



House of Commons
Communities and Local Government
Committee

Private Rented Sector

Written Evidence received up to 01/03/13
Volume I

Only those submissions written specifically for the Committee and accepted by the Committee as evidence for the Private Rented Sector inquiry are included.

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Written evidence submitted by the Department for Communities and Local Government (PRS 000)

Introduction

Demand for rented housing is growing. The private rented sector has responded to this demand and now houses 3.7 million households in England (equivalent to 17 per cent of the overall housing stock), compared to 2 million in the early 1980s. 1.5 million homes were added in just eight years between 2003 and 2010 – a 55 per cent increase. Much of this growth has been driven by individual landlords with small portfolios, and the lack of large scale investment has constrained further market expansion. Furthermore, growth in the rented sectors has not contributed significantly to the supply of new housing.

Government recognises the importance of the private rented sector and is keen to encourage further growth through the supply of new high quality large scale development for private rent. Encouraging supply will not only provide homes for additional families in the sector but also, by promoting competition, improve standards and affordability compared to the levels that would otherwise prevail if supply were static.

This Government has made a number of changes designed to encourage supply and make it easier for institutional investors to become involved in the sector. We have made changes to stamp duty levied on bulk purchases, and revised the regime for Real Estate Investment Trusts to widen access and reduce the cost of compliance. We have also taken up key recommendations of Sir Adrian Montague's report on the barriers to institutional investment, announcing:

- A new £200 million fund providing equity finance to house builders and developers. It will support the building of large demonstration projects of purpose-built private rented housing, showing the viability of the build-to-rent market and increasing investor confidence.
- A £10 billion debt guarantee scheme to support the delivery of i) new homes purpose built for private rent and ii) up to 15,000 additional affordable homes. The scheme will use the Government's fiscal credibility to reduce the cost of borrowing for housing providers, while attracting investment from fixed income investors seeking a stable, long term return on their investment without exposure to residential rental property risk. We are currently seeking input from organisations suitably qualified and experienced to help set up and deliver the scheme.
- A new, expert PRS investment taskforce to facilitate deals and support the delivery of rented homes through bringing together developers, management bodies and institutional investors. This taskforce will address barriers around the relative unfamiliarity of large scale private rented schemes.

Overall, the sector is performing well. Not only has the number of privately rented homes increased in response to demand but the overall standard of accommodation in the sector has improved significantly over the past decade. However, the Government recognises

that these trends are not universal and that there is still a minority of privately rented homes that are not in an acceptable condition and a minority of landlords and agents who are not meeting the standards that should be expected of them. This submission sets out Government's response to those challenges, and in particular responds to the seven issues set out by the Committee.

The quality of private rented housing, and steps that can be taken to ensure that all housing in the sector is of an acceptable standard

1. The quality of privately rented housing has improved rapidly over the past decade, and levels of satisfaction compare well to other tenures (see box). But it is clear that a minority of landlords do not maintain properties to a decent standard. Government is supporting local authorities to take tough action against those landlords.

Condition of / satisfaction with privately rented housing

The English Housing Survey: Homes Report 2010¹ reports the underlying condition of housing using a range of characteristics. One indicator is the cost of bringing homes up to a given level of repair. The survey shows that the basic standardised cost of repair² for the private rented sector is higher than for other sectors, at £17.57 per square metre (£17.57/m²), compared to £11.61/m² for the overall housing stock. However, this is a significant improvement, in absolute and relative terms, compared to 2001, when the costs were £40.33/m² for the private rented sector and £19.06/m² for the overall stock.

In part these differences are explained by the relative age of homes in different tenures. While the private rented sector contains a slightly higher proportion of new (post-1990) homes than the overall housing stock (15. per cent compared to 12.9 per cent), it also contains almost double the number of pre-1919 homes (40.0 per cent compared to 21.7 per cent of the overall housing stock).

According to the English Housing Survey: 2010-11 Household Report³, 83.6 per cent of private tenants are very or fairly satisfied with their accommodation. Whilst that figure is lower than for the owner occupied sector (95.4 per cent), it compares favourably with local authority tenants (76.7 per cent) and housing association tenants (83.2 per cent). Similarly, 71.6 per cent of private tenants are satisfied with the way their landlord carries out repairs and maintenance, compared to 65.8 per cent of local authority tenants and 73.1 per cent of housing association tenants.

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6748/2173483.pdf

² This is expressed in a basic standardised cost per square metre converted to 2001 prices using the Building Cost Information Service (BCIS) National Index.

³ <https://www.gov.uk/government/publications/english-housing-survey-household-report-2010-to-2011>

2. Whilst average conditions have improved significantly, a minority of privately rented homes are not in an acceptable condition. Local authorities can use the Housing Health and Safety Rating System (HHSRS) to assess properties against 29 different hazards such as damp and mould growth, excess cold, electrical and fire hazards, etc. If a property is found to contain serious, “category 1”, hazards, the authority has a statutory duty to take action. It may compel private landlords to make necessary improvements through the issuing of improvement notices and, in the most severe cases, prohibition notices.
3. Government has been supporting nine local authorities to use these powers in areas where some of the very worst conditions of “Beds in Sheds” occur and has recently published guidance.⁴
4. We will be working with a wider range of local authorities, over the coming months, to encourage action to be taken against a broader range of rented properties that are not in an acceptable condition
5. Besides regulatory approaches targeted at the worst properties, both landlords and tenants also have an incentive to improve the energy efficiency of rented properties through the Green Deal from February 2013.

Levels of rent within the private rented sector – including the possibility of rent control and the interaction between housing benefit and rents

Rents levels and control

6. Across England as a whole, increases in private sector rents in recent years have been modest and remained below inflation. In December the Valuation Office Agency published an indicative median rent of £575 a month in the 12 months to September 2012. The equivalent for the year to September 2011 was the same, £575 per month. More broadly, Rightmove have forecast that two-thirds of landlords are planning to freeze rents next year⁵.
7. There are currently several sources of data on rental levels in the private rented sector, all of which are indicative but none definitive. The sources include:-
 - Office of National Statistics (ONS) ‘private rental’ component of Consumer Price Inflation (CPI)
 - Valuation Office Agency (VOA)_data
 - Surveys by private companies such as LSL Property Services
 - English Housing Survey

⁴ Dealing with rogue landlords: a guide for local authorities August 2012:, <https://www.gov.uk/government/publications/dealing-with-rogue-landlords-a-guide-for-local-authorities>

⁵ Rightmove, Consumer Rental Forecast, 3 December 2012

8. These data produce a range of values for rent increases between 0.9 per cent⁶ and 3.3 per cent⁷ per year. These values do not point to disproportionate overall increases.
9. Most recently, the LSL index for November 2012 showed that rents in England & Wales fell for the first time since March 2011, with average rents at £741 per month. However, the LSL index only looks at new Buy to Let lettings and has a small sample size; and rents will generally increase when a landlord has a new tenant.
10. Looking forward, ONS is improving coverage in the Consumer Price Index of private rents by using Valuation Office Agency data, with the enhanced measure included from March. The Valuation Office Agency data represent the best potential source on private rents and we are working closely with them to improve information on how rent levels vary geographically and over time.

Rent Controls

11. In specific high demand areas, rents have risen more quickly because supply of rented homes has not kept up with demand. Government is clear that encouraging supply of new homes, rather than the imposition of rent controls, is the right policy response.
12. Prior to the Housing Act 1988, the private rental market was in long-term decline, having dropped to just 9 per cent of the housing market in 1988. Regulated rents and lifetime tenancies had meant that being a landlord was simply not commercially viable for many property owners and investors. Controlled rents had meant landlords had very limited funds to maintain properties leading to poor stock condition. And low rents, combined with lifetime tenancies had driven investors away, leading to less supply. The resulting shortage of rented accommodation helped neither tenants nor landlords.
13. By enabling landlords to charge market rents and introducing assured shorthold tenancies, the 1988 Act arrested this decline. The sector now accounts for 17 per cent of housing. Consequently, rent control has been ruled out by successive administrations. Instead, we must encourage the supply of new homes for rent.

Interaction between housing benefit and rents

14. Housing Benefit is the third largest area of welfare expenditure. It has gone up from £11 billion in 1997 to £20 billion in 2009 and, if unreformed, will reach £25 billion by 2016. It is right that Government should take steps to manage the cost of housing benefit, and the overall level of benefits that households can claim, as part of tackling the deficit.

⁶ VOA data

⁷ ONS data used for CPI

15. From April 2011, the rates of Local Housing Allowance were reduced and capped to reduce pressure on the Housing Benefit Bill and help restore fairness to the system. The changes to Local Housing Allowance make it simpler for claimants to understand and easier for people to plan for the future when they know the maximum amount of Housing Benefit that will be available for a whole year ahead.
16. In addition the Chancellor announced in the 2012 Autumn statement that:-
- LHA rates will be up-rated by Consumer Price Inflation, as planned, in 2013/14;
 - For the following two years (2014-15 and 2015-16) increases will be capped at one per cent, in line with other benefits; and;
17. We estimate that by 2015-16 rates will be on average just under £4/week lower than they would be otherwise, leading to forecast net savings of £105 million in 2014-15 and £225 million in 2015-16.
18. Government accepts that these changes will have a greater impact on people in areas such as London where demand is high. Government has set aside £140 million over two years to help people affected by these new limits.
19. This ring-fenced funding will be targeted at people in areas where rent increases are causing a shortage of affordable accommodation. This is on top of existing Discretionary Housing Payments.
20. The cap will have a phased roll out, starting in four London boroughs in April 2013. This will allow Government to test its systems and will help all local authorities prepare for full implementation in October 2013.

Regulation of landlords, and steps that can be taken to deal with rogue landlords

21. The majority (83.6 percent⁸) of private tenants are very or fairly satisfied with their accommodation and 71.6 percent are satisfied with the way their landlord carries out repairs and maintenance. This suggests that, overall, landlords provide a reasonable level of service. Of course, not all landlords meet all of their obligations all of the time. The Government wants to drive up standards across the board by ensuring that tenants are well-informed, empowered consumers. Tenants should be clear what they should expect from a decent landlord or letting agent, and what to do if things go wrong. Government will work with the sector and relevant organisations to ensure that both tenants and landlords know and understand their rights and responsibilities.

⁸ English Housing Survey: 2010-11 Household Report

22. There is, however, a minority of landlords who fail to even meet their basic responsibilities and, in some cases act in a way which is outright criminal. These rogue landlords exploit some of the most vulnerable groups in society and also jeopardise the reputation of the sector. Their behaviours can include placing tenants in overcrowded or poor accommodation (including illegal outhouses), benefits fraud, tax evasion, employment of illegal migrants and other criminal behaviours. This is unacceptable in modern Britain and Government supports local authorities using the full range of their powers against rogue landlords.
23. An extensive range of powers is available to local authorities to take action against rogue landlords. These include powers under the Housing Act 2004, to require improvements where properties present hazards, and to licence certain landlords. Local authorities have the discretion to introduce local licensing schemes to tackle particular local problems. Where landlords do not comply with enforcement action, or licensing provisions, they can be prosecuted through the courts. Local authorities can also join up with other enforcement agencies, such as Her Majesty's Revenue and Customs, UK Border Agency and the police to gather intelligence and take action across a broad range of illegal activities.
24. It is clear from our work so far that sufficient powers are available to local authorities and other enforcement agencies to tackle the full range of rogue landlord behaviours. But this is nonetheless difficult and complex work. To help authorities use these powers more effectively, Government has:
- Published a guide for local authorities on dealing with rogue landlords⁹; and
 - Provided £1.8 million of funding to the nine local authorities where the practice of accommodating tenants in illegal "sheds with beds" is most prevalent.
25. Over the coming months, we will be working with a number of local authorities to broaden the scope of this work beyond the current focus on illegally occupied outhouses, i.e. 'Beds in Sheds'.

Regulation of letting agents, including agents' fees and charges

26. The Government recognises the importance of tackling bad practice among letting agents. One in five tenants and 17 percent of landlords are dissatisfied with their letting agent, according to a recent *Which?* Report¹⁰. According to a recent survey an estimated 85 per cent¹¹ of agents belong to a professional body or organisation. However, previous surveys have shown a much lower figure, around 50 per cent. The Government is keen to raise consumer awareness of the benefits of using an agent

⁹ <https://www.gov.uk/government/publications/dealing-with-rogue-landlords-a-guide-for-local-authorities>

¹⁰ 'Renting roulette consumer experience of the lettings market' Which Report November 2012

¹¹ Private Landlords Survey 2010, DCLG, October 2011

which is a member of one of the schemes.. There is potential to raise standards across the board, not least by ensuring that consumers are well-informed and empowered to exercise their rights.

27. The Government does not, however, believe that significant burdensome regulation is needed. New regulation could increase costs for both landlords and so far tenants.
28. Letting agents are already subject to consumer protection legislation, which covers issues such as giving false or misleading information to consumers, not acting with the standard of care and skill that is in accordance with honest market practice and claiming falsely to be a member of a professional body or an approved redress scheme.
29. This legislation also includes protections against disproportionate or hidden fees and unfair terms and conditions. Where a consumer (who might be a tenant or a landlord) believes that an agent is in breach of this legislation, they can go to their local trading standards officer or the Office of Fair Trading. The Office of Fair Trading has done a lot of work to clearly set out what is required under this legislation.¹²
30. In addition to the protection offered by the consumer protection legislation, up to a half of agents are also members of voluntary schemes which ensure that members have the right protections for consumers in place. There are three organisations which run self-regulatory schemes: the Royal Institution of Chartered Surveyors, the Association of Residential Letting Agents and the National Approved Lettings Scheme.
31. All three organisations offer client money protection and professional indemnity insurance to their members alongside requirements as to standards of service and a complaints procedure for consumers. also In addition the Property Ombudsman scheme requires its members to abide by a code of standards that it is in the process of getting approved by the Office of Fair Trading.
32. Over the last two years the Government has encouraged an increase in self regulation and has endorsed the industry-led SAFEAgent scheme, which is designed to help consumers understand the benefits of using agents with client money protection, by developing an easy to recognise logo. Two thousand agents now belong to SAFEAgent.
33. The Government believes the clear priority is to ensure existing laws are enforced and established protections are extended to cover more transactions. This work includes ensuring that both agents and tenants know their rights and responsibilities.

¹² OFT guidance on unfair terms in tenancy agreements
http://www.oft.gov.uk/shared_of/reports/unfair_contract_terms/oft356.pdf

The regulation of houses in multiple occupation (HMOs), including the operation of discretionary licensing schemes imposed by a local authority for a category of HMO in its area

34. Houses in Multiple Occupation (HMOs) play an important role in housing people who may not be able - or wish - to live as a single household. At the same time, they can present higher risks than other properties (particularly fire risks), as well as more challenging management issues. It is appropriate, therefore, that more stringent regulation is targeted on these properties. Local authorities have a role both in determining whether development of HMOs is appropriate in an area, and in licensing HMOs to ensure good management.
35. The planning development management regime allows local authorities to consider whether developing an HMO, or converting an existing family house to an HMO, is appropriate in the local context. The HMO licensing system, under the Housing Act 2004, ensures that the licence holder is fit and proper to hold a licence, that the management arrangements are appropriate and that the house is suitable for the proposed number of occupiers.
36. The impacts of large HMOs tend to be greater than for small HMOs. So, where a property is to be occupied by more than six unrelated people who share basic amenities, a material change of use from any use always requires an application for planning permission. Similarly, larger HMOs (of three or more storeys and housing five or more people) always require a licence.
37. Because of their lower impacts, it would be over-reaching, as a matter of national law, for smaller HMOs always to require planning permission and/or a licence. However, this may be appropriate in some areas, where there are particular problems. So, for smaller HMOs, local authorities have the discretion to:-
- Consult on and introduce “article 4 directions” requiring planning permission to be sought where it is proposed to convert a dwelling house to a small HMO;
 - Consult on and introduce an “additional licensing” scheme to improve the management of HMOs.
38. The Government considers that these arrangements strike the right balance between protecting the occupiers of HMOs and their local communities and minimising regulatory burdens on landlords and tenants.

Tenancy agreements and length and security of tenure

39. Assured shorthold tenancies were introduced over 20 years ago and have been the standard form of tenancy for over 15 years. This stability, and the balance provided

between the needs of landlords and of tenants have underpinned the rapid growth in the sector. There are no plans to change this system.

40. The Housing Act 1988 introduced the current regulatory framework based around the assured shorthold tenancy. The main characteristics of this new regime were the ability to limit the length of a tenancy, a “no fault” possession procedure and allowing landlords to set market rents. The Housing Act 1996 made assured shorthold tenancies the default tenancy for private renting.
41. Under this framework, the number of households renting privately has risen from 2 million in the early 1980s to 3.7 million in 2010, representing 17 per cent of all households in England¹³. In particular, the sector responded flexibly to the needs of households caught up in the recent economic turmoil.
42. A stable legal framework is vital to the continued growth of the sector. This is borne out by Sir Adrian Montague’s Review of the private rented sector¹⁴, which said:

“Investors were attracted by the stability of the regulatory framework. Alongside stable returns, respondents also drew our attention to the importance of the stability of the regulatory framework for renting over the last 20 years. Equally, they warned of the dangers to the attractiveness of the sector were that stability to be undermined. In the 1970s rent controls and restrictions on regaining vacant possession caused institutional interest in the sector to evaporate, and strong Government endorsement of the current status quo in these areas would help to bolster the market.”

43. Whilst assured shorthold tenancies allow the landlord to end the tenancy after the initial fixed term of six months, the English Housing Survey 2010 showed that most tenants in the sector stay for at least a year. It also found that in 2010-11 more than 40 per cent of private tenants had been in their home for more than two years¹⁵.
44. More importantly, in the majority of cases it is the tenant who ends the tenancy rather than the landlord. Statistics show that in only 9 per cent of cases are tenancies ended at the instigation of the landlord.
45. The Government acknowledges that there is some demand for longer tenancies, within the existing legal framework. We welcome work that has been done to promote this. Promoting investment in build-to-rent will support growth in longer tenancies, which can meet the investment profile sought by institutional investors as well as demand from tenants.

¹³ English Housing Survey, Homes 2010, published July 2012.

¹⁴ Review of the barriers to institutional investment in private rented homes, 2012

¹⁵ English Housing Survey 2010-11 (published July 2012)

Homelessness and the private rented sector

46. The Government has empowered local authorities to fulfil their duties to homeless households through the offer of suitable accommodation in the private rented sector. The standard of accommodation in the sector and the stability it offers to tenants are high in the majority of cases and, with suitable safeguards, there is no reason why the private sector should not be used to meet the housing needs of homeless people.
47. The Localism Act 2011 gave local authorities a power enabling them to end the main homelessness duty with a private rented sector offer, without the applicant's consent. It also allows them the freedom to make better use of good-quality private sector accommodation that can provide suitable accommodation for households accepted as homeless. This power was commenced on 9 November 2012.
48. During the passage of the Localism Act members in both Houses of Parliament and homelessness organisations raised concerns about the quality of private rented sector accommodation. Particular issues of damp, cold, mould and rogue landlords were raised. In response to those concerns, the Government decided that additional regulatory safeguards were necessary, particularly given that these households may be vulnerable and may have fewer choices available to them than other households.
49. It is estimated that 18,000 new private lets will be made each year through this route. This will be monitored via statistical returns from local authorities on how they carry out their homelessness duties. This return, called the PIE, will record how often authorities make use of this power.
50. The Homelessness (Suitability of Accommodation) (England) Order 2012 sets out the circumstances in which accommodation used for the purposes of a private rented sector offer to end the main homelessness duty is not to be regarded as suitable. These circumstances cover five broad areas:
 - the physical condition of the property
 - health and safety
 - licensing for Houses in Multiple Occupation
 - landlord behaviour
 - elements of good management
51. The Order provides appropriate protection for homeless households while minimising the requirements on local authorities or landlords which could reduce the number of suitable properties.

Written submission from Simon Shinerock (PRS 001)

My credentials

1. I own and run an estate agency called Choices; www.choices.co.uk we were established in 1989 and entered the rental market the year after. We operate mainly in Surrey Sussex and South London where we manage in the region of 2500 properties. In addition to our local portfolio we also manage a growing number of properties on behalf of our investment clients on a nationwide basis. Furthermore I have in depth experience of the effects of poorly conceived and implemented regulation in the financial services industry as well as the Home Information Pack debacle.
2. Executive Summary
3. Don't do it! Further regulation is unnecessary and would make things worse; instead work at improving and **SIMPLIFYING** what is already there, create a program aimed at educating tenants and potential tenants, starting at school, encourage building to let and allow the market to work. The problem with all these attempts at regulation is that they are drawn up by a committee who haven't got experience of how the business works, taking advice from those with a vested interest and implemented by un-invested civil servants who implement the rules literally and often without any commonsense.
4. I will deal with the issues in more detail to be considered by the committee in the order they are presented on the website.
5. **The quality of private rented housing, and steps that can be taken to ensure that all housing in the sector is of an acceptable standard;**
6. There are already measures in place to ensure property meets basic standards of habitability. However it is preferable to impose higher standards on the properties than to regulate the agents There will be problems in drawing up and implementing minimum standards that go beyond the current standards. The best way to raise standards is to give tenants choice, which means expanding the number of properties available.
7. **Levels of rent within the private rented sector – including the possibility of rent control and the interaction between housing benefit and rents;**
8. Rent control would be cumbersome, very hard to operate and would lead to an even greater migration by landlords away from the housing benefits sector which itself needs simplification and common sense reform.

9. For example it is ridiculous that housing benefit tenants can ask for rent to be paid to them not the landlord and then withhold the rent and stay for months awaiting expensive eviction.
10. Local authorities should undertake to pay the agreed rent direct to the landlord irrespective of the wishes of the tenant.
11. It also takes too long for the assessment process to take place and Landlords are left in limbo waiting for a tenant to get confirmation that they will get housing support.
12. **Regulation of landlords, and steps that can be taken to deal with rogue Landlords;**
13. There are already adequate mechanisms in place to deal with rogue landlords; the authorities do not always implement them effectively. Emphasis should be placed on increasing efficiency rather than new regulation, which will be expensive and involve new procedures, which may not be followed, if you do anything, increase the powers of the courts to impose fines, even better create a truly low cost fast track court process to prosecute rogues.
14. **Regulation of letting agents, including agents' fees and charges;**
15. Lettings agents are already regulated to an increasing degree by existing rules, legislation. Deposits are protected; there is a disputes service, the property Ombudsman has extensive powers.
16. More regulation runs the risk of decreasing competition and increasing fees and charges. Whilst this may suit the industry bodies, if it is too harsh it could damage the whole industry.
17. Regulating fees and charges is unnecessary and would kill fair competition as well as stifle creativity and innovation. As far as I am aware, fees and charges to landlords are at an all time low as a result of the lack of supply of properties to the market. Agents have been forced to charge tenants more in order to stay in business, the Scottish market is now in a total mess because agents have been stopped from charging tenants entirely. Provided there is transparency with charges then it should be up to the market not regulators to set their level
18. As an example of bad regulation I site the financial services act 1986 which imposed regulation on financial advisors and set off a chain of events that more or less destroyed that industry.
19. The long-term result of this poorly thought out legislation has been to kill off a thriving industry without improving the lot of the consumer. If the legislation had regulated the products rather than the people and if we taught financial planning in

our schools, there would be no need for the complex, expensive and pointless structure that is currently in place. If I were asked I could show the Government how to fix the consumer financial services sector and save everyone a lot of wasted money.

20. **The regulation of houses in multiple occupation (HMOs), including the operation of discretionary licensing schemes imposed by a local authority for a category of HMO in its area;**
21. This is not an area I am very familiar with, however as I understand it, there is already a raft of rules in place imposing standards on HMO's. I feel it is right that local authorities apply their own rules for the supervision of these standards, and even for them to set the standards according to the needs of the local community.
22. **Tenancy agreements and length and security of tenure; and how local authorities are discharging their homelessness duty by being able to place homeless households in private sector housing.**
23. The market should determine the length of tenancy agreements and security of tenure. The last time security of tenure was imposed on the market, the result was that there was no market; surely we don't want to go down that route again? Landlords need to be able to borrow to fund their portfolios, any attempt to impose security of tenure on the market would stop mainstream lending and the market would collapse. As I have already said, the way in which local authorities try to palm off their responsibilities onto private landlords is disgraceful.
24. Summary:
25. In summary, I thought from reading about the current mood of Government that we were finally starting to leave behind the madness of over regulation and political meddling in the private sector.
26. The fact that this committee has been formed at all demonstrates that the specter of more costly and destructive regulation still looms on the horizon.
27. Regulation and intervention should be a last resort to be used only once all efforts have been made to use the existing structure to implement the desired improvements. This certainly has not happened yet in the case of the rented sector.
28. If we are to introduce reform at all the three areas we should focus on are the education of tenants, starting at school, the locally controlled implementation of standards for HMO's and a change that requires local authorities to take responsibility to pay private landlords their rent and not pass it to the tenant on request as happens at the moment.

December 2012

Written evidence submitted by Wayland Smith (PRS 002)

I am submitting to this inquiry as a tenant in the Private Rented Sector

Introduction

This submission draws on my experience as a private rented sector tenant renting directly from landlords and through agents in several UK cities over the past 10 years.

Summary

My conclusions are that a lack of defined obligations on landlords and the lack of an affordable remedial process for enforcing them, allows bad landlords to get away with failing to carry out basic repairs, whilst infringing on the right of tenants to enjoy their home.

The difficult legal process for evicting delinquent tenants punishes both landlords and tenants.

Rent controls would tackle the symptoms but not the cause of high rents which are high house prices. The government should seek to reduce these, relative to full time earnings.

Making it easier to remove delinquent tenants could facilitate the provision of longer, more certain tenancies encouraging tenants to improve their properties, though longer tenancies would probably not happen without regulation.

Tenants are very badly protected against the consequences of landlord mortgage arrears and repossession, despite being credit checked themselves.

Letting agents should not be able to charge tenants fees, similar to employment agencies and job seekers. Letting agents act on the landlord's behalf only.

Submission

1. The current legislation favours bad landlords and bad tenants. Bad tenants can get away with causing damage and paying little or no rent for a considerable period before a landlord can evict them.
 - 1.2 This adds considerable cost and uncertainty for landlords who feel forced to treat all tenants as a damage and default risk, even where references and deposits are taken.
 - 1.3 Costs of dealing with lengthy eviction proceedings, tenants who leave without notice and in rent arrears are all reflected in the rents paid by all Private Sector tenants.

- 1.4 Bad landlords exploit the vacuum or lack of written tenants' rights to avoid making repairs and enforcing unreasonable demands.
 - 1.5 Bad landlords also exploit the lack of tenant's knowledge of their legal rights, achieving outcomes that are contrary to housing legislation.
2. Letting agents fulfil a useful function in the Private Rented Sector allowing great participation in the market by landlords who otherwise would not be comfortable dealing directly with tenants or be sure of fulfilling their obligations.
 - 2.1 There is considerable competition in most cities between letting agents for clients (landlords) which ought to reduce in competitive charges for landlords who are able to shop around.
 - 2.2 Letting agents in my experience ensure the limited minimum legal standards are adhered to.
 - 2.3 Letting agents represent their clients (landlords) and do not represent the interests of tenants.
 - 2.4 My experience of renting is that landlords treat their tenants as customers, but letting agents think of tenants more as a nuisance.
 - 2.5 Letting agents act as a barrier between the landlord and tenant leading to mutual suspicion and mistrust. Often they fail to pass on information to the landlord, due to general incompetence. The relationship in my experience works best where a tenant can contact both the agent and landlord if required.
 - 2.6 Letting agents play a double game – to the tenant they will blame the landlord for being 'tight' and not authorising repairs but will also report back any minor issue e.g. untidiness to their client, the landlord. Often they will agree with a tenant that something has deteriorated beyond an acceptable standard but it will not be repaired.
 - 2.7 Letting agents are experienced in general housing matters and can particularly benefit first time tenants living away from home for the first time without having to involve the landlord.
 - 2.8 Letting agents are very slow at progressing new applications. Typically it can take 4 weeks through verbal agreement, fees, deposits, references and drawing up contracts even for a vacant property. This leads to unnecessary voids the cost of which is factored in to all tenancies.
 3. Private Sector rents are very high relative to salaries in the United Kingdom.
 - 3.1 This is a reflection on house prices, which are also very expensive relative to salaries.
 - 3.2 In my current postal code (SN1 4PW) locally 2 bedroom rented houses have a going rate of circa £575pcm, whilst similar properties are marketed at circa £120,000 - £130,000. Most other areas in South West England are more expensive even than this.
 - 3.3 This implies a gross yield of around 5.25% - 5.75% before voids and other costs.

3.4 Being a landlord involves a considerable amount of work which should be considered when looking at the gross yield. Landlords who outsource this work find that fact reflected in the charging structure of their agents.

3.5 ONS data indicates in this area the price of a 2 bedroom house is approximately 5 times the average UK gross median full time wage (£471/pw).

ONS Labour Market Survey September 2012 (Table EARN01)

3.6 Rent controls would tackle the symptoms and not the cause of high rents. They would also reduce the supply and quality of rented housing further.

4. House prices in the UK are high for a variety of reasons. These include an increase in smaller households, lack of house building, onerous planning controls and net migration. There are much tighter controls on house building than on migration.

4.1 Tax breaks available to landlords, but not available to First Time Buyers mean that Buy to Let landlords can outbid them, leading to low levels of home ownership amongst young people.

4.2 Section 106 levies make new homes needlessly expensive. New homes, despite being liable for Council Tax and Stamp duty have to pay for infrastructure, whereas homes in established areas have infrastructure built, maintained and renewed as required. New homes therefore subsidise general taxation.

4.3 Home builders engage in land price speculation, buying and selling plots, developing plots only where market conditions suit and not releasing large quantities of houses to the market at once, for fear of lowering prices.

4.4 The interests of home builders are to keep house prices high, the objective of government should be to reduce them.

4.5 Young people in the Private Rented sector who cannot afford to buy are driven towards Shared Ownership and other dubious schemes designed to subsidise new home builders and use complicated financial structures to encourage young people to buy homes they cannot afford. Many of schemes combine the worst elements of home ownership with tenancies.

5. Tenants are very unsure of their rights and their landlord's obligations. It is very difficult and expensive to challenge anything a landlord does in law as there are no defined regulations covering most aspects of renting. Tenants will usually go by what is in the tenancy agreement irrespective of law, if they can understand it.

5.1 The Housing Act stipulates 'Quiet Enjoyment' and 'Exclusive Occupation' without defining these. Most landlords and agents will insist on regular inspections. Whilst inspections are generally reasonable, these can be as frequent as monthly, or landlords and agents will try and carry them whilst the tenant is absent. Often notification will be given, rather than permission sought, leading to default unaccompanied inspections. I would argue that all of these excesses are unreasonable, yet are widely practised.

5.2 Repair obligations are equally ill defined. A landlord argued with me that having no hot water in the kitchen was not a problem as it worked elsewhere in the property. Tenants who pay for repairs and withhold rent can (eventually) be evicted and suing to recover such costs from a landlord is expensive and uncertain.

5.3 The OfT have produced guidance on unfair terms in tenancy agreements, but these are widely ignored. Even agreements in drawn up by large agencies contain many of the examples of 'unfair' terms. Letting agents argue the guidance is merely the OFT's opinion. Generally agreements are not in any way negotiable, either with landlords or agents, as neither really understand them. Often they will draft detailed clauses covering almost every imaginable eventuality e.g. no pets, no social gatherings etc... In reality it is very difficult to evict in the fixed term period (minimum 6 months) after which you do not need a reason to serve notice.

5.4 Even where law exists it is widely ignored. Often tenancy agreement will say it can be terminated with 1 months' notice, where the legal minimum for a AST contract is 2 months. One landlord served me notice of 28 days when he decided to convert the property to a holiday let to avoid HMO regulations then being introduced, and this was inside the initial 6 month period. We agreed that I would move to a better property at the same rent only after a lengthy disagreement about this and I threatened the involvement of the local council housing office.

5.5 Deposit protection is a good concept badly executed. If there are no claims landlords should not need to be charged to deposit their money into it. The law is very unclear on the sanctions against landlords not protecting deposits, with conflicting test case results where landlords have only protected deposits once challenged. Sanctions must be actionable and certain or there is no incentive for landlord compliance.

5.6 Deposit protection is also a complicated and expensive process for landlords to claim for genuine damage.

6. Tenancies are generally short and uncertain. The minimum 6 month period is the norm, reverting the 2 month 'rolling' periodic tenancies. This gives tenants absolutely no incentive to maintain or improve a property, in addition to landlords who generally do the absolute minimum. This tenure can cause huge disruption and cost for the tenant, especially since the majority of properties are let unfurnished.

6.1 Clauses often forbid tenants from making changes or improvements. Generally this is not unreasonable, especially with decoration, though permission should not unreasonably be refused.

6.2 Private Sector tenants are excluded from government energy efficiency schemes. Landlords who do not pay the utility bills have no incentive to improve the energy efficiency of their properties.

6.3 Tenants living in properties where pre-payment meters have been installed are at a particular disadvantage as the tariffs for these are much higher than for direct debit.

6.4 Letting agents charge tenants considerable fees. Typical set up fees are of the order £150-200 covering references and credit checking. The fees far exceed the cost of work

undertaken. Private landlords generally charge much lower or no fees, or refund monies if the checks are passed.

6.5 Letting agents charge both parties in the contract. They should be allowed to do this. They are the landlord's agent and not the tenant's agent. Housing is a distress purchase and similar to employment agencies neither landlords nor agents should be allowed to charge these upfront fees.

6.6 Credit checking and references are not portable between agencies so have to be done and paid for again at each tenancy, which might only last 6 months. These fees are unaffordable at times of financial stress (like moving house) and contribute to indebtedness of young people as well as necessitating the use of expensive credit facilities e.g. payday lenders.

6.7 Greater certainty for landlords over removing bad tenants could mitigate the effect of providing more certainty in the form of longer contracts. However landlords would probably not do this by choice and their agents would not advise them to.

6.8 Longer tenancies would encourage tenants to fulfil a more active role in improving their property, benefitting both landlords, tenants and local neighbourhoods.

7. Tenants are especially badly protected in the case of mortgage arrears. I viewed a shared house in Bath let through an established agent. Having paid the holding deposit and fees, I was invited to meet to other tenants at the property. They showed me a letter from Bath County Court dating to before my payment stating that court bailiffs would be entering the property at a date next week and that all tenants leave with their possessions before that date.

7.1 On challenging the agent, they admitted the mortgage lender was a receiver of rent (paid by themselves) but would not concede that they property had been repossessed, which in the legal sense it already had. They said the landlord had assured them it was a misunderstanding and there would be no eviction. A major row erupted where I pointed out it was not in the landlords power to force the eviction to be rescinded. In the end the agent refunded my fees rather than continue, but I only found out by chance because it was a HMO.

7.2 The agent in question was ARLA registered, but ARLA code of practice is geared almost exclusively to the client (landlord's) interests and not the tenant.

