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Independent Research Report

Reference Rents: International Perspectives and lessons for Ireland

March 2025, Dr Joe Frey

Disclaimer

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Contents

Introduction	4
Research methodology	5
Structure of the report	6
The existing evidence base: a brief literature review	7
Case Study 1: Germany – Berlin	16
Context.....	16
Rent regulation: Reference Rents – Mietspiegel and Mietbremse.....	17
Berlin	21
Impacts – Strengths and Weaknesses.....	22
Stakeholder interviews – insights and lessons.....	26
Case Study 2: Northern Ireland.....	33
Context.....	33
Local Housing Allowance.....	37
Stakeholder interviews – insights and lessons.....	39
Key findings: conclusions and issues for consideration	45
References	50

Introduction

This report represents the outcome of a small study commissioned by the Housing Agency in response to a key recommendation contained in the *Report of the Housing Commission* (2024). Recommendation 33 stated the following: ‘Regulate markets fairly and effectively by reforming the current system of rent regulation and establishing a system of “Reference Rents”. This reform should be informed by evidenced-based reviews on the impact of regulated market rents on rented housing supply, accessibility and affordability. Such reviews should be conducted on a regular basis and rent regulations amended where appropriate’.

The Housing Agency research specification highlighted a number of key areas of interest:

(1) The main typologies or types of rent regulation used internationally – their strengths and weaknesses and their suitability for Ireland.

(2) Case studies of ‘reference rents’ in other countries. Given the timescales and resources available for the study, it was agreed with the Housing Agency that two detailed case studies would be provided: Germany and Northern Ireland (NI). The case studies were to focus on the following:

- The political/economic context and rental systems.
- A review of the system of ‘reference rents’, including in specific regions/cities.
- Detail on the system of reference rents, including: the legislative basis; organisations involved; criteria for entry; calculation of reference rents; rules on homes new to the rental market, new leases, rent increases and exemptions; monitoring and enforcement.
- How the system interacts with the short-term letting market.
- Impacts on rental inflation and other elements of the housing system.
- Overall pros and cons and applicability in the context of Ireland.

Research methodology

The study adopted an essentially qualitative methodology. It comprised the following key elements:

Literature Review

A rapid review of the international academic and 'grey' literature on rent regulation in the private rented sector (PRS), with particular emphasis on reference rents. The review focused on a number of European countries on the basis that they had housing systems that were to a greater or lesser extent similar to Ireland's and that insights from their experience would be of greater interest in the Irish context (rather than, for example, the post-socialist housing systems characteristic of Eastern European countries). The report drew specifically on research carried by the Collaborative Centre for Housing Evidence (CaCHE) over the last five years.

In addition, the study took a deeper dive into a subset of the most relevant academic literature that provides insights into rent regulation/reference rents in the two chosen case study jurisdictions: Germany and Northern Ireland. In the case of the latter, the commentary draws on the author's own direct experience as the Northern Ireland Housing Executive's Head of Research.

Semi-structured interviews

Interviews with a targeted sample of 'informants' with expert knowledge of the PRS and rent regulation in particular. Potential interviewees were selected on the basis that they could provide expertise from a variety of perspectives: academics who have a special interest in the topic of rent regulation, housing policy makers/practitioners directly involved in PRS reference rents, tenants and private landlords. Given the scale of the project and timescale for completion, 20 potential interviewees were contacted with the aim of achieving interviews with 12: six from Germany and six from NI. In the end seven interviews were achieved in Germany and six in NI. Most interviewees were given a choice of providing written comments or being interviewed in person or virtually. In a small number of cases where a more detailed dialogue was expected, a face to face interview was considered more appropriate. Interviews took place over a three week period in February 2025. Quotations are anonymised in accordance with methodological commitments to ensure anonymity of the original 'source' interviewee and in the case of German respondents for whom English is not their first language, quotations have been 'tweaked' in some cases in the interests of clarity.

Quality Assurance

Overall findings and conclusions were ‘sense checked’ in draft form with a small number of experts from Germany – to ensure accuracy.

Structure of the report

The remainder of the report is divided into the following sections:

- (1) *The existing evidence base*: setting out the widely accepted typology of rent regulation, the various forms it takes in a range of European countries and the key issues and findings emerging from the literature on the subject.
- (2) *Case studies of Germany and Northern Ireland*: context and details of rent regulation, with a particular focus on challenges that have arisen.
- (3) *Stakeholder interviews*: summarising and synthesising the feedback gleaned from the interviews organised on a thematic basis.
- (4) *Key findings: conclusions and issues for consideration*: emphasising important learnings for policy makers in Ireland to consider.

The existing evidence base: a brief literature review

Academic studies examining the economic impacts of rent controls on the housing market and on private landlords and their tenants, as well as the wider societal costs and benefits of rent regulation are not a recent phenomenon. Turner and Malpezzi (2003), for example, undertook a 'Review of Empirical Evidence of the Costs and Benefits of Rent Control'. The study examines and synthesises the findings of a range of case studies undertaken in cities across the world using econometric modelling techniques. The authors accept that the picture that emerges is somewhat confused and inconsistent, but they do, highlight one consistent finding: 'the variance of costs and benefits [of rent controls for landlords and tenants] within a market is almost always very large' and 'net benefits are very poorly and in some cases perversely targeted' (p.114). The article concludes by highlighting a recurrent theme in many of the international studies: that 'so many rental outcomes seem to vary with market conditions and industrial organisation' and that consequently there is a need for further research, and, in particular, the application of existing models to more housing markets, rather than attempting to develop new models.

Writing at approximately the same time, Arnott (2003) provides what he terms a 'common-sense discussion of the economics of tenancy rent control' that examines the issue from a number of perspectives: both landlord and tenant, as well as impact on the operation of the market and welfare economics. Arnott begins, however, by setting out what has now become the widely used standard three-fold typology for examining rent control/regulation:

First-generation rent control: 'a rent freeze, with perhaps intermittent upward adjustments only partially offsetting inflation' (Arnott, 2003, p.91). This form of rent control was typically found in many European countries during the inter-war period and during the Second World War, and in some cases continued into the 1980s and beyond.

Second-generation rent control: 'typically allowed rents to be increased annually by a certain percentage automatically (guideline rent increase provisions) with supplementary provisions permitting rents to be increased further on a discretionary basis in response to some combination of cost increases' (ibid.), e.g. landlord cash flow/profitability considerations. Second-generation rent controls were introduced in many European countries to replace the existing first-generation ones that were considered too restrictive in the post-stagflation era when rent control became less of an issue. (In the UK this was compounded by the steady decline of the PRS until the late 1980s (Rhodes, 2025)). This approach recognised that over

time landlords incur increases in the financial outlay required to manage properties effectively and was seen as encouraging landlords to continue to invest in their properties and improve dwelling quality. Typically, this type of control would allow an annual rent increase of some measure of inflation plus e.g. 2 per cent, an approach that appears effective at times of economic stability with slowly rising prices, but becomes counter-productive during periods of high inflation (Arnott, 2003).

Third-generation rent control: 'rent increases are controlled within a tenancy but are unrestricted between tenancies' (ibid.). Arnott (2003) notes that this form of control is more aptly named 'tenancy rent control', viewing it as the outcome of an almost imperceptible evolutionary process that in some jurisdictions (e.g. Germany, France and the Netherlands) took the form of a system that allowed more generous rent increases between tenancies than within tenancies. Typically, these increases (as with the second-generation) would be determined by the rate of inflation and/or property condition. Third-generation 'tenancy rent control' also includes measures to regulate the frequency of rent increases (e.g. once every 12 months) and the number of weeks'/months' notice of increase required.

As a form of rent regulation, Arnott considers that tenancy rent control provides a reasonable policy compromise between opponents of any form of rent regulation and those who support comprehensive government intervention – 'though the devils – as well as the angels – are very much in the details' (p.93).

Arnott's 'perspectives' already provide a number of useful indications of the advantages and disadvantages of rent regulation. From the landlords' perspective, tenancy rent control will encourage a 'front-end-loading' of the rent to compensate for future 'loss' compared to increasing market rents. It will incentivise them to select short-term tenants, increasingly ignore tenants' complaints regarding repairs, etc., initiate eviction proceedings for minimal breaches of contract (such as late payment of rent) and undertake minimum maintenance to the property.

From perspective of the tenants, their realisation that the longer the tenancy, the lower the rent relative to market rents, will encourage inertia despite perhaps a change of work location that necessitates longer travel to work. This will come at the price of (given landlord reluctance to undertake repairs etc.) having to do more to maintain the property (at their own expense) as well as ensuring a strict adherence to the terms of the lease. If accompanied by changes to landlord-tenant law that favours the tenant, tenancy rent control may lead to better security of tenure.

The effects of tenancy rent control on the operation of the rental housing market appear to be somewhat vaguer and more contradictory. Arnott postulates that increasing tenant resistance to ‘conversion eviction’ makes conversion more expensive and difficult; however, there appears to be no significant impact on the rate of construction or on the tenure balance between owner-occupancy and renting privately (rent control may encourage builders to invest more in owner-occupancy, but tenants may delay climbing onto the first rung of the ladder of owner-occupancy because of favourable rental prices). Much depends on the political context in which the new controls are introduced that may signal the extent of the regulatory environment in the future (the ‘thin end of the wedge argument’).

In his conclusion Arnott is critical of economists who assume rental markets are perfectly competitive and overlook their inherent imperfections, arguing that given these real world imperfections, ‘a well-designed rent control program’ that increases security of tenure ‘can be welfare-improving’ (p.116).

Arnott’s (2003) study highlights a number of issues that to this day continue to be important policy considerations. His study remains a significant reference point in the context of the UK when the rapid growth of the PRS in the UK in the first decade of the new millennium, and more recently, its increasing unaffordability made rent regulation a topic of growing interest to policy makers and academics. In recent years, the Collaborative Centre for Housing Evidence (CaCHE) has undertaken a number of studies in this field. Of particular relevance is the research commissioned by the Scottish Government in 2021 that draws on a wide range of studies examining recent international experience of rent control. The following paragraphs draw on the resultant Policy Briefing submitted to Scottish Government in 2022¹, but take a deeper dive into a number of the reports that are more specifically concerned with reference rents.

Kholodilin’s (2020) paper takes the form of an ‘econometric and stylistic long-term assessment of the sweep of housing interventions from 1920 to 2020’ (Gibb and Marsh, 2022 p.2). In line with Arnott (2003) he traces the evolution of the first-generation rent controls that emerged during the First World War, often remaining in force until their gradual replacement in many countries in the 1970s by second-generation models² or being phased out in some cases altogether. Kholodilin highlights the fact that in response to growing affordability issues, a

¹ The original policy briefing formed the basis for a separate CaCHE briefing paper: Gibb and Marsh (2022) <https://housingevidence.ac.uk/publications/rent-control-principles-practicalities-and-international-experience/>

² Kholodilin makes no specific reference to third-generation models.

number of countries (e.g. Germany and France) had introduced new rent controls, indeed in some cases rent freezes, in response to the Covid pandemic. Kholodilin's world map (Figure 2, p.999) provides a useful overview of rent control in 2019. It shows that much of Europe (with the notable exception of the UK) and Canada have second-generation rent controls in place; some countries (mainly in Africa, the Indian subcontinent and parts of South and Central America have first-generation controls; while most other countries (including the USA and Australia) have no rent controls in place.

For Kholodilin (2020), rent control involves three key elements: (a) 'rules regulating the setting of rent in newly concluded rental contracts' (upon dwelling completion or after tenancy termination); (b) 'rules regulating updating rent within the existing rental contracts'; and (c) 'exceptions, which specify either housing not subject to the regulations or the segments of the housing market subject to stricter controls' (p.998).

