Private rented housing: the rent control debate

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Summary

The private rented sector overtook social housing as the UK’s second largest tenure in 2011-12. There are estimated 4.5 million households renting privately—around 20% of all households—according to the 2017-18 English Housing Survey. The proportion of households with children living in the sector has increased. The survey also found that private renters spend a greater proportion of their household income on their housing costs than social renters.

After 1989, private sector rents in most of the UK were deregulated on newly created tenancies. This has remained the case in England and Wales, but devolution of housing policy has led to different approaches in Scotland and Northern Ireland. Rent deregulation is attributed with contributing to the growth of the private rented sector after 1989—other factors include the removal of long-term security of tenure and the availability of buy-to-let mortgages.

Despite claims that Housing Benefit would “take the strain” of increased rent levels following deregulation, in 2010 the Coalition Government identified a need to address “ballooning” expenditure on Housing Benefit. In 2013 the Department for Work and Pensions estimated that £2.9 billion (33%) of private sector Housing Benefit expenditure in 2010/11 could be attributed to real terms rent growth over the previous ten years.

There is an increased focus on the affordability of private rented housing for lower income groups, particularly in high housing demand areas such as London and the south east. In 2017-18, the median rent for a two-bed property in London was around half the monthly salary of a London resident working full-time. In England as a whole, the proportion was 26%.

The ending of an assured shorthold tenancy (AST) was given as the reason for a homeless application in 27% of cases in England over 2017/18. Not all of these terminations will have been related to affordability but the authors of Homelessness monitor England 2018 identified a link with Local Housing Allowance rates:

Most local authority survey participants attributed this trend to the growing displacement of low income tenants in pressured markets, reflecting their declining ability to compete with higher income groups due to progressively tightening Local Housing Allowance restrictions.

The English Housing Survey: Private Rented Sector 2016-17 recorded that 69% of private renters found it “easy” to pay their rent; 9% were in arrears—no difference was recorded in the prevalence of arrears between private renters in London and the rest of England. Indeed, private renters were found to be less likely to be in arrears than social renters.

Governments since 2010 have sought to reduce Housing Benefit expenditure by introducing several restrictions on eligibility, and by freezing Local Housing Allowance (LHA) rates (with some flexibility in the most expensive areas) for four years from April 2016. In their 2018 report, Rugg and Rhodes say the LHA “constitutes an increasingly stringent mix of both first and second generation rent control.”

Taken together, these factors have resulted in rent control returning to the political agenda. In the main, debate has focused on rent regulation during the term of a tenancy, rather than controls that would restrict rent levels at the outset of a tenancy.

The Coalition Government published a model tenancy agreement which landlords can use to offer longer tenancies with more predictable rent increases. The current Government consulted on Overcoming the barriers to longer tenancies in the private rented sector in
2018. The consultation included a proposed model designed to “give tenants certainty over rent.” Responses are being analysed.

Shelter is arguing for a “stable rental contract” of five years during which annual rent increases would be index-linked, e.g. to the Consumer Price Index (CPI). The Labour Party’s 2017 Manifesto said: “Labour will make new three-year tenancies the norm, with an inflation cap on rent rises”. Generation Rent would go further and has referred to setting a maximum rent based on Council Tax bands “with a monthly maximum rent amounting to half of the annual council tax band for a home.”

Not surprisingly, there is substantial opposition amongst landlords, both individuals and institutional investors and their representative bodies, to interventions which would restrict rents both at the start of, and during the term, of a tenancy. It is argued that market intervention would result in landlords withdrawing investment, both in terms of new supply and upkeep of the existing stock.

Emeritus Professor Christine Whitehead and Peter Williams, in Assessing the evidence on Rent Control from an International Perspective (October 2018) point out that the impact of rent control will depend on several factors:

...in reality the impact of rent control depends on its form and economic context (notably inflation and the costs of delivery) plus crucially the nature of the welfare system in place.

They conclude:

...the PRS is a key part of the solution to UK housing problems and this requires a more positive stance towards the sector. The focus for reform should be on putting in place a system which allows indefinite tenancies, and which imposes a degree of rent stabilisation alongside a much better enforcement system which tackles both poor landlords and tenants.

Comparisons are frequently drawn with different rent regulation regimes operated elsewhere in Europe. When seeking to learn lessons from alternative regimes it is important to bear in mind that the private rented sector in the UK is not directly comparable to that in, for example, France, Germany and Switzerland, where a much greater proportion of the population sees private renting as the ‘normal’ choice of tenure.

This briefing paper provides an overview of the debate around rent control/regulation and includes some information on a small selection of international rent regimes. The Library briefing paper: A short history of rent control contains information on the history of rent control in the UK.
1. Rent setting - current provisions

Britain, like many other countries, put in place measures to limit the initial rent that landlords could charge, as well as any subsequent increases, in response to housing shortages during and after both World Wars. In England, rent regulation ended for most new lettings after 15 January 1989 but still continues in different forms across Europe and in a number of cities in the United States. The Library briefing paper, A short history of rent control, contains more detail on the history of rent control in the UK.

Housing policy is a devolved matter and different approaches to rent regulation in the private rented sector are being adopted by some of the devolved nations.

1.1 England post-1989 deregulation

Since January 1989, when Part I of the Housing Act 1988 came into force, most new private lettings have been either assured or assured shorthold tenancies on which market rents can be charged.

Prior to this, private sector tenancies were generally covered by the Rent Act 1977 and were subject to ‘fair’ or ‘registered’ rents set by independent rent officers. These tenancies are now ‘dying on the vine’.

The Housing Act 1980 had been the Conservative Government’s first attempt to deregulate the private rented sector. Shorthold tenancies introduced by the Act were designed to encourage investment in the private rented sector by making it easier for landlords to gain possession at the end of a fixed-term of between one and five years, or after six months from the start of the tenancy. The measure was largely unsuccessful as shorthold tenancies failed to take-off. The 1988 Act replaced the 1980 Act’s provisions in respect of shorthold tenancies and made more substantial changes, including the deregulation of rents for new lettings and the introduction of assured tenancies.

Assured and assured shorthold tenants have limited rights to refer rent increases to a Rent Assessment Committee (RAC) – assured shorthold tenants can also refer the rent to a RAC at the beginning of the tenancy. Shelter published a two-part blog in 2018 which explains tenants’ rights to challenge rent increases and why they are little used. Essentially, Shelter concludes that “rent regulation without greater security of tenure is very difficult to enforce.”

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1 Initially, under a shorthold tenancy, rents had to be registered as ‘fair’, however, this requirement ceased to apply to all shorthold tenancies by 1987. Kemp P, Private Renting in Transition, 2004, p52
3 Ibid.
1.2 Scotland

Under the *Housing (Scotland) Act 1988* most private sector tenancies were short assured tenancies. These tenancies had to have a minimum duration of six months. Market rents could be charged on these tenancies.

The *Private Housing (Tenancies) (Scotland) Act 2016* introduced a new tenancy regime from 1 December 2017. Since this date, new tenancies created are **private residential tenancies**.

Private residential tenancies are open-ended and there is no ‘no-fault’ ground for possession equivalent to the notice that can be given under section 33 of the *Housing (Scotland) Act 1988*.

If the landlord of a private residential tenancy wants to increase the rent, they must give the tenant at least three months’ written notice before doing so. The notice must be in the prescribed form: *landlord’s rent-increase notice to tenant(s)*.

The 2016 Act also allows local authorities to apply to Scottish Ministers to have an area designated as a **rent pressure zone (RPZ)** if they can prove that:

- rents in the area are rising too much;
- the rent rises are causing problems for the tenants; and
- the local council is coming under pressure to provide housing or subsidise the cost of housing as a result.

Where the case is made out, Scottish Ministers lay regulations providing for an RPZ before the Scottish Parliament. RPZs only apply rent limits to private residential tenancies - rent increases for tenants with a short assured or assured tenancy are not be affected.

Private residential tenants unhappy with a proposed rent increase can also refer the case to a rent officer for adjudication (provided the property is not in a rent pressure zone).

Further background on the legislation is available in *briefings* by the Scottish Parliament Information Centre. *An Evaluation of Rent Regulation Measures within Scotland’s Private Rented Sector* was published in June 2018. This report was commissioned by Shelter Scotland with the aim of better understanding “the rent regulation measures contained in the Private Housing (Tenancies) (Scotland) Act 2016 and consider what successful policy implementation might look like.”

1.3 Wales

Currently, as in England, most private sector tenancies in Wales are assured shorthold tenancies. *The Renting Homes (Wales) Act 2016*, when the relevant sections are brought into force, will introduce a new legal framework for renting a home in Wales. While there have been calls from opposition politicians in Wales for rent control in the private
rented sector, the current Welsh Government has not indicated an intention to pursue such a policy.