7.3 Despite requiring extensive references and credit checks against tenants, tenants themselves have no way of ensuring landlords are solvent, mortgages are not delinquent and that landlords have their lenders permission to rent out a property.

January 2013

Written submission from Julie Warren (PRS 003)

Regulation of letting agents, including agents' fees and charges;

I have read the issues you outline to be submitted to the proposed inquiry. Point four – the regulation of Letting Agents particularly interests me. I am a landlord and firmly and wholeheartedly agree that Letting Agents should be regulated. Landlords who use Letting Agents should feel confident that they are fully conversant with current legislation and are at least acting according to the Property Ombudsman's Guidelines. At the moment, at best they can choose membership to ARLA and are 'regulated' by them (and the Property Ombudsman) but neither of these organisations have any 'teeth' At worst, the current situation allows anyone to set themselves up as an agent. It puts everyone and everything at risk.

I have just sacked another Letting Agent for – amongst other things:

1. Not referencing tenants as described in his advertising
2. Charging unnecessary and unauthorised fees to tenants to renew contracts
3. Not passing on tenants emails and concerns
4. Not checking tradesmen's completed work resulting in payment of substandard work
5. Not supplying confirmation about the expertise and insurance of trades people
6. Not repaying money transferred back to the landlord from the DPS (effectively misappropriating it)
7. Keeping returned deposit money too long
8. Not keeping tenant information confidential
9. Not complying with tax laws in respect of my daughter who lives abroad.
10. Not passing on details of internal complaints procedures.

There were many other issues. This agent is ARLA registered.

I am very concerned about point 6 and would also wish to bring this to your attention

The Deposit Protection Scheme was being used by the sacked agent to correctly register tenant's deposits... When I sacked my agent, I agreed to take over the management of deposits of all my properties, including the ones in dispute (where I was claiming against the deposits of outgoing tenants for damage) This required the permission of the sacked agent which he refused to give to the DPS. They refused to allow the deposits in dispute to be transferred to me. .

The DPS state that whoever registered the deposit must follow the process in dispute through to conclusion once it had started. I explained that the agent had been sacked but it made no difference. They refused to deal with me.

I provided evidence of ownership of the properties and explained that the agent refused to do any further work for me as he had been sacked. They still refused to allow me to take over the process. I lost a deposit claim.

Eventually after several months and a letter from them to the agent asking for his permission to transfer deposits, they agreed that I should take over the process but they had already returned one deposit to the ex agent

This deposit belonged to my daughter. After I sacked him, the ex agent misappropriated this money and used it to pay for unauthorised fees, imposed after he had been sacked, on a different property portfolio not belonging to my daughter. He continues to refuse to return it. She is having to pursue a claim through the small claims court.

I voiced my concerns to the DPS regarding claims against other deposits. In the past the ex-agent had said that the DPS always found in favour of the tenant but in light of the non returned deposit, I asked them if I could have a list of all claims he had made against deposits on my properties. They refused, saying they could only speak to him – citing Data Protection. I pointed out that I had a concern regarding theft and if they refused to investigate or speak to me, I was unable to verify if any money had been wrongly claimed in my name and not passed to the tenant or myself. It is the perfect cover for a rogue landlord. I voiced concerns to them that even with this information they were not concerned enough to investigate. I sought help from Data Protection and they told me what to say to DPS regarding the Data Protection Laws and this particular issue – the DPS were not interested.

The DPS has no independent overseeing body and does not act in a manner which is transparent. They should be wholly accountable to the Landlords who are ultimately responsible for tenant money if they employ a Letting Agent. The practice of non communication robs the landlord of being able to investigate concerns while sheltering any dubious activity by a rogue agent.

The DPS, were not able to furnish me with their Policies and Procedures in these circumstances.

I have found it incredibly difficult to find anyone to help me. Trading Standards are not interested, my MP wrote just one line to me - and I quote – “Hello, the DPS scheme is useless I voted against it ! Robert syms MP” (Copied and pasted) Appalling. No one seems empowered to act...

My issue is not one of dealing with the above problem, it is merely to highlight the fact that a rogue letting agent can manipulate and steal if he so wishes. The DPS should also be externally regulated.

If Letting Agents were regulated, many of the above concerns may be avoided. I am a responsible Landlord and do my best for my tenants but I should not have to rely on an

agent's word or standards – they need to be clearly set down in Law. This particular ex-agent is ARLA registered but it is a voluntary code of practice. It shouldn't be. Tenants and Landlords should be protected. Letting Agent's should be properly regulated, properly qualified and/or trained and conversant with all current legislation. They should undergo regular inspections and training. They can't be relied on to do this voluntarily, No one else is allowed to trade with no regulation, so why are they? All other sectors have rules and codes of conduct – Letting Agents should be no exception

I am willing to submit evidence or supply more details if required. I feel passionate about this.

January 2013

Written submission from Steve Gracey (PRS 004)

Private Rental Sector

1. I understand that you are interested in submissions from interested parties covering the regulation of private rented housing. In particular I understand that you are interested in how local authorities discharge their homelessness duty by being able to place homeless households in private sector housing.
2. I am a professional landlord renting out 17 properties in the Aun area. I have done this for some 20 years. I have recently made a complaint to my council regarding their homelessness policy.
3. My local authority has an unofficial policy of encouraging tenants to stay beyond the section 21 date ending the tenancy. They advise them to stay in place until court action for eviction has been commenced and bailiffs instructed, otherwise the tenant will be deemed as intentionally homeless. This is I believe a fairly common malpractice used by some local authorities. It is specifically forbidden in Government guidance (8.32.b). It has been discussed by High Court, Parliament, Local Government Ombudsman and the Local Authorities concerned have always been found to be in the wrong. Shelter, NLA and others are concerned about this and in fact they have specific advice asking tenants to contact them if councils try to pursue this course of action.
4. This course of action serves little purpose as it costs the Landlord money in court costs and lost rent, damages the tenant's references preventing them using the PRS in the future, and alienates the PRS from taking HB tenants in future. Furthermore it merely delays the inevitable as the homeless person presents as homeless 2 months later and the council still have the same workload . It only creates a delay and doesn't solve the problem. It is also morally wrong to interfere with someone else's legally binding contract and to damage an often vulnerable persons future housing options by putting a black mark against their name.

January 2013

Written submission from Melissa Robertson (PRS 005)

I am thirty-three-years old and have lived in private rented accommodation almost my entire working life. Graduating in 2001 I worked in a series of low paid jobs before finally securing a job with a reasonable, albeit below average, salary. By the time I was ready to purchase a house, prices had spiralled out of my reach. I now have a husband and two-year-old son. It looks like we will be stuck in rented accommodation for the foreseeable future as prices are still too high, which is a separate enquiry entirely of course. Anyway, I would like to offer my views and experiences of the private rented sector.

Quality of Accommodation

I have lived in five different rental properties, of which only one was of an acceptable standard.

I lived in a poky studio flat (all I could afford) with inch gaps on the sash windows and no heating whatsoever. I ended up sticking plastic sheets over the windows to keep the heat from my portable fire in. My next place was bigger, but had old and poorly maintained windows which let the heat from the radiators beneath go straight outside. I have lived in a mouldy, rodent infested, caravan in the middle of a busy engineering yard, for which my husband and I paid £300 cash (no bills/council tax included) to the landlord who could not be bothered to fix things. Once, when the roof leaked my husband had to take the morning off work to help him do it else it would never be done. He laughed when my husband said we had rats and mice until they chewed through the electricity wires. Our current house is mouldy, cold, with a useless and hideously expensive heating system, so we are suffering again. It is hard work to get things sorted. I have given up asking now. As my husband has said – they're rich, they don't give a s*** about us.

So yes, the quality of rented housing, in my experience, is far from adequate. Properties should be licensed, fit for habitation, and subject to yearly inspections, with home buyers energy efficiency style reports. Many landlords/agents demand tenants be inspected, why shouldn't the house be inspected for the tenant's benefit? Poorly maintained homes with problems such as mould and infestation put tenants health/lives at risk. I know we could report them to environmental health, but I'd be too worried in case we ended up getting evicted for being a nuisance, and our landlord is actually nice to speak to, not at all the threatening type.

Rent Control

Rent control needs to be brought back. I know of lots of people in the rural area where I live who still live in rent controlled houses. We pay £500 per month for ours, where as someone on rent control living in a similar place would likely be paying under £300. If that is what a rent control officer deems fair then obviously we are paying way over the odds. £200 extra a month for us would make such a difference. I don't know how people in London manage.

As for benefits, I whole-heartedly agree with the caps, but I feel rent control should have come first. Yes, some will be able to move to cheaper areas, but rents have reached such ridiculous heights that I know of one friend who can't find anywhere around here to rent due to the caps. She has two young children, and their father has left them.

Regulation of Landlords

All Landlords should be licensed and regulated. This should hopefully be enough to put off the vast majority of would-be rogue Landlords. Shelter is a basic need along with food and water. Rogue and even plain incompetent landlords often make people physically unwell due to neglecting their duties to service gas installations, not treating mould, etc. and mental harm by unreasonable rent rises and threats. But the repercussions for operating illegally should be high as I suppose a lot of tenants would be too scared to report someone, and perhaps even afraid of losing their home, even if it is sub-standard.

Licensing should hopefully attract more long-term committed landlords. Part of the reason we have stayed in our current property, even with all the problems, is the fear of ending up with a rogue landlord, or one of these new-age buy-to-letters. Our Landlord at least leaves us alone, lets us have a child, a dog, and put pictures on the wall. They are old-school established Landlords and the house we rent is owned by them outright. I would not want to end up in a place where we had to tip-toe about like we were in a showroom, with inspections, no pets, no pictures, agency fees, and a landlord who would use us as an inflation buffer, or evict us after six months because they choose to sell up or can't afford to pay their mortgage, etc.

Regulation of letting agents

I cannot see the point of letting agents. What do they do apart from extract a substantial amount of money from tenant and landlord? Luckily I have only had to go through an agent once and the fees were ridiculous. There were credit referring fees, contract fees, and a check-out fee. I don't think they did anything for me other than tell me who had the keys (neighbour) and giving me the landlord's number for if I had a problem. I've heard of tenants being treated like dirt by letting agents. I did not experience this fortunately, but as a renter you do feel like a second-class citizen.

HMOs

I have little knowledge of HMOs, so would not be able to comment.

Tenancy Agreements

Tenancy agreements are too much in favour of the Landlord. A typical agreement has so many don'ts that it can severely restrict a person's freedom/lifestyle choices. As I said, we are lucky that we can have a child, dog, decorate, etc. Basically treat the place as our home, which

it is/should be. However, like most we are not allowed to run a business from home. With the growth in the private rented sector and the need for people to be more flexible and creative in terms of employment, clauses like this hamper peoples entrepreneurial aspirations, and ability to find other ways of supplementing their income, for example by becoming a child minder.

The six-month short hold tenancy agreement is dreadful. Although we've been here three years now there is always that fear we could be evicted through no fault of our own. Landlords don't have to give a reason once the six months is up. I know of people forced to uproot on a regular basis. A single mother from the village was forced to move out because the Landlord wanted to move one of their employees in. The same Landlord evicted their tenants so they could renovate the house and triple the rent, forcing the previous tenants to live in a caravan behind a friend's house. Moving house is such a stressful thing, especially with a family, and to do that regularly is expensive too.

Discharging Homeless Figures

I am not happy about Local Housing Authorities discharging their homeless figures by using the private rented sector. We need more council housing. That is what it was supposed to be for – people in need. We should not be selling off council housing, even on a 'right to buy'. I mean, I can't exercise a right to buy on our rented place using all the rent we've already paid as a discount can I? It's incredibly unfair, especially since many people who would have been eligible for council housing are stuck in unregulated sub-standard private accommodation. No right to buy for them – just high rents and lack of security. Council housing should be for the most needy like the homeless, those who may need lifetime assistance like the disabled, those unable to work due to caring for children/parents, etc. Those who can should be able to buy their own home on the open market or rent from the private sector. Of course this depends on more council housing, and houses that are truly affordable to buy and rent.

My experiences of the private rented sector have not been great. I so desperately want to buy as I want that long-term security, to be able to retire without having to pay rent to a private Landlord, to leave something for our son, etc. I will be very sad if I have to rent for the rest of my life, but if I do I would welcome changes to make the experience better for all. These changes are long, long, overdue.

January 2013

Written submission from Simon Beasley (PRS 006)

The more rules and regulations that are applied to the private rented sector, particularly HMOs, will cause more and more landlords to just walk away and stop providing this service because it will be too much hassle and too expensive to provide HMO housing.

For example a ridiculous rule such as putting a sink in every room which will only be used as a urinal and will cost a fortune to fit is a prime example of one of the many proposed regulations that will make landlords leave the HMO sector. As a result the shortfall in affordable housing will get much worse!

If there are not enough HMOs single people will be forced to rent a whole property and not share the bills. As a result low paid workers will not be able to afford to work because their wages are already not considered to be a living wage.

If it becomes unrealistic for landlords to provide HMOs because of excess rules and regulations you will get groups of people, particularly immigrants, creating their own HMOs and the whole sector will then become totally unregulated with groups of people legally sharing a small room in a private rented house let on a single contract.

Many people seem to think that landlords are making a fortune but I can assure you they are not in fact many have recently gone bankrupt. They risk their life's savings with fluctuating mortgage payments and non paying tenants. It is about time they are recognised for the vital service they provide instead of being treated like evil scum.

Rent arrears is basically theft but for some reason it is not seen that way, it is no different to shop lifting and it is about time the government realised this and stop making everything in the tenant's favour. Fining struggling landlords huge amounts of money for minor discrepancies in deposit paperwork is just totally unacceptable.

If our country is going to be competitive in the world we need affordable housing not endless, unrealistic rules and regulations.

January 2013

Written submission from the Wrekin Landlords Association (PRS 007)

PRIVATE RENTED SECTOR

I am the Chairman of a local Private Landlords Association and as such have a great insight into the issues that you are currently reviewing. We have constant feedback from our members and reports of the state of private rental in our area and the experiences that tenants in this sector are creating.

Firstly may I say that I am amazed that you are holding a review at this time as there is still much information available on this sector from the previous Rugg Review conducted only a couple of years ago which basically found that there was not a great deal of change required in this sector. Also, at a time when there is a state of flux in this sector with many planned changes hanging like the sword of Damocles over Private Landlords many of your findings will probably be irrelevant by the time your report is published and subsequent recommendations made. Most dramatic of these threats is the proposed Universal Credit which will change the face of payment of rent for benefit tenants beyond all recognition. Even the changes to the public rented sector will have a huge impact on the PRS too. It must be appreciated that there is a finite amount of properties of a specific size and likewise a finite number of families of specific given sizes. There is no given correlation between these two figures so someone somewhere ends up paying too much rent for the size of their family or becomes evicted. As benefit tenants have no choice in this matter it would appear that it will be working tenants who will fall victim to this awful situation. If you add to this the proposal that many Local Authorities are being forced to impose Council Tax penalties on private Landlords if their property becomes empty it is adding up to a recipe to drive the responsible Landlords out of the business altogether and their places to be taken by irresponsible operators who none of us want to see.

In our area the quality of the majority of Private Rented properties is excellent. There does exist the undesirable element, as you term rogue landlords, which have been gradually been forced out of the industry as more and more respectable operators have been offering superior quality housing to their tenants. This has been a natural process of service selection and would continue if decent Landlords were encouraged to make further investment rather than threatened and deterred from making their valuable contribution.

There also exists a natural level of rent control: At present some Local Authorities will pay Landlords direct if they set their rents below the LHA rate, this is an excellent system where everyone wins and is self perpetuating, no need for oppressive, expensive legislation just good common sense and listening to the needs of both parties. You refer to the interaction of housing benefit and rent, whilst the above is a perfect example of a symbiotic relationship this opportunity will soon be taken away from us when Universal Credits are introduced and there will be no local Housing Benefit Offices. So please do not waste time, money and resources in trying to include departments who will be non-existent in the near future.

An increase in regulation of landlords, will make the sector less attractive to the good Landlords and will allow for a proliferation of rogue landlords who openly flout the existing laws as they stand now so they are not likely to change with the introduction of even more legislation, it will just make it more difficult to enforce than at present. If you want to eliminate the undesirable element then enforce current legislation in accordance with HHSRS and assist local authorities who have the power but not the man power to find the guilty parties. Also, as outlined above, if you made it more favourable for GOOD landlords to flourish then this would eliminate the bad landlords by natural process.

Again with regard to the regulation of letting agents, there does already exist a proliferation of authoritative bodies who try to control these agents, however my experience has been that they will ultimately be self controlling by the service they offer and subsequently poor standard agents will become less successful whilst those offering good service will flourish.

The regulation of houses in multiple occupation (HMOs), is already quite sufficient as laid out the Housing Act of 2004 however, I feel that the local authorities are currently having difficulties in keeping abreast of this legislation as can be reflected in the low number of prosecutions in this sector. I would suggest there are very few areas where special licensing should be required and would probably not achieve much other than to drive out responsible Landlords leaving areas of total dereliction. The key to all these problems is to make an environment that encourages responsible landlords and makes it more difficult for the rogue operators to survive. In this way you have thousands of people working toward your goal for their own ends and none of them are being paid by the Government or the Taxpayer.

All the concerns about security of tenure etc will become self policing as most decent Landlords want a long uncomplicated tenancy, they don't want to be changing tenants every few months, they don't want voids and the necessity of redecorating after every Tenant, they want tenants to settle in to a community (much as the Government claims to want but are creating an environment that necessitates the breakup of communities).

You ask about local authorities and their duty to the homelessness. It is quite obvious that most local authorities are incapable of coping with the current number of homeless people however what concerns me more is the predicted number of homeless over the next three years due to all the above legislation it will be a catastrophe of unparalleled proportions unless something is done about it in time. When I say something must be done about it, that DOES NOT mean the introduction of yet more legislation it means less red tape and greater understanding of the only sector that offers any realistic solution to a growing problem.

If you think about it logically, a Landlord invests his money into a property in order to make return on that investment. He may make a small profit over and above his expenses when all is going well and he has no long voids, so he sets his rent at a level that is competitive in the local market place. To set it higher would mean that he will take much longer to find a tenant and therefore lose money. However, if he is forced to pay out more for licences and legislation, the process becomes more expensive he will find that he is not making a return

from his investment. He has TWO choices; either he puts up the rent that he charges the tenant without increasing the service he offers or he is forced to sell the property and cease his involvement in the rental market. The ultimate scenario to this situation would be that the property could be bought by an unscrupulous landlord who would make a profit from the rent as he would offer next to no service and would avoid the expenses that the previous owner takes as a given responsibility.

January 2013

Written submission from the Kirklees Private Landlords Association (PRS 008)

A representation 5 November 20 into the “Privately Rented Sector” re: Housing Benefit Anomalies for the consideration of the Investigations Committee

Rationale

The cornerstone of this coalition Government’s Social Housing Policy is built on the words of the Deputy Prime-Minister Nick Clegg MP, when addressing his party at their annual conference during September 2011, together with other Cabinet Ministers ‘reiterating’ their policies were designed **“to protect the vulnerable and the poor”**, with ‘FAIRNESS’ being at the heart of such Welfare Benefit changes when dealing with the General Public! Unfortunately, this now seems like more Governmental ‘rhetoric’ when referring to the housing plight of the Kirklees Private Landlords & Tenants that of late has become highly problematic; totally unjust; and most certainly unfair due to an “ill-devised” regulatory Housing Benefits (LHA) system introduced 1 April 2011.

Meaning this policy implementation will inevitably create further disharmony amongst our “tinder-box” Local communities and put the Private Landlord in direct conflict with the Tenant through no fault of their own! Indeed, according to “Shelter” (enc) this is already happening and thousands of these unfortunate people on Welfare Benefits are having to find money they do not have “in order to keep a roof over their heads” –by reducing the amount of food they eat, etc, etc, **-a scenario in this day and age that can only be determined as totally unacceptable!**

Introduction

For many years past, Landlords and Tenants have experienced mutually cohesive relations due to the intervention of “the rent service” -now the “Valuations Office Agency” (VOA) This has meant a service like their pamphlet intimates “Working together with other Professionals” thus giving an independent and impartial service to the UK.

However, since 1 April 2011 ‘new’ Government regulations have meant this service has changed their valuations criterion for “Local Housing Allowance” (LHA) purposes and their rental valuations can only be described as “no longer fit for purpose” This has occurred due to the adoption of the 30th ‘percentile’ calculation apparently forced upon them by central Government! And thus the system of ascertaining ‘a fair rent’ becomes totally into disrepute, the (VOA) no longer reflecting it’s ‘**Charter of Independence**’ given by previous Government’s! Hence ‘condemnation’ of the present system is widespread throughout the Landlord’s community, and relations between the (VOA) and the Kirklees Private Landlords Association (KPLA) are markedly deteriorating as a result.

Indeed, the current scheme discriminates against those seeking (LHA -formerly Housing Benefit) as quite clearly Private Landlords have no wish to see their rents effectively reduced under the present scheme, or have “the red tape” that surrounds such lettings. This at a time

when associated costs of renting properties, such as Insurances; property maintenance and other considerations have over recent years gone through the roof! “.

A CASE-STUDY –Private & Confidential

For reasons of anonymity, this paper will hide the name of the person involved in this TRUE LIFE ‘Case-Study’, and will no doubt be one of thousands within the County of Yorkshire, so let us call her “Mrs H” Nevertheless, the facts and figures are a true account of her past/present circumstances and accurately record matters (enc) Moreover, the facts are simple to evaluate and hence the effective “reduction” in Housing Benefits (LHA) is totally unacceptable and cannot be defended OR justified as “FAIR” Re-iterating, “Mrs H” is one of thousands classed as the “vulnerable and poor” who has brought up her child as a single parent WORKING 11 hours/week in order to preserve her personal dignity & economic survival, but unfortunately this individual’s ‘social progress’ is now at serious Governmental risk!

Background

“Mrs H” [***]¹⁶ is a Tenant of A & J Property Services Co, who like her predecessor took up residence in 2006 after a period of ‘homelessness’ through no fault of her own. This person was a divorcee with one child then aged 8/9 years, had relatively nothing but the clothes on her back, and only formed a home with the help of her nearby parents and of course the generosity of her Local Landlord!

Because Mrs H could not afford the £250 Bond required, “Kirklees Social Services” provided such monies and after character references, it was decided to grant her a six-month tenancy but only on a probationary basis! Moreover, because of the mental trauma experienced by Mrs H (the Tenant) she was pleased to live 200mtrs away from her parents home and needed the help & support both mentally and otherwise to overcome this most distressing period in her life! Hence it was decided by the Landlord the x2 bedroom rent of **£103.85p/wk** would be applicable noting this client is NOT under the (LHA) rules but the old “Housing Benefit” scheme that apparently will end 2012 with 9 months ‘notice’ given by Kirklees Council/the coalition Government of her reduction in Housing Benefit allowance.

Indeed, Mrs H contributes to the community by working at ‘Colne Valley High School’ (11hrs/wk) receives a payment from her ex-husband for her child; and still receives moral/physical support from her family nearby! Hence it would be totally unacceptable both morally or otherwise ‘TO EVICT’ this person again into a homeless society, given that she has been an excellent Tenant; re-integrated herself into the community; AND fully appreciates her son growing up in the excellent surroundings of the Colne Valley! Notwithstanding the current housing situation and that portrayed by the homeless group “Shelter” (enc) where another **£8.85p/wk** would then become payable by herself!

¹⁶ Address redacted.

Past Housing Rental Rates

The property in July 2002 attracted a rent under a former Housing Benefit tenant (Mrs C) of **£80/wk** --again with very similar family circumstances of one child –a divorcee.

The ‘new’ Broad Rental Market Area (BRMA) –‘Colne Valley’ (HD) Rates

Under these ill-devised and social divisive policies, “Mrs H” will have to find **AN EXTRA £8.85p/wk**. -after her 9 months grace! Hence the current valuation set by ‘the rent officer’ (VOA) would fall from the current **£103.85p/wk** (October 2011) to **£95** hereafter! Needless to say the Kirklees Private Landlords Association (KPLA) are “appalled” by the coalition Government’s actions in regulating downwards ‘fair and economical’ rents within the Colne Valley district of Kirklees without ANY meaningful consultation!

The Landlords dilemma

Therefore after 5/6years of social re-integration “Mrs H” now faces a significant ‘reduction’ in other household necessities i.e. food; electricity/gas etc. With A & J Property Services Co (IF THE RENT IS NOT MET) having no alternative but to EITHER Terminate Mrs H’s tenancy - after her 9 months (LHA) ‘grace’ OR re-rent to a ‘suitable’ private housing Tenant OR indeed sell the property! Meanwhile, where is the social accountability & compassion shown by a Government who seem “totally out of touch” with the real world and are increasingly seeing Public disquiet over their controversial policies? How on earth can Mrs H obtain a further **£8.85p/wk** in order to stay in her present home OR indeed any other (LHA) client? Therefore the situation is a no-win/no-win situation and the present (LHA) Government devised scheme is badly failing the British Public!

Indeed, this individual is already working the maximum she can under her present circumstances; bringing up a child on her own; and is now paying her own way in society - and what are the Government trying to do? **It seems to ensure Mrs H goes firmly back to square one!** Needless to say this Case-Study alone is totally un-acceptable to either the Landlord OR the Tenant and the “safeguards” preventing such have been ignored!

In reference to the (LHA) Housing Benefit ‘rent appeals’ in such cases as Mrs H, it appears from intimation that Kirklees Council currently administer such themselves and stick to the Government’s rules/guidelines; therefore an “Independent Housing Assessment” MUST be the only fair and decent way of quantifying this individuals case! Perhaps further matters for Governmental consideration and consultation into the “Universal Credit” scenario OR face possible legal intervention by thousands of claimants who may instigate yet another ‘Judicial Review’ by those who feel their human rights have been violated!

WHY the rent officers (VOA) valuations are fundamentally flawed within the present Local Housing Allowance (LHA) scheme.

Preamble

Since the formation of “the rent service” now the Valuation Office Agency (VOA) and working in association with Local Authorities and the Kirklees Private Landlords, the

emphasis has always been on fairness; co-operation; and conciliation being the cornerstone of this Government department's culture! The "Working Together" leaflet clearly states "the trust" factor and the working relationships that have occurred over many years when ensuring 'value for money' and the correct levels of remuneration being applicable to both the individual Tenant and the property Landlord! However, this former 'harmonious' relationship is now **IN DANGER OF TOTAL COLLAPSE**; with all Private Landlord 'trust' having evaporated when obtaining "a fair rent" for their properties due to the adoption of the (LHA) 30th 'percentile' from 1 April 2011, and of course the (BRMA) rental anomalies themselves! Therefore due to these errors, the Kirklees Private Landlords' Association (KPLA) require an immediate re-appraisal of the (VOA's) activities, as the adopted methodology is fundamentally flawed (outlined below) Hence "the formulae" does not represent a 'true and accurate' picture of current rental market values within Kirklees! Needless to say a copy of this paper has been forwarded to the (VOA) Liverpool Office and let us hope their Managers 'reiterate' to the appropriate Government Dept the comments made on behalf of the KPLA! At this juncture "we" wish to make clear that our information was obtained from a Senior Kirklees Policy Manager, in that Central Government was to blame for this upheaval and not the (VOA) itself!

Example of reduction in x 2 bedroom property with 'the Tenant' justifying the bedrooms -dependant on the number of children (normally 11+ years of age)

Kirklees Housing Benefit Rates (1 July 2008)

2 Bedroom Property Rate £103.85p/wk

3 Bedroom property Rate £114.20p/wk

Kirklees (LHA) under BRMA (1 July 2011)

Shared Accommodation Rate £55/wk

1 Bedroom Rate £76.15p/wk

2 Bedroom Rate £95/wk

3 Bedroom Rate £114.23p/wk

4 Bedroom rate £144.23p/wk **n.b. a reduction of £8.85p/wk -2 bedroom property.**

From the figures above (enc) it can be immediately seen "the rent officers" valuations have remained 'static' over a period of 4/5 years, which in it-self must be considered strange when considering Kirklees property prices have substantially increased! Notwithstanding the additional financial requirements of letting a property out, hence Kirklees Private Landlords now face the dilemma of a substantive 'decrease' in revenues and perhaps many will go out of business when the rewards of housing investment are no longer viable to continue!

Matters of concern -incorrect Local Property Valuations

1. How on earth can the Valuations Office Agency (VOA) "justify" the rents under the Broad Rental Market Assessment (BRMA) are the same throughout the postcode of HD?? (Huddersfield) This means that a 2/3 bedroom property in say the 'unattractive' districts of Deighton/Sheepbridge/Lowerhouses or Walepole of Crosland Moor attract EXACTLY the

same rental valuations as within the Colne Valley and the 'desirable' Villages of Honley/Holmfirth/Slaithwaite/Meltham/Outlane etc where many (LHA) clients have lived throughout their working life! In the past 'the rent officer' has worked out the Local Housing Allowance (LHA) OR valuations on an actual site visit OR the "Post-codes" for that area! Local Private Landlords consider this alone as 'misleading' and totally unfair when assessing what can only be determined as 'a fair' economical rent!

2. How can these "flawed" valuations be determined as both fair to the Landlord/Tenant? Thus, are we saying the valuations office (VOA) have got this seriously wrong due to the Governments/the (BRMA) criterion they are currently using? Indeed, how can a semi-detached property valuation in say the picturesque Village of 'Honley' be the EXACT same rent/valuation as one in Deighton? (Huddersfield East) Indeed, these would be 'fantasy' valuations as we are fully aware properties within the 'Colne Valley' Post-codes attract a far higher rental AND are up to 30% more to purchase on the open property market!

3. Kirklees Private Landlords over a 4/5 year period have already taken "a massive hit" with the introduction of the (LHA) alone; with properties formerly valued at a 50th 'percentile' (or mid-point) but we now see the (VOA) adopt the 30th 'percentile' which can no longer be sustained as economically viable! **Indeed, over the past 4 years (2008)**

'the rent-service' has kept the rates of a x2 bedroom property at roughly £103/week and x3 bedroom at £114, whilst maintenance costs; insurance costs; boiler/heating costs and the price of the houses have substantially increased!

4. A Senior Kirklees Council representative (Policy Officer) invited to a recent (KPLA) July 2011 meeting gave a further 'road-show' of the new Governmental housing policy and indicated it was hoped 'the Private Sector' would take up the need for further additional housing -to which one of the Landlords attending replied; *"And what exactly is the incentive to provide such for the community with the Government reducing the (LHA) Housing Benefits so savagely -at a time when you can't get blood out of a stone?"*

5. To the Kirklees Private Landlords Association (KPLA) knowledge, there has been NO consultations with 'us' over these matters neither on a Local/Regional/National basis OR these Government policies would never have seen the light of day! A two hour road-show given to the Kirklees "Accredited" Landlords Feb/March 2011 cannot be seen as true Landlord participation/consultation but ONLY 'a fait de comply'

6. Are the Government aware these policies will further alienate an already 'disillusioned' 2.7m un-employed workforce; increase dissatisfaction within Local communities; create a two-tier rental market; AND most certainly with further changes to benefits may lead to MAJOR Social unrest? But is this why "**Sheffield University**" have been given the task of investigating "the affect" on Local communities of the proposed Welfare Benefit changes? Indeed, how on earth can a single 'un-employed' person Aged 25 find a multiple occupation with a (LHA) rent of **£55/wk (enc)** And what have the Government now done? Increased

the age limit to Age 35 -that will further alienate this group of already disadvantaged -many un-employed people!

HENCE AN 'URGENT' GOVERNMENT REVIEW OF HOUSING POLICY AND U-TURN IS NOW REQUIRED -ESPECIALLY IN CONSIDERATION OF THE RECENT UK CITIES 'DISTASTEFUL' EVENTS OF JULY/AUGUST 2011

Conclusion –a fair and amicable outcome –changes to be made!

The coalition Government have indicated their Public 'austerity' measures and policies are deemed "fair to ALL" and DO NOT discriminate or disadvantage against the vulnerable and the poor! But quite clearly from the Case-Study (no doubt reflected by thousands of others) this statement 'does not hold water' and is simply not the case!

The nemesis of the system is the reduction from the 50th to 30th 'percentile' valuations applied after 1 April 2011 by the (VOA) coupled to rental valuations that do not reflect a 'true and accurate' LOCAL picture! Hence to restore Landlord confidence, these anomalies must be immediately changed to their "Post-coded" locations. Moreover, Post-codes are extensively used throughout the UK to determine such factors as House Insurance and other basic services; thus giving a TRUE and ACCURATE statistical analysis within the areas in which "we" currently reside!

Indeed, these 'draconian' and ill-devised housing policies have still not been extensively debated within the Private Landlord Associations, hence the social consequences will eventually become enormous! Indeed, the housing group "Shelter" has already raised serious concerns that the Private Rental Market is "Out of Control" but fails to define the exact reasons WHY (enc) **Whilst the antidotal evidence clearly shows the Kirklees Private Landlords (KPLA) have already endured a 4/5 year 'rents freeze' in relation to (LHA) Tenants, whilst associated costs have dramatically increased!** Therefore is it any wonder many Kirklees Private Landlords will no longer accept (LHA) clients (and hence "Shelters" growing concerns) whilst many UK Landlord's have now called it a day!

With regards the 9 month 'buffer' between the old and new (VOA) assessments becoming applicable to the (LHA) Tenants; this can only be determined as totally unfair and disadvantages (LHA) clients when seeking Private Landlord accommodation.

Hence this can only be classed as 'discrimination' in a "fair & just society" in the year 2011, when on average a Housing Benefits claimant (working or not) will have to find between 10-12% more in order to pay their current rent! Of course this will vary from area to area and the 'Case-Study' detailed is in respect of a x2 bedroom property in the area of Huddersfield but must relate to many other Tenants throughout the UK.

And now to re-iterate a point, when a Kirklees Council Policy spokesperson was invited to a (KPLA) meeting July 2011 who intimated; *"The Council are hoping that the extra Kirklees Private Housing need will be accommodated and met through your Landlords Association"*

unquote. On this remark many of the Private Landlords attending 'voiced their anger' to the policies intimated (enc) and then walked out of the meeting!

This led to a situation where the Officer concerned (clearly embarrassed by the protest) attempted to rescue the situation stating '**Sheffield University**' was to investigate "HOW" the Welfare changes would affect the Public, and a report-back to Kirklees Council would be made available.

Meanwhile the (VOA) has now been given further evidence of the (BRMA) in relation to the district of Kirklees and "we" as Private Landlords ask those Government un-informed individuals who have instigated this 'human carnage' onto the Housing Benefits (LHA) system to re-visit their policies before it is too late and matters throughout the UK get considerably worse! **Thereby the Government altering the 30th 'percentile' back immediately to the 50th would be a step in the right direction!**

Indeed the (VOA) themselves have now been given 'up-to-date' Market evidence of ALL the available housing within Kirklees and 'we' (the KPLA) hope the figures are now revised! **Meanwhile, their Officers intimate the valuations are influenced by the 30th 'percentile' due entirely to the Government's intervention!** The (KPLA) therefore have determined that the Rental valuations are fundamentally flawed for the reasons given, AND DO NOT REFLECT IN ANY WAY "Colne Valley's" Local housing reality. Hence let us hope the Government at this late hour see Yorkshire common sense and restore 'a level playing field' to this very important industry!

