcm in rent increases with age, from 12% of 18 – 24 year-olds to 40% of 25-34 year-olds and 54% of those aged 35 or older
- Respondents said that the different types of landlord in the breakdowns (individual, letting agent, or business) each provided rent under £500 pcm at similar levels (between 33% and 34%). For other rent levels, the landlord types differed, with 33% of respondents with individual private landlords paying between £500 - £750 pcm in rent, compared to 24% of respondents renting from a letting agent. 33% of respondents with individual private landlords pay more than £750 pcm in rent, compared to 42% of those renting from a letting agent
- Responses further indicate that rent appears to increase the longer the respondent has been renting; 47% of respondents that have been renting privately for less than 3 years pay less than £500 pcm in rent, compared to 17% of those that have been renting for more than 10 years. The most popular response on rent levels for those that have been renting between 6 – 10 years is between £751 - £1,000 pcm at 45%, whereas the most popular response with those that have rented for more than 10 years is between £500 - £750 pcm at 44%. Thus the rent level of the most popular response increases from respondents renting for less than 3 years to those having rented for between 6 – 10 years, before falling again among respondents having rented for over a decade

Page 22

Breakdowns



Legend: ■ Under £500 pcm ■ £500 - £750 pcm ■ £751 - £1,000 pcm ■ £1,001 - £1,250 pcm ■ More than £1,250 pcm

*Less than 100 respondents; **less than 50 respondents.



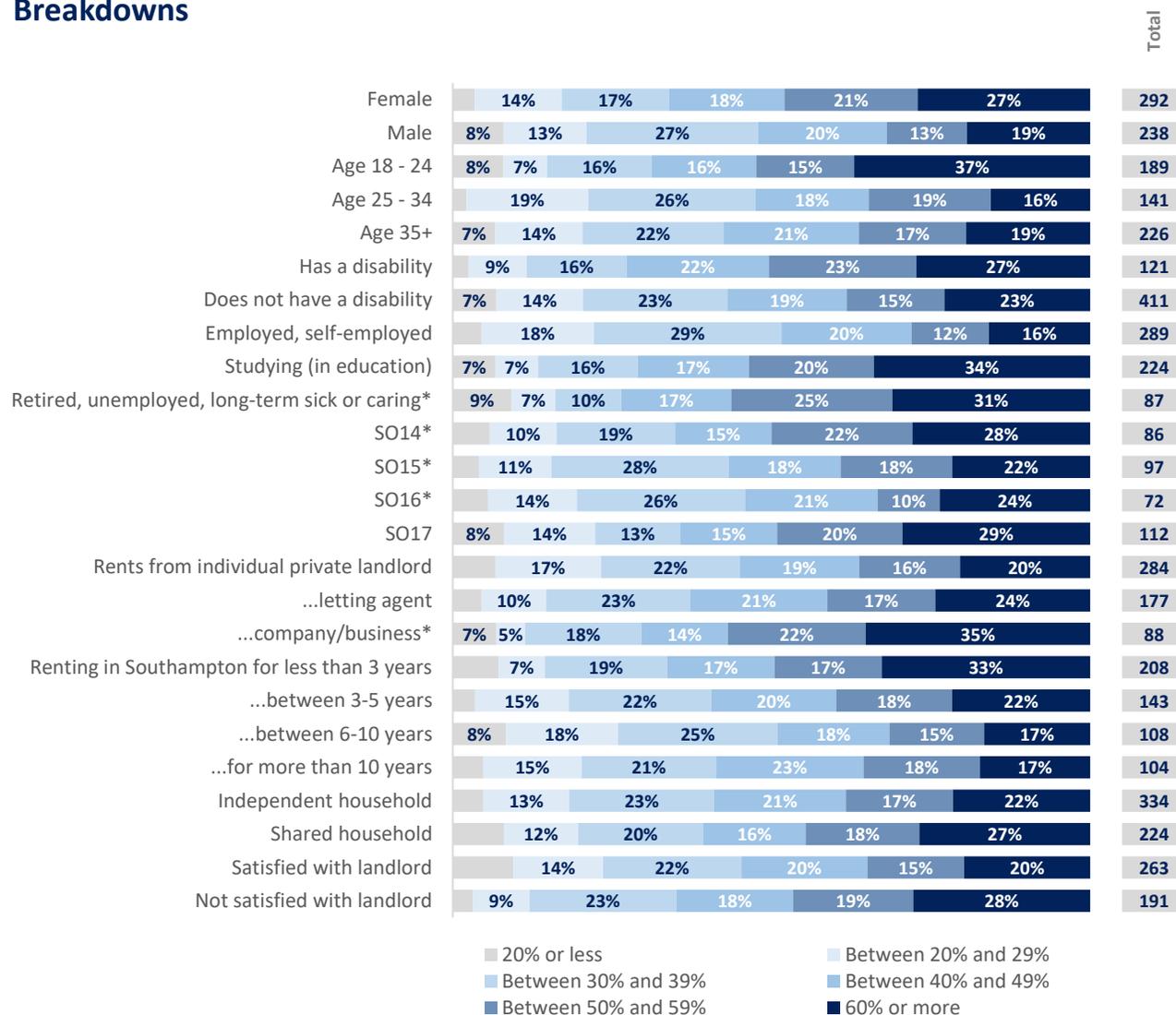
Question 10 | How much of your monthly income do you currently spend on rent? Respondents | 565

Key findings

- More than half of respondents in multiple breakdowns spend over 50% of their monthly income on rent: 18 – 24 year-olds (52%), has a disability (50%), in education (54%), retired, unemployed, long-term sick or with caring responsibilities (56%), postcode SO14 (50%), those that rent from a company or business (57%), and those that have been renting in Southampton for less than 3 years (50%)
- Women said that they spend over 60% of their monthly income on rent 12% points more than men, 27% to 19%; 48% of women said they spend more than 50% of their monthly income on rent, more than 16% points more than men at 32%
- There is a similar situation in the disability breakdown: respondents with a disability said that they spend more than 50% of their monthly income on rent 12% points more than those without a disability, 50% to 38%
- Respondents that rent from a company or business pay more than 50% of their income on rent 16% points more than those that rent from a letting agent and 21% points more than those that rent from an individual private landlord
- The proportion of their incomes respondents say they spend on rent decreases with longer tenancies: 50% of those renting for less than 3 years pay more than 50% of their income on rent, compared to 36% of those that have been renting for over a decade

Page 23

Breakdowns



■ 20% or less ■ Between 20% and 29%
 ■ Between 30% and 39% ■ Between 40% and 49%
 ■ Between 50% and 59% ■ 60% or more



Question 11 | Do you receive any financial help with your rent?

