



**Government Response to the Communities and Local  
Government Select Committee Report: The Private  
Rented Sector**

Presented to Parliament  
by the Secretary of State for Communities and Local Government  
by Command of Her Majesty

October 2013





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Cm 8730

£8.75

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You can download this publication from [www.gov.uk](http://www.gov.uk)

ISBN: 9780101873024

Printed in the UK for The Stationery Office Limited  
on behalf of the Controller of Her Majesty's Stationery Office

ID 2595496

10/13

Printed on paper containing 75% recycled fibre content minimum.

## **Introduction**

The Communities and Local Government Select Committee conducted an inquiry into the private rented sector. Following the submission of written evidence and a number of evidence sessions, the Committee published its report on 18 July 2013.

## **Committee Conclusions and Recommendations**

The Committee made 44 specific recommendations. Set out below are the Committee's recommendations from the report and the Government's response to each.

### **Simplifying Regulation**

#### ***Recommendation 1***

***We recommend that the Government conduct a wide-ranging review to consolidate legislation covering the private rented sector, with the aim of producing a much simpler and more straightforward set of regulations that landlords and tenants can easily understand. As part of this review, the Government should work with groups representing tenants, landlords and agents to bring forward a standard, plain language tenancy agreement on which all agreements should be based. There should be a requirement to include landlords' contact details in tenancy agreements.***

The Government does not support a wide-ranging review to consolidate legislation covering the private rented sector at this time. We are firmly of the view that a wide ranging review would introduce uncertainty into the sector and would slow down investment at a time when it is most needed. It would also provide significant and unwarranted upheaval for tenants and landlords.

However, the Government does recognise that both tenants and landlords would benefit from more information and an improved understanding of the flexibilities which exist within the existing legal framework.

We are publishing in draft form a Tenants' Charter which will allow the Government to work with groups representing tenants, landlords and agents. This will be a non-statutory accessible guide for tenants providing them with a better understanding of what they can expect including the transparency of fees and, if something goes wrong, where to go for help. It will include recommended questions to ask before they agree to rent a property, the advantage of written tenancy agreements and what they should expect during the tenancy.

To support this, and building on the Committee's recommendations, we will also work with the sector on a model tenancy agreement. Tenancy arrangements are diverse and we do not consider that there should be a single tenancy agreement that must be used. However, we will develop a family friendly model which not only

sets out the landlord's and tenant's responsibilities in plain language but also encourages them to consider longer tenancies going beyond the statutory minimum periods. The family friendly tenancy will make clear that:-

- tenants can ask for longer tenancies and the advantages to landlords in entering longer fixed-term tenancies including:
  - avoiding potential periods of vacancy between tenants
  - reducing the costs of having to find new tenants on a regular basis.
  - the greater incentive on the part of tenants who live in properties for longer to take better care of the property and not to engage in anti-social behaviour that can affect the landlord's relationships with neighbouring properties.
- rent review clauses can provide both landlords and tenants with greater financial certainty, within a longer term tenancy, to plan over a longer period.

We would expect any model agreement for a longer-term tenancy to provide an initial probation period (subject to the statutory minimum fixed period) for both parties to ensure they are content to enter into a longer agreement with each other (as put forward by the Residential Landlords Association). A break clause could also be included so that landlords and tenants will be able to end the tenancy early, for example if the landlord wishes to sell the property.

## ***Recommendation 2***

***We recommend that the Government consult on the future of the housing health and safety rating system and the introduction of a simpler, more straightforward set of quality standards for housing in the sector. The Government should also ensure that planning and building regulations are consistent with standards for the quality and safety of private rented housing.***

Tenants have a right to expect that their homes are safe and healthy, in regard for example, to hygiene, sanitation, damp or excess cold, and should know what to do if they have any concerns about the condition of the property, such as reporting problems to the council.

Therefore, we have decided to undertake a review of the current system to ensure there is a robust framework in place to check that tenants' homes are safe. The purpose of the review will be to:

- determine whether the current system can be readily understood by landlords and tenants;
- ensure that tenants are able to raise any concerns with their local authority they may have about health and safety issues in their home and what they should expect in response;

- how councils inspect properties, how they can demand landlords carry out maintenance, and how they can take action against landlords who continue to rent out dangerous and unacceptably dirty properties.
- determine how to ensure that tenants do not face the threat of eviction because they have asked the landlord to rectify a fault or have asked the council to investigate;
- the scope for requiring landlords to repay rent or Housing Benefit through a Rent Repayment Order where a property is found to have serious risks to health and safety. Rent Repayment Orders are currently used where a landlord has rented out a property that is required to be licensed without one being in place.

The review will also inform any update of existing guidance on the Housing Health and Safety Rating System. We will publish a consultation paper inviting views on these issues shortly.

In terms of planning and building regulations, these have been designed with the intention of helping to ensure that a property – whether in the owner occupied or rented sectors – is fundamentally safe when building works are carried out and we are confident that they deliver those objectives.

## Increasing Awareness

### ***Recommendation 3***

***We recommend that, once the review of the legislative framework we have called for is completed, the Government, working with tenants', landlords' and agents' groups, establish and help to fund a publicity campaign to promote awareness of tenants' and landlords' respective rights and responsibilities. Our recommendation for a wholesale review of the regulation in the sector provides the obvious platform on which to base a publicity campaign.***

As we have set out above we do not support the recommendation for a wide-ranging review of the legislative framework. We already provide information to tenants and landlords about their rights and responsibilities with fact sheets available on the Government's website. However, we do recognise the need to improve information available to tenants and landlords about rights and responsibilities.

