



**Consumer
Focus**
Campaigning for a fair deal

Opening the door

Examining the potential for reputational regulation of
private rented sector landlords

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About Consumer Focus

Consumer Focus is the statutory consumer champion for England, Wales, Scotland and (for postal consumers) Northern Ireland.

We operate across the whole of the economy, persuading businesses, public services and policy makers to put consumers at the heart of what they do.

Consumer Focus tackles the issues that matter to consumers, and aims to give people a stronger voice. We don't just draw attention to problems – we work with consumers and with a range of organisations to champion creative solutions that make a difference to consumers' lives.

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Executive summary

The Private Rented Sector (PRS) has grown substantially over the past decade, and now over 3.1 million households (14 per cent) in England rent privately¹.

In recent years, this growth has largely been down to the difficult economic climate. It has become increasingly difficult to get a mortgage, so many individuals, in particular first time buyers, are renting privately as they are unable to purchase their own property. Individuals who are having difficulty selling their homes during this period are also choosing to rent out their properties until the housing market improves.

The sector is likely to grow further as cuts to the affordable housing budget, and reforms to social housing announced in the Comprehensive Spending Review look set to increase the demand for private sector renting.

Signing up to a tenancy agreement with a landlord is a significant commitment for the majority of private tenants. However, tenants currently do not have access to information on the track record or performance of a landlord to help them make an informed decision before they make this commitment. On the other hand, a landlord can demand that a prospective tenant provides them with financial and personal information so that they can make a well-informed and considered decision before they let to a tenant. As a result, private landlords are very much in the driving seat, and there is little pressure on them to operate professionally and ensure that they have a good reputation, which in turn can cause problems for tenants and lead to dissatisfaction.

A survey into consumer perceptions of 45 different markets found that based on consumers' recent experiences, the private rented sector ranked 38th out of the 45².

The introduction of a scheme of tenant feedback on landlords, or 'reputational regulation', would allow current tenants to rate their landlords, which would then provide prospective tenants with information on a landlord's track record and reputation. This would empower them to make more of an informed choice before signing up to a tenancy.

The ratings would:

- highlight the best performing landlords
- put the spotlight on the poorest performing landlords
- ensure that private sector tenants are empowered to seek out reputable landlords and avoid poorer performing landlords
- enable tenants to hold poor service to account

Exploratory research by Consumer Focus shows that there is support for the introduction of reputational regulation in the PRS. Assuming that a number of practical issues can be addressed in relation to the setting up and working of a scheme, it could empower private sector tenants, reward good landlords, and over time, improve the quality of properties offered, and their management.

¹ *English Housing Survey, Household Report 2008-09, Department for Communities and Local Government, October 2010*

² *Report on the 2009 Consumer Conditions Survey: Market research survey conducted for Consumer Focus, Ipsos MORI, March/April 2009*

This report uncovers the practical issues associated with a scheme of reputational regulation in the PRS, and outlines how they can be addressed, and calls for the introduction of a pilot scheme.

Our exploratory research has also looked at voluntary landlord accreditation schemes that have been set up by local authorities, landlord associations, and universities or their respective student unions. There is much support among key stakeholders in the PRS for the introduction of minimum standards for voluntary landlord accreditation, and a scheme of reputational regulation could link in with these accreditation schemes and also help to promote them.



Introduction

In England, the PRS accounts for 3.1 million households, an increase of around 50 per cent (one million households) since 2001³.

The PRS has grown in recent years as a consequence of the difficult economic climate. It has become increasingly difficult to get a mortgage, so many individuals, in particular first time buyers, are renting privately as they are unable to purchase their own property. Individuals who are having difficulty selling their homes during this period are also choosing to rent out their properties, until the housing market improves.

New research on tenure change in the UK housing market by the Building and Social Housing Federation suggests that if recent trends in the housing market continue, the PRS in the UK would be larger than the social rented sector by 2013, and by the end of the decade, one in five UK households could be private renters⁴.

Demand for private sector renting looks set to increase even further, following the cuts and changes announced to housing policy in the Comprehensive Spending Review (October 2010). The Government has cut the affordable housing budget by over 50 per cent, and proposed reforms to social housing, which include moving rents for new social housing tenants more in line with market/private sector rents⁵.

These decisions could see the PRS playing more of a key role in the housing sector, with private renting being seen as more of an option for people who might not have considered it previously.

There is a great deal of 'churn' in the PRS, with 36 per cent of private rented households in England living at their current address for less than 12 months⁶. Based on this figure, we can assume that over 1.1 million households in England seek out and sign up for a new tenancy each year.

For most new tenants, signing up to a tenancy agreement will be their largest financial commitment of the year, with high upfront costs for a deposit and rent in advance, as well as the on-going financial commitment. The average rent in England for a one bedroom home or apartment for the month of November 2010 was £806. The corresponding average rental cost in London in November 2010 was as high as £1,381⁷.