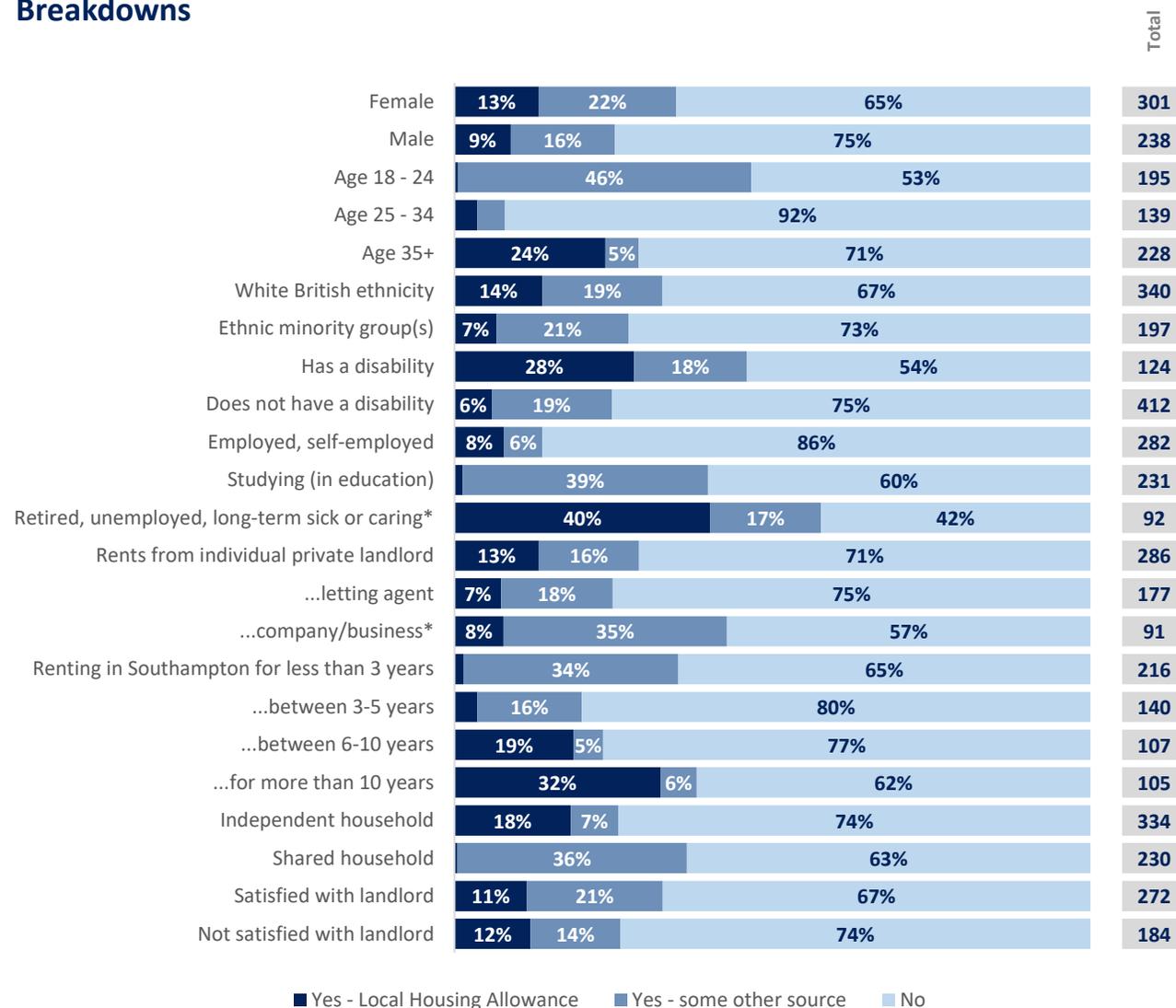
Respondents | 571

Key findings

- 35% of female respondents said that they receive support with their rent, compared to 25% of men
- 8% of 25 – 34 year-old respondents said they receive financial help with their rent, compared to 29% of those aged over 35 that said that they do
- Respondents that have been renting for longer said that they receive Local Housing Allowance (LHA) to a greater extent than others: 32% of those renting for over a decade said they receive LHA, compared to 19% of those renting between 6 – 10 years and 4% of those renting between 3 – 5 years
- Respondents that said they are satisfied with their landlord confirmed they receive financial support with their rent to a greater extent than those dissatisfied with their landlord, 32% to 26%

Page 24

Breakdowns





Question 13 | Which of the following best describes your current household finances?

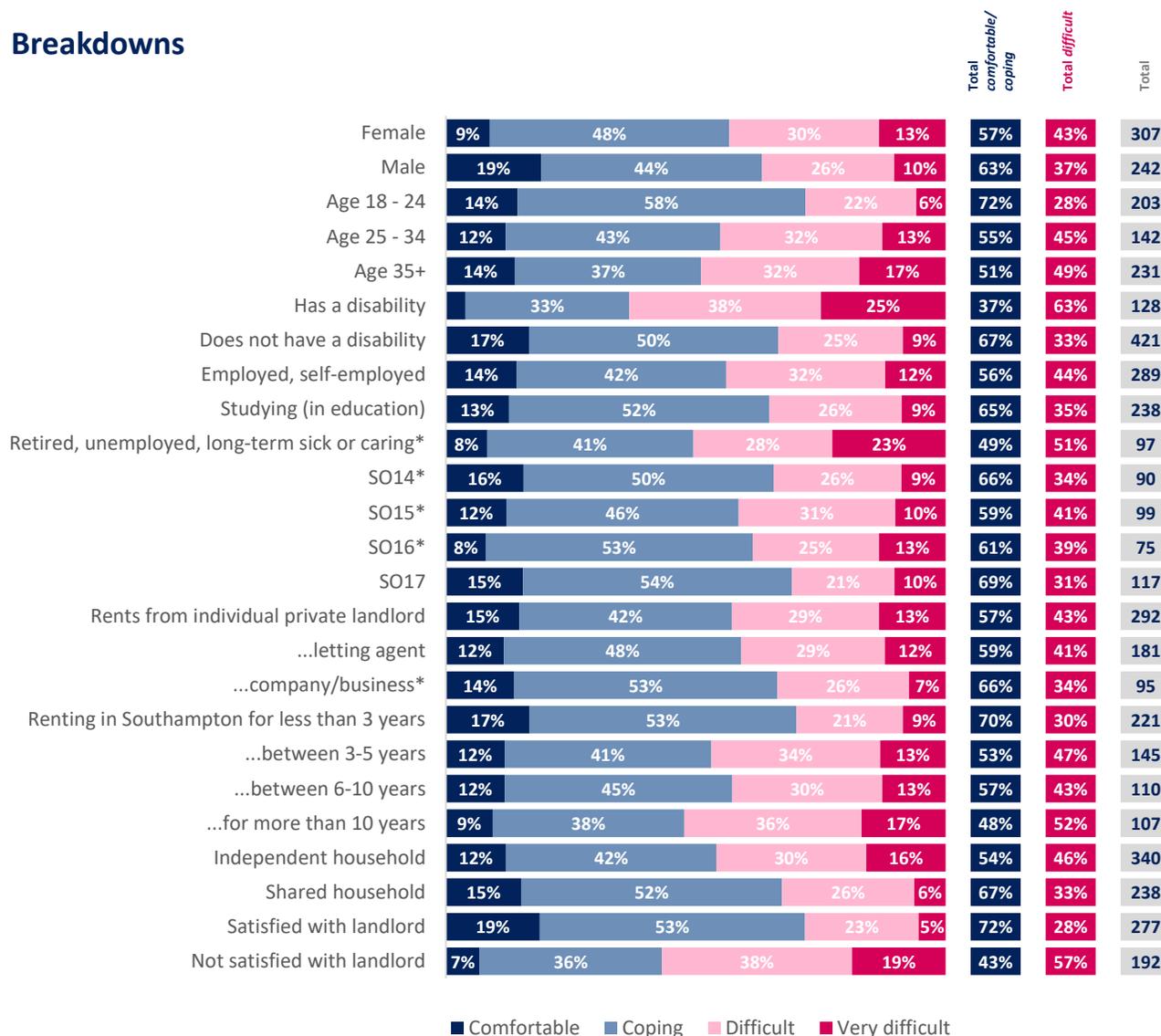
Respondents | 585

Key findings

- Female respondents said that their household finances are *difficult* 6% points more than men, 43% to 37%, although both responded either *comfortable* or *coping* by more than 50%
- 72% of respondents between 18 – 24 years-old said that their household finances were *comfortable* or *coping*, the highest of any breakdown, 21% points more than respondents aged over 35 (51% *comfortable* or *coping*)
- Respondents with a disability said that their household finances were *difficult* at 63%, including 25% that said they were *very difficult*
- 52% of respondents that have been renting in Southampton for more than 10 years said that their household finances were *difficult*, and 57% of those not satisfied with their landlord responded the same

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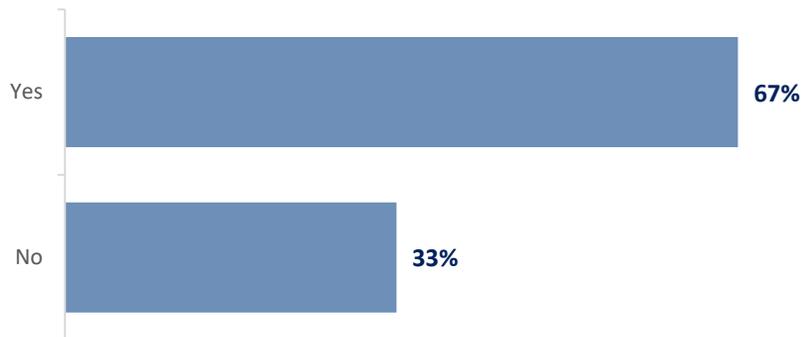
Breakdowns



