

Building Sound Foundations

A Strategy for the Private Rented Sector



Department for
**Social
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Ministerial Foreword

Last year I launched a series of proposals for the private rented sector under the title of *Building Sound Foundations*, for public consultation. These provided a comprehensive package of measures aimed at encouraging the development of a healthy private rented sector capable of responding more effectively to housing need in Northern Ireland.

I was pleased to note the strong level of interest in these proposals which resulted in a large number of thoughtful and useful contributions to the debate. All responses have now been carefully considered and used to shape the way forward for the private rented sector.

I am now pleased to be able to present this strategy which I believe provides a strong platform for the encouragement and development of a healthy private rented sector which will be built upon subsequently.

My primary objective is to create the conditions in which the private rented sector contributes more fully to meeting our rapidly changing housing needs. I want to ensure the provision of good quality, well managed accommodation supported by an appropriate regulatory framework which encourages and promotes the rights and responsibilities of both tenants and landlords.

I will strive to ensure that we make best use of the resources that are available to promote a sector which is fit for purpose in this rapidly changing social and economic environment.

This strategy can only be successful through the joint working of a number of key stakeholders. I acknowledge the work already being carried out by councils and look forward to what we can achieve together and I applaud the continued interest of those landlords who provide good, well maintained properties and who cultivate good landlord tenant relationships.

As the sector grows I want to ensure that it continues to meet housing need and promotes sustainable tenancies.



Margaret Ritchie
Minister for Social Development



Introduction

Building Sound Foundations, A Strategy for the Private Rented Sector, launched in May 2009 set out a series of proposals for public consultation aimed at encouraging the development of a healthy private rented sector in Northern Ireland.

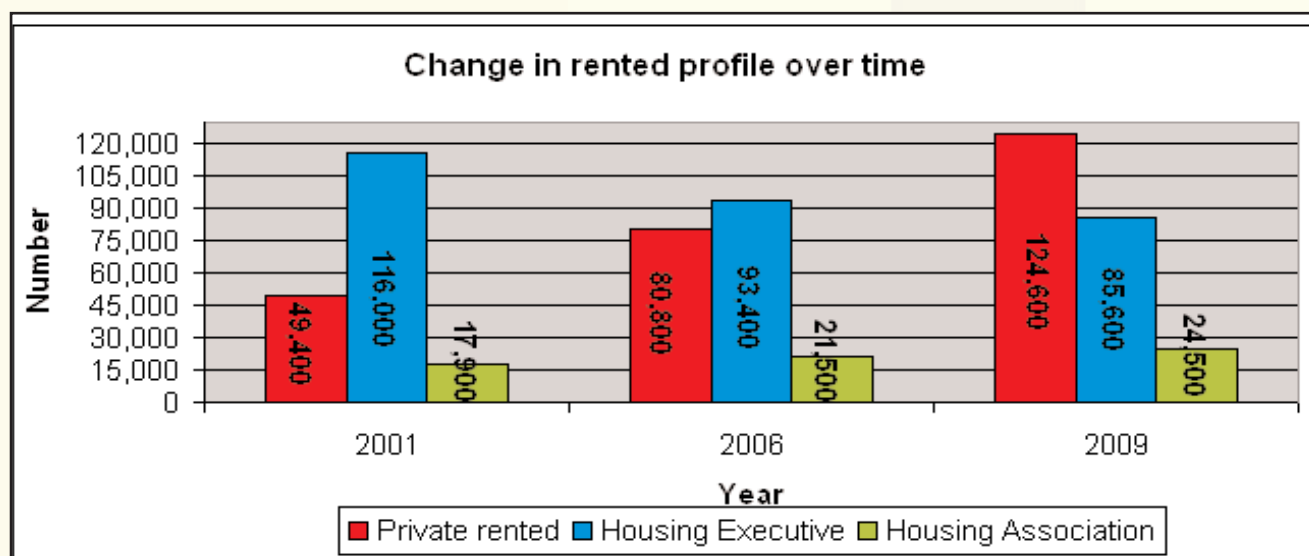
These draft proposals were subject to a thorough consultative process and were debated by professional bodies, housing organisations, private landlords, letting agents and their representatives, statutory bodies and academics. Overall they received a strong level of support, see Annex for details.

This has enabled the Department to finalise and begin the implementation of the first phase of its strategy for the development, management and support of the private rented sector.

