

## House of Commons Public Bill Committee: Immigration Bill

### Summary of Shelter's Written Evidence

This submission will focus exclusively on the requirement for private landlords to check the immigration status of their tenants or prospective tenants.

**This requirement will restrict access to good quality accommodation from people with every right to rent a home in this country.** This is due to the intense pressure on the private rented sector, the discrimination already faced by some prospective tenants, and the poor market power of private renters.

**The private rented sector is under immense pressure.** Demand is growing rapidly in response to the shortage of affordable rented homes and the high cost of buying a home. Rents are now unaffordable to people on average incomes in half the country. In this overheated market prospective renters can face intense competition to secure a home in their price range.

**Landlords in a position to choose between tenants will always choose the tenant who they believe are less risky.** A wide range of research already shows how groups perceived as 'risky' find it significantly more difficult to find a private rented home.

**This requirements will exacerbate existing discrimination.** The hassle of verifying less familiar pieces of documentation, and the risk of penalties to landlords, will make it harder for people in vulnerable situations to secure a decent, safe private rented home. Some of the scenarios where people could find it even harder to find decent accommodation include:

- A domestic violence survivor fleeing their home at short notice. They may not have had time to gather together their belongings, including documentation. Their documentation may also have been retained by their former partner.
- A 19 year old thrown out by abusive parents, who doesn't have access to their documentation.
- An adult, born in the UK, whose parents migrated to the UK 40 years ago with a 'foreign sounding' first and last name, but a British passport. While they may have identity proving their right to live in the country, they may be less likely to be selected by a landlord or letting agent if there is another renter with a more 'British sounding' name pursuing that property.

**Private renters who secure their accommodation through a letting agency will face even more fees.** The Impact Assessment has estimated that the additional costs to tenants will be at least £17.9 million over 10 years. Additional fees will simply add to the financial burden facing the individuals and families who are already struggling to cope with the spiralling cost of private renting

**The Bill has not taken account of the impact this will have on people already in housing need.** They are still likely to be excluded from the mainstream private rental market, potentially increasing homelessness- particularly among BME households. In 2012 24 percent of households accepted as homeless in England were non-white. This is compared to 14.5 per cent of the total population.

**This requirement is unworkable and it should not be implemented.** It will only make an already difficult, expensive, and over-subscribed rental market even worse for people with few good options open to them.

## House of Commons Public Bill Committee: Immigration Bill

### Shelter's Written Evidence

1. This submission will focus exclusively on Part 3, Chapter 1: Residential Tenancies. Specifically Clause 17, which requires private landlords to check the immigration status of their tenants or prospective tenants.

### The private rented sector is already dysfunctional

#### The private rented sector is under immense pressure:

2. The private rented sector is a market under immense pressure. Demand is growing rapidly in response to the shortage of affordable rented homes and the high cost of buying a home. Loss of an Assured Shorthold Tenancy is now the leading cause of homelessness. Nearly three in ten (27 per cent) households accepted as homeless between April and June lost their home because their landlord simply decided to stop letting it to them<sup>1</sup>.
3. Renting is no longer the preserve of students and young professionals. There are now more than 1.3 million families with children renting privately. With local authorities having more power to place homeless families in the private rented sector, the changing shape of renting affects people from all walks of life. Yet rented homes do not provide many families with the stability they need. Sixty per cent of families living in the sector are there because they cannot afford to own their own home.<sup>2</sup>
4. As more and more people depend on the private rented sector, rents are now unaffordable to people on average incomes in half the country.<sup>3</sup> In this overheated market prospective renters can face intense competition to secure a home in their price range.
5. The number of people chasing each property in high demand areas means that it is very easy for landlords or letting agents to choose their preferred tenants. Landlords are rationally concerned with ensuring a secure income stream. They will seek to avoid tenants who they think will delay the process of filling a vacant property.

#### Landlords already avoid renting to groups they perceive as higher risk:

6. This overheated market creates incentives for landlords to choose the 'easiest' tenants. A wide range of research already shows how groups perceived as 'risky' find it significantly more difficult to find a private rented home:
  - Only 27 per cent of landlords are willing to let to people on welfare benefits. This is a reduction of five per cent on the previous year; the perceived risk of letting to people on benefits has increased as Universal Credit approaches.<sup>4</sup>

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<sup>1</sup> [DCLG 2013, Live tables on homelessness.](#)

<sup>2</sup> YouGov for Shelter 2012.

