



# Consultation Response

## A Decent Homes Standard in the Private Rented Sector: Consultation

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## About this consultation

This consultation seeks views on the introduction and enforcement of a Decent Homes Standard in the private rented sector in England.

## Age UK consultation response

Key points and recommendations:

- Age UK welcomes extending the Decent Homes Standard to the private rented sector (PRS), but to maximise its impact we would like to see:
  - All the different regulation governing standards in the PRS drawn together and clearly set out
  - Recognition of the need for more accessible homes and greater use of adaptations, in all elements of the reforms including the Decent Homes Standard
  - Clearer guidance about how the responsibility for particular adaptations splits between tenants and landlords
  - Regulation backed up by proper enforcement
- The Decent Homes Standard guidance should be strengthened to ensure it is a catalyst for an extensive retrofit programme which gradually raises accessibility standards

## Introduction

Age UK welcomes extending the Decent Homes Standard to the private rented sector but would like to see certain additional elements in place so that the standard has maximum impact.

All age groups within the PRS will benefit from higher standards but this is an issue which is particularly important for older people. We know from the English Housing Survey 2020/2021 that 30% of households in the private rented sector with a household reference person aged 65 or over live in non-decent homes compared to 19% of those with a household reference person aged between 30 and 44. Nearly a fifth of privately rented homes where the household reference person is aged 65 or older have a Category 1 hazard compared to 10% for those in the 30 to 44 age group.<sup>i</sup>

The effect of a non-decent home can be particularly concerning for an older person: damp exacerbates existing health issues, for example, people feel the cold more as they age and hazards are more likely to cause a fall if someone is frail.

The number of older people living in the private rented sector is increasing rapidly and is forecast to reach 1.5 million by 2046<sup>ii</sup>. Given the rising cost of caring for our ageing population and the effect of poor housing on both the individual concerned and on stretched NHS and social care resources, these reforms must ensure that the PRS is structured in a way that allows people to grow older as healthily, confidently and independently as possible. The Decent Homes Standard is key but it must be supported by clear guidance, be a tool for greater accessibility and use of adaptations and be properly enforced.

We would like to see:

**All the different regulation governing standards in the PRS drawn together and clearly set out**

The Decent Homes Standard is one of several bits of legislation and guidance which sets out standards within the PRS. The NRLA points out that there are 168 pieces of legislation affecting the PRS in England<sup>iii</sup>. This can make it difficult for landlords and tenants to understand their rights and obligations. The proposed Property Portal, if well designed, could be a place where all of these bits of regulation are drawn together and set out clearly so that all parties are aware of what is required of them.

**Recognition of the need for more accessible homes and greater use of adaptations in all elements of the reforms including the Decent Homes Standard**

Adaptations and accessibility are key to helping older people live independently as they age. Minor adaptations such as a grab rail and more substantial adaptations such as a stair lift and walk-in shower can make the difference between someone being able to live at home, remain connected and contribute to their community and having to move into residential care. Both for the individuals concerned and for the collective cost of caring for our ageing population it is important that older people in the PRS can access the accessibility and adaptations that they need.

Accessibility

The guidance to the Decent Homes Standard must address the issues of accessibility. We know that there is a huge shortage of accessible homes and 90% of wheelchair users say that they struggle to find accessible housing in the PRS<sup>iv</sup>. This is also an issue for frailer older people, not necessarily using a wheelchair, who look for properties which address their wider mobility issues.

We need to address this shortage and increase the number of accessible PRS homes. The cost of upgrading accessibility in the PRS in one go is prohibitive but we must ensure that existing expenditure is used effectively. The current guidance to the Decent Homes Standard says:

“Landlords may also wish to consider which relevant Lifetime Homes Standards are appropriate when carrying out works to properties and whether the work to be undertaken can be modified to help meet the needs of people with disabilities”

These words will have to be changed to reflect the Part M categories, which have superseded Lifetime Homes, but they should also be strengthened so that all retrofit incorporates accessibility where possible. The configuration of particular buildings won't make it possible for Part M, Category 2 to be applied to all retrofit but, where it can, it should be, so that over time we transform the accessibility of our existing housing stock. It is much cheaper to strengthen a bathroom wall so that it holds the weight of a grab rail when a bathroom is being fitted than to pull down the wall, strengthen and rebuild it when the grab rail is needed. The wording in the DHS guidance should be strengthened so that accessibility is automatically built in to any retrofit wherever possible.

