

What impact is enforcement of rules and regulations having on the private rented sector?



About this report

This report has been created thanks to the support of the TDS Charitable Foundation. The Foundation “*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 provided a grant to Kate Faulkner who runs Designs on Property Ltd (designsonproperty.co.uk), to produce a series of reports and surveys on the private rented sector which are designed to increase knowledge on the private rented sector in England and to promote best practice.



TDS Charitable Foundation Registration number: 1154321

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.



Having enjoyed working in her spare time in residential property, she went on to set up one of the UK's first property portals prior to the advent of Rightmove, 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 and professionalise 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 buyer, 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's happening in the residential property market.

This report is part of a series of reports and surveys that Kate will be producing thanks to the support of the TDS Charitable Foundation.

The aim of the research provided is to improve the understanding of the private rented sector and to make recommendations on changes which will impact positively on the experience of landlords and tenants.

Akansha Saxena is supporting Kate in researching and writing these reports and has an interest in the real estate business as she comes from a family who have been in the property dealing business for three generations. She has experience in renting, buying and selling properties in different cities and understands what information is and is not available. In addition, she has four years of experience in IT services and, in her last role as a project engineer (enterprise integration consultant), was responsible for analysing and resolving the technical issues faced by clients in real time.

She is currently pursuing an MBA from the University of Nottingham. She enjoys doing market research and data analysis, and is keen to better understand the dynamics of UK property market and help in producing the reports due to her previous experience and inclination towards real estate. She takes it as a great opportunity to learn about how the system works in the private rented sector in the UK.

What impact is enforcement of rules and regulations having on the private rented sector?

Introduction

The Residential Landlord Association (RLA) has identified that that up to June 2015, there were 145 laws with over 400 regulations that landlords need to abide by to legally let a property in England and Wales. And since then, more have been added.



In addition to lettings rules, letting agents have to abide by those specific to their industry such as being a member of a redress scheme, as well as the normal rules and regulations associated with running a business. Recently, with the increase in legislation since this time, the Association of Residential Letting Agents (ARLA) has stated there are 160 lettings laws they need to abide by.

Our first two reports – “Who are our Landlords” and “Accidental Landlords” – funded by the TDS Charitable Foundation show that most landlords are not professionals. They tend to have a full-time job; most have just one property and, with the majority of landlords being over 55, are heading toward to retirement. This report considers the practicalities of ‘average landlords’ and the wider market being able to keep up with current and new legislation which differs by country and in some cases by local authority, identifying:

- Which are the key rules and regulations landlords (and letting agents) need to abide by;
- Understanding who enforces these rules, and the fines or prison sentences that may apply if they aren’t adhered to;
- How well levels of enforcement are being implemented to weed out substandard letting practices.



Our research and report shows that:

- Many rules and regulations are not being enforced, partly due to a problem with clarity of the law;
- Enforcement is being applied inconsistently;
- There is a lack of leadership and funding to drive enforcement at a national level which would help to deliver a safer PRS through properties which are legally let.

This leads us to conclude that, to improve the safety and legality of properties in the PRS, there needs to be a:

- Review of existing rules and regulations to identify what is and isn't working;
- More co-ordinated approach to drive awareness of rules and regulations which do work well and, if known and enforced, genuinely protect both tenants and landlords;
- Better, cost-effective model to provide consistent enforcement which drives out bad landlords and agents, and rids the sector of sub-standard properties.



Contents

Section One: 145-160 laws for landlords and letting agents to abide by	8
Section Two: Rules and regulations introduced since 2015	17
Section Three: Who is responsible for enforcing the rules and regulations?	21
Section Four: How successful is enforcement of the rules and regulations to date?	25
Section Five: Industry views on lettings rules and regulation enforcement	39
Section Six: Conclusions and recommendations.....	46

Section One: 145-160 laws for landlords and letting agents to abide by

The Residential Landlord Association (RLA) is the leading voice for landlords in England and Wales which offers help and support to landlords to run their portfolios properly. To support its work, it carried out extensive research into the number of rules and regulations that affect landlords across England and Wales and found that there were, up to June 2015, 145 to abide by.

The 10 key areas that affect landlords and letting agents and require consumer (tenant) protection can be summarised as:

- Energy performance certificates;
- Property condition and repair;
- Tenancy agreements and deposits;
- Council tax and utilities;
- Housing health and safety rating system;
- Gas and electrical safety checks;
- Fire safety;
- Tenant possession and eviction;
- Landlord licensing, including HMO regulation and selective licensing
- Right to rent.

In addition, if landlords are letting properties to those on housing benefit/local housing allowance (or the new Universal Credit) more rules and regulations apply.

However, the rules and regulations for landlords and letting agents are more complex than just these 10 areas, especially if property is owned/managed across England, Wales, Scotland and Northern Ireland. With housing policy being devolved, the rules and regulations for the private rented sector (PRS) vary in each country.

Additional rules and regulations in Scotland

For example, Scotland has much stricter rules on electrical safety via the Housing (Scotland) Act 2006. Since 1st December 2015, private landlords have needed to have an electrical safety inspection with an Electrical Installation Condition Report (EICR) for all new lets, which has to be renewed every five years by a registered electrician. This will apply to all lets from 1st December 2016.

If a new or replacement boiler/heating appliance is fitted, private landlords must ensure a detection system is installed and Scottish Building Regulations and lettings law require carbon monoxide alarms to be fitted; they must also be checked prior to a new tenancy. (Source: Current private rented sector legal requirements in England, Scotland and Wales – Home Safety Guidance)

There is a Private Rented Housing Panel (PRHPO) which adjudicates breaches of the Repairing Standard and there is soon to be a First Tier Tribunal (FTT) which will absorb this work from 1st December 2016 and from 31st January 2018 they will take over all PRS cases relating to the new tenancy regime from the Sheriff Court and enforce Letting Agent Regulation and code of practice breaches. For block managed properties the Home Owner Housing Panel (HOHP) will be used instead of the FTT.

Landlords (and their agents) must also issue a Tenant Information Pack together with their tenancy documentation.

Landlord registration

Scottish landlords are required to be licensed and the licence number has to be quoted on any adverts to let the property.

Introduced under Part 8 of the Antisocial Behaviour etc (Scotland) Act 2004, private landlords have to be registered with their local authority and the registration can be removed if it is proved they are not a “fit and proper person” to let property.

In addition landlords must meet minimum standards and allow tenants and any neighbours to easily find and be able to contact landlords if they have any queries or problems. (Source: Landlord Registration Scotland)

Additional rules and regulations in Wales

New rules passed in the Housing (Wales) Act 2014 have been being implemented and have needed to be followed since November 2016. Landlords and letting agents will need to be registered and will require a licence in order to manage a rented property. This means landlords either need to secure a licence and pass an approved training course in lettings management or use a letting agent that is already licensed. (Source: [Rent Smart Wales](#))

Additional rules and regulations in Northern Ireland

In Northern Ireland the key requirement is for landlords to be registered and they have to provide a substantial amount of information about themselves and the property they let, including:

- Landlord's full name and any joint owners
- Landlord's contact details including address, email, landline and mobile
- A company registration number, if applicable
- Landlord's date of birth
- Correspondence address in Northern Ireland (if different)
- Name, address and agent contact details
- Address of the rental property
- Year the house was built
- Registration certificate if you run a house in multiple occupation (HMO)

All landlords are given a unique registration number as a result of this process.

Other information such as number of rooms, heating type, glazing, energy performance and whether you would be interested in seeking longer term rental agreements is useful, but not a requirement.

(Source: [Landlord Registration Process – NI Direct Government Services](#))

In addition, there is a requirement for each property to meet "*The Statutory Fitness Standard*". To meet this standard, a property must be structurally stable, free from serious disrepair, free of damp, have adequate lighting, heating and ventilation, have an adequate supply of water, and effective drainage. (Source: [General standards of fitness for rented accommodation – NIHE](#))

Summary of the key areas of legislation that affect landlords and their managing agents

To have an understanding of why enforcement is essential to the success of the PRS, it is important to first understand the vast range of rules and regulations and the diverse nature of the different legal acts which are introduced by different countries as well as different government departments. It is clear there is no single department or enforcing body – which makes lettings rules and regulations an extremely complex field.

Energy performance certificates

Energy performance certificates were introduced under the law Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations (2007/991) executed from 1st October 2008. The Trading Standards department and the Department for Communities and Local Government (DCLG) are held responsible for executing this law, through Trading Standards as enforcing body. (Source: [Energy performance certificates – gov.uk](http://www.gov.uk))

Property condition and repair

The property condition and repair regulations were initially introduced under the Landlord and Tenant: Responsibility for State and Condition of Property law reform (1996) and have been amended, changed and added to ever since. The Department of the Environment and the Department for Communities and Local Government are held responsible for managing these regulations. Local authority housing and environmental officers are typically enforcing bodies for implementing these regulations. (Source: [Review of property conditions in the private rented sector – gov.uk](http://www.gov.uk))

Tenancy agreements

Tenancy agreements regulations are implemented under common law and agreements and under the Housing Act 1988. The Department of Enterprise, Trade and Investment in Northern Ireland (DETI) and the CMA manages the tenancy agreements rules and regulations through enforcing bodies such as the Competitions and Markets Authority, Trading Standards and local Authorities. (Source: [Tenancy agreements: a guide for landlords \(England and Wales\) – gov.uk](http://www.gov.uk))



Tenancy deposits

Tenancy deposits regulations were implemented under the Housing Act 2004 (as amended) requiring landlords to put deposits in a government back tenancy deposit scheme (TDP) for ASTs that started after 6th April 2007. Tenants and landlords can enforce their rights through the schemes and/or the County Court. Tenancy Deposits are also governed by the Consumer Rights Act 2015, Part 2 (Unfair