<sup>3</sup> Shelter 2011, Private Rent Watch 1.

<sup>4</sup> National Landlords Association 2013, Press Release, 30 July 2013, "Landlords exit Local Housing Allowance market": <http://www.landlords.org.uk/news-campaigns/news/landlords-exit-local-housing-allowance-market>.

- Private renters without bank accounts (10 per cent of renters) face additional difficulties in sourcing good private rented homes, according to research by Bristol University's Personal Finance Centre.<sup>5</sup>As a result, some of the participants in their qualitative research continue living in dangerous and unsanitary conditions because they know how hard it would be to find a reputable landlord who would accept a tenant with no bank account.
  - Interim findings from the Shelter and Crisis managed, Big Lottery funded, longitudinal research into the experiences of previously homeless private renters show that many of these renters feel stuck in their homes due to other landlords not being willing to accept them.
  - Racial discrimination in accessing rental accommodation already happens. A recent investigation carried out by the BBC showed that Letting agents in London are prepared to discriminate against would-be tenants on the grounds of race.<sup>6</sup>
7. These examples show that where private renters have any perceived 'risky' characteristics, they find it more difficult to find a decent home let by a mainstream landlord.

**Private renters are already frustrated by high letting fees:**

8. Private renters who secure their accommodation through a letting agency are already likely to pay a number of fees.
9. Shelter's Private Renting Census found that tenants renting from a letting agency are most likely to be charged an admin fee (70 per cent), initial contract fee (62 per cent), or credit check (52 per cent). Fewer tenants reported being charged fees for references (35 per cent), protecting a deposit (14 per cent), and contract renewals (26 per cent).<sup>7</sup> The sum of these charges can often amount to more than £500.
10. Shelter firmly believes that the business costs for carrying out the Bill's proposed immigration checks should not fall on tenants, who are already pay high letting agency fees. It is therefore extremely disappointing that the Bill does not require letting agents or landlords to accept liability for these checks.

**This requirement will make things worse**

**More renters will be perceived as 'high risk':**

11. The proposed regulations could see landlords stop renting properties to even more prospective tenants: those who they perceive to be more likely to expose them to the risk of a void period or a fine.
12. With intense competitive pressure on much of the market, it is likely that landlords in a position to choose between tenants will always choose the tenant who they perceive as less risky or where the tenancy is easiest to set up.

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<sup>5</sup> Claire Whyley, Andrea Finney and Dawn Muspratt 2013, Helping private tenants achieve financial inclusion.

<sup>6</sup> BBC News, 2013, Web Page 14<sup>th</sup> October 2012, "London letting agents 'refuse black tenants':

<http://www.bbc.co.uk/news/uk-england-london-24372509>.

<sup>7</sup> YouGov for Shelter 2012.

13. The changes pose two financial risks to landlords, which could have an impact on their behaviour:
- i. If they find that they have let to people who do not have the right to be in the country, they could face a fine of up to £3000.
  - ii. If they pursue a letting and it transpires that the prospective tenant doesn't have an acceptable immigration status, the letting could fall through before it starts. This puts landlords at risk of a longer void period between tenancies, which could mean weeks or months without rent payments covering the mortgage.
14. If there is extra 'hassle' or a time delay involved in accepting someone with less familiar documentation, the landlord or letting agent is likely to choose the tenant with the most familiar documentation. Even where the landlord is willing to make checks with the Home Office any delay in receiving confirmation that the immigration status is appropriate could lead to them choosing to rent to another party.
15. Although the Bill provides a comprehensive list of accepted documentation this will not prevent landlords from discriminating against perceived 'high risk' tenants. Many of those in housing-need will still struggle to provide this documentation. And to avoid the extra resource burden, rather than checking against this list landlords will be inclined to pick the 'easiest' tenants. Therefore, these requirements will simply increase discrimination.