With stronger guidance, the Decent Homes Standard could be the catalyst for an extensive retrofit programme which gradually raises accessibility standards across the private rented sector.

### Adaptations

The 2018 review of the Disabled Facilities Grant shows that fewer grants are made to private rented sector tenants than to those in other tenures and the numbers vary significantly across different regions.<sup>v</sup> Longer tenancies will help to increase the number of tenants eligible for grants but we also need to see clearer guidance in this area. Much time and resource is wasted in trying to get landlord permission for adaptations to be made, establish who is responsible for installation, removal and payment. The rules are clearly set out in a number of places such as the Citizens Advice website but they remain complicated and open to interpretation. This leads to friction and delay and sometimes means that adaptations do not get installed at all.

These reforms need to provide clarity. We need clear guidance which sets out legal responsibilities in common situations and what could be required over and above this as best practise. It would be helpful to have case studies highlighting issues that often arise so that cases can be resolved quickly and efficiently.

### Efficient use of existing adaptations and accessible homes

Those properties that are accessible and adapted should to be easy to identify so that they can be matched with tenants needing those features. If the registration process involved answering a few questions about the accessibility features of a property, the information would be publicly available and could be used by prospective tenants and agents. Better matching of properties would go some way to stop adaptations being automatically removed at the end of a tenancy and could help to establish a sub sector of accessible rent.

The PRS offers flexibility and allows tenants to hand over responsibility for repairs and maintenance. Build to rent and other rentals which offer accessibility and real security of tenure - so homes that are unlikely to be sold or taken off the market – should provide a good option for older people. By taking older people into account as the reforms are developed it is possible to totally change the experience of older renters and establish a useful sector for older people's housing.

## **Regulation backed up by proper enforcement**

The Committee of Public Accounts' report on the Regulation of Private Renting suggests that regulation by local authorities is under capacity and not providing appropriate and consistent protection for tenants.<sup>vi</sup> In 2017/18, 89% of local authorities reported issuing no civil penalties; over half of local authorities did not have a civil penalty policy in place at all.<sup>vii</sup> Under the existing system, enforcement levels are concerning. Even if a tenant has identified the relevant legislation and reported their issue, the likelihood of a case being taken to final formal enforcement is slim.

Having to register compliance with standards clearly set out on the proposed Property Portal will encourage many of the landlords who might fall into the "mixed and lower compliance" groups to adhere to the regulatory requirements. Many just need a gentle nudge to comply. Anecdotal evidence suggests that this was a product of similar changes, introduced in Scotland. There will remain, however, a group of non-decent properties and bad landlords and it is imperative that Local Authorities have access to all the tools needed to deal with them, that they use them and that they are properly resourced.

For vulnerable residents, including some older people, this enforcement will need to be proactive, not just reactive. We know that vulnerable groups are reluctant to come forward so the Government must ensure the resources to make this a reality.

### **Consultation Questions:**

#### **1. In which capacity are you completing these questions?**

- We are responding to this consultation as a charity

#### **2. If responding on behalf of an organisation, please specify which organisation:**

- Age UK

#### **3. If responding as an individual, where do you live? If you are responding as part of an organisation, where are you primarily based?**

- Age UK is a national organisation

#### **12. Do you support bringing in and enforcing the Decent Homes Standard, as set out above, in the private rented sector?**

Yes, Age UK strongly supports bringing and enforcing the Decent Homes Standard in the PRS. We believe it is essential to improve the quality of housing and hence quality of life for the growing number of older tenants.

### **13. How clear is the Standard as set out?**

The standard itself is clear but how it sits within the context of existing legislation is not. Obligations and responsibilities of both tenants and landlords need to be as clear as possible to minimise disputes and provide straightforward solutions when things go wrong. It is difficult for a layperson to navigate the number of different bits of legislation and guidance which deal with what is and isn't considered an acceptable level of repair in a property. People often require legal and expert assistance to establish their rights and this wastes time and resource. There are gaps but much of what is required legally is already in place. It all needs to be drawn together, possibly on the newly proposed portal, and set out clearly with guidance to clarify ambiguity, so that it is easy to use.