Terms) and common law. Trading Standards also recently used the provisions in the Consumer Protection from Unfair Trading Regulations 2008 to successfully prosecute a letting agent, claiming that they had failed to meet the standard of professional diligence expected of an agent. The enforcing bodies CMA and other local authorities are responsible for enforcing laws relating to tenancy deposits in England and Wales. (Source: [Tenancy deposit protection – gov.uk](#))

Council tax and utilities

The rules on council tax are implemented under The Council Tax (Administration and Enforcement) Regulations 1992. It is enforced by local authorities through the Department of Communities and Local Government. Typically, a landlord pays the council tax if 'all bills are included' such as in a licensed house in multiple occupation and it is normal for utilities to be paid by the landlord in the same way. (Source: [Council tax – gov.uk](#))

However in Wales (and other areas supplied by Welsh water authorities) under the “non-statutory guidance in relation to the Water Industry (Undertakers Wholly or Mainly in Wales) (Information about Non-owner Occupiers) Regulations 2014”, landlords must provide water suppliers with the name, date of birth and the date the tenant moved into the property within 21 days of the start of the tenancy. (Source: [New rules for Welsh landlords on water charges – The Landlord Law Blog](#))

Housing health and safety rating system (England)

This is implemented under the Housing Health and Safety Rating System (Housing Act 2004) under the Department for Communities and Local Government. Local authority housing and environmental officers are the enforcing bodies for executing these regulations. (Source: [HHSRS enforcement guidance: housing inspections and assessment of hazards – gov.uk](#) and [HHSRS enforcement guidance: housing conditions – gov.uk](#))



Gas, electrical and carbon monoxide safety checks

Gas, electrical and, latterly, carbon monoxide safety checks were implemented in the Landlord and Tenant Act 1985 and the Housing Health and Safety Rating System (HHSRS) under the Housing Act 2004. These regulations are managed by various bodies including the Health and Safety Executive (HSE) as well as local authority housing and environmental officers and building control if a new build or works are being carried out on a property. (Source: [A guide to landlords' duties: Gas Safety \(Installation and Use\) Regulations 1998 – HSE](#))

Fire safety

Fire safety regulation is implemented under the Regulatory Reform (Fire Safety) Order 2005 by the Department for Communities and Local Government. HSE, the fire service and local authority housing and environmental officers enforce the fire safety regulations. (Source: [Regulatory Reform \(Fire safety\) Order 2005 guidance note – gov.uk](#))

Tenant possession and eviction

Tenant possession and eviction are implemented under Section 21 and Section 8 notices and The Protection from Eviction Act 1977. These regulations come under the Department for Communities and Local Government. High Court enforcement officers enforce tenant possession and eviction regulations in England and Wales. (Source: [Evicting tenants \(England and Wales\) – gov.uk](#))

Landlord licensing, including HMO regulation and selective licensing

The Housing Act 2004 covers landlord licensing, including HMO regulation and selective licensing. These regulations come under the Department for Communities and Local Government for England, along with the local authorities. For Wales it comes under Rent Smart Wales, while for Scotland and Northern Ireland there is also a register of landlords. (Source: [Licensing and management provisions in The Housing Act 2004: draft guidance – gov.uk](#))

Additional rules and regulations for landlords/agents letting to tenants on benefits

If a landlord is considering letting to a tenant on benefits and the property is mortgaged, one of the first things that they have to check is whether the lender's terms and conditions allow this. Landlords and agents also need to ensure that any specialist landlord insurance policies cover letting to tenants on benefits.

Although currently most tenants are given a specific amount to help fund their rent in the form of Housing Benefit/Local Housing Allowance, this is gradually being replaced with Universal Credit, an 'overall payment' of benefits which the tenant can spend as they wish, rather than a set amount towards the rent. (Source: Universal Credit – gov.uk)



As payments are typically calculated based on local market rents and updated annually, they may or may not cover all of the landlord's rent charged.

The rules on benefits were introduced in the Housing Benefit Regulations 2006, with local housing allowance updates in 2013 and the addition of Universal Credit Regulations 2013. It is expected that Universal Credit will be implemented nationwide by 2017.

From a landlord and letting agent perspective, the key rules and regulations to be aware of, over and above cover by lenders and insurance companies, are that it is possible for the rent paid to be 'clawed back' if deemed unlawfully paid, even if the landlord was not aware of the fraud taking place. If the tenant ends up in arrears by eight or more weeks the rent can be paid directly to the landlord rather than to the tenant. Benefit fraud is enforced by the Department of Work and Pensions, Crown Prosecution Service (CPS), or in Scotland the Crown Office and Procurator Fiscal Service (COPFS), with a view to a criminal prosecution or the imposition of penalties where an overpayment has occurred as a result of claimant error.

Letting agent rules and regulations

It's the job of a letting agent to comply with all the rules and regulations which apply to landlords. In addition, they must abide by business rules and regulations, plus those specific to their industry.

Membership of a redress scheme

Since 1st October 2014, all letting agents and property managers in England have had to belong to a government-approved redress scheme. This ensures both landlords and tenants can make complaints to an independent, expert body if they are dissatisfied with the service received after following the agent's or property manager's own complaints procedure.

Failure to join a redress scheme is dealt with by way of a financial penalty up to a maximum of £5,000 via the Penalty Charge Notice (PCN) procedure, determined by the enforcing authority.

Letting agency work and property management is defined by the Enterprise and Regulatory Reform Act 2013.

Letting agent rules and regulations for Wales, Scotland and Northern Ireland

In Wales letting agents must be licensed by November 2016 (Source: [Agents: The law and how to comply – Rent Smart Wales](#))

In Scotland letting agents will need to be registered and pass a 'fit and proper' person test and have carried out required training. The code of practice is expected to begin being enforced by January 2018 by the First Tier Tribunal. The law was laid out the Housing (Scotland) Act 2014 (Source: [Letting agent regulation – Scottish Government](#))

In Northern Ireland there are no requirements, bar being member of a redress scheme for agents to be registered or licensed.

Displaying tenant and landlord fees, client money protection and redress information

On 27th May 2015, new legislation required all agents in England to publicise the fees they charge so landlords and tenants are aware of the cost of renting through that agent. This was extended to Wales on 21st October 2015 via the Consumer Rights Act 2015 (Commencement No. 2) (Wales) Order 2015. Sections 83 to 88 of the Consumer Rights Act 2015 (the CRA 2015) contains further guidance about exactly which fees must be displayed.

The fees need to be listed and publicised/displayed both in their offices and on their websites. In addition, in England the letting agent must state whether or not they are a member of a 'client money protection scheme' which protects tenant/landlord rent if the money goes missing due to theft or the agent going out of business. Furthermore letting agents must also publish with the list of fees a statement that indicates they are a member of a redress scheme and give the name of the scheme they belong to.

These rules are enforced by the local authority and can be done in partnership with Trading Standards. According to guidance from the Department for Communities and Local Government, £5,000 should be charged per breach, unless there are extenuating circumstances.

In the 2016 Autumn Statement it was announced that there was to be a ban on lettings fees for tenants, so agents who later abided by this government decision may find the money and time they have invested in new systems to display fees may end up being completely wasted. This proposal is to be consulted on during the spring of 2017 and is unlikely to be implemented until 2018.

In addition, as we have raised throughout this report and know from anecdotal evidence from Scotland where fees have already been banned, without local authorities and Trading Standards being given enough funding to enforce this proposed new rule, the rogues will continue to charge tenants and the good agents which will abide by the law will end up having to cut costs, meaning service to tenants and potentially landlords, too, will suffer.

It is also clear that once tenant fees are banned there is likely to be less enforcement action than there is currently for the failure to display tenant fees under the Consumer Rights Act as, in future, enforcement action of this nature will rely on complaints from disgruntled consumers as opposed to something enforcers could unilaterally inspect in offices and on traders websites without the need for consumer complaints.



Displaying the company's business name

As with all companies, letting agents must comply with The Companies Act 2006 and the Companies (Trading Disclosures) Regulations 2008 which requires a company's business name to be displayed:

- at their premises;
- on official company stationery;
- on the company's website.

Not complying with this or other requests for information by a council means an agent could be fined around £5,000 – as an agent was by Southend Council in October 2015. (Source: [Southend letting agency fined – Basildon Canvey Southend Echo](#))



Section Two: Rules and regulations introduced since 2015

The initial issue with having in excess of 145 rules and regulations or more for both landlords and letting agents is that this is a huge job to be aware of each and every one and their implications. But the bigger problem comes when trying to keep up to date with changes and then trying to understand and implement new rules. In recent years, so many new rules and regulations have been introduced, and at such speed, that as soon as one set of rules and regulations has been introduced, this has been quickly followed by more changes, causing great confusion, especially for self-managing landlords.

Keeping up with these rules and regulations is particularly difficult when you consider the fact that according to our first two reports about landlords

- Who are our landlords?
- Accidental Landlords

...most landlords are in full-time work and let property as a 'sideline' investment and some never intended to become landlords in the first place, so few have any idea of the complexity of taking on a tenant. In addition, not all letting agents are members of trade bodies which ensure that they are kept up to date with the latest rules and regulations. As such, keeping up to date with a plethora of rules and regulation changes, on top of carrying extensive administration to let property, it is extremely difficult for anyone not working in the lettings industry full time to keep up to date with the law.

For example, since the start of 2015 alone, the following new rules and regulations have been, or are being introduced which will affect landlords directly or the companies/ organisations they deal with:

Right to rent

This law is for the landlord to check whether a tenant or a lodger who is aged 18 and over can legally rent the residential property in England. The landlord should cross-check tenant's documents with the home office and check if the property is used as the tenant's main

home. Landlords can be penalised if they are renting to someone who is not authorised to rent property in England or is an illegal immigrant. (Source: [Check your tenant's right to rent – gov.uk](#))

Section 21 and tenancy deposit protection

A landlord issues a Section 21 Housing Act 1988 notice when they want to regain possession of their property at the end of an Assured Shorthold Tenancy (AST) or wishes to exercise a break clause. They can issue a Section 21 notice to the tenant to end the tenancy agreement without any reason, but following changes to these rules, cannot do so unless at the start of the tenancy they have issued:

- a copy of a valid EPC;
- a gas safety certificate;
- the most recent version of How to Rent: The checklist for renting in England.