Therefore unless "change" is forthcoming, there may be thousands of Private (LHA) Tenants 'under the threat' of eviction & homelessness, with many of the 2.7m UK un-employed further disenchanted by the system! Meanwhile, perhaps those affected by the changes may resort to Legal intervention within the "Judicial Review" process?

But quite clearly there seems a "North/South" housing divide where in London and the home counties, hundreds of pounds/week are being paid to accommodate (LHA) clients, that has most certainly caused this Government intervention to the detriment of other areas where the Housing Benefits (LHA) system has always been relatively fair!

Finally, we enclose a copy of the "Communities & Local Government (CLG) Research" document where an item of interest identifies a matter of regulation stating "Provide a favourable regulatory environment -for Landlords and Tenants". Therefore how do the coalition Government call a **20% 'percentile' decrease** in the (VOA) Housing Benefit (LHA) formulae a step forward in the Landlord/Tenant Private Housing relationship by these nefarious changes to a system that directly affects the vulnerable and the poor?

Matters of contention revisited;

a) Government 'intervention' April 2011 in the setting of (LHA) rates from a 50th

“percentile” to a 30th via the (VOA) -that no longer seems an independent body!

- b) Rental valuations based on ‘Post-codes’ instead of the (BRMA) give a more ‘true and accurate’ rental-rate in the areas the property is situate.**
- c) An ‘independent’ scheme of (LHA) APPEAL, Local Authorities can no longer be classed as “impartial” due to their austerity commitments enforced by central Government.**

Thank you for your inquiry into ALL aspects of the Private Rental Market, which MUST include the current Housing Benefit anomalies.

January 2013

**Supplementary written submission from the Kirklees Private
Landlords Association (PRS 008a)**

Re; Submission by the Kirklees Private Landlords Association (Colne Valley Section) over the ‘unfair practices’ now employed by the Valuations Office Agency (VOA) which is no longer an ‘impartial and independent service’ as their former charter suggests.

1. Despite Local Kirklees/Colne Valley evidence of rental income given to the “Valuations Office Agency” this former **“INDEPENDENT” Service** (according to the letter from Welfare Minister in charge of reform “Lord Freud” -dated 17 November 2011) is still failing to expedite ‘true and accurate’ property valuations as requested by the Kirklees Private Landlords Association (KPLA) mainly because of the anomalies now experienced and the methodologies currently used by this Public Service.

Moreover, the former ‘rents service’ (now the VOA) having HELD the valuations of x2 bedroom properties at **£103.85p (within Kirklees -West Yorkshire since 2008/9)** have now substantially lowered the Local Housing Allowance (LHA) to **£95.00p** with seemingly a **£8.85p/wk decrease** across the board! And for a x 3 bedroom property previously at a (LHA) rate of **£121.15p now lowered to £114.23p a £6.92p/wk decrease!** This at a time when Private Landlord costs have risen sharply, triggering a nefarious situation that cannot be allowed to continue OR many Kirklees Property Landlords will go bankrupt as a direct result of these totally unfair Government policies that apparently for both the Landlord and the Tenant on Housing Benefits in 2012/2013 is going to get considerably worse!

2. The use of the Broad Rental Market Area (BRMA) valuations is seriously flawed when districts of Kirklees (West Yorkshire) like Sheepbridge; Deighton; Lower-houses; are given the same valuations as Honley; Holmfirth; Slaithwaite and the Colne/Holme Valleys. This in itself clearly ‘distorts’ the local housing picture and gives tremendous inconsistencies in true and accurate property valuations! Indeed, the system used before 1 April 2011 was formulated on a ‘Post-code’ basis, with for instance Insurance Companies and other businesses acquiring **TRUE** and **ACCURATE** assessments of the area by this extremely reliable methodology. Hence quite clearly the (BRMA) is ‘unfit for purpose’ when evaluating local rents and of course the (HB) remuneration required to live say within the Colne Valley in comparison to other Huddersfield locations!
3. The formulae for calculating Housing Benefit (LHA) is both unfair; inaccurate; and highly contentious to both Private Landlords and Tenants alike. Indeed, ‘The Chartered Institute of Housing’ in a recent Guardian article dated 1 January 2012 (enc) has defined the system of using the **30th percentile (from the former 50th)** as totally unfair on the poor; the sick; and the vulnerable, yet the coalition Government only recently gave assurances to the Public that **‘FAIRNESS’** would be at the heart of their Welfare reforms! Meanwhile, the evidence suggests that 800,000 homes may become inaccessible to

Housing Benefit clients and the (VOA) has been given every opportunity to account for their role in this National disgrace before the matter is finally referred to the Parliamentary Ombudsman should this become necessary.

4. Indeed, a letter dated 17 November 2011 from, "Lord Freud" (enc) makes a clear statement the (VOA) is an "INDEPENDENT" organization who set rents throughout all areas of the UK. Then WHY have the problems now surfaced (If the system used) to determine actual fair rents was not highly flawed due to Government intervention? Quite clearly UK Landlords are 'highly critical' of the methodology used to determine these so-called fair rents and no longer consider the (VOA) service "fit for purpose" with many Landlords no longer accepting (HB) clients in their properties thus adding to the UK's mounting housing shortage and increasing homelessness as depicted within the Guardian article (enc)

5. What mechanism have the (VOA) in place 'to review' these (HB) rents on an annual basis and in-line with economic inflation? It is totally unfair to continue infinitum a policy of "pegged" non-adjustable rents whilst costs are constantly rising for Private Landlord's throughout the UK, meanwhile Kirklees Council have just increased their rents within the Public sector! Whilst noting within Kirklees (West Yorkshire) the 2/3 bedroom rates of properties has not significantly increased since 2008/9! A fact that can be easily established (enc) whilst non (HB) clients have seen a marked increase in line with inflation etc etc. Indeed, the (KPLA) have been informed by Kirklees Council (HB) Senior Officers 19 March 2012 that the rates for (LHA) will be frozen April 2012 for a period of 12 months, thus increasing our Landlord anxieties even further!

In conclusion, from the antidotal evidence it appears 'Northern' (LHA) rents have been apparently "subsidizing" the somewhat extravagant rents charged by inner London Landlords and the Home Counties. Hence the new cap of £400/wk on (LHA) allowances has been introduced throughout the UK, as the first step to control these enormous increases in Housing Benefit subsidies! Whilst the area of Kirklees April 2011 has apparently suffered the largest drop in the (BRMA) x2 bedroom LHA allowance throughout the entire UK!

Finally, housing organizations such as "Crisis & Shelter" have already confirmed there are 'serious concerns' for the 800,000 families within the UK who will be affected by a Welfare system distributing (HB) awardments that are totally unfair to disadvantaged people who claim this allowance (see Guardian article enclosed dated 1 January 2012). Hence more and more UK Landlords are now ceasing renting to (LHA) Private Tenants, thus adding to the Countries Housing shortage! Indeed, many Private Landlords are actually selling up and calling in it a day -disgusted by the unfair Governmental restraints put on this Sector of the Private Housing Market.

January 2013

Written submission from Lorraine Barter (PRS 009)

My comments :

Regarding the aspect of houses in multiple occupation, the areas in which they predominate have become significant in the fact that daily or almost daily some kind of crime incident, burglary, drug dealing, anti-social behaviour linked to the use of the night time economy, damage to cars and gardens, illegal alcohol street drinking as clubbers make their way to venues and excessive noise from clubbers returning home all through the night.

An example of this disgrace is the Polygon area of Southampton, a 90 per cent student ghetto, from where the long term residents have been driven out over the past 20 years due to Solent student colonisation.

Despite the best efforts of community groups, the Council, police and the Solent University itself, even the Uni paying for an extra police person some nights, there are still some unsolved problems.

Some landlords try to curb such ASB, but many are unreachable and may not know of their house occupiers bad behaviour.

Despite the best efforts of all concerned the fact is that tenants are awarded too many rights, when they behave badly the landlords have no way of evicting them without lengthy and expensive court proceedings.

This proves impossible for controlling anti social noisy students who leave anyway before an eviction order can be issued.

The answer would be to have tenancies for three or six months, to be extended if the behaviour is acceptable to landlords and has not annoyed neighbours.

Below I add a few example months of my **yearly incident diary (dates on left) to show the scale of the problem in Polygon**

SEPTEMBER 2012

4 Bins kicked over in Harborough
5 Smashed window at HMO 76 Wilton Ave
Broken bottles in Coventry and Wilton
Wing mirror damaged in Milton
8 Same in Burton
Same in Wilton Ave
10 Vomit in Milton cutway
Human droppings nearby

18 Bottles in several roads
 19 Police in Harborough and Wilton in day
 Noisy last night in Kenilworth
 23 Three lots of shouting from Newcombe and police called at 04.00 re loud bangs and crashes
 24 12 bottles found in Wilton and Milton
 Bed base thrown around in Harborough
 25 Bottles in Morris and Coventry
 26 Shouting in Harborough during night, 3 bed bases thrown in road and motor bike knocked over
 28 Noisy last night in Kenilworth
 OCTOBER
 3 Daytime loud music from HMO 23 Harborough Road
 5 Shouting and night noise at HMO 44 Harborough
 Bins over in Sandhurst Road and Newcombe
 6 Daytime loud music and annoying behaviour at HMO 64 Devonshire
 Loud night music at HMO 67 Newcombe
 7 Bin over in Rockstone Place
 10 Police at HMO 26 Harborough at 21.20 I spoke to girls there about garden noise. They did quieten.
 11 Kept awake by girls and one shouting, lost her key 02.50 to 04.20 at HMO 73 Newcombe
 Car wing mirror cover off in Harborough
 13 Shouting and music at HMO 38 Harborough 04.15 to 06.15 and man from there urinating on pavement at 05.15
 14 Two burnt out green wheelie bins seen at HMOs 44 and 50 Wilton Ave
 15 Spoke to HMO landlord in Harborough re his students night noise nuisance.
 Awoken during night by visitors to HMO 73 Newcombe.
 16 Car mirror damaged in Wilton, gave owner of Posh Pads details of their students night noise nuisance in Newcombe.
 17 Smashed bottles Newcombe and in Wilton alley, 8 HMOs in Wilton have many uncollected black sacks, loose refuse in front gardens.
 Car mirror damaged in Harborough
 18 Same in Holt Road
 Night noise , shouting, chanting, drinking and kicking car by men on Carnage from student HMO 27 Harborough
 19 Smashed front window at HMO 66 Wilton Avenue (told it was burglary)
 20 Bottles around in Harborough, Newcombe and Wilton
 22 Damaged brick gatepost 70 Burlington, cat keyed by phone box, night time party in road
 The Polygon close down by Council and Police.
 24 Woken by drunken men shouting at 01.50, 15 minutes of noisy crowd returning to HMO
 27 approx 03.35, smashed bottle sin Newcombe and three other roads.
 27 Two smashed bottles in Wilton, spoke to HMO 40 Harborough twice about loud music
 Music from HMO 29 Harborough 20.30 for 12 hours, guests arriving/ leaving on foot and five taxis 03.35 - 05.15 on 28th

30 Smashed bottle in Fitzugh alley

31 Wing mirror damaged in Wilton, reported two messy HMO gardens there and another in Henstead Road, bin kicked over in Henstead last night.

NOVEMBER

1 Smashed bottle and new graffiti in Fitzhugh cut on back wall of 82 Milton Road

2 Egg thrown at sports car in Newcombe Road

3 Woken by men shouting and kicking over bin in Newcombe during night. Three burglaries in Milton Road this week

4 Car wing mirror broken off in Wilton

7 Middle of last night crowd shouting in Sandhurst and at Newcombe corner

Report of woman assaulted in Fitzhugh alley.

8 Man arrested at 05.30 for smashing two windows at shops in London Road near Crown Court.

Bottles rolling around in Wilton, Harborough, Kenilworth and Sandhurst

9

- Milton Road report : Noise from students in the street between 11 and midnight was horrendous, shouting and screaming along Milton and then a mass of them down Holt Rd. All wearing the same T shirts with what looked like black braces over on some of them. Was woken up at 3.15 by noise from back cut and saw a big crowd heading home up Milton Rd to the Dell.
- 10 Four bottles and one smashed in Wilton Ave
- With so many HMOs in rows, in some cases 40 -50 or more unbroken by family homes the Noise Nuisance service becomes useless as the the EHO officers cannot get near enough to the noise for it to be suitable for noise abatement.
- For instance 15 months noise suffered from an HMO, in other cases for periods of more than a year at HMOs and no guarantee of long term solution despite intervention of police and ASB Team.

I suppose that nothing will be done until someone gets injured or killed in a brawl over house noise, the Council and police tell me not to go out during the night and deal with noisy drunken or drugged HMO dwellers /students but no one is available for doing anything constructive to stop the noise at the time of the nuisance.

In 20 years of me doing this work, only 4 houses have NOT been student occupied, therefore students in HMOs are the main constant and ongoing nuisance .

In the last two weeks have had only 4 nights unbroken sleep due to student bad behaviour and night time loud music.

January 2013

Written submission from Stewart Morris (PRS 010)

One part of the private rented sector that should be tightened up is Houses in Multiple Occupation, the landlords need to be given more powers to control nuisance tenants.

Even if the local Council bring in compulsory HMO licensing that still does not give the landlords enough power to stop nuisance to neighbours without an expensive court order, by the time that is granted any student tenants have completed their year and gone of their own accord.

I live in Polygon Southampton, a 90 per cent student occupied area and over 20 years workers and the retired have moved away to avoid more student bad behaviour.

The excerpts from the diary below kept by the Residents Action spokesperson, show her attempts to contain the problem and in some way keep down anti-social behaviour. Council Noise Nuisance officers cannot get out to all houses to check loud noise and even if they do cannot issue Noise Abatement as the noisy households are few houses away from the complainants, only a personal visit from me or another resident can sometimes cut down on the noise at that time.

A few examples of how the system does **not** work are - during past four years - houses where noise been complained about for a **year** are 44 Harborough, 48 and 44 Devonshire Road, 80 Wilton Ave 18 months, 40 Harborough **2 years**, all houses in multiple Occupation.

We always complain to Council, Solent University, lettings agents and police but none of them were able to stop ongoing loud music and ASB at the mentioned houses.

Residents Action Crime/ASB /Noise Diary Polygon and Fitzhugh Area 2011 October to December

Oct 1 Just before 02.00 Two men with stolen roads signs, stop sign on post and square sign come from Henstead and enter Coventry Road on the east side.

04.00 Rushed out to see who was banging knocker and shouting toward Wilton Ave, loud music and shouting was coming from the upper front room at student HMO Harborough. Ambulance in road at 05.10

Report of car scratched with key in Coventry Road

Wing mirrors pulled off too numerous to report or type up in all Polygon streets for past 20 years.

Report of loud music from student HMO in Devonshire Road in evening.

Loud music from upper front of HMO Harborough Road until 23.30.
Oct 2 Loud music from upper front room at HMO Wilton Ave at 14.00

Oct 3rd St Moores agent promised to get obscene poster removed from front window of HMO in Kenilworth

Very loud radio type sound from HMO Wilton Ave at 16.35

Police helicopter flying over Polygon /City most of afternoon.

Oct 5 Milton Road resident awoken by drunken girl student shouting at 02.40

Police called to HMO in Harborough Road at 04.45 as man tried to climb up front to open upper window.

Noisy party until 03.00 at HMO in Cromwell Road.

Daily Echo had news of night sexual assaults on girls in Bedford Place area on on Sept 21st in Vernon Walk at 00.20 and Sept 28th in Carlton Crescent.

Echo report of attack on man returning home from night club, he was punched several times and his mobile phone stolen in Newcombe Road.

Oct 6 Loud music after midnight from HMO in Harborough Road, also during night bins kicked over.

Car wing mirror damaged, belongs to long term resident in Milton Road..

Oct 7th /8th Bike stolen from family home in Devonshire Road

Oct 8 Last night loud music from two HMOs in Milton Road, long term residents went out to deal with it

Oct 9 03.30 fight and disturbance in Wilton/Harborough when noisy crowd including students had one of their group punched by a man.

Also two church advertising boards had plastic glass stolen in Devonshire Road.

Oct 11 Report of all night music last week at HMO in Sandhurst Road.

Very loud music from HMO in Cromwell Road until 23.00

Men visiting HMO in Harborough kicked over bins.

Oct 12 02.00 Road sign thrown out of top window in Harborough Road , 02.30 went to HMO in Newcombe about music, shouting crowd of visitors to two HMOs in Harborough just after, at 03.30 awoken by men shouting in Harborough

02.30 Drunken girl alone in Cromwell Road woke up residents with noisy phone call. Solent Uni , PCSOs and police delivered booklets about students being good quiet neighbours in Polygon early evening.

Had to go to HMO about loud music from upper front room in Harborough at 22.40

Oct 13 At 00.10 and 02.10 had to go to another Harborough HMO about loud music from front of house.

Police van visit in Kenilworth and police car in Harborough during the day.

At 13.00 went to different HMO about loud music in Harborough.

All house noise is from Solent students except in Wilton Ave house.

Four visits in evening to Harborough HMO about loud music, they went out at 10.15, crowd came back 03.45 and I asked them to not play any more music.

Before this at 22.45 I went to HMO opposite in Harborough about loud music, they was a disco deck and disc jockey in the kitchen. They shut the door and kept it as quiet as they could, guests left about 4.30 and quiet but audible music finished at 05.15 on Oct 14th

Oct 14 Rude word written on car and wing mirror damaged in Devonshire road, also front gate kicked in.

All night loud music from HMO in Milton Road.

Oct 15 I had to go to two HMOs in Harborough as residents were talking and drinking in their front gardens at 02.30, I then went on to HMO in Newcombe Road where men in back garden had woken me up, I spoke to the men there, on way back at 03.05 front of house drinkers still there so I told them to go in and they did.

A drunken man came from Wilton Ave, was staggering all over the road, I got to opposite my home and found a man and woman with pants and trousers down fornicating on the front wall of an HMO, being filmed by a mobile phone held by someone hidden behind a car.

The couple swore at me and shouted, very angry, they were joined by the drunken man and they all banged on the door of the HMO, more swearing at me, the resident there told them to go away, then they tried to get in HMO next door but girls there said they did not know them. The swearing couple then walked away towards Wilton Ave.

At 02.30 in Henstead Road two girls were fighting and fell down drunk outside pensioners flats Thorners Court, they were still there at 06.30 this morning.

Three night time fights among drunken girls in that road this week.

Daily Echo Saturday Review had two page article on Carnage and students, report of party in Harborough Road.

Oct 16 Police visit and man arrested at HMO all night party in Harborough Road.

Report of complaints about loud music from HMOs in Coventry Road.

Sunday morning- Milton Road resident came across students with bare bums doing photographic protect outside school. He remonstrated and they were abusive to him, then one walked all the way to the Bedford Place Co-op with his bare bum exposed.

Oct 19 During night brick wall damaged at 87 Milton and report of same at 35 Devonshire Road.

Car wing mirror cover kicked off in Harborough.

Oct 22 At 03.10 16 bins kicked over in Harborough Road.

During night men arrested for breaking into car in Devonshire Road.

Oct 23 Wing mirror damaged at Harborough /Wilton corner and wiper pulled off in Coventry, at Wilton end.

Oct 24 Bins over during night in Kenilworth and Harborough.

Oct 25 Went to Harborough HMO about loud music, noise maker argued that was only 21.00 and I had no right to complain, said they could play loudly any time they like (but the music went off)

Noisy after 02.00 in Kenilworth

Oct 26 Woken during night by man shouting . Bins over in Kenilworth .

Oct 30 At 02.20, 03.20 and 04.30 had to go to HMO Harborough about party music from disco deck in the kitchen.

Nov 1 Two agents signs uprooted and thrown on pavement in Wilton Ave.

Nov 2 Awoken by two fireworks from garden in Newcombe Road at 03.10

Nov 5 01.00 Three police cars attend Carnage fracas at outside Revolution Bedford Place, young man arrested for attack on two men, one needed six stitches, the other seven stitches

Noticed that front door at HMO 16 Kenilworth was boarded up after damage.

Nov 7 01.00 Man attacked for phone and kicked in the face in Carlton Road.

Nov 12 Seven bins kicked over in Harborough Road at 03.45.

Three agents signs pulled out of gardens.

Man seen repairing smashed window at Baptist Church, on Kenilworth Road side.

Nov 13 01.30 Students returned to HMO Kenilworth, played loud music and shouted/ banged on wall of 17 causing distress to the occupiers there.

Several bottles rolling around and some smashed outside 51 Wilton Ave.

Report of mirror smashed in road in Fitzhugh area.

Nov 15 Two policemen visit HMO in Wilton Ave at 10.0

Nov 16 Report of burglary in Harborough Road

Shopping trolley rammed into back of car in Milton Road

Nov 18 Loud music from HMO in Sandhurst Road at 17.00

Nov 19 Went to HMO in Harborough about loud rock music at 01.00

22.30 In Milton Road by closed down pub, drunken girl lay in road with her legs in the air, another girl stood by holding bottle of beer, young man took down trousers and put his bum into the face of the girl on the road.

Nov 20 Noisy arrival of group at 02.45 and an hour of audible music at HMO Harborough Road Later woken by man passing along road shouting and kicking bin.

Nov 21/22

Wheelie bin set on fire in Wilton Ave between Harborough and Newcombe.

Very loud night time music started at 22.30 and party at HMO in Kenilworth Road.

Loud afternoon music from HMO in Sandhurst Road.

Report on pavement barriers thrown all over the road in Newcombe.

Nov 23 Police came to HMO Harborough approx 03.00 after group of men gone round back / one had tried to open front door with a strip of plastic taken from front garden at 29.

Nov 27 01.10 Very loud music from HMO Harborough Road, at 03.15 crowd came to house shouting and banging to get in. All outside making noise for over five minutes.

Nov 28 Report that two cars had smashed windows in Wilton Ave, outside houses 23 and 47, photos taken .

Dec 7 03.30 Loads of bins knocked over in Milton Road and some in Wilton Ave.

Dec 10 Car windscreen wiper off in Wilton Ave

Dec 11 03.30 Bins over in Harborough and Kenilworth last night, also a lot of noise by people shouting around end houses in Kenilworth at 01.00 and later shouting in Harborough

Dec13 Garage in Fitzhugh broken into early afternoon

Dec 14 Bins over in Kenilworth and Harborough

Noise in Harborough approx 03.00 by residents and visitors at HMO

Dec 22 Crime scene taped off outside 2 HMOs in Devonshire Road.

Two men had jumped on girl as she entered and sprayed her face, then ran off. There had been a burglary at same house the week before.

Dec 23 Settee taken from garden and dumped on pavement in Wilton Ave, also bins over and signs pulled out of gardens in Newcombe. Road

Dec 30 Awoken by loud music from HMO in Harborough Road at 00.40 and kept awake for an hour.

Bin kicked over at junction of Kenilworth and Harborough.

Dec 31 Men from HMO Harborough threw fireworks at car outside our gate.

January 2013

Written submission from David Evans (PRS 011)

Further to the review into the private rented sector, I have been a private landlord for more than two decades and there is a simple point I would like to put forward – in the words of Mrs Thatcher, you cannot buck the market.

Put another way, if new rent controls are introduced along with tighter legislation and red tape on such matters as quality of housing, then landlords will need to factor the cost into the rents. But if new legislation prevents them from doing so, they – like me – will probably sell their portfolios.

Landlords are not a charity; they operate for profit. If there is no profit they will invariably pull out of the market. Result? A greater burden on existing social housing.

Incidentally, Shelter *et al* are invariably keen to impose new controls on landlords but they seem less keen to insist social landlords are compelled to adhere to the same standards. There are probably hundreds of below-par council and housing association properties but tenants there have to grin and bear it. Private tenants can always choose a better property, market conditions permitting.

January 2013

Written evidence submitted by Finders Keepers (PRS 012)

Thank you for giving us the opportunity to contribute to the debate. For context Finders Keepers is a family-run letting agent with 8 offices in Oxfordshire. Our views are below.

The PRS is at a real inflection point – we hope you can bring real common sense to bear on a situation that is being inflamed by too much emotion and too little analysis of the real state of affairs.

- *The quality of private rented housing, and steps that can be taken to ensure that all housing in the sector is of an acceptable standard;*
 1. First we have to define ‘acceptable’ and there is no nationally understood definition today
 2. However ARLA’s code of conduct is a great start¹⁷...
 3. ...and we agree with the Mayor of London’s recent draft London Rental Standard¹⁸
 1. It includes 12 points which agents and landlords should follow
 2. Most good agents are doing all 12 items today – we are
 4. However we do *not* need more legislation – we have more than enough laws to tackle ‘unacceptable’ housing
 1. As with ‘rogue landlords’ below, the problem is not the lack of legislation but the lack of resources to police and tackle those offending
 2. More legislation will not magically create more resources
 5. Government resources should focus on a) licensing agents, b) increasing the supply of housing, not adding even more legislation about environmental and property management issues
- *Levels of rent within the private rented sector – including the possibility of rent control and the interaction between housing benefit and rents;*
 1. Be wary of the hype about ‘dramatically increased rents’.
 1. The average rent for 2750 managed properties across Oxfordshire rose 3.4%¹⁹ in 2012 vs 2011 while RPI inflation in November 2012 was 3.1%. So rents are going up just above inflation
 2. Indeed another index has rents in 2012 still 2.4% below the heights of 2007²⁰

¹⁷ http://www.arla.co.uk/media/48670/TPOS_Code_of_practice.pdf#search=

¹⁸ Download the Mayor’s Housing Covenant at <http://www.london.gov.uk/housingcovenant>

¹⁹ Internal Finders Keepers data

²⁰ http://www.lettingagenttoday.co.uk/news_features/True-picture-of-rent-movements-defies-hype-says-Belvoir

3. Rents go up and down. In the winter of 2008/9 many rents fell as the supply of property increased dramatically.
 4. Today the PRS is defined by two contradictory forces: an increase in demand from younger tenants but a struggling economy where people have low confidence
 5. So in our region (Oxfordshire) the low confidence acts as a brake on rental increases. Given that most forecasts for the economy are long-term mediocre, we do not see high rental growth for the next 5 years.
2. Do not allow problems in London to pollute the argument about the PRS across the whole of the UK. In fact the latest report has rents falling in London²¹ by 2.3% in the last 3 months of 2012
 3. Moves to cap rents would be a *disaster*:
 1. It would stop investment in the rental sector. Boris Johnson has got this one correct:

“It is clear that top-down regulation, including rent controls, will only serve to deter investors at a time when more, not less, investment is needed²²”
 2. It would result in landlords selling their properties – reducing PRS supply at a time when we need more not less rental property.
 4. Moves to cap rents would destroy the Montague Review’s recommendations and attempts to grow investment from the City and financial institutions in ‘build-to-rent’ development
 5. The investment case for rental property is South East and London biased. We argue that the PRS needs help to boost investment, not stop it, and capping rents would be a negative
 1. The property analysis firm Hometrack believe that rental property as an investment is ‘inactive’ in 71% of the country²³
 6. Over half the rental stock in the UK is held by landlords with 5 properties or fewer, so in fact the stereotype of a landlord is someone for whom their property investments are a subsidiary income, not their main income, more often than not a hedge against declining pension types.
- *Regulation of landlords, and steps that can be taken to deal with rogue landlords;*
 1. We do not believe in regulating landlords.
 1. It cannot be policed.

²¹ http://www.lettingagenttoday.co.uk/news_features/Rents-drop-but-buy-to-let-investors-still-head-for-London

²² From the Mayor’s Housing Covenant, download it at <http://www.london.gov.uk/housingcovenant>

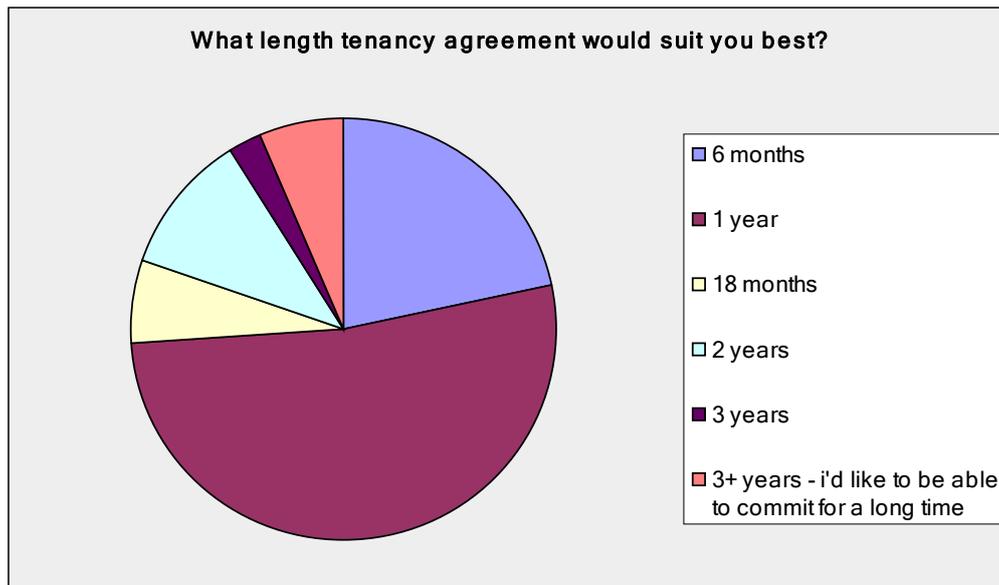
²³ Hometrack 13/12/12

2. It would be preaching to the converted.
 3. It will deter new landlords coming into the market and we need more stock
2. Rogue landlords can be dealt with today by plenty of legislation, eg:
 1. Fraud – plenty of common law
 2. Environmental health – HHSRS, Housing Act 2004
 3. Unfair eviction – Protection from Eviction Act 1977; Housing Act 1988 / 1996 / 2004
 4. Gas issues – Gas Safety (Installation and Use) Regulations 1998
 5. Various HMO regulations
 6. And so on
 3. The real issue with rogue landlords is the resources to catch offenders, not the legislation
 1. Any ‘rogue’ landlord in breach of the law will ignore compulsory regulation
 2. So the solution needs to be to increase resources rather than legislation
- *Regulation of letting agents, including agents’ fees and charges;*
 1. We agree with licensing of agents, to check that sufficient training and expertise has taken place. It should be self-funding and based on a mixture of ARLA’s Code of Conduct and The Mayor of London’s new 12 point London Rental Standard
 1. Note that ARLA already “polices” its member agents by inspecting the processes by which they handle client funds. This is good for the tenant, landlord and agent.
 2. Under new licensing we believe that the NFoPP Technical Award in Residential Letting and Management²⁴ should be compulsory by law for any practitioner with more than 18 months experience
 1. If we make the industry more like chartered surveying or the legal profession, then standards will rise. It is that simple (and that complicated)
 3. Using a licensed agent could then be a proxy for landlords to be regulated
 4. Agent fees should not be regulated – fees are falling as there is an oversupply of agents
 5. The beauty of an over-supplied market (for the consumer, not the agent!) is that he/she can walk away from any agent who is charging more than the value perceived

²⁴ The syllabus is at <https://www.nfopp-awardingbody.co.uk/media/81122/New%20Syllabus.pdf>

6. We agree that any fees to tenants should be transparent upfront
 7. However, legislating to reduce fees to tenants will lead to lower standards
 1. There is a lack of understanding of the complexity of tenant referencing, something which is becoming more difficult paradoxically with the introduction of 3rd party credit referencing.
 2. Many people have 'bad credit' and so extra work is needed by the agent to manage and negotiate the prospective tenancy where the new tenant has a CCJ or a poor credit rating
 3. An increasing number of applicants need guarantors which takes more time (and therefore cost) to administer
 8. Application fees are a grudge purchase, but that does not make them wrong
 1. Whether appreciated or not, the application process is a service provided
 2. You cannot have well-referenced tenants with thorough background checks and a robust tenancy agreement for no money
 9. There is a hypocrisy in wanting a safer, more ethical PRS but also fighting to lower agent fees
 1. If you lower the application fees then corners will be cut and standards will fall, not rise – beware the unintended consequence
 10. And so the issue comes back to transparency
- *The regulation of houses in multiple occupation (HMOs), including the operation of discretionary licensing schemes imposed by a local authority for a category of HMO in its area;*
 1. We disagree with limiting the number of HMOs in a street, as Oxford City Council has done by using Article 4 Direction planning powers to refuse HMO license applications in East Oxford and setting a 20% cap for each 200m stretch of road in other areas.
 2. Already we are seeing a shortage of property for “sharers” which does not just mean students: 3 trainee nurses are ‘sharers’
 1. So ‘sharers’ face higher rents and fewer rental options – is this what the HMO legislation wanted to happen?
 3. We recommend:
 1. Article 4 Direction powers should only be able to apply to dwellings of 5+ occupants.
 - *Tenancy agreements and length and security of tenure; and*

1. There is a lot of tenancy legislation (Housing Act 1988 / 1996 / 2004) and it works well. The PRS is a fluid market. Its flexibility is the key to its success.
2. Long tenancies are easy to administer under current legislation. Today, an Assured Shorthold Tenancy can be signed as a deed and go beyond 3 years
3. Our survey of 600 tenants across Oxfordshire during September 2012 showed that **only 6%** want tenancies over 3 years. *The demand is not there for long tenancies:*



4. Tenants have more protection if their tenancies do not run periodic
 1. If a tenancy runs periodic then landlords can give 2 months notice
 2. So one idea would be to give tenants legal rights for their tenancies not to run periodic. Then they have security of tenure for the duration of the tenancy agreement
5. Giving unequal power to the tenant would be a *disaster* (eg in Germany the tenant has tenure almost indefinitely):
 1. It would destroy the parity upon which the current system is based
 2. It would deter landlords from being landlords
 3. It would reduce the available rental stock
 4. It would create reservoirs of ill-will from landlord to tenant – it can be hard enough today persuading landlords to invest and maintain their properties sufficiently.

Jan 2013

Written submission from Lucking Estates Ltd (PRS 013)

For the consideration of the PRS review Committee

Submitted by Terry Lucking. MD of Lucking Estates Ltd. The leading franchise owner of Belvoir Lettings. BFA Franchisee of the year 2007.

Key facts about Terry Lucking:

- 13 years trading in the PRS as an agent in Peterborough and Cambridge
- Managing just over 1000 properties and finding tenants for 400 landlords
- Has 17 staff all Guild of Lettings and Management or ARLA trained and qualified
- ARLA Licensed offices
- Members of Safe Agent, NALS and The Property Ombudsman
- Terry Lucking
 - Sits on various council housing steering groups representing the PRS (most recently housing strategy 2011-2014 – next expected to be consultation over selective licensing and article 4 directions)
 - Manages accreditation of landlords and property for University Centre Peterborough
 - Chair of the Peterborough National Landlord Association branch

Q1: quality of private rented housing, and steps that can be taken to ensure that all housing in the sector is of an acceptable standard;

A: voluntary accreditation membership schemes run by local councils and membership bodies looks to be honourable but futile. It does not deal with the landlords and agents who cause the issues. In my opinion there is already sufficient statutory legislation in place. What is needed is more EHO's on the street and maybe a mandatory licence for all rental properties. Perhaps a scheme whereby agents can undergo training and qualification to licence landlords properties and private self managed landlords pay their local council for licensing on a 5 yearly basis and make it clear to all renters that they should demand to see the licence and check it against a national government controlled register.