1.4 Northern Ireland

Until 1978 all private sector rents in Northern Ireland were controlled. Sector-wide rent control was removed in 1978 with the exception of rents for protected and statutory tenancies which remain controlled (currently approximately 900 tenancies). In April 2007, additional rent control was introduced. For all tenancies which commenced after this date and where the property was built before 1945 and does not meet the statutory fitness standard, the rent is determined by the Rent Officer for Northern Ireland. The rent for these properties remains controlled until the property is made fit.

The Department for Communities in Northern Ireland (DfC) said that, to address affordability issues in the sector, it will:

Introduce legislation to stipulate that rents can only be increased once in any 12 month period.4

2. A renewed focus on rent levels

2.1 Trends in private renting

Around 4.5 million households rented privately in England in 2017-18, according to estimates from the English Housing Survey – 19% of all households, compared with 17% social renting and 64% owner-occupying. The private rented sector has grown in recent years and became larger than the social rented sector in 2011-12. Private renting is considerably more common in London: 29% of London households were renting privately in 2017-18, up from 19% in 2007-08.5

THE PRIVATE RENTED SECTOR HAS GROWN
Proportion of households in each tenure group, England

Source: MHCLG, English Housing Survey 2017-18 headline report, Annex Table 1.1
Notes: Figures are for calendar years for 1997 to 2008, and for financial years from 2008-09 onwards.

4 DfC, Private Rented Sector in Northern Ireland – Proposals for Change, January 2017
5 MHCLG, English Housing Survey 2017-18 headline report, January 2019
Rents in the UK are currently rising, although the rate of growth has slowed recently. According to the Office for National Statistics’ index of private rental prices, rental prices in the UK rose by 1.0% over the 12 months to January 2019. Rents in England rose by 1.1% in the year to January 2019, and by 9.5% over the five years to January 2019.

The table below shows trends in the nations and regions of the UK. While growth in London was higher than in other areas at the start of this period – peaking at 4.3% growth in the 12 months to August 2015 – it is now lower than most other regions. Rental prices in London rose by 0.1% in the 12 months to January 2019. Over the five-year period the South East experienced the most growth (12.2%) and the North East the least (2.5%).

<table>
<thead>
<tr>
<th>Nation/region</th>
<th>Five years to Jan 2019</th>
<th>Year to Jan 2019</th>
<th>Trend in annual growth, 2014-19</th>
</tr>
</thead>
<tbody>
<tr>
<td>England</td>
<td>+9.5%</td>
<td>+1.1%</td>
<td></td>
</tr>
<tr>
<td>North East</td>
<td>+2.5%</td>
<td>+0.4%</td>
<td></td>
</tr>
<tr>
<td>North West</td>
<td>+5.2%</td>
<td>+1.1%</td>
<td></td>
</tr>
<tr>
<td>Yorks. &amp; the Humber</td>
<td>+6.4%</td>
<td>+1.9%</td>
<td></td>
</tr>
<tr>
<td>East Midlands</td>
<td>+11.8%</td>
<td>+2.4%</td>
<td></td>
</tr>
<tr>
<td>West Midlands</td>
<td>+9.0%</td>
<td>+1.8%</td>
<td></td>
</tr>
<tr>
<td>East of England</td>
<td>+11.5%</td>
<td>+1.3%</td>
<td></td>
</tr>
<tr>
<td>London</td>
<td>+9.3%</td>
<td>+0.1%</td>
<td></td>
</tr>
<tr>
<td>South East</td>
<td>+12.2%</td>
<td>+1.5%</td>
<td></td>
</tr>
<tr>
<td>South West</td>
<td>+10.0%</td>
<td>+1.8%</td>
<td></td>
</tr>
<tr>
<td>Wales</td>
<td>+3.7%</td>
<td>+0.9%</td>
<td></td>
</tr>
<tr>
<td>Scotland</td>
<td>+4.0%</td>
<td>+0.7%</td>
<td></td>
</tr>
<tr>
<td>Northern Ireland</td>
<td>..</td>
<td>+1.6%</td>
<td></td>
</tr>
<tr>
<td>UK</td>
<td>..</td>
<td>+1.0%</td>
<td></td>
</tr>
</tbody>
</table>

Source: ONS, Index of Private Housing Rental Prices, UK: January 2019

Notes: Data for Northern Ireland is only available from 2016 onwards. The ‘trend in annual growth’ charts show the percentage change on 12 months previously for each month between January 2014 and January 2019.
2.2 Affordability of private sector rents

The rise in rents has been fairly close to the rise in individual earnings at national level: for example, rents in Great Britain rose by around 15% between 2011 and 2018 while earnings for full-time employees rose by around 14%. Rents have outpaced earnings in some regions. In London, rents grew by 22% between 2011 and 2018 compared with 10% growth in earnings. In the South East, rents grew by 17% while earnings grew by 11%.6,7

The table below shows median private rents as a proportion of median earnings in each region in England. Each region’s overall median rent is affected by the mix of sizes of properties available, so this table uses rents for two-bed properties as a way of making direct comparisons. Rents are less affordable in London by this measure: the median rent for a two-bed home in London is around 50% of median earnings, while the figure for the whole of England is 26%.

### RENTS ARE LESS AFFORDABLE IN LONDON

<table>
<thead>
<tr>
<th>Regions</th>
<th>Median rent (2-bed homes)</th>
<th>Median earnings</th>
<th>Rent as % of earnings</th>
</tr>
</thead>
<tbody>
<tr>
<td>England</td>
<td>£650</td>
<td>£2,500</td>
<td>26%</td>
</tr>
<tr>
<td>North East</td>
<td>£451</td>
<td>£2,220</td>
<td>20%</td>
</tr>
<tr>
<td>North West</td>
<td>£525</td>
<td>£2,300</td>
<td>23%</td>
</tr>
<tr>
<td>Yorks. &amp; the Humber</td>
<td>£500</td>
<td>£2,260</td>
<td>22%</td>
</tr>
<tr>
<td>East Midlands</td>
<td>£550</td>
<td>£2,300</td>
<td>24%</td>
</tr>
<tr>
<td>West Midlands</td>
<td>£595</td>
<td>£2,330</td>
<td>26%</td>
</tr>
<tr>
<td>East of England</td>
<td>£775</td>
<td>£2,560</td>
<td>30%</td>
</tr>
<tr>
<td>London</td>
<td>£1,450</td>
<td>£2,910</td>
<td>50%</td>
</tr>
<tr>
<td>South East</td>
<td>£875</td>
<td>£2,670</td>
<td>33%</td>
</tr>
<tr>
<td>South West</td>
<td>£695</td>
<td>£2,340</td>
<td>30%</td>
</tr>
</tbody>
</table>

Sources: Valuation Office Agency, Private rental market summary statistics: April 2017 to March 2018, Table 1.4; Annual Survey of Hours and Earnings via Nomisweb.co.uk

Notes: The median is the point at which half of rents/earnings are lower and half are higher.

This table uses the earnings of full-time employed people living in each region. Reported weekly earnings are scaled up to generate a monthly figure.

Rent figures are based on a sample that excludes Housing Benefit recipients.

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6 ONS, Index of private housing rental prices: January 2019. Change is between April 2011 and April 2018.

7 Annual Survey of Hours and Earnings (ASHE), via Nomisweb.co.uk. Change is for weekly earnings of full-time employed people between the year to April 2011 and the year to April 2018.
Earnings data can only tell us a limited amount about what private renters experience. This is because the data only covers full-time employees (not part-time workers) and does not account for tax. Households will often have multiple earners and can get income from other sources, such as benefits.

There is evidence that private renters spend more of their total income on housing costs than people in other tenure groups. The 2017-18 English Housing Survey (EHS) found that private renters spent 33% of household income on rent, compared with 28% for social renters and 17% for households buying their home with a mortgage.8

EHS analysis from 2016-17 explores affordability in the private rented sector in more detail. The analysis found that private renters in London spent a greater proportion of their household income on rent (43%) than in the rest of England (32%).

