

NUS Briefing:

Housing and Planning Bill – Committee stage

House of Commons, November 2015

Summary

Students hold a central and incomparable place in the UK's housing market. More than 500,000 students live in private rented accommodation.¹ This amounts to nearly one-third of the student population and means students alone therefore comprise over 5 per cent of the UK's private rented sector.² While it is now outdated to characterise the private rented sector as the preserve of students and young professionals, students evidently remain an important demographic whose place in the housing sector cannot be ignored.

The Housing and Planning Bill proposes welcome changes to the private rented sector, including the creation of some important protections for tenants against rogue landlords such as banning orders and a database of rogue landlords. However, to be truly effective in tackling rogue landlords and protecting tenants, the Bill could go even further in defending the rights of tenants to high quality accommodation.

About NUS

The National Union of Students (NUS) is a confederation of more than 600 students' unions, representing more than 95 per cent of all higher and further education unions in the UK. It is a voluntary membership organisation that makes a real difference to the lives of students and its member students' unions. Through our member students' unions, NUS represents the interests of more than seven million students.

The private rented sector and students

The private rented sector (PRS) has undergone dramatic changes over the last decade. As home ownership has declined and waiting lists for social housing have grown, the private rented sector has ballooned to meet demand: as the 2011 Census shows, it has more than doubled in ten years and now one in five households are in private rented accommodation.³

It is well known that the PRS is used by many students, but there are many misconceptions as to what student housing is and there is very little research on where and how students live. In our *Homes fit for study* report, NUS revealed the shocking state of student housing, and raised significant concerns over both the affordability and the quality of the accommodation that students live in.⁴

In particular, students raised grave concerns over the conditions in which they were living and the powers they had to secure better living conditions.

¹ <https://www.hesa.ac.uk/site-map/articles/313-statistics/statistics-content/3312-term-time-accommodation-of-all-full-time-students>

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/469213/English_Housing_Survey_Headline_Report_2013-14.pdf;

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/452614/FA3101_demographic_and_economic_characteristics_of_social_and_privately_renting_households.xls

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/469213/English_Housing_Survey_Headline_Report_2013-14.pdf

⁴ http://www.nus.org.uk/Global/Homes%20Fit%20For%20Study/Housing%20research%20report_web.pdf

- **More than three-quarters – 76% - of students report experiencing at least one problem with the condition of their rented accommodation.** For three in five students, this problem was damp, mould or condensation.
- **Almost one-third of students who reported problems to their landlords said this had not helped resolve the problem.**
- **Two-thirds of students – 66% - called for a minimum condition standard for private rented housing,** in a recent NUS survey.⁵

"It's a completely unequal game. The landlords/letting agents have all the power over students who don't really know what they're doing and thus fall pray [sic] to exploitative persons or organisations. Something seriously needs to be done about student letting as an industry. Letting has probably been the most negative aspect of my experience of university and mine hasn't even been as bad as others I know."

– Michael, undergraduate

There is a clear call from student renters to protect them from poor conditions and rogue landlords. The Housing and Planning Bill represents an important opportunity to tackle this.

Banning Orders – clause 13 to clause 21

NUS welcomes the creation of banning orders for rogue landlords, preventing them from letting a property in England. These can become a vital tool for driving up the quality in poor condition private accommodation by deterring landlords from letting unfit and unsafe properties to tenants who may have no other options.

NUS, however, would call for the deterrent to be made even stronger with the below amendment.

Proposed amendment

Clause 17, page 10, line 19, leave out "6 month period" and insert "month"

Purpose: This amendment would enable rogue landlords who breach a banning order for over six months to be fined for each additional month of the breach, rather than each subsequent six month period.

The Bill would enable a landlord to be fined if they have breached a banning order by continuing to let a property with poor conditions. However, a fine may only be imposed after six months have passed since the banning order was given; for each six month period that the banning order continues to be breached; and, for a maximum of £5,000.

In practice, a rogue landlord who has breached a banning order for a full 12 month period would therefore only be liable for a £5,000 fine. Given the significant sums of money paid to landlords in rent, there would be concerns that a landlord might decide not to comply with the banning order, keep their property tenanted, avoid paying for costly improvements to the property's condition, and simply pay the fine.

⁵ All statistics from: http://www.nus.org.uk/Global/Homes%20Fit%20For%20Study/Housing%20research%20report_web.pdf

The average monthly rent in the UK is now very close to £1,000, which means that a landlord could still make a £7,000 profit across the year from a property that was in a condition deemed severe enough for a banning order.⁶ The profits would of course decline if the rogue landlord continued to let the property over 12 months, as each additional six months would potentially result in an extra £5,000 fine. But there are particular circumstances in which even this may still be sustainable for rogue landlords.

