

Regulating the Lettings Industry



The Lettings Industry Council (TLIC)



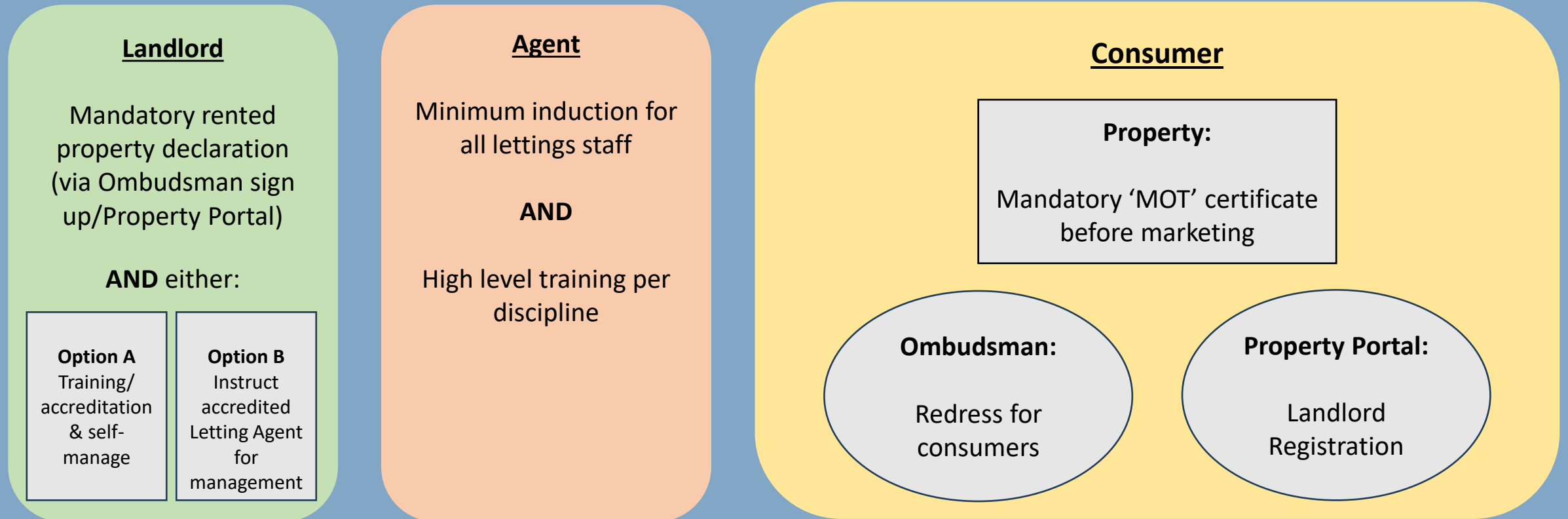
Introduction and Aims



- Provide protection for the consumer, in particular tenants
- Proposal of an efficient, cost effective and accessible regulation model, to replace complex, piecemeal and inconsistent regulation
- Addresses safety, knowledge, standards and enforcement
- Encompasses all components and core roles involved in the letting of a property
- Provides a template for the wider housing industry i.e. sales

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Regulation model to protect the consumer



The Regulator and Code: (e.g. Property Standards Committee? PRS Code of Practice)

Enforcement : (e.g. Local Authorities)

The Accreditor: (e.g. Professional Bodies RICS / ARLA / NRLA)