Alongside the Tenants' Charter and the model tenancy agreement we will also work with the sector on a code of practice for the management of property within

the private rented sector. This will clearly state what good practice for property management of rented property looks like.

The production and publication of these products will provide an excellent opportunity for us to work with the sector to publicise and promote awareness of tenants' and landlords' responsibilities, and increase transparency.

#### **Recommendation 4**

***We recommend that the Government bring forward proposals for the introduction of easy-to-read key fact sheets for landlords and tenants, and consult on the information these sheets should contain. The sheets could include links to further information available online. As a minimum, the sheets should set out each party's key rights and obligations, and give details of local organisations to whom they could go for further advice and information. This fact sheet should be included within the standard tenancy agreement we propose earlier in this chapter.***

Government already has in place fact sheets that include information on the tenancy deposit protection, using a letting agent, gaining possession of a property and for landlords who intend to let a property and tenants intending to rent. They are freely available and accessible on the Government website, [www.gov.uk](http://www.gov.uk).

We will also incorporate and include this information in the Tenants' Charter, model tenancy agreement and code of practice on rented property management which we will produce with the tenants, landlords and letting agent/property management groups.

## **Raising Standards**

#### **Recommendation 5**

***Some local authorities are doing excellent work to raise standards in the private rented sector, but there appears to be more scope for sharing this good practice, so that all councils are performing to a high standard. The Local Government Association should, as part of its sector-led improvement role, make sure that mechanisms are in place to ensure all councils learn from the good practice and take effective steps to improve standards of property and management in the private rented sector.***

The Government agrees that it is sensible to share good practice in order to raise standards. We will work with the Local Government Association to ensure that good practice in this area is disseminated widely.



We are committed to producing guidance to local authorities specifically focused on the prosecution of landlords for housing offences making clear the importance that local authorities demonstrate to magistrates that such offences are not simply technical breaches of housing legislation but that they can have a real impact on individuals' lives.

## ***Recommendation 6***

***We are concerned about reports of reductions in staff who have responsibility for enforcement and tenancy relations and who have an important role in making approaches to raising standards successful. Given the financial constraints that councils face, it is important to identify approaches to raising standards that will not use up scarce resources. One approach is to ensure that enforcement arrangements pay for themselves and help to fund wider improvement activity. Therefore, where possible, the burden of payment should be placed upon those landlords who flout their responsibilities.***

The Government agrees that, where possible, the cost of enforcement should be placed on landlords who deliberately rent out substandard and unsafe accommodation. One way of doing is through the extension of Rent Repayment Orders. As noted above, we will consider whether the use of such Orders should be expanded to cover situations where a landlord has rented out a property that is found to have serious hazards. This would include repayment of any Housing Benefit/Universal Credit which could potentially be used for a range of housing related purposes.

In addition, where a licensing scheme is in operation, fees can be used to cover the costs of running the scheme. This helps to reduce pressure on local authority resources. Landlords, where licensing schemes are in operation, that fail to meet their legal obligations can be - and regularly are - taken to court, and subjected to heavy fines.

## ***Recommendation 7***

***We recommend that the Government consult on proposals to empower councils to impose a penalty charge without recourse to court action where minor housing condition breaches are not remedied within a fixed period of time, though an aggrieved landlord would have the right of appeal to a court.***

We recognise that the costs of having to take a landlord to court, sometimes for relatively minor breaches of housing legislation, can act as a deterrent to local authorities. As a result, landlords sometimes avoid prosecution. However, this

has to be balanced against the need to avoid the possible risk of over zealous authorities issuing fines as a way of generating revenue.

The consultation exercise referred to above will invite views on the appropriate response to housing condition breaches.

### ***Recommendation 8***

***We recommend that, where landlords are convicted of letting property below legal standards, local authorities be given the power to recoup from a landlord an amount equivalent to that paid out to the tenant in housing benefit (or, in future, universal credit). We hope that such a measure will help to prevent unscrupulous landlords from profiting from public money. Local authorities should be able to retain the money recouped to fund their work to raise standards. To ensure a consistent approach, those tenants who have paid rent with their own resources should also have the right to reclaim this rent when their landlord has been convicted of letting a substandard property.***

There is no place in the sector for landlords who let out substandard and unsafe accommodation. The tenants of such properties are frequently vulnerable and it is unacceptable that they are exploited in this way by unscrupulous landlords. As part of the consultation referred to above, we will invite views on extending Rent repayment Orders so that landlords found to have rented out a property with serious hazards can be compelled to repay any rent or Housing Benefit/Universal Credit they have received. Any repaid Housing Benefit/universal Credit could potentially be used for a range of housing related purposes. The results of this consultation will be important as it will be essential to define clearly what is meant by substandard in this context.

## **Illegal Eviction**

### ***Recommendation 9***

***We do not agree that a statutory duty to have to take steps to tackle illegal eviction should be placed on local authorities, as it would be inconsistent with a localist approach. Nevertheless, it is again important that local authorities learn from each other and share best practice on tackling illegal eviction. The Local Government Association should ensure that lessons on illegal eviction are learnt and disseminated.***

The Government agrees that it is not sensible to introduce ad hoc legal duties for local authorities. We will work with the Local Government Association to ensure that good practice in this area is disseminated widely.

