

Department for Communities Private Rented Sector Policy Refresh (Northern Ireland)

Response from Propertymark

April 2024

Background

1. Propertymark is the UK's leading professional body of property agents, with over 18,000 members representing over 12,800 branches. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.¹

Consultation – overview

2. The Department for Communities is progressing with the second phase of the reforms to the private rented sector, the first of which being the introduction of the Private Tenancies Act (Northern Ireland) 2022.² Proposals for this second phase were published in January 2017 which Propertymark responded to in full³. Over seven years on, the Department is concerned that the initial proposals for change may be out of date and is conducting a policy refresh to identify what the private rented sector reforms should look like going forward.

Propertymark response – summary

3. Propertymark welcomes the opportunity to respond to and be involved in the Department for Communities' policy refresh for the private rented sector. Having responded to the first proposals for change, we are eager to work alongside the Department and other key stakeholders to ensure that the proposals for reforms are made in the best interests of all parties involved in the sector, be they agents, landlords, tenants, other bodies or policy makers and that they lead to a growing and prosperous private rented sector. In order to achieve this, we would urge the Department for Communities to consider the following three critical points:

- **There must be a committed effort to increase housing supply across all tenures** – as noted by the Minister for Communities in March 2024, demand for the private rented

¹ <https://www.propertymark.co.uk/>

² <https://www.legislation.gov.uk/nia/2022/20/contents/enacted>

³ <https://www.propertymark.co.uk/resource/prs-in-northern-ireland-proposals-for-change.html>

sector and social housing significantly outstrips supply⁴. By building more homes across all tenures, fewer people who would be better served by social housing would be forced to rent. This would reduce the pressure of rent increases as housing supply matches demand.

- **The Department must take note of previous attempts to set energy efficiency targets in the UK and not make the same mistakes other governments have made** – other devolved UK nations have failed to reflect the diversity of housing and the cost to consumers to improve EPC ratings on their homes, with funding support often failing to match the cost of retrofitting homes. The Department must look to the issues raised by consumers and professional bodies around meeting EPC targets to address their concerns.
- **Introduced a phased approach to the regulation of letting agents, involving professional bodies** – introducing different requirements over time would help agents and landlords adapt to their new requirements. We suggest the following four-stage approach:
 - Stage 1 – Require letting agents to join a list of Government-approved professional bodies.
 - Stage 2 – Introduce Client Money Protection and Professional Indemnity Insurance requirements (if not requirements under professional bodies)
 - Stage 3 – Introduction of a Code of Practice for letting agents and requirements to belong to a redress scheme.
 - Stage 4 – Registration, relevant qualification and ongoing Continuing Professional Development (CPD) requirements.

Questions

Question 1: Do you agree key issues which have impacted the PRS since 2017 including Brexit, tax changes for landlords and cost of living crisis are captured in the context set out in Sections 1-3?

4. Yes, we agree that these issues have impact the PRS significantly since 2017. However, we would include the following three additional issues.

- **Lack of social housing provision and the supply of property to rent in the private rented sector** – As the Policy Refresh Paper suggests, the number of tenants living in the private rented sector has increased to the second largest tenure in Northern Ireland, but in recent

⁴ <https://mydup.com/news/minister-outlines-vision-for-housing-ahead-of-opening-new-100m-development>

years evidence suggests that it is beginning to contract. This must be addressed alongside an increase in social rented housing to prevent rising rents in the private rented sector due to shortages of available homes to rent.

- **Impact of the cost-of-living crisis on both landlords and tenants as well as the cost to landlords of improving the energy efficiency of property** – As all parts of the UK work towards meeting net zero objectives, the private rented sector will play a significant role in wider decarbonisation and energy efficiency efforts. If improperly legislated, energy efficiency requirements should see a significant number of landlords selling their homes which would cause significant disruption or a decrease in supply. As we progress further towards international deadlines for improving energy efficiency, the Department for Communities will need to consider how best to improve the energy efficiency of the private rented sector while not losing landlords and their properties from the sector and discouraging new landlords from becoming housing providers.
- **Welfare and LHA freeze** - Local Housing Allowance (LHA) were finally raised on 1 April 2024 after rates were frozen for four years giving low-income tenants more support to keep up with rising rents. At last year's Autumn Statement, the Chancellor announced that LHA will now cover the lowest 30% of rents for the first time since 2020. The £1.2bn increase will give 1.6 million households an average of £800 of support, highlighting the significant shortfall many tenants and landlords have faced. Despite the recent increase, many renters who rely on welfare payments continue to struggle to afford their rent as the LHA rates are being frozen again from 2025. Propertymark remaining committed to campaigning for LHA rates to increase annually with market rates.