The landlord also cannot issue a Section 21 notice if the tenant has reported repairs required and the landlord has not responded or carried out these repairs.

The Deregulation Act (2015) clarified tenancy deposit protection requirements and ensured that the deposit is protected where the tenancies overlap the Housing Act (2004). (Source: [Section 21s after October 1st 2015 – RLA](#) and [Do you need to act on the deregulation act? – Tenancy Deposit Scheme](#))

Consumer protection legislation

There are new obligations for landlords and tenants to encourage transparency in the private rented sector under consumer protection legislation. Landlords and tenants have to treat residential tenants as consumers and they are entitled to the same protection as any other consumer. Letting agents also have to treat all landlords' clients (and potential clients) as consumers unless it is clear they are not.

Furthermore, there are equivalent business-to-business regulations that apply in relation to advertising for landlords' clients and contracting with clients. (Source: [Obligations for landlords/agents – RLA](#)) These are in addition to the Consumer Protection from Unfair Trading Regulations (2008) that prohibit misleading actions or omissions by businesses (that cause or are likely to cause prospective tenants or consumer landlords to take a transactional decision that they would not otherwise have taken). It is also in addition to other Consumer Protection legislation such as the Consumer Contracts (Information Cancellation and Additional Charges) Regulations 2013 where in some circumstances a prospective tenant or landlord may be entitled to a 14-day cooling-off period.

Energy efficiency

Since April 2016 tenants have been able to request that their landlord carries out energy efficiency improvements to privately rented properties, after ensuring that the works are funded and there is no upfront cost to the landlord. In addition, all properties rented out in the private rented sector should have a minimum energy performance rating of E on an Energy Performance Certificate (EPC) from April 2018 for new lets and renewals of tenancies. All existing tenancies will have to comply by April 2020. Local authorities will enforce this law and can impose penalties of up to £4,000 for breaches. (Source: [Minimum energy efficiency standards – RLA](#) and [Tenants right to request consent to energy efficiency improvements – RLA](#))

Smoke and carbon monoxide alarms

The new regulation requires smoke alarms and carbon monoxide alarms to be installed in rented residential accommodation, albeit the latter only where a solid fuel appliance is present. The regulations apply to residential premises including houses, flats and other dwellings. Since 1st October 2015, the landlord has also been required to carry out a check on the day of a new tenancy to ensure that smoke alarms and carbon monoxide alarms are in working order and comply with the regulations. The requirements are imposed on the landlord – and the license holder in case of a licensed HMO or where there is a selective licensing to ensure the installation of alarms. Failure to comply can lead to a civil penalty being imposed of up to £5,000. (Source: [Smoke and carbon monoxide alarms: explanatory booklet for landlords – gov.uk](#) and [Carbon monoxide and smoke detectors requirements – RLA](#))

Rogue landlords

The Housing and Planning Act 2016 was passed on 12th May 2016 and lists a number of reforms aimed at tackling rogue landlords, including banning orders and a blacklist database. This means landlords who fall foul of the law can be banned from letting houses and carrying out property management services in England. It is expected that regulations will come into place in October 2017. This database of rogue landlords will be held by the Department for Communities and Local Government.

Depending on the severity of the breaches, a landlord could be banned from letting for a year, imprisoned or fined up to £30,000. In addition, a tenant and/or local authority can claim back rents paid if a landlord commits one of the listed offences which are within the Eviction Act 1977. (Source: [New funding to crack down on rogue landlords – gov.uk](#))

In addition to the above which mostly relate to England, in other countries:

Scotland

The Private Housing (Tenancies) (Scotland) Bill was passed by the Scottish Parliament on 17th March 2016 and received Royal Assent on 22nd April 2016. The Bill lists some clear rules that simplify tenancy agreements and from 31st January 2018, all tenancies created will come under new rules.

Legislation no longer allows tenants to be evicted simply because their tenancy is coming to an end. The increase in rent has been limited to once a year only, and there is a requirement to give three months' notice of the increase to the tenant to enable them to plan their budget in a better way. Local authorities will also be able to regulate rents, especially in areas where increases have been excessively high, to avoid a negative impact on the overall housing system. (source: [MSPs approve new regulations for tenants and landlords – BBC](#)).

Another new law for landlords in Scotland concerns electrical safety and was introduced in December 2015 for new lets, coming into effect in December 2016 for all lets. The landlord must ensure that a registered electrician has completed an Electrical Installation Condition Report (EICR) and a Portable Appliance Test (PAT). This report must be given to the tenant.

If there are existing tenants in the property then the landlord must ensure that EICR and PAT are carried out and the reports are handed over to the tenants. In addition, the landlord must also ensure that smoke alarms are in place in rooms that are frequently used by tenants during daytime in addition to hallways and kitchen. There is also a requirement that the alarms are hardwired and interlinked for safety purposes. (Source: [Repairing Standard – Scottish Government](#))

Wales

All landlords and letting agents will have to be licensed to manage a property from November 2016 (source: [Rent Smart Wales](#)). Some of the existing laws on letting are not only very complex but also date back centuries and are being revisited primarily because there will be more than a million tenants in Wales in the foreseeable future with 16 and 17-year-olds also being allowed to rent for the first time (source: [Renting law to tackle rogue landlords, Welsh government claims – BBC](#)). One of the key changes in the law would mean that landlords who do not carry out their property maintenance responsibilities should not be able to evict tenants.

There are, however, new rules which allow landlords to take back control of their property should a tenant abandon it without informing the landlord. (Source: [Abandonment issues – new laws to help landlords – Landlord Training Wales](#))



Section Three: Who is responsible for enforcing the rules and regulations?

With such a vast range of laws to abide by, the problem with enforcement comes from the fact there is no single, clear, 'overriding' enforcement body.

There are now four different countries which set different lettings rules and regulations and, in theory, landlords can have properties in each one. And it's not just the laws which are different but the enforcement of those laws can be carried out by different organisations in different countries, too.

In addition to differences for each country's enforcement there is also a range of bodies that carry out enforcement across the private rented sector. These bodies range from the local authority housing officers, environmental officers, Trading Standards, the Home Office, Competition and Markets Authority and Advertising Standards Authority and, in Scotland, the Private Rented Housing Panel.

There are also rules which have a small level of enforcement around letting agent redress schemes, third party management of tenants' deposits and finally, some enforcement comes from HMRC regarding tax landlords and agents need to pay.

The complexity of rules, regulations and their enforcement is clearly vast and can be different from one local authority to another, too. So for the 'average landlord' who works full time, let alone the letting agents and their respective trade bodies, it is difficult to ascertain who is responsible for enforcing each regulation and the penalties breaches would incur. (See previous reports on: [Who are our landlords?](#); [Accidental Landlords](#))

During our research for this report, we struggled to find a single source of information which detailed who enforced which rules and regulations, so have attempted to create our own to help illustrate that the enforcement system is now potentially too complex for landlords and even the industry to follow.

Summary of the main rules and regulations and enforcement

Please note that there are different rules and regulations which apply to England, Wales, Scotland and Northern Ireland; where possible we have highlighted the differences.

Energy performance and certificates	
Enforcement body	Trading Standards
Individual country different bodies	Scotland: Building Standards and Trading Standards
Penalty	£200
Source	<ul style="list-style-type: none"> https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5995/2122141.pdf

Property condition and repair	
Enforcement body	Local Authority housing/environmental officer
Individual country different bodies	Scotland: Private Rented Housing Panel
Penalty	Up to £5,000
Source	<ul style="list-style-type: none"> https://england.shelter.org.uk/_data/assets/pdf_file/0009/781587/Final_copy_of_Shelters_response_to_the_Government_Review_into_poor_conditions.pdf

Right to rent	
Enforcement body	The Home Office/Immigration Crime
Penalty	Up to £3,000 per person who hasn't the right to rent
Source	<ul style="list-style-type: none"> https://www.gov.uk/report-immigration-crime https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/530637/right-to-rent-landlords-v4.pdf

Letting fees	
Enforcement body	Competitions and Markets Authority/Trading Standards/Local Authority
Penalty	Up to £5,000
Source	<ul style="list-style-type: none"> http://www.legislation.gov.uk/ukpga/2015/15/section/83/enacted

Consumer protection	
Enforcement body	Competitions and Markets Authority/Trading Standards/Local Authority
Individual country different bodies	Department of Enterprise, Trade and Investment in Northern Ireland
Penalty	Up to £5,000 or an unlimited fine, imprisonment or an injunction
Source	<ul style="list-style-type: none"> https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319820/Lettings_guidance_CMA31.PDF

Tenancy agreements	
Enforcement body	Competitions and Markets Authority/Trading Standards/Local Authority
Individual country different bodies	Department of Enterprise, Trade and Investment in Northern Ireland
Penalty	Up to £5,000
Source	<ul style="list-style-type: none"> https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319820/Lettings_guidance_CMA31.PDF

Tenancy deposits	
Enforcement body	County Court
Penalty	Up to 3x the value of the deposit
Source	<ul style="list-style-type: none"> http://england.shelter.org.uk/get_advice/tenancy_deposits/tenancy_deposit_protection_schemes/penalties_if_a_landlord_breaks_tenancy_deposit_rules