Role	Regulatory Requirements
<p>The Consumer</p> <p>Defined as:</p> <ul style="list-style-type: none"> - The Tenant - A customer (i.e. landlord who instructs an agent) - Someone acting outside the course of business 	<ul style="list-style-type: none"> • Regulation is to protect the consumer, in particular the Tenant <ul style="list-style-type: none"> - Protected by proactive regulation i.e. statutory requirements agents to ensure safe properties and working practices - Consumer route for redress maintained i.e. ombudsman - Consumer route for general complaints i.e. to the enforcer / professional bodies etc. - Provided a 'rental handover agreement' at move in: safety checks, property MOT, landlord & agent ombudsman registration, property manager details, routes for complaint - A rental handover agreement will help to educate tenants and inform them of their rights and expectations - The How to Rent Guide updated to help educate Tenants: what to expect, how to make a complaint, how to check for registration, MOT completion etc.
<p>Property</p> <p>Defined as all properties for rent in the private and social sector</p>	<ul style="list-style-type: none"> • Mandatory 'MOT' certificate before marketing permitted. <ul style="list-style-type: none"> - Online registration with Unique Property Registration Number (UPRN) - Submission of EPC - Property safety inspection by a qualified property inspector, which lasts X years? - Submission of all statutory certificates: deposit, gas etc. prior to tenancy and to scrape from the relevant platforms. ➤ Key considerations <ul style="list-style-type: none"> - Cost: to be cost effective for landlords (and replace current LA landlord licensing) at zero cost to public purse other than initial set up costs. - Efficiency: an automated online system, modelled on DVLA / EPC registers (Property Portal) - Transparency: accessible to public authorities, HMRC etc. - Simplicity: ability for engineers to easily upload renewals of safety checks - Accessible: for tenants to check that Landlord has obtained registration
<p>Landlord</p> <p>Defined as:</p> <ul style="list-style-type: none"> - All legal owners on the Land Registry; and - Any individual acting on behalf of the legal owner in the letting of a property; and/or - Any individual acting on behalf of the legal owner in the managing of a property; and/or - A rent-to-rent company/individual 	<ul style="list-style-type: none"> • Mandatory Landlord registration, through UPRN <ul style="list-style-type: none"> - Cost effective and easy to access: use of UPRN and data scraped from ombudsman registration, rather than a separate process - Must declare who the 'Property Manager' will be: Landlord or Agent ➤ Option 1: Complete online training course for 'self-management qualification' <ul style="list-style-type: none"> - Covers the essentials of letting and managing a rental property - Requirement to present certificate of completion to Tenant ➤ Option 2: Instruct the services of a lettings agent to let and manage property <ul style="list-style-type: none"> - Option 1 training not required

Role	Regulatory Requirements
<p>Agent</p> <p>Defined as:</p> <ul style="list-style-type: none"> - All individual/professional agent letting or managing a property on behalf of the legal owner, for which a fee is received - Includes online agents and managing agents 	<ul style="list-style-type: none"> • Mandatory ‘Minimum Entry Level’ training for all lettings staff <ul style="list-style-type: none"> - Required for any staff member working in a lettings role, meaning everyone works to a minimum standard • Mandatory Professional Qualification for a minimum of 1 staff member, per branch/division/discipline <ul style="list-style-type: none"> - At least one member of staff per division, or more for larger departments i.e. 1 in every X people. ➤ Key considerations <ul style="list-style-type: none"> - Cost: must be cost effective - Efficiency: an online system for basic training - Delivery: provided or accredited by professional bodies i.e. NALS / ARLA / Trading Standards etc.
<p>Fit and Proper Person</p>	<ul style="list-style-type: none"> • Responsibility for property management to be designated to a ‘fit and proper’ person <ul style="list-style-type: none"> - For landlords: this would be the self-managing landlord / the individual responsible for managing the property - For agents: this would be the head of division (more than one person for larger divisions) and for some disciplines each member to be deemed ‘fit and proper’ such as block management / property management. • Definition of a Fit and Proper Person <ul style="list-style-type: none"> - Need a central definition set by the regulator - Determined through training, responsibilities, no history of enforcement action etc. - A landlord not deemed ‘fit and proper’ would need to instruct an agent to let and manage the property - An agent not deemed ‘fit and proper’ would not be permitted to operate
<p>The Regulator</p>	<ul style="list-style-type: none"> • Form the Property Standards Council <ul style="list-style-type: none"> - Council to be made up of Industry specific consumer organisations, Trading Bodies, everyone with a regulatory function. - Appointed by Secretary of State - Sets regulation to govern industry: one statutory cross-sector code of practice with high level principles, then each property has their individual ‘must’ and ‘should’ best practice code. - All other rules / codes of practice / training to be approved by regulator = alignment with professional bodies - Funded by landlord / agent registration fees