However, despite a tenancy being such an important commitment for the majority of tenants, there is very limited information available to prospective tenants on the track record of private landlords and the underlying state of the properties they let. A tenant has to make a decision of whether to enter into a tenancy based largely on their intuition about a landlord's character, and typically following a brief, subjective, and predominantly landlord controlled viewing of a property. Where a landlord uses a letting agency, a tenant may not have any actual contact with a landlord prior to signing a tenancy agreement, as the letting agency will be responsible for undertaking viewings of the property and for finalising the tenancy agreement.

³ *English Housing Survey, Household Report 2008-09, Department for Communities and Local Government, October 2010*

⁴ *Tenure Trends in the UK Housing System: will the private rented sector continue to grow?* bshf, 2010

⁵ The affordable housing budget will be cut from £8.4 billion over the previous three year period to £4.5 billion over the next four years, and new social housing tenants will be offered intermediate rents at around 80 per cent of the market rent, which could see rents for new social tenants increase significantly

⁶ *English Housing Survey, Household Report 2008-09, Department for Communities and Local Government, October 2010*

⁷ Rentright.co.uk

This again limits the extent to which prospective tenants are able to make an informed choice before committing to a tenancy, and the extent to which they can avoid the poorer performing landlords and poorer quality accommodation. Using a letting agency also introduces a third party into the tenancy arrangement, and can be a source of problems for private tenants, even where the landlord is well intentioned.

In contrast, landlords and the letting agents they use are able to make informed decisions about the standing of a tenant. They can demand that a prospective tenant provides them with personal and financial information, which can include character references and details of their salary.

It is clear therefore, that an information asymmetry⁸ that favours the provider is at play in the private rented sector. As a result, landlords are in the driving seat, and this creates a situation in which any problems with the landlord, and also the property itself, only become apparent to a tenant, once they have committed into a contract with a landlord.

Research by Consumer Focus in 2009 into consumer perceptions of 45 different markets in the UK indicates that consumer experiences of the PRS leave them with far more negative perceptions than in most other sectors⁹.

Over a quarter (26 per cent) of the consumers surveyed about the PRS had cause to complain in the past two years, ranking the PRS as second bottom out of the 45 markets for complaints. Renting a property or management services from a private landlord ranked 38th out of 45 sectors.

One way of helping to address the information asymmetry that exists in the PRS, and the clear tenant dissatisfaction, could be through the introduction of a scheme of 'reputational regulation', in which tenants provide feedback on landlords. Existing or recent tenants could provide feedback or reviews of their current or previous landlord on-line, which would then be used to inform prospective tenants before they commit to a tenancy with any particular landlord.

Prospective tenants would be able to use this feedback in order to be able to choose between different landlords based on their track record and performance, and reputation.

A report (entitled Regulation and Reputation) by one of our predecessor bodies, the National Consumer Council (NCC), highlights that markets work well when consumers have the right information at their disposal to choose the product or service that best matches their needs¹⁰. The report argues that if consumers have this information, they will reward good businesses over those who fail to meet their obligations, which will drive competition and improve standards.

An online PRS 'reputational regulation' scheme could empower private sector tenants to make informed choices and ensure that they are in the driving seat in flagging up the best performing landlords, and holding poorer performing landlords to account.

⁸ Information asymmetry deals with the study of decisions in transactions where one party has more or better information than the other. This creates an imbalance of power in transactions which can sometimes lead to detriment.

⁹ Report on the 2009 Consumer Conditions Survey: Market research survey conducted for Consumer Focus, Ipsos MORI, March/April 2009. Although the survey looked at consumer perceptions, consumers were asked to rate aspects of each of the different 45 markets based on their actual experiences of these markets, with a sample of at least 500 respondents per market.

¹⁰ Regulation and Reputation, NCC, December 2006

Consumer Focus research

In December 2009, Consumer Focus commissioned Mojo Housing Consultancy Ltd (MOJO) to undertake a study to explore:

- the potential usefulness to tenants, and the sector more widely, of introducing ‘reputational regulation’ in England
- the potential pitfalls or problems that could be associated with a scheme
- whether a web-based scheme could be developed, and whether it could be linked to the ‘light-touch registration scheme’ for landlords proposed in the Rugg Review, if this was taken forward by the Government¹¹
- the extent to which the existing voluntary accreditation schemes for landlords could be developed to be more visible and useful for tenants. For example, having a set of common standards, and being linked in some way to the proposed scheme of web-based reputational regulation

MOJO conducted face-to-face and telephone interviews and had email conversations with a range of key stakeholders to access their expertise, and obtain a diverse collection of views on the potential for and usefulness of ‘reputational regulation’ in the sector (Table 1 overleaf).

A small amount of desk-based research and primary research was also undertaken to supplement the exploratory study.

MOJO’s approach, where possible, was to provide stakeholders with the opportunity to identify ‘what would work’, or ‘what would work better’.

Primary research

32 tenants responded to a postal questionnaire sent out to tenants identified by Brent Private Tenants Rights Group. A small number of these tenants were subsequently interviewed.

An online estate agent, uPad, invited a sample of prospective tenants within their database to participate in completing a survey online.

