



**Independent
Age**



Paving the way

How England can learn from other nations
about supporting older private renters

March 2024

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About Independent Age

Independent Age is the national charity focused on improving the lives of people facing financial hardship in later life.

Our helpline and expert advisers offer free, practical support to older people without enough money to live on. Through our grants programme, we support hundreds of local organisations working directly with older people across the UK.

We use the knowledge and insight gained from our support services and partnerships to highlight the issues experienced by older people in poverty and campaign for change.

We believe no one should face financial hardship in later life.

1. Introduction



Older private renters in England are often overlooked, while also being failed by the policies and practices that dominate the current private rental sector (PRS).

In England the proportion of older private renters has increased by 55% over the last decade to over 330,000 in 2021.¹ The driver of this growth in England is both an ageing population and changes in tenure. Not only this, the data also suggests that the proportion of older renters may continue to rise in the future, with data from Census 2021 showing that 11% of all 55–64-year-olds are living in the PRS compared with 7% in 2011.² If this cohort continues to rent past retirement, the demographics of England's PRS will change dramatically – as will the prevailing needs of private renters.

Despite this, the rental market in England does not cater for the needs of older private renters. England's current Assured Shorthold Tenancy system enables landlords both to increase rents and to terminate a tenancy at the end of its fixed lease – which often lasts between six months and a year. Likewise, complex factors lead many older people to live in poor-quality homes, and with limited alternatives. We explore the implications of this in our report *Hidden renters: The unseen faces of the rising older rental wave*.³

While it is unclear whether these trends exist in all high-income countries, an ageing population in these countries could have significant consequences. From our research, it is clear that there is no system of rental regulation anywhere in the world that perfectly meets the needs of older private renters.

However, learning from successful examples of policy and practice abroad might help governments in the UK to improve some of the problems older people living on a low income face. Regulatory reform of the PRS is a powerful tool to ensure the needs of people renting in later life are met – so looking at what our international neighbours have achieved is a good place to look for answers.

The purpose of this briefing is to examine the differing regulation of the PRS in other countries, and to consider whether implementing these ideas in the UK would benefit older private renters facing financial hardship.

2. Scotland, Wales and Northern Ireland



When comparing regulatory regimes of the PRS around the world, it is important to recognise that the UK diverges somewhat between the four nations. Housing legislation in relation to Scotland, Wales and Northern Ireland sits within the devolved legislative competence of their respective governments. While there are legal similarities, there are also notable differences.

The rights of private renters in Scotland have been significantly reformed in recent years. The Private Housing (Tenancies) (Scotland) Act 2016 established a new type of tenancy – the Private Residential Tenancy – which replaced the Short Assured Tenancy for all new tenancies. Private Residential Tenancies are open-ended, meaning that private landlords cannot end the tenancy because it has reached the end of a fixed period. Since the 2016 Act, all grounds for eviction in Scotland are discretionary and the introduction of Private Residential Tenancies brought an end to ‘no-fault’ evictions.



The Scottish Government introduced a national rent cap and eviction moratorium to help low-income renters with the cost of living

In October 2022 the Scottish Government introduced emergency legislation in response to the growing cost-of-living crisis: the Cost of Living (Tenant Protection) (Scotland) Act 2022. This 2022 Act introduced a temporary moratorium on most evictions, along with increased damages for unlawful evictions. The temporary moratorium will remain in place until the end of March 2024. While the 2022 Act has offered more security for private tenants, evictions can still take place if the tenant has six months of rent arrears or more, or if their landlord needs to sell or live in the property because of their own financial hardship.

Our own research has found that, despite the current measures, half of older private renters still worry about being evicted from their home.⁴ As outlined in our recently published report *Homing in: How to improve the lives of older renters in Scotland*, there is more that the Scottish Government can do to protect older private renters from unfair eviction from their home.⁵

The 2022 Act also introduced a temporary cap for mid-tenancy rent increases for private tenancies. The cap was initially set to 0% but rose to 3% in March 2023. Like the eviction moratorium, the 3% cap on private rents will continue until the end of March 2024. However, despite the current restrictions in rent increases, our own research shows 6 in 10 older private renters still worry about rising rent costs.⁶

