The Postcode Lottery of Local Authority Enforcement in the PRS

Dr Tom Simcock & Noora Mykkanen
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Disclaimer

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Executive Summary

Everyone deserves a safe and secure home. Poor quality housing should not exist in a modern society. The latest English Housing Survey has shown that while property conditions have improved over the past decade, there is still work needed to be done to ensure all tenants (both social and private) have access to safe and secure homes (MHCLG, 2018). The Government has taken steps to provide more powers to Local Authorities through the Housing and Planning Act 2016 and the introduction of Civil Penalty Notices up to £30,000. There is limited knowledge on how local authorities are implementing their new powers, nor, of how effective some powers are in addressing problems in the sector. Addressing this gap is key to developing new policies that can help drive criminal landlords out of the sector, ensure a level playing field for landlords that offer safe and secure homes, and ensure no tenant is subjected to poor quality housing.

The research presented in this report provides the opportunity to address these gaps and to further our understanding of local authority enforcement in the private rented sector. The research was conducted between June and September 2018 and involved submitting two freedom of information requests to Local Authorities in England and Wales. The first FOI was on Local Authority enforcement and received 291 responses, while the second FOI focussed on the new Civil Penalty Notices and received 293 responses.

Key findings

- Our research found a postcode lottery of local authority enforcement across England and Wales which does not support good landlords or good tenants. For instance, while the number of HHSRS inspections increased by 11% for 2017/18 in comparison to 2012/13, this is being driven by Local Authorities in England, while in Wales the number of inspections in 2017/18 decreased by 22% in comparison to 2012/13.
- Enforcement activities by local authorities differ right across England and Wales. While in 2017/18 the number of improvement notices served increased by 7% in comparison to 2012/13, 18% of Local Authorities reported they had not served a single Improvement Notice.
- This finding is even more striking for Landlord prosecutions which are sporadic across England and Wales, with 67% of local authorities not commencing a single prosecution against a private landlord in 2017/18. This is despite the number of prosecutions commenced increasing by 460% in 2017/18 in comparison to 2012/13.
- The postcode lottery of local authority enforcement in the private rented sector is further evidenced through the low take up of new Civil Penalty powers. 89% of Local Authorities reported they had not used the new powers, and 53% reported that they did not have a policy in place to use the powers. Of those that had issued a Civil Penalty Notice, of which only 332 were served in 2017/18, 82% of these were from Local Authorities in London.
Finally, our analysis of the introduction of Selective Licensing schemes across 32 Local Authorities against complaint and enforcement data shows that there was no significant difference in the before or after the introduction of the scheme. The findings indicate that Selective Licensing schemes do not support local authorities to improve standards or increase enforcement activities against criminal landlords. Rather, we argue that these schemes are to the detriment of good landlords and tenants, and local authorities need to engage in targeted enforcement against the criminals that provide unsafe housing.

Key Recommendations

The findings of this research have provided greater understanding of the different levels of local authority enforcement in the private rented sector. From these findings, we have developed key recommendations that we believe will improve the current private rented sector. These are as follows:

1. There needs to be more funding for local authorities to ensure they have the resources needed to tackle poor quality housing. Furthermore, MHCLG need to follow up on the lax take-up of new powers by Local Authorities to ensure that these are implemented effectively, especially as income from Civil Penalty Notices contributes to the local authority housing enforcement budget directly.

2. There needs to be a review of the current legislation and regulations of the private rented sector. This review needs to explore the current standards and the different systems including the Housing Health and Safety Rating System (HHSRS) and the Decent Homes Standards. This review should then develop a single standard that is easy to understand and implement for tenants, landlords, letting agents and local authorities.

3. We welcome the Government’s recent consultation on the case for a Housing Court. We recommend that the Government should introduce a specialist housing court that could work in tandem with the Homes (Fitness for Human Habitation) Bill 2017-19 to ensure good tenants and good landlords have access to fair and cost-effective justice.