175 of these prospective tenants responded, 143 of whom were private sector tenants.

The postal survey and online survey enabled MOJO to obtain the views of tenants across different ages, income and household type.

In addition, the views of 18 individual private landlords were obtained, either through a detailed email questionnaire, or by a telephone or face-to-face interview.

¹¹ The private rented sector: professionalism and quality – consultation, Summary of responses and next steps, Department for Communities and Local Government, February 2010

Table 1 Key stakeholders questioned about 'reputational regulation'

| | |
|---|---|
| Service providers: <ul style="list-style-type: none"> • individual landlords • landlord and agent representative groups • individual lettings agents • lettings websites | Consumers: <ul style="list-style-type: none"> • prospective tenants • existing tenants |
| Consumer and advocacy organisations: <ul style="list-style-type: none"> • Citizens Advice Bureaux • local authority tenancy relations officers • policy and advocacy organisations • private tenants' groups | Neutral commentators <ul style="list-style-type: none"> • leading housing academics • voluntary landlord accreditation schemes • central Government • experts in web function and reputational software • professional bodies |

Tenants vulnerable to detriment

Information asymmetry

As part of MOJO's study, they explored the extent to which tenants are able to acquire the information they need prior to signing a tenancy agreement. The uPad online survey found that 65 per cent of private tenants knew nothing about their current landlord before signing their tenancy agreement. Only 10 per cent said they had enough information 'to be informed' about their current landlord prior to signing a tenancy agreement¹².

The PRS is one of the worst sectors in relation to transparency and consumer confidence

In 2009, Consumer Focus commissioned Ipsos MORI to undertake a Consumer Conditions Survey to understand how 45 different markets in the UK are perceived by consumers based on six key performance indicators relating to confidence and transparency¹³:

- Range and choice available
- Living up to expectations
- Protecting consumer rights
- Trustworthiness of advertising and marketing
- The ease of comparing quality
- The ease of comparing prices

Each of the 45 different markets had a sample of at least 500 consumer responses.

This research has enabled us to see how renting a property from a private landlord compares to consumer experiences in other markets, such as internet service providers, personal banking and the gas and electricity market.

Overall, renting a property or management services from a private landlord is ranked 38th out of 45 sectors. Looking at the individual key performance indicators (Table 2 overleaf), we can see just how poorly consumers perceive renting a private property compared to other markets.

When consumers were asked to rate the level of confidence they had that businesses in the private rented sector advertise and market their goods and services in a trustworthy manner, consumers gave a mean score of 5.83 (with 0 being no confidence and 10 being a lot of confidence).

Nearly a quarter (23 per cent) of consumers gave a score between 0 and 3 when asked how much confidence they have that consumers' rights in private sector renting are protected (with 0 being no confidence and 10 being a lot of confidence).

If we look at the experience of private renting as a whole, and how consumers rate their overall experiences in the market, nearly a quarter (24 per cent) of consumers rate their experience in private sector renting between 0 and 5 (with 0 being very dissatisfied and 10 being very satisfied).

Consumers were also asked whether or not they had had any cause to complain in the past two years, in any of the markets they were questioned about, and if they had cause, whether or not they actually made one. 26 per cent of those renting from a private landlord reported that they'd had cause to complain, which if extrapolated, would mean that over 800,000 households renting privately may have had cause to complain over that period.

¹² Empowering Private Sector Tenants – establishing a system of Reputational Regulation in the Private Rented Sector, research conducted for Consumer Focus, MOJO Housing Consultancy Ltd 2010

¹³ Report on the 2009 Consumer Conditions Survey: Market research survey conducted for Consumer Focus, Ipsos MORI, March/April 2009

Of the 26 per cent that had cause to complain, 82 per cent actually went on to make a complaint, making the PRS second worst of the markets surveyed for complaints.

The results of this survey challenge suggestions that the majority of tenants are satisfied with the service that they receive.¹⁴

Particular detriment for low income tenants

In 2008, the Department for Communities and Local Government (CLG) commissioned Dr Julie Rugg of York University to undertake a review of the PRS in England (the 'Rugg Review')¹⁵.

The Rugg Review highlighted that there is an imbalance between supply and demand in the PRS, particularly for properties suitable for tenants on low incomes. As a result, there will be a continuous demand for properties owned by bad landlords.

The Rugg Review also drew attention to qualitative research which found that, even where a landlord has a poor reputation in a local area, they will still be able to find tenants, and the review deemed that market forces alone cannot be relied upon to 'police' the sector.

