UK COLLABORATIVE CENTRE FOR HOUSING EVIDENCE

The impact of regulatory reform on the private rented sector

Alex Marsh*, Kenneth Gibb**, Nicholas Harrington**, and Bob Smith***

* University of Bristol, ** University of Glasgow. *** Cardiff University

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About the authors

Professor Alex Marsh is a Co-Investigator for the UK Collaborative Centre for Housing Evidence (CaCHE) and Professor of Public Policy at the School for Policy Studies, University of Bristol.

Prof Ken Gibb is Director and Principal Investigator of the UK Collaborative Centre for Housing Evidence (CaCHE). He is Professor of Housing Economics (Urban Studies) within the School of Social and Political Sciences at the University of Glasgow. He was formerly the Director of Policy Scotland and the University and was Co-director of What Works Scotland.

Dr Nicholas Harrington is a Research Associate for the UK Collaborative Centre for Housing Evidence (CaCHE), and research associate for the School of Social & Political Sciences (Urban Studies), University of Glasgow

Dr Bob Smith is the Knowledge Exchange Broker for Wales in the UK collaborative Centre for Housing Evidence (CaCHE) and an Honorary Senior Research Fellow in the School of Geography and Planning at Cardiff University.

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Executive Summary

Context and study aims

The Department of Levelling Up, Housing and Communities (DLUHC) is piloting legislation that will reform the regulation of the private rented sector in England (the Renters (Reform) Bill, 2023). All regulatory changes have the potential to influence the operation of a market. The question is the nature and extent of those changes and the market responses they elicit. This report aims to review the evidence regarding the impacts that regulatory change in the private rental market might be expected to have on housing supply, quality, landlords' investment/disinvestment decisions, and other important societal outcomes. The focus is on non-price regulation.

The core research questions are: (1) What are the findings of research undertaken over the past twenty-five years on the relationship between regulation of the private rented sector and landlord investment behaviours? (2) Is there empirical evidence that non-price regulation of the private rented sector results in disinvestment?

The full report has six main sections. Section 2 provides a brief account of: the current state of the private rented sector (PRS) in England; the potential impact of regulation on investment; and recent policy developments. Section 3 is a summary of the method adopted (further discussed below). The fourth section is a discussion of the methodological challenges facing the empirical literature seeking to assess regulatory impacts. These are challenges which have implications for the extent to which the findings of the reviewed papers can be interpreted as speaking to this study's core research questions. The next two sections move on to look at the main findings from the review differentiating between direct (section 5) and indirect (section 6) evidence. Section 7 presents the report's conclusions.

Methods

The approach to the evidence review involved focusing on research post 1995, on the grounds that, for the UK, this date marked the advent of Buy to Let and assured shorthold tenancies as the default, critical to the rapid unplanned growth of the PRS. The evidence search was based on the UK nations and suitable comparable OECD countries, with all publications in the English language. The evidence search drew on two digital databases: SCOPUS and the Web of Science. Searches were performed on titles, abstracts and keywords ('private rental reforms', private rental regulation', and 'private rented regulation'.

Once the keyword search database returns had been screened for duplicates, 1,108 papers that had the potential to be relevant remained. Following a manual screening, 115 research papers remained. All abstracts were then categorised as high suitability, secondary suitability, or unsuitable. The references and footnotes of the highly suitable papers were then reviewed to identify any research material absent from the major databases ('snowballing'). Following the screening of abstracts and snowballing, 46 highly suitable and 29 secondary suitable research papers (75 paper) remained to be examined in detail.

Conclusions

The systematic evidence review has not identified any robust direct evidence that non-price regulation of the private rented sector causes aggregate disinvestment. It did, however, uncover a range of evidence regarding non-price regulatory reforms that have not been associated with aggregate disinvestment in the PRS or with other negative market outcomes. In light of this observation, one might conclude that if increased regulation had a negative impact on investment then, at least for these particular regulations, it was not so strong as to counteract or overwhelm the incentives to continue to offer property for rent.

It bears noting that much of the literature that has been reviewed does not engage closely with the range of methodological challenges that were summarised in section 4. The remainder of this summary sets out more fully the logic of an argument, based on the available evidence, that non-price regulation is not a significant driver of disinvestment.

Given the available evidence, analysts in this field are faced with something of a problem. On the one hand, it is possible to report with confidence that a survey of the last twenty-five years of research into non-price regulation of the private rented sector has not produced any direct evidence that such regulation causes disinvestment. On the other hand, it was only possible to locate a single piece of research that makes the direct claim that regulatory change does not cause disinvestment in the PRS.

Is it appropriate, in this situation, to err on the side of ambiguity and concede that in the absence of evidence both propositions – that regulation does/does not cause disinvestment – are equally likely? That would be unsatisfactory. Instead, a logical framework is proposed with which to compare, contrast, and weigh the available evidence to arrive at a clearer conclusion. The logical framework takes the following syllogistic form:

1. If one cannot find evidence that X is the cause of Y, does one find evidence that X causes the opposite of Y?;

2. And, if one cannot find evidence that X is not the cause of Y, does one find evidence for an alternate cause for Y?;

3. Since, if one finds evidence that X causes the opposite of Y and, additionally, one finds evidence for an alternative (non-X) cause for Y;

4. Then, one has a strong claim based on the evidence that X does not cause Y.

Translating this argument into the current context, the following statements can be made:

1. One does not find evidence of non-price regulations being correlated to disinvestment in the PRS, but one does find evidence of regulations being correlated to periods of investment in the PRS.

2. One does not find evidence that non-price regulations can be correlated to a period of disinvestment in the PRS, but one does find evidence of something other than regulations (not-regulations) being correlated with disinvestment in the PRS.

Finally, although there is only one study that directly investigates the relationship between regulations and disinvestment in the PRS, numerous studies were identified that investigated this relationship within a subsector of the PRS – i.e., the short-term rental market. This leads to a third statement:

3. One does not find evidence that regulations can be correlated to a period of disinvestment in the PRS, but one does find evidence that regulations were not correlated to disinvestment in a sub-sector of the PRS.

Proceeding now, through the evidence collected during the review, one finds that statement 1 can be confirmed: the history of the United Kingdom's private rented sector over the past twenty-five years shows empirically that regulatory reforms are correlated to an extended period of investment and growth in the PRS. The UK's private rented sector has grown significantly in the past two decades, increasing from 2 million households renting in 2000 to 3.8 million households in 2011/12, to 4.7 million households in 2017/18 (RLA 2018, 4). Growth of the sector has continued despite the introduction of the range of additional regulatory requirements summarised in section two. This is not a new phenomenon nor a novel argument.

Turning to statement 2, one finds this too can be confirmed: research into landlord behaviour and investment motivations finds that the decision to sell and disinvest from the PRS is driven by personal circumstantial factors such as realising capital gains or attaining retirement age. Where policy and regulatory changes feature in landlord decision making, post-2015 tax changes are typically cited by landlords as a more prominent concern than other regulatory changes, although further multivariate analysis of the impact of these tax changes would be valuable. Finally, one finds that observation 3 can also be confirmed: extensive research finds that despite the often burdensome regulation of the short-term rental submarket, after a period of approximately 18 months, growth and expansion beyond prior limits returns.

The logic of this argument notwithstanding, it likely has limits. While non-price regulatory reforms of the types thus far introduced were accompanied by continuing sectoral growth, there are likely to be some forms of regulatory intervention that are sufficiently burdensome as to precipitate disinvestment. Papers included in the review indicated that strong rent controls likely fall into this category. But if there is a limit in relation to the stringency of non-price regulation then it has yet to be explored.

Finally, considering the body of evidence presented within this logical framework, the 2022 study prepared by AHURI that addresses the disinvestment question directly, as well as the absence of any countervailing data, this report can conclude with a degree of confidence that, excepting perhaps radical changes of a type not currently under discussion, non-price-control regulations do not appear to have any statistically significant influence on aggregate disinvestment in the private rented sector.

1. Introduction

The Renters (Reform) Bill 2023 proposes a suite of significant changes to the regulation of the private rented sector in England. All regulatory changes have the potential to influence the operation of a market. The question is the nature and extent of those changes and the market response they elicit. In order to inform ongoing policy discussion, this report aims to review the evidence regarding the impacts that regulatory change in the private rental market might be expected to have on housing supply, quality, landlords' investment/disinvestment decisions, and other important societal outcomes.

There has been historically, and recently, much interest in the academic and policy literature in the way that changes to price regulation – that is, rent controls of various kinds - can affect market outcomes (see Gibb et al, 2022, for a review). There has been less concern with the possibility that market outcomes may be altered as a result of changes to regulations regarding tenancy law, security of tenure, the relative ease of repossession through easing the grounds for eviction, tightening statutory requirements on landlords and letting agents, and other issues related to deposits, energy efficiency, property standards or the right to repair. With the current housing bill seeking to bring about regulatory change to the English private rented sector, it is timely to ask what evidence there is regarding the impact of non-price regulatory change on key market outcomes. These non-price regulations and the related evidence are the primary focus of this report.

The central policy concern is that reforms that aim to improve standards and enhance tenant security, but which in the process are perceived to increase the regulatory burden, will lead to a range of unintended and undesirable consequences. In a context where rental housing supply is already under pressure in many local housing markets, a key question is whether there is evidence that regulatory reform will result in disinvestment, market exit, and a reduction in rental supply.

The core research questions addressed in this report are:

1. What are the findings of research undertaken over the past twenty-five years on the relationship between regulation of the private rented sector and landlord investment behaviours?

2. Is there empirical evidence that non-price regulation of the private rented sector results in disinvestment?

The term "disinvestment" can be applied at two levels: (a) individual landlord decision-making, and (b) the trend in the total volume of stock in the private rented sector. When applied to the decisions of individual landlords, disinvestment describes a situation where there is a net reduction in the number of properties they own, including exiting the market entirely. Critically, however, individual-level landlord disinvestment does not necessarily imply disinvestment in the private rented sector (PRS) at the aggregate level. The property being sold could be added to the portfolio of another landlord. Or, at the same time, while one landlord exits the PRS another landlord may be entering the sector and/or adding stock to their portfolio. Only if disposals of private rented properties outnumber acquisitions in a given period would we observe aggregate-level disinvestment. In such a situation, the PRS would be contracting and, as such, subject to disinvestment. A slowdown in the rate of growth of private rental supply could be a leading indicator for aggregate-level disinvestment.

There is particular policy interest in any evidence related to recent regulatory changes in England. The Tenant Fees Act 2019 circumscribed the scope for supplementing rental income with additional charges. If it were not possible to recoup these fees through rent increases then overall financial returns may have been reduced. This could have affected landlords' and letting agents' decision-making. The Homes (Fitness for Human Habitation) Act 2018 requires landlords to offer property that is continuously of habitable standard. Arguably this is not substantively a new requirement, but the Act reaffirms it and raises its profile. If landlords who had previously let properties below the requisite standard have changed their behaviour because of this new legal framing then they could perceive regulation to have become more burdensome. This could affect their decision-making. However, these are relatively recent legislative initiatives and no published empirical studies could be identified that seek to assess their impacts.

The systematic review of the existing literature conducted for this project revealed that the impact of non-price regulation on investment behaviours is a strikingly under-researched topic in the context of peer-reviewed scientific material. The search identified only one journal article and one research report, drawing on Australian data, that explicitly investigated the 'relationship between regulation of the private rented sector and disinvestment' (Hulse and Goodall, 2023; Martin et al., 2022). The journal article is derived from the research report and therefore relies on the same data. The findings of this study are discussed more fully in section 5.

Given the paucity of work that addresses the core research questions directly, evidence has also been sought through careful interpretation of studies that investigated a variety of PRS regulations and their effects across different social and economic dimensions. For example, there is a body of UK and international work that has examined the market effects of regulating short-term rentals and, in particular, short-term rentals offered through the online platform Airbnb. These studies can offer insights since regulating short-term rentals is regulating a sub-sector of the broader PRS. If, for example, there was evidence that non-price regulation of the short-term rental sector resulted in disinvestment and a shrinking of the short-term rental sector, one might reflect on how this maps across to landlords' investment decisions elsewhere in the PRS. The boundaries between the subsectors of the PRS can be relatively porous: some landlords are willing to switch between the mainstream PRS and short-term letting, or towards the HMO subsector and then back again, in search of financial returns. Hence, regulation of one part of the market can change its relative attractiveness and cause the reallocation of investment. Policy changes affecting one market segment therefore carry implications beyond that subsector as impacts ripple out across not only the private rented sector but the whole housing system. The question is the size of these effects.

The report proceeds in the following stages. It begins with a brief account of the current state of the PRS in England and outlines recent policy developments (section 2). The next section provides a summary of the method adopted (section 3). This is followed by a discussion of the methodological challenges facing the empirical literature seeking to assess regulatory impacts (section 4). These challenges have implications for the extent to which the findings of the reviewed papers can be interpreted as speaking to this study's core research questions. The paper then moves on to look at the main findings from the review – the analysis differentiates between direct (section 5) and indirect (section 6) evidence - before drawing together some conclusions (section 7).

2. Market and policy profile

This section addresses three issues. It starts by providing an outline of the contemporary private rented sector in England. It then provides an overview of the evidence on landlord behaviours and motivations and where regulatory change features in decision making. Finally, it reviews recent policy changes affecting the PRS, with the focus on England. Two appendices to this report provide brief but more comprehensive overviews of the regulatory policy development of the PRS in Wales and Scotland, respectively.

2.1 The contemporary private rented sector in England

This section provides a brief profile of the contemporary private rented sector in England. It starts with aggregate indicators of tenure, size and composition and how these have changed in recent times, including regional variations. The discussion then moves on to rent levels and rates of change, noting where data gaps currently arise. This part of the analysis includes consideration of buy to let mortgages and build to rent investment. The next part of the section considers both demand groups and landlord types within the PRS. This emphasizes the point that the PRS is a highly segmented market. The section ends with a summary noting where available data is stronger and where it is relatively weak.

2.1.1 Tenure size and composition

The PRS has grown significantly in absolute terms but has been relatively stable proportionately in the last decade. After growing strongly from the mid 1990s following the advent of the Buy to Let phenomenon, since 2012 the PRS in England has fluctuated between 19% and 20% of all households (2021= 19%) (UKHR, 2023, Table 17b). In absolute terms, between 1991 and 2021 the PRS (dwellings-based) grew by 176% - from 1.767m to 4.876m dwellings – and now exceeds the entire social rented sector (UKHR, 2023, Table 22). Across the regions of England in 2021 the proportion of total households in the PRS varied from 15% in the North East and the West Midlands to 28% in London as whole (UKHR, 2023, Table 30b). In Inner London the sector accounted for more than a third of households (35%). The housing stock in the PRS is disproportionately flatted and terraced (UKHR 2923, Table 30c).

The 2022 White Paper provides a series of points to summarise the characteristics of the contemporary private rental market:

- It is a young tenure in terms of household composition – more than 2 in 5 living in the sector are under 35, although there is also growth in older households. The proportion of retirement age or older households has increased by more than a third in the last decade and now represents nearly 9% of all PRS households. Three in ten PRS households contain dependent children, an increase of half a million since 2005.

- Economically, just under three-quarters of PRS households work (58% full-time). 45% of PRS households have no savings. While just under 10% had sufficient savings to support a 95% LTV mortgage. In 2020-21 just over a quarter of PRS households (1.1m) received help with their rents from housing benefit.

- Private tenants pay more of their income in rent (31%) than related housing cost-to-income measures in the other main tenures (mortgagors average 18%; social tenants pay on average 27%).