### ***Recommendation 10***

***We are concerned that the police are sometimes unaware of their responsibilities in dealing with reports of illegal eviction. We recommend that the Department for Communities and Local Government work with the Home Office on guidance that sets out clearly the role of the police in enforcement of the Prevention from Eviction Act 1977.***

The Government agrees that the police and its agencies should have a clear understanding of the private rented sector housing legislation. We are working to ensure that good practice in this area is shared, and we are planning to produce a guidance note which will be disseminated widely.

We will produce guidance to all public authorities on the prosecution of landlords for housing offences and guidance that sets out clearly the role of the police in enforcement of the Protection from Eviction Act 1977.

## **Licensing and accreditation**

### ***Recommendation 11***

***The idea of national licensing has some merit, and such a scheme could bring a number of benefits, particularly if introduced alongside an effective system of redress. It is clear, however, that the Government has not been convinced by these arguments, and we have some sympathy with the Minister's assertion that a national scheme could be very rigid. Having tailored local schemes may bring its own costs, especially for landlords operating across several areas, but on balance we would prefer to see local authorities develop their own approaches to licensing or accreditation in accordance with local needs. The Government's focus should be on giving local authorities greater flexibility and encouraging the use of existing powers.***

The Government agrees that a national licensing scheme would be too inflexible and it would push up regulatory costs for landlords, and ultimately increase rents and reduce choice for tenants.

Mandatory licensing already applies for large houses in multiple occupation, and subject to certain conditions, local authorities have the freedom to introduce further licensing in their area, in the form of additional and selective licensing schemes.

The Department recently contacted all local housing authorities in England seeking information on their experience of licensing, whether selective or voluntary, of private rented housing in their area, including information on the type of conditions that are typically attached to such licenses. The purpose of gathering this information was to help to inform any update of the current guidance for local authorities on selective licensing. The closing date was 30 September and we are now considering the responses. A summary of responses to the information gathering exercise will be made available in due course.

### ***Recommendation 12***

***We recommend that the Government bring forward proposals for a reformed approach to selective licensing, which gives councils greater freedom over when licensing schemes can be introduced and more flexibility over how they are implemented. Councils should ensure that the cost of a licence is not set so high as to discourage investment in the sector.***

As we have set out in our response to recommendation 11, we have been collecting information on the extent to which licensing is used by local authorities and the impact of that approach. We asked for responses by 30 September 2013 and are now considering the responses received. However, there are no plans to amend the current legislative framework or introduce any new regulations in this area.

### ***Recommendation 13***

***We recommend that the Government give local authorities a power to require landlords to be members of an accreditation scheme run either by the council itself or by a recognised landlords association.***

Local authorities already have the power to introduce voluntary accreditation and, subject to certain conditions being satisfied, selective or additional licensing. While we always keep the situation under review, Government does not have any plans at present to provide local authorities with a power that would require landlords to belong to a licensing scheme. We do not wish to introduce or permit new powers that may act as a deterrent to landlords deciding to invest in a particular area.

## **Recommendation 14**

***It is important that local authorities have options and tools to raise standards in their areas. Three particular options are: (1) greater use of landlord licensing schemes; (2) compulsory accreditation; and (3) taking a proactive neighbourhood approach to raising standards. In each of these cases, given resource constraints, the schemes have to pay for themselves, and, as far as possible, place the burden of payment on the unscrupulous landlords, with financial deterrents for non-compliance. Councils should be given the powers to impose heavy penalties on those who do not register for licensing or compulsory accreditation after appropriate notification. Neighbourhood approaches could be funded by local authorities recouping costs from landlords whose properties fail to meet minimum standards. We further recommend that the Government initiate a review of the fines imposed by the courts for letting substandard properties, to ensure they act as a sufficient deterrent.***

It is already an offence not to license a property where it is subject to a licensing requirement under the Housing Act 2004. A person who commits such an offence is liable to be fined up to £20,000. When the Legal Aid Sentencing and Punishment of Offenders Act 2012 comes into force shortly, landlords will be liable for unlimited fines. That is a strong deterrent and we do not propose to introduce an additional penalty. The Government encourages local authorities to take a proactive approach to raising standards, for example, through voluntary licensing.

Various housing-related fines that can be imposed for letting out a property are currently capped at £5,000. The Legal Aid Sentencing and Punishment of Offenders Act will remove these upper limits. This change will take effect in the near future. We want magistrates to make full use of the sentencing powers that are available to them, reflecting the seriousness of some of these offences and the damage they can cause.

We have no plans at present to review the level of fines that are actually imposed by magistrates' courts. However, we will produce guidance for local authorities to help them effectively present evidence in court when prosecuting landlords for housing offences. It is important that local authorities demonstrate that such offences are not simply technical breaches of housing legislation but that they can have a real impact on individuals' lives.

## **Houses in multiple occupation (HMOs)**

### **Recommendation 15**

***We recommend that the Government conduct a review of the mandatory licensing of houses in multiple occupation. This review should consider, amongst other things, evidence of the effectiveness of mandatory licensing, how well it is enforced, and whether the definition of a prescribed HMO should be modified.***

Mandatory licensing of larger Houses in Multiple Occupation was introduced by the Housing Act 2004. It applies to properties with three or more storeys and used to house five or more individuals from two or more households. This requirement was introduced to reflect the inherent risks to occupiers in larger properties (for example, the higher risk of fire) and the impact they have on the local area. Government takes the view that this is a sensible and proportionate approach. Therefore, we have no plans to change the current definition of a prescribed house of multiple occupation.