Table 2 Key performance indicators

| | Best = 1, Worst = 45 |
|--|----------------------|
| Range and choice available | 42 |
| Living up to expectations | 39 |
| Protecting consumer rights | 38 |
| Trustworthiness of advertising and marketing | 39 |
| The ease of comparing quality | 38 |
| The ease of comparing prices | 27 |

¹⁴ Speaking in Parliament on the 10 July 2010, the Housing Minister, Grant Shapps, announced that the new Government would scrap plans to introduce new regulations on private landlords and said 'With the vast majority of England's three million private tenants happy with the service they receive, I am satisfied that the current system strikes the right balance between the rights and responsibilities of tenants and landlords.' - <http://bit.ly/hamfRm>

¹⁵ The Private Rented Sector: its contribution and potential, Julie Rugg and David Rhodes, Centre for Housing Policy, the University of York, 2008

‘Reputational regulation’ in the PRS

The use of ‘reputational regulation’ is growing across different sectors, with many companies now inviting customers to post reviews on-line of the products they have purchased, giving other customers access to a greater range of information with which to make a decision to buy, eg Amazon.

TripAdvisor®, the world’s largest travel website has been built around, and is largely dependent on consumer reviews, and TripAdvisor branded sites hold over 35 million reviews and opinions from consumers¹⁶.

An online survey that we commissioned in March of this year found that over half of consumers (55 per cent) believe that sites where consumers can share experiences, such as TripAdvisor, Review Centre and MoneySavingExpert are influential¹⁷.

Earlier this year, Grant Shapps, the Housing Minister, announced that the Government did not want to introduce further regulation in the PRS, and that the proposed National Register for landlords would not go ahead¹⁸. A scheme of online reputational regulation could have complemented a national register of landlords, and had scope for being integrated with it. However, a scheme of reputational regulation is not dependent on a register, and can be developed in its own right.

It also provides a light-touch and creative approach with which tenants could be empowered to highlight, and share their experiences. In doing so they could help address the detriment that occurs in the PRS. A scheme would start to balance out the information asymmetry that exists and enable prospective tenants to utilise the scheme to make better informed decisions.

How a scheme would work

For a web-based scheme of ‘reputational regulation’ in the PRS to be effective immediately it would need to be linked to a large, existing database of landlords, for example, the databases that are currently managed by the tenancy deposit protection schemes¹⁹.

Contact would need to be made with the tenants of the landlords within the database, so that they are invited to provide feedback on their landlord. A scheme would need to provide an online portal where tenant feedback can be captured, with an attractive and user friendly website, where prospective tenants can view feedback and ratings on individual landlords which are part of the scheme. Letting agents and websites, or local authority housing benefit departments also have large databases of landlords and could present possible alternatives if a scheme could not be linked to one of the tenancy deposit protection schemes.

¹⁶ <http://www.tripadvisor.com/MediaKit/>

¹⁷ Quantitative survey data was commissioned from Andrew Smith Research in conjunction with Research Now: Unleashing the new consumer power, Consumer Focus, Philip Cullum

¹⁸ <http://bit.ly/bmlgLj>

¹⁹ There are three approved tenancy deposit protection schemes: The Deposit Protection Service, MyDeposits and the Tenancy Deposit Scheme.

Contact by the scheme operator would need to be made with the tenants of the landlords within the database, so that they are invited to provide feedback on their landlord. This would help to ensure a high tenant response rate and be used as a prompt or reminder to tenants to provide their feedback. A prompt and invitation to provide feedback is used by other reputational regulation schemes. For example, toptable.com will contact a consumer after they have visited a restaurant in order to prompt them to provide feedback on that restaurant.

A scheme would need to provide a portal where tenant feedback can be captured, and offer an attractive and user friendly website, where prospective tenants can view feedback and ratings on individual landlords which are part of the reputational regulation scheme.