- Private tenants stay in their current homes for shorter periods of time (4.2 years) than owners (16 years) or social tenants (10.8 years). One in five PRS homes is non-decent and, in 2020, the PRS had the highest prevalence of category 1 hazards (12% compared to 10% in owner-occupation and 8% in social renting). (DLUHC, 2022, pp.10-22)

Gibb (2023) highlights the segmentation of the PRS into different demand and supply groups. In an earlier paper, Gibb et al. (2019) distinguish a series of sub-markets: student housing, key workers, generation rent (who cannot access the main tenures), those seeking easy access accommodation, longer term housing for lower income groups unable or unwilling to access social housing. On the supply-side, Rugg and Rhodes (2018) distinguished four landlord models in England, based around the concept of landlord careers: those that are episodic; those who view landlordism as a pension plan; those that operates with a more formal portfolio investment approach; and those who, in the medium term, are likely to exit the sector. Rugg and Rhodes also distinguish three further sub-markets: the 'housing benefit' market, the market for temporary accommodation associated with homelessness interventions, and the 'shadow', often criminal, submarket (see also Spencer et al., 2020).

Gibb (2023, pp.25-26) draws on the 2021 PRS landlord survey to report that '43 per cent of landlords let one property only, 39 per cent let 2-4 units and 18 per cent let five or more' (p.25). While most landlords are small, the latter category accounts for a substantial proportion of total supply: providers letting 5 or more properties account for 48 per cent of all lets. Gibb also summarises the demand side dimension of PRS segmentation. This draws on the EHCS (and therefore relies on data collected prior to the cost of living crisis) and is reported in DLUHC (2022). Demand in the PRS is partitioning into six socio-demographic clusters:

- Comfortable renters (44%)
- Families getting by (17%)
- Low income savers (16%)
- Struggling families (11%)
- Vulnerable singles (10%)
- Older renters (3%).

The short-term rental sector has an uncertain relation to these types of PRS classification. However, as noted above, from the perspective of some landlords the boundary between the PRS and the short-term rentals sector is relatively porous and properties can be switched between short-term and more conventional rentals relatively easily. The impact of regulatory change upon the PRS will in part depend on the relative attractiveness of the short-term rental option and the transaction costs and feasibility of switching.

2.1.2 Rents and investment

According to the ONS, 'in England, private rental prices increased by 5.2% in the 12 months to July 2023. When London is excluded from England, private rental prices increased by 5.1% in the 12 months to July 2023. The figures are the highest annual percentage changes since these data series began in January 2006' (ONS, July 2023). 'Within England, the highest annual percentage change in private rental prices in the 12 months to July 2023 was in the West Midlands, Yorkshire and the Humber, and London, at 5.5%, while the North East saw the lowest (4.6%)' (ONS, July 2023). The 2022 White Paper (DLUHC, 2022) draws on survey evidence to report contemporary national and regional rent levels in England. It found wider regional disparity in monthly rents in 2020 and 2021: England as a whole stood at £898, while monthly rents were £572 in the North East and as high as £1,597 in London.

We can make reasonable judgments regarding the situation in terms of rents, via the ONS index, for the PRS at national and regional levels of aggregation. Capturing rent levels and rates of change at sub-regional level, however, remains difficult. Almost all data below regional level stems from advertised rents offered for new lettings. While this is important information it is misleading to analyse rental market dynamics as a whole without taking account of the much larger stock of untraded rental properties. The rents on many of these properties do not change until tenancies are vacated, subject to local market pressures and landlord behaviour. Accounts of PRS rents in specific markets therefore need to be treated with caution because they are often only based on adverts for new lets or, indeed, on individual anecdotes. This is the single most important weakness in our knowledge of the PRS[1].

2.1.3 Knowledge gaps and imperfections

There are several areas where evidence is patchy, missing or insufficiently robust to generalise from. Several of these factors speak directly to the objectives of this paper. Below we summarise three key evidence gaps:

- Rent information, especially at local market levels. While we now have considerable geo-coded and accessibility data on new rents and rent offers or rent adverts, as a result of the rich databases compiled by organisations such as Zoopla and Rightmove, there is much less rental information on contract, or existing or ongoing, within-tenancy rents and how they change. ONS has made considerable leaps forward with rental analysis incorporating both new and existing rents at higher levels of aggregation. They are rolling out a more disaggregated rent model for each part of the UK over the next 2 years. This will make a considerable positive change. It should help clarify what is being measured and discussed in media reports and market analysis.

- Landlord behavioural responses remain to be fully explored. How landlords are responding to market change and aspects of financial, tax, legal and regulatory pressures is rarely quantified and often anecdotal. When thinking through how supply might respond to change, in the absence of robust evidence policy makers and analysts frequently have to rely on theoretical assumptions or beliefs.

- A contemporary illustration of the lack of knowledge concerns the specifics of the nature and extent of 'landlord exit'. While there are repeated reports of significant numbers of landlords leaving the sector, such reports are not always solidly empirically based. Moreover, when individual landlords disinvest we do not have good evidence on what happens to the housing units involved. An individual landlord may reduce their holding but their properties may be sold to other private landlords, or into owner-occupation, or 'bought back' by social landlords, or moved to other non-market provision (e.g. temporary accommodation), or go into short term lets. Properties may simply stay empty. We do not know the distribution of these outcomes and we do not know how they interact in different local market contexts. The current state of our behavioural knowledge means that we do not have a strong understanding of what constitutes normal churn in and out of market and therefore to identify, in contrast, the result of single or combined factors pushing landlords away and leading to aggregate-level disinvestment.

[1] We note that the ONS is currently working on a disaggregated localised version of their rent price model for the PRS based on a weighted combination of rent adverts or new rent offers and contract or existing rents.

2.2 Landlord motivations and behaviours

The impact of regulatory reforms depends on where regulatory change sits in landlords' investment decisions, which in turn raises the larger question of landlord motivations and behaviours. At the macro level, the research literature indicates that there are systematic cross-national differences in landlord motivations and behaviours. For example, Kemp and Kofner (2010) examine the question of why deregulation has been seen as vital to the growth and health of the private rented sector in England, while Germany has a much larger private rented sector coupled with much more extensive regulation. They argue that part of the explanation lies in differences in landlord motivations – particularly in relation to time horizons and where the balance is struck between capital accumulation and short-term income maximisation. In their discussion of contemporary developments in Spain, Pareja-Eastaway and Sanchez-Martinez (2022) argue that a change in the profile of the landlord population towards more corporate landlords has the potential for growth in the private rented sector even though there has been an element of rent reregulation because the landlords entering the market operate with a different business model.

Empirical research with private landlords in the UK indicates diverse motivations. A relatively small minority of landlords operate with a business model that focuses primarily on rental income. Considerably more are investing for both capital growth and rental income (eg Scanlon and Whitehead, 2016). A substantial minority of small scale and individual landlords see landlordism as making a contribution to their pension. This implies that there could be lifecycle reasons for disinvesting. Given that the growth of Buy-to-Let landlordism is associated with a particular combination of economic and financial circumstances, there are quite strong cohort effects among landlords: that is, we might expect disinvestment by a cohort of landlords as they reach or move beyond retirement age (eg. Rugg and Wallace, 2021). How landlords balance rental income and capital growth in their business model can be contingent on the markets in which they are operating: in some submarkets and local markets with more stable house prices there is less emphasis upon capital growth and rental income represents a greater proportion of the overall financial return. Similarly, in local markets where the composition of supply changes to incorporate more commercial and/or Build-to-Rent landlords the relative prevalence of different business models will change and this could affect the way in which the market responds to changes in non-price regulation. Research on rent control in the US which has been able to disaggregate landlord responses to policy change has noted systematic differences in behavioural response by different types of landlord (Diamond et al, 2019).

While economic calculation is rightly at the heart of understanding private landlords' decision-making, it does not fully capture the richness of motivations and behaviours. Harris and Marsh (2022) draw on the academic literature on decision-making research to summarise the behavioural drivers in the UK PRS as follows:

- **Wider contextual factors:** This includes available resources, physical characteristics of buildings, the local housing market and local geographical factors. The wider regulatory framework including the availability of advice and information will affect landlords' competence or capacity to adhere to regulation.

- **Legal competence:** Legal competence is associated with landlords' knowledge or understanding of the rules and regulations.

- **Attitudes and orientations towards the law:** Views and orientations towards the law are likely to affect landlord decision-making. This may include their decision to remain or exit the market or their compliance with different regulatory requirements. Landlords may completely reject the right of the law to regulate their behaviour, or they may accept the applicability of the law in general but believe it to not apply to their situation, or in relation to certain activities.

- **Relational factors:** Interdependencies between landlords, letting agents, tenants and local and central Government, characterise the rental experience. These relationships are likely to be key in understanding the varied responses of different landlords.

- **Social-psychological factors:** Meanings and understandings will likely guide landlord decisions and behaviour, such as having an emotional attachment to a property, attitudes towards tenants (such as a concern for their wellbeing), conceptualisations of risk, and how a property is seen in light of a landlord's personal circumstances (e.g., as security for later life). These factors may be associated with different landlord characteristics. (Harris and Marsh, 2022, 19)

The period of the Covid pandemic and the way in which landlords approached supporting their tenants and handling rent arrears brought some of these broader relational factors to the fore (see eg. Watson and Bailey, 2021).

UK survey research which gathers information on landlords' short-term plans for their portfolios typically identifies diversity: some landlords will not have settled on a concrete plan, while some are planning for stability, some seeking to increase their portfolio, and others looking to scale down or exit the market (Rugg and Wallace, 2021; EPLS, 2022; Harris and Marsh, 2022). The proportion of landlords proposing to increase their holdings and the proportion proposing to scale down can be similar, although there may be discernible differences in the profiles of those increase and decreasing their holdings. When asked to provide reasons for scaling down or exiting the market, typically a substantial proportion of respondents identify recent or prospective tax, policy, and regulatory change as key to their decisions.

A challenge facing this type of research is that stated preferences are not necessarily a good guide to revealed preferences. It is relatively unclear the extent to which these stated plans are translated into behaviours and whether there are differences in the extent to which plans and behaviours align depending on motivation. For example, might it be that where disinvestment is part of a retirement plan there is a greater likelihood the plan will be realised, whereas a plan to disinvest in the light of prospective regulatory change may be revised when the details of the new regulations become apparent? Equally, and conversely, evolving events may override plans for portfolio stability or expansion and trigger the unanticipated need for disinvestment.

Looking at the international empirical literature on landlord motivations can enrich this picture further. In 2009, the Australian Housing and Urban Research Institute (AHURI) interviewed 100 landlords across the three biggest real estate markets in Australia. The authors sought to understand how the "motivations, expectations and experiences of rental property investors shape investor behaviour" (2009, 1). The study's top-line insight was that capital gains motivate property investors far more than any other factor. In fact, although rental income had long been assumed to be equally important in shaping real estate investment decisions, the study found landlords "largely expect capital gains from investing rather than rental yield and this is how success is measured" (AHURI, 2009, 1). When it came to selling, personal circumstances dominated; 'cyclical' or 'market' factors were far less important. The authors report the most important factors motivating the sale of a rental property as:

> *"changed life circumstances; to eliminate debt; to realise some capital growth and to offload a potentially difficult to sell property; as per the plan (to sell after five years); short-term speculative venture in train; to realise the gain and establish self and children; set in train retirement income process of selling assets and depositing into super; and sell to repurchase" (AHURI 2009, 62).*

In 2010, a separate group of AHURI researchers sought to confirm the findings of the 2009 qualitative study through discrete choice probit modelling of transaction data from approximately 2000 investors. This quantitative study found that the "most important" driver of rental investment behaviour was a "person's after-tax economic costs (user cost of capital)" (AHURI, 2010, 2). In addition, they found that someone of retirement age was 22% more likely to sell a property than any other category of investor. Together, these findings tend to confirm that selling is driven by personal rather than macroeconomic factors.

In 2020, Fahim Ullah and Samad Sepasgozar deployed text mining software known as (GATE) to scrape, code, and analyse millions of lines of both published and user-generated text to understand the "regret reasons specific to real estate purchases" (2020, 1). Given the study's methodology, it was able to uncover factors that elicited regret and prompted thoughts of selling in homebuyers, while avoiding the selection and prestige biases inherent to structured interviews or surveys. Ullah and Sepasgozar found that as many as 88% of real estate consumers regretted their purchase and cited "complicated buy–sell process, lack or accuracy of information, housing costs, house size, mortgages, agents, inspections, and emotional decision making" as the key aspects of regret (2020, 1). As was the case with the 2009 AHURi study, regulations do not feature in the catalogue of motivating factors or, in this case, the laundry list of real estate aspects generating regret among property purchasers.

Finally, Hulse and Goodall (2023), drawing on the findings of the AHURI report discussed at length in section five, are emphatic that:

> *"tenancy law is not a significant factor in landlords disinvesting from the rental market; landlords are most likely to disinvest because they wish to sell and realise capital gains, or obtain money for another investment" (2023, 241).*

In summary, this body of international research identifies 'capital gains' as the primary driver for investment decisions and 'personal circumstances' as the principal cause of disinvestment. The evidence suggests rental income is a less significant factor as compared to capital gains. This finding has implications when considering the potential impact of regulations. If landlords, in the main, hold property based on a strategy to realise a certain level of capital gain, they may well choose to weather short-term rental yield impacts of regulations rather than sell prematurely. In addition, if retirement is a significant determinant of an individual's decision to sell, then, historically, many landlords have experienced and adapted to a series of regulatory changes by the time they come to sell. In other words, for many landlords, rather than being an impetus for selling, regulations are simply a normal part of rental property ownership.

2.3 Regulation, regulatory burden and disinvestment

As noted in para 1.5, the term "disinvestment" can be applied at two levels: (a) individual landlord decision-making, and (b) the trend in the total volume of stock in the private rented sector. Critically, individual-level landlord disinvestment does not necessarily imply disinvestment in the private rented sector (PRS) at the aggregate level. The property being sold could be added to the portfolio of another landlord. Or, at the same time, while one landlord exits the PRS another landlord may be entering the sector and/or adding stock to their portfolio. Only if disposals of private rented properties outnumber acquisitions in a given period would we observe aggregate-level disinvestment. In such a situation, the PRS would be contracting and, as such, subject to disinvestment.

This is an important distinction since evidence that regulations motivate landlords to sell their properties has markedly different social, economic, and political implications depending on whether or not those properties are purchased by other landlords and remain in the PRS, or if new properties are simultaneously entering the PRS to replace those that are lost. If the net change is close to zero – with disinvestment/exits being balanced by investment/entries - then this is better described as an observation of 'investment churn' rather than aggregate-level disinvestment.

While regulations can act to facilitate market functioning by correcting market failures and giving market participants the confidence to transact, they can also be perceived by some or all market participants as burdensome. If the latter is the case then regulations can act as a disincentive to investment. When discussing 'regulation' it is important to note that the compliance costs associated with different regulations will differ. Some can be accommodated without undermining the profitability of a landlord's business model, while others are more challenging. At the same time, the compliance costs of regulatory changes cumulate. They may not be large in isolation, but they add up. Rugg and Wallace (2021) refer to qualitative evidence that some landlords are looking to disinvest because of the increasing "hassle" of being a landlord. That is not exclusively a question of an increased regulatory burden, but the regulatory burden played a role.

To explore the putative relationship between the regulatory burden and disinvestment in the PRS, it is helpful to consider landlord decisions both at individual level and in aggregate. It can be argued that each landlord will have a tolerance for regulation and a threshold at which regulation exceeds that tolerance. The threshold could be thought of as related to the impact of compliance costs on the business model: below the threshold the landlord is able to secure an acceptable rate of return, whereas above the threshold compliance costs reduce the return on investment below an acceptable level. If the total regulatory burden lies below that tolerance level then the landlord continues to offer their portfolio of properties for rent. However, if the regulatory burden exceeds the threshold then the landlord would decide to disinvest or exit from the market.

