

The impact of accidental landlords on the private rented sector



About this report

This report has been produced with the support of the TDS Charitable Foundation, which “works to advance education about housing rights and obligations in general”.

In particular, the charity focuses on:

- Best practice in the management of private rented housing;
- Legal rights and obligations of those involved in the provision or management of private rented housing;
- Using alternative dispute resolution for more efficient and effective resolution of disputes between landlords and tenants.

The charity has awarded a grant to Kate Faulkner who runs Designs on Property Ltd (designsonproperty.co.uk), to produce a series of reports and surveys which will help to achieve the Foundation’s objectives, especially around enhancing the awareness and understanding of the “*legal rights and obligations of those involved in the provision or management of private rented housing*”.

*The report does not necessarily reflect
the views of the TDS Charitable Foundation*

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About the authors

Kate Faulkner Bsc (Econ) MBA CIM DipM was originally a consumer in the residential property market, buying, selling, renovating and renting property for many years. At that time she was a sales and marketing professional working with major brands such as PG Tips in the FMCG sector.



Having enjoyed working in her spare time in residential property, she went on to set up one of the UK's first property portals, then used her experience to help create on- and off-line tools designed to take the stress out of corporate relocations for employees.

From here she moved to set up the Self-Build and Renovation Centre in Swindon, and subsequently helped build a part-exchange business. Kate was also a Future Homes Commissioner for RIBA.

After gaining so much experience across the property market, Kate embarked on a mission to improve the way people carry out property projects, especially within the private rented sector. So whether it is banishing cowboy builders and rogue landlords, or helping the public approach a property project as simple as hanging a door or as complex as letting or building their own home, Kate is always on hand, either via her consumer website at Propertychecklists.co.uk or at the property clinics she runs around the UK, to help landlords, tenants, first-time buyers, self-builders, renovators and investors carry out their property projects in the right way, using qualified people and industry experts.

Kate's consultancy, Designs on Property Ltd, provides help and support to companies and organisations that want to communicate better to the public, or to introduce new products and services which help people carry out their property projects successfully, first time around.

She is fanatical that property facts and figures such as prices and rents should be reported correctly in the media, by the industry, and by organisations and policy-makers involved in the property market.

Kate regularly appears in the national and local media, and comments on TV, radio and in regional and national newspapers on property news items of the day. In this way she continues to pursue her chief objective, which is to help ensure the public get an independent, honest view of what is happening in the residential property market.

Akansha Saxena has an interest in the real estate business as she belongs to a family who have been involved in property development for three generations. She has experience in renting, buying and selling properties in different cities.

She has four years of experience in IT services and in her last role as a project engineer (Enterprise Integration consultant) she was responsible for analysing and resolving the technical issues faced by clients in real time.

She is currently studying for an MBA from the University of Nottingham and is keen to better understand the dynamics of UK property market.



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The impact of accidental landlords on the private rented sector

Executive summary

With the growth in the private rented sector (PRS) since the millennium, there has been a rise in the number of ‘accidental landlords’, people who are letting out their property more through circumstance and need than purely for business or profit.

From our first report – ‘Who are the individual landlords providing private rented accommodation?’ – we identified that a proportion of properties in the PRS are owned and let by ‘accidental landlords’. This needs further investigation and consideration as there is a concern that landlords who are ‘accidental’ may not necessarily be renting a property with the full knowledge of all the rights and responsibilities from a landlord’s and a tenant’s perspective.

This lack of understanding could be contributing to problems in the PRS such as the estimated 29% of ‘non-decent’ homes’ ([English Housing Survey 2013-14](#)¹) and breaches of the Housing Health and Safety Rating System and mean landlords could also, unknowingly, be carrying out ‘retaliatory evictions’.

The aim of this report is to better understand the accidental landlords operating in the PRS and consider what government, local authorities and the industry can do to improve their understanding of the rights and responsibilities of landlords and tenants and the condition of properties in the sector.

From this study we ascertain that accidental landlords contribute a significant number of homes to tenants in the PRS. Without successfully educating, informing and offering accidental landlords ways to ensure their properties are let legally to tenants – and that they understand the tax implications of taking on additional properties – there is a real danger that they will fail to offer their tenants a good service or comply with their legal and financial obligations.

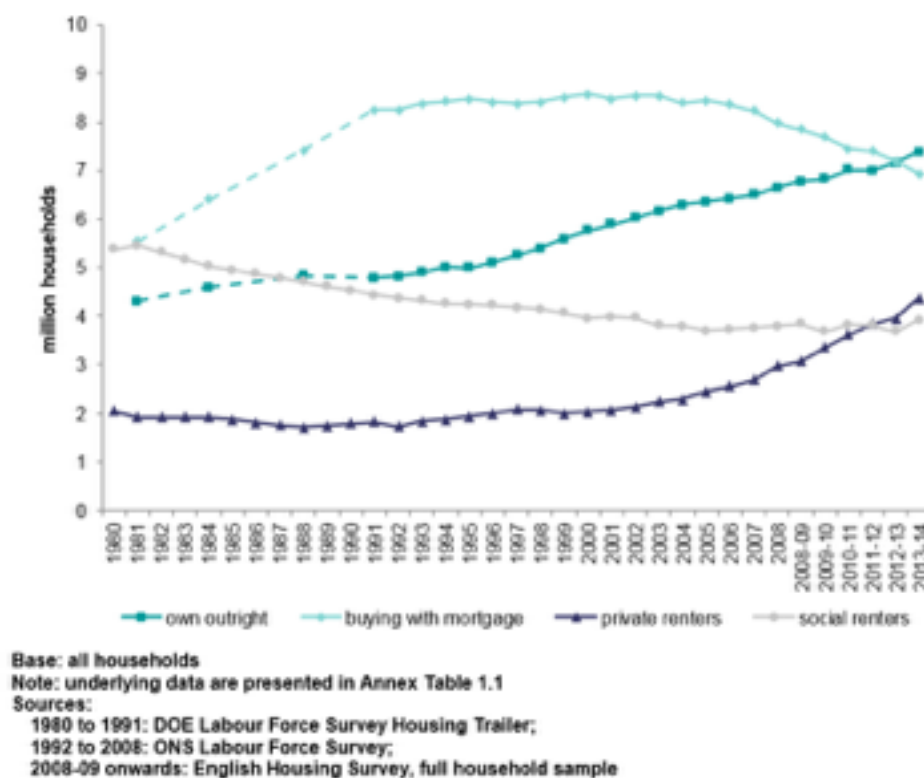
At the end of the report, we recommend five changes that could be made in the PRS to improve the education of accidental landlords about their rights and responsibilities to ensure that real improvements are being made in the delivery of a legal and safe PRS.