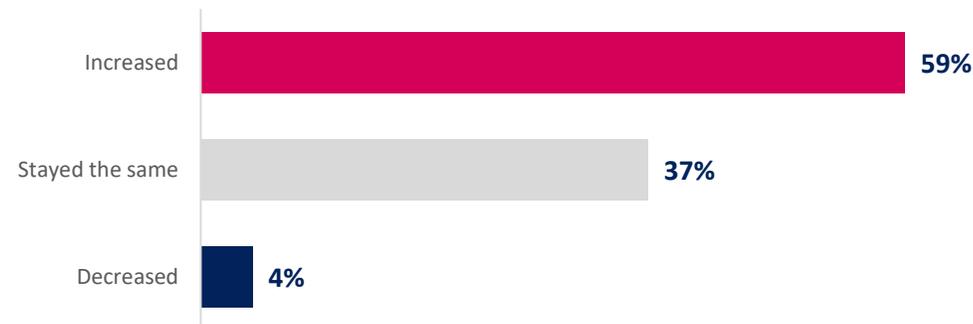
■ Comfortable ■ Coping ■ Difficult ■ Very difficult



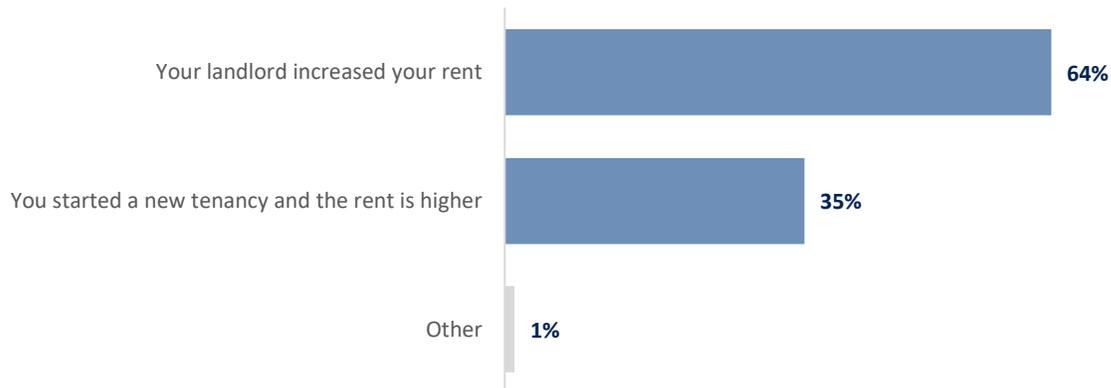
Question 14 | Have you started a new tenancy or renewed an existing tenancy at any point in the last 12 months? Respondents | 585



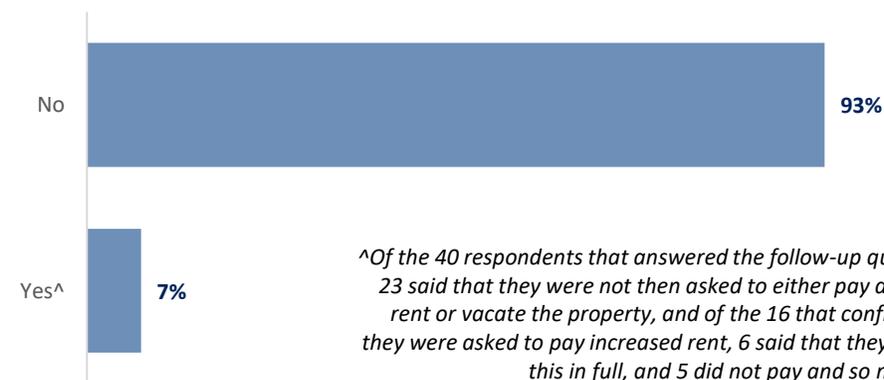
Question 15 | Has your rent increased, decreased, or stayed the same over the last 12 months? Respondents | 581



Question 16 | Which of the following best describes why your rent has increased? Respondents | 340



Question 18 | In the last five years, have you ever been served an eviction (Section 21) notice by your landlord? Respondents | 587



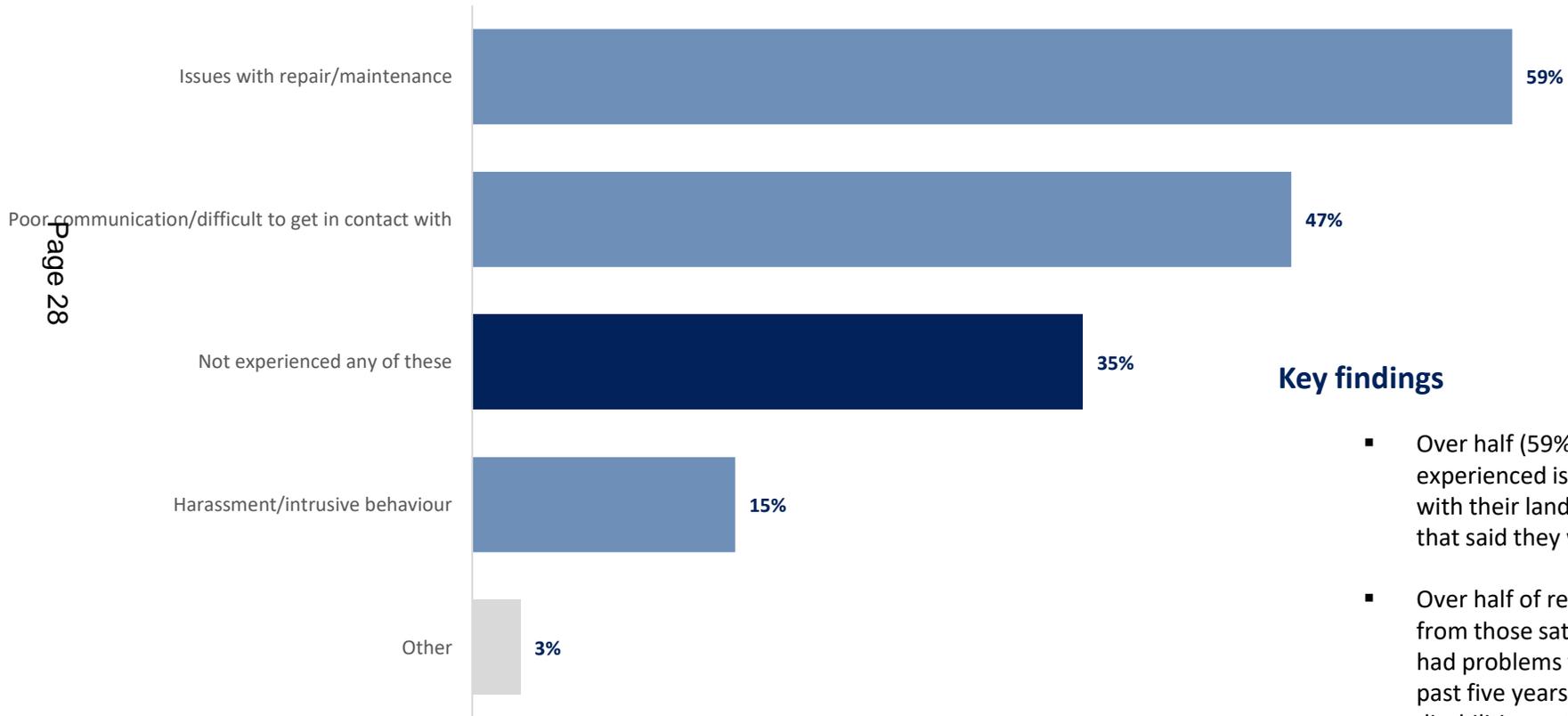
^Of the 40 respondents that answered the follow-up question 19, 23 said that they were not then asked to either pay an increase rent or vacate the property, and of the 16 that confirmed that they were asked to pay increased rent, 6 said that they then paid this in full, and 5 did not pay and so moved out.