4. The current taxation system does not encourage landlords to proactively improve their properties. Therefore, tax relief should be moved from relief on sale with Capital Gains Tax, to tax relief on the improvements against rental income. Clarke and Oxley (2018, p.19) argue that this would “incentivise landlords to improve the quality of accommodation they offer”. Our previous research identified that 61% of landlords would improve the energy efficiency of their properties if there was tax relief for improvements (Simcock, 2018). This change would support a majority of landlords to proactively improve their properties, delivering a potential £240 million annual investment into the sector, and help to reduce fuel poverty for some of the most vulnerable tenants who live in the sector.

5. The findings of this report demonstrate that there is no significant impact of selective licensing schemes on enforcement by local authorities or the number of complaints recorded. Rather than introduce costly licensing schemes that put the burden of cost on good landlords and tenants, the Government should work with the sector to develop co-regulation schemes. These schemes would be built
upon the foundations of alternative dispute dissolution, continuous professional development, and, 5-yearly property inspections. This would enable a cost-effective method of ensuring landlords kept up-to-date with their responsibilities, ensuring high-quality properties, and in addition would work to make renting better for all.
1. Introduction

1.1 Background and Method

The research presented in this report is part of a longitudinal research project being conducted by the Residential Landlords Association’s (RLA) Private renting Evidence, Analysis & Research Lab (PEARL) to understand the long-term trends in Local Authority Enforcement activities in the private rented sector. Furthermore, this research explores the uptake of new enforcement powers provided to Local Authorities under the Housing and Planning Act 2016, such as the new Civil Penalty Notice. This research provides the opportunity for the development of a greater understanding of how Local Authorities utilise their powers to enforce against poor standards in the private rented sector.

The findings of this report are based on two Freedom of Information (FOI) requests submitted to in the summer of 2017. The first FOI request examined Local Authority enforcement and complaints against privately rented properties in England and Wales, and requested Local Authorities provide the following information for the financial years 2012/13 to 2017/18:

1. The number of complaints received per year for Private Rented Housing
2. The number of Housing, Health and Safety Rating System (HHSRS) inspections carried out per year
3. The number of formal enforcement notices served: Hazard Awareness Notices
4. The number of formal enforcement notices served: Improvement Notices (Category 1 and 2 Hazards)
5. The number of formal enforcement notices served: Prohibition Orders
6. The number of formal enforcement notices served: Emergency Remedial Action
7. The number of prosecutions commenced on formal notices per year

The second Freedom of Information (FOI) request examined the take up of the new Civil Penalty Notices by Local Authorities in England for the financial year 2017/18, and requested Local Authorities provide the following information for the financial year 2017/18:

1. The number of Civil Penalties served to private landlords
2. The average amount (£) levied in Civil Penalties to private landlords in 2017/18
3. The maximum amount (£) levied in Civil Penalties to private landlords in 2017/18
4. The total amount (£) collected through Civil Penalties to private landlords in 2017/18
5. Has revenue from Civil Penalties to private landlords been used to recruit Environmental Health Officers in 2017/18?
6. Does the Local Authority have a policy on Civil Penalties for the private rented sector?

The first FOI request received responses from 291 Local Authorities, while the second FOI request on Civil Penalties received responses from 293 Local Authorities.
1.2 Structure of the Report

This section of the report has provided the background to this research and the methodology used to collect the data. The next section of the report explores the findings of the first FOI request and the differences in enforcement activities across England and Wales. Following this, the impact of the introduction of a Selective Licensing scheme is investigated. The next section of the report examines the uptake of the new Civil Penalty Notices by Local Authorities and whether the Local Authorities have a policy in place to use the new powers granted under the Housing and Planning Act 2016. The final section of the report discusses the findings and the implications for policy and practice in the private rented sector.
2. Local Authority Enforcement in the Private Rented Sector

This section of the report explores how complaints and enforcement activity in the private rented sector across England and Wales has changed between 2012/13 to 2017/18.