Support for a scheme

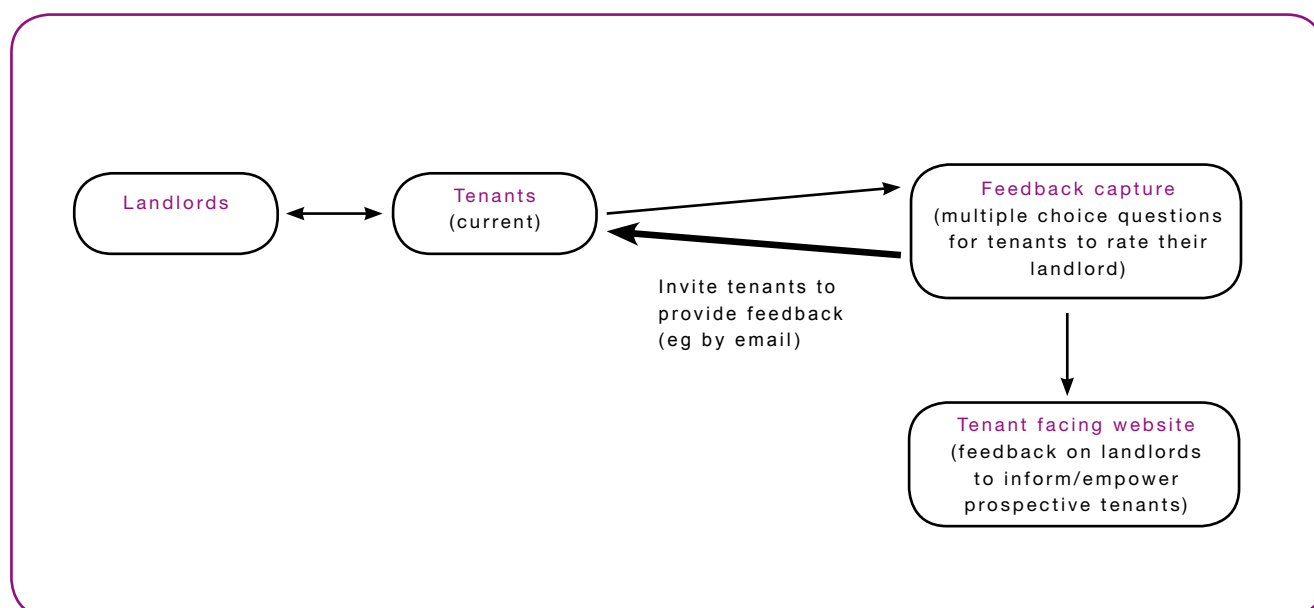
Private tenants would welcome a scheme

Existing and prospective tenants are extremely positive about being able to obtain feedback on private landlords. 98 per cent of the tenants that responded to the uPad survey considered it would be very useful, or useful, if they could easily find out about what other tenants thought of a landlord.

'It would make me feel that these people have [a] record, which makes them accountable and makes them (hopefully) care about reputation – just like rewarded star-sellers on eBay. If there were such ratings and comments available that would be superb'.

'If I was deciding between two similar properties it would have helped [me] to choose. Also, if the landlord had received very poor marks it would have allowed me to reconsider'.

Figure 1 How a scheme would work



For tenants at the lower end of the market, there is a limited choice of rental properties, and these tenants may not necessarily be able to pick and choose between properties, or disregard a property based on a landlord's reputation. However, these tenants are still able to see the advantage of 'reputational regulation' as they would like to be better informed about a landlord and any potential problems they may have during a tenancy.

'It was the only property I could find. However it would have really helped us if we had known from a previous tenant that the landlord had a habit of coming into the [ground floor] flat and leaving the back door open'.

When asked where they would like to find out information about a landlord, the majority of tenants that responded to the uPad survey (over 80 per cent) said they would prefer to access tenant feedback from a specialist website.

Overall, consumer and advocacy organisations, and neutral commentators are supportive of a scheme

The majority of consumer and advocacy organisations, and neutral commentators, are supportive of a scheme and believe that it would make it much more difficult for bad landlords to operate, and thus help to remove them from the market.

Officers from the voluntary landlord accreditation schemes are particularly supportive of a scheme, and believe it would help to identify poor landlords and raise standards; help tenants make an informed choice; increase landlord professionalism; and provide a commercial advantage for better landlords.

Service providers are also supportive, however, tend to focus more on the practical problems associated with a scheme

Service providers, which include landlords, managing agents and landlord representative bodies, are predictably more cautious about the introduction of a scheme, with smaller landlords (with four or fewer properties) more cautious than larger landlords.

However, caution mainly centres on the practicalities of a scheme, such as the costs, the likely administrative burden, and the potential for malicious feedback, rather than whether a scheme could be beneficial or not.

The service providers, including large and small landlords, who can distinguish the benefits from the practicalities of a scheme believe that, if competently implemented, it would give good landlords a market advantage, raise overall management standards, and drive poorer landlords out.

A small number of the landlords interviewed had, in fact, already experimented with their own schemes to capture tenant feedback, such as introducing prospective tenants to existing tenants so that experiences could be exchanged, or having a feedback form for outgoing tenants.

Increasingly, a number of lettings agents are starting to look for ways to capture tenants' feedback on the performance of either themselves or their landlords.

These include adopting the Status Survey of tenants²⁰, which is widely used by social landlords to determine tenant satisfaction, and also looking for ways of obtaining tenant feedback on their websites.

Some of the service providers involved in the letting of property argue that there are alternative and more cost-effective ways of improving standards. For example, many mentioned that statutory minimum standards for the PRS might be more effective than reputational regulation. They believe that minimum standards would ensure a minimum service standard for all tenants, and provide pressure on poor performing landlords, to either improve, or leave the sector. A scheme of reputational regulation however would offer an efficient means of policing minimum standards in the PRS if they were to be introduced.

Issues that must be resolved

All of the stakeholders interviewed as part of the study picked up on the practical issues that would be associated with a scheme of reputational regulation in the PRS. The key practical issues centre on the costs of a scheme, ensuring that feedback is genuine and fair, and ensuring a balanced approach is taken so that a scheme can be embraced by all parties.

Costs

Web-based software/infrastructure

In order to set up a scheme of 'reputational regulation', there would be costs involved in the procurement and hosting of the appropriate IT software, as well as on-going maintenance and evaluation costs. These costs however are unlikely to be significant if existing IT software or infrastructure could be used.

It would be possible to use software that is already employed. For example, the tenancy deposit protection schemes, have software that could be adapted for a scheme and which they currently use to maintain and update the details of a large number of landlords who are using these services to submit their tenants' deposits. On being interviewed as part of this study, one of the tenancy deposit protection schemes, the Deposit Protection Service, stated that they had thought about how their current web programmes could be enhanced to include tenant feedback, and showed an interest in conducting a pilot scheme.