After all we pay for MOT's for car – why not for property?

Q2: levels of rent within the private rented sector – including the possibility of rent control and the interaction between housing benefit and rents;

A: A formal process that allows tenants to challenge the rent exists. The greatest amount of rent exploiting in the areas I trade goes hand in hand with unlawful letting. Letting to those who have bad credit ratings; those who shouldn't be in the UK or those being exploited by gang masters and other variations of. I do not see an easy fix to this issue as the renters are as much of an issue as are the landlords.

Q3: regulation of landlords, and steps that can be taken to deal with rogue landlords;

A: answer as Q1. Voluntary accreditation membership schemes run by local councils and membership bodies looks to be honourable but futile. It does not deal with the landlords and agents who cause the issues. In my opinion there is already sufficient statutory legislation in place. What is needed is more EHO's on the street and maybe a mandatory licence for all rental properties. Perhaps a scheme whereby agents can undergo training and qualification to licence landlords properties and private self managed landlords pay their local council for licensing on a 5 yearly basis and make it clear to all renters that they should demand to see the licence and check it against a national government controlled register. We should consider having automatic fines in place for specific breaches in the same way as we have for parking and speeding offences. Keep a national log of anyone with property offences and prevent the transfer of property until the penalty has passed/spent.

Q4: the regulation of houses in multiple occupation (HMOs), including the operation of discretionary licensing schemes imposed by a local authority for a category of HMO in its area;

A: as manager of many HMO's (over 100 properties) including small shared single tenancy and large multi room let tenancies with 24 rooms I believe I can talk having good experience with 2 councils; Peterborough and Cambs City. I feel the current legislation is operating well in particular with local councils being able to review their needs and act accordingly. I am working with officers in Peterborough (PCC) with regards to selective licensing. PCC accepted a proposal I made for accreditation of landlords to help with implementation of selective licensing should the decision be made to implement it. Based on my experience this is an area that should be left unchanged for the medium term to allow the various schemes to take effect.

Q5: tenancy agreements and length and security of tenure;

A: landlords are already able to provide longer agreements if requested. Most of the employed applications we receive for AST want tenancies ranging between 6 to 12 months. Many of the applications we receive from tenants in receipt of LHA would prefer longer term tenancies. We would advise landlords against offering longer term tenancies to anyone in receipt of LHA owing to the length of time it takes to gain vacant possession. Government needs a rethink over its decision to pay LHA direct to the claimant if it wants to motivate responsible private landlords into the LHA market place. The legal process for eviction for rent arrears and serious social issues should be shortened.

Q6: how local authorities are discharging their homelessness duty by being able to place homeless households in private sector housing.

A: having spent time with a homelessness officer from Peterborough CC earlier today trying to gain an understanding how the changes in the Welfare Reform Act is going to effect how PCC deal with the matter. To be honest my concerns that relate to payment of rent under the current LHA and future Universal Credit plus support dealing with challenging tenants have been dealt with. Clearly credit unions will become an important tool for landlords and agents to help ensure the tenants rent is paid on time.

Summary

I hope this report is useful and contributes to the review. I would be pleased to contribute further should the opportunity arise.

January 2013

Written submission from Mrs Judy Evans (PRS 014)

I am a private landlord so I feel I must write to you about the inquiry you are going to conduct.

As I understand it about 80% of landlords are using their rented property to give an income in retirement and I am one of those. As a landlord who welcomes good practice and complies with all the regulations set for landlords, I must express how alarmed I am at the possibility of increased regulations, legislations, costs and rent capping.

I understand that rogue landlords must be dealt with, but I believe that more landlords today are honest and willing to comply with the laws than not, so extreme regulation will only harm those trying to do the right thing, as the rogues will still probably find ways to flaunt the law. Especially as the traditional landlord has changed, with more people investing in a property to ensure they have an income in old age and those who are unable to sell their properties, renting them out.

Landlords who are complying, already have a difficult time, as the law always seems to favour the tenant, even when they are defaulting. At the moment, landlord costs, income taxes (and capital gains tax) eat away a large proportion of any rent. Recent introduction of deposit protection means additional costs each tenancy period to pay for the scheme and for inventory clerks when tenants move in and out (to ensure should there be a dispute that the scheme will deal fairly with the landlord). That's at least £230 more in costs for just dealing with the deposit. If there was to be further licensing, to which councils will no doubt add a stiff fee for the licence and rent capping, plus additional standards to be complied with, then most small landlords would not be able to make a reasonable enough return on their investment and it would then not be worth remaining in this type of business.

At the moment, as with any commodity you purchase, supply and demand governs the cost of the product and with not enough housing to go round, this can make rents quite high. If rent capping happens, then this would not be a 'free market' economy for that business sector and would not take into account the costs incurred by landlords who are trying to make a living themselves. The government does not cap the cost of goods and services in other industries, so why should they with private housing. Would this form of rent-capping even be lawful?

Instead, whoever is in power, should look at the bigger picture and rethink social housing. The private rental market is not the local council's easy way to deal with social housing and should not be considered as such. Councils should be building more social housing, not selling it off. Also reviewing how tenants can transfer their tenancy to other family members, or stay in three bed houses when they only need one bed. That should be tackled and changed to help those on the housing register that actually need the homes gain the right level of housing, without it being blocked by those who don't.

Although most landlords welcome social housing tenants they are worried about tenants not paying and causing damage. They wouldn't be if this were not a known fact, it does happen a lot and landlords pick up most of the bills for this as it is rarely covered by the deposit. If a landlord who is trying to make a living can't, because the tenant is not paying or causing large amounts of damage, then how is that fair either, maybe there should be more laws to protect landlords from rogue tenants.

If rents were paid direct to the landlord by the council and the council was responsible for paying damages on behalf of their tenants, just as they do when they let a council property to someone, then that would be fairer and encourage trust. If councils force private landlords to house council tenants through legislation, then they should at least be responsible for the consequences of non-payment and damage. The landlord would know that he will at least get paid and the damage would be taken care of financially.

I believe the tenancy agreements and length and security of tenure is also on the agenda. Please do consider the landlords as well as the tenant when making changes in the law. Landlords want tenants in their properties, but also want to protect their property from tenants gaining rights over it, other than those they have negotiated and paid for during the agreed tenancy, and that's how it should be.

The landlord isn't a villain to be punished by the Government for being in business. More levels of regulation and additional costs will in actual fact push rents up, as landlords pass the costs on to tenants in their rents. If there was rent capping as well then large numbers of landlords will have to leave the business, making less housing available to those who need to rent it. Then the Government will be in an even worse position than before.

Also why would it be fair to rent cap a whole sector of private business because the government has decided to reduce the social housing bill by reducing the amount of rent allowed to individuals. If the government want to reduce the rent allowed to those on benefits, then it has to make sure that it has provided council/gov run affordable housing, rather than highjack the private housing business.

I am sorry to write only from the prospective of a landlord, but we must have a voice in this. I am a small landlord with a tenant who has been with me for years and who pays below the market rent, which I am Ok with and which was agreed with me. I know this may not seem usual to you, but I am sure many small landlords like me (which make up a large portion of the private rental market) operate in a similar way. We just want a fair deal, same as the tenants.

I am one of an increasing number of people who now rent out a property having invested life savings and paying a mortgage to try and ensure enough income in old age. I want to be fair to my tenant and also comply with sensible and relevant laws, but if regulations and rules increase I will be forced out, as ever spiralling costs will make it impossible to make a reasonable return on my investment.

January 2013

Written submission from Greg Jones FARLA, FNAEA (PRS 015)

I would like the following points to be considered in your Inquiry into the private rented sector.

1. My Background

I have been a letting agent for over 21 years and I run my own agency. I am a fellow of ARLA and I have passed the Certificate in Residential letting and Management. I attend regular training organised by ARLA throughout the year. I have a single branch and employ seven staff.

2. Comments on the Industry generally

In my time as a residential letting agent I have seen a great many changes to the sector and a huge amount of legislation heaped upon it. On top of all the general laws that you need to follow when running any business I have listed below just some of the new and onerous laws we have had to deal with over the years:

Furniture & Furnishings (Fire)(Safety) Regulations
The Electrical Equipment (Safety) Regulations 1994
Gas Cooking Appliances (Safety) Regulations 1989
Gas Safety (Installation & Use) Regulations 1998
General Product Safety Regulations 1994
Unfair Terms in Consumer Contracts Regulations 1999
Unfair Terms in Tenancy Agreements
The Water Industry Act
Landlords' Repairing Obligations (under section 11, Landlord and Tenant Act 1985)
The various and ever changing Housing Benefit Regulations
Gas Safety (Installation & Use)(Amendment) and (Amendment No.2) Regulations 1996
Threshold changes for ASTs
Housing Act 1996 and 2004 and all that goes with it
Tenancy Deposit protection
The Equality Act
Data Protection
Non-resident landlord scheme
Plugs and Sockets
Housing, Health & Safety Rating System
Distance Selling Regulations 2000
The Commonhold & Leasehold Reform Act 2002
Cancellation of Contracts Made in a Consumer's Home or Place of Work Etc Regulations
Houses in Multiple Occupation
Energy Performance Certificates
The Green Deal
Consumer Protection Regulations

3. Due to all the onerous and excessive legislation it becomes increasingly harder for agents to adhere to it all and many agents will just feel swamped or may choose to ignore it.

4. Any further legislation needs to be really carefully considered and should not be “a sledgehammer to crack a nut”. I believe that the great majority of letting agents are honest and respectable. Membership of one of the self-regulating organisations is a very good indicator of an agent’s intentions. As members of ARLA we have to have professional indemnity insurance, client money protection, an insured client account which is independently audited every year, compulsory professional development and a redress scheme giving customers a voice.

5. Quality of Housing Stock

In the area that we operate in we do not have a problem with quality of housing stock. More widely landlords could be encouraged to improve the quality of their property via tax breaks. The Treasury will still gain revenue through tax paid by material suppliers, tradesmen and ultimately higher rents for better presented property.

6. Levels of Rent & Housing Benefit

The rental sector is a “market” so rent controls would distort this and deter private landlords. Although widely reported in the press that rents are high, most landlords with a mortgage struggle to make a profit (and this is in this period of historically low interest rates). When you add all the current costs of excessive legislation, further costs or enforced lower rents would be a problem. Many Landlords are reluctant to accept Housing benefit due to the shambolic way it is often administered. Also Landlords can experience problems regarding possession of a property if their tenant is in receipt of local authority help. Many local authorities advise tenants that they must be evicted by the courts before they are rehoused. For a landlord the prospect and expense of going to court is a great worry. I can assure you that Landlords who have been through this will not let to Housing Benefit tenants again.

7. Regulation of Landlords & Rogue Agents

I am not adverse to the idea that Landlords either have to be licensed or use a licensed agent.

Landlords or their agents should have the following in place:

Client Money Protection

Annual Audit of Client Money by qualified accountant

Professional Indemnity insurance

Membership of Property Ombudsman or Professional body with redress scheme.

Agents can easily be regulated by insistence that they are members of ARLA, NALS or RICS as the infrastructure is already in place.

Landlords not wishing to use a licensed agent will require certification of compliance which can be administered by any of the above or The Property Ombudsman. Tenants can easily search an online database of Landlords and Agents who comply.

8. Agents Fees

Rather like rents, agents operate in a “market”. Self-regulated agents have all the costs as listed above whereas rogue agents do not. You cannot control agents fees unless you control the rogues otherwise it will be law abiding agents who want to do the right thing penalised.

Tenants do need to pay something to use the services of a letting agent although this cannot be capped or controlled due to regional cost overhead variations. Referencing and all the associated administration all costs money. If tenants are not charged anything they will be free to offer on several properties at the same time, wasting time and incurring expenses for the agent and potentially lost rent for the landlord. One solution would be the creation of an independent referencing scheme which tenants could use. They can then approach the agent with their references already in hand. This scheme would need to be accountable to Landlords if the references turn out to be inaccurate. This may also deter tenant bad practice.

Ultimately, if Tenants do not pay for referencing, administration and inventory costs then rents will have to increase to recover this cost. The Tenant in the long run will pay more.

9. Houses in Multiple Occupation

Licensing of large properties turned into bedsits is a sensible measure. Fire-doors, alarms, “fit and proper” management etc all seem to work.

The danger is that these rules are applied to smaller house where perhaps three individuals choose to live together. These houses are a core part of the market and are often belong to people who have been temporarily relocated with their job. If these properties were required to have fire-doors, hardwired alarms, emergency lighting etc they would simply refuse to let them to sharing households. This in turn would mean a huge shortage of rental property suitable for “sharers” and the traditionally younger market.

10. Tenancy Agreements

The current Assured Shorthold Tenancy works very well. If a tenant and landlord wish to agree a three year (less a day) term they can do so. There may be a small demand for longer term tenancies but most people in this country aspire to home ownership so will be reluctant to make such a commitment. If a new type of longer terms tenancy was introduced the Landlord would need to be assured that they can gain repossession quickly and without excessive cost should the tenant default on the terms of the contract. Protected rents and tenancies of the 1970’s led a massive decline in the private rented sector and should be avoided at all costs.

11. Homelessness

There are two types of homeless person – a vagrant who resists help and a single person or perhaps a family who have temporarily fallen on hard times.

Incentives should be given to developers to convert current unoccupied offices into homeless hostels. These should not be a long term measure but a short term measure. Homelessness is mainly apparent in major cities which is also where empty offices are. These can easily be converted into small low cost flats and bedsits. As the economic picture improves so homelessness should decrease and the demand for offices should rise. These can then be returned to their original use. Ultimately, there will always be people who want to be homeless but help should be given in this way. Private landlords letting out their home will not want to rent to homeless “vagrant” type people due to the associated dangers with drug/alcohol use. They will be reluctant to let to families due to difficulties with eviction if they are receiving housing benefit.

January 2013

Written submission from Nicholas Nicol (PRS 016)

I understand that you are conducting an enquiry into the private rented sector. I am a barrister specialising in housing law and a Chairman of the Rent Assessment Panel (which deals with fair rents, enforcement of housing conditions standards, service charges and leasehold enfranchisement).

The private rented sector has been subject to a number of government reviews or studies in recent years. Tenants and landlords, both existing and potential, would hugely benefit from the following three steps:-

1. Implementation of the Law Commission's report on the rented sector, radically simplifying security of tenure and strengthening legal rights and obligations. Housing law is one of the most complex areas of the law. In particular, there is a multiplicity of various kinds of security of tenure. This makes things unnecessarily complicated for both landlords and tenants.
2. Implementation of the Law Commission's report on landlord's obligations relating to housing conditions. It is possible for a property to be uninhabitable but for the landlord to bear no responsibility to the tenant for remedying it. This is ridiculous. Such problems as the tenant cannot force the landlord to address themselves are covered by a local authority powers over housing conditions but, as mentioned below, local authorities do not have the resources to enforce them. Giving tenants the right to a decent home effectively privatises the enforcement of proper housing conditions.
3. Enforcement by local authorities of their existing powers under the Housing Act 2004. The Act has given local authorities the most comprehensive and flexible tool in the world for measuring and enforcing proper housing conditions, namely the Housing Health and Safety Rating System. However, there is considerable anecdotal evidence that they are not using it, probably due to limitations of resources. Giving this issue a higher priority could radically improve the lot of many tenants.

The United Kingdom is a signatory to a number of international human rights instruments, including the International Covenant on Economic, Cultural and Social Rights, which include a right to housing. This is not a right to be housed but a right to security of tenure, to facilities essential for health, security, comfort and nutrition, to affordability, to habitability, to accessibility, to suitable location and to cultural adequacy (UN ICESCR General Comment No. 4). When enquiring into the private rented sector, the right to housing should be borne in mind.

January 2013

**Written submission from Luke Gidney, Director of Let-Leeds and
Let-York Letting Agencies (PRS 017)**

As a committee, it came to my attention that you are inviting submissions from interested parties in relation to the regulation of private rented housing and rent levels in this sector.

Your focus appears to be on:

- the quality of private rented housing, and steps that can be taken to ensure that all housing in the sector is of an acceptable standard;
- levels of rent within the private rented sector – including the possibility of rent control and the interaction between housing benefit and rents;
- regulation of landlords, and steps that can be taken to deal with rogue landlords;
- regulation of letting agents, including agents' fees and charges;
- the regulation of houses in multiple occupation (HMOs), including the operation of discretionary licensing schemes imposed by a local authority for a category of HMO in its area;
- tenancy agreements and length and security of tenure; and
- how local authorities are discharging their homelessness duty by being able to place homeless households in private sector housing.

I have written a response as Director of Let-Leeds and have covered the topics in the order you have outlined them above in a concise and brief manner.

I would like to make an open invitation to all committee members to spend a short time at Let-Leeds to see how things work on a day-to-day basis at a busy letting agent. I would be quite happy to employ any interested member of the Communities and Local Government Committee on our daily staff rate so they could spend time learning about and understanding the effort, skill and attention to detail that is required to ensure Let-Leeds (and other reputable letting agencies) are a genuine asset to both landlords and tenants.

This offer is not made lightly. If your members took us up on it then it would cost Let-Leeds a sizeable sum, but at Let-Leeds we have won awards and have been strong campaigners for regulation of the letting agency industry – and if our offer led to that becoming a reality we feel it would be money well spent in the interests of ourselves, landlords and tenants.

In answer to your points outlined above:

- The quality of rented housing is a matter very much determined by the market. An increase in demand, due to the shortage of housing in certain popular areas has led to some lower quality properties on the market as landlords feel they do not have to keep to high standards of maintenance in order for properties to be let out. This is very much the case for landlords who choose to let to some housing benefit tenants. Due to such high demand, landlords are able to - in some instances - do the least possible in terms of maintenance to a property.

On the other hand, the student market in Leeds has had a shaky couple of years, and landlords in this market are having to refurbish houses and increase quality and specification to ensure they can let their property to good tenants.

On average, if tenants can afford and are prepared to pay a higher rent, the quality of the property will be good. However some tenants have been forced into renting inadequate and poorly maintained properties regardless of its condition, due to them being unable to afford growing rental demands.

This is certainly an area where we believe regulation has to be more strongly monitored and enforced. At Let-Leeds, we make sure that all properties we let are legally compliant and reach certain standards in terms of fire safety, general safety and security and adequate property maintenance. We ensure the property is in sound condition so that potential tenants can live there in comfort and safety.

We feel it is our duty to ensure such standards are maintained and we do this by checking the property at least once in every tenancy term. However, ensuring this occurs across the rental sector requires the involvement of local authorities, housing associations and tenant groups.

We have inherited properties from other agents in the past that certainly do not meet adequate standards or fire safety principles. We feel all letting agents have a duty of care to their tenants, and should complete a standardised fire safety / security and property maintenance checklist prior to moving tenants into a property.

Having dealt with some properties that pose a serious fire risk to tenants, we questioned the local authority on why more is not being done to ensure minimum standards are being complied with, and it seems that local authorities do not have the time or the resources to check poor quality housing. We feel letting agents should be responsible for ensuring that only quality properties are let to tenants. If a landlord wished to let their property privately, they should belong to one of the recognised landlord association schemes.

- This point is a contentious one. The issue of rent control in relation to housing benefit claimants is not relevant to us as we do not handle their housing requirements.

At Let-Leeds, however, we believe in charging a rent that is fair for both landlord and tenant. Any attempt to control rents would be difficult to implement and may well cause problems for landlords and tenants. Our experience has shown that many young professionals now tend to house share but this is often because they cannot afford to rent a property on their own, let alone buy their first property.

At present, properties in popular areas with the best specification, room sizes and facilities command the highest rents, as it always has been. Cheaper properties are available in cheaper areas, as has always been the case. To control rents would run the risk of distorting the market.

- We believe that rogue landlords can be punished appropriately if existing laws are enforced properly. As a letting agent, we see properties in all sorts of conditions. If we are asked to manage a property we feel does not meet certain standards we will ensure a strategic planned maintenance plan is put in place to ensure the property meets fire safety, security and maintenance standards. We insist that certain vitally important conditions are met prior to letting the property to a tenant.
- As a professional letting agent, we have argued for a long time that regulation is overdue. Such regulation has to take the form of letting agents being licensed to carry out their functions. There are many reputable agents out there but there are also many who are not.

For this reason, we believe there should be:

- A standardised code of practice that all letting agents sign up to, enforced by a governing body
- Industry-wide agreed terms and conditions for contracts between letting agents and landlords and tenants.
- A requirement for each letting agent to create client accounts specifically for their clients' revenues – with each account audited and signed off every six months by a bona fide accountant and submitted to an industry-wide governing body
- Licences issued to only those letting agents that meet the above conditions and who have not previously had bankruptcies within the lettings industry

It is one of the few sectors that are in genuine need of more regulation, properly enforced.

- HMO licensing, for me, has been a major success. The regulations governing licensing and discretionary licensing have been a major factor in driving up standards of both student housing and young professional house shares in Leeds. These minimum standards should be adopted by all landlords who rent out all types of properties. You would be amazed at how many properties are let out without adequate fire protection. The licensing work that has worked so well in the student markets could be re-used to ensure standards are adhered to in the rest of the private rental sector.

- Tenancy agreements and length and security of tenure are of vital importance to both landlord and tenant. It would be ideal for the industry to adopt standard tenancy agreements – agreements that are fair and written in plain English. Whilst security of tenure is both important for landlords and tenants, we feel that tenants are keen to sign shorter tenancies with the option to stay on at the property if they decide to. One of the reasons why young people rent property rather than buy property is the flexibility this arrangement offers. Because of this, we feel there is no major requirement to adopt longer tenancies as we feel the standard ASTA works quite well.

- This final point does not really apply to us as this is not an area of the property market that we are involved in.

If we can be of any further help or assistance, please do not hesitate to call us.

The offer of coming to spend time with us is a genuine one that could help give you a greater understanding of our area of work. It may even help publicise the work that you are undertaking into this important and fast-changing sector of housing.

January 2013

Written submission from Sue Thompson (PRS 018)

I am appalled at the fact that you are about to embark on yet another enquiry into the Private Rented Sector. We have already had the Rugg report which succinctly said there was no need for further regulation. We have had the 2004 Housing Act which extended the powers of local authorities to license private landlords.

Our country at the moment is suffering under the burden of tremendous debt which needs to be addressed. These enquiries cost hundreds of thousands of pounds. At the end of the day it appears that you the government do not listen to what the enquiries say. The Private Landlord has become the scapegoat for all the ills of housing. The biggest gripe the government has is the cost of the housing benefit bill. (Perhaps as a knee jerk reaction to the ludicrous amount being paid in parts of London - not a reflection of the rest of the country.) You claim that it has almost doubled in the last ten years. You have not taken into account that you have had quantitative easing which has halved the value of our money. You have not taken into account the extra half a million people now claiming housing benefit. In real terms the bill has actually reduced in the past ten years.

I think that you are suffering from a new broom syndrome whereby you feel that you have to shake up the housing market. If you want to save money stop demolishing perfectly good housing and building new. Start refurbishing the old stock if there is a demand for more housing. This can be done at a fraction of the cost of new build without taking up further green belt land.

There are proposals to radically change the welfare system. You are expecting single under 35 year olds to move into shared room accommodation or pay the top up on a one bed flat. In Sunderland the difference between a one bed rate and a shared room rate is £45 per week. These people are living on £53 per week income. Landlords cannot afford to drop their rents to the shared room rate - they have service charges usually £20 per week plus the variable/unknown costs of insurance, repairs, maintenance, mortgage repayments and void periods to cover. They would be trying to run a business on less than £20 per week per flat return on an investment of £50,000. As a family business, at present we personally have very little overheads with no mortgages, only one paid member of staff and yet we are struggling to make 3% on our investments. The reason I have highlighted the single under 35 year old proposal is because there just is not any shared room accommodation available in the North East. Owner occupiers do not want to have more Houses in Multiple Occupancy built in their neighbourhoods. Local authorities here in the North East do not have shared accommodation. They do not have hardly any one bedroom accommodation.

Another proposal is the bedroom tax for social landlords as well as private landlords. This will not affect pensioners who are the main group of under-occupiers. Single widowed pensioners whose children have left the nest leaving them in a three or four bed house. It just does not make sense to exclude this group from the proposed legislation. Oh yes it does for you the government as this group are voters. So this rather reeks of a political rather than

economic agenda. One social landlord I was speaking to is actually proposing to knock down bedroom walls to decrease the number of bedrooms. In future years when you or another government have a change of policy he will be rebuilding the walls. All this is at the cost to the tax payer. Housing is not like stocks and shares where you can buy and sell in a minute. We need long term planning.

We are always being told, rather patronisingly, that we the private rented sector are a vital part of the housing market. Yet here you are suggesting rent controls and more regulation. You cannot persuade the pension funds and corporate investment in housing because of the over-burdensome regulations. Please leave us good landlords alone and concentrate on the few rogues who still operate. The legislation is already there to deal with them.

January 2013

Supplementary written submission from Sue Thompson (PRS 018a)

PRIVATE RENTED SECTOR

I would make the following observations, as a private landlady of 30 years.

The Private Rented Sector (PRS) is a vital component of the housing market.

The modern landlord has still not been able to shake off the image and reputation of Rackman and other rogue landlords due to bad media publicity. The only stories are bad stories of bad landlords. It is so one sided. On one occasion when I had to evict a tenant for drug dealing from the property after several warnings, the newspaper headline was 'Poor tenant is evicted'. The tenants had actually burnt into the carpet 'Drugs Sold Here'.

The majority of landlords are extremely conscientious and have the welfare of their tenants at heart.

The government has tried to address the problem of 'rogue' landlords through legislation which has only impacted on 'good' landlords whilst the 'rogues' remain under the radar. The prime example of this is Selective Licensing (SL). I have personally been involved in SL both as a property owner and as a member of implementation committees and scrutiny committees. All three local authorities (LAs) I have been involved with have deliberately targeted the good landlords first, maintaining that it 'was difficult to locate or find out the owners of certain properties'. I was not amazed to find that the local authority personnel on SL committees had not heard of the land registry. Since the need to have Government approval (despite it being a rubber stamp exercise) was abandoned, standards for implementing SL have dropped. No business plan is made, no starting data, no objectives etc etc have all been overlooked.

I honestly believe that LAs have viewed SL as a money earner. 'Let the landlords pay us for the jobs which we should have been doing in the first place'. The legislation was already there, the staff were already employed. One LA claimed a high degree of success from SL but also have to admit that this is because the professionals like the police, social workers, anti social behaviour teams etc. are now working on the ground instead of behind their desks all the time.

I have no experience of HMO or Additional Licensing but can only conclude that it must be a similar scenario as SL. If the government go ahead with further impositions on the private landlord it will deter further investment in the industry. You certainly will never be able to attract pension funds or corporate investors.

The points which you have asked us to consider with regard to property standards, I can only say that landlords are being required to provide more and more – in the North East where I live and operate there is a surplus of housing and we are therefore chasing the good

tenants. All of my properties (and I have 100 – I still have my first tenant from 1983 and over 60% of my tenants have been with me between 5 and 10 years) have double glazing and central heating. Most kitchens are replaced every five years or on change of tenant. I remember talking to a landlord from Doncaster several years ago and he told me that tenants no longer wanted terrace housing, even benefit tenants were insisting on Wimpey semi detached. Yes it is a competitive market, which is all to the good – it pushes standards higher. I think you will find that poor properties are occupied by ‘poor’ tenants. By this I mean tenants who do not care about the property and leave untold amounts of damage. These tenants are then black listed by good landlords with good properties. The bottom line is that the legislation is there for any tenant to complain to their LA if their landlord is not doing his duty with repairs and maintenance.

With regard to rent control this completely goes against the grain of a free market society. Most areas have a wide range of rental properties and people need to ‘shop’ for what they can afford. So for working people there should be no interference with rents from the government. The fact that Housing Benefit (HB) was based on local rents but the government have now capped the Local Housing Allowance, means that more or less it has introduced rent control by the back door. I am in favour of the LHA being capped and I do have 75% of my tenants on benefit – it is not fair that a benefit tenant should be entitled to a property which a working person could not afford.

It would be seriously difficult for any control over Tenancy Agreements. I personally do Assured Tenancies not Assured Shorthold. This is because I do not have any mortgages. I do not see that lenders would continue to do buy to let mortgages without the safety net of a Section 21. I do feel that perhaps the Fixed Period should not be shorter than one year. The landlord can always use Ground 8 for mandatory possession if rent arrears accrue.

Allowing LAs to place their homeless people in the PRS and discharge their statutory duty is two edged. Many LAs will see this as a dumping ground for unsavory tenants. As landlords we are often criticized for housing anti social tenants and yet the LAs want us to house these people because they do not want them. It is a catch 22 situation. The social landlords are better equipped to house and monitor these people than the private landlord and should therefore be placed with the social landlord. We now have the situation where the private landlord has become the social provider and the Social Landlords are taking all the working people. Promises of monitoring these tenants in the private sector, I personally have found, unfulfilled. I even had the scenario of taking two youths from social services who failed to tell me of their drug dealing history.

The bottom line is that I do not believe that we need any further legislation for landlords. I am obviously biased. LAs have run forums where they say only Accredited Landlords can benefit from this that and the other, and we will not invite unaccredited landlords to our meetings – well these are the very people, the unaccredited landlords, who need to be invited to the meeting or benefit from whatever. The LA already has the good landlords on board – it is the ‘rogues’ or uninformed landlords who need the education.

It is also very easy to target landlords and blame us for all the housing ills when very often it is the tenants themselves who cause many problems. Even under The Housing Act when it introduced SL it was on the basis of controlling anti social behaviour. Well it is not the landlord shouting and screaming and playing music all night, or having 30 visitors each night, it is the tenant.

I feel that there is a lot more that local authorities could do to deal with 'rogue' landlords and even anti social tenants. They have the powers but appear not to use them unless they impose some sort of licensing scheme. The general public are not asked to pay (other than through taxation) for the help of the police, social services or the council, and yet legislation has been introduced which blatantly is asking for one sector of society to pay for these services.

January 2013

Written submission from Brian Lund (PRS 019)

MEMORANDUM: RENT CONTROL

Brian Lund is Visiting Lecturer in Social Policy, Manchester Metropolitan University and author of *Understanding Housing Policy* (Policy Press, 2011).

1. Although neo-liberal economists regard rent control as the classic example of the impact of state intervention — control prices at below market levels and supply evaporates — an examination of the impact of rent control in the UK since 1915 reveals a more nuanced picture.

I. Between the wars the number of dwellings rented by private landlords *increased* by 500,000 despite the continuation of rent control — introduced in 1915 — for existing lower value dwellings (Minford, Peel and Ashton, 1987). This increase was mainly the outcome of *new* building for private landlord lets that had been decontrolled in 1920 indicating that ‘the fear of rent control’ did not deter new building for private landlordism and that restrictions on letting existing dwellings may have encouraged investors into *build* to let.

II. In the post Second World War period the number of properties rented by private landlords declined from 8 million in 1944 to a low point of 1.9 million in 1988 before increasing to 4.6 million in 2011. However the rate of decrease/increase has not coincided with changes in the rent control regime. The annual rate of decrease escalated following the 1957 Rent Act to 5.5% but fell after the 1965 Rent Act (imposing ‘fair’ rents) reaching 2.2% in 1980 (Minford, Peel and Ashton, 1987). Between 1989 and 2003 (following the decontrol of the 1988 Housing Act), the annual rate of increase was only 3% compared to an annual rate of increase between 2003 and 2011 of 7.5%.

III. The declining fortunes of private landlordism in the UK were influenced by stronger factors than rent control. They were:

Slum Clearance

During the two major slum clearance drives in the UK — 1933 to 1939 and 1957 to 1977 — 80 per cent of the 1.4 million houses demolished were in the private landlord sector. Whereas opponents of rent control attribute the

creation of slums to the poor returns — insufficient for repairs and improvement — that have been available to private landlords slums existed well before rent control was introduced and continued in the period of ‘creeping decontrol’ between the wars .

The landlords’ reputation

The private landlord sector has long-established reputational problems dating from the middle years of the nineteenth century and re-enforced by ‘Rachmanism’ in the early 1960s. The deep mistrust of the private landlord felt by tenants was revealed in the attempt to promote ‘tenants’ choice’ in the late 1980s and early 1990s. ‘Tenants’ choice’ offered the opportunity for tenants to vote in favour of a transfer of their homes from their local authority to a private landlord but, despite offers of funds for refurbishment, *no* such transfers were approved by tenants.

‘Social’ Housing

Although the number of houses rented by private landlords increased by 500,000 between the wars the private landlords’ *relative* share of the market declined from 90% to 62%. Until 1919 renting from a private landlord was the solitary option available to the lower paid working class — there were only about 100,000 available homes in what is now called the ‘social housing’ sector. However the 1919 Housing and Town Planning Act heralded a period of sustained local authority building for the working class. Between 1919 and 1939 1.5 million council houses were built and, until the post 1933 concentration on houses built to meet the needs arising from slum clearance, they were high quality homes. This pattern was repeated post 1945: good quality homes when building for general needs, poorer quality flats when building for former ‘slum’ inhabitants.

In the early 1960s even the Conservative Party seems to have decided that private landlordism was a lost cause. In a 1960 Cabinet Memorandum the Minister for Housing and Local Government stated ‘there is no early prospect of private builders coming back into the letting field’ and

‘the only way of making progress would be for the Government to lend money, at current rates of interest, to approved trusts or associations willing to build to let without subsidy on a non-profit making basis’ (Cabinet, 1960:1). In 1961 the Conservative government started to promote housing associations as an alternative to private landlordism (and, later, council housing) a policy endorsed by subsequent Labour and Conservative Governments.

The appeal of homeownership: why rent when you can buy?

The promotion of a ‘property-owning democracy’ by the Conservative Party via the alleged ‘respectable’ status of the tenure, local authority mortgage guarantees, tax relief on mortgage interest without Schedule A tax after 1963 and the right to buy produced an increasing number of houses available for owner-occupation from 1954 to 2002.

2. *Global Property Guide* (2012) has categorised 130 countries as ‘pro tenant’, ‘pro landlord’ or ‘neutral’. The United Kingdom is placed in the ‘pro landlord’ category alongside 54 other countries. The 50 ‘pro tenant’ countries are characterised by combinations of minimum three year leases, rent increases restricted to inflation or a house price construction index and local rent tribunals setting rents as a percentage of property value. A study of private landlord regulatory regimes in seven countries concluded that ‘regulation is **not** inherently associated with smaller, poorly operating private rented sectors’ (Scanlon and Kochan, 2011:142, emphasis original). This finding was backed up by an examination of the private rented sector in eleven European countries that stated:

Comparing the level of regulation in each country with the size of the sector at both the beginning and end of the research period shows very few clear relationships between regulation and scale. Similarly, changes in regulation are not consistently related to changes in scale....

