

Richard Blanco:

Hello, and welcome to Listen Up Landlords with Ben Beadle and me, Richard Blanco. Just 7% of landlords currently advertise their properties as being suitable for pets. According to animal welfare charity, AdvoCATS, this number has fallen significantly since the 2019 Tenant Fees Act prevented landlords from taking higher deposits from perspective tenants with pets. Another proposed solution requiring tenants to take out insurance for damage caused by pets is also banned. We'll hear from Jen Berezai on why she thinks the law needs to change.

Richard Blanco:

Dan Cumming will bring us up to date on the latest conundrums being sold by his NRLA advice line colleagues. But first, it's called the enforcement lottery. A new report by the NRLA policy team has found an alarming disparity in levels of enforcement by local authorities against poor property conditions in the private rented sector. Just 20 out of 308 local authorities across England are responsible for half of all improvement notices issued. Of the 41, councils that have selected licencing schemes, only 16 could provide accurate numbers of complaints in the private rented sector even though these schemes were set out to improve property conditions.

Richard Blanco:

The report calls for the standardising of how data is collected, a national benchmark scheme for councils, more prosecutions and wider dissemination of good practise. Ben, how do you respond to these findings?

Ben Beadle:

Well, I think for me Richard, it just reinforces that local authorities have become so addicted to the concept of licencing and treating landlords as cash cows that they've overlooked their fundamental purpose, is being to protect those tenants that are in substandard accommodation. As we know, licencing irritates a lot of landlords not least because of the cost. But if it could point towards enhancing standards in the sector, well, maybe it wouldn't be so bad but it can't.

Ben Beadle:

And I think more widely, PRS is perceived as being an under-regulated Wild West, if you will. But what this reinforces is that there isn't a lack of regulation in the sector. There is simply nobody or no accountability of local authorities in enforcing the myriad of regulations that already exist.

Richard Blanco:

Yes, it can end up feeling like regulation for regulations sake, can't it? And I've always felt a bit like it's sort of control freakery by local authorities to have selective licencing when it's not really achieving the aims that it's set out to achieve. It seems to me that it's great that we've got this report because having the data helps us make the argument and also policies should be evidence-based. And it's no good the

government coming up with more laws or more regulations that can't be properly enforced.

Ben Beadle:

That's exactly right, Richard. And I think if you read this alongside the Public Affairs Committee report and also the National Audit Office report at the start of the year, both of those said that there was no proper strategy for the sector. Both of those said that the enforcement regime was weak and failing the very people it was meant to protect, were actually here's your evidence. Freedom of information requests that tell a very sorry story about the state of regulation and enforcement of that regulation in the private rented sector.

Richard Blanco:

Yes. I mean, what causes me to want to tear my hair out if I had any Ben is-

Ben Beadle:

Tear your beard out.

Richard Blanco:

Yes, tear my beard out. Is the fact that we've heard this all before. I'm sure I heard some of this stuff in the rogue review in 2008.

Ben Beadle:

I mean, there's nothing new in this. The issues have been with us forever in the day. But I think they just become more and more pronounced now because we have the vehicle through the Renters' Reform Bill that we are likely to see at some point during the spring or certainly the white paper.

Ben Beadle:

We've got serious supply issues in the sector and if we are not careful, we are going to be forcing people down a very slippery slope of living in substandard accommodation without any real prospect of improving it in the short to medium term.

Ben Beadle:

So I think all of these issues are coming together compounded by the cost of living crisis as well and I think we do have the opportunity to be able to deal with this. But setting out the issues in such stark terms, there really does leave very little choice for it not to be dealt with, I would've thought.

Richard Blanco:

Well, we're joined by co-author of the report, Samantha Watkins from the NRLA policy team. Sam, thanks very much for joining us.

Samantha Watkin:

Thank you very much for having me.

Richard Blanco:

Yes, it's great to have you on the programme. Thanks. Let's start by looking at the bigger picture, Sam. Now Michael Gove spoke of the inadequacy of so many private rent sector homes at a recent shelter conference. How fair is that comment?