This is focused on key areas as follows:

- Knowledge and awareness;
- Impact of Private Tenancies (Northern Ireland) Order 2006;
- Tenancy management;
- Security of tenure;
- Standard of fitness; and
- Improving accessibility.

Since the publication of the draft proposals the context within which the sector operates has continued to change. In terms of size, the sector has continued to grow and there are now more people living in the private rented sector than living in the social rented sector. The table below illustrates the growth since 2001:



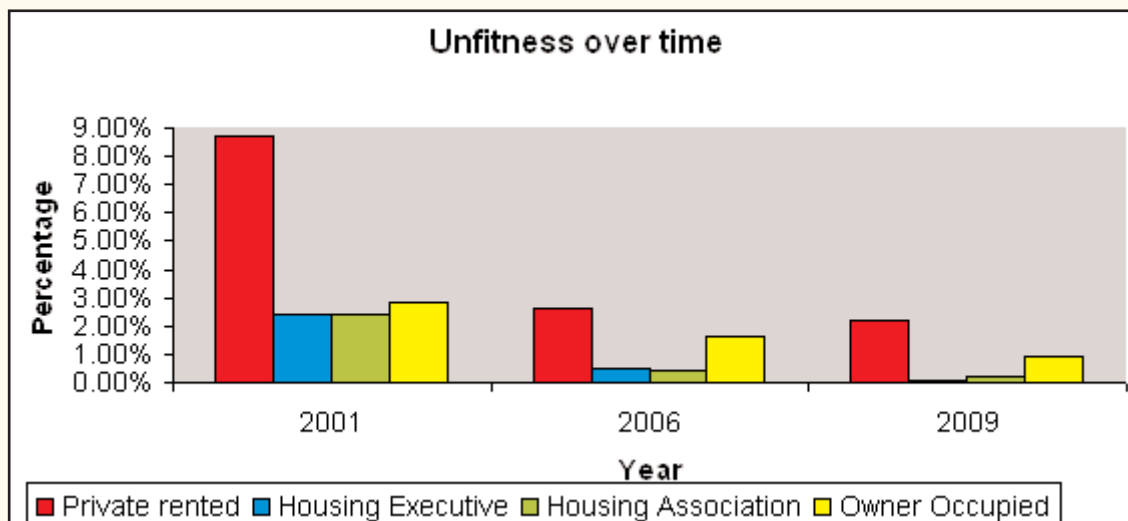
Source - NI House Condition Survey 2009 (NIHCS)

The reasons for this are well documented and are attributed primarily to the continued economic climate which has produced a new breed of private landlord. Many of these are investor landlords who are now unable to sell their properties and find themselves as providers of housing, with all the associated landlord responsibilities and legal obligations.

Introduction (cont'd)

This climate also impacts on the profile of private renting tenants. As discussed in our draft document, the private rented sector increasingly provides accommodation for many vulnerable households, those on low incomes with varying social needs. The sector is also home to aspiring home owners, who as a result of the economic downturn compounded by the banking crisis, now increasingly look to the private rented sector for a home.

Because of the boom in new build properties the physical quality of much of the private rented sector is of a high quality. Although unfitness has decreased across all housing tenures, the largest percentage of unfit properties are still to be found in the private rented sector as shown in the table below:



Source – NIHCS 2009

Reflecting this context, the original proposals put forward in the draft document emphasised the need for a more professional approach to the whole issue of tenancy management. This was reinforced by proposals to improve landlord knowledge and awareness levels, a more consistent approach to compliance and enforcement at council level, accompanied by greater access to relevant information sources such as Housing Benefit data.

The consultation document, *Building Sound Foundations*, proposed landlord accreditation as a means to improve landlord/tenant management, embed good practice and professionalise the sector. Responses to the draft proposals agreed the need to secure greater professionalism but felt that a stronger and more rigorous approach, based on mandatory landlord registration is needed to ensure effective enforcement and compliance with the law. The availability of centrally held data on landlords as well as agents acting on their behalf, and their properties would also allow tenants, neighbours and appropriate authorities to identify and contact landlords as necessary. Importantly such data would also provide much needed information on the scale and nature of the private rented sector in Northern Ireland supporting the more effective development of policy.