Key findings:

- The number of complaints decreased by 5% nationally across England and Wales between 2012/13 and 2017/18.
- Across three-in-ten regions in England, the number of complaints recorded increased between 2012/13 and 2017/18.
- Between 2012/13 and 2017/18, the number of HHSRS inspections increased by 11% across England and Wales. However, this increase was driven by England, while inspections decreased by 22% in Wales over the same period.
- The number of Hazard Awareness Notices (HAN) increased by 58% nationally between 2012/13 and 2017/18.
- Between 2012/13 and 2017/18, the number of Improvement Notices served increased by 7% nationally, however, 18% of Local Authorities reported they had not served a single improvement notice in 2017/18.
- The number of Prohibition Orders issued increased by 32% nationally between 2012/13 and 2017/18.
- Overall, the findings of the analysis show that the use of Emergency Remedial Action is low across England and Wales. Between 2012/13 and 2017/18 in England and Wales, the number issued decreased less than 1%, however, in Wales for the same period, the number issued increased by 114%.
- Landlord prosecutions are sporadic across the country, with 67% of local authorities not commencing prosecutions against landlords in 2017/18. Nevertheless, the number of prosecutions commenced against a private landlord increased by 460% between 2012/13 and 2017/18.
- Inferential analysis identified that there was no significant difference in the number of Complaints, HHSRS Inspections, Improvement notices served, or prosecutions of landlords for 2017/18 in comparison to 2012/13 for Local Authorities that currently have a Selective Licensing scheme in place.
- Analysis of the data identified that there was no significant difference in the number of HHSRS inspections, Hazard Awareness Notices served, Improvement Notices served, or prosecutions of landlords commenced in 2017/18 in comparison to 2012/13 for Local Authorities that reported they do not currently have a Selective Licensing scheme in place.
- Analysis of the data identified that there was a significant difference in the number of Complaints against PRS properties and the number of Prohibition Orders served in 2017/18 in comparison to 2012/13 for Local Authorities that reported they do not currently have a Selective Licensing scheme in place.
2.1. Differences in Local Authority Enforcement Levels between 2012/13 and 2017/18

This section of the report examines the differences in Local Authority Enforcement levels and also the number of complaints received for PRS properties between 2012/13 and 2017/18.

*Figure 1. The total number of complaints received against PRS properties across England and Wales*

In comparison to 2012/13 the number of complaints received across England and Wales in 2017/18 decreased by 5%. The data also demonstrates that the number of complaints have been in steady decline since 2013/14. This is despite consistent growth in the number of households in the private rented sector across the same period.
Figure 2. The total number of HHSRS inspections in PRS properties across England and Wales 2012/13 to 2017/18

In comparison to 2012/13 the number of inspections across England and Wales in 2017/18 increased by 11%. In contrast, the number of inspections between 2016/17 and 2017/18 decreased by 4%. Overall, the data shows that HHSRS inspections carried out by Local Authorities has been increasing over the past 5 years, with a slight decrease in the latest year.

Figure 3. The total number of HHSES inspections in PRS properties across England and Wales 2012/13 to 2017/18
The number of Hazard Awareness Notices served across England and Wales in 2017/18 in comparison to 2012/13 increased by 58%. However, this increase is due to the significant spike in Hazard Awareness Notices that were served from 2013/14, and the number of these Notices served increased by 8% between 2016/17 and 2017/18.

Between 2012/13 and 2017/18, the number of Improvement Notices that were served each year by Local Authorities has remained relatively consistent. For 2017/18 in comparison to 2012/13, the number of Improvement Notices increased by 7%, however, for 2017/18 in comparison to the previous year, the number of Improvement Notices decreased by 6%.

Over the six years, there has been a steady increase in the number of Prohibition orders served by Local Authorities across England and Wales. For 2017/18 in comparison to 2012/13, there has been a 31% increase in the number served. However, it is important to note that only 1077 orders were served and taking the PRS at a size of 4.5 million households, this represents 0.02% of all PRS households that an order was served against.

The number of Emergency Remedial Action notices that have been served each year by Local Authorities has remain relatively consistent between 2012/13 and 2017/18. In comparison between 2017/18 and 2012/13, there was a 0.44% decrease in the number served. In 2017/18 there was 223 Emergency Remedial Action notices served by Local Authorities, this represents 0.004% of all PRS households that an order was served against.