Introduction

Why we need to understand 'accidental landlords' better

It is widely reported that there has been rapid growth in both the number of properties being let and the number of people renting compared to owner occupying. The following chart shows the rapid rise of the PRS in England since 1980.

Figure 1: Trends in tenure, 1980 to 2013-14



The number of homes in the private rented sector (PRS) in England alone has now reached 4.4 million in 2014 ([English Housing Survey 2013-14](#)¹) and accounts for 19% of households, compared with just 10% throughout the 1980s and 1990s. Northern Ireland's PRS accounts for over 16% of housing stock ([Making the Most of Northern Ireland's Private Rented Sector to Meet Housing Need](#)²) with 14% in Wales ([The Private Rented Sector in Wales](#)³) and 13% in Scotland ([The Herald](#)⁴). Current stock in the PRS is estimated to be 4,800,000 homes across the UK ([Rental Britain](#)⁵).

Together with the rise in the number of properties being let privately, we are finding more families are now renting in the PRS and, to ensure the properties are let legally and safely, this has led to an increase in the legal obligations imposed on landlords and letting agents.



Over the last few years, many of these changes have been driven by recommendations from a cross party inquiry on the Private Rented Sector⁶.

According to the Residential Landlord Association (RLA) as at 19th June 2015:

“...new statutes/statutory instruments brings the total number [of lettings rules and regulations] to 145”. A few years earlier, in a report the RLA carried out in June 2012, it said that there were “over 100 Acts of Parliament or statutory regulations which specifically impact on private rented sector landlords. These contain around 400 individual requirements which could affect the way in which a landlord owns or manages his/her property and conducts tenancies.” (Statutory Regulations Affecting the Private Rented Sector⁷)

Unfortunately, what has been and is still missing from this period of dramatic change in tenure is a co-ordinated programme of education for tenants and landlords to ensure they understand the rights and responsibilities of letting and renting in our growing PRS sector.

Not only is there a lack of understanding from landlords’ and tenants’ perspectives, but there is also a lack of understanding and co-operation within the industry itself.

For example, mortgage lenders do not require landlords to use an experienced agent to let and manage properties, such as members of Association of Residential Lettings Agents (ARLA), Royal Institution of Chartered Surveyors (RICS) or National Approved Letting Scheme (NALS), each of whom is required to take out Client Money Protection Insurance. Building insurance companies do not ask to see gas and electrical safety certificates to check the property they are insuring is being let legally to tenants. Lawyers carry out much the same type of conveyancing processes for a buy-to-let investor as they do for someone who is buying a home to live in themselves, despite the significant additional legal responsibilities a landlord has to abide by.

In short, there is little or no formal education on buy-to-let and the rights and responsibilities of landlords for those within the industry who are lending, insuring or carrying out legal tasks for them.

Worse still, if a property is inherited and let, or a landlord lets a property they own outright, there is no real reason why they would or should come into contact with any service that could educate them on rights and responsibilities in the sector.

Finally, when it comes to those on the 'front line' of the PRS, letting agents in England are simply required to be members of an authorised redress scheme. Although this is an improvement on there being no requirements at all, this only gives landlords and tenants a free complaints system and the promise that their agent will follow a code of conduct. Membership does not require that agents keep up to date with the latest letting legislation, nor does it allow for checks that they are correctly fulfilling their legal obligations.

As a result of a lack of standardised education and regulation, there is a great deal of conflicting information and advice for landlords (and tenants) from many different sources. Some of the issues include:

- Lettings legislation is often 'grey' in its nature. The 29 rules of the Housing Health and Safety Rating System are complex.
- The plethora of departments involved in legislation. To ensure a property is let and managed legally, tenants, landlords and the industry need to keep up with changes from Consumer Rights, Building Control, Health and Safety, Energy Efficiency, DCLG, HMRC and Ministry of Justice.
- Inconsistency of legislation across the UK. Lettings rules and regulations are different in Scotland, Wales, Northern Ireland and England, in addition to which, local authorities can themselves apply further legislation around licensing. Landlords who do not live in the area they let and do not use a self-regulated agent, do not necessarily know that licensing is happening or currently exists.
- Property investment companies and property 'sourcers' who sell 'below market value' deals to 'amateur' or 'armchair' investors/landlords, who may not even see the actual properties themselves, could end up unknowingly breaking the law and letting properties in poor condition.
- The extensive paperwork required, such as inventories, tenancy agreements, prescribed information and deposits.



This issue was highlighted in an [RLA report case study](#)⁸ which stated:

“When I bought my first rental property in 1994 ... I was required to give the tenants a notice of tenancy (a single page), a tenancy agreement (four pages) and, if the tenant was paying cash, I further had to provide a rent book. All of these documents were purchased from a stationer and filled in by hand, five pages (duplicated for landlord) plus the rent book.”

To comply with all of today’s letting rules and regulations, their latest let involved:

“59 pages of A4 plus a DVD... failure to provide any one of these [items] can lead to enforcement action, fines or automatic loss of up to three months’ rent, in the event that I need to seek redress for rent loss or damages through the courts.”

Bearing all of this in mind, the question needs to be asked “*is it fair for landlords, especially ‘accidental’ landlords, to be expected to cope with the complexity of letting in today’s environment*”? And how do we reach landlords who have no particular reason or incentive to appoint qualified lettings agents to work on their behalf?

This report aims to:

- Increase our understanding of who accidental landlords are;
- Ascertain the proportion of landlords which can be classed as ‘accidental’;
- Look at how Government, local authorities, those involved in the PRS and the media can better advise accidental landlords on their rights and responsibilities, and those of their tenants.





Who are ‘accidental landlords’?

There are several different ways in which industry professionals, the media and landlords themselves might define an ‘accidental landlord’.

This section considers the various ways the industry defines the term and what other types of landlords may need to be included in this definition to help us identify those that need to be communicated to differently to professional landlords.

Industry definitions of accidental landlords

We consulted a broad range of industry experts on their definition of an ‘accidental landlords’.

Letting agents

There are a variety of views from the lettings industry about what defines an accidental landlord:

Belvoir Lettings

Belvoir Lettings is a residential lettings franchise that has been established over the last 18 years. The franchise has more than 150 offices across England, Scotland and Wales. The managing director of Belvoir Lettings, Dorian Gonsalves, suggests that:

“it is anyone who did not intentionally enter the private rented sector and instead became a landlord because circumstances arose whereby the property owner either felt compelled to become a landlord or had no other viable alternative.”

Examples given included those having to move house quickly due to a change in employment. In addition, Dorian added that owning a property means:

“You essentially own an asset which is illiquid ie takes time to sell and the private rented sector offers ‘accidental landlords’ mobility when they need to make a quick move and for some reason can’t or it isn’t sensible to sell.”