### ***Recommendation 16***

***Where there are community concerns about high concentrations of houses in multiple occupation, councils should have the ability to control the spread of HMOs. Such issues should be a matter for local determination. We therefore consider it appropriate that councils continue to have the option to use Article 4 directions to remove permitted development rights allowing change of use to HMO.***

The Government agrees with the Committee's recommendation. Councils will continue to have the option to use Article 4 directions where there are concerns from the local community about high concentrations of houses of multiple occupation. An Article 4 Direction is made by a Local Planning Authority, and confirmed by the Government. It serves to restrict permitted development rights in certain areas.

### ***Recommendation 17***

***Universities have a responsibility to ensure that student housing does not have a detrimental impact upon local communities. They should be working with local authorities and student groups to ensure that there is sufficient housing in appropriate areas and that students act as responsible householders and members of the community.***

It is widely acknowledged that high concentrations of students living in local communities have, on occasion, given rise to tensions in those communities. This tension can also translate to pressure on affordable housing in areas close to universities. Universities already work with Local Authorities to ensure a consultative approach is taken on development of accommodation for students and we will encourage this to continue in the future.

## Safety standards

### ***Recommendation 18***

***We recommend that the Government work with the electrical industry to develop an electrical safety certificate for private rented properties. To obtain such a certificate, properties should be required to have a full wiring check every five years and a visual wiring check on change of tenancy. Landlords should be aware of the legal requirement to provide safe installations and appliances.***

As the report notes, there is already a legal requirement on landlords to ensure that electrical installations in a building are kept safe and in good working order. In addition, where a property is licensed, the local authority can impose a range of conditions relating to electrical safety, for example, they can require that the electrical installations in the property are periodically checked and that an electrical safety certificate is produced on demand.

A standard electrical safety certificate has already been developed by the Electrical Safety Council. We do not think it is necessary to introduce another standard form, and cause confusion.

The Electrical Safety Council recommends that safety checks are carried out every five years and we think that strikes the right balance between having safeguards in place to protect the tenant and avoiding regulating the sector. We believe this approach strikes the right balance between driving up standards whilst ensuring a proportionate approach in regulation.

### ***Recommendation 19***

***We recommend that the Government introduce a requirement for all private rented properties to be fitted with a working smoke alarm and, wherever a relevant heating appliance is installed, an audible, wired-up EN 50291 compliant carbon monoxide alarm.***

According to the English Housing Survey, over 86% of all dwellings now have a smoke alarm. Landlords are encouraged to install smoke alarms and ensure they are kept in proper working order.

We will raise awareness of this issue amongst landlords and tenants, and promoting voluntary take-up, through the use of non-regulatory approaches, incentives and information campaigns including the Tenants' Charter and the code

of practice for the management of property. As with recommendations 18 we believe this approach strikes the right balance between driving up standards whilst ensuring a proportionate approach in regulation.

## **Regulation of letting agents**

### ***Recommendation 20***

***We recommend that, as part of its consultation on the redress scheme, the Government seek views on how best to publicise such a scheme and what penalties should be in place for those agents who do not comply. The Government should also explore how the redress scheme fits alongside existing arrangements for deposit protection. We further recommend that the redress scheme is accompanied by a robust code of practice that sets out clear standards with which agents are required to comply.***

The publication of the redress scheme and penalties for non compliance has been discussed with landlord bodies, tenant groups and the lettings industry in the consultation process. The redress scheme will complement the existing arrangements for deposit protection. Under the Leasehold Reform and Urban Development Act 1993, the Secretary of State has the power to approve a code of practice designed to promote good practice in relation to the management of residential property and, where relevant, we will ensure that the redress schemes have regard to any such code when assessing complaints. As set out above, in conjunction with the sector, we are developing a code of practice on rented property management.

### ***Recommendation 21***

***We recommend that the Government make letting and managing agents subject to the same regulation that currently governs sales agents. This includes giving the Office of Fair Trading the power to ban agents who act improperly, and making client money protection and professional indemnity insurance mandatory.***

This recommendation would impose a new burden on local authorities, increase costs for consumers, and reduce the choice and availability of accommodation on offer to tenants.

Letting and management agents are already subject to consumer protection legislation<sup>1</sup> which covers issues such as giving false or misleading information and

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<sup>1</sup> • The Unfair Terms in Consumer Contracts Regulations 1999  
• The Supply of Goods and Services Act 1982



not acting with the standard of care and skill in accordance with honest market practice.

We have introduced new primary legislation which will require all letting and managing agents in England to belong to an approved redress scheme. This will offer a route for landlords and tenants to pursue complaints and drive up standards of overall service.

## **Recommendation 22**

***Any proposal to require sales agents to meet minimum professional standards before they begin trading should also be applied to letting and managing agents. In addition, if at any point a requirement for sales agents to be registered with an accredited industry body is to be introduced, this should be part of a wider framework also covering letting and managing agents. We recommend that the Government review these arrangements in two years' time.***

If the stated changes are brought in for sales agents we will consider carefully whether it makes sense for them to also apply to letting and management agents.