If landlords all operate with similar tolerance for regulation then crossing the tolerance threshold will lead not so much to landlord exit but a landlord exodus. However, if landlords have different business models and different tolerance for the regulatory burden then they will start to disinvest in the face of different regulatory burdens. The contrast between these two situations is illustrated for a two landlord market in Figure 2.1, which plots levels of investment in the sector against the regulatory burden. If all landlords operate with the same tolerance level then their investment decisions can be represented by curve L1, with a kink at A when tolerance level T1 is reached. If, in contrast, one landlord has a relatively low tolerance and the other a relatively high tolerance, with the disinvestment decision triggered at B, then their investment decisions are represented by curves L1 and L2 respectively.

Different aggregate responses to changes in the regulatory burden would follow in these different scenarios. In the case of homogenous tolerance levels we would expect there to be a very clear threshold for the regulatory burden at which all landlords seek to exit the market (Figure 2.2a). In the case of heterogenous tolerance levels we would expect rental housing supply to be inversely related to the regulatory burden as landlords start to disinvest at different levels of the regulatory burden (Figure 2.2b). In the latter case, if landlords are sensitive to the regulatory burden then we would expect housing supply to be highly elastic with respect to the regulatory burden (Curve S1 in Figure 2.2b), whereas if the size of the regulatory burden has relatively little influence over investment decisions then supply will be relatively inelastic (Curve S2 in Figure 2.2a).

Figure 2.1 Regulatory burden and landlord investment in PRS: individual level

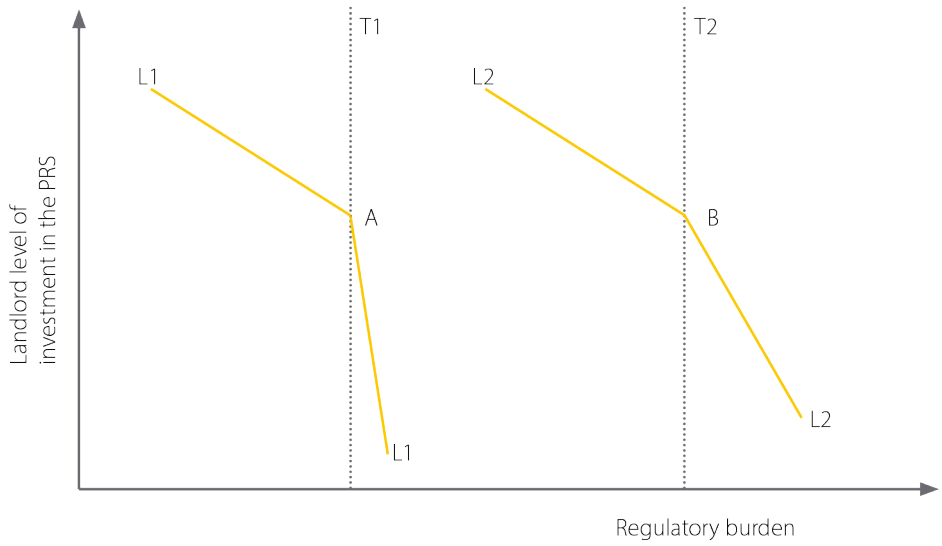
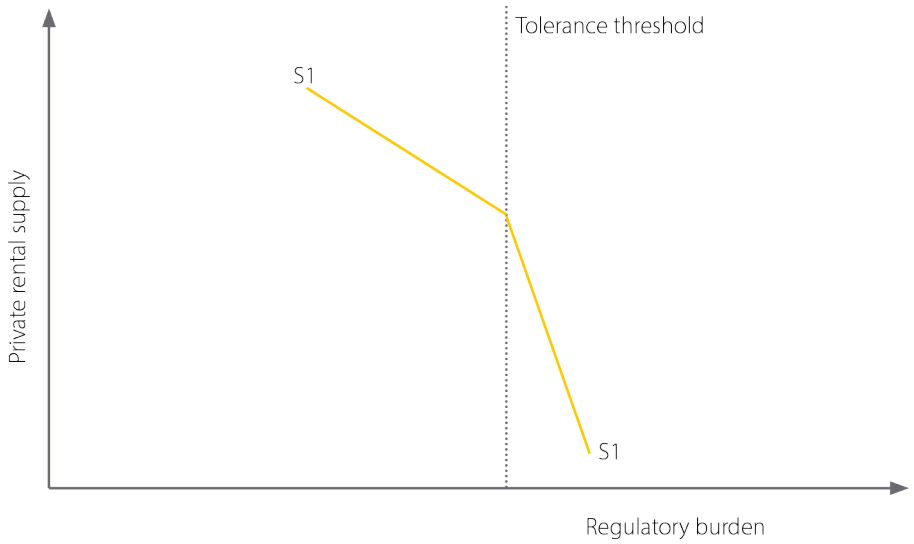
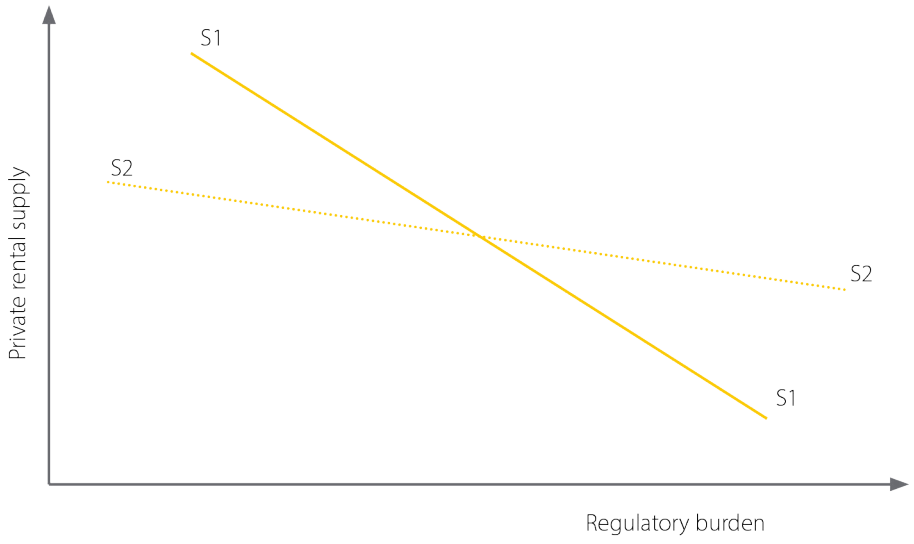


Figure 2.2 Regulatory Burden and rental supply: aggregate level

(a) Homogeneous landlord preferences



(b) Hetrogenous landlord preferences



The investment impact of regulations should be understood as an individual calculation made by landlords based on their specific circumstances, investment strategy, and available alternatives. The history of the UK's PRS suggests that there is a level of regulation that landlords will tolerate without taking the step of exiting the sector. Furthermore, within limits, over time landlords adjust their behaviour and investment strategies to conform to new regulations and, in time, come to view new regulations as a normal part of the business of property investment. If that weren't the case then we would expect not to observe landlords who have been in the market for a decade or more. The question for this review is whether there is more systematic evidence of the magnitude of the disinvestment effect.

2.4 Regulation of the PRS in the UK since 2000

Part of the challenge in regulating the PRS in the UK stems from the observation that the deregulation of the late 1980s was (at least partially) responsible for the sector's growth and revitalisation over the subsequent decades (Bailey, 1999, 363). In other words, lowering regulatory barriers appeared to be central to stimulating reinvestment in the sector. They are treated as a necessary, if not sufficient, condition for the growth of the sector. It is not surprising, therefore, that an integral feature of contemporary debates over the appropriate scope for the regulation of the sector is the argument that a reversal of regulatory direction will lead to the opposite outcome. Christine Whitehead et al. note, as a general rule, economists take the view that regulation "constrains investment and excludes potential tenants, so reducing the size of the sector", while deregulation is believed to have the opposite effect (2012, 2). Nevertheless, as the UK's PRS expanded during the 1990s and early 2000s, it became clear that many tenants were residing in suboptimal conditions. As it became apparent that unregulated free market operation seemed incapable of correcting the situation, an appeal was made for government regulation to address this market failure (O'Sullivan and De Decker, 2007, 112).

The focus is primarily on policy developments in England but there are points of similarity and contrast with the policy elsewhere in Great Britain. The broader point is that across Great Britain the evolution of policy towards the sector since the millennium has been characterised by patterns of both convergence and divergence (Moore, 2017).

An overview of the relevant policy changes is provided in Table 2.1. The remainder of this section reviews them in a little more detail. More extensive reviews of, and critical commentary on, the then-current regulatory framework are offered by the contributors in Hughes and Lowe (2007) and Stewart and Moffatt (2022).

Table 2.1 Chronology of Private Rented Sector Legislation and Regulations for England, Scotland, Wales, and Northern Ireland, since 2000

Date	Jurisdiction	Regulation / Act	Scope
2004	UK	The Housing Act	Housing conditions,Professionalisation of residential property sales, social housing sector, tenancy deposits
2006	Scotland	Housing (Scotland) Act	Landlord registration and/or licensing
2006	Northern Ireland	Private Tenancies (Northern Ireland) Order	Tenancies, housing conditions, enforcement
2007	England	Tenancy Deposit Scheme (England) Regulations	Tenants' deposits
2007	England and Wales	Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations	Energy efficiency standards

2007/ 2010	UK	Welfare Reform Act/ Budget & Spending Review	Local Housing Allowance (LHA)
2010	Northern Ireland	Housing (Amendment) Act (Northern Ireland)	Houses in multiple occupation (HOMs)
2011	Scotland	Tenancy Deposit Schemes (Scotland) Regulations	Tenants' deposits
2012	Northern Ireland	Tenancy Deposit Scheme (Northern Ireland) Regulations	Tenants' deposits
2014	UK (* challenged and proscribed in Wales and Scotland)	The Immigration Act	Right to Rent Checks
2014	Scotland	Housing (Scotland) Act	Right to buy, housing conditions,Professionalisation of residential property letting, social housing sector
2014	Northern Ireland		Landlord registration and/or licensing
2015	Wales		Landlord registration and licensing
2015	England	Smoke and Carbon Monoxide Alarm (England) (Amendment) Regulations	Health and fire safety
2015	UK	Deregulation Act	Retaliatory evictions
2015	England and Wales	Energy Efficiency (Private Rented Property) (England and Wales) Regulations	Energy efficiency standards
2016	Scotland	Private Housing (Tenancies) (Scotland) Act	Tenure security
2016	Wales	Renting Home (Wales)Act	Tenure security
2018	UK	Homes (Fitness for Habitation) Act(*amended Landlord and Tenant Act [1985])	Housing conditions
2019	Northern Ireland	Fitness for Human Habitation (Northern Ireland) Order	Housing conditions
2019	UK	Tenant Fees Act	Letting fees and deposits
2020	UK	Minimum Energy Efficiency Standard (MEES)	Energy efficiency standards
2020	Scotland	Minimum Energy Efficiency Standard (MEES)	Energy efficiency standards
2020	England	Energy Efficiency (Private Rented Property) (England and Wales) Regulations	Electrical safety
2021	Wales	Renting Homes (Amendment) (Wales) Act	Tenancies
2022	Scotland, Wales, and Northern Ireland	Smoke and Carbon Monoxide Alarm Regulations	Health and fire safety
2022	Northern Ireland	Private Tenancies Act (Northern Ireland) 2022	Tenancies, deposits
2022	Northern Ireland	Private Tenancies Act (Northern Ireland) 2022	Tenancies, deposits

The Housing Act 2004 was the most significant piece of legislation covering the PRS since the mid-1980s. It was designed to improve housing conditions, professionalise residential property sales, strengthen the social housing sector, and secure tenancy deposits (UKL 2004). Ultimately, while the mandate came from Westminster, the monitoring, assessment, and enforcement of housing conditions were local authority responsibilities. And, while landlords of Housing in Multiple Occupation and landlords in particular localities became subject to a licensing provision (to ensure they were 'fit and proper' persons), the suggestive rather than compulsory nature of landlord licensing under the 2004 Act tempered some of its intended outcomes (JRF 2017, 33). The operation of the licensing regime in England has been subject to two official evaluations (BRE, 2010; Lawrence and Wilson, 2019), but these have not been focused on broader market impacts. To this date, landlord licensing in England has remained 'selective' and applies to areas where housing demand is low or where poor housing conditions, antisocial behaviour, crime, or deprivation are deemed to be a problem (DLUHC 2023). However, registration and licensing were extended in the devolved administrations: Scotland was the first to introduce registration in 2006 and Northern Ireland followed in 2014. In 2015 Wales instituted a system that combined compulsory registration and/or licensing. Each of these systems differs in their specifics and there continue to be implementation challenges, particularly around the use of data (Harris et al., 2020).

In 2007 third-party tenancy deposit schemes were implemented. The aim was to reduce conflict between landlord and tenant in the area that had been identified as most frequently problematic. The Act required that tenants' rental deposits were safeguarded in one of three government-approved schemes. If, at the conclusion of the tenancy, there was a dispute concerning the return of the deposit, plaintiffs could seek redress and resolution from an independent 'adjudicator' (UKL, 2007).

The Local Housing Allowance (LHA) was legislated in the Welfare Reform Act 2007 and implemented in 2008. In 2010, the Coalition government passed legislation that reformed the LHA. The reforms were: (1) a reduced coverage cap to the cheapest 30th percentile of properties in an area, whereas it had previously been the cheapest 50% or median of properties that were eligible for housing benefits; (2) a cap on the housing benefit attributable to various property sizes; and (3) a new means of calculating future increases in the LHA (the lower consumer price index rather than the retail price index) (LC 2013). As Powell notes, the Coalition government argued that the reforms would not exacerbate poverty because LHA recipients were expected to "negotiate a lower rent with their landlords; move into employment or take on extra hours; move to an area and/or property where rents are cheaper; or find the money from elsewhere (savings, borrowing or cutting back on household spending)" (Powell, 2015, 325). LHA rates can act as an indirect form of price regulation in some areas, whereas elsewhere access to rental accommodation becomes more difficult for those needing assistance from LHA because the uprating of LHA rates has not kept pace with rental increases (Waters and Wernham, 2023; Sims and Allard, 2023).

The Immigration Act 2014 impacted directly upon the PRS because it introduced Right to Rent checks. This regulation prohibited the letting of properties by landlords in England to households without the legal right to live in the UK. The landlord (or their representative) has a statutory obligation to confirm the lawful immigration status of any prospective tenant prior to entering into a lease agreement. They face a fine of up to £3,000 per tenant for failure to comply (UKHO 2015). The Right to Rent Checks (2014) are a form of regulation that has been subject to some empirical research to determine their impact. In 2018, the Residential Landlords Association surveyed 2,963 landlords to assess the impact this legislation had on landlords' tenant selection decisions. The non-peer-reviewed study found that following the introduction of Right to Rent checks, landlords were "less likely to consider letting to individuals without a British passport," as well as being "less likely to consider letting to people with limited time to remain and 20% are less likely to consider renting to EU or EEA nationals" (RLA 2018, 4). Although this study identified these unintended spill-over effects of the regulations, it did not conclude: that the Right to Rent checks were considered a burden by landlords; that the checks made it meaningfully more difficult for landlords to find tenants; or that the regulations had any appreciable effect on PRS supply. In both Wales and Scotland the Right to Rent checks were successfully challenged in court. The checks were found to be in breach of the Equality Act 2010. As a consequence, the requirement was not imposed on landlords in these jurisdictions (EHRC 2019).

