This practice briefing paper is part of a series which seeks to bring clarity to complex housing concepts, issues, systems and processes. This edition provides suggestions aimed at improving regulation and enforcement in the private rented sector (PRS).
Background

Local authorities currently face the challenge of meeting rising demand for their services with limited resources. There has been widespread criticism regarding the inadequacy of current enforcement activities against landlords in the UK PRS. Research on enforcement in the PRS has however only focused on formal or “deterrence-focused” regulation and fails to account for the broader range of activities and approaches that are important in achieving compliance. This briefing draws on findings from an in-depth qualitative research study carried out with 13 UK local authorities and key stakeholders to provide information that can be used to help make decisions on regulating the PRS.

What shapes compliance?

The number of prosecutions or other formal enforcement activities are not appropriate measures of success. The goal of regulation is not simply to secure prosecutions, but to improve standards by achieving landlord and letting agent compliance with the law. The question then becomes: what shapes compliance? This question has important policy and practical implications. If regulators have a very narrow understanding of what affects landlord behaviour this could lead to ineffective responses.

Parker and Nielson: **14 factors that shape compliance:**

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<th>Spontaneous compliance factors</th>
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<td>1. Social and economic costs and benefits</td>
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<td>2. Degree of acceptance of the regulation</td>
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<td>3. Respect for the law in general</td>
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<td>4. Existence of non-official influence over the target group’s compliance</td>
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<td>5. Business model</td>
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<td>6. Knowledge of the rules</td>
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<td>7. Capacity to comply</td>
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<th>Enforced/deterrence compliance factors</th>
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<td>8. Respect for the regulator</td>
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<td>9. Risk that any rule violation will be reported to the authorities</td>
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<td>10. Risk of inspection</td>
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<td>12. Selectivity of inspection and detection by regulator</td>
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<td>13. Risk of sanction</td>
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<td>14. Severity of sanction</td>
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Parker and Nielson’s 14 compliance factors encourages us not to focus only on the characteristics of formal enforcement. Rather compliance must be understood as shaped by a broader range of factors which affect behaviour. This suggests that a blend of different responses and tools are necessary to improve standards in the sector.

Much regulatory activity in practice is not focused on formal deterrence-focused approaches. More informal compliance-orientated activities can, in a range of circumstances, be more effective. Compliance-orientated activities include dedicated advisory services, landlord training, information, accreditation schemes, newsletters and landlord forums.
Regulating the PRS: 4 approaches

Our findings suggest at least four approaches to enforcement are currently being adopted by UK local authorities:

**Light-touch approaches:** these local authorities are unlikely to make use of formal powers and aim to gain compliance primarily through advice, persuasion or information. It is not always clear if or when the response will be escalated if compliance is not forthcoming. This approach is problematic. An over-reliance on informal activity will leave vulnerable tenants unprotected and is likely to be exploited by a small minority of landlords.

**Hard-line approaches:** these local authorities prioritise taking strict action and consider prosecutions to be a sign of success. Officially no informal approach is adopted and limited compliance-focused activities are provided. This approach is also problematic. To be effective it requires: substantial resources; adequate reporting of problems by tenants; ability to easily gain access to properties; and sufficiently severe legal sanctions. These conditions currently do not exist in the UK PRS. Focusing mainly on punishment can also have a negative impact on the degree to which landlords accept the regulation and respect the local authority. Parker and Nielson’s 14 compliance factors show that these are key aspects which shape the likelihood that landlords will obey the law.

**Compliance-focused approaches:** these local authorities are open to using formal tools where necessary, but the primary focus is on helping landlords comply. Whilst the response will be escalated to formal action where necessary, prosecutions are not seen as a sign of success in and of themselves. A wide range of compliance-focused activities are provided regularly, systematically and addressing the sector at large. This approach draws on the principles of responsive regulation.

**The pyramid of responsive regulation**

In responsive regulation, advice, support and assistance are applied as strategies of first choice and it is here that the bulk of regulatory activity takes place. If the landlord does not comply then the response escalates up the pyramid to more formal action.