(Cambridge Centre for Housing and Planning Research, 2012:13)

3. The rise of the private landlord: tenure change 2001 to 2011

There has been a remarkable shift in the tenure balance in the last ten years. Post 2001 the number of private landlord houses available for letting started to accelerate and, by

2011, had increased by 2,159,000 to 4,627,000 — a share of 17.4% (Department for Communities and Local Government 2012a) and up by 69% in England (Shelter, 2012a). Between 2002 and 2011 the number of houses in the social sector declined by 313,000 and the number of owner-occupied dwellings in Great Britain declined from 17,370,000 in 2002 to 17,275,000 in 2003 but recovered to 17,637,000 in 2005 before declining to 17,233,000 in 2011.

In 2001/2 120,000 new households became homeowners, the net exodus from private landlordism to homeownership was 51,000 and from the social sector to homeownership 5000 (Office of the Deputy Prime Minister, 2002) [these figures exclude sales to sitting tenants]. However, in 2010/11 only 55,000 new households became homeowners, the net exodus *from* homeownership *to* the private landlord sector was 27,000 and *to* the social sector 17,000. (Department for Communities and Local Government, 2012b).

As Shelter (2012b:1) noted ‘there are now more than one million families with children renting privately; almost double the number five years ago’ — perhaps a consequence of an inability to afford to step up the owner-occupation ladder when more space is required.

There are a number of reasons for the tenure shift towards private landlordism

1. The expansion in higher education generated more demand for private rented housing from young people.
2. In 1995, prompted by the Association of Residential Letting Agents, a number of mortgage lenders started to offer loans to private landlords on approximately the same terms as to homeowners.
3. A decline in the availability of social housing: between 2002 and 2011 the number of lettings available per year in England in the social sector declined by 87,000 (Pawson and Wilcox, 2012a).
4. Low accessibility to homeownership

The number of first time buyers has declined dramatically. In 2001 568,000 mortgages went to first time buyers, by 2006 there were 403,000 but in 2010 only 197,000 were granted (Pawson and Wilcox, 2012a). House prices have had an impact in creating this dearth in first time buyers. In the boom housing price years from 2000 to 2007 the house price increase in the UK exceeded that in the USA, Ireland and Spain yet, despite the slump in UK house prices between late 2007 and early 2009, over the last five years, in cash terms, the fall in house prices has been 7.77% in the UK, 18.52% in Spain, 19.37% in the USA and 49.11% in Ireland (Global Property Guide, 2012). This price pattern has been the outcome of the

failure of the UK housing system to respond to market signals. In the boom housing years from 2000 to 2007 new house construction in the UK lagged way behind other countries that experienced a similar price boom (in 2004, for example it was 3.2 per 1000 of population in the UK, 19 in Ireland, 12.6 in Spain and 7.1 in the USA (Royal Institute of Chartered Surveyors, 2007; Joint Center for Housing Studies of Harvard University, 2012).

Nationwide's 'First Time Buyer Affordability Indices' (Nationwide 2012) measures mortgage payments for first time buyers as a per cent of take home pay with an index base of 100 in 1985. The index was 68.1 in the first quarter of 2002 rising to 137 in the fourth quarter of 2007 before falling to 87.1 in the second quarter of 2012. The post 2007 decrease has been more a consequence of decreases in interest rates than declines in house prices (the house prices to earnings ratio declined from 57 at its highpoint in early 2007 to 48 in 2010 whereas mortgage costs to earnings declined from 37 to 21 in the same period [Pawson and Wilcox, 2012b]) However, as 'affordability' for first time buyers improved, credit availability plummeted. At a time of erratic house prices, accusations of irresponsible lending in the past and regulations requiring lenders to keep a set reserve of cash with the Bank of England in relation to its residential mortgage lending mortgage providers have demanded higher deposits. In 2007, first-time buyers paid deposits averaging 10%. By 2009 this had risen to 25% and in 2012 it was 20%.

5. Crowding out by private landlordism

It is no coincidence that the decline in homeownership has mirrored the rise in private landlordism: the private rented sector has had a role in keeping potential first time buyers out of the market. Potential first time buyers compete in the same market as private landlords and, if unsuccessful, add to the demand for rented property thereby forcing rental prices upwards. The contest is unequal with 20% deposits demanded from first time buyers whereas 36% of private landlords have the resources to purchase without a mortgage (Department for Communities and Local Government (2011:28) and, if mortgages are used by landlords, the interest payments can be set against rental income (Owner-occupiers can no longer offset mortgage interest payments against tax liabilities). Since 2002/03 rents have risen faster than wages and now rents absorb 27.1% of weekly wages compared to 20.9% in 2002/3 (Labour Party, 2012 p 7) adding to the savings for deposit problem for potential first time buyers. According to *Global Property Guide* (2012) the UK has the second highest rents per square metre in Europe but rental yields at 3.43% are one of the lowest (a consequence of the high cost of buying in the UK). In 2009 the proportion of households in the 'market rent' sector experiencing a 'housing cost overburden' (i.e. spending more than 40% of their disposable income of housing) was 40.7% in the UK below only Greece (67%), Hungary (44%) and Rumania (56.5%) in the 27 EU countries (European Commission 2012).

4. Housing Benefit

Despite eligibility and entitlement reductions, which have pushed much of the cost of higher rents onto the tenant, expenditure on Housing Benefit continues to increase. The number of private rented sector tenants receiving Housing Benefit has increased from 1,054,810 in November 2008 to 1,645,730 in May 2012 compared to a rise in the social rented sector from 3,109, 370 in 2008 to 3,382,870 in 2012 and the average Local Allowance (for private tenants) is now £108.32 per week (Department for Work and Pensions, 2012).

5. Recommendations

- I. Regulate existing lettings but do not subject *new* building for private renting to rent control and concentrate all tax concessions on *build to let*: as in the 1930s this might divert potential investors in private lettings to new dwellings.
- II. Examine the tax position of private landlords in relationship to homeowners. The usual comparators for such tax evaluations are other businesses but private landlords are competing with first time buyers.
- III. Historical and international comparisons suggest that ‘light touch’ regulation would involve the compulsory registration of all private landlords (in existence in Scotland, planned in Wales and prepared for in England by New Labour but abandoned by the Coalition Government); automatic extension of ‘shorthold’ tenancies to three years; registration of existing rents and limitations on future rent increases to inflation. The Labour Party (2012) has proposed consultation on a voluntary approach involving encouraging renters and landlords, at the start of a new tenancy or end of an existing tenancy, to offer a three or five year tenancy and an indexed rent increase and an alternative of ‘giving renters and families a right to longer term tenancies and predicable rents’ (Labour Party, 2012:10). Stronger regulation would involve the extension of ‘fair’ rent determination (still covering about 100,000 tenancies in existence before 1989) to other rented property perhaps on a phased basis according to Council Tax band.
- IV. In 2007 86% of 25-35 year olds stated that owner-occupation was their preferred tenure in ten years time and, across all age groups, 84% wanted to be homeowners and only 2% private renters (Council for Mortgage Lenders, 2007). Be aware that, to the extent that rent control produces tenure change, in the past selling from the private landlord sector to home ownership has made a significant contribution to the growth in owner-occupation. Between 1914 and 1975 3.6 million private landlord homes were sold to owner-occupiers (Department of the Environment. 1977:63) — a far greater contribution to ‘a property-owning democracy’ than the right to buy.

References

Cabinet (1960) *Memorandum by the Minister of Housing and Local Government and Minister for Welsh Affairs*, C.(60) 177. November 29th.

Cambridge Centre for Housing and Planning Research (2012) *The Private Rented Sector in the New Century*

http://www.cchpr.landecon.cam.ac.uk/Downloads/The%20Private%20Rented%20Sector_WEB.pdf

Department for Communities and Local Government (2011) *Private Landlords Survey 2010*

<http://www.communities.gov.uk/documents/statistics/pdf/2010380.pdf>

Department for Communities and Local Government (2012a) *Live Tables on Dwelling Stock*

<http://www.communities.gov.uk/housing/housingresearch/housingstatistics/housingstatisticsby/stockincludingvacants/livatables>

Department for Communities and Local Government (2012b) *English Housing Survey: Household Report 2011/12*

<http://www.communities.gov.uk/housing/housingresearch/housingsurveys/englishhousingurvey>

Department for Work and Pensions (2012)

Housing Benefit and Council Tax Benefit caseload

<http://statistics.dwp.gov.uk/asd/index.php?page=hbctb>

Department of the Environment (1977) *Housing Policy: Technical Volume part 111*, London: HMSO.

European Commission (2012) *Housing Statistics*

http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Housing_statistics#Housing_affordability

Global Property Guide (2012)

<http://www.globalpropertyguide.com/investment-analysis/the-pros-and-cons-of-rent-control>

Joint Center for Housing Studies of Harvard University (2012) *The State of the Nation's Housing*, http://www.jchs.harvard.edu/research/state_nations_housing

Labour Party (2012) *Private Rented Housing: Providing stability and affordability for renters and families*. London: Labour Party.

Minford, P., Peel, M. and Ashton, P. (1987) *The Housing Morass: Regulation, Immobility and Unemployment*. London: Institute for Economic Affairs.

Nationwide (2012) 'First Time Buyer Affordability Indices'

Office of the Deputy Prime Minister (2002) *Housing in England 2001/2*

<http://www.communities.gov.uk/documents/housing/pdf/140726.pdf>

Pawson, H. and Wilcox, S. (2012a) *Housing Review* London: Chartered Institute of Housing.

Pawson, H. and Wilcox, S. (2012b) 'Housing Market Affordability Eases'

<http://www.york.ac.uk/res/ukhr/ukhr1112/UKHRbriefing2012.pdf>

Royal Institute of Chartered Surveyors (2007) *European Housing Review 2007*

http://www.rics.org/site/download_feed.aspx?fileID=1315&fileExtension=PDF

Scanlon, K. And Kochan, B. (2011) (eds.) *Towards a sustainable private rented sector.*

London: London School of Economics.

Shelter (2012a) *Census Housing Data*

http://england.shelter.org.uk/campaigns/why_we_campaign/census/census_data

Shelter (2012b) *Homes fit for families? The case for stable private renting*

http://england.shelter.org.uk/data/assets/pdf_file/0019/423451/Homes_fit_for_families_FINAL.pdf

BRIAN LUND

Visiting Lecturer, Manchester Metropolitan University

Author of *Understanding Housing Policy*: Policy Press (2011).

Written submission from Sir Henry Elwes KCVO, Colesbourne Estate (PRS 020)

Sir Henry Elwes KCVO has managed the Colesbourne Estate since 1957 after training in Rural Estate Management at the Royal Agricultural College, Cirencester. He has served on the Gloucestershire Committee of the Country Land & Business Association (CLA) for around 50 years and is currently County President. He is also a member of the National Landlords Association.

The Colesbourne Estate comprises a mixture of 28 two, three and four-bed houses let on Assured Shorthold Tenancies plus a number let on Service Occupation Agreements. There are also 12 commercial properties, three farms, and 900 acres of commercial forestry.

Sir Henry Elwes would be willing to give oral evidence if requested.

The evidence given below is NOT CONFIDENTIAL.

1. Landlord Registration. As good landlords with many of our properties assessed by our District Council as “Fit to Rent” we believe that there are sufficient powers already available to deal with bad landlords. We strongly oppose any proposals for registration of all landlords, when only a handful are “rogues” as described by Shelter who seek this legislation based on rather inflammatory perceptions. Housing Authorities should first assist bad landlords to improve and then use other powers if this fails. It would be helpful if Local Authorities could also help good landlords to deal with bad tenants.

Licensing will lead to higher costs and therefore higher rents and probably the withdrawal of houses from the letting market also.

Recommendation: Review the effectiveness of policies for eradicating or punishing bad landlords and encourage Housing Authorities to assist Private Landlords in dealing with bad tenants.

2. Rent Control. Having suffered a period of rent control in the 1950s and 1960s we became acutely aware that rental was not generating sufficient income to keep properties in good condition and there was deterioration just at a time when both landlords and tenants were seeking better accommodation. In addition there was widespread selling of Estate houses thus reducing the pool of houses available for renting. Market forces apply satisfactory self regulation in the control of rents. Personal housing benefit already helps those tenants unable to pay a market rent.

Recommendation: Do not apply a rent control policy.

3. EPCs. Mandatory minimum levels of EPCs will be impossible to fulfil in many old stone detached cottages and in listed properties where strict rules apply against

double glazing, etc. Few tenants ever consider the efficiency performance of a property and while it is in the national interest to reduce energy consumption there is a danger that some properties may never qualify for a high standard and could be demolished or taken off the rental market. EPCs are a recent additional burden on landlords and cost around £100/£150 each which has to be recovered in higher rentals.

Recommendation: Reconsider proposals to set mandatory levels of EPCs and do not apply to properties more than 50 years old.

4. Fair Rent. The perpetuation of the “Fair Rent” rules many years after the need for such support cannot be justified. We have properties subject to a 30% rebate on market rent more than 25 years after the need for such support and where the tenants are now very well off. Artificially depressed rentals leads to insufficient funds for good quality maintenance of property and discouragement for landlords keen to help young tenants into homes.

Recommendation: Extinguish all “Fair Rent” classifications and encourage tenants to apply for rent support in the normal way. It is not a landlord’s job to subsidise social cases.

5. Void Rates. The termination of a Void Rates period is unfair on landlords where they use the opportunity to upgrade property when a tenant leaves. Even the six month void period is very tight if several trades, such as plumbers, electricians and plasterers are required to do work in succession. It is already hard to get speedy work from architects, quantity surveyors and builders to complete works and the charge for rates/council tax is wholly inequitable when no services are being used. In addition Planning Consent takes around four months if more extensive work is required, and it sometimes takes the same time to find a tenant for an empty property. Charging Council Tax where a landlord is genuinely trying to up grade property so that it is “fit to rent” is totally unfair.

Recommendation: Re-establish Void Rates allowance for six months and further where major refurbishment or reconstruction is necessary.

6. Tenancy Deposit Scheme. The 14 day period for resolution of dilapidation matters is too short. It is currently very difficult to get immediate attention from house cleaners, builders and other trades to provide estimates for repair, redecoration or replacement of fabric and fittings damaged by tenants. Furthermore it takes no account of absence due to holidays (often for 14 days) for such trades people or for landlords themselves and it is all too easy to go beyond the 14 day period for perfectly good reasons.

Recommendation: Extend Tenancy Deposit Scheme to 30 days for resolution of dilapidation issues.

Over the years landlords providing a rented property service to those unable to buy a home have been subject to a continual stream of burdensome regulation such as 3, 4, 5 and 6 above plus electricity/gas certificates, schedules of condition/inventory requirements, the threat of liability for tenants who fail to pay for water or abuse housing benefit schemes, and Building Regulation requirements are constantly upgraded and more expensive.

If a good pool of rental property at reasonable rents is to be maintained the Private Rented Sector Review should be used as an opportunity to reduce regulation upon private landlords and make existing regulations more landlord friendly.

We hope that the Government will take due notice of the above which are based on many years of practical experience of the rented sector.

Recommendations:

1. **Recommendation: Review the effectiveness of policies for eradicating or punishing bad landlords and encourage Housing Authorities to assist Private Landlords in dealing with bad tenants.**
2. **Recommendation: Do not apply a rent control policy.**
3. **Recommendation: Reconsider proposals to set mandatory levels of EPCs and do not apply to properties more than 50 years old.**
4. **Recommendation: Extinguish all “Fair Rent” classifications and encourage tenants to apply for rent support in the normal way. It is not a landlord’s job to subsidise social cases.**
5. **Recommendation: Re-establish Void Rates allowance for six months and further where major refurbishment or reconstruction is necessary.**
6. **Recommendation: Extend Tenancy Deposit Scheme to 30 days for resolution of dilapidation issues.**

January 2013

Written submission from Evolve Property Training (PRS 021)

EXECUTIVE SUMMARY

The document submission outlines our recommendations to the committee on the following points regarding the Private Rented Sector in the United Kingdom.

- **The quality of private rented housing, and steps that can be taken to ensure that all housing in the sector is of an acceptable standard.**
- **Levels of rent within the private rented sector – including the possibility of rent control and the interaction between housing benefit and rents.**
- **Regulation of landlords, and steps that can be taken to deal with rogue landlords.**
- **Regulation of letting agents, including agents' fees and charges.**
- **The regulation of houses in multiple occupation (HMOs), including the operation of discretionary licensing schemes imposed by a local authority for a category of HMO in its area.**
- **Tenancy agreements and length and security of tenure.**
- **How local authorities are discharging their homelessness duty by being able to place homeless households in private sector housing**

SUBMITTER DETAILS

Alasdair Melville is an ARLA and NAEA qualified training professional and owner of Evolve Property Training. He specialises in training Estate and Letting Agents in the technical awards with an aim of raising awareness and standards within the profession. His experience in Residential Lettings, Residential Estate Agency, Commercial Purchasing and Learning & Development spans twelve years. During this time he has observed the right way to do things, and the wrong way to do things. He hopes that his submission to the committee, while possibly unorthodox, comes as a plain written view on the issues facing the Private Rented Sector.

1. The quality of private rented housing, and steps that can be taken to ensure that all housing in the sector is of an acceptable standard.

Private rented housing is widely varied due to the historic make up of different buildings throughout the British Isles. The difficulties facing the issue invariably centre on cost and practicality of updating older buildings to eliminate issues such as damp, and structural problems. Perhaps more stringent rules on identifying and rectifying defects to an acceptable standard may be prudent, although the knowledge of these areas are commonly held in the minds of qualified surveyors. Landlords should be further compelled to not only acquire an EPC on a property, but take steps to improve areas such as lack of insulation, outdated windows and doors (where applicable) and keep up to date with changes in the way properties are heated and insulated – double glazing, central heating and drying washing indoors all means that non-insulated or improperly insulated walls and windows create

health-threatening mould and damp. Our way of life has changed, but our legislation has not kept up with those changes. This is something we must address, or at least consider as an example of improving the quality of housing and how that quality impacts the inhabitants, as well as how remedies may impact the income of landlords.

2. Levels of rent within the private rented sector – including the possibility of rent control and the interaction between housing benefit and rents.

The PRS rent levels could widely be regarded as being governed by 'market value' which is in turn directly controlled by Letting Agents and what could in some cases (but not all, we hasten to add) be argued the greedy desires of Landlords. An agent may over value a property, and thus all other nearby agents follow suit to remain competitive without losing out on potential revenue for themselves and for their clients. There is little or no guidance given to agents on valuation beyond basic economics which can easily be misconstrued, and most are carried out by unqualified or inexperienced staff, rather than those following the RICS codes of practice on valuation for example. An alarming number of valuations are a 'best guess' of value in comparison to the results of other 'best guess' valuations in that conurbation. Letting agencies must restrict valuation responsibilities to experienced staff, or have staff trained in valuation and all staff should be given guidance on keeping rents at a fair level. It is tempting to observe that this system self regulates to a degree, since the market will not pay more than a property is worth, but this would be a short sighted argument in light of the sheer amount of control that agents have over the market. Without agents as middle men, it could be argued that rents might fall to a fair level and homelessness and housing benefit claims would also see a significant decrease. The market regulates in favour of Landlords and Agents (i.e. at the top end of market value), not in favour of those with a need for housing (let's say middle-of-the-road market value as there's no such thing as a free lunch).

Broad market rental areas do not hold water, as value is largely subjective – individuals assess value by what defines them as an individual, or a group, or a collective – in other words they see the value of something as *they* are not as *it is*. Value is known to incorporate not only space, size, décor, location (all of which are again, subjective depending on the end user) but also first impressions, 'kerb appeal' i.e. does it look pretty, does it suit my needs? We therefore know that value can only be expressed on a basis of supply vs demand and thus areas in short supply with high demand will observe higher rents – but are those rents fair? Who decided how much it was worth? Well....a Letting Agent did – and they valued it by comparison with something else, or by seeing how much they could reasonably charge without losing the deal. This method requires serious scrutiny and consideration to bring rental levels back in line with reasonable expectations. Of course, the balance must be struck between satisfying the personal objectives of Landlords and the business objectives of Agents, and a balance sought between potentially punitive legislation and solving the ever increasing demand for housing – population and price of housing cannot simultaneously increase exponentially, the economics mean that either people will become homeless and ultimately die or emigrate, or housing costs will need to come down.

- **Regulation of landlords, and steps that can be taken to deal with rogue landlords.**

Landlords should be required to study their legal obligations and be held accountable through a professional body, much as agents should be through ARLA or Surveyors through RICS. An adaptation or distillation of the ARLA technical awards would be an ideal solution, and compulsory membership of a redress scheme such as TPO to enable tenants to bring formal complaints. This will do away with a subculture of fly-by-night companies and individuals who cause honest agents, tenants and landlords to tighten their grip to prevent costly losses associated with rental property. Landlord Licensing could be nominal cost, and could even be delivered in as little as a single day. Enforcement can be controlled via Letting Agents and Tenants having somewhere to go to seek formal redress – it will self regulate, and should prohibit rogue Landlords from acting inappropriately or illegally.

4. Regulation of letting agents, including agents' fees and charges.

Letting Agents have free reign over their fees and charges., and an alarming number of staff who deal with day-to-day matters are not qualified and have little idea of their legal and moral obligations to landlords, tenants and indeed other agents. The industry is rife with misinformation, and finding the truth is a minefield for the uncertain and the unqualified who are genuinely seeking further knowledge. There is a transition taking place between the 'old school' agents who are now in senior management who prefer the 1980s “beat my client with a club” approach to the 21st century approach of a “Trusted Advisor” who takes on the concerns of both parties to reach a satisfactory conclusion – where business revenue is important, yet comes secondary to ensuring client Landlords get what they need and Tenants are housed with a minimum of fuss. Legislation should state that all agents must undergo compulsory training and become qualified before they are permitted to work in the industry, bringing the Private Rented Sector in line with Financial Services and Legal Services. They must also place their clients AND tenants interests above their own. Surely the role of an agent, after first assuming that it is a profitable enterprise, is to market properties on behalf of landlords, and locate tenants for those landlords and house them and be a source of trusted and honourable advice for both – yet we find increasing evidence of some agencies having carte blanche to do as they please with little chance for recourse from aggrieved parties. Nobody would consider using an unqualified lawyer, or an unqualified IFA or Mortgage Broker, so why consider using an unqualified Letting Agent? Surely we need to bring the industry up to date and ignite a new fresh way of working in the industry to remove the tarnished public reputation of British Estate Agents.

5. The regulation of houses in multiple occupation (HMOs), including the operation of discretionary licensing schemes imposed by a local authority for a category of HMO in its area.

I have no recommendations here as beyond training the technicalities I have little practical experience in this arena, and therefore to pass comment without dutiful research would be inappropriate.

6. Tenancy agreements and length and security of tenure.

Tenancy agreements are a challenging area to cover – many are drawn up by agents independently, and some by solicitors instructed by agents or landlords themselves, and as such are notoriously one-sided placing a heavy burden of obligation onto a tenant, with marginal obligation on the Landlord, and virtually none on the agent whatsoever. The historical reasoning and judicial precedent behind this is clear, due to rogue tenants and landlords genuinely suffering physical or financial loss due to tenants actions, however the result in reality is highly prohibitive for honest tenants, who are the majority. Parliament must seek to redress the balance and ensure that both Agents and Landlords shoulder more responsibility for their actions, fees and charges. Tenants must remain accountable for their actions and for their responsibilities towards the Landlord and Agent. Agents must be fair and ensure that the tenant has some form of security within a contract and must state what they will, or will not do. Landlords equally must be realistic about the burden of responsibility and must act fairly and expect to be bound by their reasonable obligations when renting property. The law cannot impose that Landlords become the curer of all ills, but certainly some balance must be addressed.

7. How local authorities are discharging their homelessness duty by being able to place homeless households in private sector housing

The ability of local authorities to approach private landlords, pay a nominal rent and thus house homeless families is an admirable step in the right direction. With the correct regulation, such schemes could reduce homelessness dramatically. There are many empty houses, closed licensed premises and worthy buildings where people may be housed, with the correct protocols in place. It is sad to see the homeless dying on our streets for the sake of paranoia over legislation. Local Authorities might be perfectly placed to engage officers to tackle housing problem by extending their powers to forge such relationships with landlords directly.

It could also be argued that legislation proposing that agents take a broader view when considering tenants on housing benefit could cut down a growing demand for alternative options for those in desperate need or at risk of homelessness.

Should any of the matters discussed above be of interest and should the committee wish to invite Alasdair to attend to discuss these matters orally, please contact him on the information provided at the top of this document.

January 2013

Written submission from Duncan Layne (PRS 022)

PRIVATE RENTED SECTOR

My experiences as a tenant in the Private Rented Sector

Having spent over two years living in private rented housing I have first hand experience of the pitfalls.

Both houses were rented through the same professional lettings agency. I have no complaints about them, only the behaviour of the landlords. As a tenant I always paid my rent on time, even moving the date a few days forward at the request of the first landlord so it would arrive before his mortgage payment.

I entered the rental market enthusiastically waiting for prices to drop. After two and a half years I realised that there was no security and lots of problems so took out a mortgage and bought.

Wellesley Avenue, Mundeford, Christchurch BH23 4SX.

The first house was rented from a person who had emigrated. However, despite agreeing not to they had left lots of stuff in the house which used space and I felt responsible for. There were also a number of faults with the house such as broken electric sockets (which unlike gas appliances aren't covered by any regulations) and an incorrectly fitted gas heater (which was spotted during the gas safety survey and consequently disconnected). . I later learnt that, when living there, the landlord had refused to let the person installing the heater fit the ventilation specified by the heaters manufacturer. Getting all these things sorted required several days off work.

Compared to the physical faults, a far the bigger problem was the landlords granddaughter who had lived there previously. Despite the fact that I offered to pay for it myself she refused to get her mail redirected, or even give me an address to forward it to. This was probably due to the majority of it being "red letters" from various finance companies. These were all taken each week to the lettings agency. On three occasions Bailiffs came to the house looking for her. On each occasion they were referred to the letting agency. After about six months I received a request from the lettings agency that she would like to come to the house and collect some photos that had been left there. This seemed to go without any problem and she found the photos and left. That evening I had so many problems with unsolicited taxis and takeaways coming around to the house that I ended up having to call the Police.

Due to this (and apparently an argument between her and the lettings agency earlier that day) the lettings agency decided that they no longer wanted to deal with that landlord and suggested I moved to a different property.

Elmwood Way, Highcliffe, Dorset BH23 5DL

This property had been previously been the landlords mothers who had had to move into a care home. It had been refurbished before rent and I have no complaints about the condition of the property. The landlord lived in Jersey and left all maintenance etc to the lettings agency.

I lived happily at this address for twenty months. Then in the middle of a family crisis (my Mother broke her hip) I receive a phone call from the lettings agency that the landlord wanted to sell as he “thought he could make more money from two flats”. However, he might consider keeping the property if the rent could be increased from £850 to £1000 a month. Since I was in the middle of trying to find a care home for my Mother I agreed to that. About a week later I was told by the letting agency that the landlord had “redone his sums” and needed a rent increase of £250 a month (29%) and was still thinking of selling. Due to the lack of security, I used my three months notice period to find a mortgage and a property to buy. As the bungalow was full of my property, rather than having estate agents and potential buyers visit the bungalow unattended I had to take time from work to show them around. Despite the landlord trying to make the completion date for his buyers before the end of my contract, the lettings agency stood up for me and the keys were handed back on the last day of my contract, after I had moved.

Conclusion

In my opinion the problems with the current private rental market are
A complete lack of security for tenants. In 30 months I had to move twice, neither being my choice.

Frequent moves are very inconvenient and expensive. Each time I moved I had to use a professional removals company which cost me over one months rent.

January 2013

Written submission from James Spencer (PRS 023)

Executive Summary

1. High house prices and levels of personal debt means that there is a growing group of middle class renters, including families, who are not well served by providers, the regulatory framework or traditional advocacy groups. (Paras 1 and 3)
2. Buy to Let landlords are not treating their activity as a business, which is having a detrimental effect on the life of tenants (Para 2)
3. **Complexity of the current laws.** Tenancy laws can be too complex for tenants and put them at an unfair disadvantage to more specialised letting agents and landlords. (Paras 4 and 5)
 - a. Recommendation for action: A rolling plain language rewrite on the model of the tax law is being rewritten, but using open source editing tools.
4. **ARLA's model tenancy agreement** is one of the most influential legal documents in the private rented sector and provides a useful alternative to statutory legislation, which the committee should explore. (Paras 6 to 8)
5. **Landlord repairs** are troublesome with the current system being overly complex and putting tenants at risk of eviction, and so is practically unworkable. (Paras 9 to 13)
 - a. Recommendation for action: A streamlined approach to compelling landlords to do necessary repairs, including a presumed notice period and use of pre-approved contractors
 - b. Recommendation for action: Publication of repair notices to prospective tenants and house purchases if a repair claim has been made and the tenant has been evicted within 12 months of the claim.
6. **Non payment of mortgages.** Tenants are still at risk from landlords not paying their mortgages. Landlords should be required to communicate to tenants when there is a risk of mortgage default affecting the home. (Paras 14 and 15)
 - a. Recommendation for action: A right of information for tenants if a landlord falls behind on mortgage payments
7. **Banks that foreclose on rented properties,** are still often in a position to over-ride tenant rights. (Paras 16 to 18)
 - a. Recommendation for action: Banks should be in the same position that they would be if they had bought the property from the landlord
8. **The housing benefit regime** has driven up market rents, and put families who cannot claim housing benefit at a disadvantage. The universal benefit and caps on housing benefit are in the right direction. (Paras 19 and 20)
9. **Immigration** has helped to sustain an above earnings increase in rents. (Paras 21 and 22).
 - a. Recommendation for action: Landlords who rent to illegal immigrants should have similar penalties as employers who hire illegal immigrants.

Introduction - The private rental sector – where the supplier is king

1. High house prices mean that we are expecting families with children to be living in rented accommodation into their mid forties. If this is the case, then we need to find ways in which it should be more pleasant for them to do this. I believe that the core principle of the private rented sector – that private for profit landlords provide housing to tenants in a commercial relationship – is the one that will see the best results for tenants. However there are changes which need to be made.
2. Private landlords tended to regard their investments as a high yield savings account with a building attached rather than a business where they were providing homes, and private letting agents to regard tenants as a necessary evil rather than the end client who provided the actual money.
3. I write as someone who at the age of 32 went from owning a home to renting in the private sector for a period of six years. I now own a home again. I believe that the committee will hear a lot of submissions from the providers of rental accommodation and will also hear from groups such as Shelter and the National Union of Students on behalf of the traditional groups of private tenants. But I believe that young professionals who would ten years ago have naturally bought a home, who provide the greatest growth in the private sector rental market, are likely to be under represented as they have no interest group. I had tried to campaign on some of these issues through a site called repossessed landlord, but that fizzled out a few years ago. The best chance of the committee hearing of their experiences is to get someone like me to write them down.

Making Tenancy Law Comprehensible

4. When I was renting, I would sometimes need to quote the Landlord and Tenant Act to the letting agent, particularly at the end of a tenancy. Most tenants are not trained lawyers the language could be made simpler. I would recommend an exercise like the Tax Law Rewrite project, which aims to make the law concise and easy to comprehend without changing the substance of the law.
5. This could use open source drafting technologies such as wiki software to encourage a wide range of stakeholders to contribute, such as charity and advocacy groups, letting agents, solicitors and even tenants and landlords. This will not only involve a wider audience (and one not dominated by organised interest groups) but could also be done at considerably less cost.

The ARLA Model Tenancy Agreement

6. One of the most influential legal documents in the private rented sector is the Association of Residential Letting Agents (ARLA) model assured shorthold agreement. Few private tenants negotiate substantive changes on their tenancy agreement. A substantial majority of private landlords will use a letting agent to find a tenant and will propose a tenancy agreement essentially unchanged from that supplied by their letting agent. Letting agents will almost always use off the shelf letting agreements, with ARLA being the clear market leader (so much so that they now are required to allow non ARLA members to be able to use their agreement).

7. The ARLA model tenancy agreement is a potentially useful tool in order to bring tenant safeguards in. As well as being able to avoid the potential pitfalls of the inherent inflexibility of statute law, it will also give letting agents a shield when landlords insist on unreasonable behaviour towards their tenants.
8. I'd suggest that the committee closely questions ARLA about how they involve tenants advocate groups such as Shelter and the National Union of Students when making changes to their model tenancy agreement. This could be particularly useful in relation to repairs.

Repairs

9. There is often a problem with repairs. Good landlords treat their houses as business assets, making timely repairs and ensuring that their tenants are comfortable in their homes. However too many landlords tend to treat repairs, particularly where they are not suffering the inconvenience of broken windows or the lack of hot water, as an avoidable or delayable expense to be treated with a lack of response or other delaying tactics.
10. Section 11 of the Landlord and Tenants Act does not provide an adequate safeguard for tenants who cannot get necessary repairs done. The core principle is sound, commissioning work when the landlord refuses to do so and with-holding rent equal to the cost of the work. However the process is too complicated for Section 11 claims to act as a genuine deterrent to lacklustre landlords or to be used quickly and painlessly by tenants if there is continual refusal.
11. Firstly there is the timeline. Currently the tenant has to warn the landlord that there is a section 11 claim that could be made after the Landlord has been informed of the repair and done nothing about it. There should be a presumption that a section 11 claim can be made after a grace period (perhaps seven days where there is not the need for structural work) for the landlord to arrange and begin the repairs.
12. There should also be a streamlined approach to choosing trusted contractors to carry out the repairs. The current competitive tender process makes sense when the tenant does not know trustworthy contractors, but is too bureaucratic where a tradesman has done previous work on the house or other houses that have been let by the letting agent. Tradesmen who have previously been used by the landlord and (in managed lettings) the letting agent should be allowed to be used without competitive tender.
13. Finally there is the issue of the presumption of good faith. One of the biggest worries for a tenant who issues a section 11 claim is that they could get it wrong and find that they are paying for the repair and also facing eviction. If a section 11 claim has been made and a tenant has been evicted then this should be noted when renting out to a new tenant or being sold if this is within 12 months.

The mortgage time bomb

14. Tenants can find that they lose out through the non-payment of mortgages to banks. This can often come as a surprise to tenants. As there is currently a low number of repossessions this has not been a widespread issue, but if there is a growth in repossession then the lack of emotional attachment that a landlord would have to

their house compared with an owner-occupier will mean that it is likely that there is likely to be a problem that will affect the private rented sector disproportionately.

15. There should be a requirement that landlords communicate to tenants as soon as they are a month behind on the mortgage, giving the contact details of the banks. This will allow tenants to get in contact with banks at an early stage and make arrangements such as paying rent to the banks. It will also mean that banks become aware of the issue of tenants living in properties with residential mortgages.

The position of banks on foreclosed properties.