Role	Regulatory Requirements
Enforcement	<ul style="list-style-type: none"> • Appointed enforcement bodies accessible across England e.g. Local Authorities/Trading Standards <ul style="list-style-type: none"> - Appointed by regulator to monitor and enforce regulation - Ability to inspect, investigate and prosecute inc. mandatory fines with an FTT appeal procedure - Ability to retain fines in order to self-fund resource - Full access to registration system (Property Portal) to check certifications, property and landlord/agent details
Ombudsman	<ul style="list-style-type: none"> • Provision of redress for consumers <ul style="list-style-type: none"> - A core partner of regulator and enforcement body: investigates consumer complaints - Reporting function to notify enforcement body of breaches / concerns - Issues redress penalties (as currently) and ability to ban membership in extreme cases - Low cost to members and retention of best practice codes, aligned with regulator codes
Professional / Trade Bodies	<ul style="list-style-type: none"> • Set accreditation criteria, provide training, industry guidance and member support <ul style="list-style-type: none"> - Providers of agent and landlord training and/or accreditation or endorsement - Leaders in industry best practice - Work with Regulator and Ombudsman to create code of practice and ensure rules are fit for purpose - Work with / lobby government on behalf of industry - Provide best practice, guidance and support to member agents or landlords - Ability to suspend or ban membership - Requirement to notify enforcement bodies of misconduct or complaints relating to poor practice
Requirements / Considerations	<ul style="list-style-type: none"> • Operates similar to established and good regulation models, e.g. legal sector • Learn lessons from other industry models & avoid administrative burdens e.g. Rent Smart Wales

Item	Comments / Considerations
Online registration system	<ul style="list-style-type: none"> • An online register of all rental properties (and therefore landlords) in England <ul style="list-style-type: none"> - ‘One stop shop’ online portal i.e. modelled on and linked to EPC online register / DVLA system - Basis of portal begins with UPRN and compulsory ombudsman registration – no need for two separate registers - Each landlord must register and pay a reasonable/nominal registration charge - Registration to consist of: property details, MOT information and property management confirmation. Also, ombudsman membership. - If Landlord self-manages, to undertake online training accreditation. Or can nominate an accredited agent - Register can be accessed by Regulator and Enforcement Bodies, such as Local Authority, HMRC etc. - Once all sections complete, Landlord receives ‘approved’ certificate with UPRN - Approval certificate must be presented to all Letting Agents, prospective Tenants and marketing portals - Future of system to include accessible apps and data scraping - Use online system to communicate industry updates and news with landlords and agents
Property “MOT”	<ul style="list-style-type: none"> • Assessment of property and collation of all safety certificates and buildings insurance <ul style="list-style-type: none"> - Recorded in a Property Portal (online system), in property MOT section - Ability to upload all safety certifications (engineers to be able to upload results directly to avoid fraudulent results / scraping) - Includes recording of statutory duties such as smoke and CO alarms and testing - Once property is inspected by a qualified property inspector, report to be recorded online - Once all criteria has been fulfilled, “MOT” certificate issued - Portal to flag where a property has not completed all the checks / safety checks are overdue - Main checklist items available to be viewed by tenant for transparency
Landlord Training	<ul style="list-style-type: none"> • Provided by Professional Bodies i.e. NRLA <ul style="list-style-type: none"> - Accreditors to be approved by the Regulator - Accreditation only required if Landlord intends to self-manage. Not necessary if agent will be managing. - Training to be completed online and recorded on landlord register - Low cost for training course and periodic refresher training mandatory or a CPD requirement - Content to be aligned with Regulatory Code of Practice and cover core legislation
Agent Training	<ul style="list-style-type: none"> • Provided or accredited by Professional Bodies i.e. ARLA, RICS and Professional Training Companies <ul style="list-style-type: none"> - Accreditors to be approved by the Regulator and to meet a nationally approved standard - Every employee with a lettings role to undertake basic, online training as requirement for entry - A minimum of one person per lettings discipline / branch to undertake further accreditation such as Technical Award (also should be at least one in every *7 members of department *as an example) - Initial entry-level training to be completed online and at minimal cost - Further accreditation to be completed in line with how such courses are currently run and for appropriate levels - Annual CPD and refresher training every 2/3 years to be mandatory