Kholodilin identifies a number of advantages and disadvantages of rent regulation: generally it is seen as making dwellings more affordable and constraining inflationary pressures. However, Kholodilin argues that the list of 'pitfalls' associated with rent control is considerably longer and includes: (1) where the housing market experiences a 'positive demand shock', they can slow the transition to the new equilibrium; (2) they can bring about inefficient allocation of housing (sitting tenants remaining in a home that may no longer meet their needs); (3) they impact rental yields, making the PRS a less attractive investment for landlords, and by implication reducing supply and housing quality; in certain situations, this may also lead to some households in inadequate housing making 'large side payments to landlords, such as key or search money'; (4) landlords are incentivised to adopt 'workarounds', e.g. compelling tenants 'to buy furniture left by the landlord or the previous tenant for exorbitant prices' (p.999).

A somewhat more recent international comparative analysis is provided by Kettunen and Ruonvara (2021). Their article provides a European perspective that examines 33 jurisdictions in the context of a rising tide of neo-liberalism. They define rent regulation (a specific form of which is reference rents) as a 'type of tenure legislation that states limitations to rent setting and rent increases by private (i.e. not-for-profit) landlords' (p.1447). They classify a country's regime based on the 'hardness' of their regulations, again drawing on the threefold generational typology. No countries had rent 'freezes' typical of first-generation rent control.

Overall (of the 33) there were 6 countries with second-generation controls (initial rents and rent increases regulated) and 10 countries with third-generation controls (only rent increases regulated).

Table 1 sets out a summary of the key aspects of rent control in 13 of the 33 countries in original table, i.e. those located mainly in Northern, Western and Central Europe.

Table 1: Regulation of rents in 13 European countries

Country	Rent Regulation	Initial rents and/or rent increases	Rent control generation	PRS Share %
Austria	Yes (several models)	Initial rents and/or rent increases	2 nd	16.3
Belgium	Yes	Rent increases	3 rd	23
Denmark	Yes (multiple forms)	Initial rents and rent increases	2 nd	24
England	No (bar pre-1989)	-	-	18
Finland	No	-	-	16
France	Yes	Initial rents & rent increases in larger cities; elsewhere increases only	2 nd	23
Germany	Yes	Rent increases (ref rents) & Rent Brakes on new lets in high demand area	3 rd	48
Ireland	Yes (RPZs)	Initial rents and increases tied to 4%	2 nd (mild)	18.5
Netherlands	Yes (excludes high quality property)	Initial rent & rent increases – quality based points	2 nd	8
Norway	Yes	Rent increases	3 rd	22.2
Scotland	Yes (RPZs)	RPZs, annual increases, unreasonable test	3 rd (mild)	11.6
Spain	Yes (date of contract)	Rent increases for the first 3-5 years	3 rd	10.1
Sweden	Yes	Initial rents based on utility value; increases: collective bargaining	2 nd	41

Source: Adapted from Kettunen and Ruonvara (2021), Table 1

The paper postulates a number of possible reasons for the different approaches but concludes (a) that there is no significant relationship between rent regulation (whether present in its various forms or absent altogether) and the proportion of total housing stock in the PRS in any particular country; and (b) using a classification adopted by Esping-Anderson (1990) there is also no relationship with the type of welfare regime existing in a particular country. In countries with a corporatist welfare regime (e.g. Germany and Switzerland) there are mainly third-generation controls in place, but also some second. In jurisdictions with a liberal welfare regime, where it might be expected that there would be minimal regulation, this is not the case. (The authors cite Ireland and Scotland as examples of this counterintuitive position.) Finally, in countries with social democratic welfare systems, where it might be assumed that the PRS rents would be regulated, the pattern varies (Denmark, Norway and Sweden have various forms of second or third-generation controls, but Iceland and Finland have neither).

Finally, Kettunen and Ruonvara (2021) also undertake a more detailed examination of the five Nordic countries and conclude that there is some evidence that there may be a relationship between rent regulation and the overall housing regime. In particular, the ‘universalism’ associated with Denmark and Sweden would indicate a propensity towards rent regulation.

However, perhaps the most important conclusions that can be drawn from this paper are that there are limitations to the threefold generational typology (the authors advocate developing a more nuanced one that recognises the complexity of existing regulatory regimes); there is a need for policy related research to focus more on housing outcomes (in terms of supply, quality and rent levels, while recognising the considerable difficulties posed by isolating the effects of rent regulation on these outcomes); and, that understanding the national context is vital for comparative analysis and correctly assessing the potential for policy transfer.

Before turning to the two case studies (Germany and Northern Ireland) that form key elements of this study, it is useful to examine both the findings that emerge from the Gibb and Marsh (2022) study in relation to Sweden and the Netherlands and also provide some concluding reflections on European rent regulation.

Kettunen and Ruonavaara (2021) classify both Sweden and the Netherlands as countries with second-generation rent controls. Sweden’s PRS is characterised by open-ended tenancies. Rents are set by a Rent and Tenancy Tribunal at the beginning of a tenancy on the basis of ‘reasonableness’ compared to a dwelling’s ‘utility value’. Rents are deemed to be reasonable if they are broadly in line with the utility value of similar dwellings in the local area – based on a number of characteristics, including size, type of construction, dwelling age and state of repair. New builds attract an additional premium (‘presumption rents’) provided a collective bargaining agreement is in place between the landlord and the Tenants Union.

Rent increases are generally agreed as part of a collective bargaining process that is enshrined in legislation: 'Rent can be freely negotiated but shall not exceed the rent of comparable units by too much (a 5 percent difference is considered reasonable)' (OECD, 2025). Tenants also continue to have the right to test the justification for future proposed rent increases with the Tribunal. Swedish commentators view their system of reference as a 'third way between the rental market and rent control, a form of economic corporatism managed by collective bargaining' (Gibb and Marsh, 2022, p.4), but it has attracted a significant level of criticism and political debate, because it is seen by many to result in long waiting lists of households seeking access to this sector of the housing market.

Gibb and Marsh (2022) cite the findings of a paper by Wilhelmsson (2021) that examines the demand for rental housing in Stockholm where rents are typically set below market levels and excess demand is managed by the municipal housing agency on the basis of a waiting list. Wilhelmsson argues that rent regulation can provide some protection for tenants against poor quality housing and the effects of market distortion. Properties are therefore not allocated by ability to pay but on the basis of a waiting list, but despite this 'there is a positive income elasticity of demand i.e. higher incomes increase demand and there are useful market signals generated by the preferences expressed in the waiting list system' (p.5).

In the Netherlands a rental threshold (*Huurliberalisatiegrens*) is utilised as the basis for distinguishing between social housing and dwellings in the PRS³. Rents are regulated in the social sector, but in the private sector they are effectively determined by market forces. OECD summed up the situation as: 'most rental contracts are open ended, rent increases can equal inflation +1% at maximum and usually take place annually' (OECD, 2025).

Drawing on an earlier study by Jonkman et al. Gibb and Marsh provide some further insights into the situation in Netherlands. In regulated 'social' housing the maximum rent is assessed using an 'administrative valuation system', a points-based system with points awarded for dwelling size and facilities, and whether it is self-contained. Additional points may be included to reflect high demand/scarcity in a particular area. The actual rent is worked out on the basis of the number of points. Tenants are able to appeal the decision via a Rent Tribunal (*Huurcommissie*), which has the power to reclassify properties as social homes. If the initial rent at tenancy commencement is below the social/private threshold, the dwelling remains regulated as a social home for the entire tenancy.

³ In 2023 the threshold was 808,06 euros (<https://www.iamexpat.nl/housing/netherlands-rentals/social-housing-private-free-sector>).

Jonkman et al. (2018) provide some evidence that ‘rent controls flatten the distribution of rents across space making more attractive locations relatively less expensive – benefitting those already living there – and making lower demand areas relatively more expensive’. Gibb and Marsh comment that this study highlights the complexity of relationships between different subsectors of the privately rented, social rented and owner-occupied sectors of the housing market, and that ‘much of the analysis implicitly anticipates incentive effects leading to change in behaviour and outcomes e.g. on mobility and tenure change’ and that this is ‘assumed rather than evidenced’ (p.5).

Gibb and Marsh (2022) conclude their examination of a range of European examples with the following important ‘reflections’ on the challenges of transferring experience from other countries. These are summarised below:

- Difficulty of appreciating the ‘nuances and complexities’ of national systems (e.g. comparability, exceptions, detail of their utility-based points systems) from high level reports and journal articles. However, these specifics can have a major influence on landlord/tenant incentives and therefore in shaping how the housing system responds to policy.
- There is a significant cost overhead associated with rent regulation models (specifically those using reference rents in comparison to alternative policy instruments (e.g. direct subsidy or taxation): data collection, calculation and updating of utility values and associated (for points-based systems), and enforcing the regime.
- A statutory, legally-binding system of rent regulation needs to meet minimum standards and ‘operate transparently and comprehensively’. Failure to achieve this will lead to legal disputes that cause delays and add significantly to costs.
- Rent regulation, in its various forms relies on the ready availability of regularly updated good quality data.
- Any decision to regulate rents on the basis of a utility-based points scheme to reflect dwelling quality should first consider whether it is appropriate to create new data requirements and models⁴, rather than ‘market comparables’ based on actual rental data modelled using well-tested hedonic pricing models that can differentiate a range of indicators of dwelling quality.

⁴ Debates have taken place over many years in the context of NI about the subjectivity of the Northern Ireland Housing Executive’s points based rent scheme that determines the rent for its properties on the basis of number of points awarded for a particular dwelling characteristic.

- It is vital to bear in mind national context and ‘path dependency’ when drawing conclusions about the viability of models developed other European contexts. Feasibility and effects are specific to the housing markets and policy regimes of those countries.

Case Study 1: Germany – Berlin

The German Systems of Reference Rent

Context

Unlike most other European countries, almost half (48%) of homes in Germany are in the privately rented sector, although this figure is much higher in its key urban centres. Berlin, with a population of more than 3.5 million, has 1.9 million dwellings (84% of its population live in rented accommodation) and 1.4 million of these are subject to rent regulation. Over the last 20 years Berlin has lost most of its public housing stock, mainly through sales to private companies, encouraged by the neoliberalist outlook that has characterised successive governments and the inactivity of public companies involved in the construction of social housing. In addition, the steady growth of Berlin's population, accelerated by an average of 40,000 newcomers has led to a growing need for affordable housing. In the 1980s, German households typically spent around 20 per cent of their income on housing, currently the average is approximately 30 per cent (Schmidt, 2020; Althoff, 2023).

Germany introduced first-generation rent controls in the early part of the 20th century, but from the 1970s rent regulation increasingly evolved into a system of third-generation rental stabilisation. Initially, increases in rents were limited during the lifetime of a lease up to a maximum based on the average rent for dwellings with similar characteristics – essentially a non-binding forerunner of the current system of reference rents based on the *Mietspiegel* ('Rental mirror'), the index that lies at the heart of rent regulation in Germany since 2015. During the 1970s, Germany also introduced open-ended leases for all dwellings, with the aim of giving tenants greater security of tenure. There were, however, a number of exceptions to this set out in the legislation (e.g. if a landlord wanted to live in the dwelling themselves, let it to a family member or was experiencing financial difficulties, or if the tenant breached the tenancy agreement). In 2001, rent regulation was harmonised into a single system at the national level through its incorporation into the German Civil Code (*Bürgerliches Gesetzbuch* [BGB]), and the *Mietspiegel* became binding rather than for guidance.