Promotion

For a scheme to be successful, publicity would be essential to ensure that tenants are made aware of it and to ensure that landlords comply (if the scheme is mandatory), or are encouraged to comply (if the scheme is voluntary).

Promotion and publicity costs could be kept down if a scheme was partnered with, for example, one, or all, of the tenancy deposit protection schemes.

²⁰ The Standardised Tenant Satisfaction Survey or Status Survey is designed to collect the views and attitudes of social tenants towards their landlord and the services they provide

Legal challenges

Some stakeholders raised concerns over the potentially high costs that may arise due to legal challenges relating to adverse or malicious feedback. Some see this as a threat to low-cost implementation of a scheme.

Any cost burden on landlords might be passed on to tenants through higher rental charges, or landlords may begin to start selecting tenants according to their assessment of the risk of adverse feedback.

The recent proposed ‘group defamation’ action by over 400 hotel and restaurant businesses in the UK and US against TripAdvisor highlights the problems that adverse or malicious feedback can pose. These firms have complained that ‘false’ and ‘unfair’ reviews are being posted on the travel site. It is however, yet to be seen whether legal action will actually be taken forward against TripAdvisor, and TripAdvisor will be given time to take action to address the cases against them²¹.

TripAdvisor, and other online schemes of reputational regulation, do however provide an individual or company with the ability to respond to the consumer feedback that has been posted, and as a result, a dialogue and conversation between the service provider or company and the consumer can be had.

The companies involved in the proposed ‘group defamation’ action against TripAdvisor are potentially risking damaging their reputation even further by not using their opportunity to engage with the consumer and open up this dialogue, so that they can try and address the issues the consumer has, or put their own case forward if need be.

Structuring tenant feedback through asking tenants specific questions about different aspects of the service provided by their landlord on a multiple-choice basis, would help to provide an overall picture of the level of service, and minimise or eradicate impromptu and random comments, which in turn, would greatly reduce the risk of unreliable or malicious feedback. This would minimise the costs of legal challenges that would be associated with such feedback, as well as reducing the level and costs of moderation needed.

There must however, be a mechanism for any complaints received about malicious or inaccurate feedback to be contested, with an appropriate appeal process.

Fears about malicious feedback however, may be unfounded, with the online survey commissioned by Consumer Focus in March highlighting that, contrary to popular perception, more people leave positive than negative feedback on the internet²². Half of survey respondents had left positive feedback on a dedicated website or blog as a result of a good experience in the last year, with 35 per cent stating they had left negative feedback.

²¹ <http://ind.pn/fqFTkM>

²² Quantitative survey data was commissioned from Andrew Smith Research in conjunction with Research Now: *Unleashing the new consumer power*, Consumer Focus, Philip Cullum

Avoidance

Unless a scheme achieves near universal take-up, it is likely that poor landlords will avoid it or find ways to opt out.

One approach to maximise take-up of a scheme by private landlords would be to allow reputational feedback to be directly linked to one or all of the tenancy deposit protection schemes.

This would capture the majority of law abiding landlords who charge and register their tenant's deposit via one of the tenancy deposit protection schemes. On this basis, it would be ideal for the three tenancy deposit protection schemes to collectively take a large scale reputational regulation scheme forward, if a pilot scheme was delivered successfully.

Feedback

Moderation

Stakeholders raised concerns over the extent to which tenants' views could be left unmoderated, and the potential implications for landlords following the posting of adverse or malicious feedback. Consumer Focus recognises that tenancies can fail due to the fault of the tenant, and in these circumstances, landlords can be vulnerable to adverse or malicious feedback from a tenant.

Feedback could be moderated by introducing a mechanism by which prospective tenants or landlords who are considering the tenant feedback can flag up inappropriate feedback to the scheme operator. For example, Amazon provides a link on their website so that consumers can report instances in which they believe that customer feedback about a product is inappropriate or defamatory.

Determining exactly how feedback can be moderated to ensure it is fair to all parties, and testing different methods of structuring tenant feedback, would be a key aspect of any scheme.

Timescale and quantity of feedback

Reputational regulation schemes in other markets, such as for hotels, work well due to the high amount of feedback that is obtained over a relatively short timescale. Thus, where a hotel has mainly positive feedback, and the occasional adverse feedback, the consumer is in a position to weigh up the negative and positive feedback before making a decision. However, in the private rented sector, although 36 per cent of private renters live at their address for less than 12 months, a tenancy can last for a longer period of time, and in these circumstances, there may be a limited amount of feedback posted on a landlord.

This could mean that it could be a number of years before a scheme holds reliable and up to date information on some landlords, particularly those with just the one, or a small number, of rental properties.