**Figure 4. The total number of prosecutions of landlords commenced across England and Wales 2012/13 to 2017/18**

The data on the number of prosecutions of landlords that were commenced across England and Wales between 2012/13 and 2017/18 identifies interesting trends. Firstly, between 2012/13 and 2015/16, the number of prosecutions increased by 103% between 2012/13 and 2013/14, and then declined slowly over the next two years. Despite, this decline, between 2015/16 and 2017/18 there has been a sharp increase in the number of
prosecutions. In comparison between 2017/18 and 2012/13 there was a 459% increase in the number of prosecutions commenced against private landlords. Further in-depth analysis of the data identified this increase was being driven by one particular Local Authority; Liverpool City Council. This local authority introduced borough-wide selective licensing and a subsequent co-regulation scheme in April 2015. When the data for Liverpool is removed, there is a 69% increase in the number of prosecutions in comparison between 2012/13 and 2017/18.

Secondly, the analysis of the data identified that 67% of Local Authorities that responded to the FOI request had not commenced any prosecutions against private landlords in 2017/18. Furthermore, 42% of Local Authorities with a Selective Licensing Scheme in 2018 reported they had not commenced any prosecutions against private landlords in 2017/18. Overall, this indicates a potential postcode lottery of landlord prosecutions across Local Authorities, even when the Local Authority have introduced a Selective Licensing scheme.

Table 1. Percentage of LAs by region that have not commenced prosecutions in 2017/18

<table>
<thead>
<tr>
<th>Region</th>
<th>Percentage of Local Authorities that have not commenced prosecutions against Private Landlords in 2017/18</th>
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<tr>
<td>England and Wales</td>
<td>67%</td>
</tr>
<tr>
<td>England</td>
<td>67%</td>
</tr>
<tr>
<td>Wales</td>
<td>76%</td>
</tr>
<tr>
<td>London</td>
<td>30%</td>
</tr>
<tr>
<td>North West</td>
<td>76%</td>
</tr>
<tr>
<td>North East</td>
<td>72%</td>
</tr>
<tr>
<td>East Midlands</td>
<td>67%</td>
</tr>
<tr>
<td>West Midlands</td>
<td>71%</td>
</tr>
<tr>
<td>South East</td>
<td>75%</td>
</tr>
<tr>
<td>South West</td>
<td>75%</td>
</tr>
<tr>
<td>East of England</td>
<td>75%</td>
</tr>
<tr>
<td>Yorkshire and the Humber</td>
<td>40%</td>
</tr>
</tbody>
</table>

Table 1 above displays the percentage of Local Authorities that have not commenced prosecutions against private landlords in 2017/18 by region/country. The data shows a wide variation at a regional level, from 30% of Local Authorities in London to 76% in the North West. Overall, showing that there is a postcode lottery of local authority prosecutions with the majority of local authorities across England and Wales not commencing a prosecution last year.
2.2. Exploring the impact of Selective Licensing Schemes on complaints and enforcement

This section of the report investigates the impact of a Selective Licensing scheme on local authority enforcement and the number of complaints in the local authority area. For this analysis two sets of paired-samples t-tests were undertaken to compare the difference between enforcement and complaints in 2012/13 and 2017/18 for Local Authorities with a selective licensing scheme currently and for those Local Authorities that do not currently have a selective licensing scheme in place.

2.2.1 Local Authorities with Selective Licensing Schemes

Seven paired-samples t-tests were undertaken to identify the difference in complaints and enforcement for Local Authorities with Selective Licensing Schemes in 2012/13 in comparison with 2017/18. These seven sets of analysis were for the following:

1. Complaints received
2. HHSRS Inspections
3. Hazard Awareness Notices served
4. Improvement Notices served
5. Prohibition Orders served
6. Emergency Remedial Action order served
7. Prosecutions of private landlords commenced

A paired-samples t-test was conducted to compare the number of complaints received in 2012/13 and 2017/18 undertaken by Local Authorities with a selective licensing scheme currently in place. There was no significant difference found for complaints in 2012/13 (M=878, SD=796) and complaints in 2017/18 (M=877, SD=1235); t(31)=0.012, p=0.991. The findings suggest that the presence of a licensing scheme has no significant impact on the number of complaints made against privately rented properties.

A paired-samples t-test was conducted to compare the number of HHSRS inspections in 2012/13 and 2017/18 undertaken by Local Authorities with a selective licensing scheme currently in place. There was no significant difference found for HHSRS inspections in 2012/13 (M=359, SD=303) and HHSRS inspections in 2017/18 (M=534, SD=967); t(27)=-1.090, p=0.285. The findings suggest that there is no significant difference in the number of HHSRS inspections with the Local Authority introducing a selective licensing scheme.