The 2016-17 survey also asked respondents about their ability to pay rent. 31% of privately-renting households said they found it difficult to pay their rent, a broadly similar proportion to households in the social rented sector. 9% of private-renting households were in arrears (considerably less than in the social rented sector, where the proportion was 25%). Respondents were asked about why they were in arrears – common reasons given by private renters were benefit caps (36% of households in arrears), delays (34%) and reductions (26%).9

The Resolution Foundation have carried out analysis of the Family Resources Survey and reached similar conclusions about the affordability of private renting. Their analysis found that privately-renting families spend a higher proportion of their income on housing costs than families in any other tenure group, and that the proportion has grown over time:

Among private renters for instance, the average [Housing Cost to Income Ratio (HCIR)] has increased from 9 per cent at the start of the 1960s to 36 per cent today. In contrast, the average HCIR among outright owners is just 5 per cent. That’s still a doubling from the figure of 2.5 per cent in 1961, but it is just a fraction of the ratio recorded among renters. Moreover, it is worth noting the relative decline in the average HCIR after 1990 among those buying a property with a mortgage – with a particularly marked reduction from 2009.10

2.3 Housing Benefit: de facto rent control?

When the Housing Act 1988 deregulated private sector rent levels for new tenancies created after 15 January 1989 (England and Wales) a likely outcome was identified as an increase in expenditure on Housing Benefit. The then Minister for Housing, Sir George Young, responded to concerns expressed about increased rent levels in all tenures with reassurances that Housing Benefit “would take the strain”:

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8 MHCLG, English Housing Survey 2017-18 headline report, January 2019
9 MHCLG, English Housing Survey: Private rented sector, 2016-17, July 2018
10 Resolution Foundation, Home affront: housing across the generations, September 2017
Mr. Soley: Tenants of housing associations, councils and the private sector face a disgraceful position. Did not rents in the housing association sector go up by about 25 per cent. the other year? Is not it also true that council rents will go up dramatically in the next couple of weeks and that private sector rents are out of the reach of many people? In those three examples housing benefit does not meet the needs of many people, particularly pensioners with small occupational pensions. What will the Government do about rents that are increasingly unaffordable in a rented sector has suffered a collapse, with the loss of 1.5 million properties in the past 10 years? There must be an answer that produces affordable rents in affordable properties.

Sir George Young: I do not accept the premise on which the hon. Gentleman based his question. Housing benefit will underpin market rents-- we have made that absolutely clear. If people cannot afford to pay that market rent, housing benefit will take the strain.11

After coming into power in 2010 the Coalition Government announced a package of welfare reforms aimed at reducing public expenditure as part of its deficit reduction programme. Housing Benefit was targeted as a key area for reform due to ‘ballooning’ expenditure in this area:

Housing Benefit expenditure has ballooned in the past 10 years, from £11 billion in 1999/2000 to £20 billion in 2009/10, in cash terms. Within this total, expenditure on working age recipients has increased from £7 billion to over £14 billion. Without reform, total expenditure is forecast to reach £25 billion by 2015/16, a further rise of 24 per cent. This is unsustainable in any economic climate, but the need to tackle the record deficit makes reform even more pressing.

In 2013 the Department for Work and Pensions (DWP) released an analysis of the impact of rent growth on Housing Benefit expenditure. On private sector rents, the analysis found:

…that the average eligible private sector rent for Housing Benefit (HB) increased by 45% in real terms between 2000/01 and 2010/11. An estimated £2.9 billion (33%) of private sector HB expenditure in 2010/11 can be attributed to real terms rent growth over the previous ten years.12

Most tenants who are reliant on benefit assistance to meet their rent payments in the deregulated private rented sector13 receive the Local Housing Allowance (LHA). The LHA is a flat rate payment based on the number of bedrooms a claimant is deemed to require within a Broad Market Rental Area. The amount of LHA received depends on an individual’s personal circumstances – it is a means tested benefit.

The default arrangement is that LHA is paid direct to claimants rather than their landlords. After its introduction in 2008 there was evidence to suggest that direct payment to claimants had resulted in increased rent arrears (and evictions) of private sector tenants.14

11 HC Deb 30 January 1991 cc939-40
12 DWP, Impact of rent growth on Housing Benefit expenditure, 2013
14 DWP, The Local Authority Omnibus Survey – Wave 20, August 2010
As part of the aforementioned package of welfare reform, in 2011 the Coalition Government changed the basis on which LHA rates are calculated from the 50th percentile of market rents to the 30th percentile and also introduced national caps. The uprating of LHA rates was restricted in 2014 and 2015. The 2015 Conservative Government froze LHA rates with effect from April 2016 for four years. Several local authorities identified the disparity between LHA rates and actual rent levels as a significant contributor to the ending of private sector tenancies and, as a result, homelessness, when giving evidence to the Communities and Local Government (CLG) Select Committee’s 2016-17 inquiry into homelessness:

Cambridgeshire District Council for example highlighted that “A significant barrier to accessing the private rented sector is the difference between LHA rates and typical rent levels. Typically rents are at least £250pcm more than the LHA rates across all property sizes, making the private rented sector unaffordable for those on a low income.” Westminster City Council has the largest private rented sector in England with very high rents, and there is a £536.54 disparity between the average weekly rent of a three bedroom home and the capped LHA rate.

Other Housing Benefit measures which have impacted on claimants in the private rented sector include:

- An extension of the Shared Accommodation Rate (SAR). Since January 2012 most single people under the age of 35 have been restricted to the LHA rate for a room in a shared house. The SAR previously applied to those under 25 years of age.
- The household Benefit Cap was reduced from £26,000 to £23,000 in London and £20,000 elsewhere from 7 November 2016.
- Entitlement to the housing element of Universal Credit was removed for new claimants aged between 18 and 21 (with a number of exemptions) after 1 April 2017. Entitlement was reinstated with effect from 31 December 2018.

In evidence to the CLG Select Committee’s inquiry into the private rented sector (2013-14), the Housing Law Practitioners’ Association (HLPA) said that benefit recipients were subject to “de facto rent control” because of Housing Benefit restrictions. Indeed, the Welsh Affairs Committee’s report, *The impact of changes to housing benefit in Wales*, (2013), concluded that “direct rent controls” would be needed to bring down the Housing Benefit bill. The Report said:

> We acknowledge that one of the main reasons for recent increases in the housing benefit bill and projected further increases is inflation in private housing sector rents. Efforts to

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15 There is some provision for uplift in areas with the most expensive rents (Targeted Affordability Funding).

16 *CLG Select Committee, Third Report of 2016-17, Homelessness, HC 40*, August 2016, para 17

17 This is a cap on the overall benefit a household can receive – some benefits are exempt.

18 Ev w248, para 8
control housing benefit increases therefore have to include strategies to manage spiralling rents in the private rented sector, including direct rent controls.19

In their 2018 report, The Evolving Private Rented Sector – its contribution and potential, Rugg and Rhodes comment on LHA changes:

Recent changes to LHA have created a system of rent controls that impose both an overall cap on rents and prevent any increase in rent charges once a tenancy has begun. These measures are substantially eroding tenants’ ability to pay a bottom-end market rent. The increasing incidence of evictions as a consequence of rent arrears indicates that Welfare Reform is undermining the operation of the Housing Benefit market within the PRS.20

In a 2017 blog commenting on the relative merits of rent controls and rent regulation, Shelter identified some alternative approaches, one of which was:

...end the freeze on housing benefit and re-link it back to rents. This would make an instant difference to those on lower incomes, stemming the tide of families being made homeless after falling on hard times only to find they don’t get enough financial support to keep a roof over their head. The NAO recently pointed this out.21

Total expenditure on Housing Benefit (including LHA) in 2018/19 was forecast to be £20.7 billion. £6.9 billion (34%) of this total was forecast to be spent on tenants in the private rented sector. A total of 4.0 million households were forecast to be in receipt of Housing Benefit, with 1.2 million (30%) in the private rented sector.22

The charts overleaf show trends in Housing Benefit expenditure and caseload between 1994/95 and 2018/19. Housing Benefit expenditure peaked in real terms in 2012/13 at £26.4 billion, with private rented sector expenditure accounting for £10.2 billion of this total (2018/19 prices). Housing Benefit expenditure is forecast to fall in real terms by 22% between 2012/13 and 2018/19. Expenditure on privately-renting tenants was forecast to fall by 32%, compared with an 18% fall in expenditure on local authority tenants and a 12% fall in expenditure on housing association tenants.23

These figures do not include expenditure on the housing cost element of Universal Credit, which is gradually replacing Housing Benefit and LHA for new claims. Total expenditure on all housing benefits, including the housing costs element of Universal Credit, is forecast to be £23.3

19 Welsh Affairs Committee, The impact of changes to housing benefit in Wales, 17 October 2013, HC 159-I 2013-14, para 4. This paragraph was subject to amendment and voted on by the Committee which agreed the published wording by 7 votes to two (see the formal minutes on page 31 of the Report).
20 Julia Rugg & David Rhodes, The Evolving Private Rented Sector: Its contribution and potential, Centre for Housing Policy at the University of York, para 7.3
21 Shelter Blog, Steve Akehurst: Old fashioned rent control, what is it good for? 27 September 2017
23 Ibid.
billion in 2019/20, with £8.2 billion (35%) spent in the private rented sector. \(^{24}\)

Source: DWP, *Benefit expenditure and caseload tables 2018*, Outturn and forecast: Autumn Budget 2018

3. Rent control: the debate

The private rented sector is associated with high and increasing rents, in areas of high housing demand. Low income households may struggle to access the sector or retain a tenancy in the face of rent increases and restricted LHA rates. The rise in the number of households requesting homelessness assistance due to the termination of an assured shorthold tenancy (27% of applications in England in 2017/18), has given rise to particular concerns.