Communication with landlords



Question 20 | Over the last five years of renting privately in Southampton, have you experienced any of the following problems with your landlord or letting agent? multiple-choice question Respondents | 571



Key findings

- Over half (59%) over respondents said that they experienced issues with repairs or maintenance with their landlord, including 94% of respondents that said they were dissatisfied with their landlord
- Over half of respondents in every breakdown (apart from those satisfied with their landlord) said they had problems with repairs and maintenance in the past five years, including 72% of respondents with disabilities and 65% of those aged between 18 - 24

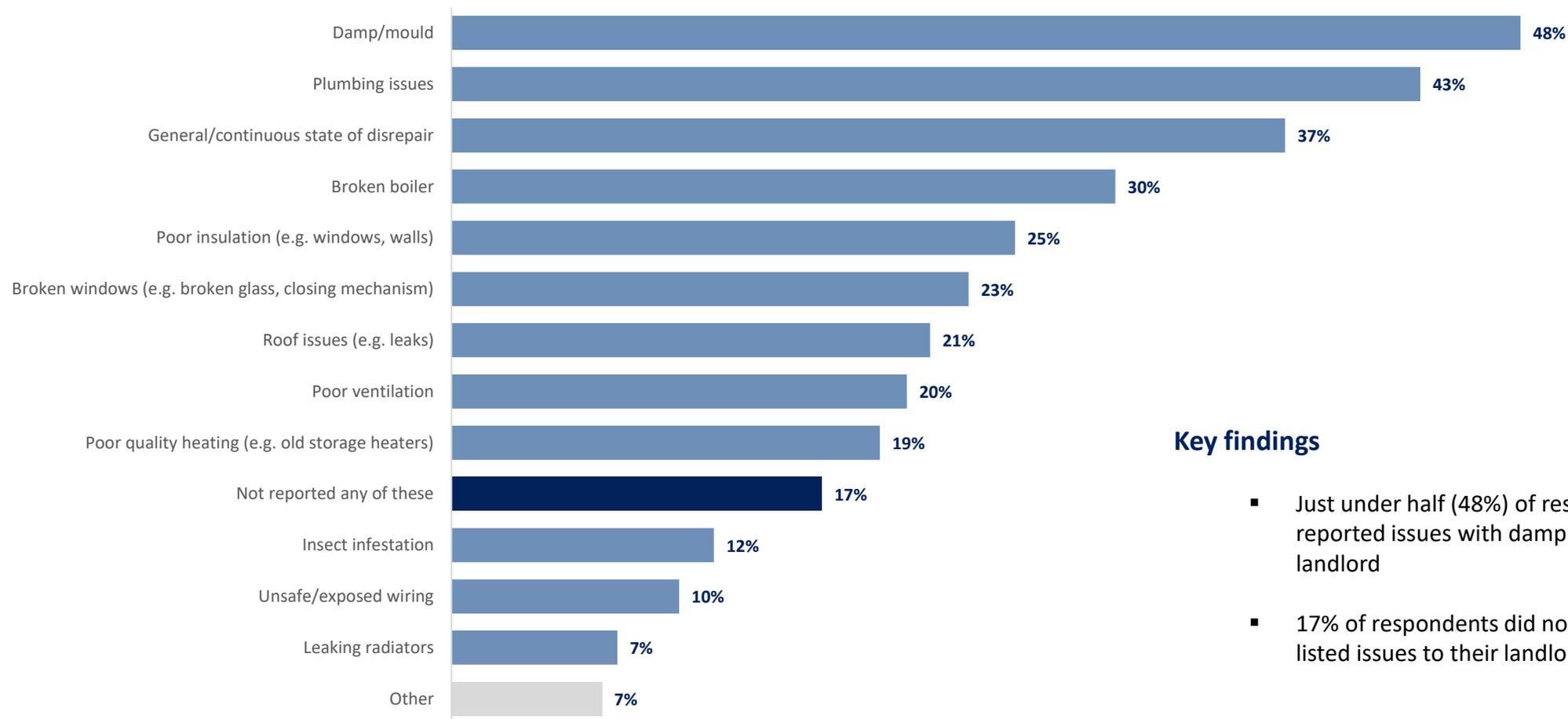
Page 28





Question 22 | Have you ever reported any of the following problems about the condition of your home to your landlord? *multiple-choice question*

Respondents | 578



Key findings

- Just under half (48%) of respondents have reported issues with damp or mould to their landlord
- 17% of respondents did not report any of the listed issues to their landlord



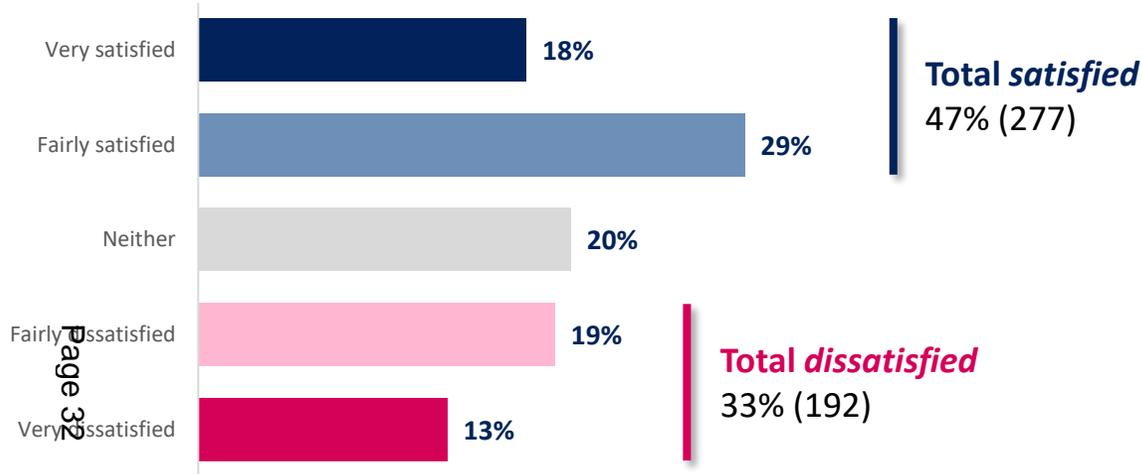
Reporting issues to landlords | Breakdowns[^]

[^]Breakdowns where overall respondents totalled 100 or more.

	Damp/mould	Plumbing issues	General/ continuous state of disrepair	Broken boiler	Poor insulation (e.g. windows, walls)	Broken windows (e.g. broken glass, closing mechanism)	Roof issues (e.g. leaks)	Poor ventilation	Total
Female	53%	42%	38%	31%	25%	25%	25%	18%	307
Male	41%	45%	37%	28%	25%	21%	17%	22%	236
Age 18 - 24	57%	44%	42%	23%	29%	23%	15%	28%	200
Age 25 - 34	54%	43%	44%	31%	24%	28%	26%	24%	140
Age 35+	37%	44%	30%	35%	23%	21%	25%	12%	230
White British ethnicity	51%	47%	37%	34%	27%	23%	24%	21%	342
Ethnic minority group(s)	43%	38%	38%	25%	21%	23%	18%	19%	200
Has a disability	59%	48%	41%	36%	36%	27%	31%	21%	128
Does not have a disability	43%	42%	36%	27%	22%	21%	18%	20%	415
Employed, self-employed	44%	44%	35%	36%	23%	25%	27%	18%	285
Studying (in education)	55%	43%	39%	23%	29%	23%	14%	27%	235
Rented, unemployed, long-term sick or caring*	50%	42%	40%	29%	28%	22%	25%	14%	96
SO14*	46%	44%	38%	21%	22%	23%	20%	22%	87
SO15*	46%	44%	35%	32%	20%	26%	26%	15%	98
SO16*	39%	46%	35%	31%	27%	32%	27%	19%	74
SO17	61%	53%	46%	27%	34%	24%	20%	32%	117
Rents from individual private landlord	48%	44%	37%	31%	26%	26%	23%	20%	288
Rents from letting agent	51%	38%	39%	28%	25%	22%	23%	19%	180
Rents from company/business*	43%	49%	35%	27%	22%	15%	14%	17%	93
Renting in Southampton for less than 3 years	45%	39%	36%	18%	21%	18%	11%	22%	217
...between 3-5 years	62%	49%	45%	31%	34%	30%	23%	29%	143
...between 6-10 years	40%	39%	32%	38%	17%	21%	32%	13%	108
...for more than 10 years	45%	51%	36%	43%	33%	26%	30%	15%	107
Independent household	43%	42%	34%	32%	23%	23%	24%	15%	338
Shared household	56%	46%	43%	26%	28%	24%	18%	28%	234
Satisfied with landlord	32%	31%	16%	22%	12%	13%	16%	6%	269
Not satisfied with landlord	68%	59%	69%	42%	42%	36%	32%	39%	192