A paired-samples t-test was conducted to compare the number of Hazard Awareness Notices served in 2012/13 and 2017/18 by Local Authorities with a selective licensing scheme currently in place. There was no significant difference found for Hazard Awareness Notices served in 2012/13 (M=13, SD=26) and Hazard Awareness Notices served in 2017/18 (M=9, SD=17); t(33)=1.180, p=0.246.
A paired-samples t-test was conducted to compare the number of Improvement Notices served in 2012/13 and 2017/18 by Local Authorities with a selective licensing scheme currently in place. There was no significant difference found for Improvement Notices served in 2012/13 (M=33, SD=59) and the number of Improvement Notices served in 2017/18 (M=25, SD=26); t(33)=1.244, p=0.222.

A paired-samples t-test was conducted to compare the number of Prohibition Orders served in 2012/13 and 2017/18 by Local Authorities with a selective licensing scheme currently in place. There was no significant difference found for the number of Prohibition Orders served in 2012/13 (M=11, SD=27) and the number of Prohibition Orders served in 2017/18 (M=10, SD=10); t(32)=.231, p=0.819.

A paired-samples t-test was conducted to compare the number of Emergency Remedial Action notices served in 2012/13 and 2017/18 by Local Authorities with a selective licensing scheme currently in place. There was no significant difference found for the number of Emergency Remedial Action notices served in 2012/13 (M=2, SD=4) and the number of Emergency Remedial Action notices served in 2017/18 (M=2, SD=5); t(32)=-.308, p=.760.

A paired-samples t-test was conducted to compare the number of prosecutions commenced against private landlords in 2012/13 and 2017/18 by Local Authorities with a selective licensing scheme currently in place. There was no significant difference found for the number of prosecutions commenced in 2012/13 (M=2, SD=4) and the number of prosecutions commenced in 2017/18 (M=25, SD=131); t(30)=-.996, p=.327.

Overall, the final five t-tests indicate that the presence/introduction of a selective licensing scheme does not significantly impact on enforcements levels by Local Authorities. Therefore, based on these analysis selective licensing should not be regarded as a method for Local Authorities to improve their enforcement against local private landlords, as firstly, there was no difference in the number of complaints recorded by the local authorities, secondly, no difference in the number of inspections undertaken by the Local Authorities, and no significant difference in the number of improvement notices served.

2.2.2 Local Authorities without Selective Licensing Schemes

Seven paired-samples t-tests were undertaken to identify the difference in complaints and enforcement for Local Authorities without Selective Licensing Schemes in 2012/13 in comparison with 2017/18. These seven sets of analysis were for the following:

1. Complaints received
2. HHSRS Inspections
3. Hazard Awareness Notices served
4. Improvement Notices served
5. Prohibition Orders served
6. Emergency Remedial Action order served
7. Prosecutions of private landlords commenced
A paired-samples t-test was conducted to compare the number of complaints received in 2012/13 and 2017/18 undertaken by Local Authorities without a selective licensing scheme currently in place. There was a significant difference found for complaints in 2012/13 (M=366, SD=392) and complaints in 2017/18 (M=316, SD=343); t(218)=3.380, p=0.001. The findings suggest that complaints have reduced significantly across Local Authorities in England and Wales that do not have a selective licensing scheme in place currently.

A paired-samples t-test was conducted to compare the number of complaints received in 2012/13 and 2017/18 undertaken by Local Authorities undertaken by Local Authorities without a selective licensing scheme currently in place. There was no significant difference found for complaints in 2012/13 (M=366, SD=392) and complaints in 2017/18 (M=316, SD=343); t(218)=3.380, p=0.001. The findings suggest that complaints have reduced significantly across Local Authorities in England and Wales that do not have a selective licensing scheme in place currently.

A paired-samples t-test was conducted to compare the number of HHSRS inspections in 2012/13 and 2017/18 undertaken by Local Authorities undertaken by Local Authorities without a selective licensing scheme currently in place. There was no significant difference found for HHSRS inspections in 2012/13 (M=192, SD=242) and HHSRS inspections in 2017/18 (M=180, SD=276); t(178)=1.105, p=0.271. The findings suggest that there is no significant difference in the number of HHSRS inspections between 2012/13 and 2017/18 for the Local Authorities without a selective licensing scheme in place.