In The Evolving Private Rented Sector – its contribution and potential (2018) Rugg and Rhodes refer to a questioning of the “value” of private renting:

Notwithstanding geographic variation and variation between demographic groups, private renting tenants have housing costs that are higher, on average, than they would be if they were able to access social housing or owner occupation.

[...]

In these circumstances the ‘value’ of private renting is called into question, particularly when households are reliant on some level of Housing Benefit to meet a higher rental cost than would be paid to a social landlord, and so inflating the national welfare budget, or when it becomes evident that a renter is paying a higher rental cost for the same property than they would be if they had purchased that same property with a mortgage and limiting the capacity to save for a housing deposit.25

These factors have prompted an increased focus on regulatory controls. There have been calls for the introduction of longer, more secure tenancies and, in general, a focus on predictable rent increases, as opposed to formal systems of rent control. In Assessing the evidence on Rent Control from an International Perspective (2018) Whitehead and Williams say:

The main rationale for regulating rents, tenure security, quality and evictions in the private rented sector has been the failure of housing supply to adjust as rapidly as demand. When for one reason or another demand increases, rents rise often well above the longer-term costs of provision. In these circumstances, landlords make excess profits and there is political pressure to even the playing field so that tenants are not being so heavily disadvantaged.26

They refer to the impact of ‘good’ and ‘bad’ regulation:

Clearly, good regulation should benefit both landlords and tenants, providing a more secure investment for landlords and investors and offering greater security and better-quality housing to tenants. This is the ideal. Bad regulation, on the other hand – even if it is imposed with good intentions and may provide short-term benefits – results in disincentives to supply rented

25 Julia Rugg & David Rhodes, The Evolving Private Rented Sector: Its contribution and potential, Centre for Housing Policy at the University of York, para 7.2.2
26 Emeritus Professor Whitehead C; Williams P: Assessing the evidence on Rent Control from an International Perspective, Residential Landlords Association, October 2018, p8
accommodation, potential tenants being excluded from the sector, and ultimately worse conditions for everyone.27

3.1 Different types of rent control

There is more than one method of controlling rents and rent increases.

The rent controls introduced early on in many countries were relatively simple maximum price ceilings: known as ‘first generation rent control’. By the late 1900s, many of these had developed into more complex systems which regulated rents within and between tenancies: widely known as ‘second generation rent control’.28 Whitehead and Williams describe the objective of second generation rent control as:

The objective of second-generation rent control is to allow some mitigation of cost increases for landlords and thus reduce the incentives for them to under-maintain their properties, while retaining some limits on the size of rent increases in order to help tenants in markets typically characterised by shortage. 29

In A review of empirical evidence on the costs and benefits of rent control (2003) Bengt Turner and Stephen Malpezzi set out the main types of rent control, which they argued have varying effects:

…one key feature [of rent control systems] is whether controlled rents are adjusted for changes in costs (with cost pass-through provisions or adjustments for inflation); how close the adjustment is to changes in market conditions; how it is applied to different classes of units; or whether rents are effectively frozen over time. Other key provisions which vary from place to place include breadth of coverage, how initial rent levels are set, treatment of new construction, whether rents are reset for new tenants, and tenure security provisions. Rent control’s effects can vary markedly depending on these specifics, and on market conditions, as well as enforcement practices.30

In 2003, the Swedish Economic Policy Review published a study of Tenancy rent control – a form of rent control that allows rents to change between tenancies but controls rent during a tenancy. The author of the study, Richard Arnott, argued that this form of rent control would result in a slightly less efficient housing market than would be the case in a completely free market, but that the effects would be limited and would not get worse over time.31 He said:

The big advantage of tenancy rent control is that it provides a safety valve—unrestricted rent increases between tenancies—that ensures that the performance of the housing market will not get

27 Ibid.
29 Emeritus Professor Whitehead C; Williams P: Assessing the evidence on Rent Control from an International Perspective, Residential Landlords Association, October 2018, p10
progressively worse. Rather, tenancy rent control will lead to the establishment of a different long-run equilibrium.  

The 2003 study set out in some detail the effects of different forms of tenancy rent control on landlords and tenants. Whitehead and Williams refer to controlling rents within a tenancy as ‘third generation rent control’:

Under third-generation rent control, rent increases are regulated within an individual tenancy but are either unregulated between tenancies or regulated under a more generous regime. In its pure form, third-generation rent control implies setting a market rent on the creation of a new tenancy which takes account of the potential impact of in-tenancy controls but limits increases during the tenancy.

[...]

In principle this allows periodic adjustment to market returns while protecting the tenant from unexpectedly large increases and giving the landlord some security that cost increases are offset over the medium to long term. It can be seen as a way of smoothing rent changes while maintaining a long-term rate of return which is competitive with other investments.

More recent research refers to rent stabilisation (second or third generation rent control) as an alternative to ‘hard’ rent control measures which involve the rent being independently set (below market rents) and enforced.

3.2 Opposition to rent control

Opposition to rent control is not new. The Fraser Institute published a series of papers in 1981 under the title *Rent Control: Myths and Realities*, setting out the arguments against rent control. The publication compared photographs of the damage to housing caused by aerial wartime bombing with damage attributed to the use of rent control. Professor of Economics in Stockholm, Assar Lindbeck, is cited as saying:

In many cases rent control appears to be the most efficient technique presently known to destroy a city – except for bombing.

Studies on the use of rent control have listed both positive and negative effects, including:

- making many rents in the private sector affordable for some tenants;
- leading to anomalies in rent levels for similar properties, as well as for the same property under different ownership;

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33 Ibid.
34 Emeritus Professor Whitehead C; Williams P: *Assessing the evidence on Rent Control from an International Perspective*, Residential Landlords Association, October 2018, p10
• reducing investment in new housing stock in the private rented sector and in the upkeep of existing stock;\textsuperscript{36}
• increasing demand for private rented sector housing that cannot be met because of landlord disinvestment;\textsuperscript{37} and
• reduced mobility of tenants in rent-controlled accommodation.

While there is less evidence of reduced mobility for those in rent-controlled accommodation compared to some of the other impacts listed above, Richard Arnott (2003) said:

In the case of housing, because of its durability, rent control discourages mobility, which results in households being increasingly mismatched with units, and adversely impacts the allocation of workers over jobs.\textsuperscript{38}

In The Future of Private Renting in the UK (2004), Professor Michael Ball concluded that the status quo should be maintained in terms of deregulated rents:

Rent controls and permanent security of tenure have been successfully abolished in the UK. To go back to them would create severe market distortions and cost the Treasury dearly for no clear social or economic benefit. […]

…the overall message is that the growth of the private rented sector over the past fifteen years has been a major success. That success has primarily been market-driven, yet still it is one in which policy has played an important part. Success has come about by allowing a free market to operate and the forces of competition within it to work. The UK as a whole is highly unlikely again to become a nation of private renters, but the tenure once more is playing a key and sustainable role in housing provision. The objective of policy should be to keep it that way.\textsuperscript{39}

Similarly, in The Future of the Private Rented Sector (2008) the authors said it was the “lifting of the controls on rent and on the prohibition on short-term lettings in the Housing Act 1988 that led directly to the growth – after decades of decline – in the sector”.\textsuperscript{40}

Landlord bodies, such as the National Landlords Association (NLA) oppose rent control and argue that its reintroduction would result in a decline in the sector as lenders would be less willing to offer finance for buy-to-let mortgages, while landlords would withdraw from the market or cease to invest in new property.\textsuperscript{41}

An HM Treasury paper, Investment in the UK private rented sector (2010), supported the view that landlords withdraw from the market in the face of regulatory controls:

\begin{flushright}
\textbf{The removal of rent control has been attributed with leading to the private rented sector’s growth.}
\end{flushright}

\begin{flushright}
\textsuperscript{36} Malpass P and Murie A, Housing Policy and Practice, Fourth Edition, 1994, p45
\textsuperscript{38} Arnott R, Tenancy rent control, Swedish Economic Policy Review 10, 89-121, 2003, p109
\textsuperscript{40} The Smith Institute, The Future of the Private Rented Sector, Edited by Peter Bill, Paul Hacket and Catherine Glossop, 2008, p71
\textsuperscript{41} NLA, “Rent control is not the answer,” [accessed on 30 March 2016]}


The impact of pre-1988 rent controls was that little new PRS stock entered the market, with longer-run rates of return being depressed. What stock remained tended to be older than in other tenures, and of lower quality, as the use value of higher quality stock was considerably higher in the owner-occupied sector, resulting in tenure switch. Those who remained often lacked funds (or incentives) for the adequate repair and improvement of properties. Many consider rent control to have been a major contributory factor to the subsequent decay of much of the inner city housing stock.