In 2015, new legislation was passed against a background of increasingly pressurised (*angespannt*: 'tight' or 'tense') housing market conditions. The legislation enabled Germany's federal states (*Länder*) to moderate rents for new leases in urban areas (previously only existing leases had been covered) by introducing a *Mietpreisbremse* ('Rent Brake') that meant rents could only rise by a maximum of 10 per cent above local reference rents. Further

measures introduced in 2019 led to a further strengthening of rent regulation for Germany as a whole, and, in 2020, in Berlin in particular.

Currently, the German Civil Code (BGB) authorises the governments of the Federal States to designate pressurised housing markets (*angespannte Wohnungsmärkte*) by means of a statutory instrument for up to five years. These areas are defined on the basis of an inadequate supply of rental housing using a number of criteria: trends in rental prices, vacancy rates, rate of population growth and ‘rent burden’ (effectively a measure of affordability) (BGB 556d). In these pressurised housing markets a *Mietbremse* (rental brake) applies to new leases and a stricter *Kappungsgrenze* (rental ceiling) for rent increases for existing leases. As of August 2024, all federal states except Saarland, Saxony-Anhalt, and Schleswig-Holstein have issued such legal regulations (Hoganlovells, 2024).

Rent regulation: Reference Rents – Mietspiegel and Mietbremse

Schmidt (2020) sets out the key components of Germany’s system of rent regulation for the PRS⁵ in greater detail:

Mietspiegel (‘Rent Mirror’)

The *Mietspiegel* plays a vital role in tenancy law. It is ‘the cornerstone of the regulation system’ and is essentially an index of *ortsübliche Vergleichsmiete* (local reference rents) – ‘a representative cross-section of rents typically paid for comparable housing in the same locality’ (Saxenberger, 2024) – essentially a table of ‘price scales’ based on a range of dwelling characteristics: (e.g. ‘location, size, age, quality of facilities’ and the rents of similar flats.) It provides ‘the means of justifying rent increases’ (BBSR, 2025).

The *Mietspiegel* ‘establishes ‘an average rent-price reference for the city’ – landlords cannot raise the rent of an ongoing lease ‘by more than 20% above this average price’ – although this does not last indefinitely. Althoff (2023) notes that this can be reduced to 15 per cent by a federal state if it deems that a ‘sufficient supply’ of rental housing on ‘reasonable terms’ for the population of a municipality or part of a municipality is ‘particularly endangered’.

⁵ Privately let dwellings that were constructed with the help of publicly funded subsidies are not included in Germany’s system of reference rents. The rents of these properties are restricted on the basis of other criteria. Access to these dwellings is limited on the basis of an income assessment.

Local reference rents (and therefore the *Mietspiegel*) are periodically (typically every two years) updated in line with the rental prices of dwellings with similar features in the same locality, so in effect the system ‘slows down but does not stop’ rents from rising over time.

The period taken for calculating reference rents has varied over time. Initially, in the 1970s it was based on (West) Germany’s rental housing as a whole. From 1982 on, it only took account of leases signed within the previous 3 years. More recently this was extended to four years and from 2020 to six years (Kofner, 2023).

The *Mietspiegel* is calculated and administered by Germany’s municipalities. It is not mandatory although legislation indicates that it should be produced where it is needed “to ensure city residents have access to housing at reasonable prices”, and in many cases it is for information only. In 2014 (prior to the introduction of the 2015 legislation), approximately half of municipalities with 100,000+ or more residents and a fifth of municipalities with populations 50,000 to 100,000 had an authorised *Mietspiegel*. Following further *Mietspiegel* legislation in 2021, it became obligatory from 2022 for municipalities with a population of 50,000+ to have a *Mietspiegel*. It has been recently estimated that a total of 1,374 municipalities in Germany have a *Mietspiegel* compared with only 161 prior to 2015. Almost all municipalities with populations of 50,000+ have now introduced a *Mietspiegel* (BSBR, 2025).

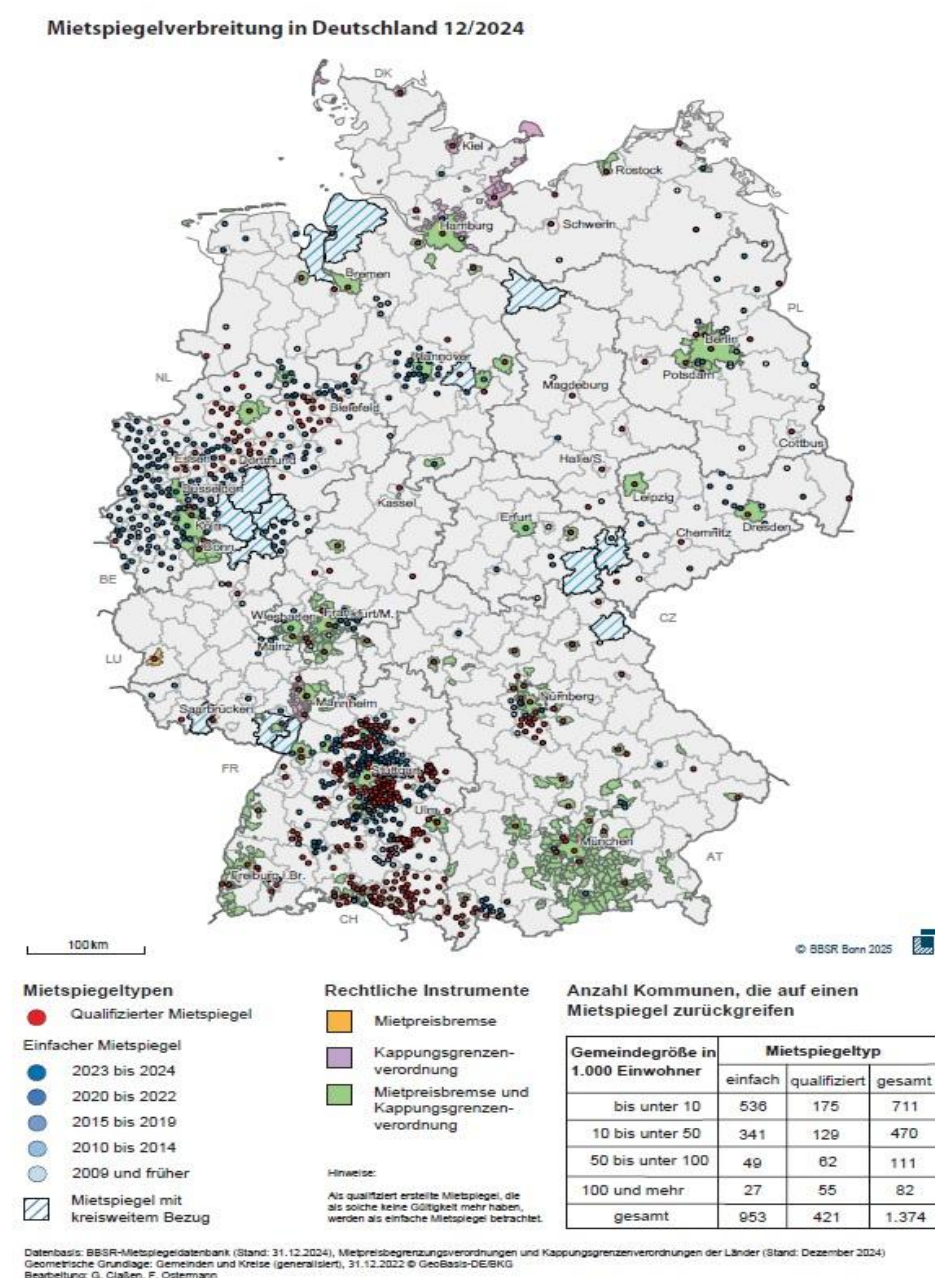
The *Mietspiegel* can take two forms: a ‘simple list’ (a non-legally binding table prepared by municipal authorities or negotiated by landlords and tenants’ associations based on market observations) and an ‘expert list’ that involves more complex calculations based on ‘scientific principles’ (using either a ‘table method’ or regression analysis, both based on selected dwelling characteristics) and on data collected through sample surveys⁶. Larger cities are increasingly employing experts to undertake the necessary regression analysis⁷. It is legally binding and is used in the case of legal disputes between landlord and tenant. It must be updated (usually in line with CPI) every two years and renewed every four. Most large cities

⁶ The ‘Expert List of Representative Rents’ (BGB 558D): • Must be recognised by the authority under state law or by representatives of landlords and tenants. • Must be created according to recognised scientific principles to be considered as an expert list. • Is based on extensive scientific surveys and data analyses of rental prices in a specific region. • Has a legal binding effect in the sense that the rent levels it establishes can be used as a reference in the event of legal disputes and rent increases. • Should be adjusted to market developments every two years and renewed every four years (https://www.hoganlovells.com/-/media/germany_folder-for-german-team/broschueren/2024/regulation_in_the_german_housing_market_en_k.pdf), p.10.

⁷<https://www.bbsr.bund.de/BBSR/DE/veroeffentlichungen/sonderveroeffentlichungen/2024/handlungs-empfehlungen-erstellung-mietspiegel.html>, for example, provides detailed guidance on the application of ‘scientific principles’ to producing local reference rents and the *Mietspiegel*.

use an expert list (Figure 1). In December 2024 it was estimated that 61 per cent of them were based on an 'expert' list (BSBR, 2025)

Figure 1: Germany: Geographical Spread of Mietspiegel, December 2024



Source: BBSR, 2025

Some property types are excluded from *Mietspiegel* regulation: 'detached or semi-detached single-family dwellings; homes located in two-dwelling buildings; newly constructed buildings completed after 1 January 2016 or with particular features – very large dwellings, with luxury

features or, the opposite, very precarious, which justify establishing their rent price above or below market rates' (Schmidt, 2020, p. 66).

Mietpreisbremse ('Rent Brake')

The *Mietpreisbremse* was introduced in 2015 as a regulatory response to spiralling rents. It was initially seen as an additional 'temporary' mechanism and is closely linked to the *Mietspiegel*. The Rent Brake is the only statutory instrument that limits rents on new leases and specifies that these new rental contracts cannot specify a rent that exceeds the local reference rent by more than 10 per cent. Ongoing leases are not affected by this regulation. However, there are exemptions for new PRS dwellings and for the first lease signed after comprehensive modernisation in order to avoid a detrimental impact on new investment (Kofner, 2023). However, the application of the rental brake is limited to pressurised ('tight') housing markets, where, for example, 'rents increase significantly higher than the national average' (BGB 556D). Schmidt (2020) also highlights a number of further exceptions: flats that already had rents above the ones capped by the *Mietpreisbremse* (in previous leases), furnished flats and dwellings leased for the first time after 1 October 2014 (to prevent landlords being disincentivised from bringing new flats into the rental market), or flats where a complete refurbishment has been completed within the previous three years. Indeed, the whole issue of modernisation (both its definition and its misuse by landlords to avoid rent regulation) has been an important bone of contention in Germany for many years.

The German Economic Penal Code (*Wirtschaftsstrafgesetz*) provides for fines of up to 50,000 euros for 'abusive' rents (more than 20% above the reference rent) or three year prison sentences or larger fines for rents deemed to be 'indecent' or 'harmful' although in both cases it must be demonstrated that the landlord has taken advantage of a tenant's vulnerability, inexperience or lack of knowledge (Schmidt, 2020). Schmidt highlights the difficulties tenants have in demonstrating that the rent being charged by a landlord exceeds the *Mietpreisbremse* rent by 10 per cent and that until recently, many tenants were forced to sign up to rents that exceeded the cap, not knowing whether any exceptions applied.