An example: *“A vendor/seller unable to sell their property quickly enough to secure the property of their dreams, in which case the original mortgage might be converted to a ‘let to buy’ mortgage in order to release the funds to finance a new purchase.”*

In Dorian’s view, the reason the landlords in these examples would be classed as ‘accidental’ would be that it was not initially their intention to become a landlord; circumstances forced it.

LSL Property Services (including Reed Rains and Your Move)

LSL is a residential property services provider that is split into two key customer groups. Companies within the LSL Property Services Group provide these services. The estate agents operate under the Your Move, Reeds Rains, Marsh & Parsons, Intercountry, Frosts, JNP, Goodfellows, David Tate and Lauriston brands to deliver services in the UK.

LSL have done some useful research in Scotland, looking into how their landlords own property that is then let. It shows there are three main routes to being a landlord and, as a result, they have created different definitions for landlords over and above ‘accidental’.

First, there are landlords who have a pot of money, which is ‘spare cash’ saved, earned through a bonus or inherited. These landlords are considered to be ‘*deliberate*’ i.e. they intended to buy and let out the property.

Secondly, there are landlords who inherit a property and decide to retain it as a pension pot and/or investment. They have defined these landlords as ‘*incidental*’.

Finally, there are the landlords who need to move and either cannot or do not want to sell the original property; they might have an emotional link to the property or want to keep it for their pension pot. In LSL’s view, these landlords tend to be less business-orientated and they define them as being ‘*ambivalent*’.

easyProperty.com

easyProperty is part of a new breed of online-only agents. They belong to the self-regulated industry through their membership of the Association of Residential Letting Agents (ARLA).

They have a short and succinct definition of an ‘accidental landlord’:

“Landlords whose decision to let their property is as a result of circumstance, rather than design.”

Residential Landlords Association

The RLA is the leading voice for landlords in England and Wales. They represent 18,000+ landlords with a combined portfolio of more than quarter of a million properties.

Alan Ward, Chairman of the RLA, considers an accidental landlord to be someone who inherited a property and is waiting for a better market value, keeping it occupied and providing a return on income, through to a family home where there is negative equity, or debt which will not afford a sale, but can support mortgage repayments through renting or is the result of a marital break-up.

Other landlords considered 'accidental' by the RLA also include:

- A property surplus to requirements because two people have formed a relationship and moved in with each other, keeping the 'spare' property for an investment, supported by rental income.
- A property which is temporarily not required, for example, the owner decides to go travelling or is moved elsewhere on a short to medium term contract and mitigates the outgoings through renting.
- Someone living in an expensive area they cannot afford who buys a property some distance away in a 'cheaper' area to have some stake in the property market, perhaps buying somewhere they plan to move to later in life.

The key elements here of an 'accidental landlord' are that they have not considered the property for investment purposes, have not assessed the market for rental and most probably have no awareness of their legal liability or responsibility as a landlord.

Mortgage broker

Brian Murphy is the head of lending at Mortgage Advice Bureau (MAB). MAB is an independent mortgage broker that provides specialist advice from a range of experts in the industry. They have more than 600 advisers across the UK.

From a mortgage broker's perspective, the kind of 'accidental landlords' they see are people whose sale of their current home may have fallen through. Becoming a landlord is one solution to keeping the onward chain together. If an owner's current home contains significant equity, this could enable them to release capital on a 'let to buy' mortgage, allowing them to move on and buy their much-desired new home.

MAB also regularly sees 'accidental landlords' being created when a borrower has negative or little equity in their current property, but still needs to move. They have enough savings to allow them to buy elsewhere and let out the existing property until its value has recovered – or they may end up retaining it on-going. They also see couples who are getting a divorce or suffering a relationship breakdown, where one or both have chosen to rent or buy elsewhere

and they use rent from the existing property to cover their costs until equity has achieved a level that ‘satisfies’ both parties and the property can be sold.

Other scenarios include someone who just wants capital growth from property and may, for example, decide to leverage their current property asset by renting out their own home rather than selling it when they move to a new one. In this case, they would take on additional borrowing to purchase the next property and secure future capital growth on both through a ‘let to buy’ mortgage. However, as they do not necessarily take into consideration all the issues of letting a property, they could still be considered ‘accidental landlords’.

Insurance sector

Direct Line for Business is one of the leading landlord insurance providers in the UK, insuring more than 220,000 landlords.

From their perspective they have two definitions of an ‘accidental landlord’:

- 1) Circumstances that indicate the landlord suddenly has a spare property and ‘accidentally’ becomes a landlord by letting it out within a short timeframe.
- 2) Someone who plans to let out a property, but does not carry out any research prior to letting or buying a property.

From Direct Line for Business’s perspective, landlords who find themselves in this situation can have a low level of knowledge and may have an emotional attachment or some link to their tenants, for example, a parent buying a property to let to their children while they are at university.

Tenancy Deposit Scheme

The Tenancy Deposit Scheme is a government-approved provider of tenancy deposit protection and alternative dispute resolution in England and Wales. This is a service that is used by landlords, tenants and agents and it is the longest-established provider of tenancy deposit protection.

The TDS take the view that the definition of an ‘accidental landlord’ is:

“A landlord who did not acquire their property specifically for the purpose of letting on the private market, or who has been forced by circumstance to become a landlord.”

How should we define accidental landlords?

Having incorporated a range of industry opinions regarding how an accidental landlord can be defined, it is clear that a consensus definition is:

“A homeowner who is letting their property due to circumstance rather than having actively pursued buying a property to let it out.”

These circumstances include:

- *Those who have moved away from their local area, including abroad, and are letting out their UK home;*
- *People who cannot or do not want to sell their current home and let it out to enable them to live elsewhere.*

However, it is also clear that from a communication perspective, the definition would benefit from being widened. The RLA, Mortgage Advice Bureau and Direct Line clearly feel that there are those entering the market through planning, so making a conscious decision to keep and rent out their old home when buying a new one, or buying in an area they can afford, but do not live in, so they have some stake in the property market and are buying to let with little research and consideration for the responsibility they are taking on.

And there are other landlords that we should consider including in this definition of accidental landlords.

For example, Julie Rugg and David Rhodes, authors of 'The Private Rented Sector: its contribution and potential'⁹, comment that some commercial investors become a residential landlord through an *“accidental’ acquisition, where a residential unit may be acquired as part of a commercial property – for example, a flat over a shop.”*

Other potential landlords are those who inherit property or buy property, which is then let to friends and family and, in these cases, they can be considered ‘accidental’ because they did not specifically buy the property to become a professional landlord nor are they always letting the property out to make money or have taken time to research their rights and responsibilities.

Conclusion

Although the industry mostly defines accidental landlords as those who let through circumstance, we should widen our definition to include other types of landlords who do not consider themselves to be a ‘career’ or ‘professional’ landlord who is running a business.