Our evidence suggests that whilst the practices of responsive regulation are adopted by some UK local authorities, only occasionally does it form an explicit part of the enforcement strategy. This has important implications for consistency, fairness and transparency in the application of law, particularly regarding escalation and de-escalation. Unlike for Rent Smart Wales, where escalation is informed by clear organisational policies and procedures, in most participating local authorities this was left to the discretion of the individual officer.
Creative approaches: some local authorities are adopting new or creative regulatory approaches to improve their PRS. These councils are distinctive in their understanding of the issue and possible solutions. Poor standards in the sector are seen as part of a more complex reality, with issues related to tenant vulnerability, area deprivation, and homelessness comprising key parts. Key priorities include strong partnership working, a tenant-focused approach, developing new models of integrated service delivery, innovative use of data, and homelessness prevention. These approaches provide examples of the benefits of adopting a more holistic and systems-based approach to regulating the sector.

Creative approaches: Case study 1
This local authority addresses standards in the PRS by situating housing in the prevention element of an ‘integrated care’ NHS strategy. NHS hospital admissions data and Indices of Multiple Deprivation data were mapped onto the housing conditions survey to gain a general idea of where the best and worst quality housing and the tenants most in need of support were located. This is used to help target enforcement activity and welfare support for tenants: for example, it facilitates getting the welfare rights team into those properties to ensure tenants are getting the maximum benefits to which they are entitled. An additional aim of this data initiative is to build support among local councillors by illustrating the incidence of poor standards in the sector.

Creative approaches: Case study 2
In this authority housing enforcement is part of a multi-agency, holistic approach that aims to address not only housing standards, but also other issues that tenants encounter (e.g. benefits, health). The approach is proactive and aims to support vulnerable people or those who may be unwilling or unable to reach out for support. Interventions to address poor housing conditions are part of an area-wide initiative to tackle deprivation which is run by a multi-agency team which includes trading standards, police and DWP officers who are co-located with housing services. Bringing these disparate teams together has helped to create innovative solutions to tackling issues relating to trafficking, modern slavery, and overcrowding.

Creative approaches: Case study 3
This local authority has placed tenant well-being rather than property standards at the centre of their approach. A data analyst was commissioned to carry out stratified population analysis to explore neighbourhood deprivation and focus their work on those most in need of support. When visiting properties staff seek to identify interrelated issues tenants might be facing and provide support by, for instance, signposting or referring them to other organisations. Because they received training from a wide array of organisations, officers can identify problems and draw on external services where needed. The team also receives referrals from other services. Links has been developed with school liaison officers, health visitors, adult social care, police officers, community groups, doctors and housing options services. The team aims to increase awareness of how to detect and report issues such as poor property conditions, unlicensed HMOs and tenants in need of support.

Developing an effective approach to regulating the UK PRS
Our findings suggest that many local authorities are not active in regulating the sector and a significant culture change is needed. Councils need to accept the PRS as an important player in their local housing market that demands strategic thought and organisation.

Strategic approaches are however only as meaningful as their practical application. Adequate resource investment, strong political support, clear leadership and robust enforcement policies are key in developing successful approaches in managing the sector.

To develop an effective approach, local authorities should not only consider issues relating to formal enforcement, but
also appreciate the value of the following broader regulatory techniques:

**Aims and purpose:** When developing an approach to regulating the sector, local authorities should adopt an overarching goal, clear aims and objectives, and an explicit definition of the problem they are aiming to address. Key questions to ask include: does our understanding of the problem capture all relevant dimensions? Is our response complex enough to address the complexity of the problem(s) we are experiencing?

**Holistic thinking:** A widely recorded phenomenon is that housing problems often occur alongside other issues. Tenants with housing disrepair issues may well also be experiencing other problems. Local strategies and approaches need to reflect the needs of private renters and consider the specific issues experienced by vulnerable tenants. A tenant-focused approach should be adopted by, for example, improving signposting and referral pathways.

**Multi-agency working:** building effective partnerships with a range of potential partners is key to developing a more coherent and holistic approach to regulating the sector. This is important not only for identifying non-compliant landlords or letting agents but also to identify and provide support for vulnerable claimants.

**Internal organisation:** local authorities need to consider the role of enforcement officers and the way in which PRS teams are configured. Local authorities should integrate and, wherever possible, co-locate landlord registration alongside other housing services. Adequate consideration should be given to how different departments that address PRS related issues are aligned and work collaboratively. Developing close working relationships is key to dismantling departmental siloes that can pose barriers to effective working.