A paired-samples t-test was conducted to compare the number of Hazard Awareness Notices served in 2012/13 and 2017/18 by Local Authorities undertaken by Local Authorities without a selective licensing scheme currently in place. There was no significant difference found for Hazard Awareness Notices served in 2012/13 (M=5, SD=18) and Hazard Awareness Notices served in 2017/18 (M=8, SD=33); t(217)=-1.778, p=0.77.

A paired-samples t-test was conducted to compare the number of Improvement Notices served in 2012/13 and 2017/18 by Local Authorities undertaken by Local Authorities without a selective licensing scheme currently in place. There was no significant difference found for Improvement Notices served in 2012/13 (M=9, SD=18) and the number of Improvement Notices serviced in 2017/18 (M=10, SD=18); t(230)=-.971, p=0.333.

A paired-samples t-test was conducted to compare the number of Prohibition Orders served in 2012/13 and 2017/18 by Local Authorities undertaken by Local Authorities without a selective licensing scheme currently in place. There was a significant difference found for the number of Prohibition Orders served in 2012/13 (M=2, SD=4) and the number of Prohibition Orders served in 2017/18 (M=3, SD=6); t(228)=-3.395, p=0.001.

A paired-samples t-test was conducted to compare the number of Emergency Remedial Action notices served in 2012/13 and 2017/18 by Local Authorities undertaken by Local Authorities without a selective licensing scheme currently in place. There was no significant difference found for the number of Emergency Remedial Action notices served in 2012/13 (M=.72, SD=3) and the number of Emergency Remedial Action notices served in 2017/18 (M=.65, SD=2); t(227)=.561, p=.576.

A paired-samples t-test was conducted to compare the number of prosecutions commenced against private landlords in 2012/13 and 2017/18 by Local Authorities undertaken by Local Authorities without a selective licensing scheme currently in place. There was no significant difference found for the number of prosecution commenced in 2012/13 (M=.45, SD=1) and the number of prosecutions commenced in 2017/18 (M=.83, SD=3); t(230)=-1.79, p=.075.
The findings of these analyses indicate that there has been no significant difference across the majority of the enforcement tools by local authorities in 2017/18 in comparison to 2012/13. However, the analyses suggest that across Local Authorities, without a selective licensing scheme in place, there was a significant decrease in the number of complaints against PRS properties in 2017/18 in comparison to 2012/13. This is in contrast to the local authorities that currently have a selective licensing scheme in place where there has been no significant difference in the number of complaints made.
3. The new Civil Penalty Powers and Local Authority Uptake

This section of the report investigates the FOI findings relating to the new Civil Penalty powers introduced by the Housing and Planning Act 2016. These new powers enable Local Authorities to serve a Civil Penalty of up to the value of £30,000 against a private landlord for a number of offences instead of criminal prosecution.

Key findings:

- Only 11% of Local Authorities had issued a Civil Penalty Notice against a private landlord or letting agent
- Local Authorities across England issued 332 Civil Penalty Notices against private landlords
- Local Authorities have collected £621,760 in Civil Penalty Notices against private landlords
- Across the Local Authorities that have served a Civil Penalty Notice, the average amount levied was £6,392.
- 53% of Local Authorities do not have a policy in place for issuing a Civil Penalty Notice against a private landlord or letting agent

Of the 293 Local Authorities that responded to the FOI on Civil Penalty notices, only 32 Local Authorities reported serving a civil penalty notice. This is equivalent to 11% of Local Authorities that responded. This finding demonstrates that Local Authorities in the majority are not using new powers effectively to counter poor practice in the private rented sector.

![The total number of Civil Penalty Notices served by Region in 2017/18](image)

*Figure 5. The total number of civil penalty notices served by region in 2017/18*
Of the 32 Local Authorities that had served a civil penalty notice, these had served 332 notices in 2017/18. On average there were 10 civil penalty notices served per local authority. At a regional level, the data shows that the majority of civil penalties were served by Local Authorities in London (82% of civil penalty notices were served by Local Authorities in London). This is followed by the North West, which served 6% of civil penalties, and then followed by the South East, which served 5% of civil penalties. The total number of civil penalties served by region is displayed in figure 5 above.