To improve the PRS, we need to make sure we are able to reach all landlords, whether professional or not, so we can help to keep them up to date with lettings rules and regulations and fully understanding theirs and tenants’ rights and responsibilities.

What proportion of the PRS are accidental landlords?

If we want to ensure that all landlords who let residential property do so legally and understand their rights and responsibilities as well as those of their tenants, we need to be aware of what proportion of the PRS is catered for by landlords who do not see themselves as 'career' or 'professional'.

The problem with trying to identify this proportion is there is little obligation for landlords to be registered or declare themselves in the UK overall and even where landlords do have to be registered or licensed, this is poorly enforced, so it is very difficult to know how many landlords are actually letting property in the UK in the first place.

There is, however, some data which can be used to estimate the number of landlords and properties which in turn can be used to calculate what level of the market may be being delivered by accidental landlords.

Landlord registration schemes

Where there is landlord (and voluntary for agents) registration in Scotland, the numbers of applicants registered are just under 250,000 who have an estimated 340,000 properties (Final Business and Regulatory Impact Assessment, The Scottish Government¹⁰) and in Northern Ireland, latest data from the Review of the Role and Regulation of the Private Rented Sector¹¹ shows that more than 40,000 landlords have registered, giving details of more than 88,000 properties and they believe this suggests a compliance of around 90%.

Tax and population estimates

According to HMRC (HMRC investigations into buy-to-let spark surge in tax receipts, Daily Telegraph¹²), there are an estimated 1.5 to 2 million landlords in the UK. This is backed up by research from the British Household Panel Study and Strategic Society's Understanding Landlords research¹³, which suggests that 3% of the UK population of people aged 16+ are landlords.

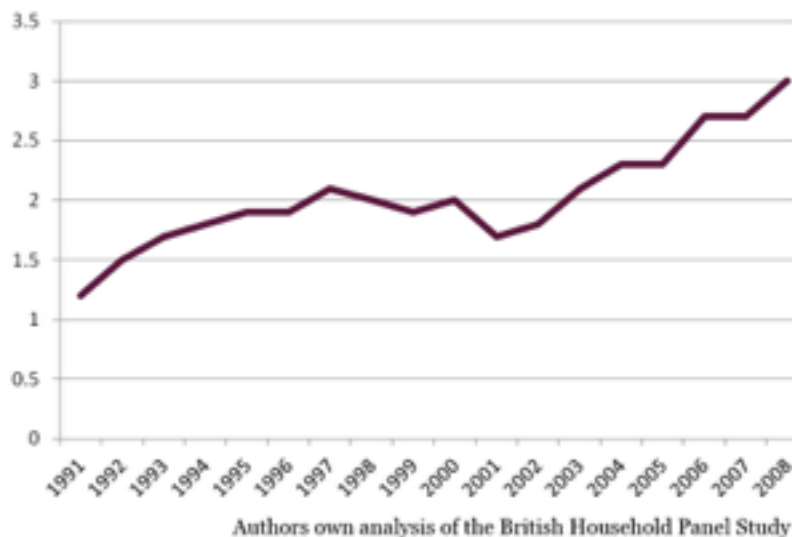


Chart 1.3 PRS landlords as percentage of 16+ population, 1991-2008

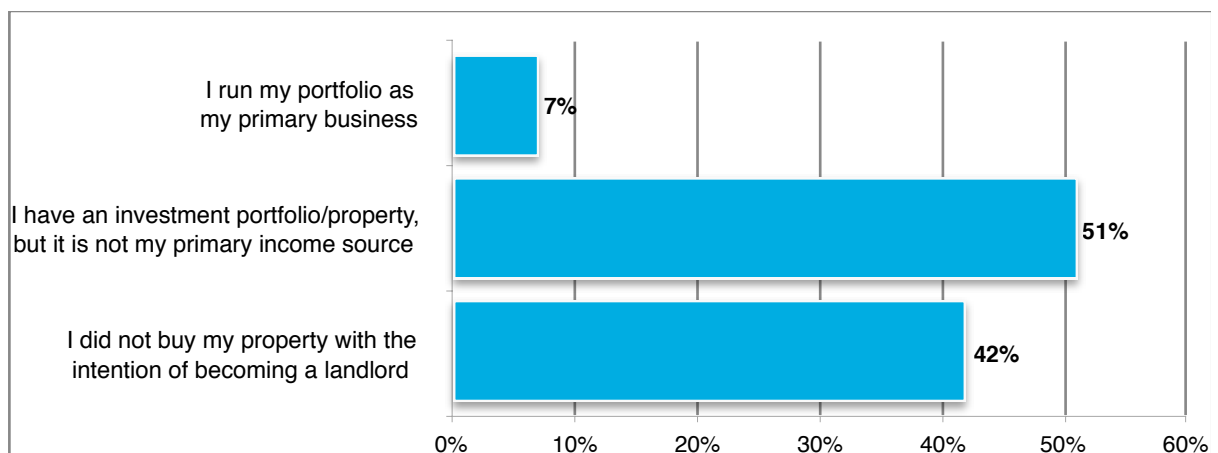
Previous research into the number of accidental landlords

Accepting that based on HMRC estimates, there are approximately two million landlords in the UK, we can look at existing research into how many landlords are considered to be 'accidental'.

Property Academy

Research from the [Property Academy](#)¹⁴ suggests the greatest proportion of landlords are 'accidental' but the original question was quite generic: "what type of landlord would you describe yourself as?" so this could increase the number who responded that did not intend to be a landlord.

As the chart shows below, their research showed that up to 42% of those letting out a home did so 'accidentally':



Axa Business Insurance: 'One in three "accidental landlords" breaking the law'

Axa Business Insurance produced a press release suggesting that many 'accidental landlords' were having issues making sure their letting complied with the law. (see page 26)

When looking at how many there were, they estimated that "around 70% of residential landlords rent just one property and that up to a third of these are 'accidental landlords' who can't sell their property or who 'inherited' rather than planned the ownership of the property" ([One in three "accidental landlords" breaking the law](#)¹⁵).

NLA: Regional differences

Perhaps the most detailed research done so far on accidental landlords has been from the NLA Quarterly Landlords Panel research, Q4 2014. Their survey results suggest that:

- 11% of landlord invested “*by chance*” e.g. through inheriting property
- 5% acquired an “*extra property*” e.g. when they met a spouse
- 5% “*intended to sell but experienced difficulties*”
- 3% “*had to relocate for work, either home or abroad*”

This is a total of 24% of landlords. However, their data also looked for regional differences and found that these could be quite stark. Central London, for example, was shown to have the highest proportion of accidental landlords (31%) followed by Wales with 29% and the East of England and Yorkshire with 27%. In the North West the data suggested that just 15% had “*got into the business unintentionally*” (Accidental Landlord: be safe, not sorry¹⁶).

