

# Reforming the PRS:

## letting agent views of the Renters (Reform) Bill

### INTRODUCTION

After a gestation period spanning two white papers and numerous consultations, the Renters (Reform) Bill ('the Bill') is now making its way through parliament. The Bill seeks to 'deliver a fairer, more secure, and higher quality private rented sector for both tenants and landlords' (UK Government, 2023a).

In many respects, the Bill is an opportunity for the English PRS to catch up with legislation, which in the main, is already in place in other parts of the UK. We know from the implementation of this legislation, that such changes are subject to mixed success and prone to unintended outcomes.

In this report, we share insights into the Renters (Reform) Bill from the perspective of letting agents, a key force for change within the sector. The research, conducted with a geographically representative sample of Propertymark letting agent members, provides valuable evidence, which policy makers can use to help shape the Bill in its final stages and thereafter inform its implementation.

The report begins with a contextual overview of the English PRS and the pivotal role of lettings agents in supporting professionalism and regulation within the sector. Thereafter, there is an overview of the genesis of the Renters (Reform) Bill and a summary of its key deliverables. Next, we discuss the research design, focusing on the research methodology and the respondent characteristics to provide an indication of the representativeness of the data.



This is followed by an exploration of the current state of the PRS, and specifically, an investigation into anecdotal claims that landlords are leaving the sector and that there are shortages of properties in key markets. We then explore agents' views on the Bill over eight subsections. The first subsection is concerned with the perceived fairness of the Bill and the second with its likely consequences. The remaining subsections analyse the key deliverables of the Bill in turn. Finally, we present our conclusions and recommendations.

# The regrowth of the PRS

The English private rented sector has rapidly regrown over the last two decades. The scale of the regrowth is significant and the sector is now home to around 4.6 million (19%) of English households (UK Government, 2023b). This re-growth has been led by many private investors (landlords) who tend to own a small number of properties each and operate on a part time basis.

The PRS plays a critical role in ensuring flexibility within the housing system (Bailey, 2020) with average tenancy durations equating to around a third of those in the social rented sector (UK Government, 2023b). As it has grown, the PRS has displaced rates of home ownership and social renting. The effects of this transition are broad and include the genesis of generation rent and an increase in the number of vulnerable groups living within the sector. There are long standing concerns regarding the suitability of the PRS for these groups (Coulter, 2016; Ronald & Kadi, 2017) given landlord-tenant power imbalances (Marsh & Gibb, 2019), the sector's potential contribution to social and wealth inequalities (Coulter, 2016), the existence of rogue and criminal landlords (Spencer et al., 2020) and more besides. There are also more general concerns regarding conditions within the sector (Lister, 2006) and regarding security of tenure. However, whilst there is work to do, it should be recognised that the majority of PRS homes meet the Decent Homes Standard (77%), the majority of tenancies end because the tenant wishes to move (77%), the majority of tenants find it easy to pay their rent (74%) (UK Government, 2023b), and PRS tenants report higher wellbeing scores than social renters (UK Government, 2022a). In short, the PRS works for most people who live there.

Due to shared contexts, drivers and broadly similar socio-economic challenges, this re-growth and the challenges associated with it are generally replicated in Scotland, Northern Ireland, and Wales. However, despite evidence of PRS policy divergence and convergence across the UK (Gibb, 2012; Harris et al., 2020; Moore, 2017), it is the devolved legislatures and governments that have taken in the lead in legislating (with mixed success) to address emergent challenges. For example, in Scotland, the equivalent of 'Section 21' or 'no fault' evictions were effectively removed by the introduction of the Private Residential Tenancy in 2017.

In this sense, the Renters (Reform) Bill can be viewed as England 'catching up' with the devolved nations. Although for some, the Bill can't come quick enough, the legislation introduced in Scotland, Ireland and Wales has had mixed success, often producing unintended outcomes. For this reason, the Renters (Reform) Bill requires significant scrutiny.




## THE IMPORTANCE OF LETTING AGENT VIEWS

According to the English Landlord Survey, 46% of landlords in England use a letting agent for letting services and 18% use a letting agent for management services. Beyond these headline categories, letting agents fulfil a myriad of hidden roles as mediators, gatekeepers, market movers and compliance managers. Letting agents have a deep and longstanding understanding of the sector and the properties and landlords within it. As such, lettings agents are well positioned to provide a range of material insights into the appropriateness of the Bill and its likely unintended outcomes.