**Many people with legitimate rights to rent a home could find themselves locked out, including those in vulnerable circumstances:**

16. The hassle of verifying less familiar pieces of documentation, and the risk of penalties to landlords, will make it harder for people in vulnerable situations to secure a decent, safe private rented home. Some of the scenarios where people could find it even harder to find decent accommodation include:
- A domestic violence survivor fleeing their home at short notice. They may not have had time to gather together their belongings, including documentation. Their documentation may also have been retained by their former partner.
  - A 19 year old thrown out by abusive parents, who doesn't have access to their documentation.
  - A BME adult, born in the UK, whose parents migrated to the UK 40 years ago with a 'foreign sounding' first and last name, but a British passport. While they may have identity proving their right to live in the country, they may be less likely to be selected by a landlord or letting agent if there is another renter with a more 'British sounding' name with similar financial circumstances pursuing that property.
  - A person with a lesser known EEA passport. Landlords or letting agents may not be familiar with full membership of the European Economic Area, and may prefer to rent the home to a person whose nationality they are more certain has the right to live and work in the UK.
  - A household with a legitimate right to live in the UK, but an unfamiliar status, e.g. 'limited leave to remain'. In this case, a landlord or letting agent may find the hassle factor of

verifying this status too off-putting, and so may prefer to rent with a tenant with a more simple status.

- A household where one member, e.g. a partner, is a foreign national. The perception about the need for documentation checks on this one member of the household could make it extremely difficult for the entire household, including any dependent children, to obtain accommodation.

17. Our worry is that renters who have every right to live and rent in the UK will be locked out of the mainstream private rented market. They may be forced to seek housing from landlords offering lower quality accommodation, sometimes wilfully avoiding their responsibilities.
18. We do not believe that the Bill's proposed 'Code of Practice' will be enough to mitigate against this potential for discrimination. Enforcement will rely upon tenants reporting suspected cases of discrimination. In an overheated rental market many tenants will be unwilling to 'rock the boat'. Rather than going through lengthy complaint procedures they will move on swiftly to the next available option.
19. We already see this happening across the sector. Renters desperate for a home are often unaware of their rights. Or they do not feel powerful enough to enforce them. Over half a million renters have handed over cash to secure a property during a viewing, including 85,000 families.<sup>8</sup>

#### **Private renters will be faced with yet more fees:**

20. The impact assessment states: "If a letting agent... charges an additional fee to make the checks, this is the letting agent's decision to do so." Based on the proliferation of letting agent fees we predict agents are very likely to charge a fee for immigration checks. It has estimated that the additional costs to tenants will be at least £17.9 million over 10 years.<sup>9</sup>
21. Tenants are the hardest hit by this requirement. Additional fees will simply add to the financial burden facing the individuals and families who are already struggling to cope with the spiralling cost of private renting. More than half (54 per cent) of people who have used a letting agency reported experiencing one of a range of financial difficulties and sacrifices to cover existing fees, including: depleting their savings, cutting down on food and fuel costs, and borrowing money.<sup>10</sup>

#### **Rogue landlords will continue to find loopholes:**

22. Many landlords are responsible and professional. However, there are a number of amateur landlords in England who are unaware of their responsibilities and may inadvertently break the law or not carry out full checks. Shelter also see a minority of wilful rogue landlords, who are already aware they are breaking the law but find loopholes and ways to avoid enforcement to continue their practice.<sup>11</sup>

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<sup>8</sup> YouGov for Shelter 2012.

<sup>9</sup> Home Office 2013, Impact Assessment; tackling illegal immigration in privately rented accommodation.

<sup>10</sup> Shelter 2013, Letting agencies: the price you pay.

<sup>11</sup> Shelter 2011, Asserting authority: Calling time on rogue landlords.