The next regulatory demand placed upon the PRS in England was the Smoke and Carbon Monoxide Alarm Regulations of 2015. All landlords were required to provide working alarms, and from 2020 regular electrical safety checks were required to be undertaken by qualified persons for all rented properties (UKL 2015a; DLUHC 2020). Similar legislation came into force for Scotland, Wales, and Northern Ireland in 2022.

In 2018, to address the persistent inability of market processes to improve housing conditions, the government passed the Homes (Fitness for Habitation) Act. This legislation amended the Landlord and Tenant Act 1985 and provided tenants subject to unacceptable housing conditions the capacity to seek remedy and redress through the courts. If the court found that the tenant had a compelling case, the landlord would be subject to an order to undertake repairs, make right any health and safety issues, and may be liable to pay tenants' compensation (ULK 2018). It was soon observed by social scientists and legal theorists alike that these regulations placed a considerable burden upon the tenant, while nothing was protecting the tenant from eviction while these legal processes were underway. Assessing the degree to which the Homes (Fitness for Habitation) Act 2018 was likely to comprehensively address the issue of unfit housing conditions, Emily Walsh observed that tenants, fearful of "eviction, confused by the law, and without access to legal advice" faced a "disincentive to do anything other than ask the landlord if he/she will carry out the necessary repairs" (2021, 59). Some years ago, Roger Burridge and David Ormandy, noted there was a "growing body of evidence suggesting that tenants who complain about the condition of their houses are being victimized by landlords' seeking their immediate eviction" (2007, 550–1). In fact, Citizens Advice found that tenants who complained to council about the condition of their property – let alone took their landlord to court – were "five times more likely to be evicted using Section 21 than those who stayed silent" (DLUHC 2022, 5). This is despite the Deregulation Act 2015 seeking to outlaw so-called retaliatory eviction. This form of tenant precarity led Walsh to conclude that the most "important proposed change in the law is the end of no-fault eviction promised by the government" (2021, 51).

July 1st, 2019 saw the introduction, under the Tenant Fees Act 2019, of a ban on letting agents' fees and a cap on the deposit amount that could be taken. In anticipation of this ban, the Residential Landlords Association surveyed 2,792 landlords to determine what impact these regulations would have on landlord and investor sentiment. The study found that "35% of landlords reported that they would look for better deals [from letting agents] after the ban", while 35% reported they may even elect to "self-manage their properties" (RLA 2017, 55). In the context of these regulatory changes, the RLA found that 20% of landlords were planning to sell at least one property in the next 12 months, while 13% were planning to acquire at least one more (2017, 30). It is important to note, however, that these are 'typical' figures – with landlords reporting similar investment plans in Q3 of 2016 and Q1 and Q2 of 2017 (RLA, 2017, 31). In other words, the prospect of this specific regulatory change does not seem to have had a significant bearing on landlord investment strategy. Finally, the RLA reported that at a time when "there is greater political, regulative and economic uncertainty," the proportion of landlords that have "kept their portfolio the same over the past 12 months has increased, while the proportion of landlords planning to sell has decreased slightly" (RLA, 2017, 37). These data do not strongly suggest that this type of relatively modest regulatory change triggered landlord disinvestment.

Between 1st April 2018 and 1st April 2020, the government rolled out regulations that had been included in the Energy Efficiency (Private Rented Property) Regulations (2015) which stipulated the Minimum Energy Efficiency Standard (MEES) for rented properties in England and Wales. All properties covered by the regulations were required to have an Energy Performance Certificate (EPC) of at least an 'E' – therefore, all properties with lower EPC rating of 'F' or 'G' were to be eliminated from the PRS (UKL, 2015b). By early 2020, the MEES regulations applied to all properties in the PRS and it was no longer lawful for any landlord (or their representative) to let a domestic property with an EPC rating below an 'E,' unless they have an appropriate exemption (DESNZ, 2023).

The Scottish Government has been more ambitious: it has stipulated that from 2025 any property marketed for private rent must have an EPC rating of 'C' or above, and by 2028 this standard will apply to all properties actively rented in the private sector (SG, 2023). In anticipation of the incoming MEES regulations, researchers Sarah Sayce and Syeda Hossain sought to understand what impact these reforms might have on investment decisions in the PRS. Following a series of in-depth interviews, the study reported that "disposal and acquisition strategies are seeing the lower grade stock being sold to other investors with lower sustainability aspirations or those with active 'value-add' policies" (2020, 7). In other words, the introduction of the energy efficiency regulations was likely to stimulate 'investment churn' rather than disinvestment per se. One set of investors was selling to another set of investors with a different business case for the retrofit. Overall, the qualitative data suggested the MEES regulations would have no net impact on PRS supply.

In both Scotland and Wales the security of tenure regime has changed in the last decade. In Scotland, the private residential tenancy was introduced by the Private Housing (Tenancies) (Scotland) Act 2016. Rather than occupying on the basis of the short fixed-term offered by the assured shorthold tenancy, tenancies would become open-ended, with landlords only being able to regain possession on the basis of a list of specific grounds. There is quantitative research currently underway that seeks to understand the impact of this change on the market, but it is yet to report fully. This research is discussed further below. In Wales, a new tenancy regime was put in place by the Renting Home (Wales) Act 2016. The new regimes replaced tenancy agreements with 'occupancy contracts'. The standard occupancy contract applies in the private rented sector and increases the no-fault eviction from two to six months, as well as increasing protection from eviction However, the implementation of the new regime was postponed several times. Eventually, it was implemented in December 2022. It is too early for meaningful assessment of the impact of these measures. An evaluation of this policy change has been commissioned. Official data suggest that recent increases in the rate at which Notices to Quit are being served has been greater in Wales than in England, but it is not possible from these data alone to establish whether this represents investment churn or aggregate-level disinvestment.

The process of regulatory reform in the private rented sector is ongoing. Not only is the Renters (Reform) Bill under consideration in England, a Welsh Government consultation on Securing a path towards adequate housing including fair rents and affordability has recently closed (September 2023). This includes inviting views on the need for action around landlord and tenant behaviours and property standards. The Scottish Government will imminently publish further detailed policy proposals relating to the private rented sector. These will focus on proposals around rent control but will not be restricted to rent regulation.

This is by no means an exhaustive chronology of the regulatory change affecting the PRS over the past twenty-five years; still less does it provide a comprehensive account of the regulatory architecture. As the London Assembly Housing Committee noted, the regulatory framework structuring the UK's PRS is constituted by some 50 Acts of Parliament and 70 sets of regulations (LAHC, 2016). Its brevity notwithstanding, this summary has demonstrated that since the 1990s, the direct regulation of the UK's PRS has been expanding incrementally. Critically, increased regulation of the PRS has proceeded in parallel with the growth of the PRS in both size and significance. A preliminary observation at this point would therefore be that the empirical evidence demonstrates that more ambitious regulatory requirements are not incompatible with the growth in the private rented sector.

3. Review methodology

This section sets out the approach to identifying the literature on non-price regulation of the private rented sector to be included in the review.

3.1 Key parameters

The key parameters used to scope the literature search were as follows:

- TIMELINE: literature published since 1996. The start date was chosen pragmatically to balance the need for comprehensiveness against the desire to ensure contemporary relevance. Also, 1996 represents the introduction of assured shorthold tenancies as the default tenancy and the advent of the quickly dominant buy-to-let model of landlord provision in the PRS;

- GEOGRAPHY: primarily the UK nations, but also expanding to suitably comparable OECD countries that belong to the recognised welfare regimes referred to as liberal (AUS, NZL, USA), Nordic (NLD, FIN) and continental (CHE, FRA, GER);

- DATABASES: literature published in the English language, indexed in two major databases for the social sciences (SCOPUS and Web of Sciences), with searches performed in titles, abstracts, and keywords for: 'private rental reform' (PRlRf); 'private rental regulation' (PRlRg); 'private rented reform' (PRdRf); and, 'private rented regulation' (PRdRg).

3.2 Search Strategy

Evidence relevant to the research questions was sought via a systematic review of existing literature dealing with non-price-control regulation of the United Kingdom's private rented sector. The process began by identifying the largest number of relevant studies via two major databases (SCOPUS and Web of Sciences), and then refining this long list until a sample of high-quality research papers remained that were then subject to scrutiny and evaluation.

Once the keyword search database returns had been screened for duplicates, 1,108 papers that had the potential to be relevant remained (Table 3.1). Following a manual screening by title review, 115 research papers remained in the sample – i.e., approximately ten per cent of the original database returns. In the next stage, all abstracts were screened such that the papers could be categorised as high suitability, secondary suitability, or unsuitable. The references and footnotes of the highly suitable papers were then reviewed to identify any research material absent from the major databases (a practice referred to as 'snowballing'). Following the screening of abstracts and snowballing, 46 highly suitable and 29 secondary suitable research papers remained to be examined in detail.

Table 3.1 Number of Records and Subsequent Sample Reduction

		Jan. 1996 – July 2023
Step 1	SCOPUS records	396
Step 2	Web of Science records	1,347
Step 3	Merging and removing duplicates (By EndNote's function)	1,108
Step 4	Maintained after screening of titles (By N Harrington)	115
Step 5	Maintained after screening of abstracts (By K Gibb and A Marsh)	75
Step 6	Highly scored/relevant references (By K Gibb)	46
Step 7	Additional references (n=18, mostly the grey literature to be discussed)	18
Step 8	Full text not accessible for review	3
Step 9	Reviewed references	64

The sample of 75 highly and secondarily relevant research papers, were then classified by theme, country focus, and research methodology. A plurality of papers dealt with the United Kingdom's private rented sector, while the majority of the research was undertaken across a variety of advanced economies (Table 3.2).

Table 3.2 Abstract-Screened References by Country Focus

Country of research focus	Abstract-screened volume
United Kingdom	29
United States	10
Australia	9
OECD nations	6
Germany	3
France	2
New Zealand	2
European nations	2
Netherlands	2
Spain	2
Switzerland	2
Ireland	2
Japan	1
Finland	1
Israel	1

The geographic distribution of the available evidence on the impact of PRS regulation is an important consideration when making an evaluation. Cultural, social, economic, political, historical, and institutional differences between nations mean that any lesson drawing from country-comparative data needs to be cognisant of the limits on the applicability of such data and any conclusions drawn from it. That is not to say that international data is irrelevant. It is simply that interpretations and implications must be drawn carefully, on balance, and in consideration of the totality of available evidence.

Classifying the 75 relevant papers by theme revealed considerable topic diversity, although (as indicated by Figure 3.1) papers that were classified as addressing the subjects of 'tenure', 'housing benefit', 'housing conditions', 'short-term letting', 'regulatory density,' and 'market dynamics' have been relatively popular areas of research over the past twenty-five years. This process of theme classification revealed that only one of the peer-reviewed research papers specifically took up the question of whether non-price-control regulation led to disinvestment in the PRS. How this situation was handled in the evidence review is discussed in detail below.

Figure 3.1 Abstract-Screened References by PRS Theme

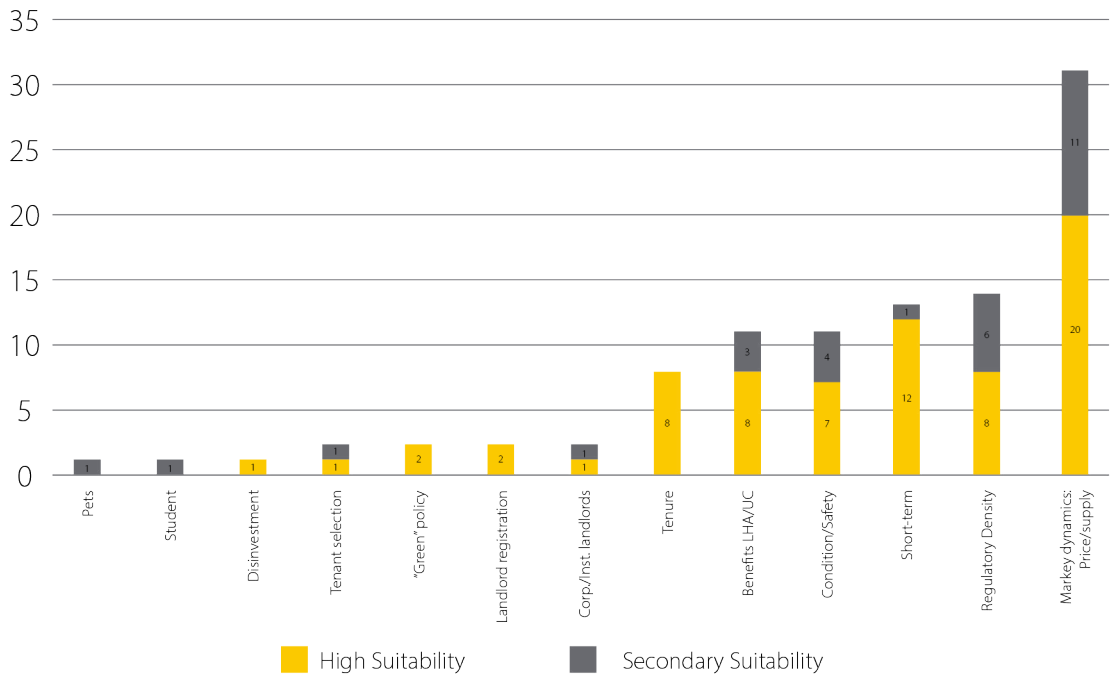
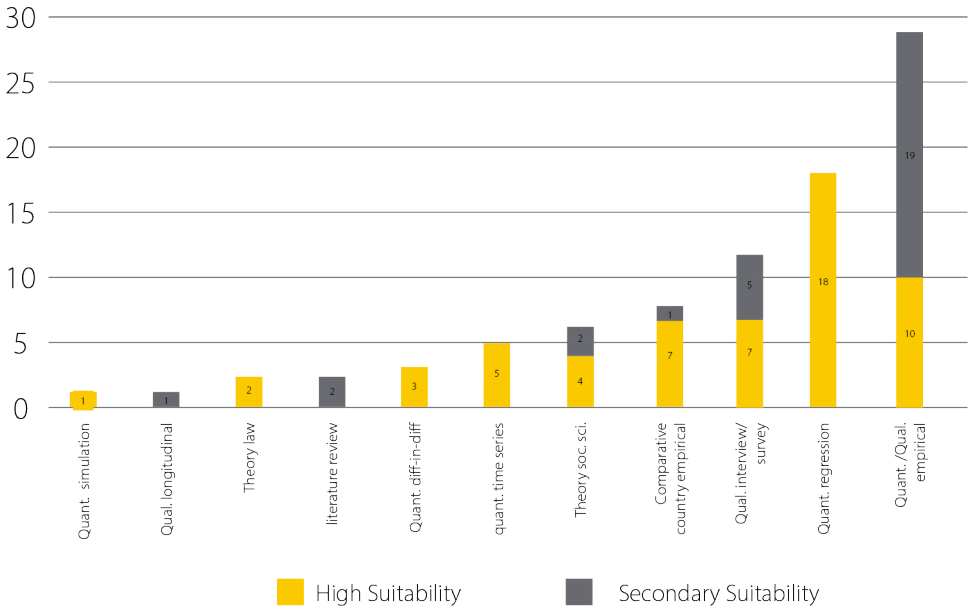


Figure 3.2 Abstract-screened references by research methodology



The final stage of the evidence review was the evaluation of evidence contained within each of the relevant papers, considered in the context of the whole sample. This evidence is discussed in sections 5 and 6, but before turning to the substance of the evidence base in section 4 some more general observations regarding the challenges of evaluating regulatory impacts are offered.

4. Methodological issues in assessing regulatory impacts

There are several methodological challenges in assessing the impacts of regulatory changes on the housing market. The discussion of the evidence base in the next two sections needs to be read with this in mind. Six particularly pertinent issues have been identified.