As the professional body for letting agents, with over 9,000 members in England, PropertyMark is uniquely positioned to obtain and aggregate letting agent insights.

# The Renters (Reform) Bill

The genesis of the Renters (Reform) Bill was the announcement by Theresa May (UK Government, 2019) of a 'new deal for renters' and thereafter a commitment in Boris Johnson's Conservative and Unionist Party Manifesto of 2019, which stated:

 'We will bring in a Better Deal for Renters, including abolishing 'no fault' evictions and only requiring one 'lifetime' deposit which moves with the tenant. This will create a fairer rental market: if you're a tenant, you will be protected from revenge evictions and rogue landlords, and if you're one of the many good landlords, we will strengthen your rights of possession.'

The UK Government (2022b) Levelling Up White Paper followed and duly noted:

 'We will publish a landmark White Paper in the spring to consult on introducing a legally binding Decent Homes Standard in the Private Rented Sector for the first time ever, explore a National Landlord Register and bring forward other measures to reset the relationship between landlords and tenants, including through ending section 21 "no fault evictions".'

Following a series of consultations, plans for reform were published in the White Paper- A Fairer Private Rented Sector (Department for Levelling Up, 2022). The Renters (Reform) Bill was introduced to Parliament on 17 May 2023 and is currently passing through the House of Commons.

As aforementioned, the purpose of the Renters (Reform) Bill is to 'deliver a fairer, more secure, and higher quality private rented sector for both tenants and landlords'.

**The guide to the Bill states that its key deliverables are to:**

**1.** Abolish section 21 'no fault' evictions and move to a simpler tenancy structure where all assured tenancies are periodic – providing more security for

tenants and empowering them to challenge poor practice and unfair rent increases without fear of eviction.

**2.** Introduce more comprehensive possession grounds so landlords can still recover their property (including where they wish to sell their property or move in close family) and to make it easier to repossess properties where tenants are at fault, for example in cases of anti-social behaviour and repeat rent arrears.

**3.** Provide stronger protections against backdoor eviction by ensuring tenants are able to appeal excessively above-market rents which are purely designed to force them out. As now, landlords will still be able to increase rents to market price for their properties and an independent tribunal will make a judgement on this, if needed. To avoid fettering the freedom of the judiciary, the tribunal will continue to be able to determine the actual market rent of a property.

**4.** Introduce a new Private Rented Sector Ombudsman which will provide fair, impartial, and binding resolution to many issues and prove quicker, cheaper, and less adversarial than the court system.

**5.** Create a Privately Rented Property Portal to help landlords understand their legal obligations and demonstrate compliance (giving good landlords confidence in their position), alongside providing better information to tenants to make informed decisions when entering into a tenancy agreement. It will also support local councils – helping them target enforcement activity where it is needed most.

**6.** Give tenants the right to request a pet in the property, which the landlord must consider and cannot unreasonably refuse. To support this, landlords will be able to require pet insurance to cover any damage to their property.

# Research design

The data in this report was obtained via a survey of our letting agent members who work in England.

The survey link was sent via email to members who had consented to take part in surveys. In total we received 660 valid responses representing a responses rate of approximately 7%.

The sample achieved was compared with the known geographical distribution of our membership base. This analysis identified a small degree of over-representation in the North East, the East of England, the East Midlands, Yorkshire and Humberside and Southern England groupings and under representation elsewhere. The dataset was therefore weighted to correct for this geographic imbalance resulting in a revised N=661. Unless stated otherwise, weighted data is used throughout this report.

## RESPONDENT CHARACTERISTICS

The characteristics of the respondents, in terms of the size of the letting agent they work within (Figure 1) and the number of properties in the agency's portfolio (Figure 2), are broadly in line with our membership base.