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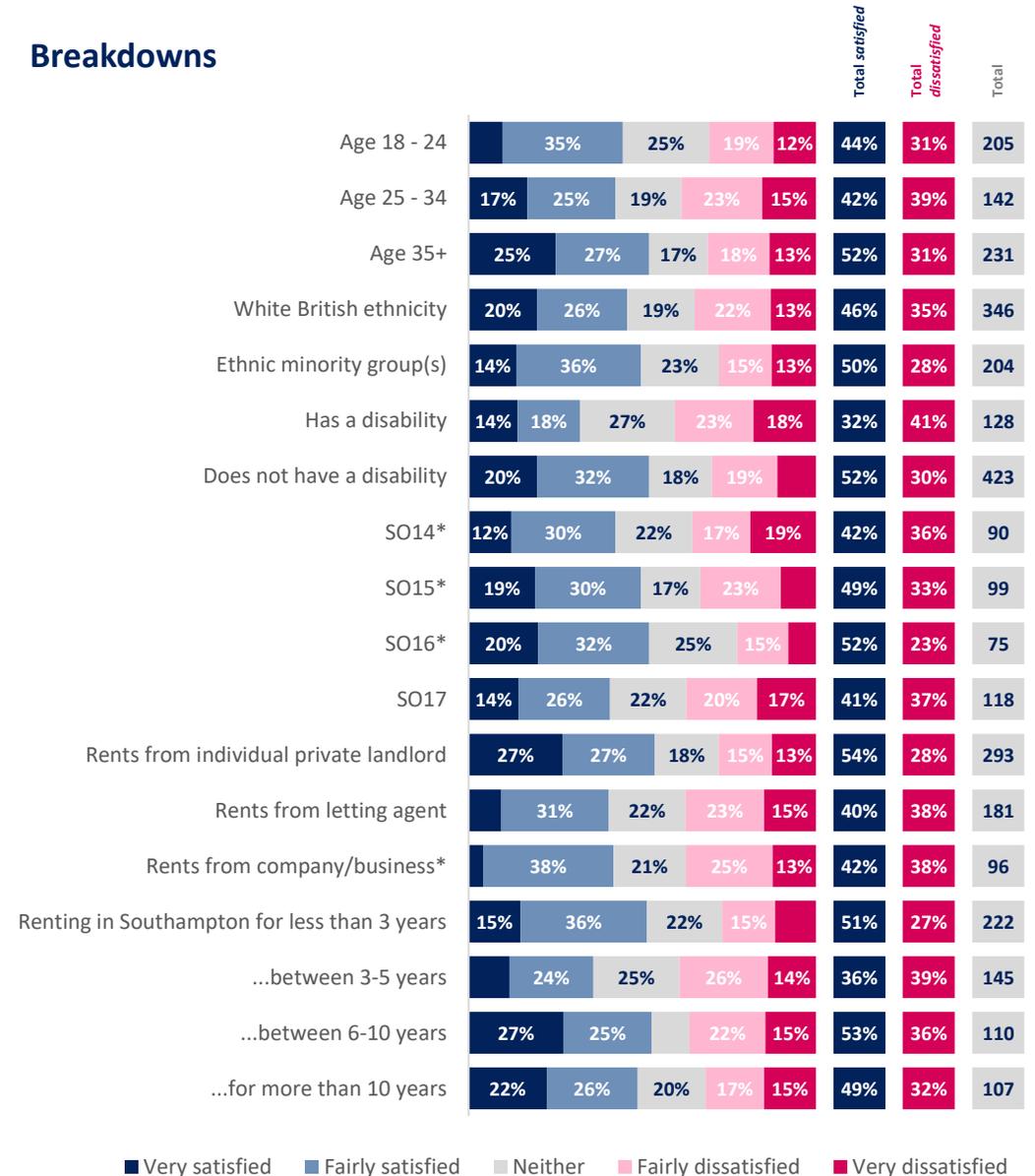
Question 24 | To what extent are you satisfied or dissatisfied with the service your landlord provides overall?
 Respondents | 587



Key findings

- 47% of respondents said they were satisfied with their landlords, compared to 33% that are dissatisfied
- Those that rent from an individual landlord responded overall *satisfied* to a greater extent than either those that rent from a letting agent or those that rent from a business (54% compared to 40% and 42% respectively)
- Respondents with a disability responded *satisfied* 20% points less than those without a disability (32% to 52%)
- Those that have been renting for between 3 – 5 years responded *satisfied* at 36%, compared to the range of 49% to 53% of the other tenure breakdowns

Breakdowns



*Less than 100 respondents; **less than 50 respondents.

Draft Briefing paper: Local authority regulation of the private rented sector in England

SCC Scrutiny Inquiry

6/11/2023

Dr Mark Jordan and Professor Helen Carr, Centre for People, Property and Community,
Southampton Law School, University of Southampton

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Introduction

Private rented housing in England is subject to an extensive regulatory framework which governs, amongst other things, the landlord-tenant tenancy agreement (security of tenure, rent, repair etc.), the building that is subject to the tenancy (housing safety standards), deposit protection, as well as the professional intermediaries involved in creating the tenancy (estate agents). This framework is underpinned by over 30 pieces of housing legislation which in some cases can be traced back to the late 19th and early 20th century. The legal rules contained in this legislation are complex, voluminous yet neither comprehensive nor coherent, and difficult to locate. These characteristics, in themselves, are likely to operate as barriers to access to justice and have been recognised as an impediment to local authority enforcement work.¹ These difficulties are compounded by the fact that tenancy terms do not necessarily state the correct legal position of the parties to the agreement, a tendency for strenuous litigation in connection with rights as well as some judicial suspicion of rights leading to ‘windfall gains’ to unmeritorious tenants and as such it is reasonable to conclude that the law does not work well for many of the stakeholders in the sector. In this introductory briefing paper, we provide a brief explanation of the law and policy underpinning the regulation of the private rented sector. We begin by giving an overview of the current regulatory context, which we refer to as ‘regulated deregulation’. We then set out the regulatory role of local authorities in relation to private rented housing and identify some barriers and drivers of enforcement and some examples of good enforcement practice. We conclude the paper with a list of the major statutes underpinning regulation of the private rented sector and a bibliography.

1 Current regulatory context

1.1 Regulated deregulation

We use the term ‘regulated deregulation’ to describe the current regulatory approach that applies to private rented housing in England because it effectively captures the piecemeal, frequently incoherent and often contradictory development of renting law during the past four decades.

The ‘deregulation’ aspect of this term refers to the deregulation of the individual tenancy agreement by the Housing Act 1988. For much of the 20th century, renting laws, such as the Rent Act 1977, restricted the amount of rent a landlord could charge and provided tenants with security of tenure by placing significant procedural and substantive restrictions on the landlord’s ability to recover possession. The Conservative governments of 1979 – 1997 initiated a sustained period of deregulation in order to create a market in rented housing that would facilitate labour mobility. The Housing Act 1988 was the centrepiece of this programme and it effectively removed rent regulations from all new tenancies and greatly facilitated the landlord’s right to regain possession by introducing a ‘no fault’ ground for possession under section 21.