Question 2: After early engagement with key stakeholders the following areas of focus were identified. Do you agree that these are the key areas of focus?

- **Affordability/Security of Tenure**
- **Longer Tenancies/Grounds for Eviction**
- **Fitness Standards**
- **Energy Efficiency Standards**
- **Arbitration/Housing Panel**
- **Letting Agent Regulation**

5. Yes, we agree that these should be the key areas of focus for PRS reform. We would also include enforcement and local authority capacity to carry out inspections of private rented property as well as redress, mediation and access to justice as key areas of focus.

Question 3: What actions do you consider that the department should take to deliver on these key areas of focus? In considering these actions, you may wish to reflect on your personal experiences, as well as what has worked in other jurisdictions.

6. **Affordability/Security of Tenure** – We would recommend three actions for the Department to take. Firstly, rent controls should be avoided, as they can lead to unintended consequences of landlords selling their homes which reduces the availability of homes to rent. Secondly, the Department should review all taxes impacting private landlords in order to introduce pro-growth policies that increase the supply of homes to rent.⁵ Thirdly, increasing the supply of all housing tenures, particularly social housing, can ease pressure off the private rented sector, leading to more sustainable rents.
7. **Longer Tenancies/Grounds for Eviction** – We would recommend three actions for the Department to take. Firstly, in contrast with the Renters (Reform) Bill in England, fixed-term tenancies should be maintained. The private rented sector caters for a diverse range of people including single persons, commercial lets, students, professionals, those in transit, short-term lets, long-term lets, settled and unsettled families. The current tenancy regime allows for tenants to stay in a property for as long as they and the landlord want. Secondly, we would recommend introducing requirements for an inventory and written tenancy agreement to replace or in addition to the existing requirement to issue a Landlord Notice to tenants. This would help to reduce disputes at the end of a tenancy and speed up the return of deposits. Thirdly, the Department should use written tenancy agreements to stipulate certain things that should be included in the tenancy and institute a set of grounds for possession. This would establish clear expectations for tenants, agents and landlords as to what would constitute grounds for eviction if the eviction was challenged. Landlords need to be confident that a property can be recovered quickly if the tenant has caused damage, stopped paying the rent or if the landlord's circumstances change. Furthermore, many lenders have been reluctant to accept longer tenancies to avoid becoming involved in the removal of tenants before obtaining possession if a landlord fails to meet their financial obligations.

⁵ <https://www.propertymark.co.uk/resource/impact-of-tax-changes-on-the-private-rented-sector.html>

8. **Fitness Standards** – Propertymark supports greater standards for homes within the private rented sector and tenants should expect a certain standard when renting from any agent. The Department must acknowledge the immense strain local authorities are facing when delivering their current duties regarding existing standards. Sufficient resources and commitment will be required to ensure consistent and regular enforcement of any new Fitness Standards. There are three things the Department should consider. Firstly, focus on prevention rather than prosecution – in order to ensure that the standard of homes improves, resources should be focused on providing information to landlords and support to enable them to meet the standard, rather than using fines as a first response to any breaches. Secondly, develop national guidelines for local authorities – Propertymark members have expressed concerns over the potential for inconsistent enforcement and standards. National guidelines would increase the consistency of any new Fitness Standards. Thirdly, there should be some accountability for tenants – if the breach in standards is due to a lack of care or neglect by the tenant, the landlord should not be liable for the violation.

9. **Energy efficiency standards** – There are two important actions that the Department should consider when implementing energy efficiency standards. Firstly, the Department needs to avoid overly prescriptive energy efficiency requirements that do not account for the variety of buildings nor the environmental factors that impact a home’s EPC rating. Propertymark has been critical of the strategy that the UK Government has adopted, which focuses on the installation of air source heat pumps which are not suitable for every building and are often expensive⁶. By providing more flexible approaches to improve energy efficiency and exemptions for some buildings, we can prevent landlords from selling properties which would not be able to meet energy efficiency requirements. Secondly, there should be a wide range of flexible funding support, loans or grants to support retrofit. This is especially important in Northern Ireland where house prices and average incomes are generally lower than the rest of the UK, but the cost of retrofitting homes is still expensive, especially in comparison to the total value of the property.