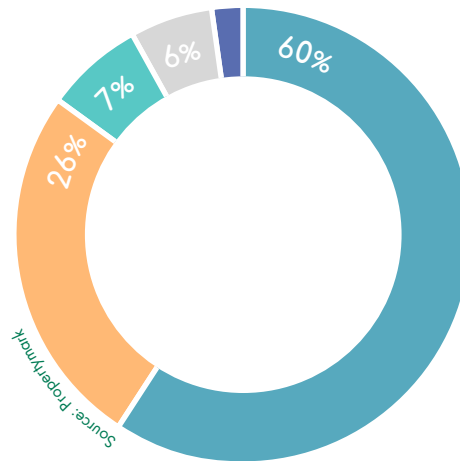


Figure 1: The size of letting agent worked within by the respondent

- Micro (1 branch)
- Small (2-5 branches)
- Medium (6-20 branches)
- Large (21-100 branches)
- Very large (101+ branches)

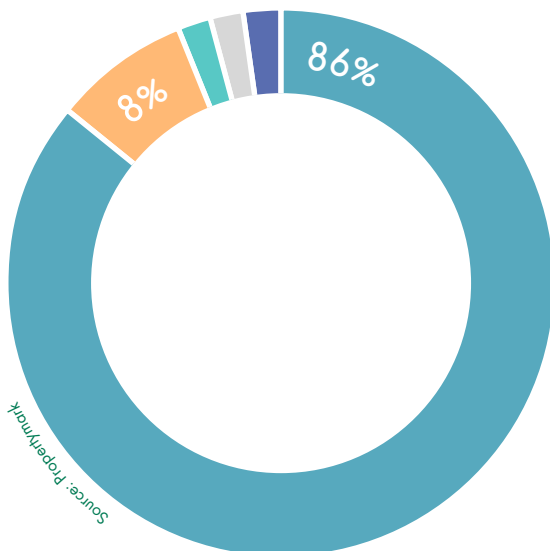


Figure 2: The number of properties in the agency's portfolio

- 21-30 properties
- 31-40 properties
- 41-50 properties
- 51-60 properties
- 60+ properties

# The current state of the PRS

Before exploring the potential impact of the Renters (Reform) Bill, it is necessary to understand the environment in which the Bill, if passed, will be enacted.

Propertymark's regular *Housing Insight Report* publication (pictured) provides a monthly commentary on the state of the market. The November 2023 issue, finds that demand continues to outstrip supply leading to pressure on rents. For the purposes of this report, we asked our agents specific questions to address anecdotal evidence of landlords leaving the sector and of a reduction in supply in key markets.

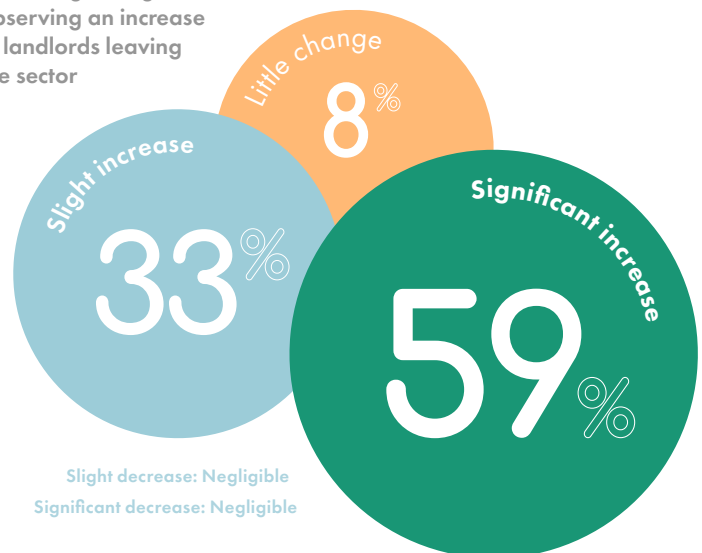


## ARE LANDLORDS LEAVING THE SECTOR?

We asked our member agents, if over the past three years, they had observed an overall increase in the average number of landlords selling properties or exiting the market entirely. Almost two-thirds of agents (59%) reported that they had seen a 'significant increase' and 92% reported a 'slight' or 'significant' increase in total. Only 8% noted 'little change' and a negligible proportion noted any form of decrease (Figure 3). This novel data is alarming and points to significant losses in PRS supply.

When asked what type of landlords were exiting the market, agents reported that landlords with large portfolios were less likely to leave (20% had seen this) than those with small portfolios (51% had seen this). Policymakers focused on the 'professionalisation' of the sector will be less concerned by the loss of small portfolio landlords, but we would argue that in the current climate, the loss of any capacity is problematic.