However, since 1988 Governments have taken a less restrictive approach to PRS regulation. The removal of rent control and introduction of Assured Shorthold Tenancies halted, and began to turn around the previous decline in private rental provision.42

Opposition to rent control generally assumes that it would involve the imposition of rent freezes, but Professor Michael Ball’s report for the Residential Landlords Association (RLA), Why governments should not enforce long-term contracts in the UK’s private rented sector (2013) argued against any form of compulsory rent ‘stabilisation’ or control either at the start of, or during tenancies. Publication of the report followed the Coalition Government’s announcement of an intention to introduce a model tenancy agreement and a tenants’ charter:

This report argues that recent proposals to introduce fixed-term contracts and bans on real rent changes within them are poorly thought out. If such tenancy rent control schemes were enforced, they would fatally undermine the huge increase in the private rented sector of the past two decades.43

Research into the impact of rent controls introduced in San Francisco (USA) in 1994 found evidence of landlords withdrawing from the market:

We exploit quasi-experimental variation in assignment of rent control to study its impacts on tenants, landlords, and the overall rental market. Leveraging new data tracking individuals’ migration, we find rent control increased renters’ probabilities of staying at their addresses by nearly 20%. Landlords treated by rent control reduced rental housing supply by 15%, causing a 5.1% city-wide rent increase. Using a dynamic, neighborhood choice model, we find rent control offered large benefits to covered tenants. Welfare losses from decreased housing supply could be mitigated if insurance against rent increases were provided as government social insurance, instead of a regulated landlord mandate.44

A further factor that may have added to landlords’ resistance to regulatory control, particularly rent control, is the introduction of restrictions in the amount of Income Tax relief they can get with effect from April 2017.45

42 HM Treasury, Investment in the UK private rented sector, February 2010,
43 RLA, Why governments should not enforce long-term contracts in the UK’s private rented sector, 2013
45 HM Revenue and Customs Press Release, 20 July 2016
3.3 Support for controlling rent increases

The affordability issues outlined in section 2 of this paper have led to increased calls for the introduction of ways to limit/stabilise increases in rents in areas where they are particularly high. There is little appetite, it appears, for the imposition of across-the-board rent ceilings.

The campaigning body, **Generation Rent, has called for:**

...a new kind of rent control which would be implementable anywhere in the country where rents are pricing people out of housing where they live and work.46

**There is some political support for measures to control rents.** The Labour Party's 2017 Manifesto contained the following commitment:

We will end insecurity for private renters by introducing controls on rent rises, more secure tenancies, landlord licensing and new consumer rights for renters. […]

Labour will make new three-year tenancies the norm, with an inflation cap on rent rises. given the particular pressures in London we will look at giving the Mayor the power to give renters in London additional security.47

The Liberal Democrat 2017 Manifesto also committed to inflation-linked rent increases:

Promote longer tenancies of three years or more with an inflation-linked annual rent increase built in, to give tenants security and limit rent hikes.48

The Conservative Party's 2017 Manifesto did not refer to limiting rent increases but did commit to improving protections for renters:

We will also improve protections for those who rent, including by looking at how we increase security for good tenants and encouraging landlords to offer longer tenancies as standard.49

**Some proposed policy options**

In [**Housing options and solutions for young people in 2020**](2012), the [**Joseph Rowntree Foundation considered a system of landlord incentives**](2012), together with checks and balances for achieving a stable private rented sector market:

Many landlords saw mechanisms such as landlord registration or accreditation schemes as burdens that did not offer them any advantages. While there are valuable schemes working to increase access and promote positive relationships between landlords and tenants, more fundamental reforms are needed.

An alternative structure of landlord incentives, together with checks and balances around tenants’ interests, would be a good starting point for reform. This may alleviate concerns about the increase in security of tenure reducing the supply of private rented homes. Other studies suggest scope for governments to trade incentives and constraints, not only to increase the supply of

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46 Generation Rent, [The Rent’s Too High: 21st century rent control](2014), 2014
47 Labour Party’s 2017 Manifesto, p62
48 Liberal Democrat 2017 Manifesto, p6
49 Conservative Party’s 2017 Manifesto, p59
private rented housing but also the conditions on which it is offered to tenants, including rent levels and security of tenancy. This approach could make best use of existing UK housing tenure structures, where the ability to offer longer term tenures is available but rarely used. Tax incentives may help overcome the problem of buy-to-let lenders being unwilling to support longer term tenancies within their mortgage terms. With many more households in the PRS by 2020, closer working relationships between representatives of landlords and tenants need to be forged and policy-makers must consider the needs of tenants and landlords more fully.

In *A better deal: towards more stable private renting* (2012) Shelter set out the case for a “stable rental contract” to offer tenants predictable rent increases:

Shelter believes that a new rental offer should be developed using the current legal framework. It should be called the **Stable Rental Contract** – and it would:

- give renters five years in their home during which they could not be evicted without a good reason
- **allow landlords to increase rents annually by a maximum of CPI during the five years**
- give renters the chance to decorate their home as long as they return it to neutral afterwards
- allow renters to give two months’ notice to end the tenancy
- give landlords the right to end the tenancy if they sell the property.50

In order to better understand how different rent control scenarios might impact on the private rented sector, Shelter commissioned research from the Cambridge Centre for Housing and Planning Research (CCHPR), the results of which were published in May 2015.51 This was followed by publication of a report by Shelter in July 2015, *Making Renting Fit for Families: the impact of different forms of rent regulation*. Shelter concluded that rent stabilisation, as opposed to ‘hard’ rent control, would be unlikely to result in negative market impacts:

> The research shows that the introduction of stable tenancies and predictable rents is unlikely to result in any negative consequences. Harder forms of rent control, such as a cut to two thirds of current rents or a three year rent freeze, would pose a far greater risk.52

The research identified that the scenario which would have the most significant impact on the market, and lead to an absolute decline in the PRS, was one involving an indefinite cap on all private rents, set at two-thirds of current market rates and indexed to average earnings or CPI.53

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50 Shelter, *A better deal: towards more stable private renting*, 2012
51 A Clark; S Morris; M Oxley; C Udagawa; P Williams: *The effect of rent controls on supply and markets*, CCHPR, May 2015
52 Shelter, *Making Renting Fit for Families: the impact of different forms of rent regulation*, July 2107, p7
Although a large-scale movement by landlords out of the sector may result in more properties for sale, Shelter identifies a risk for those on a low income who cannot benefit from this and, due to restricted access to the social rented sector, would be at increased risk of homelessness. In Shelter’s view this is “not a gamble worth taking.” Instead, Shelter supports giving renters five-year stable tenancies:

- Longer tenancies with regulated rent increases would provide renting families with the security and stability they need. They would mean that families would be put under less financial pressure from the cost of moving and that their children would have a greater chance of a stable education. Not only would this form of tenancy transform the experience of renting for many families, this new research has also comprehensively proved that it is an eminently achievable option.

The British Property Federation submitted evidence to the Communities and Local Government Committee’s 2013-14 inquiry into the private rented sector in which they rejected index-linking as a means of delivering more stable rents on the basis that “it is neither stable nor predictable.” Some suggested alternatives included a fixed uplift provided for in tenancy agreements, e.g. an annual increase of 2%, or a link to average earnings. The Committee did not make a specific recommendation on the issue of securing more predictable rent increases but commented:

- There is no perfect way to set rent, but, where longer tenancies are being established, linking increases to inflation or average earnings, or voluntarily agreeing a fixed uplift each year merit consideration and could provide tenants and landlords with a degree of stability, though over time mechanisms may emerge as, for example, in the commercial property sector. Tenants’, landlords’ and agents’ groups should encourage their members to discuss these options at the outset of a tenancy. Existing arrangements for setting and increasing rent are often arbitrary and uneven, and reflect the immaturity of the market.

Rugg and Rhodes have identified “advantages and disadvantages” to rent regulation within tenancies:

- Stabilisation brings a degree of predictability for both the tenant and the landlord over the short-term but does not necessarily curtail rent increases more broadly. Tenants who experience only gradual rent increases over the course of a tenancy might be faced with a substantial rent rise on moving since landlords would still be at liberty to reset their rent levels closer to the market value between tenancies. This means that tenants might be trapped in unsatisfactory tenancies because of the inability to afford a substantial rental increase on moving. An alternative hybrid approach has been suggested: rent increases linked to CPI inflation for a three-year period within a tenancy, with landlords...
giving six months’ notice on any increase for the following three year period. The proposed regular ‘within-tenancy’ reset option would allow for the rent to track the market whilst retaining predictability for the tenant.59

They hybrid approach referred to in the extract from the Rugg and Rhodes report (above) was suggested in a 2018 Resolution Foundation report, *Home Improvements: Action to address the housing challenges faced by young people.* 60

Generation Rent has disputed Shelter’s rejection of rent control:

...while rent controls on their own would not reduce the underlying shortage of homes, it will not increase it either. If we see a surge in home ownership there will be fewer rented properties, but also fewer renters.