16. There should also be a presumption that the bank on foreclosing on a property takes over the legal responsibilities of a landlord, as if they were in the position of a purchasing landlord buying the property from the original. This will mean that if there has been money that has been paid to the landlord for rent in advance (reasonably common when a landlord is in trouble) then the bank will have to take this into account even if the bank has not received this. A bank should also have give the tenants a six month guaranteed tenancy if they request this within a short period of time. This is part of the bank's credit risk when they lend to landlords and should be factored into the cost of buy to let mortgages and not in to the sudden upheaval of a tenant's life.
17. It is a relatively easy process for a bank to work out with some degree of accuracy whether properties are rental or residential (for example the use of different addresses for bank statements, the use of another property as security and a more streamlined approach to purchasing without the paying off of previous mortgages).
18. There may need to be safeguards so that an owner occupied property does not become rented during a foreclosure process.

Competition from housing benefits

19. One of the greatest issues for private sector tenants is that there is a lot of competition from housing benefits claimants who will often pay higher rents, and on better conditions than tenants who do not receive benefits. This makes it far harder for tenants to bargain down rents. These tenants are also funding this higher overall rents through their taxes.
20. Moves towards a universal benefit will help in this case and exceptions for rental payments should be kept to a minimum (for example for people with severe learning difficulties).

The effect of immigration on the rental market

21. The greatly increased level of immigration over the last decade has coincided with an above earnings increase in rents, particularly in London, which would have otherwise have been unsustainable. This is particularly the case when there is a higher density of residents per house than native born neighbours which means that a number of people on a relatively low wage can outbid a family on a higher – but still not substantial – wage. Many of these houses will be in practical multiple occupancy, but not registered under these rules.

22. Landlords who rent houses to illegal immigrants should face penalties similar to that of employers who hire illegal immigrants.

January 2013

**Written submission from the Bradford District Tenants and
Residents Federation (PRS 024)**

As a group we have for many years been concerned at the poor quality housing offered by some landlords in the private sector not just locally to Bradford but in all areas around the country. We do stress that this is not an attack on the sector as a whole but rather on that portion that brings the whole sector into disrepute.

Added to this is our concern at the levels of rent charged in some areas for homes whatever the quality delivered.

As an organisation we are aware that Local Authorities may be offered the option to discharge their duty regarding the homeless into the private sector following recent consultation, this leaves us with an additional layer of concerns regarding the sector which we would address as follows: -

Security of Tenure: -

We should like to see a standard 12 month Assured Shorthold Tenancy issued by licensed private sector landlords who wish to be eligible to take part in the rehoming of the homeless.

Licensing of Private Rented Sector: -

We should like to see all landlords licensed by the local authority before they are allowed to rent out homes. We are not looking for an onerous regime to be imposed, rather that landlords prove they meet a basic minimum standard of both their property and of the service they give to tenants.

This would we envisage being that they provide: -

1. Gas safety certificates
2. Electrical safety certificates
3. Energy efficiency ratings
4. Certificate showing homes met minimum standard expected (see below)

We should also expect that landlords wishing to register would be checked against authority records for complaints regarding landlord property or conduct.

Certification of landlords and landlord properties: -

Here we are not proposing some HCA style regulation and monitoring, rather a basic set of standards should be met prior to a landlord being allowed to rent out a property.

These to include as a minimum: -

1. Doors and windows that open and close and can be secured
2. Double glazing
3. Central Heating
4. Kitchen and bathroom of acceptable standard

We acknowledge that in these times of financial hardship for Local Authorities they will be hard pressed to find the monies required to put these conditions in place. However we believe that this is no reason to allow the unlicensed market that currently prevails and is bringing misery to thousands. Rather than put in place an entire new department or layer of staff within the Housing Department a partnership be developed with a local Tenants Federation or tenant led social enterprise whereby trained and experienced tenants can perform the review of landlords.

To finance such a system we would advocate an annual licensing fee for landlords of say £20.00 for first five properties, and £110.00 for more than five. In return we would suggest that landlords be offered the opportunity to advertise their properties as Council Licensed and the option to have tenants nominated from the waiting list.

Rent setting: -

Potentially this is the most controversial element of this enquiry due largely to it being in direct conflict with the Localism Act, Welfare Reform policies and the best interest of both landlord and tenant.

We firmly believe that landlords should be able to make a reasonable margin of profit on their investments so do not advocate a punitive regime of rent levels which forces them out of the market. However we do advocate that rental levels are set at a level relative to the local economy but also that the Local Housing Allowance (LHA) be set to mirror these values.

Where we see potential clashes with the two Acts is in the areas of bedroom numbers required, our reading is that the Localism act sets different criteria to the Welfare Reform Bill as to at what age children are entitled to their own bedroom and that the Localism Act sets out space criteria for numbers allowed to occupy a bedroom something not included in the proposed Housing Benefit calculation for number of bedrooms required.

In order to protect those in lower paid work but living in comparatively high rental areas of a city we would advocate LHA be set at 80% market rent for the relevant district. This would alleviate the potential for the workforce being priced out of the market by either rent levels or the cost and ability of public transport to meet their needs.

Rental agencies: -

Whilst we acknowledge that there are only a small minority of agents who behave badly they do bring the profession into disrepute and so we should like to see them licensed by the Local Authority. Again we are not looking at onerous conditions, simply that they limit their services to licensed landlords and that they do not charge potential tenants for their services, they are after all agents of the landlord.

Houses of Multiple Occupancy (HMO): -

We are relatively happy with the current licensing of HMOs, where they are identified, our concern is the potential for the proliferation of unlicensed premises with the revoking of Housing Benefit entitlement to the under 35s. Already we are seeing the advent of the “rooms to let £50.00 per week” advert in local shop windows which gives rise to our concerns. We should like to see local authorities taking positive steps to identify where abuses of the situation are occurring and take action to penalise offenders and/or bring the relevant properties up to standard.

Summary: -

We should like to see the Private Rental Market regulated but not to the point where it becomes either too bureaucratic or costly to appeal to landlords. We should like to see partnerships between, landlords, local authorities and tenants formed to make the sector more appealing to all concerned. Letting agents should only be allowed to service licensed landlords and charge only the landlord for the service provided. The potential for abuse of the system of HMOs means in our view that a review of how licensing operates will be needed.

Cautionary note: - with the proposal under Universal Credit to pay Housing Benefit direct to tenants we are concerned that this document could well be irrelevant as private landlords give up the market. Already we are seeing signs of the withdrawal of landlords from the market for those on Housing Benefit, a potentially dangerous development when 70% of new claimants are in work.

January 2013

Written submission from Jonathan Davis (PRS 025)

Regarding length of tenancies, it is disgraceful that the longest AST is 3 years. It is also disgraceful that lenders can disallow a tenancy of over 12 months.

Give tenants some security and allow tenancies of up to 9 years.

Also, landlords should give tenants longer notice periods. 4 months in the case of landlords and 1 month in the case of tenants.

These would give greater protection to tenants than currently where there is minimal if any protection.

Ultimately if the deal is bad the two parties will part sooner. However, currently the tenant has little protection.

There should be no rent control. Let the market decide.

January 2013

Written submission from Keith Williams (PRS 026)

Background

This submission is made in response to the notification that The Communities and Local Government Committee has decided to conduct an inquiry into the private rented housing sector, and the invitation of submissions by the Committee from interested parties.

In considering the position generally, and the specific topics being considered by the Parliamentary Committee, I believe it important that the position, and views, of private landlords is fully understood and recognised. Such landlords form a significant proportion of those providing houses to let by tenants. Many are not part of any formal organisation, and as such there is a danger of their views and knowledge not being fully recognised by the Committee unless submissions such as this are considered. Accordingly I am writing to you to let you know my thoughts as a private landlord.

In the last 12 months my wife and I have recently purchased and let out for rent 2 houses. My wife and youngest son also own another property that is rented out. My eldest son is a tenant of a property owned by a third party, (and lets out his own house whilst he is living away which we help manage on his behalf). As such we have an interest in the letting of 4 houses.

They each agree with the views expressed in this letter and are joint signatories.

Headline Views

I provide information below about our experiences and the reason for our headline views that can be summarised as follows:

1. We support the existing type of 6 month Assured Shorthold Tenancy Agreements
2. We support the regulation of Letting Agents
3. We do not support the regulation of landlords themselves
4. We do support the regulation of certain aspects of the quality of property that is let
5. We do not support rent capping
6. We do not support any increased protection to tenants
7. We support an improved process for tenants to address poor landlords and for landlords to address poor tenants

We explain the reason for such views below.

Information to support each view

1) Type of tenancy agreement

- 1.1 Each of our properties are let on a 6 Month Assured Shorthold Agreement, which at the end of the 6 months becomes a statutory tenancy.

- 1.2 We chose this as we strongly believe it best suits our needs and those of the tenants.
- 1.3 We have also found that tenants themselves prefer this type of Agreement.
- 1.4 It provides us and the tenants with some security that the agreement is in place for a minimum of 6 months.
- 1.5 If at any time after the end of the 6 months we as landlords are not happy with the tenant because they have not looked after the property or acted in a way that breaches the terms within the Agreement, then at the end of the 6 months we can give two month's notice to the tenant requiring them to leave the property.
- 1.6 Equally if the tenant wishes to move out of the property for any reason (which could include that the landlord is not meeting their obligations or simply that the tenant doesn't want to live there any more) at any time after the end of the 6 months then the tenant can give just a month's notice and end the Agreement.
- 1.7 Alternatively if both the tenant and the landlord are happy with the tenancy agreement, the agreement can continue on a rolling one month statutory tenancy for as long a time as both wish.
- 1.8 We feel this is best for both the tenant and ourselves. Each party needs flexibility and the chance to end the agreement (with due notice) but equally if both are happy with the arrangement there is no need to keep entering into new agreements every 6 months which can be costly for both parties.
- 1.9 It is financially advantageous for a landlord to retain the same tenant after the initial 6 month period ends as otherwise there will be a period when no rents are received and further agents costs are incurred to find a new tenant. As such it means that the landlords have a financial interest in trying to keep their tenant happy in the property.

2 Regulation of Agents

- 2.1 We used the services of Estate Agents, who also provide a letting service, for each of the 4 properties mentioned above. The services we engaged them for were:
- Advertising the property for rent
 - Undertaking credit and reference checks for prospective tenants
 - Obtaining and registering the deposit with a government approved scheme
 - Drafting the lease agreement and getting that signed by the tenant

- Preparing an inventory of the property, including photographs of the condition of furnishings etc, and agreeing the inventory with the tenants.
- 2.2 (We explain why we only used the Agents for these services, and why we undertook others ourselves, below.)
 - 2.3 The range of costs and the quality of service that we received from the Estate Agents varied considerably.
 - 2.4 Generally the Estate Agents provided a good service in taking photographs and marketing the property for rent (which is very similar to what they do regarding houses for sale, so they should be good at it).
 - 2.5 They also provided a good service regarding the inventory (for similar reasons) and by having an Agent prepare this, agree it with the tenant and keep a copy of this, they provide a useful third party service in minimising any disputes at the end of the tenancy regarding any deposit the tenant should give up for damage to the property and its furnishings etc.
 - 2.6 The agents also provide a useful service in undertaking credit and reference checks, depersonalising this issue between the tenant and the landlord and protecting the tenant's private financial details from the landlord. But the process still gives the landlord the necessary level of assurance that the tenant is able to pay the rent and has a "good" reference/credit history.
 - 2.7 However the Estate Agents were all poor in other aspects for example:
 - 2.8 Each Estate Agent uses their own draft Shorthold Agreement. Whilst each provided the general legal sections for such an agreement their "standard" expectations/requirements within the agreement varied considerably, as did their views as to what should, or should not , be expected of the landlord and tenant. For example, the tenant's right to change the electric and gas providers, allow visitors (and the period of their stay), the times when they had to keep noise to a minimum. There seems to be no reason why a standard agreement should vary so much and we do think that there should be a norm across the industry (whilst of course allowing landlords and tenants agree any change of wording if they so wish).
 - 2.8 Also when using their own standard drafts, the Estate Agents did not take sufficient care in their refinement e.g. not correctly making amendments regarding whether pets and/or smoking were allowed or not, or not removing other amendments made for other specific clients that had no bearing on our particular property. On each occasion when the Estate Agent prepared the Agreement we have had to point out several errors on the draft agreement.
 - 2.9 We consider that there needs to be some central body that measures the quality of the "Approved" Agents work on the drafting, structure and completion of tenancy Agreements.
 - 2.10 Additionally, the advice we received from the Estate Agents as to how often we should inspect the property whilst tenanted varied considerably. That causes confusion to both us and the tenants.

- 2.11 The Estate Agents that we used were all “main street” reputable firms. But as covered above, even then the quality of service we received regarding the finalising of the tenancy Agreement was poor and varied. I believe that regulation of the Agents, with checks on quality and guidance on standardisation of Agreements, would be beneficial to both landlords and tenants.
- 2.12 Services we did not engage the Estate Agents for include:
- 2.13 Showing prospective tenants around the properties as we did this ourselves. This enabled us to get a feel for the quality and trustworthiness of the tenant. This is important as a poor tenant can cause damage to the property (which may not all be covered by the deposit), fail to comply with all the terms of the agreement (e.g. the making of excessive noise etc). It also enabled the tenants to meet us as landlords and form their own views of us. We consider that a good relationship between the landlord and tenant is good for both parties.
- 2.14 We also take responsibility for dealing with the tenant during their tenancy, including arranging any repairs to the property etc. We do not engage the Estate Agents to manage the properties on our behalf because we want to provide the best service possible to the tenants, which we don’t think the Estate Agents will. We are also concerned that the Estate Agents will just pay any charge raised by a repair person as it doesn’t impact on them financially at all and there seems to be no National Standard of what they should charge for this service or of its quality and cost effectiveness.

3 Landlords

- 3.1 We are sure that the type and quality of landlords varies considerably (as it does with tenants). But we think private landlords, who own and rent out only a few properties provide an important role in our society and economy. We would suspect that most are conscientious and caring landlords, who provide properties which are good homes for others. They invariably form a good relationship with the tenants and fully comply with all the requirements of a landlord.
- 3.2 Onerous regulation of such private landlords is likely to make many cease to rent out a small number of properties, which we believe would have a negative impact on the quality of properties provided to tenants, and the economy generally.
- 3.3 We consider it is the landlords who rent out a lot of properties as a full time business are more likely to be those who do not act in a reasonable way. Perhaps there could be regulation of landlords who own above a set minimum number of properties (e.g. 10)?

4 Regulation of Properties

- 4.1 There are already regulations regarding the quality and safety of the properties that are provided to tenants. For example the need to have an annual gas safety check and certificate, and to have an energy performance certificate.

4.2 We believe that there should also be a regulation (rather than a recommendation) regarding the electrical safety in a house (i.e. the same for gas). All good landlords will have electrical work checked and made safe as a matter of course, so making this a regulation will just support that. But it will also then compel other, less responsible, landlords into doing this too.

5 **Rent capping**

5.1 Whilst it is generally reported that rents have increased considerably in the last few years, we do not believe that the rents charged by the vast majority of private landlords are excessive.

5.2 The gross rents that we receive for our properties are approximately 5% to 7% of the current value of the house. From this we have to pay interest on the loan for the property at a rate of 3.5%, and annual costs for building insurance, gas safety certificates etc. These costs account for another 0.5% of the house value. As such our “profit” from the property is about 1% to 3% of the property value, from which we have to pay for any repairs and miscellaneous overheads.

5.3 This doesn't take into account any loss of rent due to non-payment by tenants or periods when the property is not let.

5.4 The net profit is probably a lower percentage than we could secure by putting the equivalent amount of money into a Building Society Savings account, and for the latter we would not have to undertake any work, or be at risk of financial loss.

5.5 In the past good profits could have been made by landlords via property value increases over a number of years. But this is unlikely now for several years – in fact landlords are suffering losses from falling property prices.

5.6 As such we do not support the capping of rents – the rental market is competitive and the market should be left to set its own rates. Tenants will not pay an excessive level of rents for an unsuitable property.

5.7 If a decision is made to cap rents, then that should be at a level that provides the landlord with a reasonable percentage profit based on the value of the property let after their costs, and should only be introduced with stronger laws to enable landlords obtain the rental income (e.g. for housing benefits to be paid directly to the landlords).

6 **Protection to tenants**

- 6.1 Tenants are already well protected if they have a proper 6 months Shorthold Tenancy Agreement in place as covered at (1) above.
- 6.2 Tenants have security of tenure of the property for a minimum of 6 months, and only have to give one month's notice thereafter to vacate the property whereas the landlord has to give two months notice.
- 6.3 Even when the landlord has given two months notice it can be very problematic to actually get the tenants to vacate the property, requiring various legal actions, and costs, that can take several months (during which the landlord invariably receives no rent).
- 6.4 If the tenant has financial problems following for example loss of employment, Government benefits provide enough money to enable them pay a fair rent. So there is no need for any tenant not to pay their rent (unless they chose not to or chose to spend it on other non-essential items).
- 6.5 If benefits to people do not provide sufficient money to pay a fair rent then the Government should address that by the amount of benefits people receive – or to pay the rent directly to the landlord on the tenant's behalf. It should not be for private landlords, who as we have shown above make very little profit from renting out properties, to subsidise the living expenses of people on behalf of the Government.
- 6.6 We therefore do not support any increased protection to tenants than they have now.

7 Improved Process to Seek Redress

- 7.1 We believe that the legal process for both tenants and landlords needs to be improved.
- 7.2 For the tenants it can be extremely hard to get a landlord to undertake a necessary repair – either quickly or at all. They have little redress to address that other than perhaps costly legal action or simply moving to another property (which again involves them in costs).
- 7.3 If there was a body that regulated landlords with a large number of properties (who are more likely to be the “poor” landlords) then that body could deal with such complaints from tenants and address that directly with the landlords – with the possible ultimate sanction of withdrawing their approved landlord status if they did not comply with their landlord obligations.
- 7.4 For the landlords it can be a very difficult, lengthy and costly process to recover unpaid rent and/or to evict a tenant – even if the landlord has complied with all their obligations and legal requirements.

7.5 The process for redress needs to be more fairly balanced (and not as seems at present weighted heavily in favour of the tenant).

7.6 If there was a National Regulatory body then perhaps part of its function could also be to act as support to both tenants and landlords in any disputes they have between them? I am not sure that there is any such support facility available at present, other than through the Courts.

We hope that the above is helpful to the Committee.

January 2013

Written submission from Sarah Wild (PRS 027)

Private rented sector

As a landlord in Reading for Reading university students of 14 years in Private Rented Sector my experience is:

1. Landlords fall roughly into two groups – those that care about the regulations and those that do not and rent poor quality homes. But my experience is also that the ‘good’ landlords are made to ‘pay’ huge sums of money because of the ‘bad’ landlords. Legislation/standards will be ignored by bad landlords and just add additional costs to ‘good’ landlords. And this may have to be passed onto tenants.
2. Tenants can be ‘bad’. Despite getting references I have had tenants that did £1000.00s of damage – and did not mind ‘losing their deposit’. I have had faked references.
3. DHSS tenants – I will never have them again as the money paid for their rent was spent by the recipient of housing benefit on ‘other things’.

I aim to be a responsible landlord but it is getting more and more difficult to be a ‘fair’ tenant as the legislation assumes I am a ‘bad person’ and requires me to carry out so many tests for my home that I have had to reduce what I provide. (EG I no longer provide any small electrical appliances as these have to be tested each year, even if they are OK, and the ‘test’ is so expensive it is cheaper to throw away small electrical items and replace them. I do not want to throw away ‘good’ equipment, so I no longer provide them.)

I had a GOLD rating from the local authority for my property and it’s management.

January 2013

Written submission from Roy Kitchen (PRS 028)

For consideration in your enquiry in to the Private Rental Sector, I submit the following for your consideration (from an independent letting agent, founded in 2001)

YES - Letting agents should be regulated !

The vast majority of letting agents are self-regulated as members of and compliant with the requirements of NALS or RICS or ARLA

Membership of one of these bodies **should be imposed on all agents**, including 'virtual' agents and estate agents with lettings as a 'side-line' (we don't need another central regulatory or registration body)

OFT to have authority to undertake unannounced audits to ensure evidence of compliance with: -

1. Member of a dispute resolution service (TPO or Ombudsman Services)
2. All client monies placed in ring-fenced client accounts with a UK bank
3. Client account insurance at adequate levels
4. Monthly reconciliations of client accounts
5. Professional Indemnity Insurance
6. Data Protection Regulations
7. Damage Deposit Regulations
8. The Consumer Protection from Unfair Trading Regulations 2008 (CPRs), The Business Protection from Misleading Marketing Regulations 2008 and Town and Country Planning (Control of Advertisements) *Regulations* 1992

OFT to have the power to appoint independent accountants, at cost to letting agent, to audit 4 above if any irregularities suspected.

Nominal one-off charge (say £50) for each letting agent to register with OFT.

Rent Control

Totally impractical and unworkable – market forces must prevail in the setting and review of rents in this sector.

Security if Tenure for longer periods

Should not be regulated – the reasons that landlords are in this sector are diverse; from investors in for the long term, but still may be planning an exit on one or more properties, to 'forced' landlords who cannot sell and are only in for the shortest possible time, largely dependent upon recovery of the sales market. To enforce longer fixed periods on private landlords, removing the freedom to deal with their investments as they consider suits their own interests, would substantially reduce the number of investor / landlords in the marketplace and thus reduce the housing stock available.

Abolition of Letting Agents Fees to Tenants

These should not be abolished. Responsible letting agents invest a considerable financial resource in compliance (as above), staff, training, property, computers and systems etc to provide the protection and services required to meet tenants' needs.

These fees do need to be 'fair' and fully transparent (and auditable by OFT in conjunction with the above) but left to market forces to control.

Removal of fees would lead to: -

1. Reduction in the number of letting agents
2. Reduction of the resources deployed by the remaining letting agents, principally staffing, which would be detrimental to tenants' interests
3. Forcing up fees charged by letting agents to landlords
4. Which in turn would result in higher rents charged to tenants – probably at a greater cost to tenants in the longer turn

Regulation of Private Landlords

This is needed as much as / or more than the regulation of letting agents.

All private landlords should be registered with local councils – including property details and proof of compliance with Deposit Regulations

Those letting and managing their properties through registered letting agents should be registered via the letting agent at nil charge (such information is already available from letting agents under HMRC Legislation and Regulations)

Landlords who let and / or manage their properties themselves should register with a local or central body at *nominal cost*

Local authority to reserve: -

1. The right to contact tenants (details of occupants can be sourced via council tax records) for surveys of condition and care
2. The right of inspection at any time without landlord consent to inspect condition, care and compliance with appropriate housing and safety regulations.

In submitting these views, I look forward to a balanced and practical outcome to your review into the PRS, protecting private tenants but preserving the status quo for responsible and professional regulated letting agents who provide a valuable service to landlords *and tenants* in the Private Rental Sector.

January 2013

Written submission from Oliver Cornes (PRS 029)

Standards in the private rented sector need improving. There are too many landlords flouting the existing rules, and in particular not taking the health and safety of their tenants seriously.

As a landlord that does care about these things, it is very frustrating to have to compete against those that do not.

Any regulation must be light touch, especially considering the mass exodus of landlords from housing tenants in receipt of housing benefit. Any heavy-handed regulation will clearly reduce investment, both by existing service providers, and those considering entering the market.

To improve standards I would suggest that the following are necessary steps:

- Housing benefit being paid in arrears and on two or four-weekly schedules is completely at odds with virtually every shorthold tenancy in the UK which is monthly with rent due in advance. Housing benefit should be paid monthly in advance, and (if tenant and landlord both agree) direct to the landlord. Unless these changes are made, less and less landlords will rent their properties to housing benefit tenants (however much they may wish to) as the risks are too great. I want to rent to benefit tenants, but the risks are enormous (I've lost a great deal of money trying) so I very rarely accept tenants in receipt of benefits. I am far from alone – the NLA can confirm survey figures from their members.
- The government must bear in mind that many landlords (individual and corporate) and letting agents operate across multiple council areas. Although it is good to see some councils setting up licensing and accreditation schemes, if we allow it to continue on a per-council basis it increases the management and costs to landlords and agents who operate across boundaries – this mess already exists with the HMO legislation which is interpreted differently in different areas.
- The government must set caps on the licensing charges council can levy. Any reasonable landlord understands that any council enforcement needs paying for, but if those charges look like profiteering on the part of the council, they will resist every which way they can, and that is no way to move ahead. The smart councils have already realised their best approach is to work WITH the GOOD landlords, charging reasonable fees, and using those costs to take action against rogues.
- An optional license for landlords, available nationally, backed by a Government campaign to educate people to rent only from accredited, licensed landlords. The income can be used to monitor properties and landlords. This approach involves councils and government working WITH the good landlords to increase standards.
- A national property management training and accreditation programme for landlords and agents with standard courseware (already created by landlord associations) and an exam, with a requirement to re-sit the exam, every five years. Landlords who do not reach the grade are required to use an agent that does. Certified members of the NLA, RLA, ARLA etc can be passported straight in.

- Accreditation requires that landlords commit to offer a reasonable guarantee of a tenancy continuing for the long-term – if they ask the tenants to leave earlier than they indicated, a penalty fee is payable to the tenant. E.g. if a landlord grants a one year tenancy and tells the landlord their intention is that the tenant can stay for ten years, then asking them to leave (without tenant fault) would incur a penalty after the first year. This solution works around the enormous problem that most mortgage lenders specifically prohibit landlords from granting long tenancies.
- Speed up the eviction process – where tenants are at fault the landlord should be able to evict much more quickly. This benefits good tenants, and will make it easier for vulnerable people to find housing as the risks for landlords are lower. Currently it takes (from issuing a notice to bailiff eviction) 4-6 months to evict a tenant, which can have a disastrous impact on the landlord, and deprives the majority of sensible tenants from access to that property.
- The eviction process has become so slow and unreliable that most professional landlords now use the section 8 process rather than the section 21 process. If the Government were to reduce the effectiveness of the section 21 process (in order to prove tenants with greater security) the side-effect will be to make it much harder for landlords to get rid of rogue tenants – the knock-on effect will be landlords being even less inclined to rent to anyone with any risk attached. It is very much in the interests of good tenants that rogue tenants are more effectively managed. At this time it's quite normal and common for rogue tenants to not pay their rent and never be held to account or forced to pay (it's virtually impossible to recover unpaid rent from someone with limited assets & income). We have created a culture and legal setup where rent is optional for rogue tenants, and the good tenants and landlords are the ones who suffer (plus the government, often whose LHA payments have not been used for paying rent).
- Make non-payment of rent (especially from housing benefit) a criminal offence. It is very strange that if someone takes £5 of food paying in a supermarket they are arrested, but if they steal £5,000 from a landlord by not paying rent, the police are not involved at all (as they are in other countries).
- Make electrical safety certificates a mandatory requirement every five years. It's absurd that gas safety certificates are required, but electrical safety certificates are not.
- If any rent caps or rent controls are put in place they MUST allow for the free market to continue moving over the long term. If limits on rental increases are deemed necessary (and remember any limits will reduce investment in housing) they should allow for above-inflationary rises, e.g. a cap of “inflation +5%”. It is reasonable tenants are protected from sudden, very large rises. If caps are fixed, e.g. no rises above inflation, then this creates a huge incentive for rogue landlords to evict current tenants in order to get new tenants on higher rate.

Written submission from Catherine Walls (PRS 030)

Having now reached retirement age, living alone and surviving mainly on a government retirement pension—I find it necessary to live in the private rented housing sector as my situation is not considered critical enough for social housing.

However, I am finding it increasingly difficult to maintain the agent's fees and charges which seem to be going up and up, and vary from one estate agent to another.

Below, I have copied the exact figures from my latest potential move through the agents known as Fulford's, who incidentally also expect me to take out contents insurance to a cost of over £20 per month on an UNFURNISHED flat.

Invoiced items	Net	VAT	Gross
Rent due 21/01/13	450.00	0.00	450.00
Security deposit	550.00	0.00	550.00
Agreement fees due	125.00	25.00	150.00
Reference fees due	62.50	12.50	75.00
Inventory check-in	60.00	12.00	72.00
Administration fee	41.67	8.33	50.00
Invoice total £	1,289.17	57.83	1,347.00

I would therefore like to recommend that the government introduce stricter control on the limits to which estate agents can make charges to potential tenants because sure, a sum of £347 purely in estate agent charges to a tenant (not including what they usually charge a landlord of perhaps one month's rent) is outrageous and totally unwarranted.

I feel a much fairer system would be that all agents are subject to a maximum charge of £100 per new tenant.

January 2013

Written submission from Iain Beaton (PRS 031)

Rogue Landlords and Rogue tenants need to be taken to task. However we should not a sledgehammer to crack a nut. Rogue landlords abuse tenants and probably pay little tax.

Although many landlords fear being licensed, if this were a simple system and cheap, £50 registration I can't see why anyone need object.

Landlords could have star rating as used in many other areas (ie ebay, autotrader etc)

Tenants could register and been given a number (picture on line) which could be checked by any new landlord. Ie a bad tenants register. (there Is already a web site offering this.)

A simple on-line scheme run by companies like Net Rent, NLA, My Deposit, DPS etc would be a simple solution. If My deposit or Let sure can carry out similar task for checking tenants and holding deposits, and have computer structures in place it can't be too difficult to set up.

Upfront fees need to stay, but a control on agents overcharging could be implemented. Local Council must pay the landlord direct if they want to have more landlords joining their schemes. I have lost out to tenants, being paid direct and not paying me on every occasion, I will never again offer this option.

The landlords need more protection against bad tenants and easier means to evict, the laws are too much in favour of the tenants.

January 2013

Written submission from Home Counties Property (PRS 032)

In response to the inquiry into the private rented housing sector, I would like to submit the following:

I run a small lettings business in the Home Counties and also myself and my wife have approximately 10 small properties which we let.

The availability of rental properties in the market must be the key consideration, when evaluating further imposition of red tape and government controls. It is the availability of such properties, in a free market, that will help to keep rents down and quality up.

Rent Control

Historical attempts at government rent control saw a significant reduction of landlords prepared to invest in the sector and reduced the amount of accommodation available. Additionally the quality of that accommodation deteriorated over time, as landlords were not prepared to invest in it. Only when controls were lifted and a freer market returned, did the availability increase and this availability, after an initial correction, maintained rents at a sustainable level. The private sector simply will not invest their money in supplying a product, in any sector, if they cannot make a reasonable return on that product and there is no reason why landlords would look any differently at the situation. So unless local authorities are going to provide subsidised accommodation, rent controls will merely reduce the amount and quality of available housing.

Regulation of Landlords

Much is spoken about rogue landlords and very little about the vast majority of landlords that provide high quality accommodation and act in a fair and reasonable manner. The last attempt to impose some sort of regulation on landlords via the various tenancy deposit schemes has established a multi billion pound industry, which all reputable landlords and agents adhere to and incur significant additional costs in doing so, yet there is little evidence that this has benefitted tenants or the industry in general. The odd rogue landlords have and will continue to ignore this and future legislation. Further regulation will merely continue to make it less attractive for good landlords to let property, thus reduce supply from the type of landlords that the industry wants and consequently will increase rents. Rogues ignore regulation, so the additional red tape only harms those that it was not intended for.

Regulation of Letting Agents

Many letting agent organisations eg ARLA and letting agents have been calling for regulation of agents, over the years. The letting agent organisations are the ones who would build up their membership if such regulation were introduced allowing them to be more powerful. Many letting agents, especially the larger ones, want the imposition of barriers to competitors

entering the market, in order to protect their position. The reality is that for every piece of additional regulation, small businesses have to incur a disproportionate high additional cost, waste considerable extra time or run the risk of not fully conforming and being brought to book. The additional red tape hampers the smooth running of lettings businesses and does nothing to protect tenants. Much is often made of protection of tenant deposits. Not satisfied with the imposition of the multi billion pound bureaucracy already created, some call for compulsory deposit protection insurance in case the letting agent unlawfully steals the deposits. The reality is that such monies are client monies and not owned by the agent, so any such misappropriation is a criminal act and is already currently dealt with very severely by the courts on that basis. Why then is it necessary to require the agent to take out additional insurance or join some organisation in case he decides to steal somebody's money? This is akin to asking everybody that goes into a bank to join some organisation and take out a special insurance in case they decide to rob it. Is a prison sentence not a strong enough sanction?

Housing Allowance

The government has set housing allowance rates at a level slightly below the average for a particular area, so that councils are not paying for claimants to benefit from enjoying a higher standard of accommodation than those that are working and paying for it through their own resources. It should therefore be no surprise that this accommodation is harder to find and not "top of the range", since this was the objective of the policy in the first place. Rather it suggests that the policy is being successful, which might then encourage some claimants to strive for a higher level of financial independence.

How to Improve the industry

The objective is to increase the availability of reasonable quality rental properties, this will dampen price increases and provide homes for people. The way to do this is to lift regulation such as the tenancy deposit scheme, PI insurance requirements and not to increase once again the amount of red tape within the industry.

The private rented sector has grown considerably over the past 10 years, mainly as a result of private individuals investing their own and borrowed money into housing. The quality of this property has improved as tenants have demanded a higher standard of accommodation, leaving poorer quality houses to sit empty. Is there really so much wrong with allowing the free market to function properly?

January 2013

Written submission from Graham Heather (PRS 033)

- I am both a tenant and a landlord. I rent the flat I live in and I have 4 houses I rent to tenants. I started buying houses to let 38 years ago.
- Tenants require somewhere to live without having to buy it. Landlords invest a huge amount of money to provide and maintain those places to live.
- If a landlord doesn't provide good value for money then the landlord will not be able to find a tenant because the tenant will rent from someone else. If a landlord fails to maintain property while a tenant is living there then the tenant will leave. This is costly to the landlord because there is no return on the investment if the property remains empty so the landlord has to provide good value.
- The tenant has no investment in the property and will only live there as long as it is convenient so the market provides all the safeguards a tenant needs by offering alternatives. Tenants have additional safeguards in existing legislation covering Assured Shorthold Tenancies and Periodic Tenancies.
- The times when disputes occur between landlords and tenants they are usually when the tenant won't pay the rent. There are not many occasions when a tenants can't pay the rent because in those circumstances the tenant usually gets Housing Benefit but the rent has to fall at least 8 weeks into arrears before councils will make sure that the Housing Benefit is being used for its intended purpose by paying directly to the landlord. By that time relations will already have become strained between the landlord and tenant so paying all Housing Benefit directly from Councils to landlords would go a long way toward eliminating disputes.
- Landlords are rooted to the property and cannot escape their obligations. Tenants can live in a property with the support of the law for several months without paying rent and while damaging the property then they can disappear into the night leaving their obligations behind. Even if they could be found it usually isn't worth the cost because if they have no money there is no point in taking them to court.
- So as a landlord I don't need or want any additional regulation and if such things as rent controls and compulsory licensing schemes are introduced I will sell each of my houses. And as a tenant I feel adequately protected already and I don't want my rent to go up to cover the cost of additional bureaucracy imposed on my landlord.