## **Agents' fees and charges**

### **Recommendation 23**

***We recommend that the code of practice accompanying the new redress scheme include a requirement that agents publish a full breakdown of fees which are to be charged to the tenant alongside any property listing or advertisement, be it on a website, in a window or in print. This breakdown should not be "small print", but displayed in such a way as to be immediately obvious to the potential tenant. The code should also require agents to explain their fees and charges to tenants before showing them around any property. Furthermore, the code should forbid double charging, and there should be a requirement that landlords are informed of any fees being charged to tenants. If agents do not meet these requirements, the fees should be illegal. Finally, the professional bodies should make a commitment to full, up front transparency on fees and charges a requirement of membership***

The Government agrees with the select committee that fees should be transparent and proportionate. Landlords and letting agents are free, in general terms, to set

- 
- The Consumer Protection from Unfair Trading Regulations 2008
  - The Business Protection from Misleading Marketing Regulations 2008

their charges, however the consumer protection legislation applies so that all standard terms used by letting agents and landlords, including terms relating to fees and charges, must be fair and must not be misleading. Any agent in breach of this legislation, for example, by charging unfair fees, can be taken to court by Trading Standards. The Advertising Standards Agency has also recently ruled that letting agents should clearly publish all details of their fees (see link <http://www.asa.org.uk/News-resources/Media-Centre/2013/ASA-clamps-down-on-hidden-letting-agent-fees.aspx>).

Through the Charter documents, we will make tenants aware of the requirement for landlords and letting agents to be transparent in the fees they charge so as to ensure that would be tenants know the full costs before entering into any agreement.

We are also introducing the first part of the secondary legislation which ultimately will make it compulsory for all agents to belong to a redress scheme, ensuring complaints about their service can be investigated by an independent person. A complaint could be made where the agent had not made clear what fees would be charged and, where a complaint was upheld, the redress scheme could require the agent to pay compensation to the tenant.

### ***Recommendation 24***

***We intend to gather further information on the impact in Scotland of the decision to make fees to tenants illegal, and to return to this issue in 2014.***

The Government notes the Committee's intention and will be happy to see the review on publication.

## **Longer tenancies**

### ***Recommendation 25***

***The demographics within the private rented sector are changing. No longer can it be seen as a tenure mainly for those looking for short-term, flexible forms of housing. While some renters still require flexibility, there is also an increasing number, including families with children, looking for longer-term security. The market, therefore, needs to be flexible, and to offer people the type of housing they need. The flexibility of assured shorthold tenancies should be better exploited, and the option of using assured tenancies should also be considered where these meet the needs of landlords and tenants. That we are beginning to see some institutions and housing associations offering longer tenancies under the current law suggests that we do not***

***need legislative changes to achieve them. Rather, we need to change the culture, and to find ways to overcome the barriers to longer tenancies being offered.***

The Government has announced a package which will promote awareness of tenants' rights and responsibilities. This will enhance our work with other agencies to promote awareness of the availability of longer tenancies to both landlords and tenants. This will be central to driving forward the cultural change that the Committee has identified.

This package will include a Tenants' Charter, and a model tenancy agreement developed with the sector, together these will set out the rights and responsibilities of tenants and landlords and provide the rental market with an industry benchmark for written tenancy agreements.

Building on the Committee's recommendations, we will work with the sector on a model tenancy agreement. Tenancy arrangements are diverse and we do not consider that there should be a single tenancy agreement that must be used. However, we will develop a family friendly model which not only sets out the landlord's and tenant's responsibilities in plain language but also encourages them to consider longer tenancies going beyond the statutory minimum periods. The family friendly tenancy will make clear that:-

- tenants can ask for longer tenancies and the advantages to landlords in entering longer fixed-term tenancies including:
  - avoiding potential periods of vacancy between tenants
  - reducing the costs of having to find new tenants and other costs associated with re-letting on a regular basis
  - the greater incentive on the part of tenants who live in properties for longer to take good care of the property.
- rent review clauses can provide both landlords and tenants with greater financial certainty, within a longer term tenancy, to plan over a longer period.

We also expect that the entry into the market of institutional investors, motivated by yield rather than capital appreciation, will lead to longer tenancies. For example, the Genesis Stratford Halo Development has offered tenants up to five year agreements. The average duration chosen by tenants was three years. Investors of purpose-built properties will seek to minimise void losses and churn, as they have a longer term interest in their property and portfolio, and in income certainty.

The Build to Rent Fund prospectus for Round 2 set out our belief that those bidding as part of the Build to Rent fund, with a long term interest in their property and portfolio and in income certainty, are ideally placed to lead the development of a private rented sector that caters for the needs of an ever widening group of tenants offering both flexibility and stability.

The prospectus set out that applicants' submissions that seek to offer tenancy lengths which cater for the development's local market will be encouraged, provided that doing so will be sustainable from an investment perspective.

This will enable us to highlight the opportunity an increase in the number of purpose built rental properties presents for families to obtain longer tenancies. Moving forward we will look to highlight sites where longer tenancies are being offered and that are developing houses for the private rented sector which will be better suited to families.

### **Recommendation 26**

***We recommend that the Government convene a working party from all parts of the industry, to examine proposals to speed up the process of evicting during a tenancy tenants who do not pay rent promptly or fail to meet other contractual obligations. The ability to secure eviction more quickly for non payment of rent will encourage landlords to make properties available on longer tenancies. The Government should also set out a quicker means for landlords to gain possession if they can provide proof that they intend to sell the property.***

We will convene the recommended working party to consider how the eviction process could be improved. This group will be able to consider a quicker means for landlords to gain possession if they can provide proof that they intend to sell the property.