This could have a negative impact on a landlord, as a single posting of adverse feedback could present a biased picture if there is no, or limited additional feedback, with which a tenant is able to obtain a more rounded picture of a landlord's track record. However, as already highlighted, there is a high churn in the sector, so it is likely that tenant feedback will steadily build up, and in the cases where tenancies last a long time, this could be down to the fact that the tenant is satisfied, so when a landlord does receive feedback, there is the potential that it will be more positive feedback rather than negative.

Feedback on managing agents

One means of addressing the problems relating to the timescale and quantity of feedback that could be obtained through a scheme, might be to allow tenants to provide feedback on managing agents, rather than a landlord, where an agency is used. A number of landlords use managing agents to let out their properties and, as such, it would provide a greater and more substantial pool of privately rented properties on which tenant feedback could be obtained.

Although allowing managing agents to be included in a scheme may potentially mean that some focus may be lost on individual landlords, it will ensure that the focus of the scheme is based on the party that the tenant has the relationship with. The benefits of having a deeper pool of tenant feedback, and the potential that this has for encouraging agents to take action where a landlord is negatively impacting on their feedback, and vice versa, could help to drive up the quality of management in the PRS.

Landlord versus property feedback

Tenants would welcome feedback on the condition of a property as well as the landlord. However, rental properties vary considerably in terms of their construction, age, layout, etc, so it would be difficult for a scheme to be able to provide large-scale and meaningful feedback on individual rental properties, in addition to feedback on a landlord.

A scheme, however, could ensure that some information is captured about whether a landlord is meeting their obligations in relation to the condition of a property they are letting.

For example, feedback could be obtained on whether a landlord has obtained an Energy Performance Certificate (EPC), so that prospective tenants can receive information upfront on the energy performance of the property which they will be occupying. Feedback could also be obtained on whether any property related problems that arose during a tenancy had been addressed promptly and effectively by the landlord.

Integrity

Concerns were raised by some service providers about the integrity of feedback, and they argue that a scheme would need to ensure that genuine feedback is obtained from existing or former tenants, and that tenants would not be able to exploit the scheme by posting a series of negative and/or misleading feedback. On the other hand, tenants raised concerns that landlords may post misleading positive feedback in order to promote themselves.

A scheme would therefore need to ensure that the opportunity for feedback is restricted to current or recent tenants of each landlord, and limit any current or former tenant to a single 'live' post about any particular landlord at any one time. This would avoid distortion from multiple posts by the same person.

Response rates

Any scheme would only work well if a high amount of feedback was received. For this to be achieved, tenants would have to be willing to take the time to register their feedback and experiences. In order to maximise feedback, a scheme would need to actively seek tenants' views and would need an efficient and effective mechanism for doing so.

The specific point at which feedback is sought during a tenancy cycle could have an affect on the type of feedback that is received.

For example, seeking a tenant's feedback at the end of their tenancy may reduce the chance of an objective, or 'neutral' post, as moving home can be a particularly stressful time for a tenant. On the other hand, if feedback was obtained during a tenancy, tenants who posted negative feedback could be open to abuse or retaliatory eviction by their landlord. This is a particular concern of tenants and the consumer and advocacy groups that were interviewed.

A pilot scheme should be used to determine the optimal point in a tenancy at which tenants should be invited to provide feedback.

Concerns that a scheme may further disadvantage low income tenants

Service providers, consumer and advocacy organisations, and neutral commentators all share the concern that a scheme could benefit the middle and upper sectors of the rented market over the bottom half of the market. There is a limited choice of affordable properties available for tenants on low incomes, with demand exceeding supply. Even if a prospective tenant is aware that a landlord has a poor reputation, they may not have the option to choose between properties and/or landlords, with some tenants potentially only having the option of choosing between the least bad landlord.

However, a number of the tenants interviewed believe that reputational regulation could have the most effective impact at the very bottom of the sector as it would actively publicise poor landlord behaviour and help tenants to avoid these landlords, as well as helping to prioritise enforcement action. For example, a scheme could help to identify poor performing landlords and help target enforcement action by local authority environmental health officers working in the private rented sector. A scheme could also help advice agencies who private tenants turn to, as advisors would be able to use the scheme to identify whether previous tenants have had problems with a landlord, and as a result, be able to provide a current tenant with informed information and advice.

Voluntary landlord accreditation schemes

According to the UK Accreditation Network (ANUK), there are at least 80 different types of private landlord accreditation scheme operating in England. These schemes are run at a local level and have been set up by a local authority, by a university, or in partnership between local authorities, landlord associations or universities and student unions.

Being voluntary, landlords are encouraged to join the accreditation schemes by a mixture of incentives, including offers of training, and the prospect of improved reputation in the market place.

These voluntary accreditation schemes largely require a landlord to demonstrate that they are a 'fit and proper' person before they can become a member, and require certain standards to be met in relation to the management and condition of the property that is let.

However, the standards that landlords must meet vary considerably across the different accreditation schemes in operation, with some requiring more stringent standards to be met than others. The lack of consistency between the schemes can create confusion over the term 'accreditation', and prospective tenants may not be aware of what 'accreditation' of a particular scheme actually means for them, or the landlord who is accredited. There is confusion over the level of assurance that an accreditation scheme can provide.

