

Safer Renting

Research brief



Exploring the contribution that Lettings Agents play in the London 'shadow private rented sector'; how the regulatory framework and enforcement activity of Property Agents impact private renters' exposure to abuse of their tenancy rights; and what changes are needed in public policy, practice and resourcing

Deadline for submission: 5pm on Friday, 31st May 2024

Budget: £50K (including VAT)

Ref: TfL

1. Introduction

Safer Renting, a service delivered by the social action charity Cambridge House, provides specialist advice, support and advocacy to help protect tenants who are victimised by criminal landlords. It is the only service of its kind and, with the need for private tenant support services growing all the time, we are committed to strengthening rights and access to justice for people exploited by rogue landlords, making private renting safe for all. Safer Renting is accredited and independently audited by Advice Quality Standard.

What is the background context for the research?

The Private Rented Sector ('PRS'), which doubled in size from the early 2000s to 2013, has stabilised in size as the largest of the residential rental sectors, accounting for 19% of households in the country; an estimated 2.3 million households. There are an estimated 19,000 letting agents in England according to data from the Property Ombudsman and the Property Redress Scheme (all letting agents are required to join one of these two redress schemes). The English Private Landlord Survey in 2021 found that 49% of landlords did not use an agent, 46% used an agent for letting services, and 18% used an agent for management services. A burgeoning lettings and property management industry therefore serves this large market, yet it operates under a loose regulatory regime that in some important activities, can avoid the regulation of those same activities when undertaken by landlords.

What is the project?

Trust for London has funded Safer Renting to research the contribution that Lettings Agents play in the London 'shadow private rented sector', in particular:

- how the regulatory framework and enforcement activity of Property Agents impact private renters' exposure to abuse of their tenancy rights; and
- what changes are needed, in public policy, practice and resourcing.

There are two stages to the work; a rapid literature review followed by a mixed methods research project, drawing on a range of sources, including representatives of regulatory

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bodies, professional bodies such as the Chartered Trading Standards Institute (CTSI), Chartered Institute of Environmental Health (CIEH), Property Ombudsman and Redress Scheme, industry representatives such as ARLA and NRLA and practitioners, renters membership organisations, and all other key stakeholders.

What are we looking for?

We are seeking a suitably experienced consultant or organisation to design, project manage, and account for this piece of research to Safer Renting. This brief provides the information needed to submit a proposal to undertake this work. If you have questions about the project, please contact [Roz Spencer](#).

We value diversity and warmly welcome applications from disabled people, the LGBTQIA+ communities, people from Black, Asian, and ethnically minoritised communities, and candidates who share lived experience with our service users.

2. Recent and current developments in the Lettings Agency Sector to be studied

There are 3 recent developments which have yet to be reflected in our review of the PRS regulatory framework which this study is to consider in detail:

- A government commissioned report by the Regulation of Property Agents working group published recommendations for increased regulation in July 2019¹, yet their findings have yet to be acted upon. Subsequently, concerns that the standards in managed rentals in the Property Agents' sector may be little better than in the largely non-professional owner-managed rental sector, were also raised in the government White Paper, a Fairer PRS, in 2022².
- The Renters Reform Bill, currently at committee stage in Parliament has mooted the suggestion that the identities of Agents may be required to be registered alongside owners on the proposed 'Property Portal'. The Bill also proposes to give the Secretary of State the power to extend the liabilities that apply to owner-landlords to Agents in some circumstances; other than these references, the bill makes no specific provision relating to Agents that are not themselves the direct named 'landlord'.
- The Supreme Court's ruling in the case of *Rakusen v Jepsen*³ means renters can only claim an RRO (Rent Repayment Order) against their direct landlord. The acting landlord is very often an agent who may either not be the legal landlord in the contract and/or may also have no assets and whose identity may be unclear. No research has been undertaken into the scale of the problem this causes. The 2019 'Regulation of Property Agents' Report to Government has not featured in the Renters Reform proposals. Evidence is required to show how private tenants are disenfranchised from pursuing tenancy rights if agents are part of the lettings supply chain. Compelling evidence and robust proposals are required to close this large loophole.

3. Draft Research outline

¹ https://assets.publishing.service.gov.uk/media/5d2f455240f0b64a855315d7/Regulation_of_Property_Agents_final_report.pdf

² https://assets.publishing.service.gov.uk/media/62ab00c3d3bf7f04a0a491c6/A_fairer_private_rented_sector_web_accessible.pdf

³ [2023] UKSC 9

This research to explore and understand the role of letting and managing agents in the 'shadow' PRS is a natural continuation of the work done in our first report, '[Journeys in the Shadow Private Rented Sector](#)'. Rogue landlords are often assisted or enabled by unprofessional lettings agents, who harass and illegally evict tenants with or without the knowledge of property owners.