Shelter and British Gas ‘Safe and Decent Homes Report’

This report suggests that “27% of landlords could be described as amateur”, their definition being “who have either inherited or couldn’t sell a property, and end up letting it out” (Safe and Decent Homes Report¹⁷).

Treasury estimates of ‘accidental landlords’ who have a buy-to-let mortgage

Until March 2016, almost all buy-to-let (BTL) mortgages were not regulated by the Financial Conduct Authority (FCA) as they did not meet the legal definition of a ‘regulated mortgage contract’. Unlike lending for owner-occupation, BTL mortgagees do not usually risk losing their own home if they fail to keep up with payments on their BTL mortgage.

However, in order for the UK to meet its obligations under European law, since March 2016 the UK has been required to operate a ‘framework’ for BTL lending. In the UK this means some landlords are now considered to be ‘consumers’ or ‘accidental landlords’ and so they will receive additional legal protection.

In establishing how many landlords might be defined as a ‘consumer’ taking out a buy-to-let mortgage, they suggest the definition would be:

“A buy-to-let mortgage contract which is not entered into by the borrower wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by the borrower.”

This includes people who have inherited a property they now intend to let, or a property they used to live in, which may end up being mortgaged.

Under this definition of a 'consumer' taking out a buy-to-let mortgage, the government requested an analysis on how many mortgages this may affect which helps to give an idea of the number of 'accidental landlords' who are likely to support their property let with a buy-to-let mortgage.

"This suggested that Consumer Buy to Let (CBTL) lending would constitute around 11% of the buy-to-let market. Around 160,000 buy-to-let mortgages are estimated to have been sold in 2013. This suggests that the current size of the CBTL market is approximately 17,600 mortgages a year." (Improving the consumer experience¹⁸, CP15/3: Buy-to-let mortgages: implementing the Mortgage Credit Directive Order 2015¹⁹).



What proportion of agents believes their landlords are 'accidental'?

Based on the research above and talking to agents in different parts of the UK to secure their direct feedback, we found that their own data supports the National Landlord's Association research and the proportion of accidental landlords differs from one region to another.

Figures from Terry Lucking, owner of the Belvoir franchise suggests:

"One in ten new landlords we meet in Cambridge are 'accidental' whereas in Peterborough, it is more like three in ten.

"The number of accidental landlords in Peterborough increased considerably from 2007/8 when house prices fell and many were in negative equity or couldn't sell which increased the proportion of our portfolio who are accidental landlords. That said the majority did not sell when the market picked up owing to the properties performing well and have instead kept them for an additional asset/income.

"From 2014 to 2015 we have seen a rise in enquiries from 'deliberate' landlords/BTL investors as confidence in the market has improved. As a percentage of our current portfolio, I would say that 30% in Peterborough are accidental landlords and less than 10% in Cambridge."

Paul Wallace Tarry owns Belvoir Shrewsbury and shared his figures which record how many landlords 'exit' the market and why. Approximately 20-30% of properties which exit the rental market are sold by landlords each year, while 5-10% of properties have the landlord moving back into the property or renting to a family member. Based on the overall number of properties under management, the data suggests approximately 10% of landlords in the area are accidental – similar to Cambridge above.

What proportion of the PRS are 'accidental landlords'?

Considering the data that exists on the number of landlords and estimated number of properties in the PRS, combined with the research on the proportion of landlords who are considered 'accidental', as the chart below shows, we can estimate that the number is anything between 420,000 and 840,000 landlords are 'accidental'.

The table below uses the estimated percentage of accidental landlords from the research data multiplied by the estimated 2 million landlords to calculate the number of accidental landlords.

Estimated number of landlords: 2,000,000		
Research source	Estimated proportion of accidental landlords	Estimated number of landlords
Property Academy	42% of landlords let their home 'accidentally'	840,000
Shelter	27% of landlords are 'amateur'	540,000
National Landlord Association	23% of landlords let 'accidentally'	460,000
AXA Business Insurance	Third of 70% of landlords are 'accidental'	420,000

As most landlords only have one property, if we assume that this is true for all accidental landlords, that means out of an estimated 4.8 million privately rented properties in the UK, anything from 10-20% of properties are let by landlords who may or may not understand their legal responsibilities.

What is critical from the research though is the knowledge of how much the proportion of accidental landlords can vary from one region to the next. Both the data from the NLA and from our own research via letting agents suggests that the proportion of accidental landlords can be up to 30% in areas such as Central London, (source: NLA).

This has enormous implications for the strategies required to educate both tenants and landlords, with some areas in greater need than others. Even where the number of accidental landlords is not so high, whether it is 10%, 30% or more, it is essential to reach this core audience to prevent unnecessary problems and illegally let properties, even if this is being done unknowingly.

Clearly the research shows that the numbers and types of accidental landlords are significant enough for government, local authorities, industry professionals and tenant organisations to consider that if all accidental landlords used self-regulated letting agents or where members of a landlord accreditation or national scheme, standards of management and stock condition in the PRS could improve significantly.

Conclusion

In addition to our conclusion that this group of landlords is significant enough to need different education to professional landlords, this also has implications for any future research carried out within the PRS.

For example, if research is being carried out on property condition in the sector, we know that there are accidental landlords who do not use an agent and self-manage or let the property directly to family and friends. With little professional management in place, research needs to distinguish between the condition of professionally let properties and ones let by those who do not necessarily know the rules and regulations. Without this distinction, it could lead to inaccurate conclusions, resulting in unnecessary rules and regulations being introduced because the problem is a lack of education of a specific group of landlords in the market, rather than a lack of rules and regulations.

A specific example of this is the research for the English Housing Survey. 29% of properties in the PRS are considered to be 'non-decent'. But if 100% of homes in the PRS let by professional landlords and/or the self-regulated letting agents are abiding by latest rules and regulations and the 29% of 'non-decent' homes are purely from 'accidental landlords', it would be clear that to improve this figure we need to educate and incentivise accidental landlords to do a better job. Simply introducing more rules and regulations will continue to fail to make a difference.

Local authorities, policy makers, tenant groups, lobbyists and those that provide services to landlords in the PRS need to be doing much more to focus on this group to given them all the help, advice and support they need to make sure they let their properties legally and treat tenants fairly.



Is there any evidence accidental landlords are responsible for poor property conditions?

Anyone that works in the private rental sector on a daily basis knows that letting is a complex business. It requires knowledge of letting regulation, the ability to manage both tenants and property maintenance, and an understanding of the obligations that come with owning a property that is let out. In addition there is often tax to calculate and pay.

No matter how much previous business experience an 'accidental landlord' has, or how good their interpersonal and management skills, unless they have dealt specifically with the letting and managing of properties, they are highly unlikely to be prepared and able to operate as a landlord who is fully compliant with all their legal obligations.

This is likely to be even more true if they are letting to friends or family.