The ‘regulated’ aspect of the term captures how despite subsequent UK governments accepting the marketized private tenancy regime of the Housing Act 1988, they have nonetheless introduced rafts of legislation that have greatly expanded the regulatory framework governing the private rented sector. This began with Labour (1997-2010) which sought to make rented housing safer and to ‘modernize’ the management of housing conditions. The Housing Act 2004 introduced a risk-based approach to local authority intervention in housing conditions via the Housing Health and Safety Rating System (HHSRS) and a system of licensing primarily targeting large Houses in Multiple Occupation which presented the greatest risks to occupiers. Selective and additional licensing was

¹ <https://www.gov.uk/government/publications/local-authority-enforcement-in-the-private-rented-sector-headline-report/local-authority-enforcement-in-the-private-rented-sector-headline-report>

also available to local authorities when required to tackle housing problems. The Housing Act 2004 includes provisions to protect tenancy deposits and enable tenants and local authorities to apply for Rent Repayment Orders (RROs). The Act also provided for Empty Dwelling Management Orders, interim and final management orders and overcrowding notices. The Act provides the statutory basis for the main local authority powers in connection with the private rented sector.

The various Conservative administrations since 2010 have continued with the approach of regulated deregulation. The Deregulation Act of 2015 banned retaliatory evictions, evictions which are in response to a tenant complaining about housing conditions. However, very tight requirements have meant that the legislation is not very effective. The Housing and Planning Act 2016 introduced banning orders, the database of rogue landlords and property agents and extended the availability of RROs to tenants by scrapping the requirement for a conviction. Following the terrible loss of life at Grenfell Tower Theresa May's administration passed the Home (Fitness for Human Habitation) Act 2018 which introduced an implied covenant into a tenancy agreement that the property will be fit for human habitation. That administration also introduced the Tenants Fees Act 2019, which banned unfair letting fees and limited deposits, and committed to abolishing 'no fault' evictions under section 21 because of concern over its 'unethical' use for retaliatory evictions. This commitment was progressed by the Renters (Reform) Bill 2023 which can also be understood as part of regulated deregulation. It leaves intact the marketized system and the removal of section 21 is to be balanced by proposed increases in grounds of eviction and the promise of much faster eviction process.

1.2 Snapshot of the private rented sector in England

The piecemeal development of regulated deregulation is closely linked to the rapid 'revival' of the private rented sector. Over the past two decades, the sector has doubled in size across the UK. It now is estimated to house 4.6 million people, 19% of households in England. The revival of private renting reflects a range of demand and supply factors.²

Demand for rented housing has been driven largely by the growing unaffordability of owner occupation and with persistent 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, and the sector provides housing for increasing numbers of lower income households. This has been facilitated by state housing policy which has encouraged local authorities to treat private rented housing as a source of *de facto* social housing. Finally, 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.³ At the time of the publication of the White Paper in 2022, the Department for Levelling Up, Housing, & Communities (DLUHC) prepared diagrams which are replicated below, which give an indication of who lives in the private rented sector and under what constraints.⁴ This is of course a national picture and the profile of private renting in Southampton may be quite different.

² https://housingevidence.ac.uk/wp-content/uploads/2019/07/TDS-Overview-paper_final.pdf pp 5-7.

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

⁴ <https://www.gov.uk/government/publications/a-fairer-private-rented-sector/a-fairer-private-rented-sector>

Comfortable Renters

44% approx 1.94 million households

Few financial or other limitations on choice of housing. Unlikely to have low income and relatively unlikely to have children or be in ill-health. Majority in managerial or professional occupations and/or educated to degree level.



1 in 4 expect to remain in PRS



71% expect to buy their own home

36% of those who expect to buy expect to do so within 2 years

Families Getting By

17% approx 759,000 households

Not necessarily low income but spend high proportion of income on rent and unlikely to have savings. Most likely to be couples with dependent children.



34% report difficulty paying the rent



1 in 7 living in overcrowded accommodation.

37% have had problems with damp / condensation

Low Income Savers

16% approx 726,000 households

On low incomes and spend high proportion of income on rent but have savings. One in five HRP*s under 25.

*HRP – Household Reference Person, the person in whose name the accommodation is rented



In PRS for relatively short time

15% renting for less than 12 months



54% expect to buy but generally not in the next 2 years

Struggling Families

11% approx 473,000 households

Very likely to be on low incomes, without savings and receive housing support. Nearly three in four are lone parents with dependent children.

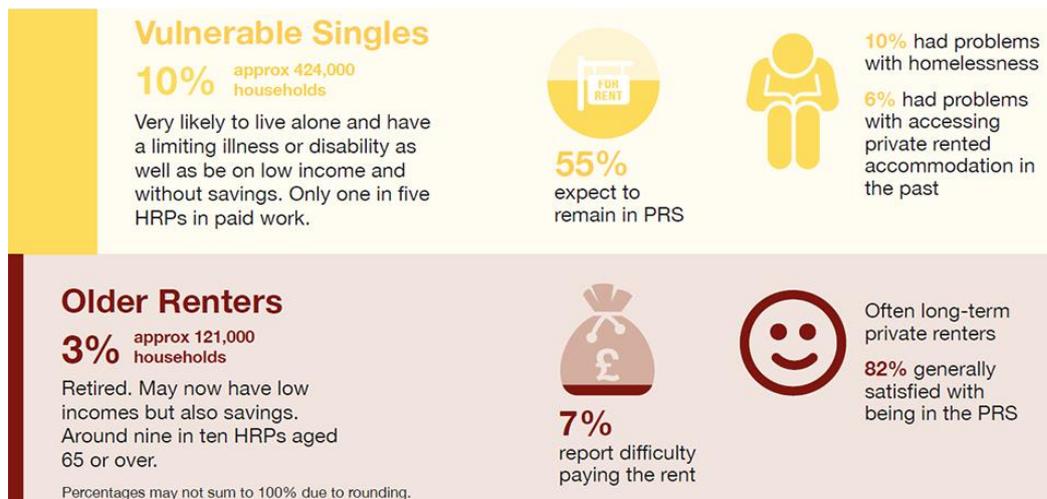


49% report difficulty paying the rent



27% households expect to move into social housing longer term

1 in 10 on the waiting list for social housing



The supply of private rented housing has been driven by the introduction of buy-to-let mortgages in the mid-1990s, which were made all the more attractive by tax reliefs, rent subsidies, and deregulation, which generated a flood of investment.⁵ Much of this investment has been driven by ‘small’ landlords – in 2021, 82% of landlords owned between one and four rental properties, representing 52% of tenancies.⁶ This has not necessarily increased the overall supply of housing in England and has often involved the purchase and conversion of ex-council homes or formerly owned properties into private rented accommodation.⁷

By deregulating rents and greatly facilitating landlords’ right to possession, the Housing Act 1988 helped to create investment conditions that were highly favourable for private landlords but in doing so, it has contributed to conditions of precarity for many tenants. Landlords can evict tenants without having to give a reason, and the prevalence of such ‘no fault’ evictions left around 29,000 households at risk of homelessness in 2019–20.⁸ On average, private renters spend 32% of their income on housing, more than those living in their own properties (18%) or in social housing (27%). There is evidence of acute inflation in private rents in recent years. The latest ONS data in May 2023 found that annual private rental prices increased by 4.6% in England in the 12 months to March 2023. Finally, there is clear evidence that housing conditions in the private rented sector are significantly worse than conditions in other tenures. Approximately 23%, or 990,000, private rented homes in England are estimated to fail the Decent Homes Standard, while 13% (589,000) have at least one category 1 hazard—this constitutes a serious threat to health and safety that landlords are legally obliged to address.⁹

⁵ https://housingevidence.ac.uk/wp-content/uploads/2019/07/TDS-Overview-paper_final.pdf pp 5-7.