In particular, NUS has concerns about how successful this fine would be as a deterrent to landlords of typically-student properties. Many students live in Houses in Multiple Occupation (HMOs), which have significantly higher rents. The Valuation Office Agency, which produces valuation figures for the Governments, shows how the average rent on properties with four or more bedrooms is over £1,400 per month.⁷ This would make breach of a banning order and payment of fines even more sustainable, and would not make the financial penalty a sufficient deterrent to improve the condition of the property.

This amendment would reduce the period over which landlords would accrue fines. It would ensure that banning orders are truly deterrents to maintaining poor standards of accommodation, and it would ensure that rogue landlords were definitely incentivised to responsibly and promptly improve the living conditions of their tenants.

Database of Rogue Landlords – clause 22 to clause 31

Proposed amendment

Clause 30, page 14, line 9, after “database”, insert –

“() Tenants may apply to the relevant local housing authority to confirm the inclusion of a prospective landlord or letting agent, where they may have suspicions that the prospective landlord or letting agent has committed a banning order offence.”

Clause 31, page 14, line 21, after “purposes”, insert –

“() for the purposes of disclosing to prospective tenants who have made the relevant application whether a prospective landlord or letting agent is included in the database.”

Purpose: This amendment would give prospective tenants the right to know whether their prospective landlord was on the database of rogue landlords.

The creation of a database of landlords and letting agents who have been given banning orders and committed banning order offences has immense potential for supporting tenants against rogue landlords. This can become an invaluable resource for local authorities in enforcing regulations and tenants in having the security of knowing that their property is safe.

⁶ <http://homelet.co.uk/assets/documents/HomeLet-Rental-Index-October-2015-Final.pdf>

⁷ <https://www.gov.uk/government/statistics/private-rental-market-statistics-may-2015>

However, the Bill would only allow local housing authorities to access the database, as a tool in investigations or for statistical research. NUS believes that this could – and should – also be an incredibly powerful and reassuring resource for tenants in checking the landlords of prospective properties.

While the creation of a database of rogue landlords is warmly welcomed, the reservation of access to local housing authorities would jeopardise the impact it would have in empowering tenants. For many students, the experience of renting accommodation at university will be their first experience of living independently. They may not have the knowledge or confidence to find important information that will help them to make informed choices about where and how they live.

In the recent *Homes fit for study* report, NUS found that the prime motivation for students in choosing private accommodation was affordability:⁸ there is a persistent concern that in prioritising price, students will not fully consider the implications that living in poor quality accommodation will have on their welfare. If students were able to access information on prospective landlords on the database, they would have another easy to understand way in which to evaluate the suitability of a potential property.

This would also provide support to local housing authorities, who may not have the information or the resources to identify all poor quality private accommodation within their boundaries. This would enable students to identify properties, landlords and letting agents that may be cause for concern to LHAs, and therefore help LHAs to direct their resources towards resolving any problems. Local authorities as much as students want to ensure that accommodation and landlords in the local area are safe and secure. NUS believes that tenants should have the right to know whether the landlord of a property they are considering renting meets these standards.

Rent repayment orders – clause 32 to clause 46

The Bill would strengthen Rent Repayment Orders (RROs), by extending the situations in which tenants may apply to recover rent to instances of illegal eviction of tenants by a landlord and when landlords fail to improve the condition of properties that they have been instructed to by an 'improvement notice'.

The extension of RROs is another considerable step within the Bill to empowering tenants and protecting their welfare. However, the Bill would limit the amount of rent that they can recover from a landlord to 12 months and would require tenants to apply for a RRO within 12 months. NUS is concerned that this would therefore not entitle tenants to adequate compensation in instances when offences have been committed for a prolonged period, which lasted longer than 12 months.

NUS would welcome the removal of the 12 month application time limit, and consequently the introduction of a right for tenants to recover rent for the full period over which an offence was committed. The Bill includes the provision that landlords are protected from having to repay an amount that would be 'unreasonable', which would ensure that even without the 12 month cap on repayable rent landlords would not face damaging financial

⁸ http://www.nus.org.uk/Global/Homes%20Fit%20For%20Study/Housing%20research%20report_web.pdf

repercussions. However, the removal of the cap would send a strong signal of support to tenants that they have the legal right to all rent that they have paid for properties that have been unsafe or dangerous and that they have paid to unscrupulous rogue landlords who have been committing housing offences.

Proposed amendment

Clause 33, page 15, delete lines 29 and 30

Clause 34, page 16, delete lines 11 to 13

Clause 36, page 16, line 27, delete "but capped at 12 months"

Purpose: These amendments would give tenants the right to recover all rent paid to landlords who have breached orders or committed offences.

Further Information

For any further information on the Bill please contact Alexander Lee, Public Affairs Officer (alexander.lee@nus.org.uk)