And if we are going to invest in better education for accidental landlords, we need to be sure evidence exists that they are causing issues in the industry in the first place.

The four key areas that accidental landlords are likely to encounter which make it difficult for them to deliver legally let properties and a quality service to tenants are:

Lack of knowledge of the law

The laws and regulations a landlord must abide by in order to let and manage a property are substantial. Lettings legislation is being updated and added to constantly and, unless the accidental landlord has established a means of ensuring they are made aware of what changes are being proposed and implemented and how those changes might impact them, they run the risk of falling foul of the law.

Even if this is unintentional, it can result in fines and, in the most serious cases, imprisonment.

Not only do landlords need to understand and be able to carry out their legal obligations and responsibilities in terms of ensuring the property is up to the required standards – specifically those prescribed by the Housing Health and Safety Rating System (HHSRS), and that all relevant certification is obtained and kept up to date – but the administering of the tenants’ paperwork must be absolutely correct.

Summary of rules and regulations landlords need to abide by:

- Transparency and publishing upfront any letting costs over and above the rent
- Issuing the How to Rent Guide
- Right to rent checks
- The Housing Health and Safety Rating System (HHSRS)
- Energy performance certificates (EPCs)
- Gas Safety and other safety checks
- Electrical safety
- Fire safety
- Tenancy deposit rules
- Tenancy agreements
- Security of tenure, possession and protection from evictions
- Local licensing and accreditation requirements.

It is not just keeping up with these rules and regulations that is difficult; it is also interpreting them correctly.

For example, recently we have seen agents (and landlords) criticised for:

1. Not carrying out legionnaire disease checks
2. Advising landlords to carry out professional checks for legionella

Headlines such as *“Residential landlords must protect against legionella or face fines up to £20,000”* ([Priory Estates²⁰](#)) were then followed by agents being criticised for acting on these fears: *“Consultants and Letting Agents misinterpreting the risks of exposure to legionella of their tenants”* ([property118.com²¹](#))

This means both letting agents and landlords are often placed in a catch-22 situation where they are criticised on the one hand for not implementing rules and regulations and, on the other, criticised for implementing them to the highest level, such as engaging expert risk assessments.

Compounding this issue is the existence of many uneducated or rogue letting agents offering cheap letting fees because they do not abide by all the letting laws. These cheaper fees are understandably attractive to landlords. But, unless a landlord truly understands how to evaluate which agents and experts will provide up-to-date support and guidance, it is extremely difficult for accidental landlords to choose the right help. And that's if they realise in the first place how much they need it.

Do accidental landlords have the skills to deal with property and tenant problems?

A landlord has a legal responsibility to respond to and deal with property problems within a reasonable time frame. This is now a legal requirement with the introduction of the new retaliatory eviction rules in England where the landlord has had to respond to tenants' requests for repairs within 14 days from 1st October 2015.

Accidental landlords do not necessarily run their let like a 'business' and, as such, many have not accounted for maintenance and repair requirements which as a homeowner can be done when they want them to be done, rather than required by law.

If a tenant requests repairs and the landlord does not have the money to carry them out or indeed they lived perfectly happily in the current property's condition themselves, they may decide just not to carry out the repairs at all. Other circumstances can arise where a tenant requests one upgrade after another and, if not carried out, they stop paying their rent. Landlords who are not equipped to deal with these tricky issues in a professional manner can soon end up in arguments or issues with the tenant.

A professional landlord and/or self-regulated letting agent would be able to deal with this quickly and professionally due to their expertise and knowledge of landlord and tenant rights and responsibilities.

Property condition issues

One of the key issues with landlords letting to tenants who do not use a qualified agent who has a comprehensive legal understanding of lettings is that they are unlikely to know their responsibilities when it comes to making sure the property is let in a good condition.

When it comes to property condition in the PRS, there is plenty of evidence that there is a poor understanding of the rules and regulations, not just for accidental landlords but also for those involved within the letting industry.

A recent paper by the social policy section at the Houses of Parliament stated: *"Evidence submitted to the Committee indicated a low level of awareness of the HHSRS amongst landlords; respondents were also critical of the system's complexity."*

The HHSRS is a key document to understand and implement to make sure properties are being let in good condition. The lack of awareness of the HHSRS, however, is highlighted by the government's Private Landlord Survey which revealed *"only 15% of landlords had heard of the Housing Health and Safety Rating System"* (HHSRS).

The Shelter and British Gas report, “Safe and Decent Homes, solutions for a better private rented sector”, expands on the issues this creates, saying “*Ill-informed amateur and accidental landlords are far more numerous than rogues – and can be as dangerous for renters.*” Their study showed that:

- 18.9% of all privately rented homes contained a Category 1 hazard;
- 15.2% of all privately rented homes failed to provide sufficient levels of thermal comfort;
- 7.9% of all privately rented homes were not in a fit enough state of repair.

When you couple these condition issues with the government research which suggests 21% of landlords make no money from renting at all (Private Landlord Survey²²); this means that they have to dip into their savings, if they have them, to carry out repair work.

In addition to issues between the tenant and landlord, a landlord may not be aware that it is good practice, where market forces allow, to increase rents on an annual basis in line with inflation. This is a practice implemented by social housing and large residential landlords. It helps ensure that rents continue to cover all letting costs as the cost of living increases, including times when the property may be empty (void periods) or the cost of, for example, replacing a boiler which can potentially wipe out a year or more’s net profit from rental income.

Accidental landlords who do not consider the full costs of letting a property over time can quickly end up cash-strapped and struggling to fund maintenance costs on-going which again makes it very easy for them to contribute to the number of poorly let properties in the PRS.



Research on the lack of maintenance by accidental landlords from Axa Business Insurance

Research into accidental landlords by Axa Business Insurance, the insurance company, clearly suggests that accidental landlords are not necessarily aware of their responsibilities, especially from a maintenance perspective:

Boiler

- A third of those questioned get their boilers checked less than once a year;
- 23% get them checked every three years or less frequently;

This is compared to the statutory requirement for an annual check.

Chimney

- 65% of those with a chimney will get it swept less than once every three years;

This compares to the National Association of Chimney Sweep's recommendation of cleaning once a year for smokeless fuel, gas and oil and more regularly for other types of fuel.

Electrics

- Nearly a third check the electrics in their rented property less than once in three years;
- The recommendation is once every five years by the Electrical Safety Council and a "visual check" by the landlord is recommended much more regularly.

Other

- Only 50% of landlords get their fire alarms checked every year;
- Another 50% were also neglecting maintenance with drains, guttering and pipe insulation left unchecked for at least three years;
- Nearly 75% had not had the burglar alarm checked for three years or more ([Axa UK](#))²³

Lack of understanding of tax implications of property

Since September 2013, HMRC have been running a campaign to raise awareness of the need for landlords to pay tax ([Let property campaign: Your guide to making a disclosure](#)²⁴).