23. That many of these landlords already manage to avoid enforcement raises questions about whether the UK Border Agency would be any better equipped to enforce against wilfully evasive rogue landlords than established private rented sector enforcement agencies.
24. The private rented sector already has piecemeal regulation, with glaring exemptions. From Shelter's work with local authorities, and from our direct advice provision to private renters, we know that rogue landlords are able to exploit loopholes. It is quite conceivable that the Home Office's exemptions, designed to minimise disproportionate burdens on different industries, could easily be exploited by landlords who already knowingly let to illegal immigrants.
25. The proposed fine of up to £3000 is likely to create more caution among reputable landlords in letting to people who have a right to live and work in the UK but may be perceived as higher risk or may not have their documentation to hand as a result of their circumstances. However, it will not be enough to deter existing rogue landlords who already break the law.
26. Given that rogue landlords already find many ways to evade their responsibilities, Shelter believes it will be difficult for the Home Office to fully ensure compliance without significant work to join up their activity with locally based enforcement bodies. They are still likely to be excluded from the mainstream private rental market
27. The Bill has not taken proper account of the impact this will have on BME households. These households are already more likely to be in housing need. In 2012 24 percent of households accepted as homeless in England were non-white.<sup>12</sup> This is compared to 14.5 per cent of the total population.<sup>13</sup> Making the private rented sector even harder to access will potentially increase homelessness among BME families.

**There may be an unacceptable impact on the children of people with complex immigration statuses:**

28. Some people may be in breach of the immigration laws while they attempt to regularise their immigration status. In particular, Shelter's Children's Legal Service see people who are unlawfully in the UK but have children who are the innocent parties in the problems arising from their parents' immigration history. The family may be applying for leave to remain, and have good prospects of obtaining it. Social Services owe a duty under s.17 of the Children Act 1989 to accommodate the family in the interests of the children as 'children in need'. The Supreme Court has recognised (in the case of ZH (Tanzania)) that the interests of the children are a primary consideration in decisions made by public bodies, even where their mother had a complex immigration history.

**Conclusion**

29. This requirement is unworkable. It will simply restrict access to good quality accommodation from people with every right to rent a home in this country. It will make an already difficult, expensive and over-subscribed rental market even worse for people whose options are extremely limited.

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<sup>12</sup> [DCLG 2013, Live tables on homelessness.](#)

<sup>13</sup> [ONS 2011 Census Ethnic Group, local authorities in the United Kingdom.](#)

30. With intense competitive pressure on much of the market, it is likely that landlords in a position to choose between tenants will always choose the tenant who they perceive less risky or where the tenancy is easiest to set up.
31. This requirement actively creates a whole new category of 'risky tenants', closing the market to those who need it most.
32. Families and individuals already struggling to cover the soaring cost of renting will be hit by more fees. Extra costs to renters have been estimated at a minimum £17.9 million over 10 years.<sup>14</sup>
33. Many of these concerns were expressed during the consultation period and the Bill has done little to alleviate them.
34. The loss of an Assured Shorthold Tenancy is already the leading cause of homelessness. Anything that makes the private rented sector even harder to access should not be encouraged.

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<sup>14</sup> Home Office 2013, Impact Assessment; tackling illegal immigration in privately rented accommodation.

## About Shelter

Shelter helps millions of people every year struggling with bad housing or homelessness – and we campaign to prevent it in the first place. We're here so no one has to fight bad housing or homelessness on their own.

Last year, we helped more than three million people. Our work gives us direct experience of the various problems caused by the shortage of affordable housing across all tenures. Our services include:

- A national network of over 20 advice services with legal aid contracts in housing and community care.
- Shelter's free housing advice helpline which runs from 8am–8pm, Monday-Friday and 8am-5pm, Saturday and Sunday.
- Shelter's website ([shelter.org.uk/getadvice](http://shelter.org.uk/getadvice)) which provides advice online.
- A number of specialist services promoting innovative solutions to particular homelessness and housing problems. These include Housing Support Services which work with formerly homeless families, couples and single people. The aim of these services is to sustain tenancies and ensure people live successfully in the community.
- The government-funded National Homelessness Advice Service, which provides specialist housing advice, training, consultancy, referral and information to other voluntary agencies, such as Citizens Advice Bureaux and members of Advice UK, who are approached by people seeking housing advice.

We also campaign for new laws and policies – as well as more investment – to improve the lives of homeless and badly housed people, now and in the future.

## Contact

For further information please contact Martha Mackenzie, Public Affairs Officer, by email [martha\\_mackenzie@shelter.org.uk](mailto:martha_mackenzie@shelter.org.uk), or by telephone 0344 515 2274.

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