Samantha Watkin:

I don't think this statement by Mr. Gove really shows the full picture of the PRS. The majority of landlords comply with regulations in the sector but there is a small minority of criminal landlords that ignore the law when it comes to enforcement. It is up to local authority to use their significant enforcement powers to root out these criminals out of the sector.

Samantha Watkin:

However, as you've stated, our research shows that this is simply just not the case. It is often not the case. And instead of using their powers to identify and tackle the small number of criminals, local authorities often prefer to penalise good landlords through blanket licencing schemes that have little to no effect.

Samantha Watkin:

This serves to increase the cost for majority of landlords, because these licence fees can be expensive, who wish to provide good quality homes while doing little to stop the criminal landlords who will continue to ignore their legal obligations and therefore it is the tenant who suffers with substandard property.

Richard Blanco:

Now 50% of enforcement of HHSRS was undertaken by just 20 local authorities and most prosecutions were carried out by only 17. What might be the reasons for this Sam? Why is it that so few local authorities are really kind of getting stuck in with enforcement?

Samantha Watkin:

The low rate of prosecution suggest that while not enough HHSRS inspections are taking place relative to complaints, there is a further bottleneck after initial action is taken. This may reflect the cost and complexity of the current legislation. Local authority budgets have shrunk considerably for housing enforcement, with their spending has been reduced by up to 45% between 2009 and 2019. So follow up enforcement is also very costly and recovering these costs generally do not match the amount spent to enforce.

Samantha Watkin:

As a result of this, prosecution strain tight budgets even further, deter local authorities from taking follow up action and at the same time, the burden on landlords when it comes to regulation has grown even more complex over the years.

Samantha Watkin:

There is currently 168 pieces of legislation that landlords must comply with often cross-cutting with each other. The complexity of this legislation has been cited in the past as burden to local authority enforcement. It does appear to be the case based on the small number of prosecutions that have taken place over the last three or four years.

Ben Beadle:

And Sam, you highlight the issue of underfunding for local authority enforcement. But is there any prospect of this being addressed, do you think?

Samantha Watkin:

What the government needs to do, is to give local authorities more money, more funding because as already stated, 45% of their funding has gone over the last 10 years. So what government needs to do in order to address this is give local authorities more financial aid so they're able to recruit more staff, train more environmental health officers and therefore provide a better service to both landlords and tenants when it comes to housing enforcement. So it comes down to money.

Ben Beadle:

Yeah, and essentially what the report is suggesting is that there needs to be an upfront investment in that enforcement before anything becomes circular in self-funding in terms of local authorities keeping the penalties, right?

Samantha Watkin:

Correct. Absolutely, yes.

Ben Beadle:

And in terms of the report itself, it's got some recommendations in there. But what are the benchmarking and best practise sharing opportunities do you think here?

Samantha Watkin:

Well, one of the things that I think that local authorities should do as matter of best practise anyway, is they should report annually to the government on the true number of... Let's focus on property inspections, for example. So how many property inspections do to each year? And this report should include generally the number of physical property inspections performed, whenever they've taken a formal or informal approach and what was the outcome of that particular action. By focusing on the number of physical inspections rather than HHSRS inspections, local authorities can evidence the value of informal enforcement.

Samantha Watkin:

And what they should do is there should be a national benchmark scheme so these best practises can be shared amongst all the councils in England. So each local

authority is able to do the best they can when it comes to housing enforcement and providing the best service they can to tenants and landlords.

Richard Blanco:

Let's come on to selective licencing, Sam. Only 16 out of 45 local authorities with a selective licencing scheme record whether complaints are social or private. I mean, what are the implications of this?

Samantha Watkin:

The poor record keeping from these local authorities particularly the ones that have got selective licencing is particularly concerning. It's very concerning in fact. Given the substantial fees involved in applying for a selective licence, landlords have a reasonable expectation that these schemes provide evidence they are working to address the issues with property management and social behaviour, whatever that scheme in particular has been introduced on.

Samantha Watkin:

However, as I already stated, 16 out of 45 local authorities with selective licencing schemes, don't record their social housing and their private housing complaints separately. As a result, it is unclear how these local authorities are identifying progress in improving property management and it certainly leaves a lot of question marks when it comes to a local authority wanting to renew that scheme or introduce further licencing schemes in that particular area.