Council tax and utilities	
Enforcement body	County Council and utility companies
Penalty	Collect the debt
Source	<ul style="list-style-type: none"> • england.shelter.org.uk/get_advice/housing_benefit_and_local_housing_allowance/council_tax/council_tax_arrears • https://www.citizensadvice.org.uk/scotland/tax/council-tax/council-tax-s/ • https://www.citizensadvice.org.uk/consumer/water/water-supply/problems-with-paying-your-water-bill/if-you-don-t-pay-your-water-bill/

Housing health and safety rating system/repairing standards	
Enforcement body	Local Authority housing/environmental officer
Individual country different bodies	Scotland: Private Rented Housing Panel
Penalty	Up to £5,000
Source	<ul style="list-style-type: none"> • http://www.wiltshire.gov.uk/hsg-private-sector-hsg-enforcement-policy.pdf

Gas and electrical safety checks	
Enforcement body	Local Authority housing/environmental officer/Health and Safety Exec/Fire and Rescue Service; Electrical safety, Trading Standards
Individual country different bodies	Scotland: Private Rented Housing Panel
Penalty	£20,000 per breach and imprisonment
Source	<ul style="list-style-type: none"> • http://www.hse.gov.uk/pubns/indg285.pdf • http://www.rla.org.uk/landlord/guides/responsibilities/electrical_safety.shtml

Fire Safety	
Enforcement body	Local Authority housing/environmental officer/Health and Safety Exec/Fire and Rescue Service
Individual country different bodies	Scotland: Private Rented Housing Panel
Penalty	Up to £5,000 for each offence and imprisonment
Source	<ul style="list-style-type: none"> • http://www.dsfire.gov.uk/yoursafety/SafetyAtWorkandotherplaces/Adviceforlandlordsandlettingagents/documents/Firesafetyadviceotlandlords.pdf

Tenancy possession and eviction	
Enforcement body	Local Authority/High Court Enforcement Officers
Penalty	Up to £5,000
Source	<ul style="list-style-type: none"> • http://www.local.gov.uk/media-releases/-/journal_content/56/10180/7669798/NEWS

Landlord licensing, including HMO regulation and selective licensing	
Enforcement body	Local Authority housing
Individual country different bodies	Wales: Licensing Authority
Penalty	Unlimited fines for HMOs; up to £50k for Scotland; £2,500 in N. Ireland
Source	<ul style="list-style-type: none"> • http://www.gov.scot/Publications/2009/10/08102524/4 • https://www.rentsmart.gov.wales/en/about/ https://www.gov.uk/house-in-multiple-occupation-licence • https://www.nidirect.gov.uk/articles/landlord-registration-process

Lettings agent enforcement

The following enforcement requirements of letting agents have been provided by the National Approved Lettings Scheme. (Source: [Effective enforcement in the PRS – NALS](#))

Membership of a redress scheme

All letting agents and property managers in England since 1st October 2014 have had to be a member of a government-approved redress scheme. This ensures both landlords and tenants can make complaints to an independent, expert body if they are dissatisfied with the service received after following the agent's own complaints procedure. Letting agency work and property management is defined by the Enterprise and Regulatory Reform Act 2013.

Letting agents can be ejected from this scheme and banned from joining any others, but it is then down to Trading Standards to ensure they do not continue trading.

Display of fees to tenants and landlords

On 27th May 2015, new legislation came into force making it a requirement for all agents in England and Wales to publicise their relevant fees. The same requirement was extended to Wales on 21st October 2015 by virtue of the Consumer Rights Act 2015 (Commencement No. 2) (Wales) Order 2015.

The reason behind the publication was to ensure tenants (and landlords) know what fees they are likely to be charged before they source a property from an agent or directly from a landlord.

This is enforced by Trading Standards and the Advertising Standards Authority.

Client money protection scheme notification

In England only, it is a requirement that agents must state whether they belong to a client money protection scheme, which protects the rent paid to the agency should the business go bust or monies are stolen. Agents that offer this scheme would be members of SAFEagent; Association of Residential Letting Agents (ARLA), the National Approved Letting Scheme (NALS), the Royal Institution of Chartered Surveyors (RICS) and the UK Association of Letting Agents (UKALA).

In Scotland the letting agent regulation code of practice will make it compulsory for all agents to have CMP by 31st January 2018. "Relevant" staff will have to have completed mandatory training and qualification which will be enforced by central government rather than local authorities and redress for breaches of code will be heard by the First Tier Tribunal.

As this report is being published, there is a new consultation to consider ensuring all letting agents have [Client Money Protection Review – gov.uk](#), so more enforcement will be required if this is made a legal requirement. The consultation closed on 3rd October 2016.

Section Four: How successful is enforcement of the rules and regulations to date?

Unfortunately, despite there being in excess of 145 rules and regulations in England and Wales applying to the PRS, enforcement of these and additional rules in Scotland and Northern Ireland is limited and, up until now, the main enforcing body – local authorities – have adapted very different levels of enforcement.

Despite many rules and regulations being introduced, it is apparent that enforcement has, in the main, been very limited. Here is a summary of publicised landlord and letting agent prosecutions by country:

Scotland

According to two reports which critique the Scottish landlord registration scheme:

“A crackdown on rogue landlords has cost taxpayers nearly £18 million in the past six years and resulted in just 11 reports to the procurator fiscal in Scotland.” Showing that *“Since 2006, just 40 landlords have been barred from registering, while 11 have been reported for prosecution out of more than 200,000 who have signed up.”* (Source: [Rogue landlord prosecutions cost more than £1m a time – Landlord Zone](#) (2013))

An “Evaluation of the Impact and Operation of Landlord Registration in Scotland” commissioned by the Scottish government reviewed the impact of the scheme up until 2011 and concluded that:

“People take the role of landlord more seriously” and *“It has led to improvements in the image of the private rented sector and improved standards across the sector”*.

But from an enforcement perspective, considering the cost, the impact has been minimal:

- Less than half (46%) of local authority respondents regard the current guidance as satisfactory.
- There is a belief that there is a lack of tenant awareness of the scheme. This may be a symptom of a lack of tenant awareness strategies (70% of local authorities do not have a strategy for raising tenant awareness).
- While landlord registration has increased local authority knowledge of the sector, less than half of local authorities believe that it has improved property management (46%) and property conditions (36%) in the private rented sector (although this is not what it was introduced to achieve).
- It is believed to have improved the quality of landlords in the sector, although it has not removed the ‘worst’ landlords (only 7% of respondents thought it had removed the worst landlords).

And some local authorities pointed out that the scheme:

“won't remove bad landlords if you can't find them or they can use an agent” and “it will not change the worst landlords”.

So registering landlords in Scotland appears yet to have had a significant impact on enforcement and the 'light touch' approach means few landlords appear to have been stopped from letting and even fewer have been reported.

(Source: [Evaluation of the Impact and Operation of Landlord Registration in Scotland – Scottish Government \(2011\)](#))



In addition to landlord registration enforcement, publication on enforcement of other legislation shows a few other prosecutions:

- Landlord fined for not having an HMO Licence 2011 (Source: [Edinburgh landlord found guilty of licence evasion – City of Edinburgh Council](#))
- Landlord fined for boarding up a tenanted property and changing the locks while they were both attending court (Source: [Fife landlord boarded up house while tenant was out – The Courier](#))

However, in Lanarkshire, there appears to be the start of a substantial crackdown, particularly on criminal landlords. Chief Constable Gormley stated in a report to the Scottish Police Authority that *“31 landlords under the process had been referred to the council's licensing committee,”* adding: *“Nine have been removed and three voluntarily removed themselves from the landlord register and a further nine are awaiting a committee hearing”.* (Source: [Gangster landlords face money-laundering crackdown – Scottish Herald](#))

Letting agent enforcement

According to a report from the Scottish Herald, the first agent (Calvin Houston Ltd) to be prevented from trading by North Ayrshire Trading Standards for not protecting deposits and they believe that this will now open the door to further enforcement.

However, it has taken nearly three years to make this first prosecution after the Tenancy Deposit Scheme (Scotland) Regulations were passed in 2011 and for all deposits to be protected by May 2013 and currently it is estimated that only 40% of deposits are protected, although we haven't been able to verify this further. (Source: [First Scots prosecution over failure to protect tenants' deposits – Scottish Herald](#))

Northern Ireland

By the end of June 2015, 42,000 landlords had registered an estimated 89,000 tenancies, suggesting, according to the Department of Social Development, that roughly 94% of landlords have complied with required legislation. (source: [94% compliance with landlord registration scheme – Housing Rights](#))

This suggests that landlords have complied, however we were unable to find information about many landlords who had been prosecuted for not registering.

With regards to 'other' enforcement, back in 2010 a landlord was fined £200 and paid costs of £132 for harassment of a tenant after hanging a sign outside the house to say they had not paid the rent (Source: [Landlord who hung 'no rent paid' sign on door is fined – Belfast Telegraph NI landlord fined](#))

The Larne Times reported in 2014 that a private landlord was fined £1,650 for failing to protect a tenant's deposit (Source: [Landlord is fined £1,650 by Larne council – Larne Times](#)).

No cases of a letting agent being fined were found.

England and Wales

The data on landlord prosecutions is much more substantial for these areas due to the Environmental Health News Magazine request for information which they appealed on public interest grounds with the support of the Guardian.

The report can be found here: [The rogue landlord files – EHN](#) and includes an invaluable database showing:

“that 2,006 individuals and companies – half of whom are named – were fined nearly £3m for housing offences under the Housing Act 2004 between 2006 and 2014.”

The data reveals that England and Wales are far more active than Scotland and Northern Ireland when it comes to landlord prosecutions, but enforcement varies dramatically from one local authority to another, depending on the emphasis the local authority places on private rented sector enforcement.

The work carried about by EHN shows:

- The most prosecuted landlord in England is London-based property owner, Katia Goremsandu, who has been convicted seven times and fined a total £16,565.
- The most prosecuted landlord in Wales was Brent Burton. He was convicted four times and fined a total of £3,810 for renting out cold, filthy and dangerous homes in north Wales. Despite this record Mr Burton received £2,752 in rent paid through housing benefit in 2014.