The approach to updating (increasing) rents during the lifetime of a lease is set out under the terms of the lease. Various criteria are used, including applying the German equivalent of the Consumer Prices Index, or basing it on increases in the local reference rent. However, whatever approach is used, rents for current leases cannot exceed 20 per cent within a period of 3 years and 15 per cent in pressurised markets.

The Rent Brake was originally supposed to end in 2020. It was extended to 2025 and Germany's governing coalition had agreed (in 2021) to extend it to 2029 (Kofner, 2023), but given the recent change of Government, it may now end at the end 2025.

Schmidt (2020), although an advocate of rent regulation, admits that so far the German system has not been 'sufficiently effective' in stemming rising rents – partly due to ongoing underlying socio-economic pressures, but also due to loopholes in the regulations. There are also wider factors common to many cities in the world at play, including large-scale redevelopment resulting in inflated prices of buildings and 'company investment of global capital' in housing motivated by profit maximisation.

Additional regulatory changes were also introduced in an attempt to improve effectiveness:

The *Mietrechtsanpassungsgesetz* (rent review regulation) came into force on 1 January 2019:

- (1) Landlords must now justify any rent increases that exceed the 10 per cent cap, i.e. that they are covered by one of the exceptions to the Rent Brake.
- (2) A new cap was introduced for rent increases following modernisation – the previous cap of 11 per cent of the cost of the work was reduced to 8 per cent.
- (3) Increasing rents following modernisation was also limited to 3 euros per sqm (for a 6 year period) or to 2 euros per square metre, for dwellings with a rent of less than 7 euros per square metre.

Again, however, there are a number of exclusions/qualifications, including: modernisation work to maintain the dwelling in a good state of repair; tenants may reject the increase if it puts them in an especially vulnerable situation; in some cases the conditions in the lease agreed between landlord and tenant may override the new regulations relating to modernisation.

Berlin

Because of the particularly pressurised housing market in Berlin, its federal state government introduced a number of additional measures in 2020:

- (1) Local reference rents were to be frozen for five years by a *Mietendeckel* (rent cap); specifically, they were to be regulated with reference to the 2013 *Mietspiegel*, with the maximum monthly rent for the most expensive end of the market being 9.80 euros per square metre. The measure came into force on 23 February 2020, but was declared unconstitutional by the Berlin Federal Court on the basis that the 'Land' of Berlin has no jurisdiction over rent regulation. The matter was referred to the Constitutional Court for a ruling and in 2021, after being in force little more than a year, it was abolished because the "constitutional basis for

law-making in the domain of housing markets at the federal state level was shaky” (Hahn et al., 2022).

(2) Rental reductions could be requested ‘retroactively’, so if a tenant was paying a rent that was 20 per cent more than the Mietspiegel of 2013, they could request its reduction.

(3) Furnished flats were also included in the system of rent regulation and fines of up to 500,000 euros can be imposed for violations of the local reference rent guidelines. Provision was made for a limited number of exceptions where prices could exceed the reference price (for example, for recently constructed dwellings, in cases where landlords are experiencing financial difficulties, where significant alterations to the dwelling have been completed).

Being the first German federal state to approve a measure with these features, Schmidt (2020) notes that it encountered considerable resistance from the finance and property sectors and more conservative politicians, as well as legal obstacles. He acknowledges it is an exceptional measure, but considered it essential “to give breathing space to citizens” burdened heavily by the rents they are paying, and to give the city time ‘to roll out affordable housing-construction machinery’ and ‘balance the housing market’ over a five year period.

Hahn et al. (2022) take a more negative view based on their research over a period of a year: the rent freeze did lead to “a significant reduction drop in advertised rents”, but this was accompanied by “a substantial, and likely lasting, sharp decline in available rental units in Berlin”. This reduction in supply reflected a combination of three factors: “increased conversions of rental to owner-occupied units; a reduction in newly built dwellings; and a drop in property advertised for rent” (Hahn et al., p.3).

Impacts – Strengths and Weaknesses

Gibb and Marsh (2022) cite two studies that throw some light on the potential impacts of Germany’s Rent Brake. Firstly, a study by Thomschke (2019), who used a difference-in-difference model to assess the impact of the Rent Brake introduced in 2015. The study found that rents agreed under new leases had moderated in Hamburg, Munich and Berlin, but there appeared to be no impact in the cities of Cologne and Düsseldorf. Overall, despite a paucity of data and the challenge of demonstrating causality, the effects of the Rent Brake are viewed as relatively minor, if apparent at all.

Secondly, a study by Breidenbach et al. (2022), using a similar methodology, found evidence of reductions in rent of between five and nine per cent in specific property types, but also that the impact did not continue in the longer term and disappeared after 12 to 18 months. This study also indicated that initial rent reductions were larger in areas where higher income

tenants lived (8%) compared to lower income neighbourhoods (4%) and that the Rent Brake tended to encourage a decline in the quality of properties coming on to the market.

Kofner's (2023) more recent academic contribution to the debate surrounding rent regulation in Germany not only provides a considerable amount of useful contextual and explanatory information, it also sets out a detailed critique of the reference rent system as it operates in both Germany and more specifically in Berlin.

In Kofner's view the local reference rents are a fundamental determinant of 'rent price formation' that 'in principle' reflect an average of the rents charged for 'apartments of comparable quality' in a particular location. However, he correctly indicates that this is not an altogether 'empirical concept' based on the realities of the market but is an 'artificial construct that only partially and imperfectly reflects the empirical conditions' (p.147) by being based on a relatively small number of 'normative criteria' (e.g. dwelling size, location and condition) that do not entirely reflect the rental value of the property. Furthermore, the calculation of the local reference rents *includes* rental data based on rents agreed on new leases and on rents that have been increased in ongoing leases but *excludes* rents in existing leases that have remained unchanged. The treatment of dwellings that have been modernised further complicates the picture. The costs of modernisation impact on the maximum permitted rent but these rent increases are 'unconnected' with the reference rent system.

Since 2013 a series of legislative measures aiming to limit rent increases 'fundamentally changed the entire character of the German system of rent price formation' to the extent that 'one cannot seriously call it a market-oriented system any longer', but one that operates 'according to its own rules' (ibid., p.147).

Kofner (2023) highlights a number of other significant issues that appear to have plagued the German approach to reference rents.

- (1) The adjustment of the rental indices (*Mietspiegel*) to ensure that the local reference rents reflect developments in the local housing market more closely is often delayed.
- (2) Previously, there have been significant local differences in the practical application of the rules to determine reference rents. More recently, additional legislation has promoted a degree of standardisation: a *Mietspiegel* (rental index) is now obligatory for municipalities with a population greater than 50,000 inhabitants, and federal legislation has standardised the methodology for producing the local indices.
- (3) Permitted rent increases in ongoing contracts are not only restricted by means of the local reference rent, but also by an additional rent cap limiting rent increases over a three year period to a maximum of 20 per cent, even if the local reference rent would allow a higher rent

increase and regardless of legitimate rent increases due to dwelling modernisation. In municipalities deemed by the governments of individual federal states to have severe housing shortages the maximum rate may be reduced to 15 per cent.

(4) The Rent Brake (*Mietpreisbremse*) introduced in 2015 (see above) was originally due to expire in 2020. It has been extended to 2025 and may be further extended to 2029. Kofner (2023) views this as having severely constrained returns from private letting, despite the exemptions, for example, for new privately rented dwellings and for the first agreed lease after comprehensive modernisation. On the other hand, rents cannot be reduced in ongoing rental agreements even if they are more than 10 per cent above the local reference rent. He concludes that the introduction of the Rent Brake has resulted in the ‘price formation mechanism’ of local reference rents being ‘severely distorted and the self-referentiality [i.e. not based on external realities] and artificiality of the system has increased substantially’ (ibid., p.148).

Kofner (2023) accepts that a system of local reference rents may be a way to address market failure in certain housing markets, e.g. where there are low elasticities of supply and demand. The restriction of both rents in ongoing contracts and newly agreed rental contracts in a way that there is a balance between market ‘insiders and outsiders’ could provide a reasonable solution. Nevertheless, Kofner stresses the importance of preserving the medium-term market orientation of the system and its ability to balance supply and demand. He doubts, however, if the Rent Brake does this, because it severely disrupts the local reference rent system by slowing down the necessary increases in rents for re-let properties – ‘the only dynamic element in the process of adjustment’ of a local reference rent system, thereby losing ‘its medium-term market orientation’ and leading to ‘dysfunctional markets that cannot find their way back to equilibrium by themselves’.

Kofner (2023) also argues that from the tenants’ point of view, the current approach to rent regulation also violates the principle of ‘equal rent for equal housing quality’. Rental prices actually paid depend to a considerable degree and in an arbitrary way on the date on which the lease was signed, the contractual history of the dwelling and its year of construction and are not linked to ‘objective criteria’ such as the socio-economic position of the tenants or the quality of the building. For private landlords, the Rent Brake means reduced rental income on re-lets in particular, but it also reduces viability for landlords due to limitations on increases for ongoing contracts, and makes ‘evasive reactions’ (e.g. selling up, comprehensive modernisation or conversion to condominiums) more common.

Saxenberger (2024) echoes a number of these points but also highlights the difficulties of assessing the impact of rent regulation and particularly the Rent Brake due to the lack of

‘nationwide, specific and conclusive data on parameters (such as past rent levels or renovation activities)’. There is also a lack of recent studies, from 2020 onwards in particular, and ones that do exist are based on simulations, based on other countries or models that exclude other crucial factors in rent price formation.

Saxenberger (2024) notes that studies examining the effectiveness of the Rent Brake agree that it does achieve a slight decrease in rental growth – although the degree of impact varies – and a greater understanding among landlords and tenants of the dynamics of rent pricing, while the potential negative effects on dwelling quality do not appear to have materialised (largely because legislation included exemptions for renovations, maintenance, and the construction of new dwellings. However, Saxenberger is doubtful whether the socio-economic goals of the Rent Brake (e.g. increasing accessibility for lower-income households) has been achieved due to a combination of factors, including: a decrease in supply at a time of increasing demand for rental properties, non-compliance of landlords, and regulated rents still being unaffordable for lower-income households.

Saxenberger put down the limited effectiveness of the Rent Brake to a number of factors:

- (1) Its ‘vague formulation’ and non-uniform implementation at local or federal state level rather than at the national level. Some states (e.g. Saar and Saxony have chosen not to implement the Rent Brake reducing overall effectiveness at the national scale.
- (2) Non-compliance by many landlords, something that is facilitated by the many exceptions (e.g. for furnished or substantially renovated apartments).
- (3) Lack of awareness of the exact regulations on the part of tenants – compounded in many cases by a lack of resources and willingness to challenge their landlord.
- (4) ‘Fundamental flaws’ in the calculations underpinning the local reference rents and *Mietspiegel* – in particular, the reliability and timeliness of the data. This applies to both the ‘simple rent mirror’ (derived from stakeholder knowledge but often fails to reflect market rents with sufficient accuracy) and the ‘qualified rent mirror’ (theoretically based on robust data and updated every two years but can be inaccurate and there is a lack of methodological transparency).
- (5) A lack of consistent data on issues such as modernisation, as well as previous and current rent levels makes it difficult to even assess the impact of the rent regulation measures in place and enforce compliance.

Stakeholder interviews – insights and lessons

This section of the report summarises key points that emerged from the seven in depth semi-structured interviews undertaken with a range of well-informed actors in the German PRS. The findings are set out to reflect the key topics highlighted in the original research specification.