Figure 3: The percentage of agents observing an increase in landlords leaving the sector



Source: Propertymark

## ARE AGENTS EXPERIENCING A SHORTAGE OF RENTAL PROPERTIES?

Given the reduction in landlord volumes, it is not surprising that 95% of our agents reported a shortage in a range of defined property types. However, as can be seen in Figure 4, the effect is not evenly spread by market or submarket.

The largest stock shortages are reported in the 'family homes' market (87% of agents reported a shortage here) followed by the 'homes for single renters or couples'. The effect on 'Houses in Multiple Occupation (HMOs)' and 'student rents' appears muted by comparison. The shortage of supply in the 'family homes' market is worrying, especially considering the growing proportion of households with young families residing within the sector.

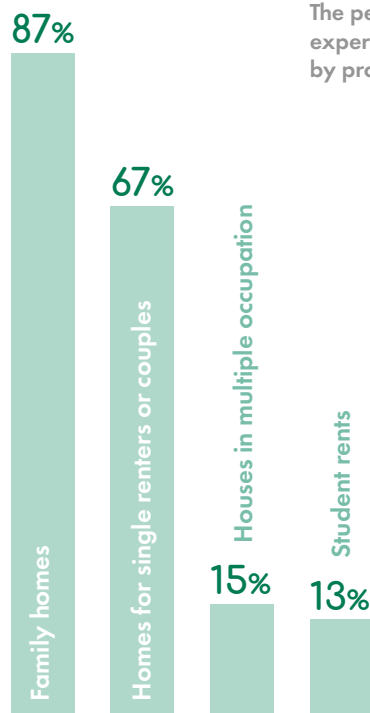


Figure 4:  
The percentage of agents experiencing stock shortfalls by property type

Source: Propertymark

## Agents' views on the Renters (Reform) Bill

### IS THE RENTERS (REFORM) BILL FAIR?

Whilst 'fairness' is a subjective concept; perceptions of fairness are important in the policy-making process. In particular, perceptions of fairness are critical to ensuring compliance (Sutinen & Kuperan, 1999) by consent rather than compulsion. Given that the PRS is a sector dominated by a large number of heterogenous landlords and that levels of enforcement in the sector are known to be woefully inadequate, the concept has resonance.

We asked our agents the extent which they agreed that the Renters (Reform) Bill is fair. As can be seen in Figure 5, almost three quarters (73%) disagreed. This suggests that policy makers still have some work to do.

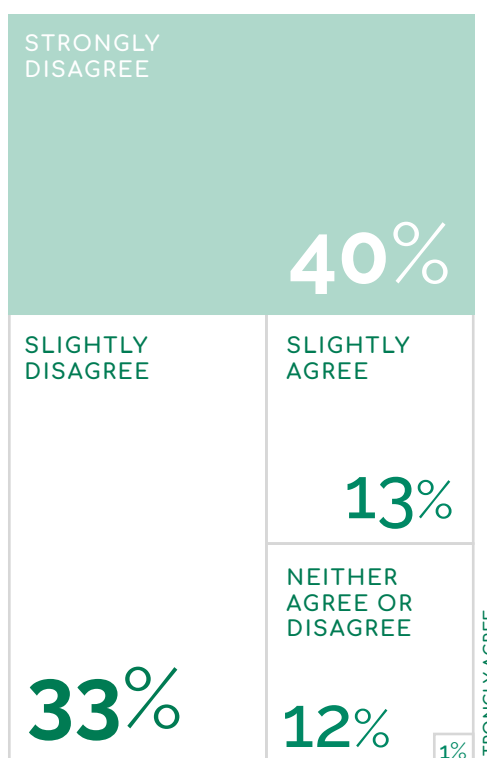


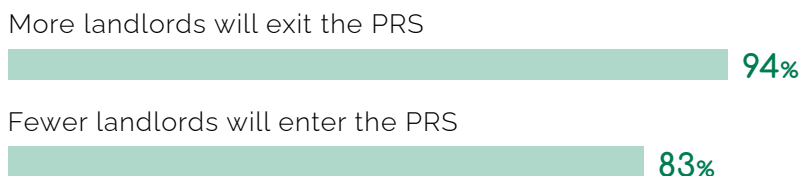
Figure 5:  
The extent to which agents agree that the Renters (Reform) Bill is fair

Source: Propertymark

## WHAT ARE THE LIKELY CONSEQUENCES OF THE BILL?

The vast majority of agents (94%) believed that more landlords would leave the sector as a likely consequence of the Bill. Furthermore, 83% of agents were concerned that the Bill would also result in fewer new entrants, the life blood of the PRS (Figure 6).