In total:

- Since the Housing Act came into force in 2006 housing offence convictions have increased rapidly, rising from six to 428 by 2014;
- Prosecutions for unlicensed and substandard HMOs have increased faster, from just one to 181 in the same period;
- Councils in the East London local justice area have prosecuted 256 landlords - more than councils in 66 other local justice areas; (Source: [Licensing pushes up prosecution rates – EHN](#))
- In contrast, local authorities in 11 magistrate court areas, including Doncaster, Wigan and Corby, have carried out only one prosecution each since 2006.

The data also suggests that *“over 60% of rogue landlords are aged over 40”* which is in line with research from our first report [“Who are our landlords?”](#) which showed most landlords tend to be older; in fact the average age is over 55.

A second report from the Local Government Association (2016) who carried out a survey in 2015 of 120 councils showed the potential enforcement work required for each council, as they *“received on average of over 400 complaints about bad living conditions per year, of which over 35 constituted life-threatening category one hazards.”*

More than 120 councils represent a potential 48,000 complaints needing to be investigated on an annual basis. When you compare this to their figures which show just over 2,000 landlords being prosecuted between 2006 and 2014, it suggests a substantial shortfall between the number of potential bad landlords offering below standard properties than those actually being prosecuted. Other options to seek compliance are available to the local authority i.e. improvement notices.

The level of enforcement required would seem to be backed by additional information from the research which suggests councils in England received in 2013 *“51,916 complaints about poor living conditions but inspected just 14,043 homes.”*

Current data suggests there is a substantial shortfall in the amount of enforcement being required versus the number of complaints councils are receiving.

Individual council performance

From an individual council perspective, some local authorities are clearly prioritising enforcement through prosecution of rogue landlords and identifying poor quality rental housing.

Oxford City Council, for example, publishes its actions against landlords on its website and has increased the number of enforcement cases, particularly in regard to carrying out action against landlords with houses in multiple occupation:

Oxford enforcement case tracking	2011	2012	2013	2014	2015	2016
Section 16 the Local Government (Miscellaneous Provisions) Act 1976	0	0	4	2	1	5
HMOs and licensing (England)	1	9	4	10	12	12
Unlawful eviction under the Protection From Eviction Act 1977	1	1	1	2	3	1

(Source: [Enforcing private rented housing – Oxford City Council](#))

Interview with Russell Moffatt, operations manager, Private Housing & Environmental Health, Newham Council

The London Borough of Newham is one authority which decided to intervene in property lettings and step up enforcement of existing rules and regulations to raise standards in the PRS.

In January 2013, Newham became the first local authority in England to require all private landlords to hold a licence for their properties. The sector has seen significant growth in recent years. In 2001 the national Census recorded that less than 20% of housing in Newham was privately rented. The Council now believes this to be more than 45%, housing an estimated 60,000 households.

Prior to the implementation of licensing it was clear that Newham was seeing evidence of a growth in Houses of Multiple Occupation (HMOs), reduction in family housing stock, overcrowding, poor management approaches, properties left in poor condition and, in some cases, illegal developments such as 'beds in sheds'. Some of the problems they had found had been pretty extreme. In one instance housing officers found two tenants renting a commercial walk-in freezer, albeit switched off; in another an inhabitable cellar was being rented out at £50 a week.

Newham also identified a clear correlation between anti-social behaviour and the private rented sector across the whole borough and had witnessed environmental crime, illegal evictions, and harassment within the PRS. The Council was conscious of the wider impact that poor practices in the sector were having across the local community.

According to Russell, like many others, the council had for many years supported landlords to sign up to voluntary accreditation schemes – for example those run by national representative bodies. However, analysis showed that over ten years fewer than 5% had done so, despite the offer of training and other financial incentives.

On introducing licensing Russell believes it is important to target the areas that cause most problems. In Newham's case they established that a rented property which wasn't licensed was four times more likely to have a Category 1 or 2 Hazard. The approach Newham then adopted to enforcement was similar to how the police view someone that drives a car without insurance – if they were willing to do this, what other laws are they not complying with?

To help drive the enforcement and prosecutions forward, Newham funded a seven-month awareness campaign so landlords were clear about the new rules on licensing.

It was important that the borough-wide scheme was easy for landlords and tenants to understand and for the council to administer. The objective was to reduce anti-social behaviour associated with the private rented sector and secure a consistent level of responsible property management among all private landlords. The first task was therefore to identify who the landlords were and where they had their properties.

A fee was set to take into account all of the costs in administering and carrying out the licensing functions and for checking compliance. To encourage take up of this ground breaking approach an early bird deal was offered to broadly compliant landlords who registered before 31st January 2013; for those landlords a license cost just £150 for five years (60p a week). After this the fee increased with landlords who ran licensable houses in multiple occupation (HMOs) charged £850 for five years and £500 for those who rented other properties.

Landlords who are found to be breaking the rules are given a chance to rectify their mistakes – before enforcing the law. This is a similar approach to drivers being given access to a driving course as opposed to penalty points. This was especially important in Newham's view as their data suggested that an estimated 75% of landlords only had one property, so the majority are not professional landlords. Unfortunately, this amateur approach often puts tenants' lives and safety at risk.

Licensing helped to fund part of the enforcement function of the Council, for example the compliance inspections for those landlords and properties which are identified as having high ASB or tenant complaints about standards. For more information on their current scheme, visit [Property Licensing](#). (source: [PRS licensing](#))

Has Newham succeeded in routing out bad landlords?

Bearing in mind that the EHN database analysis suggested that on average local authorities prosecuted one landlord a year, in the first four years of the enforcement project Newham secured:

- 1,300 – prosecutions and simple cautions against approximately 5% of all known Newham landlords
- 42,000 – licensing applications
- 25,100 – licence holders (landlords)
- 384 – multiagency enforcement operations (Police, Environmental Health and Immigration Enforcement)
- 663 – arrests made during housing enforcement operations
- £1,926,800 – additional unpaid council tax from HMO landlords.

Additional learning about lettings enforcement

Russell says working together with immigration enforcement teams, local police and across council departments from housing to planning, the enforcement model has been critical to creating significant change and identifying areas previously invisible to enforcement agencies. This approach allows the council to drive out poor practice and helps partners to uncover other forms of criminal and anti-social activity.

Russell says the council has a clear offer and expectation for landlords, backed by tough enforcement for those who exploit vulnerable residents, undercut those who abide by the law, and make it harder for legitimate landlords to operate and thrive.

Key issues Newham face in carrying out enforcement

The main issues uncovered in enforcing lettings rules and regulations are the time and cost it takes to prosecute. Cases can take up to a year or more to come to fruition, with six to nine months just to get to trial. Adjournments can extend this timeframe. In addition to the time it takes, the cost of the legal system from lawyers to being in court makes enforcement time consuming and costly.

More enforcement action is required if lettings laws are to protect tenants

What is clear from the existing reports on enforcement is that, in the lettings industry, there are already plenty of rules and regulations to be enforced which would aid the provision of legally and safely let properties. We know, too, that only a fraction of the complaints made about rented properties to local authorities are being investigated and that more councils need to take the same lead on enforcement that the likes of Newham and Oxford have done to ensure that letting laws actually protect tenants, rather than just add costs for landlords and letting agents who choose to deliver legally let properties.

Without effective enforcement, a two-tier private rented sector will remain and grow; legally let properties will be provided to those who can afford them, while tenants on a budget are likely to have to suffer renting in a market and properties that are potentially sub-standard.

Landlord prosecutions in London

London Property Licensing investigated how many London boroughs were carrying out landlord prosecutions. (Source: [Tackling rogue landlords – London Property Licensing](#)). The full results are downloadable here: [London Housing Prosecutions 2011-2014](#)

Housing prosecutions: the top 10 London boroughs 2011-2014

Both Newham and Haringey have a proactive approach to enforcement and this clearly makes a difference as they are rank at the top of the list for prosecutions but, as Richard Tacagni, managing director at London Property Licensing, points out, it also shows that councils do not necessarily need to adopt a specialist scheme to prosecute landlords breaking the law.

Ranking	Borough	No. of prosecutions
1st	Newham	359
2nd	Haringey	51
3rd	Camden	20
4th	Redbridge	19
5th	Southwark	15
6th	Tower Hamlets	13
7th (joint)	Greenwich	9
7th (joint)	Islington	9
9th (joint)	Hammersmith	8
9th (joint)	Lambeth	8

Local authorities which have taken little or no action against landlords include:

Ranking	Borough	No. of prosecutions
24th (joint)	Kingston upon Thames	1
24th (joint)	Sutton	1
26th (joint)	Barking and Dagenham	0
26th (joint)	Bexley	0
26th (joint)	Brent	0
26th (joint)	City of London	0
26th (joint)	Enfield	0
26th (joint)	Havering	0
26th (joint)	Merton	0
26th (joint)	Richmond upon Thames	0

Other ways landlord (and agent) issues are raised which can lead to enforcement include:

The National Consumer Helpline: 03454 04 05 06

[Citizens Advice](#)

[Action Fraud](#)

Letting agent redress and enforcement

Enforcement of letting agent activity is carried out by Trading Standards and local authority housing teams, while the Property Redress Schemes in England offer a free and independent complaints system for both landlords and tenants which has also been adopted in Wales through the new Rent Smart system.

Membership of a redress scheme is based on agents being legally compliant. Although not 'enforcement' as such, because they can only levy compensation charges on agents and prevent them from redress membership as opposed to prosecute or close the company down, it does encourage improved service levels in the industry.

John Baguley from Ombudsman Services Property comments that although there is no specific data to show as yet that service levels are improved, their own "Consumer Action Monitor research states that 44% of consumers feel more confident using a firm which is part of an ombudsman scheme and 75% would return to a firm where the complaint is handled well".