Richard Blanco:

Yeah, this is a big question I think Sam, because we're often asking local authority to show that selective licence scheme is actually working and that there's evidence to suggest that it's working. And what your report does rather fabulously is show that actually very few local authorities can genuinely hand on heart do that.

Samantha Watkin:

That's correct, absolutely.

Richard Blanco:

Yeah. I mean, the report seems to suggest to me that selective licencing is not about evidence-based action. Is this actually just a backdoor way of funding private rented sector departments in local authorities?

Samantha Watkin:

I would say so, yes. So what happens sometimes when it comes down to a local authority either introducing or renewing a selective licence scheme, sometimes it just comes down to politics. Where even though the council officers might not have any will and know they don't have the resources and the manpower to enforce that scheme, sometimes often is a political decision.

Samantha Watkin:

What needs to happen is local authorities really need to think carefully about this. They really need to consider alternative means rather than go straight to blanket licencing because often local authorities raise huge sums, huge, huge sums of money and that money is ring fenced. It can only stay within the selective licencing scheme.

Samantha Watkin:

But our research has shown that a lot of these councils when they're introducing these schemes are not doing the inspections, they're not prosecuting landlords, they're not issuing civil penalties. Basically they're sitting on a large pot of money and nothing is being done about it so that they're able to hire all these administrative staff who can deal with your licence applications. But when it comes the actual physical inspections of the properties and carrying out what they're supposed to under a discretionary licencing scheme, half the time it's simply not happening.

Ben Beadle:

Indeed Sam. And in my own scenario I am the proud owner of certificates on the wall that say this licence should not be seen as an endorsement of quality or safety and there's no guarantee that someone's looked at the property. I mean, seriously with a load of old rubbish but there we go.

Ben Beadle:

Talk to me about informal enforcement because many local authorities say that they prefer this. And I think that we would encourage that landlords where they have fallen foul to remedy things and that's a good way of making work. But it doesn't always get picked up in the figures, right?

Samantha Watkin:

Our latest research piece showed that, it made it clear that many local authorities do define and record as for example, [inaudible 00:13:05] on HHSRS. They don't record and define these inspections consistently. There is an inconsistent approach to this. So what this does, it makes it difficult to compile a true picture of the number of physical inspections that identify poor property conditions.

Samantha Watkin:

So many local authority responses provided additional context to the HHSRS inspection figures saying that an informal visit was not recorded. Therefore, if an HHSRS inspection was done within this informal visit, it wasn't recorded, they didn't count it and they moved on.

Samantha Watkin:

For example, London Borough of Barnett do not separate HHSRS inspections within their records. Instead, all property visits are reported. And as a result Barnett

reported performing 3,290 HHSRS inspections in three years, which is significantly more than the number they're received.

Samantha Watkin:

However, less than 1% of inspections lead to the service of an improvement or hazard awareness notice. So this inconsistent approach to recording inspections means that they are likely to be substantial number of untracked informal inspections taking place across the country.

Richard Blanco:

I'm looking into my crystal ball Sam, and I'm trying see if I can see any hope for joined up thinking or some kind of streamlining of enforcement measures. And I'm wondering if proposals for the Decent Home Standard, this is where the government in their levelling up white paper so that they would consult on the creation of a new Decent Home Standard. Do you think there's any hope that when the government looks at that we might be able to do some streamlining or joined up thinking around enforcement measures?

Samantha Watkin:

I hope so, I'm very optimistic on that. I think should be a national benchmark scheme where each local authority is required to report to the government. And using the data gathered via these reports, the government should identify high performing local authorities and ask them to share best practises within other local authorities so it improves outcomes across England. I'm hoping this will happen, I'm very optimistic and I think it would be a good step forward and certainly help address the issue of streamlining enforcement measures across the country.

Richard Blanco:

Okay. Well, Sam Watkins thanks very much for joining us.

Samantha Watkin:

Thank you very much.