This includes clawing back money from landlords who have received rent and (genuinely) believing they did not have to pay tax on it to others who have sold the property without considering the need to pay capital gains.

HMRC says landlords who “make a full and voluntary disclosure of all unpaid liabilities in these circumstances... can usually expect a lower penalty than HMRC would otherwise seek if they raised an enquiry or compliance check without the disclosure.”

However, this is not the only issue from a tax perspective. Many accidental landlords are not seeking specialist property tax advice prior to adding another property to their wealth, or letting out their own home.

With different people being on different tax thresholds and having different personal allowances, some having tax credits and child benefit, all of these changes mean landlords need bespoke and individual tax advice before buying a property over and above their existing home.

Many industry professionals, including lenders, legal companies and agents, are unaware of the implications of adding extra wealth to an individual’s circumstance through property and it is this lack of industry knowledge which is potentially contributing to lost tax revenue for HMRC and accidental landlords potentially facing large – and unexpected – tax bills.

For example, The Guardian claims in an article that HMRC is “on the trail of £550 million missing tax – and is urging landlords to come clean, or risk higher penalties” ([Landlords – HMRC is closing in on your undeclared lettings income²⁵](#)).

Conclusion

So far we know that up 30% of properties in an area could be being rented by accidental landlords. This means a substantial number of landlords may not know what the letting rules and regulations are or what rights and responsibilities the tenant and landlord have to adhere to.

All they may want is a good tenant to let their property to who pays their rent on time and in full and keeps the property in good condition. However, what they do not know is how to find them, keep them – and they may not appreciate the level of expertise and professionalism required to let property.

This causes three problems which are in everyone’s interest to address:

- A lack of budgeting for repairs
- Not paying the right level of tax required
- Be unaware of the tenants’/landlords’ rights and responsibilities

As a result, policy makers, the industry and those involved in the PRS need to be doing much more to work together, to help accidental landlords understand the responsibilities they take on and to increase accidental landlords’ awareness of the impact of adding another property to their wealth through letting.

Recommendations to improve the PRS by educating accidental landlords

The aim of this report was to:

- Increase our understanding of who accidental landlords are;
- Ascertain how many of our landlords can be classed as ‘accidental’;
- Consider how Government, local authorities, those involved in the PRS and the media can communicate better to accidental landlords their rights and responsibilities, and encourage and advise them of the rights and responsibilities of their tenants.

So far in this report we have ascertained that accidental landlords contribute a significant number of homes to tenants in the PRS.

Without successfully educating, informing and offering accidental landlords ways to ensure their properties are let legally to tenants and that they understand the tax implications of taking on additional properties, then the chances of them being able to offer a good service and a legally let home to tenants is extremely difficult.

What five changes can we make in the PRS to increase the education of accidental landlords about their rights and responsibilities?

1. Provision of consistent, independent and up-to-date information

One of the issues we now have in the UK is that there are effectively four different countries which have, or will shortly have, four very different ways of running the PRS. This causes a problem for an accidental landlord that lives in one country and lets in another – and especially for those landlords who live abroad.

Each of the different countries’ governments has its own way of educating and providing information. However, as someone in England can buy a property to let in Scotland, or someone in Scotland can buy in Wales, the different requirements for each country need to be brought together by consumer organisations, national letting agents, landlord associations, lenders, insurance companies and other national landlord organisations to promote the key resources of information for each country.

Even those who work in the industry may not be aware of these differences, especially when it comes to mortgage and insurance call centres, brokers and providers.

Secondly, we need to give the national media easy access to a few expert places to signpost to future and existing landlords which include key educational materials to help them to deliver a quality PRS.

England: The English government has produced an excellent 'How to Rent' guide which helps both landlords and tenants understand their rights and responsibilities before, during and at the end of the tenancy.

Although mainly aimed at tenants, the document is useful for landlords, too, and should be adopted as one of the main education information sources by the whole lettings industry.

It is a legal requirement for letting agents and landlords to send this document to tenants at the start of a tenancy, but it is as important to ensure landlords have this information.

Recommendation: England

All new and existing buy-to-let mortgage policy holders should be sent the information on purchase and renewal of their mortgage, as well as being provided with a link to the latest version on the annual mortgage statement. All legal companies who carry out buy-to-let conveyancing and probate where a property is inherited should send the document out to their client.

The guide should be sent out to all landlords for when they take out landlord insurance or at renewal stage or when the document is updated.

All tenant and consumer facing organisations should encourage their tenants to take the document to property viewings to help reach as many landlords as possible.



Over and above the rental guide, the www.gov.uk site provides a wealth of information on renting and letting which does appear to be kept up to date, but unfortunately cannot prompt landlords to check the site on a regular basis.

For example a landlord can download the three-year tenancy agreement but, as their details are not captured, landlords are not being made aware of any subsequent updates.

Scotland: Scotland has the most rules and regulations including landlord licensing and does not allow tenant fees. The information for landlords and tenants which they provide is via its own website: <https://rentingscotland.org/>

Recommendation: Scotland

Ideally all the portals, agents, lenders, legal, inventory and insurance companies should be providing regular reminders about the Renting in Scotland site and, with the licensing system in Scotland, when updates are made landlords and registered letting agents can be informed.

Wales: Currently Wales is making major changes to the way properties are let there. Information is held on the [Rent Smart Wales](#) site.

Recommendation: Wales

While this new legislation is being implemented to November 2016, all governments and the PRS industry as well as the media need to work together to publicise the changes to reach as many people as possible.

Northern Ireland: Currently Northern Ireland has a landlord registration scheme which can allow the government to keep up with landlords who have registered – but many accidental landlords, particularly if living elsewhere, may not know they need to be part of the scheme. Information can be found at the [NI Direct government site](#). However, it is not easy to navigate and does not tend to have any ‘quick checks’ so a landlord can quickly understand their rights and responsibilities to the tenant as well as themselves.

Recommendation: Northern Ireland

As per the recommendations for other countries above, portals, the media, the PRS local and national government need to be doing much more to publicise where trusted resources can be found.