First, changing regulations creates a new pattern of incentives for market actors. This can mean that the detail of the regulatory mechanism is important in shaping its impact on the market. When considering a particular class of regulation the details matter: for example, one might expect that the move from six-month tenancies to default three-year tenancies would have a different impact upon the market than a move from six-month tenancies to open-ended tenancies with limited specific grounds for regaining possession because landlords' perceptions of their discretion to recover possession of their asset, and therefore risk, would differ. This has implications for drawing lessons from evidence generated elsewhere: is the change studied elsewhere sufficiently similar to be illuminating?

A counter-argument to this point is that behaviour – particularly investment behaviour - is affected by interpretations of broad policy directions rather than policy details. From this perspective, for example, it is sufficient for landlords to know that "more" regulation - or regulation that strengthens the position of tenants – is proposed for them to act. It is more a case of policy risk – particularly if they interpret the change as the "thin end of the wedge" – than policy detail. This is widely believed to have applied in Scotland after the September 2022 announcement of, first, a rent freeze and, then, an ongoing temporary rent cap. Market commentators (e.g. Rettie and Co, 2023) think that these announcements have deterred new investment in Build to Rent in Scotland.

This distinction between detail and direction also raises the analytical question of when one might expect behavioural changes to be evident in the data. The second methodological issue is therefore timing. If detail is the key then one might expect behaviours to change close to or after the policy is enacted and detail is clear. In contrast, if direction is the driver, then one might expect behavioural changes to be triggered earlier: for example, it is the announcement of a policy change that is influential rather than its enactment. In this instance, detecting behavioural change requires analytical strategies that adopt a different timeframe and, potentially, databases that capture a range of additional variables.

If behavioural heterogeneity on the part of market actors is the most appropriate assumption, then one might expect, rather than key break points around policy change, rather more gradual changes of trajectory. This would increase the challenge of isolating the impact of policy change.

Third, the private rented sector plays different roles in local housing markets, both nationally and internationally. In some – typically urban - localities it accommodates the majority of households, whereas in others it is relatively marginal. In high-demand areas the sector may be under a great deal of pressure and landlords can let almost any property without difficulty, whereas in areas of low demand there is a higher vacancy rate and tenants are able to move relatively easily to one of a selection of alternative properties.

Introducing a specific regulation in different contexts will have different consequences. For example, regulations to improve property standards may be relatively easily accommodated by landlords in high-demand areas who are able to maintain satisfactory financial returns or, indeed, pass the costs of the improvements on to tenants, whereas in low-demand areas, landlords might have to absorb the costs, because they face relatively elastic demand, and this could result in their business model becoming unviable. Hence, again, when evaluating regulatory impacts noted elsewhere, one might ask whether the context is sufficiently similar to allow useful lessons to be drawn.

Fourth, it is common for policy changes to be bundled together (as proposed by the Renters Reform Bill). Thus, while it might be possible to evaluate the overall impact of a package of new policies, it is methodologically more challenging to disentangle and isolate the impact of individual measures within it. Indeed, it requires specific ontological assumptions to assert that the impact of an individual measure is the same when implemented in a package of measures as it would be if implemented in isolation: that is, it is assumed that the elements of a package of measures are not meaningfully interdependent and causation is simple rather than complex.

Fifth, estimating the impact of regulatory changes presents an example of the more general question of the counterfactual. What would the market trajectory have been in the absence of the regulatory change? The answer to this question profoundly influences the evaluation of the impact but it is often not given the attention it deserves. This issue often leads to a research strategy of seeking natural experiments where a regulatory change is introduced in one area but not in another area. If one can assume that the two jurisdictions are otherwise very similar, or that the differences between them are effectively random, then this approach provides an estimate of the counterfactual and insight into the impact of the regulatory change. In the case of evidencing the effects of rent controls, theoretical counterfactuals based on competitive markets dominate the research literature with major consequences for evaluation (Gibb et al. 2022). Other paradigms are available for framing the counterfactual (e.g., imperfect competition or even localised market power) and in some cases may be a better representation of market reality. The assessment of impact against an alternative counterfactual can potentially lead to a substantially different conclusion.

Sixth, one needs to consider the issue of compliance. An effective regulatory change is a combination of changes in the formal regulations, coupled with effective communication of that change to market actors, actors possessing the resources (knowledge, financial) to implement the changes required, and an adequate system of enforcement that gives actors meaningful incentives to change. Evaluation of regulatory change can often make an assumption that implementation is unproblematic – the rules change and the relevant actors subsequently behave in line with the new regulations. But if one recognises less than complete compliance – which is widely accepted to be the situation in the UK private rented sector (eg. DLUHC, 2022b) – then one enters an area of considerable, asymmetric uncertainty. If a regulatory change has an effect that can be detected in the data then one might hypothesise that full(er) compliance would strengthen the effect. But if the regulation does not have a discernible effect then it may be less clear whether that is because the regulation is relatively benign or because compliance is low and in practice no behavioural change has occurred. If one believes we are in the latter situation then there are a series of further questions: Is this a communication issue? A capacity issue? A cultural issue? An enforcement issue? Or an issue of empowerment?

As noted in section 2, there has been a longstanding concern that quality mechanisms that rely on tenants initiating remedial action are neutered because of the precarious position occupied by tenants in lightly regulated housing markets. In developing a theoretical account of the power imbalance between landlords and tenants that exists under the current regulatory and legal framework, Elinor Chisholm et al. observe:

> *"Rental housing quality regulation often relies on tenants reporting problems with their housing, but this fails to take account of power dynamics in the tenant-landlord relationship that make it difficult for tenants to do so… tenants in a number of other of studies feared eviction, which prevented them reporting housing problems – the grievance remained hidden." (2020, 153)*

Understanding this social dynamic is vital when seeking to interpret the effects of regulatory change. In a qualitative study of regulatory change in Ireland, Byrne and McArdle (2022) highlight the way in which changes to the formal legal framework lacked leverage over everyday practices in the sector because of the underlying social dynamics. Martin et al.'s (2021) discussion of rental policy in Australia during Covid similarly notes that, for a proportion of tenants, the fear that there might be negative consequences for them if they tried to negotiate with their landlord over their rent meant they did not seek to benefit from any of the sorts of rental regulations or reliefs that state governments introduced during the pandemic.

There is one further observation in relation to these methodological issues. An alternative perspective on the evidence base would be one that based the assessment upon the weight of evidence. That is, while policy details, context, timing, and compliance may differ, if studies of regulatory changes of similar types but different designs in different contexts and evaluated with different methods nonetheless all pointed towards similar conclusions then one might argue that a clear signal emerges from the noise of the evidence base. To some extent, that is the argument made about first-generation rent controls. It doesn't matter in which context they have been applied they always have a similar pattern of unintended consequences for the housing market (Gibb et al, 2022). But that conclusion doesn't automatically carry over to second- or third-generation rent controls.

While there might be merit in this argument, it rests upon the existence of a substantial, varied evidence base of directly relevant material. That is not the situation the current study faces. As will become clearer in subsequent sections, the evaluative task here must face the limitations of the evidence.

The technical challenges in isolating the impact of non-price regulatory changes are notable. The richness of the data required means that in the absence of a bespoke dataset it is difficult for analysis to address these challenges comprehensively. But, at the same time, assembling a sufficiently rich bespoke dataset is in itself a significant challenge.

5. Direct evidence

This section examines papers that were classified as directly relevant to the research questions. Papers identified by the search that offer an entirely theoretical analysis of the impact of regulation are not reviewed (e.g. Iwata, 2002). The focus instead is on those papers which offer conclusions rooted in empirical analysis. The discussion is structured under two headings. Section 5.1 reviews the recent study that has directly addressed the question of the impact of regulatory change on investment in the private rented sector. Section 5.2 reviews recent papers that have looked at the impact of regulation on the short-term rental submarket. This literature directly addresses the question of how regulatory change affects the supply of short-term rentals. But caution is needed when considering applying the conclusions from this literature to the private rented sector more broadly. It is necessary to reflect on whether landlords operating in this submarket, and their responses to regulation, are representative of, or in some way systematically different from, landlords in the broader private rented sector. While it is appropriate to proceed with caution there are insights to be gained from this literature.

The question of whether changes to regulation in the PRS lead to disinvestment is long-standing. Two decades ago Rugg and Rhodes noted that since the 1990s, "debate on regulation has been dogged by the view that the tenor of legal and financial frameworks for letting had a substantial impact on supply in the sector" (Rugg and Rhode 2003, 941). The authors note the "lack of categorical evidence" available at that time and then proceed to trace the history of the PRS in England, arguing that despite persistent warnings to the contrary, the growth of the PRS has proceeded in parallel with various expansions to its regulatory framework. The authors conclude therefore that: "…the relationship between regulation and supply in the sector is uncertain" (Rugg and Rhodes 2003, 942).

Rugg and Rhodes (2003) provide an account that relies upon an observed empirical correlation. This provides a valuable starting point for analysis, but it does not seek to test for causation. It remains an open question whether the absence of evidence is evidence of absence. Given the complexity of social systems, including markets, and the issues in evaluation discussed in section 4, there are challenges in identifying which factors have influenced expansion in the PRS and what would have happened to supply in the absence of regulatory change. The historical record is compatible with regulation being benign or acting as a disincentive to investment. Indeed, it could be seen as compatible with arguments that regulation facilitates market growth (see Hochstenbach and Ronald, 2020). Hence, further enquiry is necessary if the uncertainty over the relationship, noted by Rugg and Rhodes, is to be reduced.

5.1 Direct test of the impact of regulatory change on investment

The search for scientific research investigating the relationship between non-price-control regulations and disinvestment in the private rented sector identified one particularly compelling piece of scholarship. The peer-reviewed study entitled "Regulation of Residential Tenancies and Impacts on Investment" was conducted by Martin et al for the Australian Housing and Urban Research Institute (AHURI) and published in November 2022. This report is particularly germane to the current review because (1) the research questions addressed by the study parallel those of this report directly; (2) the findings are derived from a mixed-methods approach relying on both quantitative and qualitative research techniques; (3) the data are contemporary and up-to-date; and (4) although not perfectly analogous, there are considerable regulatory, cultural, social and economic similarities between the PRS in Australia and in the UK.

The authors explain that their research was motivated by persistent claims that residential tenancy laws result in disinvestment. They note that more than "other policy areas, residential tenancies law triggers intense concern about 'disinvestment'" (Martin et al., 2022, 2). Consequently, they sought to:

> *"refresh the evidence-base about factors impacting and shaping rental investment, review the state of residential tenancies laws across Australia, and present options for a renewed reform agenda" (Martin et al., 2022, 5).*

The research question underpinning the study was: "How is rental housing investment affected by:

a. tenancy law and reform

b. other policy settings (such as macro-prudential regulation)

c. market conditions and disruptions (such as STL)?" (Martin et al., 2022, 7)

The findings were generated via: a difference-in-difference analysis of longitudinal rental bonds data to test for and measure the effect of various policy interventions in two separate rental markets; a survey of 970 property investors to ascertain their attitudes towards rental regulations and what motivated investment decisions; 12 interviews with PRS stakeholders and industry experts; and a review of relevant tenancy law and legislation.

In the final analysis, the researchers found that both the qualitative and quantitative data supported the conclusion that changes to rental regulations do not result in disinvestment. Not only did the statistical analysis of the rental bonds data show "no evidence for properties exiting the PRS in response to two tenancy law reform episodes" across the two largest states in Australia (New South Wales and Victoria) but, when surveyed, landlords in both markets reported that "tenancy law is rarely a factor in decisions to dispose of properties" (Martin et al., 2022, 1).

The authors found that following the passage of the 2010 Residential Tenancies Act in New South Wales (the most significant PRS reform in over twenty years), there was no observable "effect on the trend of PRS entries, and a negative effect on the trend of PRS exits—i.e., there were fewer exits after the reform" (Martin et al, 2022, 2). Following the commencement of the Fairer Safer Housing review for Victoria in 2015, the authors found there were "fewer entries after the review commenced—and no effect on PRS exits" (Martin et al., 2022, 2). When asked what motivated their entry and exit from the PRS, investors cited "prospective rental income and capital gains" as the "most important reasons". Although landlords acknowledged tenancy laws were an "important consideration" when deciding to invest, the vast majority stated that tenancy laws "do not figure strongly in reasons for disposing of investment properties" (Martin et al., 2022, 3). This research has, therefore, demonstrated empirically across two distinct jurisdictions that the introduction of rental reforms did not result in disinvestment. Furthermore, the research found that issues other than tenancy laws were the primary drivers of supply and investment in the PRS. In other words, the report's qualitative data corroborated their quantitative data.

This study is a robust piece of scholarship that is relevant when considering rental reforms for the PRS in England. In comparing their rental markets, Australia and the United Kingdom share many similarities. Both the UK and Australian PRS are considered 'lightly regulated'; the PRS is a similar size relative to other tenures; it is composed of a majority of small-scale (one to three property portfolios) rather than large-scale investors; it is generally characterised by high demand and moderate or low supply; operating within advanced economies; and have experienced steady growth in size and significance over the past thirty years (JRF, 2017; AHURi, 2015; 2022; DLUHC, 2022). In both markets, there have been substantial concerns over the power imbalance in favour of landlords created by relatively limited regulatory protections for tenants. Consequently, the evidence produced by the Martin et al., 2022 study cannot easily be set aside on the basis that the contextual differences are sufficiently substantial that it would be misplaced to seek to learn lessons for the UK from it. Instead, these Australian findings need to be taken seriously as the only scientific study specifically investigating the research question and weighed in the balance alongside the other evidence available.

5.2 The supply impact of regulating short-term rentals

The review of the scientific literature concerning the influence of non-price regulations on the PRS identified several studies investigating this specific question in the context of Short-Term Rentals (STRs). These papers deserve special attention as they constitute a sub-category of research where the relationship between non-price regulations and landlord investment behaviour has been directly tested and assessed.

The STR sector cannot be assumed to be a proxy for the wider PRS. Nonetheless, these studies represent an important basis for interpretation and further discussion. The research includes the dependent variables (DV) and independent variables (IV) that would need to be included in any study on the broader question: investment property volume (DV); landlord behaviour (DV); time (IV); and non-price regulations (IV). Secondly, in certain cases, research into the effects of non-price regulations on STRs was undertaken in the context of public policy that explicitly sought to influence STR numbers or the behaviours of STR landlords. In other words, these studies investigate whether non-price regulations had the intended impact(s) on STR numbers or the behaviours of STR landlords. The findings of such studies, therefore, can provide insight into which kinds of non-price regulations motivate landlords to leave the STR sector or change their investment behaviour and which do not. An important caveat - which signals a limit on reading these findings across to the whole PRS – is that STR studies that indicate landlords exited the STR submarket do not provide data on whether these landlords exited the PRS entirely or switched to letting in the conventional PRS. This limitation notwithstanding, the STR sector studies are important sources of evidence.

Short-term rentals have emerged as a major feature of many housing markets, both urban and rural. Their impact upon local housing markets can differ (Gurran et al., 2020), but there is widespread concern that they draw properties away from mainstream housing supply and consequently affect access and affordability, as well as having a range of impacts beyond the housing market. This is a very active area of research. The question of regulating such lettings is live, with local authorities around the globe attempting to restrain the growth of the short-term rental subsector and mitigate its impacts. Regulation of this subsector faces significant challenges in relation to technology – are regulators able to frame regulations that can keep pace with activities that are driven by technological innovation? – and compliance. While authorities can impose restrictions or require registration, in this subsector ensuring compliance with the regulatory regime is particularly difficult (Crowe, 2021).