2. Scotland, Wales and Northern Ireland

Among the almost 50,000 older private renters in Scotland, the poverty rate before housing costs is 27%.⁷ For the same group, the poverty rate rises to 39% – an increase of 12% – when calculated after housing costs, highlighting the impact that unaffordable rents can have on a household's overall finance.⁸ Additionally, private landlords can increase rent between tenancies because new tenancies are not covered by the temporary legislation. In our *Homing in* report, we recommend that the Scottish Government implements a permanent system of rent controls in Scotland, enabling private rents to be set at an affordable level for older people on low and fixed incomes.⁹

While Independent Age welcomes the current temporary measures and all improvements made to the PRS in Scotland since devolution, we encourage the Scottish Government to implement more support for older people in Scotland who rent their home privately. The forthcoming Housing Bill, which is expected to be introduced in 2024 and establish long-term rent controls – building on the short-term temporary measures – is the Scottish Government's opportunity to enhance the rights of older private renters in Scotland.

The Welsh PRS currently operates under the Renting Homes (Wales) Act 2016. The resulting differences between the Welsh and English PRS include an increase in the no-fault notice period of six months, as opposed to two in England,¹⁰ and enhanced succession rights if a tenant dies during a tenancy – from one succession, as is usual in England,¹¹ to two.¹²

The purpose of the Act was to simplify the process of renting a home in Wales and to provide tenants and landlords with more information about their rights and obligations.¹³ Looking to the future, several aspects of Welsh housing law will be aligned with England if the Renters (Reform) Bill 2023 is passed by the UK Parliament.¹⁴

In Northern Ireland, the Private Tenancies Act (Northern Ireland) 2022 regulates private renting policy. A significant development in Northern Irish private rental policy lies in this Act's insertion of Article 5C to the Private Tenancies (Northern Ireland) Order 2006. This places a duty on the Department of Communities to introduce regulations to implement a rent decrease of up to 10% and/or a rent freeze for up to four years in Northern Ireland.¹⁵

At the time of writing, the Northern Ireland Assembly has not enacted a rent decrease – although the intention expressed within this legislation aligns with a purpose to help older renters in financial hardship. This deliberateness is not apparent in England's current policy plans.

3. Germany



Germany is often held up as the exemplar of tenure security.¹⁶ Tenancies in Germany are indefinite, with only a few specific reasons for which the landlord is permitted to evict a tenant – including rent arrears, nuisance or if the landlord is repurposing the property to live in themselves.

The eviction notice period in such cases depends on the duration of the tenancy, and is up to nine months.¹⁷ Notably, no-fault evictions are not permitted by the German system – there must be a compelling reason.¹⁸

In 2017 the Institute for Public Policy Research found that all German tenancies last, on average, 11 years, compared with only 2.5 years in England.¹⁹

Culturally, private renters in Germany expect to stay in their home long term, commonly beginning their tenancies in completely unfurnished properties and customising their homes to suit their needs and tastes themselves.²⁰ This understandably incentivises tenants to remain in the same property for longer.²¹ This is particularly true for older renters: in 2021 the UK Collaborative Centre for Housing Evidence suggested that older renters are uniquely vulnerable to negative health outcomes, in part because of their landlords' reluctance to allow adaptations to their home.²²

There is a wealth of literature showing the benefits of 'ageing in place', including maintaining strong local social networks, which in turn support physical, mental and sometimes financial wellbeing.²³ Indeed, our own research suggests that many older renters share a desire to stay in their homes long term – some even for the rest of their lives.²⁴

A culture that assumes tenants will remain in their home for a longer time is likely to be more sympathetic to the property being adapted to accommodate the needs of the occupant. So, a cultural shift to assuming that tenants will remain in their home for a long time could be profound for older renters in England. Assured Shorthold Tenancies in England are usually six to 12 months long – a cause of regular uncertainty for many older renters. Introducing indefinite tenancies would create a culture where ageing in place is not only possible and supported, but assumed and standardised.