(1) Criteria for entry: dwelling type, quality, location / household income

The general view of respondents is that any local reference rent system should cover the vast majority of dwellings but should only apply to the 'standard' dwelling stock (in effect apartments) and that the selection of appropriate dwelling archetypes should be based on a comprehensive analysis of the housing market. The criteria for deciding whether a dwelling should come within the system should be clearly defined in law with minimal room for interpretation and that underlying data be easily gathered and updated.

Rent indices in Germany tend to be urban orientated and focus on apartments in multi-storey buildings with three or more homes. One respondent sees this as inappropriate in the context of rural areas where it needs to include privately rented single-family homes (e.g. detached and semi-detached houses and townhouses) as they form a significant share of the rental sector in these locations. Others see the exclusion of specific property types e.g. detached homes as the correct approach because of the very small numbers that are privately rented. One respondent also stated that the exclusion of houses in multiple occupation was also justified. There is also support for excluding low demand areas from the reference rent system.

The condition of a building is an important consideration. Reference rents use year of construction as a proxy for this and there is some justification for this but comprehensive modernisation, for example, to improve energy efficiency has blurred this relationship. A number of respondents commented that the current practice of using age as an indicator for condition is unsatisfactory and the whole issue of the rental implications of comprehensive modernisation needs clarification.

Respondents generally agreed that dwelling location is an important aspect of rental pricing and therefore should be included in the reference rent calculation. However, providing a true reflection of its value is difficult bearing in mind, for example, the changing needs of households during their lifetime. One respondent highlighted the use of somewhat subjectively determined 'dummy variables' to represent locational value in the regression analysis as being particularly problematic.

One of the most challenging aspects of the reference rent calculation is defining apartment ‘amenities’, given the numerous variations that could be taken into consideration. However, Germany’s minimum requirements (bathroom, indoor toilet and heating) are considered a reasonable baseline.

Respondents were generally in favour of universal access to rent regulated dwellings, to a considerable degree for pragmatic reasons. Wealthier households would be very unlikely to apply for the type of accommodation covered by rent regulation and limiting access on the basis of household income would be difficult to implement and would raise the issue of whether a tenant whose income rose above a certain level could be asked to leave a property. Too great a burden would be placed on either landlords (or some regulatory body) who would need to regularly verify details of household incomes or tenants would be obligated to report changes in income – something that could also act as a disincentive to improve their socio-economic position. One respondent commented that they thought this was ‘too significant an invasion of privacy and problematic from a data protection perspective’. One respondent also suggested that there should be a minimum income threshold to ensure the tenant could afford to live in the PRS. However, one participant also noted that taking tenants’ income into account might in effect ‘discriminate [against] or privilege certain groups of tenants’.

(2) Calculation of Reference Rents: Geographical boundaries / data sources / resources / methodological issues

The spatial delineation of appropriate local market areas on which to base rental indices is seen as ‘a challenge that is difficult to address’. There is recognition that municipal boundaries rarely reflect housing market boundaries. The current legal framework requires administrative boundaries as the geographical basis. Large scale surveys such as the census could better define ‘spatial interconnection, however, this could result in the scope of the survey becoming too large, with consequential difficulties in terms of carrying it out’. There are considerable differences in the level of granularity used to define reference rent boundaries between different cities – getting the balance right is an important consideration.

Data deficiencies are seen as one of the main challenges with Germany’s local reference rent system. Difficulties have arisen even in determining whether certain dwellings should be included in the system. The survey samples drawn from registration offices or tax information is not complete and information from on-line platforms is seen as biased ‘because cheaper apartments are often not advertised on those platforms’. Since the Rent Index Reform Act 2022, data from the residents’ registration office (city population register) and property tax files (property owners in a city) are available for data collection, but this is currently incomplete.

Building up a comprehensive property/household database is important, but takes time and is expensive. The Rent Index Reform Act 2022 introduced the duty to provide information for landlords and tenants. This has significantly increased data quality and therefore also the basis for calculating rental indices, but there are still issues surrounding non-compliance and significant staffing levels are required.

The costs of implementing a robust evidence-based local reference rent system are generally recognised as a very significant challenge and there is a clear relationship between the approach to data collection and the robustness of the indices produced. Surveys undertaken on the basis of forms completed by landlords/tenants are cheaper, but the resultant data quality is poorer than 'in-home' surveys collected by qualified surveyors.

Respondents also highlighted a significant number of methodological issues in the calculation of reference rents, including: the use of a Consumer Price Index is inappropriate (it includes factors that are irrelevant in relation to housing costs) and should be replaced by a rental index that is available at a more local level (city level) rather than at federal state level (as at present); the data required to undertake the robust regression analysis (including dwelling characteristics with the appropriate levels of statistical significance) that is needed to underpin an accurate index is not readily available, thus limiting the number of characteristics that can be included in any index. Pragmatic decisions based on including data that is more readily available thus biases the indices.

In Germany, the reference rent is statutorily based on a 'moving average of previous rents' (now over a six year period). This is seen as an effective means to control rents – but is viewed as a political decision rather than having any solid theoretical basis. In addition, respondents found it difficult to comment on whether this was a positive or negative feature of the German system.

(3) Rules related to homes new to the rental market, new leases, rent increases and possible exemptions: new properties / rent increase / substantial improvements

In Germany, the fact that for newly built properties, the criteria for determining local reference rents can only be applied when a new rent index is created needs to be re-examined to see if the existing criteria adequately reflect new properties. In effect, tenants with current rental contracts are protected while new tenants are not. This has resulted in 'high immobility of tenants and an increasingly dysfunctional market'.

It is appropriate that the number of annual rent increases is limited. The German system 'has proven effective' although 'a rent cap is somewhat problematic... it protects tenants from

excessive rent increases, [but] it can also inhibit landlords' investment activities'. However, in the experience of one respondent, landlords often do not apply the maximum allowable rent increases as it may encourage tenants to seek more affordable housing – most German landlords appear to be interested 'in retaining tenants long-term and avoiding costs associated with frequent tenant turnover'.

One respondent considers the existing regulations to be generally effective in relation to substantial improvements which are also regulated by law. But the extent to which costs can be passed on to tenants is currently under discussion. There also appear to be situations where the landlord undertakes unwanted improvements in order to be able to increase the rent – an issue that may be exacerbated in cases where the tenant can no longer afford the rent as a consequence. There is a balance to be struck between policymakers aiming to improve the quality of the rental stock and not overburdening tenants – working out a reasonable timescale for landlords to amortise their investment costs is central to getting the balance right.

(4) System monitoring and enforcement of infringements:

Respondents clearly recognise that monitoring and enforcing a local reference system effectively is a serious challenge ('there is a huge compliance issue'; 'monitoring and enforcement are difficult to implement') that would really require 'extensive government resources'. Currently, 'there is no public monitoring system in Germany' and monitoring and any consequent involvement in enforcement is only undertaken by tenant or landlord associations on request. In the case of the Rent Brake, in particular, 'there are many violations of the law in practice'. There also need to be clear penalties for landlords who are not complying. The effectiveness of the current system of fines for exceeding the local reference rent by more than 20 per cent or considering it a criminal offence if it exceeds it by more than 50 per cent is difficult to assess. Stakeholders and politicians continue to engage in intensive discussions on this issue. A number of interviewees emphasised the difficulties faced by tenants trying to persuade their landlord to accept the reference rents: 'there is no enforcement agency – tenants have to sue through the courts'; but many 'don't want to have a conflict with the landlord', indeed some 'fear the landlord could kick them out, claiming they need the apartment for themselves'.

Monitoring of regulations should be carried out by authorities (although one respondent did highlight concerns about political interference in the setting of reference rents) and relevant interest groups. It was also recommended that those undertaking the survey have 'experience of surveys and advanced statistical skills'. One informant suggested that there should be a dedicated department in each local authority, but did comment that the *Mieterschutzbund*

(tenant protection society) 'is a great place [for tenants] to get help', although another respondent indicated that these tenants' associations did not always have the right specialist skills. However, another respondent was quite clear on the subject: 'I do not consider complete monitoring to be practical'. There is currently no comprehensive body responsible for this and the effectiveness of local authorities is limited by insufficient staff resources. The necessary expansion in staffing levels 'would likely not be financially justifiable', a point that applies equally to the creation of a specialist independent body to deal with this issue ('this would incur substantial costs and actual verification would be very difficult').

(5) Reference rents in practice

The main operational difficulty appears to be the lack of knowledge of the reference rents applicable in their locality on the part of both private landlords and tenants. In practice this leads to significant differences between local reference rents and actual rents paid by tenants. This has been compounded by the challenges of gathering accurate rental information. Unlike in Ireland, there is no legal requirement for landlords to register rents (neither on new leases nor in relation to increased rents for ongoing leases) and until recently there was often a reluctance on the part of tenants to provide rental information for the sample surveys that underpinned the local reference rents and, therefore, the *Mietspiegel*. New legislation passed in 2022 provided for an *Auskunftspflicht* (obligation to provide information) so participation in *Mietspiegel* surveys is now mandatory. One interviewee noted that 'this has significantly increased the quality' of data, but another thought that it was too early to really tell.

Some respondents also query how reflective local reference rents are of actual market rents – with lack of comparability being partly the result of legal requirements on how to calculate them and the extent to which it is a pressurised ('tight') market, as reflected, for example, in the number of vacant properties. Some rent indices include data on advertised properties – which can add to the realism of the reference rents. The results from an ongoing study across Germany show significant differences between German cities.

Introducing new legislation can become a cumulative experience where 'one new regulation immediately necessitates another'. Intervening in housing markets is 'very challenging' and while some regulations are 'necessary to ensure an adequate supply of affordable housing, this can be better achieved through targeted subsidies rather than new regulations'.

One area that does need further regulation, however, is furnished apartments, which are excluded from regulation and used by landlords 'to circumvent existing rent control regulations'. A clear definition of a furnished dwelling is lacking, and landlords can therefore achieve rents (particularly in pressurised markets) that are significantly above the local

reference rent by providing minimal levels of cheap furniture (one respondent had come across cases where a mattress on a floor was considered as a bed). This is particularly prevalent in tight housing markets.

(6) Interaction with short-term letting market (Holiday lets, AirBnB, etc.)

The number of short-term rentals has increased significantly in major cities with tight housing markets. They are not subject to rent regulations, landlords only require approval from the city administration and even this is often not obtained. Some larger cities have attempted to curb the growth of short-term rentals, in particular, in Berlin via its *Zweckentfremdungsgesetz* ('Misappropriation Act') that regulates changes of use, and includes 'penalties for violation ranging from fines to the appointment of trustees' to ensure the dwelling becomes part of the rental market again. However, it is difficult to assess the effectiveness of these measures as studies of this and other municipal interventions that have been carried out in major cities are not yet publicly available. Early indications suggest limited success and again ensuring compliance would require additional staffing. One participant noted that in Berlin, permits for short term rentals can be hard to come by with the result that some prospective owners have been left with no alternative but to let the property out as a furnished dwelling at a high rent. One participant also highlighted the difficulties of controlling the subletting of individual rooms to tourists, where the 'landlord' actually lives in the property.

(7) Impact of a system of reference rents on rental inflation and landlords leaving the market

The impact of local comparative rents on actual rents is clearly visible with institutional investors largely adhering to the rent index guidelines, therefore dampening overall rent levels. New lettings are the main driver of rent increases. There is evidence that increased regulations in recent years has led to some private landlords selling their properties, 'but there is a lack of conclusive evidence'. Some private landlords, find the regulatory requirements 'difficult to understand and economically unfeasible'. However, more importantly there is a demographic driver of landlords leaving the market: younger ones with inherited properties not wanting to deal with the complexities of being a private landlord, particularly if 'the emotional connection to the property is often no longer present'.