Whether in the United States, the UK, or elsewhere in Europe, the evidence suggests the regulation of short-term rentals does not lead to aggregate disinvestment in the medium-to-long term, even when the short-term rental of investment properties is banned outright in certain geographical locations. A summary interpretation of the available evidence is that when regulations restricting the duration and frequency of short-term rentals are imposed upon a jurisdiction with a high number of short-term rentals, the number of short-term rentals decreases in the short term, but, after approximately 18 months, the volume of short-term rentals in the market returns to its pre-regulation levels and continues to expand beyond this point.

Common approaches to the regulation of short-term rentals include: (1) restricting the number of days a property could be occupied in a year; (2) imposing a minimum duration per stay; and (3) ensuring the host is a resident of the city in question. Alternatively, certain municipalities, such as New Orleans and San Francisco, elected to prohibit short-term rentals altogether by (1) making them illegal either in certain parts of the city or for the city as a whole; or (2) only permitting short-term letting of a portion of the host's primary residence and not of their investment or second property. These types of regulatory intervention will affect the financial returns available and could act as an incentive to leave the short-term rental market.

Von Briel and Dolnicar (2021) undertook a longitudinal investigation of 11 cities in advanced economies (San Francisco, Hobart, Vienna, London, Tokyo, Reykjavik, Paris, Amsterdam, Barcelona, New York, and Berlin) and found that the "impact of regulations on Airbnb listings is minimal. While listing numbers drop in response to major regulatory changes (especially fines), they recover quickly".

The study by Yang and Mao (2019) also examines the short-term rental market across cities. In this case, the concern is with the supply determinants of AirBnB in 28 US cities. The study has a strong focus on the regulatory measures applied variously across these different city markets. They focus on five regulatory issues. The first is the presence of a tailored legal framework. The second concerns the restrictions placed on property owners' home-sharing behaviour e.g. allowing home-sharing only when property owners are present. The third category, tax collection obligations, reflects whether home-sharing platforms collect taxes and whether short-term rentals face disproportionate tax burdens. Fourth, licensing burdens requiring home-sharing property owners to comply with local government rules. Fifth, hostile enforcement indicates rules fundamentally opposed to home-sharing. Their inregulation variable aggregates all five categories into a composite index.

The authors find that: "Certain regulation categories, such as a tailored legal framework and hostile enforcement, may complicate Airbnb hosting, although the holistic regulation measure did not appear to have an overall significant impact on Airbnb supply. For other regulations, such as legal restrictions, tax collection obligations, and licensing requirements, their effects on Airbnb supply were not significant." In more detail, they concluded that "a legal framework hinders the supply of entire house and private room listings on Airbnb, whereas hostile enforcement only inhibits the supply of entire houses. In contrast, legal restrictions significantly enhanced the supply of Airbnb shared rooms … Also, our results show that neither tax collection obligations nor licensing requirements had any significant effect on any type of Airbnb supply".

Van Holm (2020) adopted a more spatially focused approach and undertook an interrupted time series analysis of Airbnb listings from June 2015 through to May 2019 for New Orleans. The study reached a similar conclusion, finding that "regulations temporarily reduced the overall number of Airbnb's in New Orleans, but growth has resumed after a one-time decline" (van Holm, 2020, 1). In the final analysis, van Holm reports the "regulations passed in New Orleans were unable to slow the overall growth rate of Airbnbs" (2020, 7). It is worth noting that New Orleans had an uneven regulatory landscape. In the 'French Quarter,' Airbnb was all but prohibited, while, for the rest of the city, the number of days in a year a property could be short-term let was regulated. Van Holm found that the "regulations appear to have shifted growth into residential neighborhoods and away from the French Quarter" (2020. 1). Using difference-in-difference methods, Valentin (2021) tested the impact of strong regulations limiting STLs in the Old French Quarter of the city and corroborated van Holm's (2020) conclusions: tightening regulations reduced participation in the short term lets market in the target location, but availability of such property increased in immediately adjacent areas. In other words, banning short-term rentals in one area doesn't result in aggregate disinvestment in the subsector, since the losses in one location are compensated for in the areas bordering the 'ban zone'. Valentin (2021) also finds that the new regulations depressed property values in areas with the tightest regulations by around 30%.

There are two ways to interpret these findings. On the one hand, it appears that the commercial advantages of short-term letting are sufficiently attractive to landlords that they will adjust the use of their investment properties to fit the new regulatory framework. Even if, in the short term, some existing Airbnb landlords removed properties from the subsector, a greater number of other rental properties entered the market to take their place. The net result of this regulation-driven 'investment churn', therefore, is greater investment rather than disinvestment in this part of the PRS. An alternative way of interpreting the findings is to question the extent to which the short-term rental regulations are effective: are they being adhered to? In other words, rather than showing that regulations are benign, does the data principally betray an implementation failure resulting in ineffectiveness?

Modelling 2018's Airbnb data for London using Shannon's entropy theory, Shabrina et al. (2022) generated findings suggesting that it may be a case that implementation and enforcement issues are important (see also descriptive evidence for Berlin in Crowe, 2021). Shabrina et al. (2022) do this by analysing the relationships between possible Airbnb misuse and the attributes of housing in the same locations. They define misuse as occurring where "listings of entire properties within the Airbnb platform do not conform with local regulations and where hosts who offer such housing have multiple listings". They deploy multiple regression analyses to find that a "100% increase in the density of possible Airbnb misuse can be associated with up to an 8% increase in unit rental price per-bedroom per-week, an equivalent to up to an average of £90 price increase per year". Shabrina et al. find that "more than 2% of all properties in London, and up to 7% in some local areas are being misused through Airbnb as short-term holiday rentals".

Nevertheless, whether due to the regulations being relatively benign or regulatory avoidance, these papers provide no prima facie evidence that regulating short-term rentals leads to disinvestment in this subsector of the PRS in the medium-to-long term. Two further observations are appropriate. First, a key qualification to this point is the issue of the counterfactual. While the evidence points to the conclusion that overall investment in short-term rentals has not typically declined in the face of increased regulation, the assumptions about the trajectory of the sector in the absence of regulation are less clear. That is, the sector might have continued to grow rapidly in the absence of regulation. Second, regulation of short-term lets can be spatially comprehensive or it can be partial, as in the case of New Orleans discussed above. The non-price regulations at the centre of current policy discussions are comprehensive in the sense that reform will apply to the whole sector rather than being targeted spatially or towards particular subsectors. This changes the pattern of incentives and closes off the options for diverting investment towards unregulated areas or subsectors. Hence, the findings on the regulation of short-term rentals need nuanced interpretation if they are to inform proposals for other types of regulatory reform. On the other hand, the issue of whether student lettings should have some form of exemption from proposed reforms to security of tenure to allow landlords certainty in regaining possession in line with the cycle of the academic year reopens this question of investment switching between subsectors.

Approaching the issue using an entirely different methodology, Overwater and Yorke-Smith (2021) deploy agent-based modelling using income and house price data to simulate the effect of short-term rental regulations on Amsterdam's residential dynamics. The modelling is underpinned by an application of Smith's rent-gap thesis. The authors find that when short-term rentals were highly regulated a larger number of lower-income residents remained in the city centre. Since in the simulation lower-income residents were overwhelmingly tenants, it is logical to suggest that regulating short-term rentals did not result in a reduction in the overall volume of rental properties. If the simulation had been generating disinvestment as a model outcome, this would imply fewer rental properties available overall and, since they would be outbid by the market, lower-income tenants would get displaced from the inner city. But this was not the case. Overwater and Yorke-Smith report, "more lower income citizens remain in the city centre when regulation of the market is stronger" (2022, 223). Not only do the authors find that more lower income citizens stay in the city centre when market regulation is stronger but also that going as far as banning the 'touristic' market restrains house price increases. Hence, the research again indicates that the regulation of short-term rentals appears to have no relationship to disinvestment in the PRS. While one should be cautious about drawing strong inferences from the results of this type of simulation, viewed in isolation, in the context of the findings produced elsewhere they can be seen as adding weight to a particular line of argument.

Robertson et al. (2023) produced the one outlier study. Using a difference-in-difference and triple-difference analysis of the pre- and post-short-term rental regulatory environment in Bordeaux, they report that the "effect of the regulation is stronger on the number of listings than on reservation days … [In] central neighbourhoods, regulation has led to a concentration effect that has benefited remaining targeted listings". That is to say, the 44% reduction in mean reservation days overall was a result of fewer rentals offered on Airbnb overall rather than each Airbnb simply reducing the days they were each let. From the point of view of investment in the rental sector, this data is, however, ambiguous. It provides support for the idea that there is an inverse relationship between the regulation of short-term rentals and investment in the short-term let subsector, but it isn't clear what happened to those properties when they left the Airbnb platform. They could have been sold into owner-occupiers and thus represent aggregate disinvestment in the rental sector or they could have been switched to a more conventional tenure arrangement and remained in the PRS.

The evidence from the regulation of short-term rentals is best viewed in the aggregate. The international and UK research suggests that in the medium-to-long term regulation of the short-term rental sector is associated with more, rather than fewer, properties available for short-term rental – even when part of the city is subject to an outright ban. In light of these findings, it cannot be said that in the case of short-term rentals there is compelling evidence of an inverse relationship between strength of regulation and investment in the PRS. It is, however, necessary to recognize that this is a submarket of differing levels of maturity in different parts of the country. Knowledge of how the profile of landlords in this submarket compares with that of the broader private rented sector is not as robust as it might be. The implication is that mapping behavioural responses in this submarket across to likely behavioural responses elsewhere in the sector is less straightforward. However, the findings of the AHURI study reported at the start of this section point in a similar direction and so the case for arguing that non-price regulation does not typically have major negative impacts on investment is strengthened.

There are two key points to emerge from this aggregate picture. consider. The first, and most relevant for this report, is that landlord investment behaviour in the STR sector appears quite inelastic with respect to regulation. STR landlords tolerate a considerable regulatory burden before taking the ultimate decision to exit the subsector. The second point is that the data does not indicate the reason for this apparent inelasticity. It may be that where the underlying drivers are economic and business models continue to be viable, many landlords are willing to absorb changes in non-price regulation and continue to participate in the STR submarket in the face of all but the most burdensome regulations. Alternatively, the data could indicate a failure of regulatory monitoring and enforcement. Most likely the inelasticity of landlord behaviour is a product of both these factors.

From these studies it appears that even where the professed intention of non-price regulation is to directly manage the volume of the STR sector it is challenging to exert this influence as long as the business case for STR remains strong. These studies suggest that non-price regulations that do not impinge substantially upon the business case for rental property ownership are unlikely to reduce the volume of the PRS substantially. If it can be assumed that landlords in the STR submarket are likely to be among the most sensitive to financial returns then that would strengthen this conclusion with respect to the PRS as a whole.

6. Evidence on related issues

While there were relatively few papers identified by the search that offered evidence speaking directly to the research questions, there were further papers addressing a range of regulatory topics in the private rented sector that can contribute to the understanding of regulatory impacts. They have been placed in this section because they could be addressing a different dependent variable – such as the impact of non-price regulation in the rental sector on market dynamics or the balance between the rental and ownership sectors – or they are discussing a form of indirect regulation such as the impact of benefit changes.

This section addresses this material under three headings: market dynamics; energy efficiency and licensing; and housing allowances.

6.1 Market dynamics

The impact of private rented sector regulation on market dynamics has been examined both at the level of the individual country and cross-nationally. These studies typically seek to build a suite of variables to capture different dimensions of regulation. They can encompass both price and non-price regulation and attempt to disentangle the effects of the different components of a regulatory regime.

Cuerpo et al (2014) develop a composite index of rent control and landlord-tenant relations and examine it across Europe (EU27). They apply a fixed effects error correction model to national data from 1970-2011. The model combines two rent control measures with five non-price regulatory elements: procedural formalism in judicial proceedings; deposit requirements; justified reasons for tenant evictions; eviction notification requirements; and, average or representative length of tenancy contracts. The authors then conduct a Principal-Components Analysis (PCA) to understand the interaction of the seven indicators, leading to two composite regulatory indices. The PCA results grouped three factors: rent control, tenant-landlord conditions, and judicial efficiency. Following a lengthy discussion of the trade-offs associated with formality and outcomes of the judicial systems, the final composite indices cover the first two common factors only.

The model used is a national-level fixed effect model with real house prices as the dependent variable and a series of explanatory and control variables on the RHS (population, real income, real interest rates, real housing investment, etc.) including interaction terms with the two regulatory indices. The estimation of the baseline case confirms the statistical significance of the long-term relationship between real house prices and both indices: rent controls have a positive dynamic with house prices by increasing the impact of the other explanatory variables on house prices. All the 'real' drivers have positive elasticities except for the negative relationship between real interest rates and house prices. In contrast, 'the tenant-landlord index has, in principle, little influence on housing market developments' (pp 12-13).

The paper concludes, based on a legal review rather than the econometric estimation:

> *'An efficient, fair and swift judicial system appears as a necessary step towards unlocking rental market full potential. Although the identification of existing inefficiencies remains country-specific, member states should aim at a low degree of formalism' (p.17).*

However, this is not just about the speed of decisions, it is also about professionalism, precedent, and rules regarding the presentation of evidence. The authors continue:

> *'Qualitative aspects of the tenancy contract negotiation do not have a first-hand impact on housing market dynamics. Striking the right balance between tenant and landlord incentives ie creating security of tenancy and avoiding market segmentation between sitting and new tenants while safeguarding landlord property rights can therefore mitigate rental market inefficiencies and correct for market failures without contributing to housing market imbalances'.*

Several authors have built upon the approach adopted by Cuerpo et al (2014) and brought together multi-dimensional indices of rental regulation. Weber (Weber, 2017; Weber and Lee, 2020) constructs a country-specific time-varying index of private rental regulation. Weber and Lee (2020) deploy the index as part of a dataset covering 18 countries and states for the period 1973-2014. Their primary interest is the impact of rent control regimes.

Kholodilin and colleagues (Kholodilin, 2020; Kholodilin and Kohl, 2023) drew inspiration from Weber and sought to build a similar dataset covering a longer time series (100 years). The regulatory component of their dataset covers three areas: rent control measures, tenure security measures, and rationing measures. Kholodilin (2020) explains the construction of the dataset in some detail. The exploitation of this dataset is an ongoing project. Kholodilin and Kohl (2023) are interested in examining the impact of the regulatory regime in the private rented sector on the rise of home ownership. The argument is that while pull factors, such as the availability of generous subsidies, are a key component of the explanation of the growth of home ownership it is also necessary to consider push factors, such as tight regulation of renting. The authors find that the rent control regime in place is statistically significantly associated with the rate at which homeownership grew, but that no statistically significant relationship with the tenure security regime was identified.

The cross-national data assembled for this type of exercise, and the indicators that can be derived from it, almost inevitably lack granularity. There is also limited scope for going beyond broad correlations. However, one plausible interpretation of the causation here would be that while rent control – and in the analysis it was first-generation rent controls that were particularly impactful - is a meaningful disincentive to landlords investing in private renting, the analysis does not provide even circumstantial evidence that more or less stringent tenure security regimes have similar effects.

An analysis conducted at the national level, taking a cross-tenure approach to housing market regulation, is offered by De Jorge-Huertas and De Jorge-Moreno (2021). This is a careful and detailed econometric study of the impact of regulatory switches in the Spanish housing system over a long period, controlling for shocks like the GFC. The focus is on examining the effects of these interventions on both owner-occupied and rental prices. It is somewhat difficult to interpret the details of specific regulatory changes applied in the paper, for instance, concerning the nature and depth of the interactions between investment in real estate as an owner, second homes/tourist market, and the private rented sector as an investment market. Nonetheless, the authors do find statistically significant results.