January 2013

Written submission from NetRent (PRS 034)

The NetRent submission to the Communities and Local Government Committee Inquiry into the Private Rented Sector

NetRent Ltd has worked with the Private Rented Sector since 2003. We own and manage the largest independent lettings website in the UK with over 70,000 landlords and letting agents registered on our database. Before making this submission we contacted our database as asked for specific comments from landlords and agents by both email and direct to our Facebook site. This submission is based on both those replies and our own observations of the Private Rented Sector (PRS).

The feedback we received clearly stated that landlords and agents do not feel that there is any real need for further legislation of the PRS. The PRS is already subject to around 70 pieces of legislation. What is lacking is both the will and the means to implement existing legislation.

Landlords feel that there is a significant minority of landlords who fall 'below the radar' and it is those landlords who cause problems for the rest of the industry. It is felt that rather than target and deal with these 'rogue' landlords the authorities target good landlords and impose blanket regulation because good landlords are an easy target. At the same time problem landlords remain under the radar and avoid scrutiny.

Landlords clearly feel that decent landlords are targeted whilst bad landlords face little or no sanction.

There is a widely held belief that the emphasis seems to be that all the perceived ills of the PRS are the fault of landlords and agents. This attitude is both incorrect and divisive. Organisations like Shelter and the CAB continue to run concerted campaigns about rogue landlords.

This also ignores the fact that there are two sides to this equation. The impression given is that all landlords are rogue and that all agents are ripping off both landlords and tenants. Some time ago NetRent contacted Shelter and we tried to explain that there are rogue tenants. Shelter were not interested and were completely unwilling to change their campaign which appears to label all landlords as rogue landlords.

Although there are clearly landlords who can be described as rogue there is a significant minority of tenants who can also be accurately described as rogue. And yet all the focus and blame for the ills of the PRS is heaped upon landlords whilst tenants are viewed as innocent victims.

For example, we have been told of instances where some local authorities have encouraged tenants to fall into arrears and force landlords into implementing Section 21 notices before those authorities will re-house the tenants. At the same time local authorities are claiming that landlords are harassing tenants.

This ‘us and them’ attitude simply polarises the PRS. It breeds suspicion and contempt at a time when the PRS has never been more needed or vital.

There seems to be a belief that regulating landlords and agents will somehow cure all the industry’s ills. Local authorities tell NetRent that they do not have the resources or budget to regulate the PRS and the only solution is to register and charge all landlords as is done in Scotland or in Newham.

Newham’s own survey concluded that tenants are in favour of landlord registration but their survey failed to ask tenants whether they would be happy to pay for landlord regulation, because obviously the costs of regulation will be passed on to tenants.

At the same time there is a call for an end to up-front charges. This is already a fact of life in Scotland. This presupposes that there is no cost to setting up a tenancy, arranging for reference checking, inventories and the like. It is a remarkable assumption because clearly there are potentially significant charges to set up even a simple tenancy.

If Landlords and Agents are unable to charge tenants upfront for the costs of setting up a tenancy all that will happen is that the rent will have to increase to cover these costs. The Scottish Government claims that tenants want an end to up-front charges but has anyone asked Scottish tenants whether they are happy to see increased rents to cover these legitimate costs?

The fact is that these costs do not disappear because somebody doesn’t like them. There may be issues around the amount charged but it does cost money to set up a tenancy and ultimately it will be the tenant, as the customer, who will pay that cost.

The question also has to be asked whether or not benefit payments will be increased to cover the increased rents due to regulation and/or the ending of up-front charges.

As with any business if costs are added to that business it is the consumer, in this case the tenant, who will eventually pay those costs.

There is evidence that the overall standard of PRS housing is rising as tenants demand better facilities and landlords continue to improve their properties to attract and then keep good quality tenants. But as in all things this is budget led. There is no doubt that at the lower end of the market some landlords remain unconcerned about the conditions their tenants live in. It is this area that local authorities need to concentrate their efforts on.

However, without a local or central register of rented property finding those properties is difficult. Tenants are often reluctant to raise their concerns with either their landlord or the local authority for fear that they will face eviction. But there is a cost to running such a register and that cost will again have to be passed onto the tenant.

Unlike Scotland there is no central landlord register in England and Wales and it seems that the Government will allow each local authority to determine for itself whether to impose a

register and at what cost to the landlord. This is legislation via the back door as is highlighted by Newham's decision to register all landlords and many other authorities imposing discretionary licencing schemes.

It could also be argued that it is also democratically unfair. Often a landlord is subject to licencing because the property they own is in a licenced area whilst they themselves do not live in that local authority area and therefore have no say in what that authority intends to impose. Local Authorities claim that they consult before imposing licencing but landlords have told us that they are effectively excluded from this process and their concerns are ignored.

Landlords complained to us that they feel it is unfair that they might be forced to register, and pay for the privilege, whilst there is no requirement for tenants to do the same. This leaves landlords exposed to rogue tenants. As we explained above this attitude erroneously assumes that all the ills of the PRS can be ended if landlords and agents are licenced, managed and registered, whilst completely ignoring the fact that there is a significant number of rogue tenants.

There is also concern about who might run a landlord register and what such a register might be used for. For example, would the register be open to HMRC or private companies? Would landlords be forced to join a landlord association if the associations were tasked to run the register?

In general landlords are prepared to invest in their business and continue to raise standards but they feel that there needs to be a similar emphasis on imposing sanctions on the significant minority of rogue tenants.

Controlling rents within certain areas is only likely to move the PRS out of that area or prevent landlords from investing in that area. Therefore we believe that rent control is likely to lead to less rather than more PRS housing.

The default tenancy agreement is a 6 month assured shorthold tenancy but there is nothing to stop landlords and tenants agreeing a longer term contract. The fear that all landlords have is that their tenant will stop paying the rent.

It is essential that Section 21 notices remain available to landlords, both for the landlords' peace of mind but also for the benefit of buy-to-let lenders. If Section 21 notices were changed or abolished, as some campaigners demand, lenders would not be able to gain vacant possession and therefore would be most unlikely to lend. This could lead to an immediate collapse in buy-to-let lending at a time when the emphasis should be on finding ways to expand the sector.

Security of tenure is a two-way business agreement between landlord and tenant. Landlords need to feel secure that tenants will pay the rent and respect the property. Tenants need to feel that their rent is fair and landlords will respond to their concerns.

It is vital that any legislation and implementation reflects this balance.

Most Local Authorities want to work closely with landlords and agents and many Authorities work very well with the PRS. However, local authorities have to work with the PRS and at the same time they have a statutory duty to 'police' the PRS. This can often be a difficult balancing act which can cause friction between landlords and Authorities.

Many authorities have set up Landlord Accreditation Schemes but these schemes often suffer from some basic flaws. The conditions required of landlords to become Accredited vary throughout the country and they often offer little tangible reward for landlords. Some Schemes are based on checking Landlords as 'fit and proper', some are based on checking that the property is 'fit and proper', some are based on both and some based on neither. There is little consistency throughout the country and even in those areas where a regional Accreditation Scheme exists implementation from Authority to Authority can vary widely.

Landlords are business people and need to see tangible benefits from spending time, effort and money in becoming Accredited. Landlords have complained to us that some Authorities seem more interested in teaching landlords in a classroom type setting about how to be landlords rather than adding value to the landlord's business in the form of tangible benefits.

Suppliers and potential suppliers to landlords see little benefit in random ad-hoc Accreditation Schemes that only manage to attract small numbers of landlords and therefore are unwilling to offer benefits such as extra discounts or special rates to Accredited landlords.

Some authorities have 'sub-contracted' their Accreditation Schemes to Landlord Associations. Whilst this can work this can cause landlords two specific problems. First, they are required to join that Association in order to become Accredited and they may not wish to do so. Second, landlords have expressed concern to us that they feel the role of the Associations is to campaign on behalf of landlords and landlords feel they cannot do that if the Association is effectively working on behalf of the Authority.

It is vital that Authorities and Landlords can work together, especially when dealing with homeless people, however, too often landlords see little or no reason to work with their Authority because they perceive no value in doing so. At the same time Authorities are not able to offer tangible benefits to landlords to work with them.

Landlords have also expressed their concerns about the Benefits system. They are concerned that if they house people on Benefits they will not get their rent paid. Overwhelmingly landlords have told us that they want to return to the old system where rents are paid direct to the landlord. Failing this they want a quick and easy system where tenants with cash flow problems can opt to have their rent paid direct to the landlord promptly without having to go through too many hoops to set this up.

Many landlords will not entertain the idea of housing tenants on Benefits under the current system. Many landlords will also not work with their Local Authority because they perceive no value in doing so.

All the evidence currently points to a shortage in the amount of properties available in the PRS. In early 2008 there were around 3,000 buy-to-let (BTL) mortgages available to landlords. This fell at one point to less than 250 and although the number of BTL mortgages has increased lenders have introduced a policy of excessive set-up costs and/or higher interest rates. In addition the number of BTL lenders remains historically low. All of which means that there is severely reduced competition in the BTL mortgage market.

The result is that whilst many landlords want to increase their portfolios they are unable or unwilling to do so under the current offers from BTL lenders.

One of the main reasons why rents are rising to record highs is a shortage of rental property. The Government could help ease this situation which in turn would help stabilise or even reduce rents by making the banks lend to landlords under more favourable terms. This would lead to more PRS property coming onto the market which would also help give impetus to the wider housing market.

Given the opportunity landlords could be a major factor in reviving the UK housing market, which in turn would greatly benefit the whole economy. The PRS has shown that it is extremely robust and has weathered the economic downturn vastly better than many 'experts' predicted in 2008 when lenders like Paragon were expected to follow the likes of Northern Rock into meltdown. Not only did the PRS survive it has become even more vital to the UK housing market.

The Government now needs to support the PRS and rather than impose more sanctions and legislation it needs to help the PRS to grow. The Committee needs to devise new and imaginative ways to work with rather than against the PRS.

Overall the UK PRS is a huge success story. It is vital that this message is not lost in the tide of negative publicity from organisations with their own narrow agendas and campaigns.

<http://www.parliament.uk/business/committees/committees-a-z/commons-select/communities-and-local-government-committee/inquiries/parliament-2010/private-rented-sector/>

Update on the Government Inquiry into the Private Rented Sector

Back in October we let you know that the Communities and Local Government Committee had decided to conduct an inquiry into the private rented housing sector which includes looking at the potential regulation of landlords and letting agents.

The Committee invited submissions from interested parties and we asked landlords and agents to let us know their thoughts. We received a lot of emails and phone calls from

concerned landlords and agents and together with our own thoughts we have prepared a submission for the Committee.

We realise that not everything we are submitting will please everyone but hopefully we are expressing the feelings of the majority. You can view our submission by clicking here [The NetRent Submission to the C&LG Committee](#).

January 2013

Written submission from Tessa Shepperson (PRS 035)

Introduction

I am a solicitor in private practice and I specialise in residential landlord and tenant law. Since December 2001 I have run an online legal information service for private residential landlords and tenants, called Landlord Law www.landlordlaw.co.uk, and since February 2006 I have published a blog, the Landlord Law Blog at www.landlordlawblog.co.uk. I am also a published writer on landlord and tenant issues.

Starting in June 2012 I ran a series on my blog which I called Housing Law – The Bigger Picture which looked at most of the issues this consultation exercise wishes us to consider. The series was later published online as a free ebook which can be downloaded here: <http://www.landlordlawblog.co.uk/2012/10/01/housing-law-the-bigger-picture-the-ebook/>

The ideas set out in the ebook come from my experience as a landlord and tenant lawyer for some 20 years and were also influenced by the comments made by readers to the original blog articles.

I copy below, as my contribution to this inquiry, the introductory and concluding sections of the ebook. For my full analysis the committee is referred to the ebook itself, which also has details of the sources quoted plus links to the original blog posts where the comments from readers can be found.

I apologise for the casual style of the ebook, but it was intended for a lay audience.

Extracts from ‘Housing Law – The Bigger Picture’

1. A time to re-evaluate?

The original problem

When the 1988 Housing Act introduced the concept of an assured shorthold tenancy (where a landlord has the right to recover a property after the end of the fixed term provided the proper form of notice had been served), this was at a time when the private rented sector had dropped to nearly 7%.

Much of this 7% probably consisted of unwilling landlords, forced to be landlords because there was no way in which they could get rid of their sitting tenants.

The PRS at that time was effectively moribund. No one in their right mind would seriously consider going into property renting as a business.

Many of the new lets during that time happened by accident – people letting someone in and then being unable to get them out again.

The Thatcher changes

The Thatcher government in 1987 was elected on a mandate to change things, and one of the things they wanted was to change and regenerate was the private rented sector.

However to do this, drastic action was needed. This is why the assured shorthold tenancy was introduced. In fact it took about five to six years before things started to take off, after the introduction of ARLAs buy to let mortgage.

However things are now different. Now we have a buoyant private rented sector, I suspect that the genie is not going to be put back into the bottle:

- many people have invested in bricks and mortar as an alternative to a traditional pension and need the income, and
- tenants are unable to afford to buy their own home and so need properties to rent

Today – a re-evaluation?

So taking this into account – maybe we need to have a re-evaluation of the whole system. We need to consider whether laws introduced at a time of scarcity are really appropriate once that scarcity is no more.

2. The statistics

One of the inspirations for this book was a report from the Cambridge Centre for Housing and Planning Research.

Changes between 1993 and 2010

The survey found that the balance of home ownership is changing. Mortgaged ownership has fallen across the country from 43% to 35%. Outright ownership has gone up from 25% to 34%.

But this increase in outright ownership is mostly in the older sector, meaning that fewer younger households and families are buying their own homes.

Also private renting is becoming the dominant rented sector (7% to 12% nationally) rather than the social rented sector as before. The increase in private renting is mostly in younger households.

These changes have accelerated in recent years.

The picture in London

The report states that there is a big difference between London and the rest of the country.

In London, social renting is far more important than in the country as a whole. However this has gone down from 30% to 23% while private renting has risen from 12% to 19%.

Overall, owner-occupation is running at around 55% while renting accounts for about 45% of all households – a very significant change from the 68%/32% split at the beginning of the period.

If this trend continues tenants will soon outnumber owners, with important political, social and economic implications.

The future

One of the conclusions made by the report is that these changes are affected by the economy. So if we have a strong economy, then the proportion of properties bought on mortgage will increase.

However if the economy continues to be weak, the private rented sector will continue to become more important - particularly for younger households and for families.

The report also shows that the dependence on renting, in particular private renting, is going to be (as you would expect) in the middle to lower income sector who will, if the economy remains weak, be excluded from owner occupation.

In conclusion the report makes a number of telling points, a few of which are:

- That tenancies with longer terms should be considered as these are often better for families – but that these may need to be regulated differently to make them acceptable to both landlords and tenants
- Social housing is vulnerable to being reduced by the right to buy, and
- ‘Affordable housing’ is more expensive than social housing so if this replaces social housing it will cause difficulties for low income families – many of whom work in essential but low paid jobs
- Home ownership via inheritance is less likely if older people live longer and the cost of care reduces the equity in their properties
- This means that many people in the middle to low income sector may never be able to own their own homes

And finally

The biggest problem of all is the undersupply of housing and lack of investment in building new homes.

The main sections of the ebook consider landlord and tenant accreditation and my suggestions for a national register. I also look at how a national register could help solve the problem of retaliatory eviction, problems with tenancy agreements, and give some legal background on security of tenure and eviction of tenants. The two concluding chapters are below.

16. Conclusions (1)

Before I start considering recommendations, I want to take a look at the chief objection that has been made by landlords in their comments, when this series was published on the blog –

The necessity to do anything at all.

1. “There is no problem”

Admittedly many, probably a majority, of landlords are decent and honourable and provide quality properties. But there are many who do not.

At present these landlords are ‘getting away with it’. Do we want to live in a society where bad and often criminal landlords are allowed to rent out substandard and often dangerous property with impunity?

2. “We already have laws for this sort of thing”

Why, people demand, do we need anything else?

The answer is that it is often difficult if not impossible, to enforce the existing laws under the current system.

The Police generally refuse to have anything to do with housing issues, despite the fact that unlawful eviction (for example) is a criminal offence.

The people generally charged with the task of enforcing the regulations are local authorities.

However it is difficult for them:

- A criminal prosecution needs to be proved beyond reasonable doubt
- This is difficult to do if the main witnesses (the tenants) are too scared to give evidence in court
- Even if they agree, you need a lot of very clear evidence to prove your case, and
- As trials generally do not take place for many months, many witnesses will have moved on and / or will find it difficult to remember the events clearly
- Local authority officers are over worked and there are not many of them. It is, practically, very difficult for them to find the time to bring prosecutions, particularly as many of them have not had proper legal training, and
- When a case does succeed at trial, the penalties handed down by Judges are fairly derisory (and are unlikely to be a deterrent to, for example, millionaire slum landlords).

So at present, the system is not working. Also, I have to say that I am not sure this is the correct system to deal with the problem of bad landlords.

3. Why local authority prosecutions are not the answer

For the problem to be resolved by local authority prosecutions the following would have to happen:

- There would have to be a massive increase in local authority housing staff
- They would all have to be properly trained in housing law and the law of evidence

- Ideally cases would need to come to trial sooner
- There would have to be some sort of protection scheme for witnesses, and
- The penalties for housing relating offences would need to be changed to make them more of a deterrent

Doing this would be hugely expensive and would increase the council tax bills for everyone. This is why local authorities are coming round to the view that it is better for the landlord to be compelled to undergo training and comply with the proper standards before being allowed to rent out a property at all.

That way it is more objective, and landlords are unable to ‘get away with it’ by terrorising tenants so they refuse to give evidence.

4. “Regulation will only increase rents for tenants”

Yes, it will be an extra expense, but if the result is greater rights for tenants and a better system, I suggest it is worth paying. Nothing in life is free. But it shouldn’t be too expensive.

...

There is no perfect answer to the problem of bad landlords and whatever solution is decided on someone will object to it.

But personally I think a system of landlord registration is more likely to deal with the problem of bad landlords than the current system of leaving it to local authorities to bring prosecutions.

And I think, in view of the increase and projected increases in the private rented sector, the problem of bad landlords is something which needs to be tackled.

5. “Tenants don’t want longer fixed terms”

This is true of many tenants, but by no means all. However under the current system, landlords get no advantage and may (if they are unlucky enough to get a bad tenant) be under a considerable disadvantage, if they grant a long fixed term.

It is also very much in the interests of letting agents to retain the current system, as their income is largely derived from finding new tenants and charging for ‘renewals’.

17. Conclusions (2)

Before discussing my conclusions I want to look briefly at

The point of view

When considering housing law and the private rented sector, there are three ways you can approach it.

a. From the point of view of the landlord.

Looking at the situation with a landlord’s eye there is probably not a lot of reason to change things. The system is not perfect but works reasonably well from the landlords point of view.

b. From the point of view of the tenant.

Here the situation is unsatisfactory and tenants' supporters often express a desire to go back to the days of the Rent Act 1977 when tenants had long term security of tenure and protected rents.

However realistically this is not possible. People are not going to invest in property under those circumstances, neither are banks going to lend money. A return to this regime, or anything like it, is more likely to kill the private rented sector dead.

Therefore I do not think this is an option.

c. From the point of view of society.

Here you need to strike a balance between the rights of the landlord and the rights of the tenant. But the most important thing is the interests of society generally. This is the point of view I have striven to take in this series.

With that in mind, let's take a look at the various conclusions I have come to.

1. The current system is not fit for purpose

There are two main issues -

- dealing with bad landlords and
- giving tenants who want it, greater security of tenure

Bad landlords are largely 'getting away with it' due to the difficulties of prosecution and the lack of local authority staff to do the prosecuting.

Landlords are discouraged from giving (and lenders from permitting) longer fixed terms to tenants who want them (mainly older people and families) because of the difficulties of evicting bad or non paying tenants.

The only reliable and (comparatively) quick eviction method, section 21, can only be used once the fixed term (and the tenants long term security) has come to an end.

Both of these problems are bad for society:

- Poor housing leads to poor health and increased costs for the NHS (which we all pay for).
- Families in particular need long term security so children can remain in their schools.
- Local communities suffer if residents cannot put down roots due to the risk of being 'moved on' after six months.

2. Landlord / letting agent registration and accreditation is the best solution to the 'bad landlord' problem

Stopping poor landlords from letting in the first place is likely to be more effective than prosecuting them when they break the law.

I propose a nationally operated registration scheme where all rented properties have to be registered.

- All properties would have to be managed by an accredited letting agent unless the landlord had undergone training and obtained a landlord qualification.
- The letting agent industry should be properly regulated with agents being required to have an accredited letting agent qualification, CPD obligations, professional indemnity insurance and client money protection.
- Where properties are not properly registered penalties should apply and landlords be unable to use the quicker eviction procedures.

3. The eviction process should be changed to make it easier to evict bad or non paying tenants

This is key.

The problems involved in evicting non paying tenants during the fixed term is the main (and perhaps the only) deterrent to longer fixed terms.

If change in the eviction procedure does not happen then neither will the longer fixed terms.

I suggest that landlords be entitled to prompt possession orders against non paying tenants as of right, and that if tenants seek to defend and counterclaim, for example because of the property's poor condition, they be required to pay their rent into court (or an authorised organisation) to abide the event.

However hopefully tenants will be able to deal with poor property conditions under the registration / licensing system and will not need to deal with it by way of withholding rent.

After an order for possession is made (based on rent arrears), if tenants want extra time before they are evicted, this would be on condition that the rent is paid to the landlord, or into court.

I also suggest faster processing for bailiffs appointments, as this can cause long delays, especially in London.

This system need not be more burdensome on the courts – indeed if a paper based procedure such as the accelerated procedure can be used, this would save court time as there would be considerably fewer hearings.

It would require some amendments to the Civil Procedure Rules and maybe to the Housing Act 1988.

An efficient and speedy repossession system for rent arrears would give landlords more confidence in the system and encourage them to grant longer fixed terms to their tenants.

Crucially also this would make it more difficult for lenders to object.

4. Tenants should be entitled to apply for a longer fixed term.

For example after they have been in a property for, say, a year.

This would be on payment of a premium fee which if not agreed between the parties could be set by a court, following a prescribed formula.

This would allow tenants who cannot afford to buy their own homes, to buy long term security in their rented property, allowing them to settle in the community without fear of being evicted after a few months.

However tenants who do not want to remain in the property long term, could continue to sign up for 6-12 month fixed terms allowing them greater flexibility. It would be the tenant's choice.

Landlords would continue to be able to use the section 21 procedure after a fixed term has come to an end.

However maybe there could be a right for a tenant who has purchased a premium tenancy to be able to renew this within a set period of time upon making a further payment.

5. Mandatory core terms for tenancy agreements

Freely available and in plain English.

6. Conclusion

These are just ideas. On further consideration they may prove unviable. On the other hand they may prove to be a workable solution.

Further investigation and analysis will be needed and extensive consultation if any change in the law is to be made.

I hope you will agree however that something needs to be done. These suggestions and the analysis contained in my ebook are my contribution to the debate.

January 2013

Written submission from Mark Walton (PRS 036)

Regulation

Landlords and Agents should be subject to minimum standards not just Agencies. We are Landlords and Agents and we are members of NLA, NAEA, ARLA and TPO and we do not see why all Landlords and Agencies should not be required to conform to the same standards. A Tenant should not be treated differently if they go direct to a Landlord as opposed to an Agency!

The Housing act provides minimum standards to protect all types of Tenants especially those living in HMO's. If the Housing Act is correctly policed then there is more than enough protection for Tenants.

Landlords are not afforded sufficient protection from Tenants who do not pay rent or damage the property. The system to evict Tenants takes to long so by the time a Landlord recovers possession of their property the Tenant can be more than 6 months in arrears (often far more than 6 months) with no means to pay what they owe.

Rent control

Tenants are looking for different types of property to rent. Landlords are providing different types of property for rent. We currently have diversity so that there is choice for Tenants. There will only be choice for the Tenants if rental levels are allowed to be set by Landlords and Agencies as this encourages competition. If rent control is introduced I can see standards of properties dropping as there will be no incentive to spend money on them. This would effect the higher priced properties first as the rental income will have dropped but it would then effect the middle and lower priced properties - Tenant will rent a better property at the Rent Control maximum as opposed to a poorer property. Rent control will halt and reverse the generally improving standards in the Private Rented sector and it will take choice away from Tenants - this can't be the intension!

Rent control would also make policing of The Housing Act much harder than it already is as Landlords would try and cut corners if they are getting less rent.

If anyone would like to discuss any of the above please do not hesitate contacting me.

January 2013

Written submission from the National Private Tenants Organisation (PRS 037)

About the National Private Tenants Organisation

The National Private Tenants Organisation (NPTO) campaigns for professionally managed, secure, decent and affordable private rented homes in sustainable communities in England. NPTO participates in national discussions and consultations on the private rented sector.

Members of NPTO include private tenant organisations, associate members and individual private tenants. NPTO has links with tenant organisations in other countries.

1. The quality of private rented sector housing

1.1 Problems with the quality of housing

1.1.1 Introduction

The PRS compares poorly to other tenures in relation to housing quality and there are significant concerns about the decency of a large number of dwellings. In 2010 levels of disrepair in the private rented sector were still significantly higher than in other tenures²⁵.

1.1.2 Non-decent housing in the PRS

1.1.2.1 Privately rented dwellings had the highest incidence of non-decency (failing the Decent Homes Standard 2006) of all tenures at 37%. Of this 37%, 23.1% failed to meet minimum Housing Health and Safety Rating System (HHSRS) requirement (i.e. for dwelling to be free of HHSRS category 1 hazards), 16.4% failed on thermal comfort, 8.7% failed on repair and 3.3% on lack of modern facilities²⁶.

1.1.2.2 Private rented dwellings are more likely than those in other tenures to experience damp problems, partly because they are more likely to be older stock. Some 40% of private rented dwellings were built before 1919 compared with 21% of owner occupied, 9% of housing association and 4% of local authority dwellings. Those dwellings most likely to have any HHSRS Category 1 hazard were those built before 1919²⁷.

1.1.3 Health and safety

1.1.3.1 A freedom of information request submitted by Shelter to all councils across England showed that more than 85,000 complaints were made in the past year alone. Of those complaints, 62% were about serious and life-threatening hazards²⁸.

25 DCLG, *English Housing Survey: Homes: Annual report on England's housing stock 2010*, Chapter 3: page45, July 2012

26 DCLG, *English Housing Survey: Homes: Annual report on England's housing stock 2010*, July 2012

27 DCLG, *English Housing Survey: Homes: Annual report on England's housing stock 2010*, July 2012

28 Shelter, "Complaints about landlords up almost 30%",

1.1.3.2 Electricity kills at least one person every week in the home and almost 1,000 are seriously injured every day. The Electrical Safety Council has found that private tenants are disproportionately affected by electrical accidents²⁹. A rise in non-professional landlords confused over their responsibilities puts tenants at further risk. There is no legal requirement for landlords to arrange for inspection and testing of electrical appliances and installations to ensure their continued safety. Certain potentially fatal electrical problems can only be found by professional testing. For more information please see the NPTO campaign report at: www.KeepRentingSafe.weebly.com

1.1.4 Poor energy efficiency in the PRS

1.1.4.1 The PRS had the highest percentage (17%) of dwellings in inefficient Energy Efficiency Rating Bands F and G in 2010. The PRS showed the least improvement in thermal comfort and in 2010 still had a significantly higher proportion of homes failing the Decent Homes standard on this aspect than any other tenure³⁰.

1.1.4.2 In 2010, PRS dwellings had the lowest percentage of all tenures having central heating systems. 92% of owner occupied dwellings had central heating systems, compared to 88% of social and 80% of private rented dwellings³¹. The PRS along with Housing Association dwellings had highest percentage of all tenures not having cavity wall insulation. PRS had the highest percentage of all tenures not having double glazing (14.5%)³². Private rented dwellings were less likely to have mains gas.

1.1.4.3 In 2011 38% of PRS dwellings did not have an Energy Performance Certificate and the landlord had no plans to obtain one.³³.

1.1.5 Fuel poverty in the PRS

1.1.5.1 The PRS had the highest percentage of all tenures of households living in fuel poverty at 30% ('after housing costs' approach). The main rationale behind an after housing costs measure of income is that money that needs to be spent on housing costs is not part of a household's disposable income, and thus cannot be spent on their fuel bill³⁴.

http://england.shelter.org.uk/news/october_2012/complaints_about_landlords_up_almost_30, 4th October 2012

29 Electrical Safety Council, <http://www.esc.org.uk/public/news-and-campaigns/press-releases/news/article/confusion-between-landlords-and-tenants-exposes-millions-to-serious-electrical-dangers/>, March 2012

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30 DCLG, *English Housing Survey: Homes: Annual report on England's housing stock 2010*, July 2012

31 DCLG, *English Housing Survey: Homes: Annual report on England's housing stock 2010*, July 2012

32 DCLG, *English Housing Survey Headline Report 2010-11*, 9th February 2012

33 DCLG, *Private Landlord Survey 2010*, October 2011

1.1.6 Retaliatory eviction of tenants complaining about housing conditions

1.1.6.1 Retaliatory eviction can be said to occur when a PRS landlord seeks possession of a property using Housing Act 1988, Part 1, Chapter 2, Section 21, in response to a legitimate request from a tenant. Please see evidence on the problem of retaliatory eviction at: <http://www.npto.btck.co.uk/OurReports>

1.2 **Proposed measures to improve the quality of housing in the PRS**

1.2.1 Non-regulatory measures

1.2.1.1 Local Authorities (LAs) should conduct more proactive inspections of PRS dwellings.

In 2010 only 33% of landlords and letting agents had heard of the HHSRS, of this percentage only 58% had received an assessment for potential hazards in dwellings under their control. Of these inspections only 10% were conducted by LA Environmental Health Officers³⁵. Central Government should ensure LAs are incentivised and adequately resourced to conduct inspections on all PRS housing stock.

1.2.1.2 Local Authorities should better enforce existing legislation

A freedom of information request submitted by Shelter to all councils across England showed that more than 85,000 complaints were made in the past year alone. Of those complaints, 62% were about serious and life-threatening hazards. There were only 487 successful prosecutions against private landlords in 2011. However, they were mostly driven by a small handful of local councils including Newham, Leeds, Salford and Manchester³⁶. More robust enforcement of the HHSRS is essential.

1.2.1.3 There should be better collection of data on housing conditions at LA level

There is a lack of data on housing conditions, complaints and action taken collected at LA level. Many local authorities have not undertaken any systematic surveys of their private sector stock for over a decade, despite the statutory requirement to keep conditions under review (s.1 Housing Act 2004). An example of good practice in this respect is the Bristol City Council Private Sector Housing Condition Report. See: <http://www.privatehousinginformation.co.uk/site/files/Bristol%20HCS.pdf>, although it is disappointing that they not intend to address the issue of non-decent housing in the PRS.

34 DECC, *Annual Report on Fuel Poverty Statistics 2012*, 17th May 2012

35 DCLG, *Private Landlord Survey 2010*, Annex 7.2, October 2011

36 Shelter, "*Complaints about landlords up almost 30%*", http://england.shelter.org.uk/news/october_2012/complaints_about_landlords_up_almost_30, 4th October 2012

1.2.1.4 Tax regime

The tax regime for landlords should be examined to encourage longer-term investment in the PRS. In many European countries there is a more favourable tax regime for landlords.

1.2.2 Regulatory approach

1.2.2.1 Statutory minimum standard for all PRS dwellings

1.2.2.1.1 A mandatory minimum standard should be introduced this could be as outlined in 1.2.2.1.2 (*extension of the Decent Homes Standard*) below or based on the *Scottish Repairing Standard model*. The Repairing Standard, contained in the Housing (Scotland) Act 2006, brings together and extends slightly the existing statutory and contractual repairing obligations of private landlords. The landlord must ensure the house is wind and water tight and reasonably fit for human habitation. The structure and exterior, various installations, fixtures, fittings and appliances must be satisfactory. Furnishings provided must be safe. Smoke alarms are also required. Since September 2007, landlords have had to inform tenants in writing about the Repairing Standard before the start of any new tenancy. If the tenant notifies the landlord that the house does not meet the Standard, the landlord will have a duty to carry out necessary work within a reasonable time. Instead of going to court, tenants apply to the Private Rented Housing Panel³⁷.

1.2.2.1.2 The Decent Homes Standard 2006 should be extended to all PRS dwellings not just vulnerable households and made a mandatory requirement. Adequate resources for LAs to carry out both reactive and proactive inspections and enforcement action is essential until such time as there is legislation requiring all landlords to comply with minimum standards as a condition of letting.

1.2.2.2 Health and safety

There is a dangerous anomaly whereby annual testing gas appliances and fittings is required but periodic inspection and testing of electrical appliances and installations is not (see 1.1.4.2 above). New legislation is required to require periodic inspection and testing of electrical appliances and installation by qualified electricians. The Health & Safety Executive should play a more pro-active role in monitoring adherence to the legal requirements for gas safety.

1.2.2.3 Retaliatory eviction

New legislation should be introduced to deal with the problem of tenants being evicted in response to legitimate complaints about housing conditions (See 1.1.6 above). Several countries such as New Zealand and states in Australia and the U.S.A. have introduced

37 Scottish Government, *Repairing Standard*, <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/privaterent/landlords/physical/rules/repairing>

legislation to deal with this problem. Please see the evidence contained in our report at <http://www.npto.btck.co.uk/OurReports>

1.2.2.4 Housing Ombudsman Service

Membership of the Housing Ombudsman Service should be compulsory for private landlords and agents. The Housing Ombudsman Service is set up by law to look at complaints about RSLs who are compelled to join. Only a tiny percentage of private landlords and agents are also members.

2. Rent

2.1 Market rents

2.1.1 Introduction

All private renters should have a home at a rent that is affordable and allows long-term financial planning. Strong regulatory frameworks (including predictable rents and greater security of tenure) in other countries such as Germany have not deterred landlords from letting properties and has led to large PRS. Market rents in high demand do not have any relationship to affordability. De-regulation of the PRS in 1988 did not lead to significant growth in the size of the PRS. In 1987 the PRS comprised 9.5% of all households, eleven years later (1998) it was on 10.3%, fifteen years later (2003) it was only 10.8%³⁸. The buy-to-let boom, lack of social housing and home ownership being out of reach for many people, were major factors in later increases in the size of the rented sector.

2.1.2 High rent levels in the PRS

2.1.2.1 Over half (55%) of local authorities in England have a median private rent for a two bedroom home which costs more than 35% of median take home pay in that area, a level considered likely to be unaffordable in studies. 8% of local authorities are extremely unaffordable (median rent 50% or more of median full-time take-home pay); 21% are very unaffordable (median rent 40% to 49% of median full-time take-home pay) 26% are fairly unaffordable (median rent 35% - 39% of median full-time take-home pay). The most unaffordable local authorities are concentrated in London³⁹.