One respondent had very firm views on the impact of rent regulation on landlords leaving the market: 'there is a vast literature providing evidence that excessive rental regulation leads to a decrease in rents and is eventually harmful for tenants [via reduced supply]... to a certain extent this can be observed in Germany even though there is limited data and thus limited empirical evidence'.

(8) Concluding views on how the reference rent system is working in Germany

The views of respondents were largely positive about the principle of rent regulation and about its application generally, but were critical of more detailed aspects of how the system operates: it 'has proven effective in recent years – it provides landlords with flexibility to generate surpluses for reinvestment in housing stock [and] it protects tenants from excessive rent demands'. Regulation 'could be tightened in various areas' [but] 'this is very challenging'.

'In my opinion 'the legislation has worked well for years even though (by construction) the reference rent was significantly lower than the market rent'... although a reference rent that differs significantly from the market rent will always create additional problems... regardless of which kind of regulations are established'.

'Based on real life experiences many tenants still find it difficult to afford their rents'.

'The major problem in Germany is the lack of independence from politics and lobby organisations, and the lack of proof of statistical skills for persons calculating the reference rent'.

One respondent also was very clear that the German social security system (the combination of *Grundsicherung* – basic social security for those seeking work and older people on low incomes and *Wohngeld* – a form of housing benefit) was a significantly more important tool in helping to ensure that households on low incomes were able to access and sustain PRS tenancies than the system of local reference rents.

Case Study 2: Northern Ireland

Context

Unlike Germany, a much smaller proportion of NI's population lives in the PRS. The most robust recent estimate of this emerged from Northern Ireland's 2021 Census: approximately 150,000 households (19%) were living in the sector⁸. In tandem with GB and Ireland, NI experienced a rapid growth in the size of its PRS in the new millennium in response to a number of factors, including: demographic trends (e.g. smaller family sizes, higher levels of relationship breakdown), increasing affordability issues for first-time buyers; a substantial reduction in the supply of social housing (due to low rates of construction together with the sale of a significant number of existing social dwellings until the mid-2000s); the deregulation of financial markets; the financialisation of housing; and, substantial amounts of equity available to existing owner-occupiers that encouraged a boom in investment in market rental properties, including by a large number of small landlords who were new to the market.

Indeed, this is one of the few similarities between the PRS in NI and Germany, where there is also a sizeable proportion of dwellings in the PRS owned by tiny landlords who own 1-3 properties. Another similarity is the availability and widespread uptake of housing related social security payments. In NI, Housing Benefit (HB) and, more recently, the housing costs element of Universal Credit (UC), for PRS tenants at rates that supported low income households was an important factor underpinning the expansion of the sector and continues to provide a substantial subsidy to it. It was estimated in 2012 that more than 50 per cent of all PRS tenants in NI were in receipt of HB: currently this figure is estimated to be approximately 46%⁹. In effect, therefore, as a number of housing market analysts have pointed out, the PRS increasingly became a haven for households who in previous decades would have been housed in the social sector¹⁰.

NI's PRS does not have a system of reference rents that is equivalent to Germany's. Using the Kettunen and Ruonavaara (2021) approach, NI, like England, would (certainly until recently) be considered as having no system of rent regulation in place – with the exception

⁸ This includes private tenants living rent free.

⁹ NIHE (2015) *Northern Ireland Housing Market: Review and Perspectives*; Department for Communities statistics; DfC source, 2025.

¹⁰ Hayden, A., Gray, P., McAnulty, U., O'Malley, C. and Jordan, B. (2010) The Private Rented Sectors In Northern Ireland and the Republic of Ireland: A Case Study in Convergence Analysis, *International Journal of Policy Analysis*, Vol.10, No.4, 421-441.

of rent controls that apply to some 400 older, statutorily unfit properties built before 1945¹¹. Some tentative steps are now being taken to introduce what might be considered a mild form of third-generation system of rent controls. However, in common with the other three jurisdictions in the UK, the provision of HB/UC to private tenants has necessitated the calculation of 'reference rents' that differ geographically and according to dwelling size (number of bedrooms) and can be seen to have had a significant impact on the rental prices charged by private landlords in the lower and middle sectors of the market.

The rapid growth of NI's PRS in the first decade of the new millennium in the context of ongoing constraints in public finances that made it difficult to increase the supply of social housing, led to a series of strategic reviews, consultations and legislation initiated by the relevant Government Department¹². *Building Sound Foundations – A Strategy for the Private Rented Sector* (DSDNI, 2010) aimed to ensure that the PRS 'contributes more fully to meeting our rapidly changing housing needs' and ultimately led to the introduction of a Tenant Deposit Scheme (2013); and Landlord Registration (2014).

In 2015, a further strategic *Review of the Role and Regulation of the PRS* was announced (DSDNI, 2015¹³) that similarly aimed 'to examine the effectiveness of current regulation and identify where improvements can be made to help make the private rented sector a more attractive housing option'. Here for the first time there were signs that Government was considering some form of more general rent regulation in the form of a restriction on the number of times rent can be increased in a 12 month period.

A summary of the 85 responses to this consultation was published in 2016 (DSDNI, 2016) and indicated high levels of support for improving safety and quality standards, modifying the eviction process, and regulating letting agents. However, there was little appetite among respondents for rent regulation. In response to question 21: 'Should the current system of applying rent control to unfit properties built before 1945 be extended to include other private rented property?' very few respondents suggested that rent regulation should be introduced more widely. Some replies indicated support for more regulation of substandard post-1945 properties, but landlord respondents were universally against it.

¹¹ DfC source, 2025.

¹² In 2015, the Department for Social Development (NI) effectively became the Department for Communities (NI).

¹³ <https://www.communities-ni.gov.uk/sites/default/files/consultations/dsd/review-role-regulation-of-private-rented-sector-consultation.pdf>

In January 2017 the Department for Communities (DfC) published a consultation document entitled *Private Rented Sector in Northern Ireland - Proposals for Change* (DfC, 2017) setting out its intention to introduce legislation that would stipulate that rents could only be increased once in any 12 month period. Landlords who responded to the document signalled their clear opposition to any new forms of rent control, stating that it would be 'disadvantageous at a time when increased investment is what is needed'. They also noted that new regulations on rent control might result in them leaving the sector or 'make them unwilling to accept tenants in receipt of housing benefit' (DfCNI, 2017, p.27).

In considering four options the DfC rejected three of them on the grounds that (1) rent control for all PRS dwellings would be a major disincentive to investment in the sector, make it 'financially unviable' and result in some landlords leaving the sector; (2) limiting the rents to Local Housing Allowance levels might not enable some landlords to meet their mortgage payments; (3) limiting rent increases using a model linked to CPI would discourage investment in current PRS stock and new supply.

Its preferred (fourth) option was to restrict rent increases to once in any 12 month period and ensure that tenants receive appropriate notice for this and set out a commitment to legislate for this option. Once again the DfC consulted on this proposal (and others) over a three month period in 2017, publishing its response later that year¹⁴. Out of the 34 respondents (out of an overall total of 52 respondents) who commented on this particular proposal 31 (91%) were supportive and approximately one third of these noted that the proposal 'did not go far enough', in effect committing the Department to introducing the necessary legislation

In a rather bizarre turn of events, however, following an amendment to the legislation proposed by a People before Profit MLA during its passage through the NI Assembly¹⁵, the Private Tenancies Act (NI) 2022 was passed and, following Royal Assent, came into effect April 2023. Section 7 of this Act not only included an article (5D) that enabled the DfC to introduce regulations to ensure that rent increases were limited to once every 12 months, but also an article (5C) that enabled it to implement a rent decrease of up to 10 per cent and/or a rent freeze for up to 4 years. The legislation also committed the Department 'to research and

¹⁴ Departmental Response Consultation on the Review of the Role and Regulation of the Private Rented Sector <https://www.communities-ni.gov.uk/sites/default/files/consultations/communities/private-rented-sector-proposals-for-change-consultation-response.pdf>

¹⁵ The amendment proposed that rents should be reduced by 10 per cent across the board and then frozen for a number of years

consult on the implications of exercising the powers contained in the Act', and 'to lay the report before the Assembly and publish it within 6 months of the Act receiving Royal Assent'¹⁶.

The ensuing comprehensive study undertaken by the Chartered Institute of Housing (CIH, 2022) on behalf of DfC used a mixed methodology that combined an international literature review (that drew on a number of the same key articles covered by the CaCHE research), a range of international case studies, analysis of secondary datasets, on-line surveys of approximately 500 landlords (mainly small: with one or two properties) and more than 500 tenants as well as more in-depth stakeholder engagement sessions with a selection of landlords and locally elected representatives.

The survey results, additional comments from respondents and the follow-up interviews all highlighted a negative view of rent regulation being introduced in NI. Although there was an empathy for rising costs facing tenants, there was a consistent view that landlords will be negatively impacted by this potential change. The results also showed a correlation between 'tenant experiences and that of landlords' actions' (CIH, 2022, p.57).

In evaluating the conclusions of the CIH report, it is important to bear in mind that the report was specifically commissioned to address the legislative option of introducing a first-generation rent 'freeze', rather than the more moderate second-generation or third-generation controls operating in a number of European countries, including Germany. Nevertheless, the report provides a number of valuable insights.

In its conclusion the report highlights the importance of the wider context: when examining the effects of rent regulation in a particular jurisdiction 'it is necessary to consider the wider context, including the fiscal framework, the law, tenure structure, the culture of the sector and the motivations of the people involved'; 'the Northern Ireland private rental market remains relatively affordable, certainly compared with pressured housing markets in Britain and Ireland and notwithstanding higher levels of rental inflation in recent times'. It also correctly highlights the importance of taking a broader view of the housing system, noting that 'much of the affordability issues for low-income households have been driven less by rent inflation, and more through punitive aspects of the social security system, such as freezes in local housing allowance rates' (CIH, 2022, pp. 64 and 65).

The report also concludes that a rent freeze would 'largely benefit existing tenants who remain in their homes and whose landlords do not sell or repurpose their properties' (p.64), but that this would come at the price of reducing the size of the PRS, an argument that is supported

¹⁶ <https://www.communities-ni.gov.uk/publications/rent-regulation-private-sector-northern-ireland>

by its estimate that between 41 and 60 per cent of landlords 'would seek to exit the private rental market'. The report itself does provide some indication that this figure has to be treated with caution, a position that is supported by the semi-structured interviews undertaken for this study (see below).

Following the publication of the report, the DfC has indicated that it has no intention of pursuing stricter forms of rent regulation in the form of limitations on the amount that rents may be increased in the foreseeable future. Work is ongoing on the preparation of regulations that will enable it to give effect to the 2022 legislation that enables a restriction to be placed on the number of rent increases to one per year. In reality, therefore, setting aside the small number (400) of unfit pre-1945 dwellings, third-generation rent controls do not yet exist in NI.

Local Housing Allowance

The Local Housing Allowance (LHA) system was introduced in all four UK jurisdictions in April 2008 as the basis of calculating the eligible rent for tenants in the deregulated PRS who were claiming Housing Benefit. It was designed to help ensure that PRS tenants in the same locality with similar household circumstances would receive a standard amount of benefit towards their housing costs. LHA rates were established on the basis of Broad Rental Market Areas (BRMAs) and dwelling size (number of bedrooms) using available rental market data. BRMAs were defined in legislation as 'an area within which a person could reasonably be expected to live having regard to facilities and services for the purposes of health, education, personal banking and shopping, taking account of the distance of travel, by public and private transport, to and from those facilities and services' (NIHE, 2019, p.iii). The original 2008 scheme contained LHA rates for one, two, three, four and five bed or more properties and the actual rate was set to reflect the 50th percentile of the rental data collected for a particular BRMA. In the context of a Welfare Reform package designed to reduce Government spending on benefits, changes to the LHA system were implemented across the UK in 2011, changes that included scrapping the five or more bedroom rate and instructed authorities to use the 30th rather than the 50th percentile when calculating the LHA rate.