Katrine Sporle, Property Ombudsman, explains that their Lettings Code of Practice has been approved by the CTSI Consumer Code Approval Scheme (CCAS) for going above and beyond the requirements of the law by placing additional obligations on agents to provide a higher standard of service to consumers, which help to raise standards in the industry. TPO's CCAS Codes are crucial when reviewing complaints as they underpin the way each case is investigated to ensure a consistent and fair approach for all parties, with enhanced safeguards for consumers who can be compensated through the scheme's free, fair and impartial complaints service.

It is also encouraging that the property ombudsman schemes show more people are taking letting agents to task for poor practices, with the number of cases and the amounts awarded rising over the last few years. 2015 figures from TPOS show that the Ombudsman instructed agents to pay nearly £575,000 to landlords and tenants who had suffered financial loss, distress and aggravation.

Sean Hooker, of the Property Redress Scheme, believes education is the key and that where good case studies and information are made available to agents there is a drop off of those types of complaints.

Reports on cases received by redress schemes

Ombudsman Services

The key areas of complaint are consistently poor customer service and poor communication, last year they received 110 complaints from landlords and tenants of which 72 were upheld.

Property Redress Scheme

Of the 170 complaints received in 2015/16, landlords referred 60% and tenants 40%. Of the cases handled, just under 40% were resolved by informal methods with the rest going to

formal decision by the Head of Redress. 86% of these formal decisions found predominantly in favour of the Complainant.

The Property Ombudsman scheme (TPO)

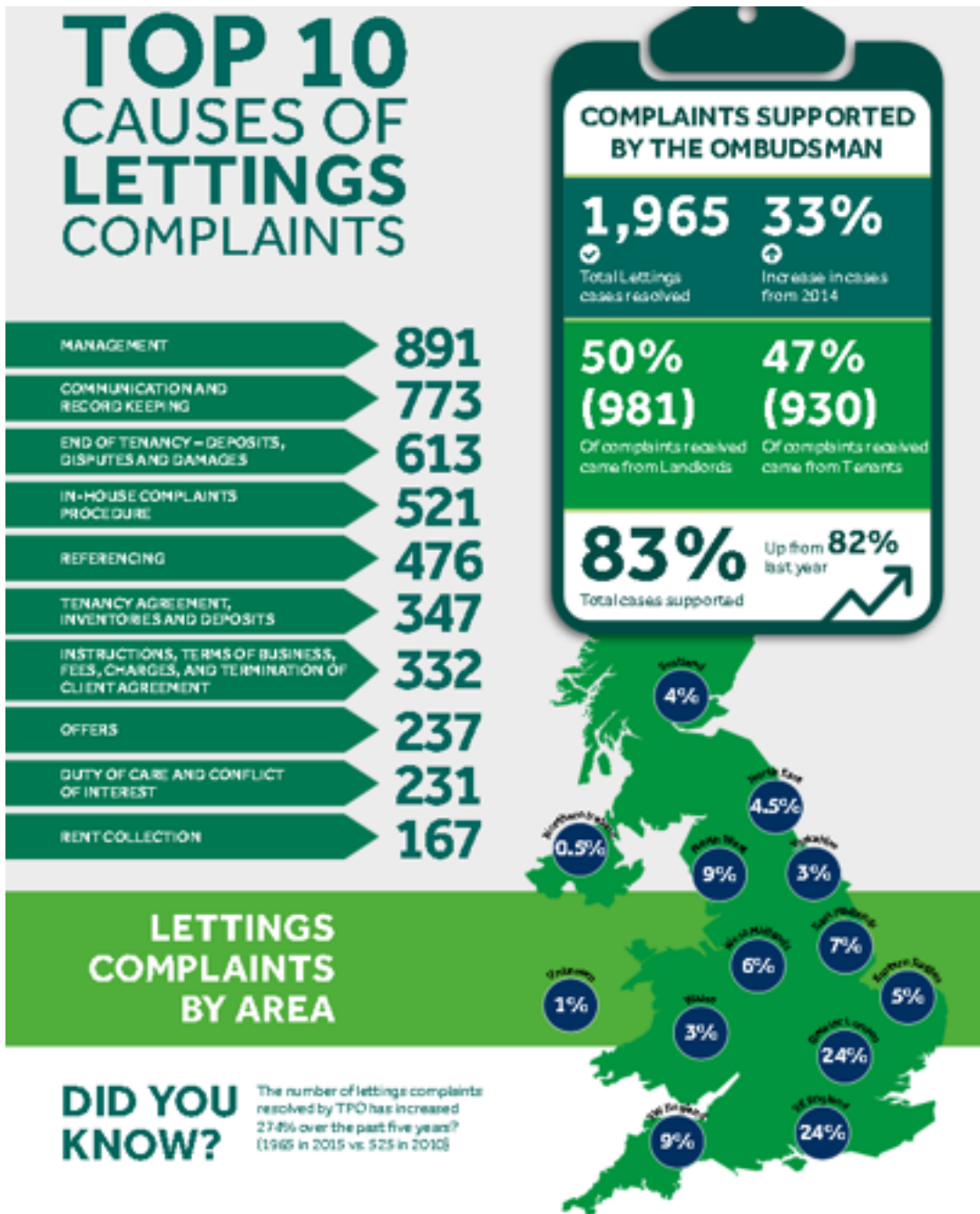
TPO figures confirm there has been a 274% increase in the number of complaints it resolves for landlords and tenants over the past five years.

Lettings caseload	2013	2014	2015
Total cases received	1,300	1,826	1,828
Total cases resolved	1,273	1,477	2,159
Resolved via:			
Mediated resolution	358	475	743
Formal review (complex cases)	915	1,002	1,416

NB: TPO simplified the way they reported their complaint stats in the 2015 Annual Report and published 'Total lettings cases resolved' (internally known as 'case closures'): 1,965

Complainant	2013		2014		2015	
	Cases	Split	Cases	Split	Cases	Split
Landlord	642	50%	799	54%	981	50%
Tenant	596	47%	646	44%	930	47%

Awards	2013	2014	2015
£1 to £99	108	103	133
£100 to £499	534	594	758
£500 to £999	83	159	192
£1,000 to £2,999	40	62	91
Above £3,000	8	18	20
Total value of awards	£318,452.59	£490,556.06	£574,648.18
Average lettings awards	£411.97	£524.10	£522



What is particularly interesting with regards to the data on letting agent enforcement of rules and regulations is that, according to The Property Ombudsman, 48% of the TPOS caseload came from the South East of England and Greater London. In areas with other large cities such as the West Midlands and North West, the proportion of cases is much lower, suggesting there is a potential north/south divide when it comes to services provided by letting agents. It is important to note, though, that this may reflect the bias of the predominance of agents being in the South.

According to feedback from all the redress schemes, the key areas for complaints against agents are:

- Management
- Communication/record keeping
- Holding deposits
- Fees and charges

Despite much attention paid over the last few years to tenant fees, although a top 10 issue, complaints about these being charged only account for 7% of overall complaints, according to the TPOS, although the PRS shows that 14% of their complaints were to do with holding deposits and a much higher 8% against fees and charges.

This either means tenants are not aware they can complain about fees, or the fees being charged are potentially not as big an issue to tenants as problems with property condition.

However, it remains to be seen whether the announcement in the Autumn Statement in 2016 will generate more complaints about fees now they are expected to be scrapped in 2018.

In 2016 at least two agents (which shared the same director) were expelled from TPOS, making it illegal for them to operate as a letting agent. According to The Property Ombudsman (TPOS) release, the agents “trading as ‘The Flat Agency & Michael Browns Ltd’ and ‘Property Vibe Ltd’” were expelled from membership for a minimum of three years due to practices considered “dishonest and deceitful”, making it impossible for them to operate as an agent. (Source: [Two letting agents in Southampton expelled – TPOS](#))

In 2016 though, one of the three redress schemes – Property Redress Scheme – has expelled Carter Stones of Ilford for failing to make required awards of £15,406 following four upheld complaints and it is believed that they have now closed down ([Agent believed to have 'shut up shop' - Property Industry Eye](#)).

According to the Ombudsman Services they have “expelled a small number of agents for non-payment of awards and case fees. But the number is relatively low compared to the number of firms under our jurisdiction, which reflects that much of OS:P’s membership are members of NALS, ARMA and RICS.”

TPO has a governance framework in place that enables the scheme to pursue agents that fail to pay an award to a consumer as instructed by the Ombudsman. In 2015, TPO’s independent Disciplinary & Standards Council helped ensure consumers received a further £11,628 in awards (in addition to the £574,648 paid to consumers by letting agents, as instructed by the Ombudsman following the normal TPO complaint review process). Agents that failed to pay were expelled from the scheme, and will be unable to join the other schemes until any outstanding awards are paid, and the firm will be reported to Trading Standards for trading without redress membership. If the agent is found to be trading illegally, the firm risks having to pay a fine of up to £5,000.



Lettings enforcement by Trading Standards

A further case which took time to bring to court led to three bogus lettings agents being sentenced for conning prospective tenants out of tens of thousands of pounds (Bogus agents conning tenants). They were caught following an investigation by Westminster City Council with the National Trading Standards Scambusters and Met Police working alongside them to help expose the scam.

However, other than work carried out by the likes of Trading Standards, few other cases of letting agents being prosecuted have been found, despite additional powers to prosecute being granted.

Property Industry Eye found the problem with introducing new rules and regulations in the lettings market is that funding is not necessarily available to allow them to be enforced. A letter to Property Industry Eye from the Trading Standards Institute states *“please be aware that councils have received no extra resources to carry out these extra duties. In addition, as with any new regulatory legislation that is not safety related, the general expectation by government and business affected is for a ‘lighter touch’ on enforcement to be adopted in the early days.”* (Source: Cash-strapped Trading Standards in no rush to police new letting agents law – Property Industry Eye)

Laws need enforcing

Clearly, introducing laws without making funds available to raise awareness of their introduction or for enforcement has to be questioned as a policy, as the consequences are that the ‘good guys’ in the industry potentially end up making less profit and letting fewer properties than those who do not abide by the law, which ultimately cannot be good for consumers.