As a result, the strategy now reflects the Department's plans to develop a mandatory landlord registration scheme. This will gather the relevant data and play an integral part of the wider package of measures for the private rented sector.

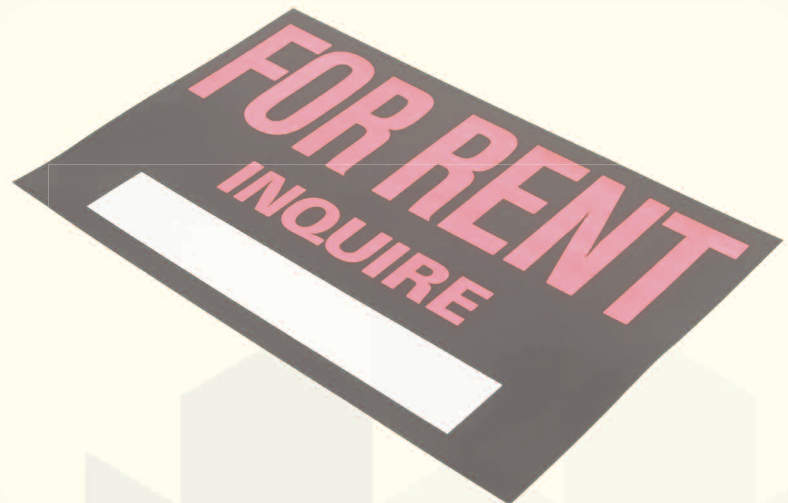
Knowledge and Awareness

Building Sound Foundations put considerable emphasis on the need for a more strategic and focused programme of awareness and appreciation of the law relating to the private rented sector, particularly the Private Tenancies (Northern Ireland) Order 2006. The rapid growth in both the number of new landlords entering the sector and the steadily increasing reliance on this sector by such a diverse range of households, in itself creates a significant need for accurate, easily understood and accessible advice and guidance. This need is compounded by the complex and extensive nature of the law surrounding the sector.



Formal and informal research undertaken in this area clearly demonstrates that this gap in knowledge contributes to a lack of landlord confidence, resulting in non compliance and poor tenancy management. For those tenants on the receiving end, uninformed landlords, no matter how well intentioned, means a poor housing experience and in worst cases, can result in harassment and unlawful eviction.

One of the key priorities of this strategy is to put in place a comprehensive knowledge and awareness programme aimed at landlords, tenants, local councils and other stakeholders with an interest and contribution to make to the private rented sector. This includes highlighting the responsibilities of tenants, landlords and agents and the role all parties have in ensuring a successful tenancy.



A good deal of work around this aspect has already taken place with the development of practical guides for landlords and tenants. These have been widely distributed and will be enhanced and updated at regular intervals in conjunction with relevant stakeholders and relevant advice agencies. In addition a series of landlord awareness sessions are being rolled out across Northern Ireland. These sessions, which are targeted primarily at new landlords and letting agents, are being delivered in conjunction with Environmental Health Officers from local councils, University of Ulster and Land and Property Services. The sessions include presentations on the application of the law relating to private renting, the rating responsibilities of private landlords, setting out the respective roles and responsibilities of the Department and councils in the sector. Attendees also receive a comprehensive information pack which includes leaflets on a variety of topics from top tips for landlords to energy performance certificates to model tenancy agreements.

Knowledge and Awareness (cont'd)

Significant development work is also underway to ensure the availability of guides, leaflets, fact sheets and practical advice for landlords and tenants on the Department's website at www.dsdni.gov.uk/housing. The Department's site also includes a link to the Housing Executive's website where information is available on housing benefit.

Reflecting the ongoing partnership with councils, a tailored programme of awareness sessions around their responsibilities for enforcement of the Private Tenancies Order is also under development for delivery throughout the next few months. Supporting guidance for councils will also be available. In parallel, work to ensure all council websites are enabled to carry a comprehensive and consistent package of information and advice covering private rented sector issues is underway.

This approach to enhancing the level of landlord awareness and knowledge is being put in place in recognition of the current needs. Longer term it is expected that landlord registration will provide a more comprehensive and strategic response to meeting the needs on an ongoing basis, particularly if this encompasses an accreditation regime.