In 2017 the Institute for Public Policy Research found that all German tenancies last, on average, 11 years, compared with only 2.5 years in England

4. France



French housing policy operates against a backdrop of an 'enforceable right to housing', made law in 2007.²⁵ This right to housing is a right to access and remain in decent housing.²⁶ In 2022, 37% of tenures in France were private tenancies.²⁷

A rights-based approach to housing is not necessarily unique in European countries,²⁸ but the French Government has taken steps to make this right practicable. In 2007 it passed the legal Droit au Logement Opposable (DALO), which empowers a citizen in inadequate housing, or deprived of housing, to 'enforce' their right to housing from the state.²⁹ People who are entitled to make an appeal under DALO include those who:

- are deprived of housing, that is, living on the street, in a hotel or in their car
- are under threat of eviction without being rehoused
- are living in temporary accommodation for several months
- are living in housing that is dangerous, unhealthy or unfit for habitation
- are living in overcrowded or indecent accommodation, and who report the presence of minors or disabled people in the home
- have applied for social housing and had no offer, despite waiting a long time – each region sets the time period
- have applied for supported accommodation and received no offer of accommodation.³⁰

A 2016 report found that the DALO legal mechanism had led to more than 100,000 households being rehoused by the state since 2007.³¹ The significance of enshrining this standard in law is highlighted by the case of *Tchokontio Happi v France* (2012),³² where the European Court of Human Rights unanimously held that the applicant's right to a fair trial had been violated because French authorities had failed to house them, even after they had been granted the right to housing in court.³³ The condition of DALO being law means that, even when the rule is applied imperfectly – or not at all – there is recourse for justice.

The existence of such a rule in England's legislation could be profound for older renters. In 2022/22 the number of people in England aged 65 or over assessed to be threatened with homelessness, or who were homeless, was about 12,000 – 50% more than it was in 2018/19.³⁴ A route to legal remedy and, significantly, being rehoused would likely give older renters a route to secure, good-quality homes.



France has an enforceable right to housing that has helped more than 100,000 households to be rehoused

5. Ireland



The PRS in Ireland has been described as a deregulated but organised market. Since 2016 the PRS in Ireland has been subject to Rent Pressure Zones. These are designated areas where rents are highest and rising, and where households are the most rent burdened. Rent burden is the proportion of the household income spent on rent and service charges.³⁶

In these areas, barring targeted exemptions, rents cannot be increased by more than general inflation, or by 2% if inflation is higher. The increase restriction applies to new and existing tenancies, unless an exemption is being applied, and has been extended to the end of 2024.³⁷ At the time of writing, 56 local authority areas and local electoral areas in Ireland have been designated as Rent Pressure Zones – a marked expansion of the policy since it was first introduced.³⁸

The aim of the policy was to stabilise rapidly increasing rent rates, and to provide short-term predictability for tenants.³⁹ Research in 2019 showed that Rent Pressure Zones were moderating rent inflation.⁴⁰ A policy like the Rent Pressure Zones relieves some of the strain of rent increases for older people on fixed incomes, limiting, for example, the gap between the increase of their rent and the uprating of benefits they are entitled to.

In 2021 Ireland's Residential Tenancies Board estimated from a nationally representative sample that 71% of private renters aged 45 or over lived in a Rent Pressure Zone.⁴¹ Ireland's Economic and Social Research Institute concluded in 2022 that, but for the Rent Pressure Zones, rental inflation would have been notably higher, given the demand-led pressure on the general housing market and the macroeconomic recovery since the COVID-19 pandemic.⁴²

For older renters living on a low income in England, this could improve the gap between income and rent, particularly given the declining levels of state support for low-income renters.⁴³ Rent pressure zones would also provide some level of consistency and predictability for renters on fixed incomes, such as those reliant on the State Pension or Pension Credit, which in turn would improve their mental health.⁴⁴ In our nationally representative survey of nearly 2,000 older private renters in England, 45% of older renters said they feel anxious about being able to afford their rent.⁴⁵ Stabilising their rents would be likely to reduce this anxiety.