### **Recommendation 27**

***Some landlords are not able to offer longer tenancies because they are prevented from doing so by conditions in their mortgage. We are pleased that lenders are considering how such conditions can be removed, and that Nationwide Building Society is to begin allowing its borrowers to offer longer term contracts. We urge the Council of Mortgage Lenders to work with other lenders to ensure that they quickly follow suit. Lenders should only include restrictions on tenancy length in mortgage conditions if there is a clear and transparent reason.***

Government has regular discussions with lenders and their associations on this and other topics. We are delighted that Nationwide have launched a Buy to Let product which allows up to three year tenancies and have noted the flexibilities available under other lenders. We will hold a mortgage lenders summit consider to understand the barriers to lenders allowing longer tenancies and to identify how best to remove the restrictions currently in place which prevent landlords from offering longer tenancies where tenants want them.

## **Recommendation 28**

***We recommend that the Government include in the code of conduct for letting agents a requirement both to make tenants aware of the full range of tenancy options available, and, where appropriate, to broker discussions about tenancy length between landlords and tenants.***

The Government agrees with the select committee that tenants should be aware of the full range of tenancy options. Most agents already do a professional job at setting out the full range of options including the possibility of longer tenancies and we would expect agents to ensure that landlords were aware of the wishes of their tenants about tenancy length. Where a landlord or tenant is aware that an agent has acted in their own interests and hasn't informed either party about the full options this could be a matter for redress. We will also promote the availability of longer tenancies within the existing framework through the Tenants' Charter and the model tenancy agreement.

## **'Retaliatory eviction'**

### **Recommendation 29**

***There is a perception amongst some tenants that if they speak out it could result in their losing their home. Tenants should be able to make requests or complain without fear that doing so will lead the landlord to seek possession. We are not convinced, however, that a legislative approach is the best or even an effective solution. Changing the law to limit the issuing of section 21 notices might be counter-productive and stunt the market. Rather, if we move towards a culture where longer tenancies become the norm, tenants will have greater security and also more confidence to ask for improvements and maintenance and, when necessary, to complain about their landlord. Moreover, if local authorities take a more proactive approach to enforcement, they will be able to address problems as they occur rather than waiting for tenants to report them.***

The Government accepts the Committee's recommendation about retaliatory eviction, and agrees that legislation is not the preferred approach. We recognise that this issue remains a source of real anxiety for some tenants.

Tenants must feel able to raise concerns or complaints with their landlords about the homes that they live in, and they must be able to do this without fear of eviction. As set out in recommendation 2 we will consider how to ensure that tenants do not face the threat of eviction because they have asked the landlord to rectify a fault or have asked the council to investigate. We will also produce

guidance that sets out clearly the role of public authorities in protecting tenants from illegal eviction.

We also agree that longer tenancies will provide greater security and as we have set out above we are actively promoting them through the Tenants' Charter, and model tenancy agreement which will remove barriers in our work with the sector and mortgage lenders.

We will produce guidance that sets out clearly the role of public authorities in protecting tenants from illegal eviction and harassment.

## **Rents and affordability**

### ***Recommendation 30***

***Problems with the affordability of rents are particularly acute in London and the South East. Although in other parts of the country average rents and yields are relatively stable, we are still concerned that some families are struggling to meet the costs of their rent. We do not, however, support rent control which would serve only to reduce investment in the sector at a time when it is most needed. We agree that the most effective way to make rents more affordable would be to increase supply, particularly in those areas where demand is highest.***

We welcome the Committee's agreement that the most effective way to control rents is to increase supply.

The Government is determined to build a bigger and better private rented sector that gives greater choice and quality of homes for tenants, which is why it has put in place a £1 billion Build to Rent fund and £10 billion in loan guarantees to build new homes specifically for private rent. The clear message is that wherever people are in the housing market, there is Government help available.

Government is investing £19.5 billion public and private investment in an affordable homes programme set to deliver 170,000 homes by 2015 and committing £3.3 billion we should add after the £3.3 billion, leveraging in a further £20 billion of private investment, delivering a further 165,000 homes in three years, the fastest rate of housebuilding for two decades. The Government has also introduced the Help to Buy scheme so people can buy newly-built homes with a fraction of the deposit they would normally require.

Across England as a whole, increases in private sector rents in recent years have been modest, and below inflation. The Office of National Statistics reported in September 2013, that in the 12 months to August 2013 private rental prices paid

by tenants rose by 1.1 % in England, and 1.9% in London. Consumer Price Index inflation in the same period was 2.5% so therefore, rents fell in real terms.

### ***Recommendation 31***

***There is no perfect way to set rent, but, where longer tenancies are being established, linking increases to inflation or average earnings, or voluntarily agreeing a fixed uplift each year merit consideration and could provide tenants and landlords with a degree of stability, though over time mechanisms may emerge as, for example, in the commercial property sector. Tenants', landlords' and agents' groups should encourage their members to discuss these options at the outset of a tenancy. Existing arrangements for setting and increasing rent are often arbitrary and uneven, and reflect the immaturity of the market.***

We will take these proposals forward with our partners in the sector. As we have set out in Recommendation 1, we will work with the sector on a model tenancy agreement. Tenancy arrangements are diverse and we do not consider that there should be a single tenancy agreement that must be used. However, we will develop a family friendly model which makes clear that rent review clauses can provide both landlords and tenants with greater financial certainty to plan over a longer period.

## **Placement of homeless households in the private rented sector**

### ***Recommendation 32***

***We welcome the Government's use of secondary legislation to clarify when accommodation is unsuitable for homeless households. We expect councils to pay full regard to this order and to ensure that homeless households are only placed in suitable accommodation. Given that many of these households will be vulnerable, councils have a particular responsibility to ensure that the properties they are placed in are free from serious health and safety hazards. We recommend that, as a matter of good practice, local authorities should inspect properties before using them for the placement of homeless households.***

The Government has empowered local authorities to fulfil their duties to homeless households through the offer of suitable accommodation in the private rented sector.