In contrast, the stakeholders interviewed by MOJO highlighted that the accreditation schemes run in university cities by local authorities, universities and/or their respective student unions, have proved very successful.

These student accreditation schemes are usually well-promoted, and so students are aware of the standards that accredited landlords must meet, and are encouraged to rent with an accredited landlord. There is a high level of take up and this serves to promote the 'accredited brand', with landlords making significant efforts to remain accredited.

Feedback on local authority-run accreditation schemes is much more mixed. During the interviews it was clear that concerns exist over the level of policing of the standards of some local authority accreditation schemes.

Some schemes have sanctions in place where landlords are not meeting the standards of accreditation. However, other schemes seem reluctant to take any action against a landlord once they have been accredited, or to even update their accreditation records.

Minimum common standards

There is an almost unanimous view among all of the stakeholders consulted by MOJO that there would be great benefit in introducing a minimum common standard for all accreditation schemes in England. This would offer an assurance to any tenant looking for a property to rent, that any landlord who is a member of a voluntary accreditation scheme meets a certain standard of management and remains in compliance with that standard.

There is greater support among stakeholders for minimum management standards over minimum property standards, on the basis that:

- good management should lead to good properties, while the reverse does not always hold true
- the differences between properties in terms of age, layout and construction materials would make it very impractical for a common property standard to be achieved
- greater resources would be needed to physically inspect landlords' properties compared to ensuring that landlords are meeting certain management standards

Development of common branding or a 'quality mark' for voluntary accreditation schemes would allow tenants to more easily identify an accredited landlord and be confident that they will manage a property to at least a minimum standard.

Linking accreditation schemes to reputational regulation

The continued development of voluntary accreditation schemes, and development of common standards, could help to address one of the key practical issues identified with the introduction of a scheme of reputational regulation, which is the time it could take to build up reliable and unbiased feedback on landlords, particularly small landlords.

One means of addressing this issue could be for a scheme of reputational regulation to also provide additional information about a landlord, to supplement the tenant feedback that has been obtained. Providing information on whether a landlord is a member of a voluntary accreditation scheme would be a key piece of additional information.

Providing this information as part of a scheme would help to present a more balanced picture of a landlord, so that tenants can make more of an informed choice, where limited feedback on a landlord has been obtained. Providing this information might also enable landlords who have received poor reviews to demonstrate that they are improving their quality of management by signing up to an accreditation scheme. Reputational regulation could help to encourage landlords, and in particular smaller landlords, to join a voluntary landlord accreditation scheme.

Next steps

Introducing a scheme of ‘reputational regulation’ could address the information asymmetry and wider imbalances that exist between service providers and tenants; and as a result could, over time, improve the quality of properties offered and their management. This will become increasingly important as the private rented sector continues to grow, and performs an increasingly vital role in the UK housing market.

Introduction of a pilot scheme

Prior to any large-scale roll out, a pilot scheme should be introduced to iron out the key practical issues which have been identified, and to enable the development of a robust scheme which represents a balanced approach for all parties:

- A pilot scheme would need a sizeable pool of volunteer landlords willing to sign up. The Deposit Protection Service has indicated it would be willing to approach its landlords for volunteers and has already explored the practicalities of enhancing its current web programmes to include offering a pilot tenant feedback service. If this was successful, Consumer Focus would hope that all three of the tenancy deposit schemes would collaborate on a shared platform to introduce a large-scale scheme in the future
- Initial support from a third party funder would be needed to ensure the provision of adequate funding to cover the costs of developing a robust pilot, and an independent evaluation of the pilot
- The pilot must be designed in a way to allow prospective and existing tenants and landlords to feed into the design so that it is fair to both parties and represents a balanced approach. If a pilot scheme which is well designed and considered, is not taken forward, there is a risk that a poor substitute scheme will be introduced, which is not balanced, and which does not address the important practical issues that have been identified. During the course of this work, we have already seen an independent online landlord rating scheme emerge, and there is the potential for others to follow
- Although a pilot scheme undertaken by one of the tenancy deposit protection schemes would be the best approach, there is the potential for other parties to take forward a pilot, for example, web-based lettings agencies, local authority housing benefit departments, landlord associations, or the larger voluntary landlord accreditation schemes, as they all hold large databases of landlords
- MOJO has developed one possible approach to piloting a scheme and identified the potential costs that would be involved. Consumer Focus will publish the pilot proposal that MOJO has prepared alongside this report, so that it can be used as a starting point for dialogue on how a pilot scheme could be set up and run

Minimum common management standards applied across accreditation schemes

There would be great benefit in the introduction of a minimum common standard of management for all accreditation schemes. ANUK might be best placed to take this forward.

A quality mark should be introduced which can be awarded to, and applied by all accreditation brands, ensuring member compliance to the agreed standard, and providing prospective tenants with the assurance that a certain management standard has been met by a landlord anywhere across England, and to enable them to easily identify accredited landlords.

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