**Demonstrating outcomes and impacts:** Situating outcomes at the centre of the approach adopted can help local authorities move away from the more traditional output-focused approach. Once the ultimate aim or goal has been agreed, local authorities will need to make an evidence-informed decision on the desired outcomes: the broader changes or benefits that they anticipate will result from enforcement activities. Outcomes should be regularly communicated to landlords and letting agents as part of building a positive relationship with the sector.

## Improving compliance-focused approaches

An exclusive focus on formal enforcement overlooks some of the most important aspects of the work of local authorities. In addition, certain characteristics of the UK PRS indicate that less interventionist measures will often be preferable.

Parker and Nielsen’s 14 compliance factors show that knowledge of the rules and capacity of landlords to comply are key factors which shape compliance. These factors are particularly salient in the UK PRS; lack of awareness of the rules among small landlords was highlighted by several authorities as the paramount challenge. The promotion of good practice and the provision of information should be the main strategic and operational priority for non-compliant landlords who unintentionally violate the rules.

The following key principles and approaches may help to facilitate the effective use of compliance focused-activities:

**A balanced approach:** Whilst compliance-focused and deterrence-focused/formal activities exist at opposite ends of the spectrum they are not binary options. Strategies focusing exclusively on compliance or deterrence are unlikely to be effective. Local authorities should aim to combine both approaches. Less interventionist measures must however operate within the shadow of the law, where formal enforcement represents a viable and credible option.

**A strategic approach:** less interventionist measures are likely to be most effective when designed and delivered at a strategic level as part of a proactive approach. Ad hoc communication with individual landlords can only reach a small proportion of the landlord population: consequently it can only have a limited impact. In Scotland it is imperative that local authorities properly use the national registration scheme to communicate with and upskill the sector. In Northern Ireland these issues warrant consideration at a national level.

Rural communities may have difficulty provided compliance-focused activities at scale. One of the challenges highlighted by the ongoing COVID-19 crisis is to find ways to provide advice and support at a distance. We invite local
authorities to be aware of the various options and learning gained regarding the use of digital technologies in providing advice, not simply during this time of social distancing but as a future mechanism for overcoming some of these challenges of physical distance.

**Evidence-informed:** The role and functioning of the private rented sector varies between local housing markets. Consequently, the various regulatory tools available are likely to impact upon the sector differently and regulatory strategies will need to be tailored in the light of local context.

In areas with a high level of intentional criminality it may be necessary to focus on the highest risk. However, this approach may lead to a significant amount of non-compliance remaining unaddressed. Inadvertent non-compliance may still cause significant harm in the lives of tenants, and in these areas compliance-focused activity must still form part of the overarching regulatory approach.

**Considering prevention:** Many local authorities adopt a traditional and relatively reactive approach to regulation: enforcement action occurs in response to intelligence that a dangerous activity or harm has occurred. The development of new compliance-focused approaches – such as the introduction of a landlord helpline in Northern Ireland – suggests a growing concern with the prevention of harm in the first place. These initiatives could potentially reduce the level of non-compliance from inadvertence and thereby prevent more costly enforcement action.

**Responsive Regulation:** For authorities exploring responsive regulation, compliance is most likely when an explicit enforcement pyramid is designed and communicated to the sector. This illustrates a local authority’s desire to work constructively with landlords in the first instance and their ability and willingness to apply sanctions that are less drastic – and therefore more realistic – than prosecution. At the same time, it gives clarity regarding the circumstances in which the local authority will choose immediate escalation to more formal action. A clearly articulated enforcement pyramid can lead to less inconsistency and greater procedural fairness in the approaches adopted by officers. Rather than escalation, or de-escalation, being applied at the discretion of individual enforcement officers, this should be part of the enforcement strategy.

### Recommendations for policy

An accompaniment policy briefing outlines our recommendations for UK and devolved governments to ensure regulation in the sector can be effective.

### About the project

This project is part of a wider programme of work on issues relating to developments in, and the operation of, the UK private rented sector. The broad objective of the programme is to contribute to improving standards in the UK PRS. The work is funded by the TDS Charitable Foundation and SafeDeposits Scotland Charitable Trust. Read the full project report on the CaCHE website.

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