Homelessness statutory guidance states that local authorities should ensure that properties have been visited by either a local authority officer or someone acting on their behalf to determine its suitability before an applicant moves in.

In 2012 the Government set down further legislation on what a local authority must take into account when determining the suitability of accommodation.

The standard of accommodation in the sector and the stability it offers to tenants are high in the majority of cases and the law is clear that suitable accommodation must be free from health and safety hazards.

### **Recommendation 33**

***All agree that, wherever possible, councils should be placing homeless households within their local area (unless there are particular circumstances that mean it is not in the households' interests). It nevertheless appears inevitable that councils in areas with high rents, London in particular, will place homeless households outside the area, including in coastal towns. Before any placement, there should be a full discussion with the receiving authority and the prospective tenant and information about the household and its ongoing needs should be shared. The Government should consider making this a statutory duty.***

The Government is clear that local authorities must secure accommodation within their own district so far as reasonably practicable. Where a local authority secures accommodation for an applicant outside of their district, Section 208(2) of the 1996 Housing Act provides that the placing authority give notice to the local authority in whose district the accommodation is situated.

Secondary legislation requires local authorities to take into account the significance of any disruption with specific regard to employment, caring responsibilities or education of the applicant or members of their household.

Where possible the authority should seek to retain established links with schools, doctors, social workers and other key services and support.

Statutory guidance further reinforces this point and states that the Secretary of State considers that applicants whose household has a need for social services support or a need to maintain links with other essential services within the district, for example specialist medical services or special schools, should be given priority for accommodation within the housing authority's own district. In particular, careful consideration should be given to applicants with a mental illness or learning disability who may have a particular need to remain in a specific area, for example to maintain links with health service professionals and/or a reliance on existing informal support networks and community links. Such applicants may be less able



than others to adapt to any disruption caused by being placed in accommodation in another district.

We therefore do not believe that there needs to be a further statutory duty.

### ***Recommendation 34***

***We were pleased to hear of positive examples of work to support homeless households in the private rented sector, including the establishment of social letting agencies and the development of private rented sector access schemes. We encourage the Government to work with local government, the charity sector and industry bodies to ensure best practice is shared and lessons learned.***

The Government already works closely with local authorities and partners to share good practice. In April 2013 the Government launched a new Gold Standard which sets local authorities 10 challenges aspiring for continuous improvement in homelessness prevention, including a suitable private sector offer for all client groups.

The sector led, government scheme offers free training to local authorities, access to free advice and uses a dedicated website to showcase the best services across the country.

## **Local housing allowance**

### ***Recommendation 35***

***We recommend that the Government take immediate steps to allow councils to apply for a variation of broad rental market area boundaries where anomalies occur.***

Broad rental market areas and Local Housing Allowance rates are set such that, with the exception of the most expensive areas of London, benefit claimants can afford to access key services and employment services. Therefore by design they do not always coincide with local authority boundaries.

The Government accepts that in some local authorities a greater or lesser proportion of properties are affordable within local housing allowance rates but the Rent Officers - who administer the rates - have taken a number of steps to ensure that they base their determinations on accurate representations of the private rented market.

Whilst we also accept that there will be boundary issues with any system, we believe that the broad rental market areas reflect the choices people not claiming Housing Benefit have to make about their accommodation. Therefore, whilst we will continue to monitor the situation, government has no plans to change the boundaries of broad rental market areas at this time.

### **Recommendation 36**

***We recommend that the Government conduct a wide-ranging review of local housing allowance (LHA). This review should assess whether there is greater scope for local flexibility over the setting of LHA rates and the boundaries of broad rental market areas. Local authorities could be incentivised to reduce the housing benefit bill by being allowed to retain any savings for investment in affordable housing.***

As part of our strategy to limit the growth of Housing Benefit expenditure, the Government has already made significant changes to Local Housing Allowance. The Office for Budgetary responsibility forecasts that these changes will reduce annual expenditure by around £2bn by 2014-15.

We have no plans at this time to make further changes during the introduction of Universal Credit. However, we have commissioned a major independent evaluation of the Local Housing Allowance changes introduced from 2011. The evaluation, which is looking at the wide-ranging impacts of the changes on claimants, local authorities and landlords, is due to deliver its final report in 2014.

## **Data quality**

### **Recommendation 37**

***We recommend that the Government establish a small task group of key organisations and academics to consider how data relating to the private rented sector can be improved and made more readily available. In addition, we encourage the National Audit Office to contribute to an effective evidence base about the sector and to draw upon our recommendations when developing studies on housing related topics.***

The Government has already established a Task Group to implement the recommendations of the National Statistician's review of Housing Market Statistics (September 2012) including the second part of the recommendation.

Further, to fulfil the gap identified in user needs official private rental statistics and a private rental price index has been developed for the UK, and is available at

local authority level and on a monthly basis to complement house price statistics. The government will consider the further recommendation of involving academics and the National Audit Office.

## **Tax**

### ***Recommendation 38***

***We recommend that the Government, in reviewing the regulation covering the private rented sector, set out proposals for greater co-ordination between the tax authorities and those regulating the private rented sector.***

The Government actively reviews the data sets and other tools that may help our work in identifying and tackling tax avoidance and evasion. We will continue to explore what further levers we may be able to develop. The Government will pursue this line of action with all appropriate agencies.

