

Private Rented Sector in Northern Ireland – Proposals for Change

Response from ARLA Propertymark

April 2017

Background

1. ARLA Propertymark (Association of Residential Letting Agents) is the UK's foremost professional and regulatory body for letting agents; representing over 9,000 members. Our members operate to professional standards far higher than the law demands, hold Client Money Protection and we campaign for greater regulation in this growing and increasingly important sector of the property market. By using an ARLA Propertymark agent, consumers have the peace of mind that they are protected and their money is safe.

Comments on proposals

Supply

2. In order to encourage a stable long term rental culture we must build more houses to bring down the cost of renting. To encourage more institutional investors into the residential property sector local authorities need to include them in their housing strategies. Furthermore, where possible, unused public sector land should be made available through the planning process.
3. When looking at opportunities for housing associations to have greater involvement in the private rented sector the Department for Communities should recognise that managing private rented property is different to social rented property. Consequently, it will require the knowledge and experience of letting agents and not Housing Officers to manage this type of home.
4. Buy-to-let landlords are essential to the supply of private rented property and it is important that existing landlords who want to expand their property portfolios have new investment channels to tap into. For instance, VAT should be reduced on the purchase of materials and labour to improve older property brought onto the rental market and allow improvements to be offset against rental income rather than Capital Gains Tax (CGT).
5. The sector also needs a more flexible tax regime putting private landlords on a level playing field with the social rented sector and owner-occupiers. Landlords should be able to take advantage of the same level of roll-over relief available to other businesses when reinvesting in the private rented sector and the rate of CGT for selling residential property should be reduced to the same 20 percent rate as CGT on all other gains.

Affordability

6. We have no objection to the Department for Communities introducing legislation to stipulate that rents can only be increased once in any 12 month period. However, landlords should be free to choose what the rents go up by and usually rent increases are a way of adjusting to the current market. Furthermore, landlords don't usually put up rents on renewal as they want the tenancy to continue. This reduces void periods and landlords do not have to pay the extra costs associated with starting a new tenancy agreement. A long, well maintained tenancy is the most efficient way of generating rent.

Security of Tenure

Tenancy Agreements

7. ARLA Propertymark agrees with the Department for Communities' desire to bring forward legislation for all tenancies to have a written agreement with mandatory terms regardless of length of tenancy. We look forward to working with the Department on what these key clauses should be.

Notice to Quit

8. We recognise the Department's aim to provide greater security for tenants. However, rent arrears is a major issue for landlords and letting agents. Therefore the Notice to Quit period should be extended to eight weeks, but in a situation of rent arrears the notice should be kept at four weeks. Extending the Notice to Quit in rent arrears cases could result in landlords being unable to service mortgage payments or risk possession by their buy-to-let lenders.

Eviction

Tenancy Management

Knowledge and Skills of Landlords

9. In relation to training, ARLA Propertymark's training course 'Legislation for Residential Lettings' is designed specifically for agents working in residential lettings. It covers the key UK legislation that all agents must comply with when working in the Northern Ireland property market.¹

¹ <http://www.arla.co.uk/training-qualifications/residential-letting-and-property-management/legislation-for-residential-lettings-northern-ireland/>

10. Furthermore, Propertymark Qualification 'Level 3 Technical Award in Residential Letting & Property Management - Northern Ireland' is ideal for candidates wanting to gain or improve existing knowledge in the key areas related to residential letting and property management.² The qualification is a requirement for membership of ARLA Propertymark and is regulated by the Council for the Curriculum, Examination and Assessment (CCEA) that has been designed by agents for agents.
11. We acknowledge the Department for Communities' commitment to fund a pilot landlord advice line. As the leading professional body for letting agents in the UK we are in the process of developing a legal helpline for our members in Northern Ireland that will launch shortly.³

Tenants Knowledge of their Rights and Responsibilities

12. ARLA Propertymark fully supports the 'How to Rent' guide, which must be served on all new tenancies in England. We believe that a similar guide, produced by the Department for Communities would provide further support to tenants living in the private rented sector in Northern Ireland and we would be happy to assist in its drafting as we did in England.

Regulation in Enforcing Standards

13. We are content with the Department's proposal to amend landlord registration for a fitness declaration at the point of registration. It will ensure that landlords are an appropriate person to manage private rented property. Where a landlord does not pass a fitness declaration the property should be managed by a fully qualified letting agent.
14. ARLA Propertymark has been calling for greater regulation of letting agents for twenty years. We believe that all letting agents should have Client Money Protection⁴, independent auditing of client accounts and professional qualifications backed-up with Continued Professional Development. It is our firm belief that only with this sort of regulation will the lettings industry improve and provide a professional service to all landlords and tenants.
15. The recent Scottish regulation⁵ is the best example of agent regulation. ARLA Propertymark believes that the criteria for Rent Smart Wales lacks essential elements. In England the London Rental Standard is an excellent example of sensible agent regulation, but the Mayor does not have the powers to make it mandatory. We would

² <http://www.propertymarkqualifications.co.uk/qualifications/residential-letting-property-management/northern-ireland-qcf-level-3-technical-award/>

³ <http://www.arla.co.uk/news/may-2016/arla-legal-helpline-where-are-you-calling-from-please.aspx>

⁴ <http://www.arla.co.uk/lobbying/client-money-protection/>

⁵ <http://www.arla.co.uk/lobbying/scotland-agent-regulation/>

like to see a scheme akin to the London Rental Standard⁶ or Scottish legislation put on the statute books and made mandatory for letting agents in Northern Ireland.

16. ARLA Propertymark does not support the proposal to ban letting agent fees. We believe fees should be open, transparent and reasonable. They represent legitimate costs to business that need to be covered.

Property Standards

17. ARLA Propertymark agrees with proposals to introduce mandatory smoke and carbon monoxide tests in private rented property in Northern Ireland. These need to be implemented according to a timeframe which gives letting agents and landlords time to comply.⁷ The Department for Communities also need to be clear on what constitutes testing.
18. ARLA Propertymark agrees with proposals to introduce mandatory periodic electrical checks in private rented property in Northern Ireland. This should be the production of a mandatory Electrical Installation Condition Report (EICR) on the safety of the electrical installations, fixtures and fittings every five years.
19. We welcome in principle proposals to introduce legislation around Energy Performance Certificates like in England to provide information about a property's energy use, typical energy costs and recommendations about how to reduce energy use and save money. However, the Department for Communities must recognise that undertaking some energy efficiency improvements, like solid wall insulation, is costly and the Department should consider whether standards in the private rented sector overall in Northern Ireland can be improved through a scheme which supports landlords in making improvements.
20. ARLA Propertymark accepts the proposals to amend legislation so that all unfit properties built before 1956 are subject to rent control. Ultimately this will change the year a certificate of fitness has to be carried out from 1945 to 1956 and help to drive up standards in more private rented property.

Dispute Resolution

21. ARLA Propertymark is in favour of the Department's recommendation, as outlined in Annex B of the Consultation Document that retrospective protection be introduced so all private rented deposits will be protected irrespective of the date the tenancy started.

⁶ <http://www.arla.co.uk/lobbying/london-rental-standard/>

⁷ <http://www.arla.co.uk/news/september-2015/smoke-and-carbon-monoxide-alarm-england-regulations-passed/>

22. Furthermore, increasing the number of days agents have to protect deposits from 14 days to 28 days is a good idea and will be welcomed by our members. It will allow more time to protect a deposit and for card transactions to be cleared.