Impact of Private Tenancies (Northern Ireland) Order 2006

The majority of responses to the consultation paper indicated that the Private Tenancies Order provides a sufficiently comprehensive legislative basis for the private rented sector and if it was being implemented and enforced more vigorously there would be no need for any additional regulation. After almost three years of operation, evidence has shown that the implementation of the provisions in the Private Tenancies Order, while having an impact on fitness levels, has not fully delivered other expected benefits around tenancy management issues. Concern remains that activity has mainly been around fitness inspections and there has been limited action taken on other requirements of the Order.

The main problems associated with the provisions requiring the landlord to provide rent books and statement of tenancy terms and those relating to harassment and illegal eviction, which should support tenancy management, is the absence of information relating to when new tenancies are created. The Department acknowledges that councils can only fulfil their role if they have access to relevant and up to date information about the activity in the sector. The introduction of landlord registration will address this particular aspect in the future.

The Department has identified a number of areas within the Order which need clarification and has drawn up a programme of enhancements which will strengthen the law and also assist councils in their role. These include; the removal of duplication of the requirement to have a rent book and statement of tenancy terms; moving prescriptive Articles on rent control from the Order to subordinate legislation, making it easier to amend as circumstances or procedures need to change; and increasing the amount of the application fees for fitness inspection.

A detailed programme of work has already begun in conjunction with councils and includes regular and more effective use of monitoring data to direct the ongoing compliance and enforcement work of councils as well as to help in the development of future policies required for the private rented sector.

We will continue to work with councils to ensure a consistent approach to enforcement action and will provide appropriate advice and guidance, including information and training sessions. Work will also continue on ways to identify when new tenancies are commenced and how best to share that information along with the best way to enforce the provisions of the Order pending the introduction of landlord registration.



Tenancy Management

The private rented sector presents a great many challenges for both landlords, as providers of the service and tenants as consumers. As has already been referenced land and tenancy law is extensive and complex for both parties to understand and embrace. This is reflected in poor tenancy management, albeit sometimes out of ignorance rather than design and its impact can have significant adverse impact on tenants.

The strategy's concentration on raising landlords' level of knowledge and awareness of this law and its associated obligations goes some way to addressing this challenge. The steps outlined above to improve the legislation, make it stronger and more effective, is a further essential strand.

Landlord registration:

The evidence which emerged from the public consultation presented a clear case for mandatory landlord registration. Besides the provision of comprehensive information about private rented activity, the introduction of landlord registration would give local councils the means to communicate with private landlords, allowing them to work with them to ensure compliance, raise standards and, where necessary, take enforcement action.

Key characteristics envisaged in a landlord registration scheme include:

- the registration of all private landlords, and agents acting on their behalf, including details of all their properties available for rent (some exemptions will apply);
- requirement for the landlord to confirm, when registering, that they comply with all statutory requirements governing the private rented sector;
- in return for registration the landlord/agent will be provided with a registration number which must be made available in relation to all transactions related to their private renting activities;
- registration will be renewed (frequency to be determined), and will attract a fee (discounts may be available depending on the scope of the landlords activities);
- public access to certain aspects of this register;
- a register which will be maintained electronically;
- a register to include only essential data on property/landlord and/or agent;
- registration will involve an agreement to data sharing of information between statutory bodies to facilitate effective enforcement;
- all landlords, on registration will be provided with a relevant information pack, with updates being provided on an ongoing basis; and
- Non registration and the provision of false/inaccurate data will attract sanctions. (Options under consideration include spot fines, rent control and/or court action, persistent offenders will face more severe penalties including deregistration making it unlawful to continue letting property).

Tenancy Management (cont'd)

Efforts to identify unregistered landlords will also be part of the operation of the scheme and work will be undertaken to identify appropriate and cost effective methods of achieving this.

The introduction of mandatory landlord registration is seen as a first but essential step in establishing better regulation of the private rented sector. The Department will seek to make this as effective as possible, minimising unnecessary hurdles, levels of bureaucracy, costs and unintended adverse effects on the availability of private rented accommodation. We will also ensure that registration delivers against its objective to raise and enforce standards, improve tenancy management and prevent bad landlords from participating in the sector. The introduction of mandatory registration will require further development around the infrastructure requirements, specific characteristics of a Northern Ireland scheme, associated costs and delivery options. Legislation to establish mandatory registration will be pursued at the first opportunity while parallel development work with stakeholder involvement is underway.