Figure 6: Consequences of the Bill, percentage of agents concerned regarding landlords leaving and entering the sector



Source: Propertymark

Agents were also concerned that adequate resources would not be available to support the key deliverables of the Bill. Specifically, 64% did not believe that local authorities would have sufficient resources to enforce the new legislation effectively and 88% did not believe that the courts would have the resources required to deal with the removal of 'no fault' evictions (Figure 7). Neither of these concerns are unfounded, it is a matter of record that local authorities struggle to enforce PRS regulation. In fact, the Local Government Association (2023) report:

*'Councils are facing severe budgetary constraints. Multiple inquiries and reviews, including the Department of Levelling Up Housing and Communities (DLUHC) own research, identified that many local enforcement teams do not currently have the resources and capacity to proactively tackle poor standards in the PRS. DLUHC must conduct a full and realistic assessment of the resource's councils need to regulate the PRS effectively, and provides them with adequate, upfront new burdens funding.'*

It is also broadly recognised that the court system is overstretched. The whitepaper (Department for Levelling Up, 2022) summarises the findings of a 2018 call for evidence, which concluded that landlords were 'dissatisfied' with the 'timeliness' of the county courts.

In fact:

**'More than 90% of landlords who responded said that they had experienced delays when taking court action for possession. 95% indicated that the period between obtaining an order for possession and enforcement by county court bailiffs (who are HMCTS employees) took too long.'**

Figure 7: Consequences of the Bill, percentage of agents concerned regarding the sufficiency of resources to support the Bill

**Local authorities will not have the resources they need to enforce the new legislation effectively...**



**Courts will not have the resources they need following the removal of Section 21 evictions...**



Source: Propertymark

In addition, 43% of agents were concerned that new laws would be difficult for agents, landlords and tenants to understand. This figure might initially appear low considering that landlords often struggle with legislation (MHCLG, 2022). However, the response will more broadly reflect the confidence of agents in negotiating changes within the regulatory landscape.

# THE REMOVAL OF FIXED TERM TENANCIES

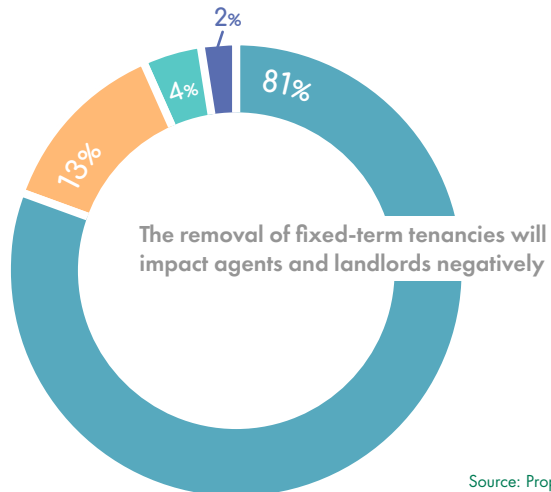
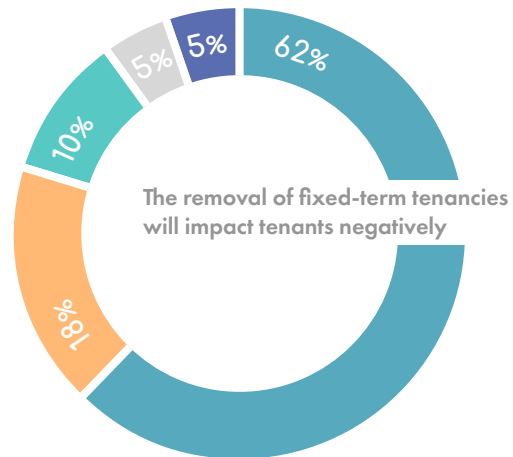
## Bill intention:

**Abolish section 21** 'no fault' evictions and move to a **simpler tenancy structure** where all assured tenancies are periodic – providing **more security** for tenants and empowering them to challenge poor practice and unfair rent increases without **fear of eviction.**

We asked our agents to what extent they agreed that the removal of fixed-term tenancies would impact themselves/landlords or tenants negatively? In both case the vast majority (80% and 94% respectively) agreed to some extent (Figure 8).