Ben Beadle:

Let's go over to the NRLA advice line now, for our usual catch up. And we are joined by compliance specialist, Dan Cumming. Welcome, Dan. We're in a fast moving lettings market at the moment, what issues are coming up for landlords?

Dan Cumming:

Lots of landlords as with their tenants facing the good cost of living crisis. Still getting lots of calls by that how we can help landlords assist with their tenants. We've had some recent news about the Treccarrell house case, calls relating to that as well.

Richard Blanco:

Oh now, I hadn't realised that the Trecarrell house gas safety case was still around Dan. This is where a court in Cornwall ruled that section 21 notice could only be lawfully served if a valid Gas Safety Certificate had been given to the tenant crucially before the start of the tenancy. But there's some good news, isn't there?

Dan Cumming:

We had an appeal that was heard. They said, if you've got the gas safety, that should have been there at the start. And you've served that even if it's a little bit late as long as it's before section 21 and you've got the newest one. You've served both of those, you're all set. The tenant then appealed that decision. The latest news is that the Supreme Court have decided they don't want to hear this appeal.

Richard Blanco:

You say a bit late Dan. But do you have to serve the Gas Safety Certificate within 30 days of the tenant moving in or could you serve it the day before you serve a section 21 notice?

Dan Cumming:

Ideally you'd do it all before they move in. But what this case tells us is as long as it's before the section 21, then that will be okay which is a good thing. There are a lot of forms and documents that need to be signed at the start of the tenancy. That's why we offer a start of tenancy checklist that landlords can go through. We've also got our document receipt form and they're really useful tools in your management of your tenancy.

Richard Blanco:

I love a good checklist Dan. I don't know how you-

Dan Cumming:

I think we all.

Richard Blanco:

But I think it's a great idea to do that, to get the tenant to sign the checklist to say what they've received and it also makes sure that you remember what stuff you should be sending them. There's things like how to rent booklet and stuff like that. Isn't there as well to remember?

Ben Beadle:

There is and I think this is all about trying to keep landlords the right side of the law and I think you can't go too far wrong with the checklist. And as we know, we would much rather have all of the documents signed and delivered up front. So for those of you that haven't got the checklist yet, then log onto the site and download it.

Richard Blanco:

Well, thanks again Dan and we'll see you soon. Do you have a cat or a dog, Ben?

Ben Beadle:

I don't actually but I did used to keep chickens, Richard. I used to have four beautiful chickens a few years ago. I went on holiday for a few weeks, my mother looked after and I came back and they'd eaten my whole garden. So after that I haven't had any pets yet, just the chickens.

Richard Blanco:

Right, okay. I did have a friend actually who kept an eel in his bath which is quite extraordinary. I've just got fish in the garden pond, doing nothing more extravagant than that. But what we're interested today actually is whether you let your tenants keep pets Ben? How about that?

Ben Beadle:

Well, again, the tenancy that I was using, the NRLA checklist, for very recently is for a family with a kitten. So yes, I've got. Those folk will be moving in, they've got a little kitten. One of my student houses has got, I think a fully fledged cat now and a gerbil. But of course, I think landlords most worry about cats and dogs. But I do put a word of caution to that, about chickens, because if you've got a garden it will be destroyed. But yeah, I'm very pet friendly in the right sort of environment.

Richard Blanco:

Well, I had no idea actually about the whole chicken thing.

Ben Beadle:

Yes.

Richard Blanco:

Well, increasingly landlords do not allow pets and this flies in the face of the growth in pet ownership during the pandemic. Although, the government has changed its model of tenancy agreements to encourage letting to pets, take up of the document by landlords is low.

Richard Blanco:

Our guest today, Jen Berezai from AdvoCATS says that it is the 2019 Tenants Fees Act that is at the heart of this growing problem. AdvoCATS is undertaking a joint research project to gather accurate data on the damage caused in rental accommodation by both tenants and pets, the cost to landlords and how this is recovered.

Ben Beadle:

Jen, thanks very much for joining us and welcome to the podcast. Maybe you might just, for those that haven't yet seen the light, set out the benefits to landlords and tenants of having a cat, for example.