Security of Tenure



Building Sound Foundations recognised the issues associated with the current security of tenure provisions in the private rented sector and made no proposals to change this. This reflected the absence of robust data around why tenants leave their private rented accommodation. Responses to the consultation generally supported this approach with many consultees advising that a detailed analysis of this aspect should await the implementation of the various initiatives proposed by the strategy.

In particular it was strongly felt that better informed landlords, together with the introduction of a more robust management framework, would be likely to result in significantly improved tenancy management with positive impacts on the length of private rented tenancies.

In the intervening period, however, the Department will move to extend the notice to quit period in recognition of the need to provide longer term tenants with a more reasonable period in which to find and move to alternative accommodation should their tenancy end.

Current legislative provisions will be amended as follows:

- Where the length of a tenancy is greater than 5 years and not more than 10 years, the notice to quit period is not valid unless given in writing not less than 8 weeks before the date on which it is to take effect.
- Where the length of a tenancy is greater than 10 years, the notice to quit period is not valid unless given in writing not less than 12 weeks before the date on which it is to take effect.



Current requirements in relation to the need for a court order to regain possession of privately rented properties will continue to apply.

Fitness Standard

The fitness standard of any property has a significant impact on the health and wellbeing of the occupants. It is vital therefore that the statutory standard which applies to private rented sector accommodation makes a positive contribution to the health and wellbeing of those who live there.

While the percentage of unfit properties in the private rented sector continues to drop it could be argued that it is so because the current statutory standard is too low. Responses to the consultation paper agreed that the current standard is no longer a comprehensive measure of the suitability of a dwelling for occupation. It fails to address the areas of insulation, fire safety and it only requires that the main living room has a fixed heat source. To ensure that people have access to a decent home the majority of those who responded to the consultation paper agreed that the current fitness standard should be raised. In 2006, 44% of private tenants were in fuel poverty, but raising the fitness standard would contribute towards addressing this.



The Department will take appropriate action to raise the fitness standard for the private rented sector using the current Decent Homes standard as the starting point. If Decent Homes had been the statutory fitness standard in 2006 approximately 26% of all private rented sector stock would not have met this compared to 2.6% which did not meet the fitness standard.



It is recognised that this move is not without cost implications. There may be scope however that some cost may be addressed through the Warm Homes Scheme. Under this scheme private rented sector tenants of any age and who are in receipt of a qualifying benefit could be helped by home energy improvements.

Work is underway to develop with the main stakeholders, the precise standard which should apply to the private rented sector including the arrangements needed to measure compliance, as well as arrangements needed to enforce the new standard. It is envisaged that the new standard would include thermal comfort and fire safety measures. There will be an appropriate lead in period for existing tenancies but it is expected that where a new tenancy is to be created after 2015, the property will be required to meet the new fitness standard. This date is subject to the legislative programme.

Improving Accessibility

Currently, many low income households and prospective tenants are experiencing difficulties accessing the private rented sector in terms of affordability. Difficulties which surround the return of tenants' deposits, coupled with problems which arise in the handling of disputes between landlords and tenants, have long been a major concern for many private renting tenants. Responses to the consultation welcomed the Department's proposal to introduce a rent deposit scheme.

The Department's objective is to have in place arrangements which safeguard rent deposits and provide a means to allow disputes between landlords and tenants around deposits to be dealt with, speedily and independently.

It is not intended that this will make deposits compulsory but will apply where landlords require a deposit.

Work is presently underway to put in place the enabling legislation which will allow the introduction of a rent deposit scheme. Prior to the introduction of a scheme, the Department will continue to work with stakeholders to develop the precise detail of such a scheme. In parallel, the Department will explore the specific needs of the most vulnerable individuals and families to ensure they are enabled to access and sustain private rented sector accommodation where necessary.



Equality

The proposals contained in this strategy are expected to impact favourably on all households living in the private rented sector, covering the range of equality categories.

Initially the strategy contained proposals to link the direct payment of Housing Benefit to certain landlord behaviour and to the physical condition of the property. In light of the responses to this proposal, which pointed to the potential adverse effects on vulnerable households, the Department has decided not to proceed with this approach.

Conclusion

This strategy sets out the way forward for the private rented sector for the next few years. Before the strategy can become fully effective, some issues require further development while others require enabling primary legislation, these include mandatory landlord registration, rent deposit provisions and changes to the fitness standard applying to the private rented sector.