⁶ [https://www.gov.uk/government/statistics/english-private-landlord-survey-2021-main-report/english-private-landlord-survey-2021-main-report--2#:~:text=43%25%20of%20landlords%20owned%20one,half%20\(48%25\)%20of%20tenancies](https://www.gov.uk/government/statistics/english-private-landlord-survey-2021-main-report/english-private-landlord-survey-2021-main-report--2#:~:text=43%25%20of%20landlords%20owned%20one,half%20(48%25)%20of%20tenancies)

⁷ <https://www.theguardian.com/housing-network/2016/feb/10/right-to-buy-ex-council-homes-rental>

⁸ <https://committees.parliament.uk/publications/9608/documents/163793/default/> p 8

⁹ <https://committees.parliament.uk/publications/9608/documents/163793/default/> p 8

1.3 The Renters (Reform) Bill

There have been growing demands for the strengthening of protections against eviction and the introduction of rent controls across the UK.¹⁰ In 2023, the Scottish Government committed to introducing a permanent national system of rent controls, while the Welsh government are considering the introduction of rent controls. While there have been calls by local authorities, such as Bristol City Council's Living Rent Commission for rent controls in England, this has been ruled out by the present government. However, the progression of the Renters Reform Bill reflects an acceptance by successive governments that significant reform of the tenancy agreement is necessary. Policy makers have expressed concerns at how no-fault evictions have been used to bring about retaliatory evictions.¹¹ The push behind reform also reflects the understanding that private tenants deserve a better deal than they are getting at present especially considering that private rented housing is the most expensive, insecure and unsafe form of housing in England.¹² As affordability deteriorates, and becomes more visible and tenant organising by Acorn, Generation Rent and others increases, it is likely that demands for rent control will grow.¹³

2 Local authorities and the regulation of private rented housing

2.1 The regulatory role of local authorities

Local authorities have long had an important regulatory function in relation to private rented housing. The basis of this regulatory function is set out in legislation which places duties on local authorities to keep housing conditions under review and identify action, to take enforcement action if a category 1 hazard to the occupier's safety is identified in rented housing, to inspect and prepare proposals relating to overcrowding, and to have due regard to the need to promote equality and respect human rights. To fulfil these duties, legislation provides local authorities with a wide range of enforcement powers. These include formal or "deterrence-focused" regulation (e.g. inspections, issuing fines, banning orders etc) but also a broader range of approaches that can help to achieve compliance (licencing and data gathering, advice, support and working with tenant organisations).

2.2 Local authority enforcement powers

(a) Gathering information, powers of entry and inspection

Local authorities have various powers to require landlords to provide information about their property. They retain broad powers under the Housing Act 1985 and Housing Act 2004 to enter and inspect housing in order to assess housing safety, identify hazards to occupiers safety, and assess whether housing is overcrowded.

(b) Informal actions

Local authorities have a range of informal enforcement actions to bring about compliance including advice, warnings, negotiating agreements, placing conditions with licences and serving informal notices. The decision to take informal action is appropriate where it is likely that it will achieve compliance and the consequences of non-compliance do not pose a risk to the occupier.

¹⁰ <https://www.bristolonecity.com/one-city-bristol-living-rent-commission/>

¹¹ <https://www.local.gov.uk/parliament/briefings-and-responses/renters-reform-bill-second-reading-house-commons-23-october-2023>

¹² See Helen Carr et al 'Introducing Precarisation: Contemporary Understandings of Law and the Insecure Home' in H Carr et al (eds) *Law and the Precarious Home* (Oxford: Hart, 2020) pp 10-11.

¹³ Mark Jordan, 'Contesting Housing Inequality: Housing Rights and Social Movements' (2023) *Modern Law Review*.

(c) Statutory notices

Upon identifying a lack of compliance by the landlord, local authorities may serve a statutory notice to require the landlord to take certain actions to bring about compliance. There are a wide range of notices and these include an improvement notice, hazard awareness notice, prohibition order and overcrowding notices. These notices are mainly governed by the Housing Act 2004 and the decision to issue statutory notice will likely be taken in light of the risk that non-compliance could be potentially serious to health and safety of the public, the fact that the landlord shows awareness of their statutory requirements but fails to adhere to those requirements, and there is a need for deterrence and punishment.

(d) Civil penalty notices (CPN)

Local authorities may impose a civil penalty of up to £30,000 as an alternative to prosecution for a number of offences including failing to comply with an improvement or overcrowding notice, offences relating to HMO licencing, breach of a banning order and providing a property to someone who does not have a 'right to rent' in the UK. To serve a CPN, local authorities must follow formal notice requirements and be confident that if the landlord were prosecuted in magistrates court, there would be a realistic prospect of conviction. Income raised from CPNs can be retained by the local authority provided it is to be used for further enforcement in the private rented sector.

(e) Criminal penalties

There are various enforcement actions which local authorities can take where there is evidence that landlords have committed a criminal offence. A simple caution can be used for first time, 'low' level offences, where the public interest does not require prosecution. However, the local authority must first try to establish the views of the victim. If the landlord fails to accept a simple caution, the local authority is able to instigate prosecution proceedings. Local authorities can seek prosecution where an offence has been committed and prosecution is warranted by the gravity of the offence, the seriousness of harm involved, the general record and approach of offender, whether there have been repeated breaches including a failure to comply with legal notice/caution/civil penalty notice. This process is highly expensive, subject to delays and there are problems with sentencing.

(f) Rent Repayment orders

Local authorities can apply to the First Tier-Tribunal for a rent repayment order (RRO) where the landlord/agent has committed a particular offence including unlawful eviction or harassment, using or threatening violence for securing entry into premises, failure to comply with an improvement notice, failure to comply with a prohibition order, a breach of licencing/HMO regulations, failure to comply with overcrowding notices or fire safety regulations (HMOs only), breach of gas safety regulations, breach of right to rent provisions (criminal prosecutions only) and requiring a 'relevant person' to make a prohibited payment (criminal offence only). It is not necessary that the landlord/agent has been convicted, but a tribunal must be satisfied beyond reasonable doubt (the criminal standard of proof) that one of these offences has been committed. A RRO will require the landlord to repay up to a maximum of 12 months' rent or housing benefit or housing costs element of universal credit paid in respect of a tenancy or licence. The local authority can use a rent repayment order to reclaim housing benefit and use this for further enforcement activity.

(g) Banning orders

A local authority may apply for a banning order where a landlord or estate agent has been convicted of committing a certain offence including unlawful eviction or harassment, using or threatening

violence for securing entry into premises, failure to comply with an improvement notice, failure to comply with a prohibition order, a breach of licencing/HMO regulations, failure to comply with overcrowding notices or fire safety regulations (HMOs only), breach of gas safety regulations, breach of right to rent provisions (criminal prosecutions only) and requiring a 'relevant person' to make a prohibited payment (criminal offence only). The effect of a banning order is that the landlord is banned for a minimum period of 12 months from letting housing in England, engaging in letting agency work or property management work. The decision to apply for a banning order should reflect the seriousness of the offence, whether there are previous convictions, the harm to tenant and whether punishment is proportionate and would act as a deterrence.

(h) Database of Rogue Landlords and Property Agents

The Database of Rogue Landlords and Property Agents was established in 2018. Local authorities are obliged to make an entry recording key details about the relevant landlord or agent where it has obtained a banning order against that landlord or agent.¹⁴ Local authorities have a discretion to make an entry where a landlord or agent is not subject to a banning order but has previously committed been convicted of at least one banning offence or has committed two or more banning order offences within a 12 month period for which they have received civil penalties.¹⁵

(i) Licencing of rented housing

Mandatory HMO licencing

The Housing Act 2004 requires the mandatory licencing of certain houses in multiple occupation (HMOs) i.e. where the HMO is occupied by five or more persons living in two or more separate households. Certain conditions must be attached to all HMO licences, and these include requirements that each occupant must be provided with a written statement of the terms of their occupancy as well as requirements relating to gas safety, fire safety, carbon monoxide alarms and minimum size requirements for rooms used as 'sleeping accommodation'. Local authorities can attach further conditions to a HMO licence in order to ensure that HMOs are of an appropriate standard and fit for purposes, in light the households or persons in occupation, address anti-social behaviour, and prevent overcrowding. In deciding whether to grant or refuse an application the local authority must assess the suitability of the property to serve as an HMO and the suitability of the landlord and licence holder of the property. Operating without a HMO licence or breaching the HMO conditions is an offence.

Selective licencing

Local authorities may introduce a selective licencing scheme to include private rented housing not covered by mandatory licencing under the Housing Act 2004 e.g. all private rented housing in a whole district.¹⁶ This can be introduced where the local authority believes that an area is one experiencing: low housing demand (or is likely to become such an area), a significant and persistent problem caused by anti-social behaviour, poor housing conditions, high levels of migration, high level of deprivation and high levels of crime. The local housing authority may only make a designation if the area has a high proportion of housing in the private rented sector. Local authorities must ensure selective licencing is consistent with its housing strategy and should be

¹⁴ Housing and Planning Act 2016, s.29.