Defining rent-to-rent scams

The risk to private renters will increase as it is now clear to owners and agents alike just how easily 'rent-to-rent' business models can be constructed to shelter the 'shadow' PRS from redress by tenants, post-Rakusen. In many instances, agents are taking advantage of both landlord and tenant.

We will make available Safer Renting's operational data on so-called 'rent-to-rent' scams. We define 'rent-to-rent' scams as a business model designed and used by lettings or managing agents to benefit financially in the rental supply chain, whilst avoiding statutory responsibilities and regulatory action. This is typically operationalised either through concealing their identity or sheltering their assets in a way that a property-owning head landlord cannot.

In many cases, renters considering or undertaking legal action against the lettings agent managing their property face significant challenges. For example, the renter may find it impossible to identify who the appropriate Respondent should be, because individual agents whose identities have been misrepresented, simply disappear. Alternatively, a renter successful in being awarded civil redress by a court or tribunal may be unable to practically enforce the award, because the agent can either dissolve as a business or move financial assets so they cannot be accessed using the enforcement options available to renters.

Research design

The research design should include:

- i) A scoping exercise in which we propose to consult a range of partners (see above)
- ii) A rapid literature review
- iii) An examination of equalities impacts, ensuring the research design addresses structural inequalities in access to justice
- iv) The structuring of survey data sources and samples including:
 - Safer Renting operational data
 - Data collected by digital app provider 'Marks out of Tenancy' for statistical reliability in scope and randomisation
 - Data held by local authority licencing and enforcement teams
- v) Interview surveys with key stakeholder groups to include:
 - Private renters and representative bodies
 - Property owners using agents
 - Licencing and enforcement teams
 - Trading Standards professionals
 - Housing Law Practitioners Group
 - Lettings Industry Council
 - Key faith groups representing marginalised communities

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- vi) Data Analysis
- vii) Analysis of qualitative interview surveys
- viii) A review of systems change options, including but not limited to changes to how the On-line Safety Act and the new Renters Reform provisions will be implemented; the design of the 'Property Portal' (national register); and how the 2016 Financial Penalties regime and the proposed Housing Ombudsman Service can be made more effective
- ix) Findings and recommendations

4. Research requirement

The research design should be outlined in proposed methodologies but is likely to draw on one or more of the following; action research, participatory research, peer research approaches, and evaluation methods. It will use 'mixed methods'. The type of methods we anticipate include; observations; semi structured interviews; focus/discussion groups; case studies; conversation analysis. We recognise that there is a limited budget for the project and that the methods will be designed and prioritised accordingly.

5. Support for the researcher/s

The project sponsor is Roz Spencer, Head of Service for Safer Renting. The researcher will also work closely with the Project Manager (Research), who will be a source of information about the progress and activities of the project and assist where necessary.

Dr Julie Rugg, University of York will provide academic scrutiny through all stages of the project. The project will not have to go through formal ethical approval.

6. Timetable and budget

An outline timetable for the research is provided in the table below but there is a degree of flexibility as our priority is securing the right research partner.

Closing date	31st May 2024 by 5pm
Interviews	Week commencing 10 th June 2024
Appointment of researcher	14 th June 2024 (approx.)
Initiation/set up meeting	By the end of June 2024
Research fieldwork and reporting period	July 2024 to November 2025
Interim reports	To be agreed but approximately two during the period
Presentation of final report	December 2025

A budget of £50K is available for the research – this should include VAT where applicable.

7. Guidelines for proposals

The proposal should be **no longer than eight sides of A4** and include, but not limited to, the following sections:

- i) Methods and approach
- ii) Team – roles and relevant experience (if appropriate please provide relevant links or attachments to show previous research outputs.
- iii) Risks and risk mitigation
- iv) Ethical approach
- v) Budget and timetable
- vi) Contact details for two professional referees

Proposals, referenced TfL should be no more than eight sides of A4 and should be submitted to recruitment@ch1889.org by Friday 31st May 2024.

8. Special conditions

This appointment is exempt from the provision of Section 4(2) of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Orders 1975 and 2001 and therefore all convictions, cautions and bind-overs, including those regarded as 'spent', must be declared.

If you are appointed, we will require you, and any colleagues working with you to deliver the brief, to obtain an Enhanced Certificate of Disclosure from the Disclosure and Barring Service (DBS).