2. An industry standard buy-to-let course

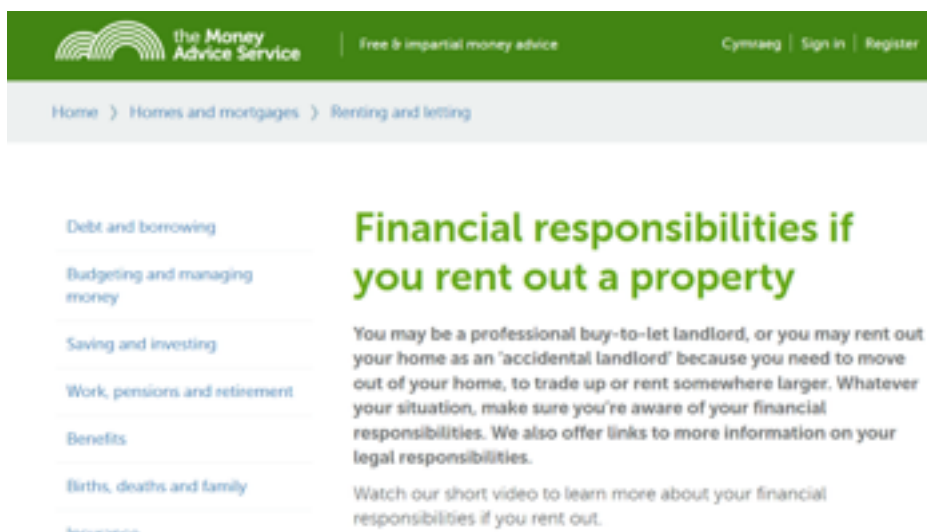
Currently there are far too many industry advisors who lend, carry out legal advice work and let property without any knowledge about different landlord types, the buy-to-let market and why letting succeeds and fails.

The aim of the course would be to educate all industry professionals who come into contact with landlords on all aspects of buy to let. This would need to include commercial letting agents as well as residential, legal companies, lenders, brokers and inventory companies.

Each needs to be educated on the law, buy-to-let running costs, tax issues and the need to seek expert advice and help with problems, such as non-payment of rent and who to turn to for key maintenance and repair work such as dealing with damp, which is a major source of conflict and poor property condition issues in the PRS.

3. Better information from consumer facing organisations

One of the main consumer groups to advise landlords is the Money Advice Service. However, sites including this one and Citizens Advice need to be reviewed by independent experts in the PRS industry to make sure they are giving the right information in a way landlords will take note of.



Source: ([Financial responsibilities if you rent out a property, 2000](#)²⁶)

With the speed of changes in the private rented sector and their impact on landlords and tenants, it is essential these sites are kept up to date with changes and are clear about:

- The complex nature of property tax and individual advice required before investing.
- The legal responsibilities of lettings, for example HHSRS and licensing.

- The benefits of using self-regulated versus non-regulated letting agents. Letting agents should publish fees upfront, make sure they keep the landlord up to date with their legal responsibilities and handle tenant disputes quickly and efficiently, or ideally, avoid them altogether.
- Changes coming up such as properties with a low EPC rating being unable to be let from April 2018.

One easy way to tackle this through consumer targeted websites would be to link to and promote the recent government's How to Rent Guide for England and have an equivalent checklist in each of the other countries.

In addition, there needs to be more guidance about buy to let versus other financial investments, such as the potential advantages/disadvantages of buying property with cash versus a mortgage and clarity on the need for specialist insurance. For example, the Money Advice Service states on its site: *"landlord insurance isn't legally required"* which could discourage accidental landlords from purchasing and needs rewording.

Are buy-to-let property investments safe and secure?

- **Landlord insurance** – isn't legally required, but taking out a policy can help protect you and your investment.
- **Buildings insurance** – which you'll need if you have a buy-to-let mortgage – can also help protect your investment.
- Because buildings and land are valuable, you may find yourself targeted by fraudsters.

4. All those involved in the PRS need to provide better information on buy-to-let finances

Few involved in the PRS are providing landlords with enough information on how to evaluate and run a buy -to-let property.

The key elements which are not being explained enough include:

- The role of a landlord in the PRS;
- The costs of preparing a property for it to be legally let;
- Explaining calculations of rental income as a percentage of mortgage payments does not necessarily mean the property will be cash flow positive or is a 'good' investment.

- A landlord's duty to their tenants and how they can keep up with the law, for example joining landlord associations or local accreditation schemes and outsourcing their responsibilities to an ARLA, RICs or NALs agent who offers Client Money Protection insurance;
- The importance of landlords seeking independent financial and professional tax advice prior to adding an additional property to their wealth.

5. Lenders and insurance companies to require more property safety checks

Currently a landlord is allowed to purchase a property to let which is not in a fit state to rent to tenants. If this was a property they intended to live in, the mortgage lender would normally request that monies were withheld for major issues such as the requirement of a damp course.

Lenders could, at little extra cost, request their legal representative seek documents such as gas and electrical safety certificates, not just Energy Performance Certificates or guarantees for work carried out on the property.

Insurance companies need to consider asking for Annual Gas Safety Certificates at the time of renewal and every five years for an up to date Electrical Safety Certificate, as per in Scotland since 1st December, 2015.

This initiative could substantially improve the number of properties let in a good condition and the results can be measured through the English Housing Survey.



Appendices

1. Glossary of terms

PRS: Private rented sector

LTV: Loan to value. This is the amount you borrow versus the value of a property. For example, if you buy a property worth £200,000 with a 95% loan to value, you would be borrowing £190,000. If you had a loan to value of 75%, you would be borrowing £150,000.

Owner occupation: This is property which is owned either outright or with a mortgage.

Decent homes: This is a commitment in the national strategy for neighbourhood renewal and plays a key role in narrowing the gap between deprived neighbourhoods and the rest of the country. The 'decent homes' definition was a programme developed for social homes renewal to provide sustainable neighbourhoods, invest in either refurbishing or demolishing poor accommodation.

The definition given of a decent home is one which:

- Meets the current statutory minimum standard for housing
- Is in a reasonable state of repair
- Has reasonably modern facilities and services
- Provides a reasonable degree of thermal comfort ie warm

Although created for the social sector, this definition has now been used for the English Housing Survey to measure owner occupied and privately rented properties. For more information, visit [A Decent Home: Definition and guidance for implementation](#).

Non-decent homes: Homes which fail to meet the 'decent homes' standard are considered as those which *"contain one or more hazards assessed as serious ('Category 1') under the HHSRS."*

Leasehold: This is where you own a property for a fixed period of time via a 'lease' agreement. This normally means you pay a service and ground rent charge to contribute towards costs of communal areas. Most flats and properties which are bought via shared ownership are owned through leasehold agreements.

Freehold: This is where you own the whole property outright including the land it sits on and you are responsible for all of the property's maintenance.

Landlord Associations: These are member bodies such as the NLA or RLA that support landlords who let property in the private rented sector.



2. Industry trade bodies

ARLA: Association of Residential Letting Agents – <http://www.arla.co.uk>

RICS: Royal Institution of Chartered Surveyors – <http://www.rics.org/uk/>

NALS: National Approved Letting Scheme – <http://www.nalscheme.co.uk>

RLA: Residential Landlord Association – <http://www.rla.org.uk>

NLA: National Landlord Association – <http://www.landlords.org.uk>

NAEA: National Association of Estate Agents – <http://www.naea.co.uk>

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