The Regulation Model

The Regulator: established by legislation

Property Standards Committee? PRS Code of Practice
Oversees the regulation of the industry – sets rules and standards
Approves any entities that play a role in regulation of the industry

Enforcement Bodies

Work under instruction of regulator e.g. Local Authorities
Investigate, penalise, prosecute offenders under guidance of regulator with ability to retain fines for funding
Conduct proactive audits and inspections to ensure best practice
Work closely with ombudsman / professional bodies / trade bodies to deal with reports of malpractice

Professional Bodies

Provide Guidance, Support, Industry Updates
Provider of Accreditation and Training
Report malpractice to Enforcement Bodies
Operate own schemes and codes, with ability to audit & even issue fines.

Trade Associations

Provide Guidance, Support, Industry Updates
Provider of Accreditation and Training
Report malpractice to Enforcement Bodies

Ombudsman:
Redress for
consumers

Considerations and possible solutions

Considerations	Proposed solutions
Must define a Landlord, clarifying letting, managing and block management agent.	Critical to define a Landlord. If a family member is helping to manage more than 2 properties, then they are a Landlord.
Property 'MOT' checklist	The property should be the focus – Property 'MOT' should be part of regulation.
GLA Feedback: Local Authority Resource	<ul style="list-style-type: none"> - Local Authorities would be best to deal with this BUT resource is a matter that must be addressed. It would not be appropriate or sufficient for LA's to rely on fines alone to fund themselves. How can this be resolved?
Volume: how many rental properties / landlords / agents would this capture	<ul style="list-style-type: none"> - Draw comparison with the number of cars currently on the road. If DVLA can manage an online licensing system for this, then the same can be achieved for capturing data of rental properties
Vulnerable end of the market	<ul style="list-style-type: none"> - This part of the market must be protected and should not be relied upon to make their own compliance checks / report poor treatment. Regulation must ensure proactive protection of this part of the market as well as all consumers
Other entities acting as enforcement bodies	<ul style="list-style-type: none"> - Could / should professional bodies act as enforcement bodies? Would the model require consistent enforcement i.e. one organisation with localised departments such as trading standards, or could this be multiple entities such as agent professional bodies, landlord organisations etc.
Use of the UPRN (unique property reference number)	<ul style="list-style-type: none"> - Every property in the UK has a UPRN. This could be reviewed and used as part of rental property registration for regulation
Role of Portals e.g. Rightmove, Houseful (formerly Zoopla), On The Market, Open Rent etc.	<ul style="list-style-type: none"> - Included in regulation model - Not permitted to list any property without unique registration number – can obtain by scraping - Registration number to be displayed on advertising, so can be monitored by Trading Standards / LA's. - Would submit unique registration number on own system, with API to link central portal for verification - Requirement to report to enforcer anyone attempting to market property without valid certification - Would have routes for complaint / rights listed on portals – and key messages for consumers - Requirement to display the How to Rent Guide
Private adverts and social media i.e. newspapers, Facebook, Gumtree	<ul style="list-style-type: none"> - Monitored by Trading Standards / Local Authorities: adverts to display certification number. - Easy, accessible online reporting tool for consumers (tenants / applicants), where landlord/agent not certified
Professional rent-to-rent companies	<ul style="list-style-type: none"> - Deemed as landlord/property manager and attain accreditation