Jen Berezai:

Certainly the benefit to tenants is animal companionship and that's really been highlighted by the pandemic that people who perhaps had never experienced isolation or loneliness before because of their personality, their job situation suddenly found that thrust upon them. So a lot of people have woken up to the benefits of animal companionship both for your mental health and your physical health.

Jen Berezai:

There are various findings showing that the NHS could be saved, just under two and a half billion pounds a year by more pet ownership because of reduced visits to GPs and prescriptions for things like antidepressants and blood pressure medication. So there are those benefits.

Jen Berezai:

The benefits to the landlord is that tenants with pets do tend to stay in their tenancies longer. So there are less voids and there are better to built up with the tenant.

Ben Beadle:

Indeed. But give us a sense of how difficult it could be for tenants to find a landlord who accepts that argument?

Jen Berezai:

Well, NOAH, the National Office for Animal Health recently conducted a survey with tenants and 84% had experienced at least some difficulty in finding somewhere to rent that would set their pets. So it is a very sizeable problem.

Richard Blanco:

And what do you think landlords are actually worried about Jen?

Jen Berezai:

They're worried about damage. They're worried about the risk of damage. Survey work undertaken by Battersea in conjunction with NRLA showed that 60% of landlords were concerned about damage to the property.

Jen Berezai:

Similar research conducted about two or three years beforehand with Cats Protection showed that there was a big difference though, between fear and reality, perception and reality. Something like 65% of landlords for example, were worried of about flea infestation if they allowed pets and only 2% of the landlord surveyed had ever experienced any problems that. But there is obviously a risk and a landlord is renting a property as a business. And if there is a risk, they need to be able to mitigate that risk.

Richard Blanco:

And tell us about the research that you're carrying out and how landlords can help with this.

Jen Berezai:

What we're doing in conjunction with NRLA, Propertymark and LandlordZONE is 12 very straightforward questions that we're asking landlords to try and drill down further into the types of damage caused. So for example, by a pet, by a child, by an adult comparing that to arrears as well. The average cost of such damage and the method of recovery if any for those costs. We're also looking at the area the landlords are in operating, the number of properties that they have and asking them what they think would persuade more landlords to be pet friendly.

Ben Beadle:

And Jen talk us through good practise. So what should landlords be asking for if they're thinking of accepting an animal?

Jen Berezai:

They need to check about responsible pet ownership. So I would advise them to ask for a vet reference, a letter from the vet confirming that the animal is in receipt of regular health checkups, flea and worm treatment is neutered, all that sort of thing. To actually meet the animal and the tenants as well if possible, get an idea of its temperament and also see it in its current living environment so you can see if there's any damage.

Ben Beadle:

Wow. I'd have to say, I'd never thought of going to meet pet. I thought the tenants were my primary concern but that's really sound advice I think. But we've heard that some landlords have agreed additional pet rent with tenants. Could you explain the background behind that?

Jen Berezai:

The background behind that boils back down to the introduction of the Tenant Fees Act in 2019 and the five week deposit cap, which is essentially the month rent that a landlord would ask for upfront to cover any arrears or any damage. It prohibits a landlord being able to ask for a separate pet deposit or ask that a tenant has valid pet damage insurance.

Jen Berezai:

So basically, landlords as an option will choose to charge additional pet rent as being some way of getting some funds in place should there be any damage and the average is around about 25 pounds per pet. So if you say, have one cat, you are paying an extra 300 pounds a year for that animal. And apart from obviously being able to have the animal in the property, not necessarily getting any benefit which you would get if you had pet damage insurance, you'd get no claims, bonus and that sort of thing.

Ben Beadle:

Yeah. So effectively that's adding a cost to the rent that wouldn't ordinarily be there. So you are looking at potential change as we are to the Tenant Fees Act calling for an option to request a pet deposit from the tenant.

Jen Berezai:

Yeah, we're looking to ask the government to put two options in place so that a landlord can either request a separate capped pet deposit. And we say financially capped because otherwise it's geographically unbalanced because a week's worth of rent in Surrey is not the same as in Sunderland but a new cap pet probably costs around about the same. So a financially capped pet deposit or to be able to stipulate to a tenant if you want to come into my property with a pet, you must have pet damage insurance.