With wealthier renters becoming home owners there will also be less spending power in the rental market, reducing effective demand and its upward pressure on prices.61

Both organisations recognise that, in the long-term, a healthy housing market will require the elimination of the housing shortage; in the meantime, **Generation Rent has proposed the following model** while identifying a need for further work:

...to determine a suitable set of incentives to make charging the living rent the default option for landlords, and to raise enough investment to address the underlying shortage.62

• Affordability - the maximum rent would be calculated along council tax bands, with a monthly maximum rent amounting to half of the annual council tax band for a home;

• Transparency - the cap would be based on understood property values and would be set by local authorities, accountable to residents who may want to argue for different limits;

• Flexibility - the calculation above would not be an absolute cap. Landlords would be free to charge rents over and above the limit set, but all rent charged above that level would be subject to a 50% surcharge;

• Fairness - all the proceeds from the surcharge would go into a ring-fenced fund for social house building, therefore ensuring the profits from private renting help alleviate the housing crisis.63

**The London Assembly’s Housing Committee** commissioned the Cambridge Centre for Housing Policy and Research (CCHPR) to consider the likely impact of a range of rent stabilisation measures on London’s housing market. This work built on a previous study commissioned

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59 Julia Rugg & David Rhodes, *The Evolving Private Rented Sector: Its contribution and potential*, Centre for Housing Policy at the University of York, para 7.2.2
60 L Judge; D Tomlinson: *Home Improvements: Action to address the housing challenges faced by young people*, Resolution Foundation, April 2018
61 Generation Rent Blog: *How new rent controls could work*, 29 September 2017
62 Generation Rent Blog: *How new rent controls could work*, 29 September 2017
63 Generation Rent, *The Rent’s Too High: 21st century rent control*, 2014
by Shelter which looked at the national picture.\textsuperscript{64} Research on the effect of rent stabilisation measures in London (2015) modelled the potential impact on the sector of the following scenarios:

- No rent controls.
- Rent increases restricted to CPI and five-year tenancy agreements.
- Rent increases limited to the lower of either the increase in average earnings, or CPI, whichever is the lower in any given year.
- A temporary three-year freeze on all private rents, including between tenancies, after which they return to market rents.
- Rent increases limited to the lower of either the increase in average earnings, or CPI, whichever is the lower in any given year, applied to all tenancies except for new-build or stock entering the PRS for the first time which are assumed to start out at market rents, but then have their rental increase limited in the same manner as other stock.
- Rents are cut to two thirds of their current value immediately, and thereafter allowed to rise only in line with the lower of either wage inflation or CPI.
- Rents are prevented from rising to higher than market rents.

While stressing that the conclusions were ‘tentative’, the authors found a more significant impact in London than in other regions; under only one of the scenarios (cutting rents by two-thirds) would the size of the sector be expected to reduce:

Outside London there are some areas where rent growth is very low, or non-existent, and rent stabilisation measures would therefore have very little impact. This has not been the case in London over recent years, though past trends may not necessarily continue.

Only under scenario 5 (upper projection) did the quantitative modelling suggest that the actual size of the sector would decline. The analysis has suggested that scenarios 1-4 and 6 produce only small reductions in average rents, with an average fall in affected rents of between 0 and 15 percent. This leads to an aggregate loss of rental income to the sector of between 0 and 10 percent (as not all tenancies are affected at all times), though it is possible that on a localised level their impact may be more significant.\textsuperscript{65}

The authors found a good deal of resistance amongst landlords, both individuals and larger institutional investors, to interventions in the market regarding rent levels:

Overall, interviewees felt that the rent stabilisations and controls discussed risked distorting rental markets and deterring investment, particularly if rents were to become seriously decoupled from the market. There was suspicion that such measures could constitute a step towards the kind of rent controls

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\textsuperscript{64} A Clarke; S Morris; M Oxley; C Udagawa; P Williams: The effect of rent controls on supply and markets, CCHPR, May 2015

\textsuperscript{65} A Clarke; C Udagawa; A Heywood; C Hamilton: Research on the effect of rent stabilisation measures in London, 2015, CCHPR, p34
that they perceived had undermined investment in the private rented sector in the period before 1988.66

4. Policy developments

4.1 A model tenancy agreement

The Coalition Government announced on 16 October 2013 a set of proposals to protect tenants in the private rented sector. A voluntary model tenancy agreement, "which landlords and tenants can use for longer tenancies to provide extra security and stability for families" was first published in September 2014 and has subsequently been updated.

The model agreement provides for rent increases during the term of the tenancy on the following basis:

**Tenancies of less than two years:** If the landlord and tenant have agreed a fixed term of less than two years then it is recommended that you fix the rent for the whole of the term.

**Tenancies of two or more years:** If the landlord and tenant have agreed a tenancy of two or more years then you need to agree whether the rent will stay the same for the whole term or whether the landlord can choose to increase it each year.

If you agree that the rent should stay the same for the whole term then you need to use option 1. If you agree that the landlord should be able to increase the rent each year then you need to agree whether this should be by way of a fixed percentage increase each year - option 2 - or by the annual change in the consumer price index ("CPI") - option 3.67

4.2 Consultation on barriers to longer PRS tenancies

In 2018 the Government consulted on Overcoming the barriers to longer tenancies in the private rented sector:

This consultation invites view and comments on the benefits and barriers of landlords offering longer tenancies. We are also seeking views on our proposed model for a 3 year tenancy with a 6 month break clause, and the options for implementing this. The model is designed to give tenants certainty over rents, and retains the flexibility that many desire.68

Consultation closed on 26 August 2018; responses are being analysed.

The National Landlords Association’s response records strong objections to the Government’s proposals, highlighting:

- the risk that break clauses and regulated annual increases in rent will lead to landlords changing behaviour to end tenancies before they enter into the longer fixed period and

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66 Ibid., p35
67 DCLG, Model Tenancy Agreement for an Assured Shorthold Tenancy and accompanying guidance, 2016
68 MHCLG, Overcoming the barriers to longer tenancies in the private rented sector, July 2018
enforce rent increases more regularly than under the current system

- the danger that, should a mandatory approach be enforced, landlords will choose to leave the market rather than take on additional risk.\(^{69}\)

The Residential Landlords Association’s refers to possible risks if landlords are forced to offer longer tenancies:

Any compulsion on landlords to offer longer tenancies risks refusal to offer tenancies to higher risk groups – often vulnerable tenants - and will risk higher rents being offered to higher risk tenants in order to balance the risk of them being in a longer tenancy. This is likely to drive up rents across the sector.\(^{70}\)

Shelter’s response welcomes the proposals but emphasises the need to legislate to make longer term tenancies the norm.\(^{71}\)

### 4.3 Build-to-Rent

The Coalition Government sought to encourage institutional investment in building new properties for private rent with the creation of a Build-to-Rent fund of £200 million which operated between 2012 and 2016. The funding was rolled into the Home Building Fund in 2016. Build-to-Rent focuses on longer tenancies with a defined process for rent review. The Housing White Paper (February 2017) referred to the Government’s desire for newly built private rented housing to offer longer tenancies with more predictable rent increases:

...ensure that family-friendly tenancies of three or more years are available for those tenants that want them on schemes that benefit from our changes. We are working with the British Property Federation and National Housing Federation to consolidate this approach across the sector.\(^{72}\)

### 4.4 Rent control in London?

Annex 2 to the Mayor’s response to Overcoming the barriers to longer tenancies in the private rented sector set out the Mayor’s London Model for tenancy reform. It included a commitment to consider measures to limit “unacceptable” rent increases:

Security and affordability are related – a strong system of security of tenure would likely have a stabilising effect on rents, and would be needed to underpin measures to stabilise or control rents. The Mayor will therefore consider what measures would limit unacceptable rent increases without negatively impacting on housing supply, and how they could work in the capital, once the new London Model is complete.