Sean Hooker, Head of the Redress & Ombudsman Office from the Property Redress Scheme comments: *“The patchwork of compliance across the country shows the weakness of enforcement. The legislation allows for councils to issue PNCs for no-compliance and for the local authority to keep the proceeds of the fines. In theory, therefore, there is an incentive for enforcement as the maximum penalty is £5,000. This fine can be easily appealed and can be reduced if mitigating factors are found, both of which would be costly to local authorities.”*

As such, Sean points out that there is potentially a lack of joined up enforcement and, in his view, ideally the enforcement would be best placed under Trading Standards.

Education is key

All of the redress schemes agree that, apart from enforcing the rules, education of tenants and landlords is essential. Ombudsman John Baguley, of Ombudsman Services explains: *“We support moves to educate, regulate and drive up standards in the areas under our jurisdiction. A well-educated sector, effectively regulated, operating to high standards improves confidence which benefits all market participants.”*

Section Five: Industry views on lettings rules and regulation enforcement

To ascertain a day-to-day practical view on the enforcement of lettings legal, we asked industry experts their views on compliance and enforcement.

How do you ensure you comply with lettings rules and regulations?

Adrian Walton, Belvoir franchise owner Stafford and Stone

“We try to keep abreast of the changes in policy being proposed and contribute to the debate whenever possible as well as speaking to our local MP to raise our concerns about that there is a lack of enforced lettings regulation; the challenges of letting to tenants in receipt of benefits such as being paid in arrears, clawback, lack of support in the event of non-payment by the tenant. One of the key issues we have to deal with actually comes from the actions of the council’s advice to tenants to stay in the property until they are evicted. Our membership to lettings schemes as well as our legal helpline resource from Belvoir central office allow us to stay ahead of legislation and seek clarity when required.”

Theresa Wallace, head of Savills Lettings Customer Relations

“We are members of RICS, ARLA, NALS and are signed up to the Private Rented Sector code and the London Rental Standard, which means that we have various codes of practice to comply with and are kept up to speed with any changes in the law we are required to implement.

“To ensure our staff are aware of their legal responsibilities, every new member must attend a three-day training Academy that we run in-house. Prior to attending our Academy they receive a comprehensive Personal Development Programme; their line manager ensures they follow the various steps, including signing off achievement of each stage. Staff also receive a weekly ‘compliance bulletin’ which contains reminders, updates and advises of any new laws that have been introduced and our procedure for implementation. In addition we run regular training throughout the year, including online tests for all staff and a compulsory annual legal refresher.

“Our aim is for every member of the lettings staff to be ARLA qualified within 12 months of joining us. This entails attending four full-day training sessions and four half-day refreshers. They need to pass four exams which are taken at an external venue.”

Maxine Lester, director of Maxine Lester Residential Lettings

“Our membership and training through ARLA ensures we can keep up to date with all the current and new letting rules and regulations.”

Alan Ward, Residential Landlords Association

“Private renting is clearly in the sights of all levels of Government, national, local and devolved. From my perspective, membership of an association is essential to keep fully up to date. To help landlords stay up to date, the RLA website holds forums, guides and briefings on every subject that affect private renting. It’s not just DCLG or housing laws – there’s energy efficiency, immigration, benefits, consumer protection and finance, too. Our weekly newsletter keeps me abreast of the very latest issues.

“Ultimately, I have the comfort of being able to pick up the phone and speak with a member of the RLA landlord advice team, who deal directly with hundreds of landlords every day. Locally, signing up for any council e-mails or landlord forum, if available, is helpful, too.”

How do ensure your staff are complying with the law?



Adrian Walton, Belvoir franchise owner Stafford and Stone

“We train staff in-house, and with courses arranged by Belvoir. We expect our lettings managers to undertake recognised lettings qualifications from trade bodies such as ARLA ([ARLA qualifications](#)) and The Guild of Professional Agent’s BTEC course ([BTEC Qualifications](#)).”

Theresa Wallace, head of Savills Lettings Customer Relations

“To ensure our staff are aware of their legal responsibilities every new member must attend a three-day training Academy that we run in-house. Prior to attending our Academy they receive a comprehensive Personal Development Programme; their line manager ensures they follow the various steps, including signing off achievement of each stage. Staff also receive a weekly ‘compliance bulletin’ which contains reminders, updates and advises of any new laws that have been introduced and our procedure for implementation. In addition we run regular training throughout the year, including on-line tests for all staff and a compulsory annual legal refresher.

“Our aim is for every member of lettings staff to be ARLA qualified within 12 months of joining us. This entails attending four full-day training sessions and four half-day refreshers. They need to pass four exams which are taken at an external venue.

“Finally, each of our lettings departments is audited annually to ensure they are compliant.”

Maxine Lester, director of Maxine Lester Residential Lettings

“All new recruits are required to start the level three tech award after they have been with us for six months and are encouraged to complete this within the timeframe. We review progress on monthly one-to-ones and send staff on additional courses if progress isn’t being achieved at the level required. Once exams have been passed, we make sure each team member goes on at least one legal update a year and encourage them to present to the team pointing out at least one item they had learnt on their return.”

How do ensure landlords and their properties comply with the law?

Adrian Walton, Belvoir franchise owner Stafford and Stone

“We update landlords by newsletter unless it is a major change in which case we send them a bespoke letter. It is harder though to ensure ‘let only’ clients comply, but we do remind them about essentials such as Gas Safety Inspections. For managed properties, we carry out mid-term visits so we can check the property remains compliant. In the past we have reported a landlord who has consistently failed to make the necessary repairs to ensure we protected the tenant’s rights. Needless to say though, we lost the landlord’s business. From a property perspective, we estimate that around 15% of new listings need to be updated to meet current regulations.”

Theresa Wallace, head of Savills Lettings Customer Relations

“Making sure our landlord clients are aware of their legal and health and safety responsibilities is paramount to us. Our landlord guide and terms of business tells them everything they need to know and we also discuss these with them when we first meet. We produce regular newsletters to keep them up to date with any changes that affect them. Finally, we have a checklist that must be completed for every let which includes ensuring all legal and health and safety laws are discussed and properties are compliant.”

Maxine Lester, director of Maxine Lester Residential Lettings

“To educate our landlords we provide a number of ways to make sure we get the message over about lettings legals. These include seminars, newsletters, blogs (both written and video). When we meet a landlord for the first time we ask a number of questions on the most recent legislation changes to gauge how informed they are. As an example, I would say 99% of landlords don’t know about the latest risk assessments for water, so our one-to-one relationships with landlords ensure we keep them up to speed on compliance.

“To make sure properties remain compliant we visit the properties at least four times a year, each quarter we adjust what we look at in detail. This way we were able to make sure that every property we managed where appropriate had a carbon monoxide monitor in place three months before legislation came into place. Currently we are focusing on ensuring electrical compliance.”

How do you ensure anyone working with you on your properties abides by the law?

Alan Ward, Residential Landlords Association

“It’s best to be clear at the outset of any contract what is expected – it’s much easier than having to seek redress later. Looking after good tradespeople and paying them promptly for good work is key so when next you need them they will be more likely to respond to your urgent need.”

“Always check their registration under schemes like the Gas Safe Register is up to date and appropriate for the work. Check reviews if possible and that agents or contractors are members of professional bodies. Often, the best contractors are found through word of mouth.”

How do ensure your tenants comply with the law?

Adrian Walton, Belvoir franchise owner Stafford and Stone

“This is typically carried out during our mid-term visits and we follow up in writing to our tenants if there are any deficiencies as well as further visits if it is a serious issue.”

Theresa Wallace, head of Savills Lettings Customer Relations

“Our tenants receive a very comprehensive tenancy agreement spelling out their responsibilities and they also receive guides to help them on their tenant journey.”

Maxine Lester, director of Maxine Lester Residential Lettings

“When tenants move into a property they are given a check-in booklet which explains issues such as condensation and its causes – which includes pictures for ease of communication. Our quarterly visit highlights any issues (such as smoking/condensation) and we would talk with tenants if the property isn’t compliant and send a follow-up letter which includes a check-out pack so tenants are prepared if moving out.”

Alan Ward, Residential Landlords Association

“Keeping on top of tenant issues can be difficult. Regular property inspections are key but, of course, tenants can refuse access. If this happens, it should set alarm bells ringing. Landlords need to make clear their expectations at the start of the tenancy. Neighbours will often know about any areas of concern, so stay friendly, give them your contact details and encourage them to call if there are any issues. An RLA member in North Wales uncovered a cannabis farm thanks to a tip-off from the neighbours!”

“Other difficulties can arise if a tenant moves someone else into the property. This can mean breaking licensing conditions, or creating an HMO – breaching mortgage or insurance terms. If a tenant doesn’t respond to warnings, then ultimately, an eviction may be necessary.”

What do you do if landlords and tenants do not comply?

Adrian Walton, Belvoir franchise owner Stafford and Stone

“Landlords that flout the law are disinstructed if they fail to meet their compliance obligations and if tenants consistently don’t comply we are left with no choice but to give them notice.”

Theresa Wallace, head of Savills Lettings Customer Relations

“In the event that a landlord does not wish to comply with the various health and safety checks we will make sure they are aware of their responsibilities and the consequences. Most landlords want to make sure their properties are safe to live in. On the very odd occasion we have had to walk away from letting a property in the interest of health and safety but this is a very rare occurrence.”