Richard Blanco:

So Jen, how would a pet damage insurance scheme work? Would the landlord or the tenant take it out?

Jen Berezai:

It would be for the tenant to take out because we believe that the responsibility, the onus for any cost recovery should lie with them. So that if there's a claim, then it's the tenant that gets the increased premium for when the policy is renewed and not the landlord, that would be unfair.

Richard Blanco:

And then of course, you've got the issue of how does the landlord determine that the tenants definitely taken it out? And what if the tenant refuses to claim when the landlord thinks that they should be claiming for something?

Jen Berezai:

If the tenant refuses to claim I would imagine that would go through the same resolution mechanisms that exist now with redress schemes, proof of insurance. The landlord could request to see a copy of the insurance certificate, the insurance documentation. I think that does have to be a little element of trust there. And if you meet your tenant, they pass your tenant checks. Then if they show you that they have insurance, you need to have a bit of a leap of faith and assume that yes they do have that insurance.

Richard Blanco:

And how would you differentiate between something that can be claimed for an insurance and something that might be covered by the deposit?

Jen Berezai:

I think that would be down to the total cost involved and if there was any other damage. If tenants had caused damage that already ate up the whole deposit and

there was pet damage as well, then it would be time to look at the pet damage policy.

Richard Blanco:

Okay. And you are lobbying to get the Tenant Fees Act amended. What's the process?

Jen Berezai:

Well, we met with housing minister, Eddie Hughes just before Christmas and put various information to him including the Battersea, NRLA and NOAH research that hadn't been published at the time. And I think it's safe to say that he was quite shocked by the scale of the problem, talked about going through due process and I understand that anything governmental has to go through a process and will take time. He was going to get his staff to look into the problem more and promised us a meeting late spring, early summer. So we're hoping for that in the next six to eight weeks or so.

Jen Berezai:

And we've been conducting this research in the meantime so that we can counter the question of, well, it's a five week deposit cap. So a landlord could ask for four weeks as a deposit and one week for the pet. We want to see just how realistic that proposal is. So we're hoping the data is going to show that. And then it's just a question of getting more organisations on board. I think we're currently on about 37 organisations backing us plus 40 MPs and peers.

Ben Beadle:

And Jen, just for those that are listening that maybe haven't seen the research, the survey that you've put out. What's the best way to be able to participate in the research?

Jen Berezai:

The best way is to look on Twitter, follow us on Twitter, we're @advocatsem and every single day we're putting up couple of supporter means. So one for organisations, one for politicians and the survey link is in there.

Richard Blanco:

I've got a quick question for you actually, Jen. I had some tenants who snuck a cat in without telling me and I was a bit cross with them. I would go over and do a repair because they let me go in with the keys and there'd be a cat around. The cat doesn't have permission to be here. I mean, how should I manage a situation like that?

Jen Berezai:

I would speak to your tenants. The chances are they were probably scared you'd say no and couldn't bear to give up the cat. So they just snuck the cat in and we know it happens. We can't condone it but we can understand why it happens. I would speak to them. I would ask them to retrospectively provide you with information about that

pet, about its health cover, about its flea, worming treatments, just some information to reassure you.

Ben Beadle:

Well, I have to say Jen in full declaration, that when I was a very young man, I was a property manager and I went to do a property visit to a house that was not meant to have pets. And I opened the door and five cats ran out of the house and they didn't come back till a week later and I had to explain to the... Somehow it was my fault that I let them out but he wasn't meant to have them there but I'm constantly reminded about this. Wake up in a cold sweat about this experience.

Jen Berezai:

The cats and chickens is not really your thing Ben.

Ben Beadle:

No, no, not really my thing at all. I can barely look after myself but there we go.

Richard Blanco:

Well, look, thanks again for joining us Jen. It's great to see you again.

Jen Berezai:

Thank you very much.

Richard Blanco:

That's it for this edition. Please go to nrla.org.uk for more information on the topics we have covered.

Ben Beadle:

And don't forget we're on social media too. Thanks to our producer, Sally Walmsley and thank you for listening. See you next time.