The Mayor is aware that although limiting rent increases or making them more predictable would give certainty, doing so

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\(^{69}\) NLA Responds to overcoming barriers to longer tenancies consultation, 24 August 2018

\(^{70}\) RLA Consultation response to overcoming barriers to longer tenancies in the private rented sector, August 2018

\(^{71}\) Shelter’s submission: Response: Overcoming the barriers to longer tenancies in the private rented sector, August 2018

\(^{72}\) Housing White Paper, February 2017, p50
would not address the problem of rents already being unaffordable to many. Addressing existing rent levels would be a truly radical approach requiring significant investment, as well as fiscal and legislative changes, to ensure that renters, landlords, and housing supply were protected from adverse effects.\(^{73}\)

On 23 January 2019, the Mayor confirmed an intention to “develop a new blueprint for stabilising or controlling private rents in the capital, as part of his ongoing work to help London’s 2.4 million renters.”\(^{74}\) Karen Buck MP and Deputy Mayor for Housing, James Murray, are assisting with this work. There is an intention to lobby for additional powers if necessary:

Once these proposals around rent stabilisation and control are complete, if it is the case that Mayor doesn’t have the requisite powers, he will campaign and lobby for them - and also for his proposed changes to tenancy laws - to be implemented by national Government.\(^{75}\)

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\(^{73}\) Annex 2: Outline of the Mayor’s London Model for tenancy reform and its key components

\(^{74}\) London Assembly, Mayor to develop ‘rent control’ proposals, 23 January 2019

\(^{75}\) Ibid.
5. Some international comparisons

5.1 The international context of rent control and regulation

As noted in section 1, after 1989, private sector rents in most of the UK were deregulated on new tenancies, although devolution of housing policy is now leading to different approaches in Scotland and Northern Ireland. In much of Europe, in contrast, rents are still controlled by governments in some way. There was a trend towards deregulation in the 1980s which tended to take the form of deregulating rents on new buildings rather than on new lettings. Recent years have seen some tightening of rent regimes due to the identification of rent pressure zones.76

In a 2012 publication, Emeritus Professor of Housing Economics at the London School of Economics (LSE), Christine Whitehead, highlighted the difference between much of the rent regulation in place in many developed countries at that time and the kind of rent control that was introduced in Britain in 1915:

> It is important to make it clear that what is commonly thought of as rent control – nominal caps on rent levels – is hardly found today. Those countries that do combine strong rent regulation with sizable private rented sectors usually have systems that permit rents to adjust to near-market levels even though they are formally ‘controlled’.77

In Towards a sustainable private rented sector – learning the lessons from other countries (2011), the authors found that, in countries where strong rent control did not apply, the affordability of rental housing was an issue (USA, Belgium, Hong Kong, Norway, France and Australia). In contrast, in countries where rent was controlled, policy discussions had centred more on the specifics of rent regulation (Sweden, Switzerland and Denmark). Switzerland had seen discussions about whether rent rises should reflect increases in the mortgage interest rate or the cost of living. While in Denmark, despite decontrolling rents on buildings built after 1991, there had been no surge in new supply, resulting in renewed debate about rent controls.78

Although there are many similarities between housing sectors in the rest of the developed world and the UK, it is important to note that none are directly comparable. For example, a greater proportion of the populations of France, Germany and Switzerland have rented their

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76 Emeritus Professor Whitehead C; Williams P: Assessing the evidence on Rent Control from an International Perspective, Residential Landlords Association, October 2018, p5
78 Scanlon K and Kochan B (eds), Towards a sustainable private rented sector – learning the lessons from other countries, LSE London, 2011
homes than has traditionally been the case in the UK. Rent controls should also be viewed in the context of each country’s regulatory regime, including security of tenure and enforcement.

Professor Whitehead and Peter Williams, researcher and Departmental Fellow, Department of Land Economy, University of Cambridge, were commissioned by the Residential Landlords Association to carry out a review of the private rented sector in the context of the sector’s growth and “increasing tensions around worsening affordability and concerns about poor quality and limited security of tenure as well as evidence of similar stresses in other countries.” The results of this review were published in October 2018: Assessing the evidence on Rent Control from an International Perspective. Whitehead and Williams found regulation of the PRS to be “a live issue in many countries” due to “rapidly growing private rented sectors in pressurised housing markets.”

They carried out a review of comparative literature on rent control which suggested the following:

1. across Europe the general trend over the last thirty years has been towards deregulation, particularly with respect to initial rent determination. While there are examples of control of rent increases when tenants change, in the majority of countries it is only within tenancy rent increases that are regulated;

2. rent determination is only part of any regulatory regime. In particular in countries with any type of rent control or stabilisation there are also long or indefinite leases or mandatory lease renewal, regulations to limit evictions to circumstances where the tenant has broken the agreement, and often restrictions on the ways in which landlords can dispose of their property;

3. in most countries security of tenure is indefinite;

4. countries with large private rented sectors tend to have had quite stable regulatory regimes - but they also have constraints on access to other tenures;

5. the size of the PRS is growing not just in England but in many countries notably outside Europe as entry into owner-occupation has become more problematic – e.g. the USA; Australia and New Zealand but also in Europe in Spain and Ireland;

6. the vast majority of landlords in all countries are individuals rather than institutional investors who are the ones more likely to value predictable rental income streams;

7. the biggest concerns about regulation are that
   - controls over rents at the start of a lease may not allow landlords to make a business return;
   - rigid rent-adjustment systems may not accommodate unexpected changes in the value of the rental stream.

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79 Scanlon K and Kochan B (eds), Towards a sustainable private rented sector – learning the lessons from other countries, LSE London, 2011

80 Emeritus Professor Whitehead C; Williams P. Assessing the evidence on Rent Control from an International Perspective, Residential Landlords Association, October 2018, p4
or in costs (e.g. because of inflation or energy efficiency requirements)

— tenure security and enforcement procedures sometimes makes it difficult and costly for landlords to obtain vacant possession when the tenant does not keep to the contract;

— governments themselves build in uncertainties by continuing to make changes to their regulatory regime - with implications for both risk and returns; and

— there has been growing pressure to tighten rent controls in a number of countries/regions where there is strong housing market pressure – notably Canada, France, Germany and Ireland.81

The following sections provide a brief overview of how rent control/regulation operates in a selection of countries and cities.

The Netherlands
Throughout the post-war period, the private rented sector in the Netherlands was one of the most highly regulated in Europe, rent regulation, including a freeze on rents which started during WWII lasted until 1951, followed by a series of differentiated increases. In 1950 a general rent increase was introduced and from 1955 rent levels were related to the difference between costs and ‘bricks and mortar’ subsidies rather than pre-war rent levels. From 1967, rents were increased annually, and decontrol began in areas with a housing surplus of 1.5% or more. From 1971 a points index for calculating maximum rent based on housing quality was introduced.

Housing in the Netherlands is dominated by housing association ownership. The private rented sector in the Netherlands declined from 17% in 1980 to 8% in 2010. In a 2012 study Professor Whitehead said:

Strong regulation, particularly rent control, is often seen as one reason for the decline in private renting. But as importantly both owner occupation and the social rented sector have benefitted from subsidies and tax incentives while private landlords have been disadvantaged; especially from the 1980s on.

Compared with other European countries, the social rented sector has dominated the housing market throughout the post-war period. Almost a third of households rent a social dwelling. Regulation is generally perceived as beneficial, which may be why successive governments have found it difficult to introduce deregulation despite concern that regulation has contributed to the private rented sector’s decline.82

Tenancy agreements in the private housing sector have now been liberalised; the tenant and the landlord have more freedom to agree the rent and services provided. There is no maximum rent. Only self-contained housing can be rented under such an agreement.

81 Ibid., pp19-20
If the tenancy is not liberalised, the rent payable is subject to a ceiling. The maximum rent depends on the quality of the housing provided. There is a rent points system (in Dutch).83

There is a Rent Tribunal (Huurcommissie) which can mediate and adjudicate on disputes between tenants and landlords about rent levels, maintenance and service charges.84

**Finland**

Finland has had a history of state control and regulation over the private rented sector, with government control extending to rent setting, increases, and security of tenure. Landlords’ ability to regain control over their properties was limited; the eviction of tenants was allowed under very limited conditions. Regulations were relaxed in 1987 to enable landlords to generate a reasonable profit from their rental properties.

In 1970 the private rented sector in Finland stood at about one third of the stock. The sector fell to about 13% during the 1980s but recovered after deregulation measures in the 1990s.

The deregulation of the sector took place in two stages between 1993, when new contracts were deregulated, and 1995, when deregulation was extended to cover all private rental properties. Initial rents and rent increases are no longer regulated, except in the case of those fixed-term contracts with predetermined rents which do not include clauses allowing rent increases. Notice periods apply to all private rented tenancies and are linked to the duration of the tenancy.

Rents in Finland have risen since deregulation, especially in the Helsinki region. Equally, since deregulation the size of the sector has increased in absolute and, to a limited degree, in relative terms. This growth is seen as related to conditions in other tenures as much as in private renting.

**Sweden**

The rent at the start of a tenancy in Sweden is negotiated between the parties to the contract but certain mandatory rules can require that the rent is subject to review if rent control legislation is breached.

Today the rents in Sweden are determined through a utility value system (bruksvärdessystem), which sets the reasonable rent for an apartment. Section 55 of the Swedish Tenancy Act states that the rent cannot be considered to be reasonable if it is substantially higher than the rent for units of equivalent utility value.85

The utility value relates to the “qualities of the apartment.”86 Tenants can refer ‘excessive’ rent levels to a regional Rent Tribunal for determination if agreement cannot be reached with the landlord.