### **15. Currently, a property will fail the Decent Homes Standard if a 'key building component' (e.g. wall, window, roof) is both old and in poor condition. Should we change the Standard to remove 'old' so only the condition is relevant?**

Yes, a new window which doesn't work is as likely to cause issues as an old one. Only the condition is relevant.

### **22. Do you think local councils should have the discretion to temporarily exempt a landlord from the duty to meet the Decent Homes Standard where the landlord has bought a property with sitting tenants that does not meet the Standard?**

No, this should not be an exemption. It is important for local councils to have the discretion to deal with complex situations on a case by case basis. However, many older tenants have pre-1989 tenancies and so can be "sitting tenants". In some cases, landlords would prefer to see the "sitting tenant" leave so that they can sell the property on with vacant possession. It is important that these tenants also have the right to live in a decent home and that a bad landlord isn't allowed to let the property fall into disrepair as a way of trying to drive the "sitting tenant" out. We know that a changing tenancy is often the catalyst for refurbishing a property and so these pre-1989 tenancies are often ones where the issue of non-decency is particularly important.

### **27. Do you have any further comments on exemptions from the landlord duty to meet the Standard?**

It makes sense for councils to be able to exercise discretion where appropriate but this cannot be overused or an excuse for inaction. Probate, for example, can take 12 months or more and this is too long, particularly for an older vulnerable tenant to live in a non-decent home but there may be occasions where delaying work makes sense. So, discretion should be given but only to be used in exceptional circumstances.

### **29. Do you think that landlords should use the Property Portal to register Decent Homes Standard compliance of their properties or record where there is an agreed exemption?**

Yes, landlords should use the portal to register compliance. The process of actively registering compliance is key to making "mixed and low compliance landlords" aware of their obligations and encouraging action to raise standards.

**32. Duplicative burdens on landlords at local and national level are undesirable where they can be avoided. We want to work with local councils and other stakeholders to ensure that the transition to a Privately Rented Property Portal is as seamless as possible, including looking at how it can integrate with licensing schemes where practicable. We will also work to streamline requirements for landlords, such as by working with BEIS on synchronising guidance on minimum energy efficiency. It is imperative that the system meets the needs of landlords, tenants, agents and local councils. Please share thoughts on how we can streamline requirements and support compliance.**

The Portal should be a place where all information is available and set out in a clear way. This should include information about less prominent issues such as adaptations and accessibility.

With an ageing population and an increasing number of older people living in the PRS, the PRS has to become a place where older people can live independently for as long as possible without putting pressure on stretched social care services. Adaptations and accessibility are key to this and these reforms must help to make it easier for older people living in the PRS to get the adaptations they need. This requires better information about:

- the rights and obligations tenants and landlords have in this area
- what kinds of adaptations landlords should be expected to allow
- what should be done if the adaptation required goes beyond this allowable category
- who is responsible for installation, removal and payment

There needs to be clear guidance with examples of what is legally required and also what is expected for good practice. At the moment, establishing what is possible and who is responsible creates friction, delays or sometimes prevents installation, and wastes time and resource.

It could also be a place for recording what accessibility features a property has. For older people moving within the PRS identifying whether a potential property is accessible can be difficult. A record needs to be kept of accessible features within a home so that their benefit is not lost to future occupants. A couple of extra questions on a Portal registration form could be an easy way of keeping a record of this information. It could also encourage the development of a subsector of accessible rent. This would help to match accessible properties with those who need them and to reduce the wasteful practice of removing all adaptations at the end of a tenancy.

The portal seems a good place to have this information, together with further comprehensive information about the Disabled Facilities Grant and other sources of finance.

A well-designed portal could encourage a more efficient and cost-effective use of adaptation and accessibility within the PRS, transform the pathway to adaptations for the individual, and so lessen pressure on the NHS and Social care.