## **Increasing supply**

### ***Recommendation 39***

***We welcome the introduction and expansion of the Build to Rent Fund. The Government should take steps to ensure that the fund makes a net addition to new housing, as well as speeding up the delivery of those homes already in the pipeline.***

The Government welcomes the Committee's support for the £1bn Build to Rent Fund. The first contract under Round 1 was signed in July and work has commenced on providing the extra capacity that is badly needed in the private rented sector. The second round of the Build to Rent fund was launched on the 12th September, with a minimum of £400m available. Short listing bids and due diligence will commence early 2014. We remain confident that the fund will result in excess of 10,000 new units in the private rented sector.

### ***Recommendation 40***

***It remains to be seen how much impact the guarantee scheme for the private rented sector will have in delivering additional new homes. The policy may be well intentioned in its aim to encourage organisations to have more confidence to invest in the sector, but the Government needs to measure***

**results. We invite the Government in its response to our report to update us on the number of applications it has received for the private rented sector guarantee scheme and to provide an estimate for the number of additional homes it expects the scheme to deliver. If there is any doubt that the scheme is going to deliver the homes required, we recommend that the Government rapidly explore other options for the use of the resources identified.**

Since June 2013, the Government has been open to discuss direct applications for the Private Rented Sector Guarantees Scheme with potential applicants, after the response to our invitation to tender for delivery of the scheme indicated a demand from larger investors for individual direct debt guarantees and that Government should take the first steps in helping to develop this new market.

We are in conversation with the sector, including a number of potential borrowers and are committed to exploring all of the market-led options, which will lead to guarantees becoming available as soon as possible. We will look to offer direct guarantees on money raised in the bond market by housing providers investing in large-scale and purpose-built private rented sector projects. A formal application process will open shortly.

We have undertaken an extensive programme of engagement in developing the scheme, and have had a lot of interest from the market in accessing the guarantees.

The Government has committed to guarantee £3.5bn of debt for the private rented sector guarantee, with another £3bn in reserve for allocation to either this scheme, or the affordable housing guarantee scheme, depending on demand.

## **Recommendation 41**

**We welcome the establishment of the task force to promote and broker investment in build-to-let development, and are pleased that the task force is already in operation. It is important that this task force does not become another quango but quickly delivers on its objectives. We invite the Government, in its response, to set out the progress made by the task force in its first few months of operation. This update should quantify the amount of additional investment brokered, and the number of additional homes it would deliver.**

The Government has underlined its determination to build a bigger and better Private Rented Sector. The core mission of the Taskforce is to kick-start the new private rented sector in the UK. This will provide an abundance of good, small-scale private landlords but it will be characterised by a growing number of large-scale, professionally managed developments, owned and managed by institutional investors and private sector organisations.

We share the concerns of the committee about the dangers of the Taskforce becoming just another quango, that's why we under the terms of reference the work of Taskforce will be reviewed in March 2014 to ensure that they still add value and plan to close to the Taskforce in March 2015.

### **Recommendation 42**

***Efforts to promote high-quality build-to-let development have commanded significant amounts of government attention and resources. One of the main arguments in favour of this approach is that it will lead to improved choice, quality and affordability across the whole of the private rented sector. It is too early to assess the impact, but a key part of the evaluation of these measures must be the impact they have on the sector as a whole. If, in a year's time, there is no evidence of this broader effect, the Government must reconsider its strategy and look to other measures to boost supply across the sector as a whole.***

Government remains confident that the Build to Rent Fund will deliver on its key objectives. This is why we increased the Fund to £1bn following the last Budget. Early indications are that this extra funding, coupled with the Housing Guarantees Scheme and the work of the Private Rented Sector Taskforce, is producing strong and significant change within the private rented sector

### **Recommendation 43**

***There is an urgent need to boost supply across all tenures of housing. We recommend that the Government revisit the Committee's report on the Financing of New Housing Supply, and set out proposals to implement those recommendations it initially rejected***

As stated in the reply to the select committee report of July 2012, the Government welcomed the report from the Select Committee on the Financing of New Housing Supply and the Committee's interest in the actions we were taking to increase housing supply.

Since then we have pushed ahead with our Housing Strategy aims to address the country's dysfunctional housing markets: to unlock both supply and demand; to boost both sectors, freehold and rented, and to recognise the need to build new homes, whilst also making the best of redundant land and empty properties.

Net additions to England's housing stock increased by 11% to 135,000 in 2011/12, which is the highest level for 4 years. Positive decisions from the planning system are at a 10 year high of 87% and homes approved are up by 20% in the first year of the National Planning Policy Framework.

Alongside an expert Private Rented taskforce, we have launched a £1bn Build to Rent equity finance fund for new homes purpose-built for private rent and launched two debt guarantee schemes to underpin investment in both the private rented and affordable housing sectors.

We have already delivered over 84,000 affordable homes in the first two years of the Affordable Homes Programme, almost half of the total that will be delivered by 2015, with a total programme investment of £19.5 billion of public and private sector funding.

We are taking action and it is starting to have an effect. But there is still a long way to go before we reach the sort of levels of growth we need. We have made good progress on Coalition Agreement commitments and business plan delivery. Our focus now is on maximising the impact of policies particularly to drive local growth. That is why over the two spending reviews, Government is committed to capital investment of £16.5bn. That will lever in up to £35bn to build affordable homes alone.





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ISBN 978-0-10-187302-4