The analysis incorporates a range of forms of regulation. This includes land market regulation, mortgage regulation, and the control of speculation. There are four laws and two decrees regarding the rental market that pertain to issues including eviction laws, and tenant rights and guarantees. The paper is insufficiently detailed about the precise regulatory changes being considered, which limits one's ability to interpret the results. The authors test for cointegration and Granger Causality between their house price and rental price indices (the two series are stationary). It turns out that Granger Causality is not significant between the two series. The paper concludes that additional regulation exerts downward pressure on both price series. Second, specific rental market non-price regulations have negative impacts on rental prices, which the authors contrast with the non-statistically significant connections between rental and owner prices.

A paper examining the impacts of the 2016 regulatory changes in the Scottish PRS is currently circulating in working paper form and has been presented at conferences in 2023 by its authors (Bailey, Chi, Gibb and Livingston). This paper used difference-in-difference techniques, with suitable controls, to compare rent levels before and after the change to tenant law (introduced in December 2017) until the end of 2019 and utilises a comparison between Scotland and a suitable comparator region of England. The evidence suggests that the independent effect of the regulation was to soften rents in Scotland compared to the comparator region. This was found with two different data sets - one based on new rents and the other on housing costs from survey data – and both told very similar stories.

A final paper concerned with market dynamics focuses on rent control but highlights a pertinent point about the non-price characteristics of rental markets. Fuchs and Fitzenberger (2013) analyse German social economic panel data (1984-2011) to examine the 2001 rent reform act plus the notion that a discount for longer tenancy duration has become institutionalised. While the rent control dimension of this analysis is not relevant to this review, it bears noting that the discount for longer stayers is confirmed. Discounts are highest in the early years of tenancies and apply most strongly to apartments in the upper part of the rent distribution. The discount declines over time for most apartments. This longer-stayer discount may arise as a result of a decline in property quality or because landlords seek to keep good tenants and avoid the transaction costs associated with reletting. While not speaking directly to the issue of regulatory impacts on the market, this paper indicates that behavioural regularities observed in markets can be idiosyncratic and suggests that cultural factors can be visible in the data. Rent setting that isn't driven by short-term income maximization is sufficiently prevalent to be a reasonably well-defined feature of the market data.

6.2 Energy efficiency and licensing

Among the 46 high-quality research papers that were reviewed were two dealing with energy efficiency and 'green' regulations and two investigating the effects of compulsory landlord registration. These papers did not engage directly with the impact of regulation on supply in the PRS, but those looking at energy efficiency regulations and one of the registration papers provide tangential evidence that regulations do not necessarily result in disinvestment in the sector.

Relatively soon after its implementation the Scottish Government commissioned a study into landlord registration which – using interviews, surveys, and workshops – found that the compulsory landlord registration scheme had "led to improvements in the image of the private rented sector and improved standards across the sector". Of note was the overwhelming view from landlords (93% of respondents) that the registration scheme, rather than constituting an onerous obligation, was experienced as "light touch" by those landlords who "operate lawfully" (DTZ 2011, 5). This account of landlords' attitudes towards regulations is a counterbalance to claims that regulations are inevitably seen as a net negative for market actors insofar as compliance imposes additional burdens. A qualification to this finding is that more recent research found that the regime in Scotland was experienced as light touch in part because of a lack of knowledge or misunderstanding on the part of landlords. Landlords were self-certifying that they were compliant with all relevant legislation without necessarily knowing what that encompassed. When the relevant registration form was changed to enumerate each of the areas in which compliance was required it highlighted to a proportion of landlords that they were not, in fact, as fully compliant as they had believed (Harris et al., 2020).

Research into the impact of UK energy efficiency regulations provides further insight into landlord attitudes towards regulation, as well as clues concerning if and why they might disinvest in the face of incoming regulations. Elliot et al. (2015) undertook semi-structured interviews with a group of senior UK-based commercial property investment decision-makers. The researchers found the "market is coping with the government's mandatory approach because the cost of compliance is manageable" (2015, 667). In other words, landlords and property investors approach regulation with a cost-benefit calculation and weigh the cost of compliance against the expected return on investment and the prospect of alternative investment strategies. Elliot et al. elaborate:

> *"The approach taken by investors is to understand the extent of the work required and the likely costs involved to getting the properties to an E rating. No one expressed the view that costs are onerous…" (2015, 673).*

While this study might capture the sentiment among property investors, it cannot be assumed that all smaller scale and individual landlords are operating with a similarly commercially-oriented and well-structured cost-benefit approach to decision making (Rugg and Rhodes, 2018; Harris and Marsh, 2022).

In 2013 Hope and Booth surveyed 53 residential landlords and conducted a small number of focused interviews. The authors describe the 'split incentive' that restrains landlords' voluntary investment in energy efficiency improvements to their rental properties. That is, the landlord pays for the improvement while the tenant is the primary beneficiary. According to Hope and Booth, 40% of respondents reported they "felt that there was no personal benefit to them from installing energy efficiency measures" (Hope and Booth 2014, 375). One of the landlords interviewed noted:

> *"It's just something that most landlords don't think about – the energy efficiency, even though we should, we just want the rent" (Hope and Booth 2014, 375).*

Reflecting on the research into landlord attitudes towards energy efficiency regulations, contrasting positions emerge. On the one hand, landlords will make a rational commercial calculation about whether the improvement prevents or permits their investment property to function as they desire over the expected time horizon for their investment. If the cost of improvement is (a) manageable and (b) they intend on holding the property for a reasonable period, there is little reason to believe regulations of this type would cause a landlord to sell. On the other hand, if the cost of improvements is (a) unmanageable and (b) they were not planning on holding the investment for the medium-to-long term, then these kinds of regulations may well bring forward their decision to sell. A cost may be unmanageable because of poor business practices rather than being genuinely disproportionate. It is known that poor business practices – such as failing to operate a sinking fund for repairs – are characteristic of a notable proportion of small landlords (Harris and Marsh, 2022).

Critically, however, an exiting landlord would be selling into a market where the cost of the necessary improvements has been priced in. There is nothing to say, therefore, that even if a landlord sold because there was no 'business case' for the improvements, the incoming buyer would not also be an investor buying the property at the discounted price and undertaking the required improvements themselves. Hence, even if regulations such as those mandating energy efficiency standards were to motivate landlords to sell, this does not imply that regulations inevitably result in aggregate disinvestment in the PRS. On the contrary, if one landlord sells their investment under the regulatory burden and a separate investor buys that same property, one observes 'investment churn' rather than disinvestment per se. It might, however, result in changes to the nature of rental supply: for example, the subset of landlords with business models that can operate profitably within the regulatory framework could expand, thereby increasing industrial concentration.

6.3 Housing allowances

The search identified several papers that focused on changes to demand-side subsidies, welfare benefit systems, or housing allowance mechanisms. Most of these papers did not speak to the research questions being addressed here (eg. van Ryzin and Kamber, 2002; Sanderson and Wilson, 2017; Hardie, 2022). However, two of the papers provided indirect evidence that is relevant to the research questions. Housing allowances and benefit rates can act as indirect modes of price regulation and modifications to administrative systems which change the continuity or predictability of income streams can lead landlords to re-evaluate their investment strategies in the light of the pattern of risks and returns changing.

In the first of the papers Kangashargu (2010) examined the impact of housing allowances on market rents. The paper is quite a nice natural experiment. It uses a large survey and difference-in-difference techniques. The analysis establishes that an increase in rent allowance levels, without changing eligibility, leads to an increase in rents. That is, for every Euro of allowance increase, rents rise by 60-70 cents. The finding backs up similar findings for France, provided by the second paper by La Ferrere and Le Blanc (2004).

This companion paper by La Ferrere and Le Blanc (2004) draws on data from 1992 to 1994, after the benefit of rental housing allowances extended to all low-income households in France. Aggregate data on the short-term impact indicates a rise in the rents of dwellings occupied by subsidized renters, compared to those of non-subsidized renters. Rents increase by 80 cents for every Euro increase in housing allowance. This is mainly due to compositional changes in the populations of each group of tenants. However, looking directly at rent changes at the dwelling level, rent changes are higher when new renters receive housing allowances. In the short run individual landlords capture part of the subsidy.

In the context of regulatory impacts a key question is who pays any additional compliance costs. A key part of the argument about landlord disinvestment is that additional regulatory burdens reduce effective financial returns, as well as create additional administrative overheads. In tight housing markets, where rents are high, landlords may be able to absorb additional costs and still achieve satisfactory returns. The implication is that regulation wouldn't be a major incentive to disinvestment. An alternative possibility is that landlords operating in markets with relatively inelastic supply can maintain their returns by passing on the costs to their tenants. The papers addressing the incidence of housing allowances give us one indication of landlords' ability to secure resources in this way in low-income segments of the private rented sector (see also Ong et al., 2020, pp.33-35).

7. Conclusion

The systematic evidence review has not identified any robust direct evidence that non-price regulation of the private rented sector causes aggregate disinvestment. It did, however, uncover a range of evidence regarding non-price regulatory reforms that have not been associated with aggregate disinvestment in the PRS or with other negative market outcomes. In light of this observation one might conclude that if increased regulation had a negative impact on investment then, at least for these particular regulations, it was not so strong as to counteract or overwhelm the incentives to continue to offer property for rent.

It bears noting that much of the literature that has been reviewed does not engage closely with the range of methodological challenges that were summarised in section four. There is, therefore, an outstanding research agenda.

The remainder of this section sets out more fully the logic of an argument, based on the available evidence, that non-price regulation is not a significant driver of disinvestment.

7.1 The logic of the argument

Given the available evidence and the requirement to arrive at a conclusion, analysts in this field are faced with something of a problem. This problem is best captured by an aphorism commonly attributed to astronomer Carl Sagan: 'The absence of evidence is not evidence of absence.' On the one hand, it is possible to report with confidence that a survey of the last twenty-five years of research into non-price regulation of the private rented sector has not produced any direct evidence that such regulation causes disinvestment. On the other hand, it was only possible to locate a single piece of research that makes the direct claim that regulatory change does not cause disinvestment in the PRS.

So, how ought one proceed? Is it appropriate to err on the side of ambiguity and concede that in the absence of evidence both propositions – that regulation does/does not cause disinvestment – are equally likely? That would be entirely unsatisfactory. Instead, this report proposes a logical framework to compare, contrast, and weigh the available evidence to arrive at a clearer conclusion. The logical framework takes the following syllogistic form:

1. If one cannot find evidence that X is the cause of Y, does one find evidence that X causes the opposite of Y?;

2. And, if one cannot find evidence that X is not the cause of Y, does one find evidence for an alternate cause for Y?;

3. Since, if one finds evidence that X causes the opposite of Y and, additionally, one finds evidence for an alternative (non-X) cause for Y;

4. Then, one has a strong claim based on the evidence that X does not cause Y.

Translating this argument into the current context, the following statements are noted:

1. One does not find evidence of non-price regulations being correlated to disinvestment in the PRS, but one does find evidence of regulations being correlated to periods of investment in the PRS.

2. One does not find evidence that non-price regulations can be correlated to a period of disinvestment in the PRS, but one does find evidence of something other than regulations (not-regulations) being correlated with disinvestment in the PRS.

Finally, although there is only one study that directly investigates the relationship between regulations and disinvestment in the PRS, numerous studies were identified that investigated this relationship within a sub-sector of the PRS – i.e., the short-term rental market. This leads to a third statement:

3. One does not find evidence that regulations can be correlated to a period of disinvestment in the PRS, but one does find evidence that regulations were not correlated to disinvestment in a subsector of the PRS.

Proceeding now, through the evidence collected during the review one finds that **statement 1** can be confirmed: the history of the United Kingdom's private rented sector over the past twenty-five years shows empirically that regulatory reforms are correlated to an extended period of investment and growth in the PRS. As noted by Tom Moore, "while there are geographical variations in the size and nature of the PRS in different UK jurisdictions, a unifying trend is that of PRS growth" (2017, 446). The UK's private rented sector has grown significantly in the past two decades, increasing from 2 million households renting in 2000 to 3.8 million households in 2011/12, to 4.7 million households in 2017/18 (RLA 2018, 4). Growth of the sector has continued despite the introduction of the range of additional regulatory requirements summarised in section two. This is not a new phenomenon nor a novel argument. Indeed, twenty years ago, Rugg and Rhodes observed:

> *"…growth [of the private rented sector in the United Kingdom] was marked during the 1990s, a period which saw the introduction of a new, universal, requirement for landlords and letting agents to have an annual gas safety check performed by a CORGI registered engineer, and in April 1996 stricter fire safety requirements for furnishings that are included in a letting" (2003, 942).*

Turning to **statement 2**, one finds this too can be confirmed: research into landlord behaviour and investment motivations finds that the decision to sell and disinvest from the PRS is driven by personal circumstantial factors such as realising capital gains or attaining retirement age. Where policy and regulatory changes feature in landlord decision making, post-2015 tax changes are typically cited by landlords as a more prominent concern than other regulatory changes, although further multivariate analysis of the impact of these tax changes would be valuable. Finally, one finds that **observation 3** can also be confirmed: extensive research finds that despite the often burdensome regulation of the short-term rental market, after a period of approximately 18 months, growth and expansion beyond prior limits returns.

The logic of this argument notwithstanding, it likely has limits. While non-price regulatory reforms of the types thus far introduced were accompanied by continuing sectoral growth, there are likely to be some forms of regulatory intervention that are sufficiently burdensome as to precipitate disinvestment. Papers included in the review indicated that strong rent controls likely fall into this category. But if there is a limit in relation to the stringency of non-price regulation then it has yet to be explored.

Finally, considering the body of evidence presented within this logical framework, the 2022 study prepared by AHURI into the question, as well as the absence of any countervailing data, this report can conclude with a degree of confidence that, excepting perhaps radical changes of a type not currently under discussion, non-price-control regulations do not appear to have any statistically significant influence on aggregate disinvestment in the private rented sector.

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Appendix 1

Regulating the Private Rented Sector in Wales: Recent Developments

A1.1 Setting the Context

This annex is concerned with recent interventions in Wales and the evidence of the impacts that these have had. As in other parts of the UK the scale of the private renting in Wales has grown considerably. In March 2001 there were an estimated 90,445 dwellings in this sector (7.1% of the dwelling stock). By March 2020 the estimated number of dwellings in the private rented sector in Wales stood at almost 205,000 (14.3% of the stock, Stats Wales). Early published data from the 2021 Census reports 17% of Welsh households were resident in the PRS at the time of the census (a slightly higher proportion of households than those living in the social rented sector), with above average proportions of households living in the PRS in local authorities such as Cardiff, Ceredigion, and Denbighshire. There are also significant policy challenges faced by the PRS in Wales, not least in terms of the switching of properties from the mainstream private rented sector to the less regulated short-term holiday/Airbnb sector (where Welsh Government have been introducing new measures).

Despite information from the 2021 Census of Population, the National Survey for Wales (which provides some analysis of the characteristics of residents in the sector) and the Welsh Housing Conditions Survey, there is limited robust evidence on the private rented sector in Wales, and how it is changing. Colleagues in CaCHE (Orford and Harris, 2020) highlighted that poor quality data availability, particularly on a low-level geographical basis, has implications for local authorities in encouraging regulatory compliance. In a separate paper published in 2021 we argued that despite innovative changes in the regulation of private renting in Wales, more needed to be done in terms of data collection and analysis to support effective regulation at a local level (Smith and Mackie, 2021).

Other than the above, there has also been relatively little independent research focused on the private rented sector in Wales. Much of what is available is conducted or commissioned by stakeholder organisations, e.g. the National Residential Landlords Association recently published a report on the State of the Welsh Private Rented Sector (NRLA, 2023)[2].