Of the Local Authorities that had served a civil penalty notice, the average amount levied was £6,392 and the largest amount served in a single civil penalty notice was £25,000 by the London Borough of Waltham Forest. This is then followed by the City of York Council (£23,375) and then the London Borough of Newham (£22,500). The smallest maximum amount levied by a local authority in a civil penalty notice was £750 by Bournemouth Borough Council.

In the freedom of information request, Local Authorities were asked to provide the amount collected through Civil Penalty notices, across all LAs this totalled £621,760 in 2017/18. The Local Authority that has collected the most under Civil Penalties was the London Borough of Newham that collected £153,000, followed by the London Borough of Camden (£93,000) and Oxford City Council (90,224). The smallest amount collected was £60 by Bournemouth Borough Council (8% of the £750 levied). 28% of local authorities that had issued a civil penalty notice reported they had not collected any of the monies that are owed.

Of the local authorities that have levied civil penalties, only 9% have used the revenue to recruit environmental health officers in the 2017/18 period. However, a further 22% reported that the revenue would be ring-fenced or be applied to enforcement in the private rented, one of these local authorities reported that the revenue to date had not been sufficient to recruit but the revenue was allocated to enforcement budget.

Finally, Local Authorities were asked to provide information whether they currently had a policy in place for the use of Civil Penalties against private landlords. 53% of the Local Authorities that responded reported they did not have a policy currently in place.

Overall, the findings show a postcode lottery on the implementation and use of Civil Penalties by Local Authorities, despite the incentive for Local Authorities to be able to utilise the amount raised to supplement their private rented sector enforcement budgets. Most Local Authorities reported they did not at the time of the request have a policy in place, and there is wide variation in the number and amount levied by local authorities. But, there is also variation in the collection of civil penalties with 28% reporting that they had not collected any of the monies owed. Based on the findings, we conclude that consistent enforcement by all Local Authorities is required and that councils need to ensure they utilise the powers currently available to them under the Housing and Planning Act 2016 before reverting to the use of Selective Licensing schemes. Especially, since our above analysis identified that the introduction of selective licensing schemes had no significant impact on complaints or enforcement activity.
4. Conclusions and Recommendations

Poor quality housing has no place in a modern society, and there should be no distinction in housing quality between tenure. Whether you are a social tenant, private tenant or owner-occupier, you should still have access to a home of a high-standard. The latest English Housing Survey shows that across all tenures the proportion of non-decent homes has declined steadily between 2006 and 2016, and a fifth of all dwellings (20% or 4.7 million homes) failed to meet the Decent Homes Standard in 2016/17 (MHCLG, 2018). Moreover, the private rented sector has the highest proportion of homes that have a Category 1 Hazard (15%), while housing associations have the lowest (5%). To combat poor quality housing in the private rented sector, the Government has introduced new enforcement powers for Local Authorities, including Civil Penalty Notices, in the Housing and Planning Act 2016. This compliments the existing powers Local Authorities have and the ability for Local Authorities to introduce Selective and Additional Licensing schemes.

The extant literature while it explores tenant experiences of housing quality across both the social and private sector, has not sufficiently explored the extent to which Local Authorities use their current enforcement powers or whether the introduction of a selective licensing scheme improves the enforcement against poor quality housing. To bridge this gap, we distributed two Freedom of Information requests to Local Authorities in England and Wales. The first to all councils asked for the number of complaints and number of enforcement activities per financial year, while the second (to only councils in England) asked for details about the new Civil Penalty Notices. We received and analysed 291 responses to the first FOI and 293 responses to the second.

The analysis of these FOIs uncovered a postcode lottery of local authority enforcement and the implementation of new powers. Across England and Wales, the number of HHSRS inspections increased by 11% for 2017/18 in comparison to 2012/13, yet this is being driven by Local Authorities in England, while in Wales the number of inspections in 2017/18 decreased by 22% in comparison to 2012/13. For enforcement activities, however, there are differences across the country. While in 2017/18 the number of improvement notices served increased by 7% in comparison to 2012/13, 18% of Local Authorities reported they had not served a single Improvement Notice. This finding is even more striking for Landlord prosecutions which are sporadic across England and Wales, with 67% of local authorities not commencing a single prosecution against a private landlord in 2017/18. This is despite the number of prosecutions increasing by 460% in 2017/18 in comparison to 2012/13.