While implementation of specific aspects of the strategy will require some additional public resource, the majority of the provisions can be pursued through self funding mechanisms. For example, landlords will be charged a small fee to cover the costs of registration and the potential to access existing rent deposits schemes operating in other parts of the United Kingdom will be fully explored to minimise additional costs and deliver in the most cost effective way. Higher fitness standards for private rented accommodation are likely to require additional investment by the property owners although the availability of Government schemes such as Warm Homes will be maximised.

The key principles which underpinned the proposals stressed that, among other things, any changes must contribute positively to meeting housing need, support greater choice in tenure, promote sustainable tenancies and provide a balanced approach to the rights and responsibilities of both landlords and tenants. We believe the objectives and the implementation of this strategy do address these principles.



This strategy will produce long term and sustainable positive outcomes for both tenants and landlords.

Action 1 : Knowledge & Awareness

- a. to ensure the timely and ongoing provision of relevant information to all private landlords; and
- b. to provide tailored guidance and awareness to appropriate council staff.

Timeframe:

- a. the Department's website at www.dsdni.gov.uk/housing includes a wide range of leaflets, factsheets and practical advice which are enhanced and updated at regular intervals. A series of awareness sessions began in December 2009 with further sessions planned for April 2010 when a new programme will be put in place; and
- b. a rolling programme of awareness sessions to be delivered across council areas during 2010/11. The impact of this awareness alongside compliance and enforcement activity undertaken by councils will be continually monitored.

Action 2 : Impact of Private Tenancies (Northern Ireland) Order 2006

The Department has identified a number of areas which require clarification and has drawn up a programme of enhancements which will strengthen the law and assist councils in their role.

Timeframe:

Existing primary legislation will be enhanced through the next housing bill. Amendments to sub-ordinate legislation will be in place by August 2011.

Action 3 : Tenancy Management

An appropriate regulatory framework for the sector with landlord registration at its centre will be introduced including the establishment of a stakeholder group to consider proposals.

Timeframe:

Introduction of landlord registration will be enabled through the next housing bill. A stakeholder group will be established by late spring 2010.

Action Plan (cont'd)

Action 4 : Security of Tenure

The Department will extend the notice to quit period –

- for tenants who have been in their tenancy for longer than five years, the notice to quit period is extended to a minimum of 8 weeks; and
- for tenants who have been in their tenancy for longer than 10 years, the notice to quit period is extended to a minimum of 12 weeks.

Timeframe:

Primary legislation will be amended at the next available opportunity.

Action 5 : Standard of Fitness

Higher statutory fitness standard to include thermal comfort and fire safety measures will be required for all accommodation made available for private renting. Landlords will be expected to demonstrate that their property meets this standard before a new tenancy is agreed. A stakeholder group will be established to take forward proposals.

Timeframe:

Primary legislation will be amended at the next available opportunity. A stakeholder group will be established by spring 2010.

Action 6 : Improving Accessibility

The Department will introduce a rent deposit scheme as a means of safeguarding tenants' deposits and allowing for any disputes which may arise to be dealt with speedily and independently.

In addition, work to scope and address the needs of the most vulnerable individuals and families in securing and sustaining private sector tenancies will get underway immediately through a stakeholders group.

Timeframe:

Introduction of a rent deposit scheme will be enabled through the next housing bill.

SUMMARY OF RESPONSES TO THE PUBLIC CONSULTATION EXERCISE

The consultation period began on 15 May 2009 and ran for a 12 week period ending on 7 August 2009. The document was distributed to a wide range of stakeholders and interested parties and a copy was posted on the Department's website. It was formally launched through a press release and media coverage on 12 June 2009.

To allow discussion on the proposals the Department hosted three public consultation workshops in Dungannon, Coleraine and Belfast. In addition three consultation seminars were hosted by the Chartered Institute of Housing, involving representatives including landlords, environmental health professionals, housing associations, housing professionals and voluntary sector staff and allowed a wide range of views to be captured. The Housing Rights Service also hosted two separate consultation workshops which were well attended by community and voluntary representatives, housing associations and council staff. As well as feedback from these workshops and seminars, a total of 39 responses were received from a wide range of bodies including councils, landlord and tenant representatives, voluntary organisations and political parties.