In addition, 70% of agents agreed that student lets should be exempt from the removal of fixed-term tenancies. Similar warnings were not heeded in Scotland when the PRT was introduced, resulting in a student housing supply crisis as landlords moved their properties to other markets.

Figure 8: The extent to which agents agree that the removal of fixed-term tenancies will have a negative impact



- Strongly agree
- Slightly agree
- Neither agree nor disagree
- Slightly disagree
- Strongly disagree

Source: Propertymark



## CHANGES TO POSSESSION GROUNDS

### Bill intention:

Introduce more **comprehensive possession grounds** so landlords can still recover their property (including where they wish to sell their property or move in close family) and to make it **easier to repossess properties** where tenants are at fault, for example in cases of anti-social behaviour and repeat rent arrears.

To ensure continued investment within the sector, it is critical that there are clear and concise mechanisms in place, which allow landlords to recover possession of their property. With this in mind, we asked our agents if they agreed with the introduction of two new grounds for possession.

We also asked our agents if they agreed that three key grounds, which are discretionary under the Bill, should be made mandatory. The grounds include 'securing a let on the basis of false information', 'repeated late payment of rent' and 'breach of contract'. In each case more than 90% of agents agreed (Figure 10). It is clear that possession grounds are an important area for our agents, which warrants further consideration to avoid unintended outcomes.

The first, 'tenants' refusal of access', was supported by 87% of agents. The second, 'neglect or malicious damage resulting in costs in excess of the deposit', was supported by 86% of agents (Figure 9).

Figure 9: Percentage of agents who agreed or disagreed that specific new grounds should be introduced

#### Tenant refusing access to property (new ground)



#### Neglect or damage over the amount of the deposit (new ground)



Source: Propertymark

Figure 10: Percentage of agents who agreed or disagreed that selected grounds should be made mandatory

#### Property was let on the basis of false information (discretionary under the bill)



#### Repeated late payment of rent (discretionary under the bill)



#### Breach of contract (discretionary under the bill)



Source: Propertymark

# CHANGES TO RENT INCREASES

## Bill intention:

Provide **stronger protections against backdoor eviction** by ensuring tenants are able to appeal excessively above-market rents which are purely designed to force them out. As now, landlords will still be able to increase **rents to market price** for their properties and an **independent tribunal** will make a judgement on this, if needed. To avoid **fettering the freedom of the judiciary**, the tribunal will continue to be able to **determine the actual market rent** of a property.

The Bill allows for one rent increase per year, prohibits rent review clauses and makes it easier for tenants to challenge excessive rent increases as well as other changes. We asked our agents which changes they were concerned about. Overall, 90% had some form of concern, but opinions differed. For example, just 14% were concerned about limiting rent increase to once per year. As it would be unusual for rents to increase more than once a year, this was expected. Agents were more concerned about the removal of rent review clauses (53%). However, whilst just over one third (35%) were concerned about limiting rent increases to market value, three quarters (75%) were concerned about limiting the ability to accept rent payments in advance (Figure 11). The latter has serious implications for some tenant groups. For example, 94% of agents believed that removing the ability to pay in advance would be detrimental to individuals without guarantors. In addition, 62% believed that it would be detrimental to overseas students.