The postcode lottery of local authority enforcement in the private rented sector is further evidenced through the low take up of new Civil Penalty powers. 89% of Local Authorities reported they had not used the new powers, and 53% reported that they did not have a policy in place to use the powers. Of those that had issued a Civil Penalty Notice, of which only 332 were served in 2017/18, 82% of these were from Local Authorities in London. This postcode lottery of local authority enforcement does not adequately support good landlords or tenants across
Finally, our analysis of the introduction of Selective Licensing schemes across 32 Local Authorities against complaint and enforcement data shows that there was no significant difference in the before or after the introduction of the scheme. This indicates that Selective Licensing schemes do not support local authorities to improve standards otherwise we would have expected a decrease in the number of complaints or increase enforcement activities by the local authority. Rather, it appears that these local authorities could be introducing the schemes to the detriment of good landlords, rather than targeted enforcement against rogue criminal landlords that provide poor housing.

The findings of this short report provide a key insight into the levels of local authority enforcement in the private rented sector across England and Wales and demonstrates a postcode lottery of enforcement. This does not support a modern private rented sector, nor does it provide confidence to the law-abiding landlords that offer safe and secure homes that their local authority will effectively tackle poor housing. There needs to be a rethink on how local authorities are funded to tackle poor quality housing, the introduction of a new housing court alongside the Homes (Fitness for Human Habitation) Bill 2017/19 to ensure tenants and landlords have access to justice, and the current standards and enforcement regime including the Housing Health & Safety Rating System (HHSRS) should be reviewed to ensure landlords and tenants are aware what standards are required.

Key Recommendations

The findings of this research have provided greater understanding of the different levels of local authority enforcement in the private rented sector. From these findings, we have developed key recommendations that we believe will improve the current private rented sector. These are as follows:

1. There needs to be more funding for local authorities to ensure they have the resources needed to tackle poor quality housing. Furthermore, MHCLG need to follow up on the lax take-up of new powers by Local Authorities to ensure that these are implemented effectively, especially as income from Civil Penalty Notices contributes to the local authority housing enforcement budget directly.

2. There needs to be a review of the current legislation and regulations of the private rented sector. This review needs to explore the current standards and the different systems including the Housing Health and Safety Rating System (HHSRS) and the Decent Homes Standards. This review should then develop a single standard that is easy to understand and implement for tenants, landlords, letting agents and local authorities.

3. We welcome the Government’s recent consultation on the case for a Housing Court. We recommend that the Government introduce a specialist housing court that could work in tandem with the Homes (Fitness for Human Habitation) Bill 2017-19 to ensure good tenants and good landlords have access to fair and cost-effective justice.

4. The current taxation system does not encourage landlords to proactively improve their properties. Therefore, tax relief should be moved from relief on sale with Capital Gains Tax, to tax relief on the improvements against rental income. Clarke and Oxley (2018, p.19) argue that this would “incentivise landlords to
improve the quality of accommodation they offer”. Our previous research identified that 61% of landlords would improve the energy efficiency of their properties if there was tax relief for improvements (Simcock, 2018). This change would support a majority of landlords to proactively improve their properties, delivering a potential £240 million annual investment into the sector, and help to reduce fuel poverty for some of the most vulnerable tenants who live in the sector.

5. The findings of this report demonstrate that there is no significant impact of selective licensing schemes on enforcement by local authorities or the number of complaints recorded. Rather than introduce costly licensing schemes that put the burden of cost on good landlords and tenants, the Government should work with the sector to develop co-regulation schemes. These schemes would be built upon the foundations of alternative dispute dissolution, continuous professional development and 5-yearly property inspections. This would enable a cost-effective method of ensuring landlords kept up-to-date with their responsibilities, ensuring high-quality properties, and in addition would provide enhanced and speedy justice for both landlords and tenants.
5. References