Changes to the LHA scheme were introduced in Northern Ireland in tandem on the basis of the same criteria as those in the rest of the UK, and from April 2011 included the calculation of LHA rates using the 30th percentile of rents for each of its eight BRMAs instead of the median, and the abolition of higher rates for homes with five or more bedrooms. The data used to calculate the LHA rate for each BRMA is 'derived from twelve months' worth of lettings

information, collected from 1 October to 30 September in the previous year'¹⁷. From January 2012 the Shared Accommodation Rate for young single people, which had previously only applied to claimants under the age of 25 was changed to include those aged 25-34. For 2013/14 and 2014/15 LHA rates were uprated in line with CPI where the LHA rate was lower than the BRMA 30th percentile. During the following two years LHA rates were increased by only 1 per cent and were then effectively frozen for a number of years (McCauley, 2019)¹⁸.

A number of studies undertaken in the context of NI have shown that since the introduction of the 30th percentile rule and the freezing of actual rates there is a clear disparity between LHA rates and actual market rents. The Northern Ireland Housing Executive's in-depth survey of 144 private tenants (NIHE, 2017) found that 85 (59%) of them were in receipt of HB and in the case of 69 (81%) of those in receipt of HB the LHA-based amount they received did not cover the actual rent – in nearly half these cases the shortfall was more than £20 per week (a difference that was often made up by cash transactions between landlord and tenant).

Research commissioned by NIHE two years later found that in almost all BRMAs weekly LHA rates were 'no longer aligned with their corresponding 30th percentile rents' and that 25 out of the overall total of 40 weekly LHA rates were "£5 or more below their 30th percentile rents" (NIHE, 2019, p.ii).

A much more detailed analysis was undertaken by Housing Rights, utilising NIHE data on new lettings in the PRS (McAuley, 2019). Key findings from this report were based on the analysis comparing this data with LHA rates set for 40 bands (8 BRMAs X 5 LHA bands) and included the following:

- The average proportion of properties available to let at or below the LHA rate was 12 per cent – significantly below the 30th percentile.
- In only 5 out of 40 bandings (8 BRMAs X 5 property types) are 20 per cent or more of the properties available at or below the LHA rate and, in approximately a third of cases, less than 10 per cent are available at or below the LHA rate
- The potential average shortfall between LHA and actual rent by BRMA varied from £45-£134 per month.
- The proportion of smaller properties (one- and two-bedroom properties and single room accommodation) available at or below LHA rate was disproportionately small in most BRMAs.

¹⁷ <https://www.nihe.gov.uk/housing-help/local-housing-allowance/how-we-calculate-lha-rent-levels>

¹⁸ The freeze lasted from 2016-2020. There was a further freeze from 2021 to 2023.

The research concluded that low income households in receipt of HB in the PRS are being “squeezed between rising rents and reducing LHA rates, they are increasingly falling behind with rent payments and finding themselves in a position where sustaining tenancies is becoming increasingly difficult” (ibid., p.12). Reinforcing the already well-researched evidence of the affordability of the PRS for tenants on lower incomes is not a focus of this study, but the evidence from these studies (in tandem with evidence from Germany) would indicate that much of the success of a system of reference rents lies in the level at which the rate is applied and getting the balance right between safeguarding the public purse and supporting tenants (and indirectly landlords) in the PRS has not been optimally achieved.

Stakeholder interviews – insights and lessons

This section of the report summarises key points that emerged from the semi-structured interviews undertaken with four experts representing the views of the statutory and voluntary sectors and two landlords in NI. As in the section presenting the German perspective, the findings from NI are set out to mirror the topic guide used to conduct the interviews.

(1) Criteria for entry: dwelling type, quality, location / household income

Respondents agreed that, as in the case of LHA, a local reference rent system in NI should apply to all dwelling types. They also indicated that quality/condition should be taken into consideration when calculating the actual reference rents, but recognised that although there was a solid argument to be made in favour of ensuring that a dwelling had to reach a minimum quality standard before a landlord/tenant owning/living in the property was entitled to receive HB or the housing costs element of UC, there could well be negative unintended consequences of applying this rule: both in terms of supply at the lower end of the market and encouraging landlords to let to a ‘shadow’ sector of the PRS.

Location was recognised as an important element in the calculation of reference rents (see below) but in relation to criteria for entry the argument for excluding low demand areas could only be made to a certain extent. Given the already widespread and growing affordability problems in NI, it was generally considered that it would be more appropriate to have a system that applied throughout the jurisdiction.

Respondents were also generally supportive of universal access to all PRS stock, regardless of household income. In the case of NI, this partly reflects the long tradition of universal access to social housing, but as in the case of Germany, pragmatic considerations were important too in relation to the challenges and costs of ensuring adherence to any income thresholds as well as the danger of introducing what could be seen as ‘a two-tier system’.

(2) Calculation of Reference Rents: Geographical boundaries / data sources / resources / methodological issues

There was general agreement that dwelling location is a key determinant of rental levels and should therefore be reflected in any agreed local reference rents. The fact that LHA rates do not take into account location at a sufficient level of granularity and make no reference to dwelling condition is seen as a key weakness of the current system: 'streets within a couple of hundred yards of each other command completely different rents because of various factors, including places of work or study'. Respondents were also unanimous in their view that these need to be based on local housing markets defined at a scale that means properties with similar characteristics and quality were commanding similar rental prices. A number of respondents stated that NI's BRMAs were too large and that the current approach of having only one set of LHAs for the whole of the Belfast housing market, in particular, had significant disadvantages. For example, given the major rental discrepancies (particularly for larger three and four bedroom accommodation) between, for example, North and South Belfast, prospective PRS tenants dependent on HB/UC (bigger households in particular) were effectively excluded from living in large areas of South Belfast.

Respondents accepted that there was a balance to be struck between having too many and too few local housing market areas. A number of respondents were aware of the methodological discrepancy between the functionally defined Housing Market Areas (which reflect housing choice in the real world and are used by the NI Housing Executive for planning purposes) and the BRMAs which uses access to services.

As in Germany, data deficiencies were seen as a key hurdle that needed to be overcome in order to put in place a reference rent system that would gain acceptance on the part of landlords and tenants. The methodology used by NIHE to calculate LHA rates lacks transparency and appears to conflict with other data (e.g. from PropertyPal) and local experience. A number of respondents referred to research work undertaken by Housing Rights, which clearly indicated that the proportion of dwellings available to let in any one year at below the 30th percentile LHA rate was significantly below 30 per cent – something that would indicate that the data included in the calculation of LHA rates was insufficiently comprehensive or biased in some way. Indeed more recent evidence from Housing Rights would suggest that an increasing number of tenants are experiencing significant shortfalls between LHA payable and the market rent having to be paid to the landlord. One respondent suggested that as in Germany LHA/reference rents should be calculated on the basis of data for the last six years although in practical terms this would have the possibly unintended consequence of lowering reference rents.

One respondent suggested that methodologies should be based on: location, energy efficiency rating, condition, dwelling type and size (in terms of number of bedrooms and overall area in square metres), its use (e.g. for students) and whether furnished or unfurnished. However, as in Germany, the costs of gathering and updating robust data to underpin reference rents was clearly recognised.

(3) Rules related to homes new to the rental market, new leases, rent increases and possible exemptions: new properties / rent increase / substantial improvements

Respondents were generally supportive of measures to minimise the adverse effects of the introduction of reference rent based rent regulation on both landlords and tenants. From a landlord point of view these mitigation measures could include exemptions for ‘upgrading the property’ or permitting a higher reference rent to reflect upgraded properties, in particular those with a higher level of energy efficiency and supported by a higher LHA level, and, as in Germany linking this to the costs of improvements; and, finally, transitional arrangements in the case of an outgoing tenant paying a higher rent than was permitted for a new tenant under the reference rent system.

From the tenant perspective, suggestions included: ‘freezing the reference rent increases for the first year’ as a transitional measure; ‘caps on increases dependent on length of time in property [thereby benefiting longer term tenants] / demand in the market’.

Some respondents, however, highlighted the inherent risks associated with exemptions: drawing on experience of other areas of housing/welfare regulation they highlighted the probability that ‘if there is a loophole to be found, it will be found, and exploited’. However, there was agreement that Houses in Multiple Occupation should be excluded from a reference rent scheme – particularly in the case of student housing, where annual turnover and demands for six or nine month leases created extra complications. Caravans, mobile homes and houseboats were also seen as obvious candidates for exemption.

Respondents did generally appreciate that overregulation could lead to reduced investment or complete disinvestment by landlords, negatively impacting both new supply and the quantity and quality of improvements to existing stock. One respondent argued that in order to counter this tendency new lettings should be on the basis of ‘full market value’, and on the basis of ‘negotiation between the tenant and the landlord’ rather than being determined by a reference rent; annual percentage increases could then be specified by Government, and ‘probably restricted to one increase per year’ with ‘exemptions where substantial improvements have been carried out’.

(4) System monitoring and enforcement of infringements:

Respondents were unanimous in recognising the importance of effective monitoring and enforcement, but also the ‘huge resource implication’ of introducing this to ensure that any system of reference rents gains the support and trust of landlords and tenants. A number of more detailed issues were also raised: for example, enforcement was made more difficult by the use of vague language: one respondent highlighted the difference between using the words ‘may’ or ‘shall’ in regulations.

Some respondents thought that local authorities should be responsible for enforcement arguing that they would have better local knowledge (on the proviso that they were given the necessary additional resources to undertake these tasks). Other respondents argued that a new independent regulating body would be more appropriate. Citing evidence from Ireland, it was stated that an organisation like the RTB is well placed to provide this service. An associated view expressed by a number of respondents was the need to ensure not only that landlord registration was mandatory, but that landlords were obliged to provide details of properties and rents being charged at the start of a new lease – and be obliged to update this information on an annual basis.

Echoing an issue raised by respondents from Germany, a number of interviewees also stressed the importance of landlord and tenant education and the key role that independent advocates and mediators could play in reducing the number of disputes. Uptake of informative landlord accreditation schemes has so far been low (particularly among small landlords). A new more heavily subsidised one was launched last autumn run by the Chartered Institute of Housing (NI) and the Tenancy Deposit Scheme (NI), which it is hoped may help to address this issue¹⁹.

(5) Reference rents in practice

The absence of a reference rent based system in NI made this question rather difficult for respondents to answer. However, drawing on experience with the LHA system, respondents reiterated the importance of providing reference rents at an appropriate level of granularity and based on a wider range of dwelling characteristics, including dwelling condition to ensure a successful implementation. A significant proportion of the difficulties currently being encountered could be addressed by reverting to the 50th percentile as the basis for calculating LHA rates – supporting the view that the actual level of agreed reference rents was a vital component to the success or otherwise of any scheme.

¹⁹ <https://www.cih.org/news/new-partnership-to-support-private-landlords-to-get-qualified/>

(6) Interaction with short-term letting market (Holiday lets, AirBnB, etc.)

Respondents were generally unsure about the interaction that reference rents could have on the short-term letting market. There was a recognition that it did affect supply in certain localities, as some landlords found it to be a more profitable venture. So far, however, no real research has been carried out on this issue in the context of NI. Some broad estimates of numbers have been provided, for example by Belfast City Council, but the extent to which this has been a consequence of LHAs acting as a brake on rental income for landlords is very difficult to assess. One respondent stated that the whole issue needs to be dealt with through separate legislation.