In Ireland 71% of private renters aged 45 or over lived in a Rent Pressure Zone

6. The US (Washington, D.C.)



In the District of Columbia, housing discrimination is prohibited under the DC Human Rights Act of 1977, as well as under the federal Fair Housing Act.⁴⁶ Under the DC Human Rights Act, discrimination of several characteristics and denominators – such as race, sexual orientation and, notably, source of income – is prohibited.⁴⁷

Under this law, it is unlawful to deny anyone – directly or indirectly – the full and equal enjoyment of housing, including the rental of a dwelling, based on the source of income of the individual.⁴⁸ The Office for Human Rights is responsible for investigating claims regarding discrimination and includes, among others, the following income types in its definition: payments from federal and local programmes, Social Security Supplemental Security Income and Disability benefits payments.⁴⁹ The English counterpart of these payments are benefits – commonly referred to in the lettings market as Department for Social Security, or 'DSS', payments.⁵⁰

This law has recently been amended through the Eviction Record Sealing Authority and Fairness in Renting Amendment Act of 2022 (ERSFRA).⁵¹ This amendment enhances the protection offered by the existing legal structure, by explicitly prohibiting discrimination based on prior credit issues or prior rental payment history, where such issues or history arose before a prospective tenant received a housing subsidy – alongside discrimination based on income level and credit scores, unless required by federal law. The amendment allows people to make a challenge if discrimination has occurred because a housing provider has charged fees, deposits or additional rent they would not have charged someone who was not trying to pay rent with an income-based housing subsidy.⁵²

These amendments were described by Legal Counsel for the Elderly – a Washington D.C.-based non-profit organisation⁵³ – as 'a tremendous stride in helping to lower the barriers for low-income tenants so that they have access to more rental housing and that they are being treated fairly when applying to housing'.⁵⁴ Similarly, the DC Fiscal Policy Institute included it among its list of developments putting Washington D.C. in 'Striking Distance of Ending Chronic Homelessness'.⁵⁵

6. The US (Washington, D.C.)

From our research we know that, in England, 195,745 older people who privately rent are on Housing Benefit, which is almost half of all private renters. This rises to 77% when looking at private renters aged 70 or older.⁵⁶ Many of the renters we interviewed disclosed that landlords have been reticent to rent to them because of their age and reliance on income-related benefits⁵⁷ – leading to, for example, rental advertisements plainly stating ‘No DSS’.⁵⁸

At the time of writing, landlords and estate agents holding No DSS principles are not acting outside the law on the grounds of direct discrimination, because neither income nor employment status are protected characteristics under English law.⁵⁹ However, there is a growing understanding that No DSS can amount to indirect discrimination in violation of the Equality Act 2010,⁶⁰ as held by cases including *Hayley Pearce v Michael Jones & Company* and *Ms Valerie Quick (2021)*, where Worthing County Court became the third court between 2020 and 2021 to declare DSS discrimination as unlawful.⁶¹

More rigorous rules outlawing DSS discrimination in England could expand the housing options of the thousands of older private renters who receive benefits, and who would previously have faced prejudice and discrimination from letting agents and landlords because of this.

A law in England reflecting the ERSFRA 2022 extension of federal law would advance the fair treatment of low-income older renters even further – but the start is to enshrine the illegality of No DSS discrimination in national law.



By tackling discrimination for renters on benefits, Washington D.C. has been said to be ‘in striking distance of ending chronic homelessness’

7. Portugal



Against a backdrop of underinvestment in the long-term letting sector,⁶² the Portuguese Government introduced new protections to stop vulnerable tenants from being evicted – including those aged 65 or over, or with an advanced level of disability – who have been living in their home for at least 15 years.⁶³

This law began as a temporary suspension between July 2018 and March 2019, but became permanent with Law 13/2019 in February 2019.⁶⁴ Landlords can only evict ‘vulnerable tenants’ if they can prove they need the property as their own permanent home, or if it needs extensive renovation works. If the latter, the landlord should provide an alternative equivalent dwelling, and restrictions on the level of rent apply.⁶⁵

Commentators lauded this change in the law, particularly the intention to strengthen the security and stability of leases, and to protect tenants who may be particularly susceptible to a power imbalance with their landlord.⁶⁶ In 2019 the European Social Policy Network noted this policy’s effect on Portugal’s efforts to fight homelessness and housing exclusion.⁶⁷

Having a policy specifically to protect older renters is progressive. As we noted at the beginning of this briefing, older renters have historically been overlooked – and not just by decision makers and commentators in England. It could be argued that the specifics of the policy may be difficult to apply to England’s existing PRS – particularly the requirement to have been in the property for 15 years, given that the average tenancy length for older renters is 10 years. But a policy like this may be necessary, in light of the trends in renting over 65 we’ve outlined.