**33. Do you think local councils should have a duty to investigate complaints of properties that fail to meet the Standard in their area?**

Yes, we know that some older people are reluctant to complain about their living conditions and often live with difficult conditions for longer than they should. Even if people want to complain in some instances it can be daunting and intimidating. In many cases we need to see proactive investigation by local councils. Investigating complaints of properties that fail to meet the standard is the minimum that is required.

Stretched resources are an issue and the result is a very varied approach to enforcement as the Public Accounts Committee's report on the Regulation of Private Renting shows. It is important to ensure that local authorities are sufficiently funded to deliver this function.

**37. Do you have any further comments on the proposal to put a duty on local councils?**

Proper enforcement is key to making the Decent Homes Standard a useful tool for improving conditions across the PRS. The penalty for breaches has got to be sufficiently strong to act as a real deterrent and force action.

Local Authorities have to be properly resourced to carry out effective enforcement and should be required to use the full force of the resources available to them.

**56. There are risks that bringing in the Decent Homes Standard means landlords exit the market or that they pass costs on to tenants. Which of the below would you support to mitigate the risks of any negative impacts of introducing a Decent Homes Standard in the private rented sector? Choose as many as you would like.**

Age UK believes that a number of measures including in some cases extending the implementation timeline will be needed to mitigate any negative impacts of the Standard's introduction.

Supply is an issue and reforms in Scotland do seem to have led to a reduction in the number of rental homes available, particularly in some areas. A lack of affordable supply risks undermining the purpose of the reforms.

Good landlords must be encouraged to remain in the market. The Indigo report for Nationwide suggests a number of reasons for landlords leaving the market. In many cases the reason will be a combination of factors and often one additional issue that proves "the straw that breaks the camel's back". So, relatively minor issues can precipitate a fall in numbers.

The reforms must be introduced efficiently and be clearly presented to all parties. If the portal has teething problems or is difficult to use this will have a disproportionate effect. The social benefits must be well explained and the reasons for particular requirements which might appear bureaucratic, set out. Landlords often complain that those who are doing a good job bear the burden of regulation while the "bad landlords"



continue to get away with poor practises. Good enforcement is essential to improving the sector and addressing these concerns. The process must also avoid the sense of a “drip feed” of further regulation which the Indigo Report cites as one reason for Scottish landlords leaving the market, and while some improvements over time are inevitable landlords and tenants will want to be confident that the direction of travel and bulk of the reforms are clearly established at the outset.

Longer term, Build to Rent and an increase in social housing will help but this will take time to come on stream. The portal can signpost to help with energy upgrades and other assistance which some landlords might not be aware of. We are opposed to introducing cost caps, however, which we are concerned risks leaving the worst properties behind. It is exactly these properties that are most in need of work. Where necessary the implementation of the standards might have to be extended. Again, the use of extensions has to be limited so that it isn't used to avoid compliance.

Where landlords do sell, they should be encouraged to allow tenants to remain in their homes unless the new buyer requires vacant possession. Sometimes tenants are asked to leave before it is established that the new buyer does not want to continue letting the property.

Many landlords are unaware of the upcoming changes to EPC rules and as that and additional regulation comes on stream, there remains a risk to supply. There are too many people struggling within the PRS, however, including many older people, and so reform is necessary. A suite of measures will be required to mitigate any negative impacts.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1088486/EHS\\_20-21\\_PRS\\_Report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1088486/EHS_20-21_PRS_Report.pdf)

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[https://www.housinglin.org.uk/\\_assets/Resources/Housing/Support\\_materials/Other\\_reports\\_and\\_guidance/HAPPI-5-Rental-Housing.pdf](https://www.housinglin.org.uk/_assets/Resources/Housing/Support_materials/Other_reports_and_guidance/HAPPI-5-Rental-Housing.pdf)

iii <https://www.nrla.org.uk/campaigns/managing-tenancies/legislation-affecting-private-landlords-England>

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iv <https://accessibleprs.co.uk/increasing-the-supply-of-accessible-rental-homes>

v [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/762920/Independent Review of the Disabled Facilities Grant.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/762920/Independent_Review_of_the_Disabled_Facilities_Grant.pdf)

vi <https://committees.parliament.uk/publications/9608/documents/163793/default/>

vii <https://www.nrla.org.uk/campaigns/managing-tenancies/legislation-affecting-private-landlords-England>