¹⁵ <https://www.gov.uk/government/publications/database-of-rogue-landlords-and-property-agents-under-the-housing-and-planning-act-2016>

¹⁶ <https://www.gov.uk/government/publications/selective-licencing-in-the-private-rented-sector-a-guide-for-local-authorities/selective-licencing-in-the-private-rented-sector-a-guide-for-local-authorities>

based on consultation with those likely to be affected. The decision to designate an area as subject to selective licensing must be approved by the Secretary of State, should the scheme affect more than 20% of privately rented homes in the local authority area or of the geographical area. As with mandatory licencing, local authorities can attach further conditions to a licence in order to ensure that licenced properties are of an appropriate standard and fit for purposes e.g. meet the decent homes standard.

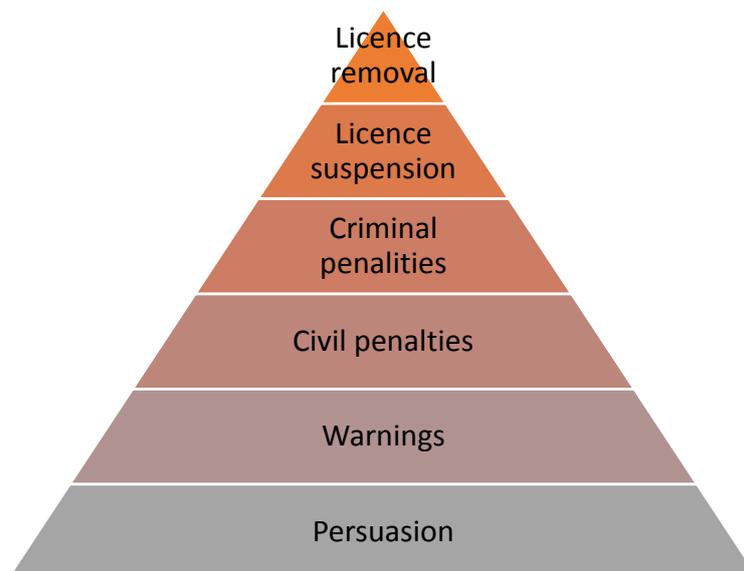
3 Conclusion: What does good enforcement practice look like?

3.1 Proactive responsive regulation

There is wide recognition that the private rented sector should be fairer, more secure and should offer higher quality and safer housing to tenants. While the Renters (Reform) Bill may help to deliver this change, debates over national reform should not distract from the significant role which local authorities can play in securing a better private rented sector for tenants. This paper has set out that local authorities have duties to assess housing conditions and have extensive, enforcement powers that can be used to tackle poor conditions in the sector. Despite these extensive powers, many local authorities are not proactive in regulating the sector but rather operate a 'reactive' enforcement service that responds to individual complaints. A problem with this approach is that that private tenants, particularly vulnerable tenants, can be fearful of reprisals or eviction and have limited understanding of their rights, and so may not report issues.

However, there is also evidence that some local authorities are adopting proactively enforcement approaches involving selective licencing and the full use of enforcement powers to tackle substandard housing. A recent report by the UK Collaborative Centre for Housing Evidence has argued one example of good proactive practice is a responsive regulatory approach (see diagram below).¹⁷

Figure 1 Pyramid of responsive regulation - Harris, Marsh and Cowan (2020)



In this model, local authorities employ advice, support and assistance as strategies of first choice and this is where most action will take place. Should the landlord fail to comply then the local authority response escalates to more formal action, higher up the pyramid. Although some local authorities

¹⁷ https://housingevidence.ac.uk/wp-content/uploads/2020/08/200803-Compliance_Practice_Briefing.pdf

employ this model, it does not often form an explicit part of the enforcement policy. This can undermine the consistency, fairness, and transparency of enforcement actions, particularly in decisions over escalation and de-escalation which are sometimes left to the discretion of the individual housing officer. Adopting this approach as an explicit part of the enforcement policy also provides a further means of demonstrating that a local authority's enforcement practice aligns with the regulators code.

3.2 Barriers and drivers of enforcement

A recent DHLUC report (2022) identified the following barriers to, and drivers of, good local authority enforcement practice in the private rented sector.¹⁸

Capacity of local enforcement teams

There is evidence of a clear correlation between those local authorities working proactively, making use of the range enforcement tools and powers, and those with larger teams. Furthermore, a boost to enforcement capacity was found to have demonstrable results in increasing proactive enforcement and preventative initiatives. Some local authorities have increased enforcement team capacity through part time secondments from trading standards and tenancy management, or established new teams by accessing government funding for rogue landlord teams and also by employing consultants to carry out discrete tasks.

Experience and expertise of enforcement teams

Local authorities that were most proactive in enforcement had teams comprised of highly experienced and qualified staff. These teams tended to be multi-disciplinary, including staff from other departments (trading standards, tenancy relations, legal) and that this enhanced the technical expertise overall.

Political will, strategic commitment, and related support of legal teams

There is evidence of a clear correlation between local authorities with strategic or political commitment to improving private rented sector conditions through enforcement action, and those more operationally proactive. Support of senior managers and legal departments was found to be crucial. In these local authorities, there tended to be an explicit strategic commitment to tackling problems in the private rented sector in the corporate strategy, and there was recognition of the importance of the link between strategic commitment and operational capacity.

Issues relating to the legal framework

The number and range of laws that enforcement officers must understand and navigate is a major barrier to enforcement. The sheer volume and complexity of laws meant that enforcement teams require a high level of legal competence and breadth of knowledge and need to be supported by legal departments to interpret and apply the relevant legislation. There are also clear limitations that undermine the effectiveness of the enforcement tools for tenancy relations offences. In particular, local authorities have the power but not a statutory duty to take action for tenancy relations offences and this means pursuing such cases is often not prioritised teams. In addition, currently the

¹⁸ <https://www.gov.uk/government/publications/local-authority-enforcement-in-the-private-rented-sector-headline-report/local-authority-enforcement-in-the-private-rented-sector-headline-report>

only enforcement option for tenancy relations offences is prosecution because CPNs cannot be served for such offences. The Renters (Reform) Bill contains a provision to change this.¹⁹

Difficulties gathering evidence to support enforcement

Perhaps the most significant barrier to effective enforcement is the lack of meaningful data about the private rented sector. This reflects the general lack of comprehensive data and knowledge about the sector in England. It can often be challenging to establish the identity of landlords, particularly in the rent-to-rent market. Gathering evidence that meets the criminal standards of proof is resource intensive and these difficulties are compounded by the fact that tenants are often reluctant to complain, provide statements or attend court. While selective licencing schemes can play a vital role in developing more data, this gap would be most effectively filled by the introduction of a mandatory register of all landlords, an initiative which is only in the gift of central government.

Nevertheless, some local authorities have employed creative approaches to developing better data on private renting. In one case, *'NHS hospital admissions data and Indices of Multiple Deprivation data were mapped onto the housing conditions survey to gain a general idea of where the best and worst quality housing and the tenants most in need of support were located.'* This data was then used to target enforcement activity and welfare support for tenants.²⁰

¹⁹ <https://www.local.gov.uk/parliament/briefings-and-responses/renters-reform-bill-second-reading-house-commons-23-october-2023>

²⁰ https://housingevidence.ac.uk/wp-content/uploads/2020/08/200803-Compliance_Practice_Briefing.pdf

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Data Protection Act 2018

Legislative and Regulatory Reform Act 2006

Equality Act 2010

Code for Crown Prosecutors 2013

The Anti-social Behaviour, Crime and Policing Act 2014

Regulators' Code 2014

Building Act 1984

Caravan Sites and Control of Development Act 1960

Caravan Sites Act 1968

Energy Act 2013

Enterprise and Regulatory Reform Act 2013

Environmental Protection Act 1990

Rent Act 1977

Protection from Eviction Act 1977

Criminal Law Act 1977

Housing Act 1985

Landlord and Tenant Act 1985

Housing Act 1988

Housing Act 1996

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