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83 [Netherlands Government website](https://publications.parliament.uk/pa/ld199294/ldvidence/94726/94726.pdf) [accessed on 11 February 2019]
84 Ibid.
85 Norberg, Per; Juul-Sandberg, Jakob, [Rent control and other aspects of tenancy law in Sweden, Denmark and Finland](https://research Diablo.com/x/99/Swedia_Denmark_Finland_tenancy_law), 2016
Germany

The historical level of private renting in Germany is difficult to establish due to reunification and the close relationship between social and private renting but it is thought that the sector has remained relatively stable.\(^{87}\) Peter Westerheide, in an LSE study, commented that:

> The private rented sector in Germany has some unique characteristics compared to other countries. In particular, renting is not seen as an inferior housing option but as a fully accepted alternative to owner occupation. This is particularly the case in cities where the majority of private households live long periods of their life or even their whole lives in a rented apartment or house. German households’ propensity to rent can be partly explained by a strong regulatory framework, which gives tenants a high degree of security but also by a long tradition of renting as ‘the standard option’ amongst all groups in the population.\(^{88}\)

After 1971 initial rents were not strictly regulated, though they were prevented from exceeding the rents for comparable dwellings in the same area by more than 20%. Rents could be increased during a tenancy — within a maximum of two years and not by more than 20% within a three-year period — if they were demonstrably below the local rent levels for comparable dwellings.\(^{89}\)

In 2012 Professor Whitehead concluded that:

> …regulation in the [private rented sector] is generally perceived as beneficial to tenants without being harmful to landlords. Fiscal incentives have been widely used to encourage investment in the [sector] and privately rented property is a common form of pension provision. The effects of cuts to depreciation allowances in 2006, together with more recent reorganisation of the subsidy system and pension structure, may however lead to some reduction in the private rented sector.\(^{90}\)

In 2015, a new rent regime known as the Mietpreisbremse (“rental price brake”) came into effect in certain German property hotspots, referred to as “tight housing markets”, which limits rents on new lease agreements for previously let properties. These hotspots were initially the cities of Berlin, Munich and Düsseldorf, but the brake now applies in more than 300 cities and municipalities.\(^{91}\) The German Civil Code (Section 556d f) provides that rents in tight housing markets “must not exceed the local comparative rent by more than 10 per cent at the start of the lease agreement.”\(^{92}\) The “brake” does not apply to newly-constructed properties nor those that are extensively modernised. An

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\(^{91}\) Emeritus Professor Whitehead C; Williams P: *Assessing the evidence on Rent Control from an International Perspective*, Residential Landlords Association, October 2018, p22

\(^{92}\) Ibid.
exemption applies if the rent has already been 10% above the local comparative rent.93 Also in 2015, the allowable increase for existing tenancies was reduced from 20% to 15% in the hotspot areas.94

Assessing the evidence on Rent Control from an International Perspective observes:

Despite the introduction of rent control, the housing markets in major cities have not shown any noticeable signs of easing, causing many to doubt the instrument’s effectiveness. Issues relate to the definition of tight housing markets; to what is really a comparator rent; and to whether the controls are being followed and enforced. These are very similar issues to those raised in the French context.95

New York City

The New York State Homes and Community Renewal (HCR) is the state agency responsible for administering the rent regulation laws in New York City. There are two aspects to rent regulation in NYC – the first is traditional rent control which applies to a minority of tenants and the second is rent stabilisation which applies to around one million dwellings.96 As noted earlier in this paper, rent controls usually limit the rent that can be charged to sub-market levels while rent stabilisation tends to limit the frequency and/or size of rent increases by linking them to inflation or interest rates. The Rent Guidelines Board (RGB) determines the maximum allowable increase landlords can charge for a one or two-year lease. It also sets a maximum increase when a change in occupancy occurs. The factors the RGB must take into account in determining rent increases can be found on the RGB website.

To benefit from rent control in NYC the tenant must live in a building built before 1947 and occupied by the same family since 1 July 1971. Family members can pass on the tenancy, but the new tenant must have lived in the dwelling for two years before the previous tenant dies or leaves. Rent controlled apartments become rent stabilised when vacant, aside from buildings with fewer than 6 units – these are removed from the programme.

There are no set requirements for an apartment to qualify as rent stabilised but most are in 6+ unit buildings built before 1974 and were priced below $2,000 before 2011 or below $2,700 in 2017. Once the rent reaches a certain level (currently $2,700 per month) or if the tenant’s annual income exceeds $200,000 in two consecutive years, the landlord can deregulate the apartment and bring it up to market-rates. The number of rent stabilised dwellings has fallen “by more than 151,000 units from 1994 to 2015”.97

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93 Ibid., p23
94 Ibid., p22
95 Ibid., p23
96 NYC Rent Guidelines Board webpage [accessed 11 February 2019]
97 Emeritus Professor Whitehead C; Williams P: Assessing the evidence on Rent Control from an International Perspective, Residential Landlords Association, October 2018, p24
A full series of fact-sheets on rent control/stabilisation in NYC can be found [online]. There is a fact-sheet on Rent Stabilisation and Rent Control (updated December 2018).

France

The information below is taken from Assessing the evidence on Rent Control from an International Perspective (2018):

In 2014 new regulations were put in place. A Rent Observatory which provides the evidence for determining allowed rent increases. The main regulation requires that re-let rents cannot rise above the indexed rent of the previous tenant. Only first lettings are therefore market determined. In addition, in Paris and other pressured cities it was possible to limit rents on new leases to no more than 20% above the median rent for the same type of property in the same type of area. The expert view was that these two measures taken together effectively freezes rents and rents would be disconnected from rates of return. This second rule was only adopted by Paris and Lille.

In October 2017 the second of these rules was annulled from December 2017 after the courts ruled against it in both cities. The first rule is still in force and acts particularly to limit rent increases on larger units which have lower turn-over rates. So far there is little evidence of impact. However, the government intends to review the position in 2018.98

There have been reports of rent increases in Paris since the ruling.99 However, some websites had reported that the rent caps in Paris and Lille had had a limited impact due to non-implementation by landlords. Estate agents were reportedly resistant to providing information on rent levels to assist in determining the median rent:

In addition, there is a growing resistance by estate agents to provide the rental observatory set up by the government to create loyers de référence with details of rents in the properties managed by them. Without the statistics provided by the agents it is difficult to see how the reference rents can be created.100

5.2 Some further reading

European examples of rent regimes

Regulation of the Private Rented Sector in England using Lessons from Ireland, Moore, T. and Dunning, R. April 2017, York: JRF, 24

EU critical of Govt’s help-to-buy and rent cap schemes, RTE, 8 March 2017 (Ireland)

New Irish rent controls to cap increases in major cities, Reuters, 13 December 2016

Distributional price effects of rent controls in Berlin: When expectation meets reality, Econstor, November 2016

The Rent Is Now Somewhat Less High in Paris, Citylab, 3 August 2016

98 Ibid., p21
99 The Local, Rent prices soar in Paris in six months since rent caps were scrapped, 19 July 2018
100 French Property.com: Rent controls in France, 8 September 2017 [accessed 12 February 2018]
Market break or simply fake? Empirics on the causal effects of rent controls in Germany, German Institute for Economic Research, 2016

Rent control and other aspects of tenancy law in Sweden, Denmark and Finland, Syddansk Universitet, 2016

Do rent controls work?, Economist, 31 August 2015

An answer to Britain’s housing crisis? Berlin is first German city to introduce rent control, Telegraph, 2 June 2015

The Austrian Rent Control system and its effects on economy and society, International Union of Property Owners, January 2015

The Private Rented Sector in the New Century - A Comparative Approach, Cambridge University, September 2012

USA: examples of rent regimes
Rent control increases rents, Adam Smith Institute, 12 January 2018 (includes reference to San Francisco)

Why New York-style rent controls would not work in London, Conversation, 30 March 2016


Other comparisons
Renting property: How does it compare around the world?, The Guardian, 21 April 2018

How Rent Controls Work In Other Countries, Londonist, 2 January 2014 (San Francisco, Germany & Paris)

Housing Markets and Structural Policies in OECD Countries, OECD, January 2011

Economic impact of rent control/regulation
Rent controls are back in vogue. Can they make London affordable?, The Economist, 31 January 2019

Rent control increases rents, Adam Smith Institute, 12 January 2018

Why rent controls are no silver bullet to solving housing crisis for priced-out millennials, The Independent, 25 February 2018

Want More Affordable Housing? Build More Housing, and Don’t Impose Rent Controls, Foundation for Economic Education, 20 February 2018, pp8–9
Rent control could deepen the housing crisis in UK’s most expensive cities, Centre for Cities, 2 October 2017

The effects of rent controls on supply and markets, Cambridge Centre for Housing and Planning Research, May 2015

The flaws in rent ceilings, Institute of Economic Affairs, September 2014

Rent Control: Do Economists Agree?, Econ Journal Watch, vol. 6 no. 1, January 2009, pp 73-112


Rent regulation: A conceptual and comparative analysis, European Journal of Housing Policy, 2001

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