The Portuguese Government’s decision to overtly protect renters aged 65 and over from most reasons for eviction may be a significant standard for future policymaking.

8. New Zealand



In English academia and policymaking there is a limited understanding of the specific needs of older private renters, although knowledge is growing. This means older people are slow to be included in policy decisions. In New Zealand, the understanding of the needs of older people is far more sophisticated.

In 2017 the University of Otago hosted a summit with the theme 'How do we generate a rental sector and rental stock that is responsive to older tenants?'⁶⁸ In addition, a 2018 study by the Centre for Research Evaluation and Social Assessment analysed data from New Zealand health surveys from 2012 to 2015 to explore the relationship between tenure and the health of older people. The study found that older public and private renters showed a pattern of higher risk factors and poorer physical and mental health compared with older homeowners – showing that tenure type was a good indicator of health need.⁶⁹

Likewise, in 2019 a group of academics did a study of 15,626 adults in New Zealand aged 55 or older, looking at their health in relation to their housing tenure.⁷⁰ They also found that overall measures of physical and mental health showed a health gradient, with owner-occupiers in the best health and public renters in the poorest health. They too concluded that rental tenure correlates with poorer health. Their study also showed that some groups were at more risk of worse health outcomes, including older renters who were women, and those who were from Māori and Pacific communities.⁷¹

Another study, from 2020, looked into the factors precipitating older renters' homelessness, arguing that it is a central risk to older renters in New Zealand. Within the context of New Zealand's largely unregulated rental market, insecurity of tenure for older renters is caused by unaffordable rents, no-cause termination (that is, no-fault evictions), and homes being in poor condition and unsuitable for an ageing population.⁷²

These are just a few examples of sustained research into the experiences of New Zealand's older renters specifically,⁷³ which have made the needs of older renters central to policymaking. For example, Kāinga Ora – a public housing landlord – has aligned its accessibility policy to The Better Later Life Strategy launched in September 2019 by New Zealand's Office for Seniors.⁷⁴ This strategy includes the aim that people can age in a place they call home, safely and, where possible, independently.⁷⁵

These values are strikingly similar to what we understand to be the hopes of older renters living on a low income in England.⁷⁶ But to translate this understanding into renting policy that considers the experiences and needs of renters aged 65 and over in England, we must continue to improve our understanding and knowledge of their needs.

9. Conclusions



Our research to compare international standards of renting shows that there is a vast array of policy options that could be implemented to improve the lives of older renters. From rent stabilisation and indefinite tenancies to more radical strategies like enshrining a right to housing, there are options available to make the private rental market fairer to people in later life.

In England, there is a demand to reform the rental market to meet the needs of the most vulnerable people in it, which should include older renters facing financial hardship.

Improvements could take several forms. In England, these include:

- swiftly implementing proposed measures in the Renters (Reform) Bill 2023, including:
 - quickly implementing the ban on Section 21 (no-fault) evictions
 - ending financial discrimination – for example, upfront payments and No DSS advertisements
 - longer notice periods for evictions
 - making the new landlord database accessible to those offline
 - applying the Decent Homes Standard to the PRS
- reinstating local authorities' ability to introduce selective licensing without the Secretary of State's approval
- consulting on a duty of local authorities to have vulnerable tenant liaison officers with the appropriate funding to help prevent homelessness for vulnerable tenants, including older tenants
- establishing a Commissioner for Older People and Ageing to research the specific needs of older renters and amplify their voices to decision makers to secure policy change.⁷⁷

Among the full list of recommendations for Scotland that we outlined in our report *Homing in*, Independent Age recommends that the Scottish Government introduces a permanent system of rent controls, as expected in its forthcoming Housing Bill. This will allow rents in the PRS across Scotland to be set at an affordable level for older people in poverty.⁷⁸

By looking abroad, we can see that the PRS in England is lagging behind when it comes to meeting the needs of its most vulnerable tenants. Reforming England's PRS with the needs of older renters on a low income in mind is not only possible, but vital.

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