10. **Arbitration/Housing Panel** – Out of the available arbitration processes across the UK, Propertymark considers that the dedicated Housing and Property Chamber in Scotland has been the most effective. Having a dedicated housing tribunal allows for housing issues to be dealt with by specialist judges who can provide more consistent rulings. While this may require coordination with the Department of Justice, we hope that the Department can consider this option.

⁶ <https://www.propertymark.co.uk/resource/new-homes-to-boost-progress-to-net-zero.html>

11. **Letting Agent Regulation** – There are three key actions to take when considering the regulation of letting agents. We bring note to Stage 1, that the Department must consider the role that professional bodies will play in regulation. Excellent practice already exists in the sector which must be built upon, co-ordinated and enforced. This would also allow for agents to sign up to professional bodies that best suit their capacity to develop new practices as some will have greater membership requirements than others. This enables more agents to prepare themselves for regulations. Secondly, the Department must introduce regulations through a phased approach in order to enable the sector to adapt to new requirements. Thirdly, the regulations introduced should include the following within the stages identified:

- Stage 1 – Require letting agents to join a list of Government-approved professional bodies.
- Stage 2 – Introduce Client Money Protection and Professional Indemnity Insurance requirements (if not requirements under professional bodies)
- Stage 3 – Introduction of a Code of Practice for letting agents and requirements to belong to a redress scheme.
- Stage 4 – Registration, relevant qualification and ongoing Continuing Professional Development (CPD) requirements.

Question 4: Which of these actions would you prioritise for delivery over the next 3 years? In deciding on the priority rating, it may be helpful if you consider the potential impact of action and the ease/difficulty of its delivery.

12. Propertymark believes that the following should be prioritised for delivery over the next three years.

- **Letting agent regulation** – Propertymark believes that full mandatory government regulation of sales and letting agents is the quickest and most effective method to eliminate unprofessional, unqualified and unethical agents from the property sector. Piecemeal legislation is unmanageable and unenforceable. There is no statutory regulation to ensure agents are suitably qualified. Additionally, agents who are not members of a professional body do not have to meet minimum competency standards. Furthermore, operating as a property agent is not a straightforward matter, it requires a wide range of skills, the ability to account for substantial flows of funds, and an understanding of complex housing law. The legislative burden on agents and property managers has significantly increased, and continues to increase through the Private Tenancies Act, so the Department must address the competency of the people being asked

to carry out those roles. Consumer protection is vital and letting agent regulation has an important part to play in driving up standards for landlords and tenants.

- **Address affordability in the short and long-term** – Any measures to improve the private rented sector as a source of accommodation for people must be considered in the context of a shortage of social rented housing, a lack of supply, recent tax changes and the financial inability for people to purchase property. We are concerned about wider economic factors, such as income growth affecting people’s ability to pay rents, deposits and save to get onto the housing ladder. To this end, it is important that existing landlords who want to expand and improve their property portfolios have new investment channels to tap into. To support tenants and help with costs, the Department can do three things. Firstly, introduce Deposit Bond Schemes to help those who are unable to afford the deposit to be able to rent a home in the private rented sector. The Bond is an agreement between a local authority, the landlord or letting agent and the incoming tenant. It is not a transfer of cash, but a written guarantee issued to the landlord on behalf of the tenant to cover the deposit for the property they wish to rent. The maximum value of the Deposit Bond is normally the monthly rent of the tenancy. It could cover the tenant’s deposit for a certain period of time, for example two years, in which time the tenant can save to cover their own deposit. Secondly, the Department should be doing more to encourage employers to offer staff an interest free loan to pay for their deposit when moving into private rented property. Repayments can be made in instalments via deductions from their monthly salary, over a period of time, such as twelve months. Such a scheme can help staff secure a property without incurring financial difficulty leading to debt and it can also help companies recruit and retain staff. Thirdly, Propertymark recognises that tenants can have a shortfall in funds due to a delay in receiving their previous deposit back and having to pay another deposit for a new property they wish to let. To help tenants we believe that a system that would allow them to passport their deposit can only take place if there is a bridging loan to guarantee the remaining part of the deposit should the tenant default. The Department should act as the guarantor where they pay the difference.

Question 5: Is there anything else you would like to add?

13. We do not have any further comments to make at this time.