Figure 11: The extent to which agents agree with rent provisions

### Limiting rent increases to once per year



### Ending rent review clauses



### Limiting rent increases to market value



### Limiting rent paid in advance



Source: Propertymark

## INTRODUCTION OF A PRS OMBUDSMAN

### Bill intention:

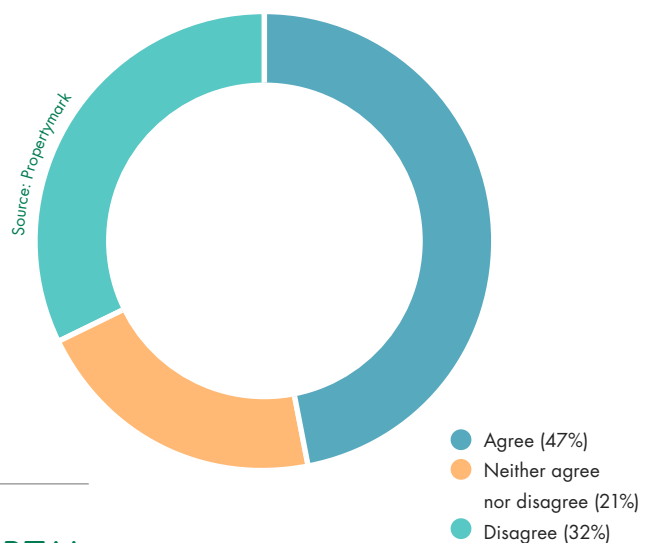
Introduce a new Private Rented Sector Ombudsman which will **provide fair, impartial, and binding resolution** to many issues and prove **quicker, cheaper, and less adversarial** than the court system.

Noting early concerns regarding the court system and the additional judicial requirements that will be imposed by the Bill, we asked our member agents if they agreed that the introduction of an ombudsman would be an appropriate method to address these concerns. In response, under half (47%) agreed (Figure 12).

These findings point to our agents remaining somewhat concerned that the introduction of an ombudsman will not be sufficient to address the shortcomings in the existing system. One alternative solution that has gained significant support is the

introduction of a specialist housing court. Despite the Secretary of State noting that the costs of such a court would 'outweigh the benefits', (Department for Levelling Up, 2022), 97% of agents reported that the lack of a specialist housing court would undermine the ability of both agents and landlords to evict tenants under new grounds.

Figure 12: The extent to which agents agree that an ombudsman will address existing court system issues



## THE CREATION OF A PROPERTY PORTAL

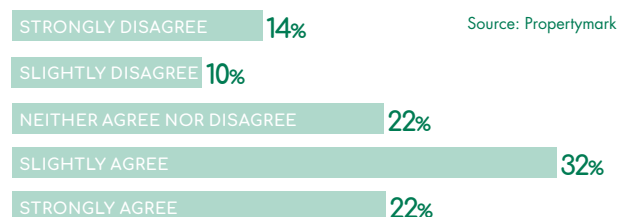
**Bill intention:** Create a Privately Rented Property Portal to help landlords understand their **legal obligations** and demonstrate compliance (giving good landlords confidence in their position), alongside providing **better information** to tenants to make **informed decisions** when entering into a tenancy agreement. It will also support local councils – helping them target enforcement activity where it is needed most.

Although described as a portal, this element of the Bill is in effect, landlord registration. Landlord registration schemes are already compulsory in Scotland, Northern Ireland, and Wales. However, the schemes have had mixed success and offer significant opportunities for lessons to be learned in the English case.

We asked agents the extent to which they agreed that the introduction of the Property Database would lead to an improvement in standards within the PRS. Just over half (54%) agreed to some extent and one

quarter (24%) disagreed to some extent (Figure 13). Separately, 69% agreed that the introduction of the portal should remove the requirement for local licensing schemes.

Figure 13: The extent to which agents agree that a property database will improve PRS standards



## THE RIGHT TO REQUEST PETS

### Bill intention:

Give tenants the right to request a pet in the property, which the landlord must consider and **cannot unreasonably refuse**. To support this, landlords will be able to **require pet insurance** to cover any **damage** to their property.

England is nation of animal lovers, and we understand the important and diverse role that pets can play in the lives of tenants. However, there are many factors that should be considered when making the decision to allow pets to reside within rented properties and clarity is required on when it would be 'reasonable to refuse' pet requests. We therefore asked our agents what should be considered reasonable grounds to refuse a request for a pet to live in a property.

The vast majority (89%) reported that a tenant who keeps or has kept, a pet that has caused damage to the property, was a reasonable ground for refusal (Figure 14). Similarly, 82% believed that where at pet had a history of damaging a previous property, that this would also be a reasonable ground. Although the former would appear to be a sensible measure, the latter may be difficult to evidence in practice. Most agents (86%) also reported that a request should be refused where a tenant has outstanding payments that are related to pet or property damage. However, a much lower percentage (48%) believed that rental arrears were an appropriate justification for refusal. Unsurprisingly, agents viewed house size as a critical ground for refusing a request (92% agreed). For the sake of the pet and the owner, this would appear to be entirely appropriate, although guidance would be required to allow for robust assessment.