(7) Impact of a system of reference rents on rental inflation and landlords leaving the market

A number of respondents commented that they believed that there was a relationship between increased levels of LHA and landlords increasing rents. Much of the evidence is somewhat anecdotal or deduced on an a priori basis, but one respondent did provide some evidence of a direct causal relationship based on comparing the timing of LHA uplifts in recent years and a widespread increase in rents.

There was also an awareness that if rents and rent increases are overly restricted ('not reasonable') it would encourage landlords to leave the market. However, a number of interviewees also urged caution about the propensity of landlords – concerned about viability and overregulation – to leave the market, arguing that even if a significant number of landlords were selling up, their properties were often purchased by other landlords or owner occupiers, in which case they were still addressing the need/demand for housing. There could be some landlords who would turn to the short-term rental market, but in the context of NI there was no widespread appetite to do this, with demand from tourists limited geographically and in addition the risks (it does 'not provide a steady income for landlords') and overheads associated with this decision. Overall, it was recognised that much depended on the degree of regulation and, in particular, on the agreed level of reference rents.

(8) Concluding views on NI

As in the case of Germany, respondents in NI were generally supportive of the LHA system in NI, but reiterated that weaknesses in relation to methodology, methodological transparency and the actual level of LHA need to be addressed. There appears to be no significant political appetite for introducing a system of rent regulation based on reference rents in NI, but a number of respondents stressed that if such a system were to be introduced, it would be important to take a 'whole system' view of the potential knock-on effects and the associated

regulations would have to interact effectively with other components of the 'housing ecosystem', particularly with the welfare/benefit system. 'Future proofing' any reference rent system to respond to changing circumstances (e.g. increasing need/demand; immigration from other countries) was also seen as important and above all it was vital to ensure that the system was seen to reflect a reasonable balance between the interests of landlords and tenants and be underpinned by sufficient additional resources to ensure a robust approach to data collection, updating, monitoring and enforcement.

Key findings: conclusions and issues for consideration

The key findings emerging from this study are based on a brief international literature review, combined with a more in-depth examination of a number of key publications that highlighted the complexities surrounding the impacts of rental regulation on the housing market, and specifically on the PRS and its leading actors: tenants and landlords. The resulting analysis, together with the specific research issues set out in the original specification helped shape the semi-structured interviews that provided a much deeper understanding of the impacts and practicalities of introducing a form of rent regulation based on local reference rents in the context of Ireland. Using Arnott's (2003) rent regulation typology to guide the analytical framework and with the help of two very contrasting case studies (Germany and NI), the study concludes by revisiting the key points of interest set out in the research specification and highlights a number of important issues for Ireland to consider in the light of the Housing Commission's recommendation 33.

The threefold generational classification of international approaches to rent regulation provides a useful basic analytical framework, but it also has its limitations (Kettunen and Ruonvara, 2021) and a more nuanced classification would enable a deeper understanding of the complexities and variations that characterise the systems in place in the real world. Overall, however, international evidence (including from the two case study jurisdictions) would indicate that rent regulation – certainly in the form of a rent 'freeze', but also in the form of second-generation and third-generation rent controls – does, to a greater or lesser extent weaken the tendency for rents to increase over time in response to underlying market forces, thereby helping to address the affordability issue increasingly confronting tenants currently living in or seeking privately rented accommodation in advanced industrialised countries.

The important issues for consideration therefore are in many respects more about the consequences (often unintended consequences) for landlords, tenants and the housing system generally and the practical consequences (in particular the financial implications for Government) of introducing a regulatory regime based on local reference rents.

The complexity of the housing market and the reciprocal interaction between various segments of the overall housing market as well as subsectors of the PRS (Jonkman et al., 2018) make it very difficult to ascertain the costs and benefits for landlords and tenants operating/living in these subsectors as well as the specific combination of causal factors underpinning them. What is clear, however, is that the costs and benefits for landlords and

tenants may vary significantly with the result that the net benefits of rent regulation (including those based on reference rent systems) may be poorly targeted (Turner and Malpezzi, 2003).

When undertaking international comparative analysis and attempting to learn lessons from other jurisdictions, it is vital to bear in mind the sometimes very different economic, political and policy contexts that prevail there compared to Ireland. In Germany in particular, its much larger proportion of households living in the PRS, its very different legal framework (driven by the German Civil Code) and approach to financing social and affordable housing, as well as its long tradition of powerful tenants' associations need to be borne in mind when it comes to learning lessons for Ireland. In NI, there is, for historical reasons, a much greater similarity in terms of the underlying socio-economic landscape, but a rather different political/policy and public finance environment has severely constrained recent attempts to introduce any meaningful form of rent regulation.

From the landlords' perspective, regulation of rents for existing tenants may well encourage them to 'front-end-load' the rent, seek tenants who are more likely to move on fairly quickly, undertake minimum maintenance to the property, ignore tenants' complaints, in particular about repairs, and perhaps initiate eviction proceedings for relatively minor breaches of contract. They may also be discouraged from undertaking improvements too, if there is insufficient flexibility to increase regulated rents in line with the costs of improvement. However, as the German experience demonstrates, this can work both ways, if substantial modernisation provides the basis for a significant rent increase.

The impact of rent control on landlord behaviour in terms of selling properties or leaving the market altogether is very difficult to determine. Much depends on the degree of rent regulation and the overall 'tightness' of the market. Rapidly rising house prices may encourage some landlords to sell up, but independent observers would generally agree that landlord surveys indicating that any significant rent regulation would encourage them to 'flee the market' must be taken with a pinch of salt.

For existing tenants there is a significant amount of evidence to indicate that a 'well-designed' system of rent regulation (including one based on reference rents), particularly if it is combined with measures that give tenants greater security will improve the well-being of low and middle income households living in the PRS. 'Front loading' may mean that they are paying over the appropriate level of rent at the start of their tenancy, but realising that the longer they remain in situ, the more affordable their rent becomes compared to a typical market rent for a similar property offers the prospect of improving affordability over time. However, this may come at a 'price': for example, remaining in a home despite a change of work location that necessitates longer journey to work or a change in household circumstances that makes the property less

suitable for their needs. Tenants may also have to accept that paying a rent that is increasingly below market levels may come at the price of having to carry out repairs themselves or a more rigid adherence to the terms of their lease. For new tenants, regulating the rents in new tenancies (including new properties) may result in access to more affordable accommodation, but may come at the price of a longer wait for suitable accommodation (Gibb and Marsh, 2022).

The impact of rent regulation on the dynamics of the PRS appear to be somewhat vaguer and more contradictory. Saxenberger (2024) attributes this in the context of Germany to an absence of ‘nationwide, specific and conclusive data’ as well as an overreliance on models based on data that excludes key variables in rental price formation – a point emphasised by Kofner (2023). Arnott (2003) argues that there appears to be no significant impact on the rate of construction or on the tenure balance between owner-occupancy and renting privately and that much depends on the political context in which the new controls are introduced that may signal the extent of future regulatory intervention. Evidence from Berlin would certainly suggest that tighter levels of control (a rent freeze in particular) can bring about “a substantial longer term decline in rental supply” (Hahn, 2022).

Evidence of the impact of rent regulation on the quality of the dwelling stock is mixed. As indicated above (Kholodilin, 2020), if rental regulation reduces yields, landlords may well be disincentivised to carry out improvements. This, in turn, could significantly militate against a policy objective of increasing the quality of dwelling stock – in particular the need to upgrade the energy efficiency of older properties – in order to meet the 2050 Net Zero target. However, experience from Germany would indicate that depending on the rules/exemptions in and around modernisation this can have the opposite effect.

Overall, there is a recognition that rent regulation can create distortions and does affect the ability of the market to re-establish an equilibrium in the medium term, particularly in the case of a ‘positive demand shock’ (Kholodilin, 2020; Kofner, 2023), that in turn can result in unequal (and often unintended) consequences for landlords and tenants, and between new and existing tenants, but the extent to which this applies depends very much on the strength of the regulations, and their specific features.

The above paragraphs have set out a number of issues that will impact political/policy considerations in terms of whether to introduce a regulatory system (based on reference rents) in Ireland, as well as the degree and extent of regulatory control. However, the literature review and the experiences of Germany and NI that emerge from the two case studies indicate that there are range of more pragmatic issues that need to be taken into consideration if and when

a decision to implement some form of reference rent based regulatory system is taken. The short paragraphs below briefly summarise these areas for consideration.

(1) The challenge of gaining a sufficient understanding of the ‘complexities’ and ‘nuances’ of national systems from academic articles and published reports would suggest that any preliminary decision to implement a system of rent regulation based on local reference rents should be followed up by a detailed discussion with policy experts and experienced practitioners in an appropriate country – Germany being an obvious choice.

(2) An effective system of rent regulation based on local reference rents needs to be underpinned by an appropriate level of legally binding legislation that provides sufficient clarity in relation to what sectors of the market be included, how to define pressurised markets, dwelling types to be included, at least broad methodological guidance in terms of calculating local reference rents (including an appropriate level of granularity) and a realistic basis for enforcement. This includes an appropriate balance between standardisation at the national level and flexibility at the local level to take specific circumstances into consideration.

(3) There is an early decision to be made in relation to whether a reference rent system should be based on a utility-based points scheme that reflects dwelling quality but necessitates the creation of new data sets and models (e.g. Sweden) or use existing well-tried regression models that use existing data to differentiate quality on the basis of a range of characteristics. In line with Gibb and Marsh (2021) and based on his own experience in the context of NI²⁰, the author would suggest that the German regression-based model is more appropriate.

(4) As one research participant noted there is a ‘huge compliance issue’ in Germany – despite the raft of legislation. Getting the balance right in terms of legislative and administrative provision – bearing in mind the often limited knowledge on the part of tenants and landlords, the ability of landlords to avail of the inevitable loopholes and the resources required – is a key assessment that will seriously affect the success of the system. There appears to be significant advantages of establishing an adequately resourced separate body (or separate department within local authorities) to specialise in compliance.

(5) Any system of rent regulation (including one based on reference rents) will incur a significant cost overhead – particularly to the public purse. The cost of an appropriate system of compliance is one consideration, but the data and expertise required to introduce, manage,

²⁰ Debates have taken place over many years in the context of NI about the subjectivity of the Northern Ireland Housing Executive’s points based rent scheme that determines the rent for its properties on the basis of number of points awarded for a particular dwelling characteristic.

update as required on a timely basis the data needed to underpin a system of reference rents should not be underestimated and must be considered against the costs of alternative policy tools designed to ensure households on lower incomes have access to affordable accommodation that suits their needs. Ireland has a significant advantage over many other jurisdictions (including Germany) given the rental data held by the RTB in Ireland.

(6) Most academic articles and a number of participants emphasised that rent regulation is only one tool in the drive to achieve a more balanced housing market and a PRS that provides a secure, viable alternative for households on lower incomes. In particular increasing housing supply and a more generous welfare system are considered by some to be more effective in achieving these policy aims.

In conclusion, this study would indicate that a suitably designed system of rent regulation based on reference rents has the ability to limit the seemingly inexorable rise in rent levels, benefiting existing and future tenants on lower incomes, without ultimately adversely affecting landlords, and the housing market to an unsustainable degree. However, to echo Arnott (2003): the 'devil is in the detail' and only the introduction of a system that adequately considers the above issues will have the potential to achieve the appropriate balance between competing interests and minimise the negative effects of any intervention.

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