A1.2 Legislative and Policy Context

Since 2014 there have been three significant pieces of Welsh legislation which have shaped the regulation of the private rented sector in Wales:

- **Housing (Wales) Act, 2014.** This legislation enhanced the regulation of the private rented sector in Wales, requiring all landlords and managing agents to be registered/licensed (with the establishment of Rent Smart Wales (RSW) as the body responsible for landlord registration/licensing across Wales).

- **Renting Homes (Wales) Act, 2016** (as amended by the Renting Homes (Amendment) (Wales) Act 2021). This represents the biggest change to housing law in Wales in decades. The legislation affects all social and private landlords and tenants in Wales in terms of contracts, maintenance requirements and expectations regarding consultation with tenants. However, the legislation was not fully implemented until December 2022.

[2] https://www.nrla.org.uk/campaigns/wales#state-of-the-prs

- **Renting Homes (Fees etc.) Wales Act, 2019**. This legislation makes it an offence for a landlord or managing agent to require payments in respect of the granting or renewal of a standard occupation contract. It also provides for the repayment of tenants' deposits and for enforcing the terms of the Act and setting penalties for non-compliance.

The first two of these legislative changes are next considered in more detail.

A1.3 Housing (Wales) Act 2014 and the Role of Rent Smart Wales (RSW)

Part one of the Housing (Wales) Act 2014 set out new duties for a designated licensing authority to maintain a register of private landlords and to licence landlords and agents. This represented a significant move away from earlier regimes which had placed obligations on individual local authorities to establish, administer and enforce separate licensing schemes. The provisions of the 2014 Act envisaged a national scheme covering all 22 local authorities, co-ordinated by one authority. The primary objective of the legislation was to raise standards in the private rented sector; increasingly important given the growth of the sector and its increasing use by local authorities to use the private rented sector to discharge their homelessness duties.

Rent Smart Wales (RSW) was launched in November 2015 as the national registration and licensing authority for Wales. All private landlords with property in Wales are required to register with RSW whilst managing landlords and agents must complete training to ensure they understand their rights and responsibilities and obtain a licence.

The RSW website (https://rentsmart.gov.wales/en/home/) provides a dashboard of registered properties, broken down by local authority and by month. The latest figure for Wales is 211,396 registered properties (July 2023). Registration lasts for a period of five years and given that many landlords first registered in November 2016 (the first anniversary of RSW and the deadline for initial registration) the total number of registered properties dropped in November 2021 (In October 2021 there were 209,696 registered properties across Wales) as those landlords who had ceased trading during the five-year period did not reregister. The dashboard figures for individual authorities have generally increased since then, though most authorities have not reached their earlier peak although a couple of authorities (Cardiff and Blaenau Gwent) are reporting their highest levels of registrations. However, the data does not capture those landlords who may have withdrawn from the market since their last registration. Nor does it take account of actions where private landlords may be switching their properties from the mainstream of private renting to short-term holiday lets, although the number of RSW registered properties in areas such as Gwynedd, Isle of Anglesey, and Pembrokeshire (each of which include traditional holiday locations) are significantly below their earlier peaks.

The Welsh Government commissioned an independent initial evaluation of RSW to cover the period from 2015-2017. The final report was published in June 2018 (Welsh Government, 2018). The key findings from this research examined the early implementation of the scheme (and levels of awareness and understanding of the requirements), the early rates of registration and licensing and the development of enforcement action (primarily dealt with by individual local authorities). The research also highlighted a number of future considerations (including the need to address

the resource constraints both of RSW and individual local authorities). In addition, the final report suggested that the Welsh Government and Rent Smart Wales should consider how the data collected by RSW could be maximised to improve the collective knowledge of the private rented sector in Wales, how it operates in relation to other tenures, and how it is changing.

A1.4 The Impact of the Renting Homes (Wales) Legislation

The overarching intention of the Renting Homes (Wales) legislation is to improve the security of those who rent their home in Wales. Whilst the provisions of the legislation apply to all landlords (social and private), the expectation is that the greatest impacts will be seen in the private rented sector. The main provisions of the Renting Homes (Wales) legislation include:

- Tenants/licensees become "contract holders".
- Tenancy agreements become "occupation contracts".
- Two types of contract: "secure" (for social tenants) and "standard" for private renters.
- All converted occupation contracts to be issued by 31st May 2023.
- Greater protection from eviction (e.g., no fault eviction period increased from two months to six months – and extended to converted contracts by 1st June 2023).
- All converted contract properties to have hard-wired smoke alarms (on each floor) by 30th November 2023
- Training on new legislative provisions to be completed to comply with RSW regulations.

During the consultation on the amending legislation, landlords and their representative bodies raised concerns that the proposed legislative changes could have a number of negative impacts. These included:

- Making it more difficult for landlords to secure possession following breaches of tenancy.
- Landlords becoming more selective in their choice of tenant (becoming more risk averse) or leaving the market altogether.
- A greater volume of possession orders using alternative grounds to end contracts, placing additional pressures on the court system.

The legislation only came into force on 1st December 2022 and thus it is too soon to see the full impacts. However, recent research by the NRLA, 2023, on the State of the **Welsh Private Rented Sector** has cited Ministry of Justice data from the last quarter of 2022 (in the run up to the introduction of these new measures) showing a very substantial spike in possession claims in Wales brought by private landlords (compared with England). The latest statistics from the Ministry of Justice (MoJ, 2023) giving figures for the second quarter (April-June 2023) looking within the landlord possession actions across all categories (claims, orders, warrants and possessions) the use of accelerated procedures has seen a particular rise, and in the last 12 months there has been a relatively greater increase in these actions in Wales, compared with England (Ministry of Justice, 2023). These increases in Wales have coincided with the end of Covid-19 restrictions and the run up to and implementation of Renting Homes (Wales) legislation. Of course, the data does not definitively point to a withdrawal of landlords from the sector, since it does not provide data on the subsequent reuse of repossessed properties, which in some instances may be sold to other landlords (and therefore not lost from the private rented sector).

Under the new Welsh legislative framework private landlords in Wales will, where they have served a six-month period of notice, still be able to use the accelerated procedures (whereas in England once the Renters (Reform) bill is enacted these accelerated procedures for "no fault" actions will no longer be available).

A1.5 Welsh Government Housing Green Paper

In June this year the Welsh Government published a green paper on securing a path to adequate housing, fair rents, and affordability. The consultation seeks views and evidence around rents, affordability, landlord and tenant behaviour in the private rented sector and how to improve the supply and adequacy over time. Research published concurrently with the green paper included a briefing paper produced by CaCHE on rent control in a Welsh context looking at different approaches to rent control and a separate report from Alma Economics on data mapping and visualisation in the Welsh private rented sector[3].

Underpinning the Welsh Government green paper is a concern with unaffordability in parts of the private rented sector in Wales. The latest data from the Office of National Statistics (ONS) **Index of Private Rental Prices** for July this year (ONS, 2023) shows that private rental prices in Wales rose by 6.5% over the previous 12 months (compared with an annual increase of 5.2% in England and 5.7% in Scotland. This is up from 5.8% for the 12 months to June 2023, and represents the highest annual percentage increase since data collection commenced in 2010. Research by the Bevan Foundation on Local Housing Allowances has highlighted concerns about the very limited availability of good quality affordable private rented homes in Wales. Their most recently published analysis (Bevan Foundation, 2023), based on data from over 2,600 homes to let across Wales in a two-week period in February this year, only 1.2% were on offer at or below LHA rates.

The green paper consultation process in Wales closed on 15th September 2023. There is an expectation of a subsequent white paper in the summer of 2024, in line with the provisions of the Co-operation Agreement between the Welsh Labour Government and Plaid Cymru. However, there are no plans to introduce relevant legislation in the Senedd in the current term (2021-2026). The current Welsh Government Minister with responsibility for housing, Julie James, has made it clear there is a government commitment to maintaining a viable private rented sector in Wales and that any new policy proposals must be evidence-based and well thought through, not least to ensure that they do not have unintended and potentially damaging consequences.

[3] https://www.gov.wales/securing-path-towards-adequate-housing-including-fair-rents-and-affordability

A1.6 References

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Appendix 2

Regulating the Private Rented Sector in Scotland: Recent Developments

Of the four UK nations, arguably, Scotland's private rented sector (PRS) has been on the longest and most thoroughgoing regulatory journey. This is also an unfinished journey, with new legislation (a Housing Bill including new tenant rights and a national system of rent control) announced in the recent Programme for Government 2024-25.

A2.1 Recent and future legislative developments

This appendix draws on previous research by CaCHE to summarise relevant regulatory change in Scotland (Livingston, et al, 2018; Gibb, et al, 2019; Marsh and Gibb, 2019). The table below summarises major regulatory reform to the Scottish PRS since 2006. Initially, this involved the introduction and subsequent enhancement of landlord registration, a repairing standard and HMO licensing and tenancy deposit schemes. This was followed in 2013 with the results of a substantial multi-stakeholder PRS strategy, which in turn led to the legislative developments culminating in the Act of 2016 and the letting agent regulation of 2018. More recently, in 2022 the Government built on temporary Covid-19 restrictions to freeze rents (later capped till 2024) along with a further temporary suspension of evictions in response to the cost of living crisis, following a large scale renter rights consultation exercise across 2021-22, in advance of the housing bill expected in the coming parliamentary session.

Year	Regulatory Change
2006	Private landlord registration introduced
2007	Landlords required to meet the repairing standard
2011	(a)New HMO licensing regime introduced; (b) tenancy deposit schemes commenced; (c) landlord registration scheme amended over next 2 years to improve enforcement.
2013	Private rented sector strategy introduced by the Scottish Government
2015	Changes to the repairing standard made
2016	First Tier Tribunal (Housing and Property chamber) began hearing Repair Standard cases
2017	New private residential tenancy introduced; First tier tribunal started hearing private rented civil cases
2018	Letting agent regulation introduced
2022	Renter Rights consultation; Temporary provisions of the cost of living rent freezes and subsequent rent caps, along with temporary suspension of evictions
2024?	Enhanced tenants' rights and rent control legislation expected (a new Housing Bill, also including homelessness prevention provisions)

Source: Livingston et al, p.13. and the authors.

Of particular interest, and the focus of the rest of this Appendix, are:

- Landlord registration
- The Private Housing (Tenancies) Scotland Act 2016

A2.2 Landlord Registration

Originally added as a by-product of the 2003 Antisocial Behaviour Act, landlord registration requires every landlord to register with the local authority where their properties are found (and records the property address). To be compliant on the register, landlords must meet a 'fit and proper person' test enforced by the local authority. Landlords also pay a fee for each listing (that is, for each property registered in each local authority). Landlord and properties should be re-registered every three years (Livingston, et al, 2018).

Subsequently, the system was reinforced and enhanced by The Private Housing (Scotland) Act 2011. This legislation introduced changes primarily intended to assist local authorities enforce the scheme:

- A strengthened 'fit and proper person' test
- The requirement that letting adverts should include the landlord's registration number
- Additional powers for councils to obtain information about landlords
- An increase in the maximum fine for landlord registration non-compliance offences to £50,000 (a tenfold increase).

The Scottish Government estimated in 2011, that there were more than 175,000 landlords registered, though it was not possible to tell how many landlords had failed to register (Livingston et al, 2018). Landlord registration data is often used as a proxy to assess whether landlord numbers are rising or falling in local areas or indeed across Scotland, though there are well known problems arising from the three year lag in re-registrations.

Further frustrations are often associated with the landlord registration system. The local authorities are the data controllers and are under no obligation to order and report on the data in any consistent or meaningful way, let alone produce tables and raw data. The only route for third parties to analyse local authority level landlord data is through FOIs. Moreover, because of the locus of data controller, the Scottish Government has no fine grain ability to analyse such information. The 2021 Tenants Rights consultation included a tantalising proposal to extend landlord registration data capture by adding rent and property attributes to data on all units across Scotland. The goal was to provide an autonomous data base of rents by property type, size and location for all registered properties as the basis for a representative and accurate rents for a future system of rent control. Despite a positive response in the consultation analysis of submissions, this proposal then went quiet though it is known that the team developing the rent control legislative proposal are actively looking at ways of improving the micro rent data available, including looking again at such an idea, subject to cost-effectiveness.

A2.3 The 2016 Act and associated regulatory change

The 2016 Act brought in a new private residential tenancy that replaced short assured and assured tenancies. The private residential tenancy applies to all new private lets (starting from December 2017). Critically, the new tenancy is open-ended. If landlords wish to end a tenancy, they can only use one of the 18 formal eviction grounds set out in the legislation (Livingston, et al, 2018; Gibb, et al, 2019; Marsh and Gibb, 2019). Tenants also can legally terminate in the first 28 days of the new tenancy (and also have ongoing notice to quit rights, too). This contrasts with the prior arrangements that applied to the short assured tenancy (and remain the current practice in England). It was for a minimum of six months and facilitated the landlord to recover the property at the end of the fixed term. Now, under the 2016 Act, If the tenant on leaving the property believes that they have been misled into leaving the property, or that the legal grounds either have been wrongly applied or are absent, they can go to the enhanced First Tier Tribunal to seek redress. If found to have been wrongfully terminated, the Tribunal can require the landlord to pay

compensation (Livingston, et al, 2018).

In addition to the new tenancy, the 2016 Act also included measures to standardise rent change within tenancies, including measures to protect tenants against excessive rent increases – under the new legislation rents can only be increased no more than once every 12 months, and tenants can expect three months' notice of any planned increase in their rent (Livingston, et al, 2018).

Second, the Act introduced a form of third generation rent control - rent pressure zones (RPZs). Where there is sufficient evidence that rents are deemed by the local authority to be rising excessively and therefore putting unreasonable burdens on tenants, local authorities can apply to the Scottish Government to establish a rent pressure zone, limiting subsequent rent increases for existing tenants with a private residential tenancy (but still allowing at least CPI+1%[4]), for up to five years. These zones may be of any spatial scale within a local authority area (Gibb, et al, 2019; Livingston, et al, 2018). To date, no local authority has introduced RPZs in Scotland.

Third, disputes regarding the new tenancy are heard by the enhanced First Tier Tribunal (Housing and Property Chamber). The FTT was set up by the Tribunals (Scotland) Act 2014 with a limited remit focused on disputes concerning exercising the right to repair. Under the 2016 Act, the FTT was expanded in competence so that it now considers all civil private rental cases. To prepare for the expected additional workload, both legally trained and lay people have been appointed to increase the capacity of the system to convene and make judgements on first tier tribunal property chamber business.

The 2016 Act is a major change to the Scottish housing system. It is being evaluated through a longitudinal study funded by the Nationwide Foundation delivered by Indigo House[5]. This was originally a three year programme, but was suspended due to Covid-19 – it is now completing its final wave of quantitative and qualitative research and will produce its final assessments in 2024. Other work on elements of the 2016 Act include assessment of the consequences of treating students in a dichotomous way – students who are accommodated in student halls or purpose-built student accommodation do not have tenancies, but rather are treated under common law contracts, whereas those students in HMOs are private tenants with quite different legal rights[6]. Moreover, the ability of tenants under the 2016 Act to walk away from a tenancy (something students can and do decide to do), appears to have led to many landlords leading the student market, in part contributing to the recent severe student accommodation shortages apparent in Scotland in 2022. This unintended consequence relies on evidence that is anecdotal and/or qualitative, but it is reported widely and is a rationalisation generally held across different perspectives among people working within the student accommodation sector. Of course, it also increase demand-supply imbalance which affects new rents for everyone in the PRS.

A2.4 References

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[4] Perhaps reflecting the earlier low inflationary environment

[5] https://rentbetter.indigohousegroup.com/

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