Figure 14: Grounds for refusing a request

**A tenant currently has, or has a history of keeping pets which have caused damage to the property**



**The pet has a history of damaging previous properties**



**A tenant has outstanding payments related to pet or property damage**



**The property is too small for the pet**



**The tenant is in rent arrears**



Source: Propertymark

# Conclusion and recommendations

Propertymark recognises the need for change within the sector. Whilst the Bill generally lags behind legislative developments in the other home countries, we believe that this late adopter status affords policymakers with the opportunity to avoid the unintended outcomes realised elsewhere.

This report provides unique insights from the perspective of Propertymark letting agent members, that can be utilised by policymakers to prevent such outcomes and to inform the final stages of the Bill and its subsequent implementation.

Our agents, who represent a significant portion of the industry, have expressed a number of concerns. In the first instance, there are concerns regarding the fundamental fairness of the Bill, leading to a belief that it will not only result in landlords leaving the sector, but will also reduce the number of new market entrants.

Agents also expressed concerns about the espoused deliverables of the Bill. For example, the majority reported that the removal of fixed tenancies would have negative implications. With regards possession grounds, agents pointed to grounds which should be introduced or made mandatory to prevent unintended outcomes. While agents were not overly concerned about limiting rent increases to once per annum, they were concerned about limiting the ability to pay/receive rent in advance, which could disproportionately impact individuals without guarantors and overseas students. Moreover, agents were not convinced that the introduction of an Ombudsman would address the documented delays within the court system and just over half of agents agreed that the introduction of a landlord registration scheme (the creation of property portal) would improve standards within the industry. Finally, agents provided their views on valid grounds for refusing a pet request.

The findings suggest that from an agent's perspective, the Bill is likely to result in a reduction in supply, which will undoubtedly cause an increase in rents.

## KEY RECOMMENDATION



To counteract the impact of the Bill, policymakers should consider actions designed to professionalise the property sector as well as attract new and retain existing landlords within the sector.

Continued...

## SPECIFIC RECOMMENDATIONS:

### The Removal of Fixed Term Tenancies

A tenant should be able to agree to a fixed term tenancy where it is mutually beneficial for both parties.

### Changes To Possession Grounds

The following new possession grounds should be added:

- Tenants refusing access.
- Neglect or damage resulting in costs more than the deposit amount.

The following possession grounds should be made mandatory:

- Breach of contract.
- Repeated late payment.
- Property let based on false information.

### Changes to rent increases

- Retain rent review clauses.
- Retain the ability to make/accept payment in advance to support key areas of the market including applicants with guarantors, tenants from overseas and international students.

### Introduction of PRS Ombudsman/landlord redress scheme

Policymakers should consider allowing private landlords to join one of the existing redress schemes for the private rented sector (Property Redress Scheme or The Property Ombudsman), introduce a statutory code to adjudicate against and set out a long-term plan for the introduction of a specialist housing court.

The Bill should include the requirement for an inventory and a check-in/check-out report at the start and end of tenancy to speed up the return of deposits and prevent disputes.

### The Creation of a Property Portal

There is a clear focus in the Bill on improving standards amongst landlords without complimenting the role of letting agents. The PRS Database and Property Portal should be expanded to include qualification, registration, and regulation requirements for property agents.

If the portal is introduced, the requirement for local licensing schemes should be removed.

### The right to request pets

The following should be included as reasonable grounds to refuse a request to keep a pet:

- The property is not suitable.
- The breed or type of pet is not suitable for the property.
- The landlord or their family and or the other tenants are allergic to the type of pet requested.
- There is already one or more pets at the property.
- A tenant has outstanding payments related to pet or property damage.
- The pet has a history of damaging previous property.
- A tenant currently has, or has a history of keeping, pets which have caused damage to the property.

Pet insurance providers must underwrite any non-payment from a tenant should they take out the policy at the start of the tenancy and cancel before the tenancy comes to an end. Alternatively, the UK Government must remove the tenancy deposit cap or allow for an additional fee to be taken to cover the risks to the property of renting with pets.

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