Department's Vision and Objective

Responses provided general overall support and agreement with the proposed approach and content. A small number of respondents felt that the proposals should reflect and take account of the potential impact of current and future market conditions on this sector.

Knowledge and Awareness

All respondents agreed that more needs to be done to improve awareness of the private rented sector and the proposals for action were generally agreed. Responses from professional groups suggested these could be further developed to support networks of landlords to ensure the provision of regular support and training with the potential for greater use of professional qualifications. Many respondents supported the need for greater availability and consistency of information from a single source, councils supported the greater use of local council websites for this purpose.

Enforcement and Compliance

Respondents supported proposals for improving enforcement and compliance, most acknowledged the need for a greater involvement of local councils in this and respondents overall identified and supported the need for more effective sharing and use of information across government. Responses from councils reinforced this but highlighted the need for additional resources.

Annex (cont'd)

Tenancy Management

Almost all respondents agreed with the need to improve this aspect, however, the majority felt that voluntary accreditation of landlords would not in itself deliver this. With the exception of landlord groups, lenders and University of Ulster, the majority of respondents provided overwhelming support for a mandatory Northern Ireland register of landlords, complemented by voluntary accreditation. Most respondents felt this should be proportionate, light touch in nature, not intrusive and inexpensive in order to minimise the burden on landlords. Local councils advised that such a register should have inbuilt data protection allowing relevant information to be used to facilitate good information sharing, better tenancy management and enforcement as necessary, but restricted to designated bodies to protect the personal information of landlords. Councils also felt that Housing Benefit should be paid only to registered landlords.

Landlords and some professional groups felt that a register of tenants would be effective particularly in addressing anti social behaviour; these groups also reinforced the need to focus on improving management standards in alternative ways e.g., use of standardised practise across all tenures, establishment of social letting agency.

Security of Tenure

The proposals within this section were fully supported in principle. Strong support was received for the extended period of notice to quit and the proposal to explore greater housing association involvement in the buy to let market was warmly welcomed while some landlord groups expressed concern about some aspects of both proposals.

Standards of Fitness

All respondents agreed that current standard needs to be replaced. Most felt that the Decent Homes Standard should be given a legal and enforceable standing and many respondents, particularly councils, argue for the adoption of the Housing Health and Safety Rating which operates in other parts of the UK. Many respondents suggest such an approach would also address the fire safety issue. Landlord groups identified the need for greater incentives, including grants, to help them achieve higher standards.

Some concern was expressed, particularly by tenant representatives, around the proposal to link the level of Housing Benefit payable to increased fitness levels, seeing this as having the potential to adversely affect tenants.

Improving Accessibility

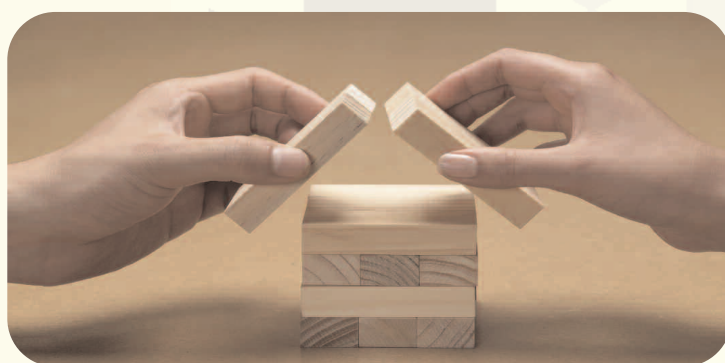
With the exception of one landlord group and 2 individuals, all other respondents supported the proposals in principle for a rent deposit and associated disputes handling scheme. In supporting this proposal councils also suggested that this service should link to landlord registration requiring the dispute service to be used before any referral to the Courts Service. Councils also expressed a view that they be given access to data held by the disputes service to assist them in investigations into harassment and illegal evictions.

Proposals for the development of a specific model of support for the most vulnerable to help them meet housing need and sustain tenancies was fully supported.

Equality

Only a small number of respondents commented on the content of the initial screening contained within the consultation document and none provided additional information. Many respondents did however comment on the potential for the strategy to promote a Shared Future, particularly councils, who advised that a stronger regulatory framework for landlords and letting agents would significantly contribute to this.

Other respondents identified the need for more detail to demonstrate how the proposals would impact favourably and protect the vulnerable.



Notes:



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