Maxine Lester, director of Maxine Lester Residential Lettings

“Our take on compliance procedure includes a 25-point checklist for items from smoke alarms to checking if the glass in a greenhouse is safe. If we find anything that is not compliant or could prove a risk, if the landlord will not deal with it we would not market the property. As a result we don't really come up against non-compliance as we would not work with a landlord who is not prepared to work within the law. Recently we had to give notice to a landlord who asked us to rent out rooms in a totally unsuitable property.”

In your view, what’s the biggest barrier to lettings compliance and enforcement?

Adrian Walton, Belvoir franchise owner Stafford and Stone

“One of the hardest parts of our role is to convince landlords that just want a ‘cheap’ lettings service to spend money on repairs and compliance.”

Theresa Wallace, head of Savills Lettings Customer Relations

“Our biggest barrier is the unfair playing field that we transact in. We care about our landlords and tenants but not every agent does. There is a lot of compliance for landlords now and that comes with a financial cost. What some do not realise is that by using an agent that isn’t fully compliant, for example doesn’t require electrical and other safety checks, this does not reduce the landlord’s health and safety obligations.

“The lack of resources for enforcement is an industry issue, we believe that enforcement could be self-financing if the fines were used to finance the enforcement.”

Maxine Lester, director of Maxine Lester Residential Lettings

“With regard to enforcing the law, it’s only when people are hurt that enforcement is taken more seriously. The biggest frustration is that other local agents are not complying with the

law, such as not showing fees or insisting on properties being assessed for things like legionella. With regards to enforcement we are advised that neither Trading Standards nor the Council have enough staff to ensure other agents comply. Also, when requiring clarity on the law, with regards to water risk assessments, for example, the Health and Safety Executive weren't able to advise how often the checks needed to be carried out."



Alan Ward, Residential Landlords Association

"While a small minority of landlords – criminals, not rogues – will knowingly break the rules, most non-compliance arises from a lack of knowledge. More needs to be done to help 'accidental' landlords be aware of their responsibilities. Local authorities, lenders and insurers could do more to encourage such landlords to join an association, like the RLA, where they will be kept up to date with legislation and be able to rely on professional advice and support.

"When it comes to enforcement, too many local authorities simply do not dedicate enough resource. Despite the PRS doubling in size since 2002, enforcement capacity has halved. I understand that financial pressure will mean funding things like education and social care will take priority and bringing prosecutions against criminals can be time-consuming and expensive, with full costs rarely recovered, but it is the only way to drive up standards in the PRS."

How much does compliance/enforcement cost your business?

Adrian Walton, Belvoir franchise owner Stafford and Stone

“Every time new legislation is introduced, we have to fund staff training, landlord notifications and chasing compliance for those who don’t respond, until they take action. For example, the latest work requiring raising awareness and implementing carbon monoxide alarms, this cost in the region of £5,000 just for our two offices.”



Theresa Wallace, head of Savills Lettings Customer Relations

“Hundreds of thousands of pounds. We have a qualified lettings team employed just to deal with compliance and training who run training courses throughout the year. We have two training programmes so our staff can achieve a recognised lettings qualification and the employee membership for one of our governing bodies alone costs in excess of £50,000 per annum.”

Maxine Lester, director of Maxine Lester Residential Lettings

“I estimate that our staff is double the size it would be to ensure compliance with the existing lettings rules and regulations. For example we have one member of staff that carries out periodic inspections and another makes sure all the properties are compliant with gas and other safety requirements.”

Section Six: Conclusions and recommendations

What impact is enforcement of rules and regulations having on the private rented sector?

A specific and positive impact on raising standards in the lettings sector has come from compulsory redress. Consumers now have somewhere they can turn to with The Property Ombudsman resolving 33% more lettings disputes in 2015 compared to the previous year (when the legislation first came into force).

Of the 1,965 cases TPO resolved, 83% of the complaints were supported, resulting in redress payments of £574,648 to landlords and tenants who had suffered financial loss, distress and aggravation.

However, having reviewed the enforcement of letting rules and regulations in the UK, it is clear that:

- Lettings rules and regulations are extensive and complex;
- There is a lack of clarity on who is responsible for enforcing lettings laws, together with a lack of consistency of levels of enforcement;
- There is a lack of funding for awareness and enforcement of lettings rules and regulations.

Lettings rules and regulations are extensive and complex

In our first two reports, we identified that most landlords are over 55 and have full-time jobs and/or are accidental landlords. For these landlords, unless they are supported by membership of a landlord association or accreditation scheme, or they outsource their let to an agent who is a member of a trade body such as ARLA, NALS, RICS and UKALA it is impossible or virtually impossible for them to keep up with the existing 145-160 legal rules and regulations in England and Wales, Northern Ireland – and more in Scotland.

Not only do landlords have to keep up with these existing laws and any changes, they have to keep abreast of a currently continuous stream of new national and local laws, such as registration and licensing schemes, right to rent checks and carbon and smoke alarm detection.

From a lettings agent perspective, the rules are just as complex as they are for landlords and in addition, redress schemes and codes of conduct need to be abided by as well as everyday business rules and regulations. Unlike many other industries and sectors, there is no single body governing the work letting agents do. Feedback suggests good agents are having to turn down business when landlords (and in some cases, tenants) don't comply. Unfortunately due to the shortage of properties and lack of enforcement, properties can still be marketed either by the landlord directly or a competitor agent who is not concerned or who is unaware of the rules and regulations.

This means that despite a dramatic increase in the protection of tenants through vast amounts of legislation, unfortunately, it appears to be having little impact.

To deliver safe and legally let properties, there need to be a much more co-ordinated and properly funded campaign to raise awareness of the existence of rules and regulations and enforcement not just to landlords and tenants, but to the enforcement bodies and the industry as a whole.

Without a co-ordinated approach, the rules and regulations could just increase the cost of letting property without delivering any of the benefits to tenants and the sector.

Lack of clarity and consistency of enforcement

Currently, the main bodies which carry out enforcement are the local authority and Trading Standards. The key problem for these bodies is that they are run at a local level and it is down to the individual personnel to decide whether to enforce the letting rules and regulations – or not. No additional funding has been provided and in fact it has been cut, making it very difficult to take a proactive approach.

As such, there appears to be no ‘downside’ if these enforcing bodies do nothing, in fact, quite the opposite, they save money. In the meantime, substandard landlord properties can continue to be let to tenants because resources are not put aside to stop them and properties which are legally let attract higher rents, freezing out those on a budget from being able to afford them.



What part does funding play in enforcement?

Funding plays an important part in enforcement. Many local authorities have managed to develop business models which allow millions of parking fines to be issued annually for cars which are badly parked or parked for too long but have yet to develop ways of ensuring letting rules and regulations are enforced so tenants can live in safe accommodation. And, although we don't want to see profiteering from fines for breaching letting rules and regulations, the level of enforcement for car parking shows that it must be possible to find a model that is self-funding and effective. (Source: [Parking tickets and fines rake in records £700m profit – The Independent](#) and [Motorists 'ripped off' as councils rake in £667m 'surplus' – Thisismoney](#))

Although funding has been released by the government, such as the £5 million for councils to stop rogue landlords and tackle 'beds in sheds', with 4.4 million rented properties in England alone, just over £1 per property is unlikely to have much impact. (Source: [New funding to crack on rogue landlords – gov.uk](#))

What can be done to help enforce more lettings laws?

Feedback from the industry calls for a variety of measures including:

- A system of self-regulation for landlords which is a national co-regulation scheme, independent of local authorities and with a dispute resolution for tenants; (Source: [RLA Co-regulation scheme \(Liverpool\) – RLA](#))
- Regulate agents to ensure a level playing field, for example it will be interesting to see how well the new Welsh system works, but without any enforcement we already know from research to date that impact is dependent on awareness and enforcement;
- Stopping local authorities from encouraging tenants to stay until eviction day, even in cases of non-payment of rent – this clearly isn't fair to either the tenant or landlord and a better system needs to be adopted;
- Hazard awareness notices to be served if a council finds a category 1 hazard, to allow prosecution if they don't carry out the works for breaching their statutory duties under the Housing Act;
- Co-ordinated awareness and educational campaigns to ensure a better understanding of tenant and landlord rights and responsibilities, especially when it comes to letting properties legally and safely.

This list clearly suggests that enforcement of existing rules and regulations would go a long way to ensuring properties are legally and safely let. And, with the plethora of new rules and regulations over the past few years, it would be worthwhile reviewing what works currently and can be effectively enforced, while identifying rules and regulations which do not perhaps deliver a better private rented sector but could be changed to do so.

What laws currently exist that are impossible or being wrongly enforced?

It is clear from industry discussions while putting together this report that there is plenty of legislation which has been introduced which unfortunately is either not enforceable, is too confusing or is being used in the wrong way. Here are some examples:

- **Right to rent checks** – which in the main seem to drive those here illegally underground and can hurt the most vulnerable tenants who are unlikely to have documentation such as a passport that landlords can easily check them against;
- **Unclear rules and regulations** – the electrical regulations in England and Wales are grey and therefore difficult to enforce and encourage landlords to adopt.
- **Different rules and regulations from one council to another** – for example, different definitions of HMO licensing and additional licensing rules and regulations.
- **Tenancy deposit protection** – this law was introduced to protect tenants from unscrupulous landlords and agents, however, it is now being used in some cases to make money for tenants through administrative technicalities.

What can be done from an enforcement perspective to improve standards in the PRS?

To deliver a safer and higher standard PRS, we need to work together better to:

- Promote awareness of the rules and regulations which do deliver a better PRS;
- Deliver a co-ordinated, national, rather than regional approach to enforcement which is measured based on the success of weeding out bad landlords and sub-standard rented properties, for example the existing English Housing Survey measures property condition via the 'decent homes standard';
- Review and change legislation that isn't currently enforceable or fit for purpose and agree, together, changes along with an awareness and enforcement budget so they have a positive impact on the PRS.