Considerations and possible solutions

Considerations	Proposed solutions
Verification of property safety checks	- Contractors should have access to an app, where they can upload safety check information direct to main registration portal similar to EPCs.
Multiple government consultations relating to lettings	- All outcomes should be reviewed and incorporated into the regulation model, to ensure alignment and cohesion
Other tenures and industry areas	- This model can be replicated for sales, estate management and other areas of the housing industry
Block Management Sector	<ul style="list-style-type: none"> - Which other roles should be trained: concierge / porter, facilities departments etc. - Training to be appropriate for the roles
Central Registration System	- Suggested modelling on the EPC / DVLA systems and developed further from this
Relocation Agents	- Should also fall under regulation model, as often draft agreements and negotiate on behalf of the tenant
HMOs and Landlord Licensing	<ul style="list-style-type: none"> - Large HMO licences to continue and form part of MOT / register checks. System to enable recording of fire safety equipment, room sizes, recording of licence etc. - Suggestion that regulation model replaces individual LA licensing, as this will be captured by property MOT.
Council Tax forms – identifying rental property	- Add a tick box to council tax forms, to confirm if payer is a landlord or tenant.
Social Sector	- Should the social sector be included in regulation model to ensure consistent standards?
Monitoring and Reporting	- Registration number to be cited on all legal and marketing documentation: TA's, GSC's, Deposit Certificate, formal notices, NTQ/NRP, court applications etc. All online and offline marketing.
Public Register	- Property address and registration number available to the public. Further details accessible to privileged bodies only (local authorities, possibly ombudsman etc)
Use as a one-stop portal	- Future development of portal to include a property manager section where non-mandatory tenancy documents can be held such as inventory reports etc.

Considerations and possible solutions

Considerations	Proposed solutions / to discuss
Consumer complaints	- Could be channelled through a central portal and directed to the correct ombudsman division
Airbnb and similar models	- To be included in regulation
Enforcement and fines	- What would the appropriate level of fines be?
Unfair language and terms	- Is more required to address this or can current legislation be enforced under the regulators code of practice / level of standards. Does there need to be a model tenancy agreement or is this nor practical in reality?
Competition and Markets Authority	- How will they fit in with the regulation model? Important for reviewing areas such as preventing tenants from changing utility suppliers.
Tenant offer agreements: Holding Deposits	- Code of practice to include requirement for all terms to be clearly explained before holding deposits are paid / accepted by the agent. Tenant reservation forms to be a legal requirement / part of the code?
Home Office Right to Rent Team	- Need to consider alignment with Right to Rent requirements and how information is dispersed to consumers / landlords / agents. Could the portal be a 'one stop shop' for all information that links back to regulations?
Overseas landlords self-managing	Online training?

Landlord is an investor with no interest in managing property

- Landlord registers online and confirms receipt and reading of formal 'How to Let' training guidance
- Landlord/appointed agent conducts all safety checks, arranges property 'MOT' and all information is uploaded to online portal
- Landlord instructs accredited managing agent: details are uploaded to portal and verified by managing agent
- Landlord instructs accredited letting agent to source tenant, providing them with **Approved Certificate** (could be the same as the appointed managing agent)

Landlord wishes to self-manage property

- Landlord registers online
- Landlord arranges property 'MOT' and obtains MOT certificate
- Landlord completes online 'responsible person' accreditation
- Once all complete, landlord receives **Approved Certificate**
- Landlord sources own tenant and provides them with Approved Certificate
- OR Landlord instructs an accredited letting agent and provides them with Approved Certificate

Ombudsman receives complaint from a Tenant

- Ombudsman checks to ensure landlord is registered
- Ombudsman checks online register to ensure Approval Certificate has been granted
- Ombudsman investigates complaint
- If upheld, Ombudsman can issue penalty redress fine
- If upheld, Ombudsman can also notify enforcement body of any concerns relating to property condition or landlord activity
- In severe cases, Ombudsman can also expel landlord/agent
- LA/Housing Association to take over management, receive rent and rectify H&S issues if LL expelled or approval cert revoked.

Local Authority receives complaint about a property

- LA checks to ensure landlord is registered with the ombudsman
- LA checks online register to ensure Approval Certificate has been granted
- LA investigates complaint
- If upheld: LA can prosecute / issue penalty fine
- LA can notify professional body of concerns
- LA can notify Regulator of concerns
- Landlord/agent entered on rogue register
- Approval Certificate can be revoked
- LA/Housing Association to take over management, receive rent and rectify H&S issues if LL expelled or approval cert revoked.