2.1.2.2 According to the English Housing Survey 2010-11, average weekly rents in the private rented sector continued to be well above those in the social rented sector (£160 per week compared to £79). Around 2.7 million (75%) households in the private rented sector were

38 DCLG, English Housing Survey Headline Report 2010-11, Table AT1, 9th February 2012

39 Shelter, Shelter Private Rent Watch: Report One: Analysis of local rent levels and affordability, October 2011

‘market renters’⁴⁰. The comparison between social and private rents is highly relevant now that local authorities have the power to discharge their re-housing duties to homelessness households by securing private rented accommodation and in the light of the welfare benefit caps which directly impact on the ability of low income private renters to meet their rental liability.

2.2 Proposed measures to create affordable and predictable rents

2.2.1 A new model of rent determination

A new model of rent determination should be introduced in the PRS which promotes long-term stability for tenants and a reliable income stream for landlords. This would increase market certainty. **A new rent model would work best with longer tenancies.**

The model suggested below takes into account a reasonable return on landlord's investment and ongoing costs.

The model should take into account the following factors in calculating initial rents and increases:

Setting initial rents:

- 2 **Affordability** e.g. taking account of geographic median income (e.g. rents no greater than a percentage of median income) or by reference to social housing rents for comparable properties. In Sweden rents cannot exceed 5% of the rental price of public housing.
- **A reasonable return on landlords investments** and costs taking account of factors including depreciation and a more liberal tax regime for landlords
- **Rent commensurate with the type of dwelling**, this could include some or all of the following factors:
 - Furnished or unfurnished dwelling
 - Presence of a garden
 - Number of rooms
 - Number of storeys
 - Number of amenities
 - Energy efficiency
 - Disrepair (this would promote improvements in the quality of dwellings)
 - Modernity of facilities
 - Inclusion of utility costs etc

Rent increases:

- **Predictable rent increases/indexed increases** e.g. annual increases in line with inflation or cost of living (RPI or CPI) at prescribed intervals and taking into account landlord's investment and costs and possibly offset by a more liberal tax regime for landlords. Predictable rent increases would also help landlords

with long term financial planning

Adjudication:

- **A locally based statutory third party adjudication service** for rent setting and disputes. This role might be taken on by LAs.

2.2.2 Short term measures

The restriction introduced by the Housing Act 1996 on applications to the Rent Assessment Committee for decisions on rent to once within six months of the beginning of an Assured Shorthold tenancy should be removed. It would also act as a deterrent to retaliatory eviction if Rent Assessment Committee decisions were attached to the subject property, not merely the subject tenancy.

3. Management in the private rented sector

3.1 Lack of professionalism in management the private rented sector

3.1.1 In 2010 eighty-nine per cent of landlords were private individual landlords responsible for 71% of all private rented dwellings. More than three quarters (78%) of all landlords only owned a single dwelling for rent, with only 8% of landlords stating they were full time landlords. Over three-fifths (63%) of all private individual landlords had no relevant experience or qualifications⁴¹.

3.1.2 Only 6% of landlords were members of a relevant professional body or organisation⁴².

3.2 Rogue landlords

3.2.1 Shelter has reported that LAs dealt with more than 86,000 complaints from private tenants in 2010/11; yet, wider research finds that over 350,000 private renters experienced housing problems in the same year. LAs told Shelter they are aware of some 1,477 serial rogue landlords. Yet, in the past year only 270 landlords were prosecuted⁴³.

3.3 Proposed measures to improve professional management in the PRS and eliminate rogue landlords

3.3.1 A combination of the measures below is required to improve management standards and eliminate rogue landlords.

41 DCLG, Private Landlord Survey 2010, October 2011

42 DCLG, Private Landlord Survey 2010, October 2011

43 Shelter, "Asserting authority: calling time on rogue landlords", September 2011

3.3.2 National licensing schemes

3.3.2.1 National licensing schemes are an essential tool in dealing with rogue landlords and improving management professionalism but need to be accompanied by other measures as outlined below.

3.3.2.2 The Scottish landlord registration scheme has been in operation for 6 years. All private landlords must register with their local authority to ensure that they are a "fit and proper person" to let property. It is an offence to let any house without being registered.

3.3.2.3 The Republic of Ireland has a mandatory tenancy registration scheme which requires private landlords/their agents to register details of their tenancies with the Private Residential Tenancies Board.

3.3.2.4 The Welsh Assembly has outlined a potential scheme in the "Homes for Wales" White Paper of May 2012.

3.3.2.5 The Northern Ireland Assembly The Committee for Social Development will soon consider draft regulations for a Northern Ireland Landlord Registration Scheme.

3.3.3 Use of discretionary licensing

3.3.3.1 NPTO supports the use of powers under the Housing Act 2004 by LAs to introduce additional and selective licensing schemes and welcomes London Borough of Newham's discretionary licensing across its entire area. Selective Licensing became mandatory on 1 January 2013. NPTO would encourage all LAs to consider introducing schemes similar to Newham Council's.

3.3.4 Voluntary landlord accreditation schemes

3.3.4.1 NPTO supports the establishment of voluntary landlord accreditation schemes providing there are adequate standards for entry and continuous improvement and that both are adequately monitored and enforced. The Government should encourage all LAs to establish schemes.

3.3.5 LAs should conduct inspections of all PRS dwellings.

3.3.6 LAs should better enforce existing legislation.

4. Letting agents

4.1 Concerns regarding letting agents

4.1.1 Excessive letting agent fees

Research by Shelter found that about 23% of more than 5,000 people surveyed believed they had been landed with unfairly high fees for aspects of renting in England such as credit checks, renewing contracts and "administration". More than half (52%) of people who felt they had been ripped off, or knew someone who had been, said this was due to fees being "out of proportion" to the true cost of the work done. The housing charity said it had found cases of renters being charged more than £150 for repeat credit checks each year, which Shelter said actually cost between £8 and £25 to perform. It said some people were being charged £100 just to view a property and renters were being charged up to £540 in non-refundable "administration" fees⁴⁴.

4.1.2 Regulation of letting agents

Letting agents are largely unregulated with only voluntary membership of professional bodies. Fifteen percent of letting agents do not belong to a professional body⁴⁵.

4.2 Options to improve letting agent service

4.2.1 Reform of letting agent fees

The Scottish Parliament has voted to approve secondary legislation to clarify that all tenant charges, other than rent and a refundable deposit, are not permitted. A the same approach should be adopted in England.

4.2.2 Options for regulation of letting agents

4.2.2.1 Letting agents to be put on the same footing as estate agents

Letting agents should be put on the same footing as estate agents. This would involve bringing letting agents under the definition of an estate agency which would give the Office of Fair Trading the ability to ban agents who act improperly.

4.2.2.2 National licensing scheme for letting agents

A national mandatory licensing scheme could be introduced for letting agents to ensure only fit and proper businesses operate in the sector. In the short term NPTO would like to see all letting agents joining the National Approved Letting Scheme and Safe Agent schemes.

4.2.2.3 Complaints about letting agents - Housing Ombudsman Service

44 Guardian, <http://www.guardian.co.uk/money/2012/sep/04/quarter-people-ripped-off-lettings-agents-shelter>, September 2012

45 DCLG, *Private Landlords Survey 2010*, October 2011

Consideration could be given to making membership of the Housing Ombudsman Service compulsory for letting agents. The Housing Ombudsman Service is set up by law to look at complaints about registered providers of social housing. Certain private landlords and agents are also members.

4.2.3 Social letting agencies

NPTO strongly supports the widespread establishment of social letting agencies which are more focused on meeting the needs of tenants and communities.

5.0 Houses in multiple occupation (HMO)

5.1 NPTO believes that greater use of discretionary licensing schemes will improve the quality of HMOs and their management. Proposed changes to the housing benefit shared room rate are likely to see more individuals forced to live in HMOs.

5.2 LAs need to take more robust action to ensure all HMOs which should be licensed are licensed and that the HHSRS is enforced.

6.0 Security of tenure and tenancy agreements

6.1 Since the introduction of the Assured Shorthold tenancy the vast majority tenants have suffered from lack of security of tenure. This does not promote sustainable communities. More secure tenancies have not impeded the growth of large PRSs in other countries e.g. Germany. Some 30% of private renters worry about their landlord/letting agent ending the contract before they are ready to move out⁴⁶.

6.2 A new model of standard tenancy should be introduced which provides security and stability for tenants and their families and incorporates predictable rents.

Fixed five year tenancies have been suggested with annual rent increases no more than the cost of living (CPI). Tenants should be given first option if a landlord decides to sell a property.

6.3 In the short term NPTO encourages all landlords to offer Assured or long fixed-term Assured Shorthold tenancies (with break clauses for tenants). The certainty of stable tenancies benefits landlords and tenants.

6.4 Tenancy agreement reform

6.4.1 Legislation should be introduced so that all tenants receive a written tenancy agreement with a tenants information pack provided at the start of a tenancy (see 6.5.2 below). The

46 Shelter, YouGov 2011, base: 541 private renting GB adults. Fieldwork: 2 to 5 December 2011
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principles set out for Consumer Contracts in the Law Commission Report, Renting Homes⁴⁷ including mandatory terms should be enshrined in statute

6.4.2 All tenants should be provided with a tenancy information pack at the start of the tenancy based on the Scottish tenancy information pack which will be introduced on 1st March 2013. The Tenant Information Pack will include information on tenancy agreements, property condition, appliance manuals and the rights and responsibilities of tenants and landlords.

6.4.3 All tenants should be allowed to decorate their homes and have pets without obtaining their landlords' permission, but must repair any resulting damage.

7.0 Homelessness and the use of the private rented sector

7.1 Families must not be forced to accept PRS accommodation if they feel social housing is the best option for their family. Social housing is better regulated, affordable and secure. A more secure, decent and affordable PRS will help prevent homelessness.

7.2 Where homeless households choose the PRS, local authorities should avoid recouping the costs of providing rent guarantee or deposit schemes from them. LAs should limit referrals to the PRS to tenancies where there is no Housing Benefit shortfall or where there is a sustainable solution to cover any shortfall.

8.0 Tenant representation

8.1 PRS tenants should have a mandatory right to consultation and information similar to rights social housing tenants have in respect to housing management and maintenance. PRS tenant panels should be considered similar to plans for social housing tenants. The panels are a key part of government plans to give communities more power over how decisions are made locally, and will be able to refer complaints to the housing ombudsman on behalf of individual tenants and shape services and get involved in local decision making. Local authorities should encourage and support the formation of local groups of private renters and ensure that private renters are consulted when drafting local housing strategies, considering service provision, etc.

8.2 Tenant information packs (see 6.4.2 above) would help tenants be better informed about their rights and responsibilities and support services available in their local area.

January 2013

Written submission from The Dispute Service Ltd (PRS 038)

1. Introduction

- 1.1 The Dispute Service Ltd is a not for profit company limited by guarantee which provides Alternative Dispute Resolution services, mainly in the private rented sector. Established in 2003 by the Royal Institution of Chartered Surveyors (RICS) and the National Federation of Property Professionals (NFOPP), it currently runs the Tenancy Deposit Scheme in England and Wales under contract to the Department of Communities and Local Government.
- 1.2 In addition it is the lead partner in SafeDeposits Scotland Ltd, which is one of three custodial tenancy deposit schemes operating in Scotland since 2 July 2012. Its partners in this venture are the Scottish Council for Voluntary Service, NFOPP, RICS, the Scottish Association of Landlords and the National Union of Students Scotland.
- 1.3 It protects almost 900,000 tenancy deposits in the England and Wales insurance backed scheme, covering over £1bn of deposits and offers a free Alternative Dispute Resolution service to deal with disputes over the return of tenancy deposits. Since 2007 it has dealt with over 42,000 tenancy deposit disputes. In Scotland, SafeDeposits holds c60,000 deposits.
- 1.4 TDS Northern Ireland Ltd, a wholly owned subsidiary of The Dispute Service, is bidding to operate a custodial and insurance scheme in Northern Ireland in 2013.
- 1.5 The Dispute Service welcomes the opportunity to provide evidence to the Select Committee. Our comments are restricted to the narrow but important area of tenancy deposit protection but will also touch on wider regulation issues.

2. The private rented sector and tenancy deposit regulation

- 2.1 The Dispute Service welcomed the introduction of Tenancy Deposit Protection in April 2007 in England and Wales (through the 2004 Housing Act) and the strengthening of consumer protection for tenants.
- 2.2 In July 2012 the Dispute Service Ltd published an evaluation of the tenancy deposit protection legislation and this report is included as an Annex to this submission.
- 2.3 The table below shows the number of tenancies protected at March 2011 in the three tenancy deposit protection schemes. In March 2011 there were c2.86m tenancies in the private rented sector holding deposits which suggests that the level of compliance with the deposit protection legalisation is high but not 100%. Indeed our presence at a number of Lettings events always results in some landlords advising us that either

they have very little knowledge about the need to protect deposits or they have deliberately been evading the legislation.

Table 1: Deposit protection in England and Wales

	Private Tenancies	Assured Shortholds (estimates)	Tenancies where Deposit Required	Deposits Protected	% of Tenancies with Deposits with a Protection in Place
2006-07	2,808,492	2,114,794	1,776,427	0	0.00%
2007-08	3,116,673	2,346,855	1,971,358	924,181	46.88%
2008-09	3,228,419	2,431,000	2,042,040	1,553,130	76.06%
2009-10	3,536,993	2,663,356	2,237,219	1,888,532	84.41%
2010-11	3,799,142	2,860,754	2,403,033	2,220,543	92.41%

Source: CLG data

Note: Assured shortholds estimated at 75.3% of private tenancies and 84% take deposits.

3. Improving publicity

- 3.1 There is a need to continue to promote wider knowledge of the requirements to protect deposits and this is a matter for government, landlord and lettings bodies and the deposit protection schemes. In the autumn of 2012 the BBC One programme “The One Show” had a small item on deposit protection and this led to a huge spike in calls to both our Call Centre and those of the other schemes. This shows powerfully the impact which wider publicity can have on consumers.

Recommendation 1:

The government should work with the tenancy deposit schemes to co-ordinate a publicity programme directed at consumers on tenancy deposit protection issues.

4. Improving compliance

- 4.1 Non-compliance with the legislation is only enforced by tenants taking action in the County Court where a landlord has not protected a deposit within the statutory time period nor provided the Prescribed Information (PI) to tenants. There are no official records of the number of such cases in the County Court but anecdotally cases are few and far between. A landlord should not be able to obtain possession without being able to demonstrate that the deposit has been protected and the PI served and it might be helpful if the Ministry of Justice issued reminders to the District Judges who deal with possession hearings in the county court on this aspect of the legislation.
- 4.2 Greater publicity for successful claims by tenants might also assist in increasing levels of compliance and the Ministry of Justice might wish to consider how best to record cases before the Courts.

Recommendation 2:

The Ministry of Justice should consider how best to record the number of deposit protection cases before the courts.

Making claims for Universal Credit in the private rented sector conditional on providing evidence that deposits are protected

- 4.3 The introduction of Universal Credit presents an opportunity to secure higher levels of compliance with deposit protection legislation in the private rented sector if claiming Universal Credit for rented housing costs in the private sector was dependent on the landlord providing a valid Tenancy Deposit Protection certificate.
- 4.4 This would require landlords and their tenants to provide a valid certificate and local authorities having access to the Tenancy Deposit Schemes databases to validate certificates.
- 4.5 Such an initiative would almost certainly improve compliance levels by those landlords who house the more vulnerable tenants and according to Shelter this seems to be where the highest level of non-compliance is occurring.

Recommendation 3:

The government should introduce a requirement on landlords to provide a tenancy deposit protection certificate as a condition of their tenants receiving Universal Credit in respect of housing costs on an assured shorthold tenancy.

5. Unregulated lettings agents

- 5.1 Agents who are subject to some form of professional regulation (such as ARLA, NAEA, RICS, UKALA, NALS, Law Society) benefit from professional training, legislative updates, workshops and briefings on aspects of tenancy deposit protection. In our experience they are much better prepared in the area of deposit protection than unregulated lettings agents or individual landlords.
- 5.2 Customers of regulated agents also have access via the regulatory bodies to a form of Client Money Protection which can provide additional cover for landlords' and tenants' monies in the event of a regulated agent ceasing to operate or conducting a fraudulent activity. No such protection is in place for clients of unregulated agents.
- 5.3 In our view no letting agent should be able to operate unless they are a member of a regulated body, have CMP insurance in place via that body, have access to professional training and advice and offer access to independent redress via an Ombudsman scheme.

Recommendation 4:

The government should introduce a requirement on lettings agents to be a member of a regulatory body offering training, client money protection insurance and requiring independent consumer redress.

6. Landlords

- 6.1 The Dispute Service also offers tenancy deposit protection insurance service to landlords. We have clear evidence of new landlords struggling to understand the complexities of renting (and tenancy deposit protection is but one of the many statutory requirements requiring compliance).
- 6.2 A form of Landlord accreditation is likely to lead to an increase in standards in the sector and again it might be possible to restrict the payment of Housing Benefit/Universal Credit where the landlord was not an accredited landlord under a national or local scheme.

Recommendation 5:

The government should consider the introduction of a landlord accreditation scheme with a link to the payment of Housing Benefit/Universal Credit.

Improving protection for landlords

- 6.3 Where a letting agent fails to submit a disputed deposit to an insurance backed deposit scheme, the scheme protects any part of the deposit owing to the tenant. However if there is money owing to the landlord from the deposit the legislation does not require the scheme to protect the landlord.
- 6.4 In these circumstances the landlord is required to claim the deposit monies owing to them from the agent or via their regulated body holding client money protection insurance. In the case of an agent in liquidation the landlord will be an unsecured creditor and will only be able to make a claim against the client money protection insurance if the agent is a member of a regulated body which provides client money protection insurance.
- 6.5 Since 2012 TDS has offered landlords protection on a voluntary basis where the member is in liquidation and is a member of a regulated body which holds client money protection. But this is a voluntary scheme and it might be helpful for the statutory remit of the insurance backed tenancy deposit schemes to be extended to require them to provide landlord cover in all cases where there is a disputed deposit.

- 6.6 However this would increase the level of claims on insurance by the schemes and would inevitably increase the cost of tenancy deposit protection.

Recommendation

The government should consider extending the scope of deposit protection to include monies owing to a landlord from the deposit where the deposit is held by a lettings agent.

January 2013

Written submission from Calderdale Metropolitan Borough Council (PRS 039)

Following a cross departmental meeting in the Authority, the following are the collective views of officers within the Council.

1. Identification of rented properties, landlords and lettings agents

- 1.1. It is recognised that as elsewhere there is a wide spectrum in the quality of both landlords and private rented properties. One of the largest barriers to ensuring that properties are of an acceptable standard and that tenants are treated fairly is that there is no registration of rented properties, private landlords or lettings agents.
- 1.2. There is adequate legislation for enforcing acceptable standards once a sub-standard property or situation is brought to our attention. The issue here is that we are not made aware of it until a tenant has moved out or in many cases not at all.
- 1.3. There is no regulation of lettings agents or any professional standards. This makes it impossible for inexperienced landlords and tenants to differentiate between them.
- 1.4. There is a sub-benefits culture where we think some of the worst conditions may be found, but it is difficult to find these.
- 1.5. A possible way of collecting the data would be by putting a flag on the Council Tax data asking for tenure and allowing the sharing of this across departments.

Recommendation 1: Compulsory registration of all rented properties, landlords and lettings agents. There is an advantage to ventral Government if this is done in that the information could be shared with Inland Revenue.

2. Enforcement of Standards

- 2.1. One of the most common reasons locally for properties being sub-standard is poor heating and poor insulation. This is partly due to the nature of the private rented stock being concentrated in older stone terraced properties, many with rooms in the attics and therefore difficult and expensive to insulate.
- 2.2. The introduction of Energy Performance Certificates seems to have been largely ignored by the private landlords, even those considered to be responsible in other areas. If this situation remains, the future plans for a minimum score on an EPC for rented accommodation will be completely unenforceable.

Recommendation 2: That resource is made available to prioritise the enforcement of having EPCs. One way of assisting with this would be to put in place recommendation 1 above, then allow the sharing of data to compare addresses of rented accommodation with current EPCs

3. Resources for prosecutions

- 3.1. There are very few resources available for prosecutions, this has led to some very positive areas of practice as more emphasis is placed on working with landlords to ensure works are done or for carrying out works in default of notices. However, it doesn't give any sort of warning to the worst landlords that they face prosecution for dangerous and illegal practices.

Recommendation 3: That resource is made available to enable prosecution of the worst cases. This could be by ensuring that magistrates award realistic costs to prosecuting authorities

4. Prevention of fraud

- 4.1. There also seems to be no system of preventing the collusion of lettings agents with fraud and money laundering, no vetting of landlords or even checking that supposed landlords own a property prior to it's being let
- 4.2. There are many concerns about how Universal Credit will affect the private rented market. One of these is that it may become almost impossible to find out if landlords are claiming rent from more than one household for each property they own.

Recommendation 4: Encourage lettings agents to develop occupational standards which they can advertise that they will adhere to.

Recommendation 5: Put in place an information sharing system prior to Universal Credit alongside recommendation 1 above so that some cross checking of data can be carried out, possibly by the DWP or by Local Authority.

5. Discharge of homelessness duties

- 5.1. Calderdale MBC intends to discharge some of it's homelessness duties via the private rented market. There are problems in resourcing the policing of the quality of properties.

Recommendation 1: Compulsory registration of all rented properties, landlords and lettings agents. There is an advantage to central Government if this is done in that the information could be shared with Inland Revenue.

Recommendation 2: That resource is made available to prioritise the enforcement of having EPCs. One way of assisting with this would be to put in place recommendation 1 above, then allow the sharing of data to compare addresses of rented accommodation with current EPCs

Recommendation 3: That resource is made available to enable prosecution of the worst cases. This could be by ensuring that magistrates award realistic costs to prosecuting authorities

Recommendation 4: Encourage lettings agents to develop occupational standards which they can advertise that they will adhere to.

Recommendation 5: Put in place an information sharing system prior to Universal Credit alongside recommendation 1 above so that some cross checking of data can be carried out, possibly by the DWP or by Local Authority.

January 2013

Written submission from the East Midlands Property Owners Ltd (PRS 040)

INTRODUCTION

1.1 Thank you for this opportunity to contribute to this inquiry.

1.2 EMPO is a not for profit residential landlord association whose primary function is to support and represent the interests of residential landlords, letting agents and property investors across the East Midlands. EMPO is based at 78 Lenton Boulevard, Nottingham NG7 2EN. EMPO currently has 350 members who own or manage in excess of 10,000 residential properties.

1.3 The private rented sector (PRS) has played a critical role over the past 20 years in terms of supporting the following:

- The significant growth in the student population would not have been possible without the expansion of the PRS.
- Labour mobility would have been significantly constrained without the growth in the PRS.
- Without the PRS fewer people would have been housed at a time of shrinking social housing stock and the requirement for high mortgage deposits from first time buyers.
- The PRS prevented an acute shortage of affordable family homes due to years of insufficient investment and failed policies in addressing the shortage of social housing due to large amounts of social housing stock sold off under the Right to Buy and not replaced.

1.4 EMPO has been encouraged by Housing Minister Mark Prisk recent announcement of a new £200 million fund for the construction of new homes specifically for private rent. However we are dismayed with the relentless level of locally implemented regulations impacting upon landlords; for example licensing schemes and other measures which are adding unnecessary cost resulting in higher rents and slower investment activity in the PRS.

The quality of private rented housing along with the steps that can be taken to ensure all housing in the sector is of an acceptable standard?

2.1 We accept the sector does have its problems with rogue landlords and they should be tackled robustly at a local level whilst avoiding intervention measures that impact adversely on the majority of good landlords following good standards and practices. These landlords deserve to be treated well as they conduct themselves in a business like fashion and predominantly supply accommodation above the standards required by law and in many instances offer housing of a better standard than owner occupiers in the same location.

2.2 There are a large number of tools within the various Housing Acts to deal with the property and the skills of those who manage them. We believe local authorities need to make better use of and utilize these provisions in pursuing enforcement activities to ensure compliance by the small number of rogue landlords.

2.3 We support and recognise professionally operated landlord accreditation schemes as being an excellent and invaluable tool for landlords in ensuring they are kept up to date with their responsibilities in terms of landlord management and housing standards. We believe these voluntary schemes can play a significant role in improving standards, providing local authorities are more focused in ensuring adequate marketing spend being made available to promote them.

2.4 We support a landlord register (or fit and proper license) where the landlord registration number is recorded on the tenancy agreement along with the registration number for the accreditation scheme. Landlord charges for such a register would be on a sliding scale depending on membership subscriptions to accreditation schemes and landlord associations.

2.5 We support and salute Government policies such as Green Deal and the Energy Companies Obligation to Affordable Warmth as workable and cost effective schemes for landlords to effectively improve the energy efficiency of their rented properties.

Levels of rent within the PRS-including the possibility of rent controls and the interaction between housing benefits and rents.

3.1 At present rents are below CPI in the majority of local authorities across England & Wales.

- Average rents from the 12 months to June 2012 grew by 1.76% in England.
- In 160 out of the 325 authorities, rental growth was below 2%.
- In 80 out of the 325 authorities, rental growth was negative.

Data released by Valuation Office Agency (VOA)

3.2 “Rent Affordability” over recent years has been being impacted by a combination of factors including slow wage growth, the cost of local authority discretionary licensing, an acute shortage of affordable homes and high mortgage deposits for first time buyers.

3.3 Experience shows Landlords will tend not to invoke rent rises every six or 12 months for tenants in situ, but rebase their rent to market when a tenant moves on, which on average is every 24 months.

3.4 The open market is the best determinant of rent levels. Rent controls would distort the market by deterring new institutional investment in the rental property whilst leading to an exodus of current investors. This would have the affect of leaving social housing providers with the responsibility of meeting the subsequent housing demand from these market changes. House prices would fall and any talk about institutional investors “beefing up” the residential market would vanish.

3.5 Rent inflation across the UK as a whole tends to correlate very strongly with average earnings and therefore linking rents to average earnings might be a good way of setting rents and would mean that rents would have the same affordability in the future as they do.

3.6 The interaction of housing benefits and rents.

With the recent announcement by the Chancellor that benefits will be capped at 1% from 2014 and therefore no longer linked to inflation will undoubtedly mean some claimants will experience a rent shortfall, which will have to be met out of their own pocket. As we have shown in our earlier analysis of rents by the VOA, some areas will experience little rental growth and therefore claimants will not need to make up the shortfall. However there will be instances where claimants will need to seek alternative cheaper accommodation or take advantage of the fund being made available by Government to cushion the impact of these changes where claimants live in areas where rent increases are highest.

Regulation of landlords and steps that can be taken to deal with rogue landlords; regulation of letting agent's fees and charges.

4.1 Effective regulation requires all PRS stakeholders to be part of the process from a very early stage. Regrettably our experience with local authorities demonstrates this early engagement is not present.

4.2 Existing regulation imposed by local authorities is not properly or actively enforced or marketed/promoted to the wider landlord community. This allows rogue landlords to operate under the radar and amateur landlords to operate while being unaware of their responsibilities.

4.3 We would like to see all agents offering client money protection services and being part of a self regulating body such as RICS or ARLA.

4.4 We do not believe in caps on fees, but are very supportive of full and transparent disclosure of all fees and charges at the commencement of the client relationship.

The Regulation of houses of multiple occupation (HMOs), including the operation of discretionary licensing schemes imposed by local authorities.

5.1 With Government benefit changes now only offering 25-34 year olds support for shared accommodation, the need and requirement for this type of accommodation in the community is essential. In Nottingham 32% of the population is aged between 18-30 years and the local authority policy is to restrict the use and growth of HMOs in the city. At a time where shared accommodation is the only option available to many young people and where forthcoming changes in welfare reform will make this type of accommodation even more critical within housing provision. .

5.2 Our concerns are compounded by the fact that often decisions to constrain the growth of HMOs are taken without any early consultation with the PRS or evaluation of the need for HMO's in a local area. The sole decision process is based around reducing student housing densities. Shared housing does not form a part of local authorities strategic housing plans, although for many young people this type of housing is the only accessible housing option open to them.

5.3 We believe discretionary licensing schemes do little to improve communities and standards. In fact we suggest they only really impact upon the good landlords as effective enforcement procedures to deal with rogue landlords are lacking under such schemes. Furthermore landlord costs associated with complying with such schemes are passed onto tenants in the form of higher rents. There is also evidence these schemes create homelessness as landlords opt out of licensing by serving possession notices to tenants so properties can be re-marketed with fewer tenants at higher rents.

Tenancy agreements and length and security of tenure

6.1 Most tenants in the PRS are on Assured Shorthold Tenancy Agreements (AST).

6.2 Tenancies fail for specific reasons such as changes in circumstances by the tenant. For example when a tenant loses their job or experiences a relationship breakdown. Other reasons include rent arrears and anti social behaviour. It is perhaps more appropriate to focus policy intervention on these reasons for tenancy failure, rather than on a tenancy framework that appears for the most part fit for purpose.

6.3 There are several reasons why longer tenancies are not used more extensively by the PRS.

- Valuation- Most PRS Landlords view property as an investment and as with all types of investment opportunities there is a requirement for flexibility in terms of having the ability to sell investments relatively quickly. A property with a sitting tenant will negatively affect its selling price.
- As part of the terms and conditions for a buy-to-let mortgage, restrictions are placed on the type and length of tenancy agreements permitted in order to protect the value of the mortgage company's asset in the event of repossession.
- There is a huge fear amongst landlords that the continued roll out of regulation into the PRS will make the PRS sector less attractive as an investment option. Landlords want the flexibility to sell their investments quickly which would not be possible with long term tenancy agreements in place.
- The best outcome for occupiers and investors is a policy environment that delivers choice and where the well proven AST co-exists with longer-term tenancies.
- Forcing long tenancy across the whole market would be a high risk strategy for the Government. The PRS needs to grow and attract new investment in order to meet the future demands for housing. Increased regulation and interference such as index linked rents tied to longer tenancies will reduce the investment levels in the sector.
- There are a number of simple ways where longer term tenancies would become attractive to investors. These include measures introduced by local authorities to help landlords deal effectively with anti social behaviour (ASB). Giving landlord the ability to terminate tenancies swiftly, without having to go to court where the reason is landlord sale, rent arrears or ASB. Gaining the support from mortgage lenders for longer term tenancies.

How local authorities are discharging their homelessness duty by being able to place homeless households in the PRS.

71. There is strong demand for accommodation from tenants not on benefits and combined with future welfare reform changes we expect to see significant increases in demand for accommodation in the PRS. Regulation such as Article 4, discretionary licensing and Government interference in the sector is inhibiting future investment in the PRS. In Nottingham there is local authority resistance to PRS investment in providing housing other than family housing under the City's Article 4 direction. This approach will create a problem for Nottingham City and other local authorities in discharging their homelessness duty into the PRS.

Conclusions

Recent studies show that since 2001 the number of private rented households has grown by 75%. By 2025 it is predicted 22% of all households will be living in the PRS. Therefore the importance of the PRS in providing affordable, safe and decent homes is crucial if the housing needs for England and Wales are to be achieved.

Overall we believe the PRS functions well in providing the homes people want to live in at rents they can afford. Future investment necessary to meet demand will only happen in the sector if investors are confident government will treat them in a business like fashion and not over burden them with regulation.

Our recommendations include the following:

- To include a simple compulsory registration scheme for landlords.
- To recognise that a significant concentration of HMOs is limited to a few wards in the Country and extended planning powers on HMOs will constrain a desperately needed type of accommodation in many of our communities
- Local authorities need to provide robust evidence that mandatory licensing is under full control and properly managed prior to looking at discretionary licensing schemes.
- Local authorities need to introduce robust measures to tackle the problem of rogue landlords and agents.
- Local authorities need to properly consult on policy matters with all PRS stakeholders from an early stage therefore ensuring respect and buy in from the PRS.
- Local authorities need to ensure they have adequate resources to advertise new regulation prior to it being rolled out.
- Policy such as rent controls will damage investor confidence, the sector and ultimately housing provision.

January 2013

Supplementary written submission from the East Midlands Property Owners (PRS 40a)

A small Addendum

My comments are not intended against the safety aspects of HMO's, rather some of the provisions, such as room sizes and number of people permitted (which do not apply to owner occupied property for example), and where a newborn child can tip a property into HMO status, with a newborn considered to be a person on the premises, under the 2004 Act. My personal opinion is that the 2004 Act is very poorly written, and does not take account of the real world situation and the increasing demand for multiple occupation.

The matter is further aggravated by the insurance position, and insurance companies either refusing to insure DSS occupied properties, or putting on heavy increased premiums, at a time when income from such persons via benefits is falling and is becoming less and less certain. There is an urgent need for a Government funded insurance scheme to cover some properties, something on the lines of pooling together of premiums on a non profit basis.

The increasing imposition of discretionary HMO licensing as things stand, with insurance and other problems, seems to me to be a recipe for disaster, which will not improve matters and if anything create more homelessness.

January 2013

Written submission from the KIS Lettings Group (PRS 041)

Executive Summary: Responding to this inquiry on behalf of the independent landlords owning and managing five properties of fewer - who make up the majority of the Private Rented Market - this evidence argues that the debate on the future of the Private Rented Sector in the United Kingdom has become unhelpfully polarised between those agitating for the sector to be more heavily regulated and those advocating no change.

It is KIS Lettings contention that neither position adequately addresses the evolving needs of the Private Rented Sector – and more importantly those who rely upon to meet their basic human need for shelter. Further regulation is in our eyes unnecessary. Change is essential. Britain is now a nation of renters. This means huge opportunities for the Private Rented Sector, but it also means huge responsibilities to tackle issues like the rogue landlords and agents who bring shame on our industry.

Our central contention that no agency, organisation or interest can solve these issue alone and the government and its agencies, local authorities, trade bodies, landlords and lettings agents must collaborate and co-operate on radical and creative solutions.

It is in our view more than achievable for such solutions to make the changes the Private Rented Sector needs without the need for new laws.

As a starting point we have two key recommendations:

- The introduction of a mandatory private redress insurance scheme for tenants which agents must offer when signing up a new tenancy, empowering tenants and offering landlords and agents a clear financial interest in providing high levels of service to their tenants.
- The adoption of a single, comprehensive industry-standard voluntary code of conduct for landlords and agents, endorsed and publicised by government.

1.0 Why we are submitting this evidence.

1.1 KIS Lettings Group is a lettings agency in the North East of England, specialising in quality, affordable rented accommodation and managing properties on behalf of almost 700 independent local landlords from branches in Sunderland, North Tyneside and South Tyneside.

1.2 Our aim in submitting this evidence is to ensure the committee hears the voice of the independent landlords of the kind our organisation typically represents –the 67.5% of landlords who own five properties or less and in particular the 23.3% who rent out a single property (Source: ARLA). It is these landlords, often accidental landlords managing personal or family assets as best they can, or prudently and modestly investing for their retirement.

1.3. Furthermore, it is these landlords and agents who will inevitably feel the impact of these changes more sharply than larger players due both to their comparatively limited resources and lack of a collective voice with which to argue their case.

2.0 Why this inquiry, and change, is very necessary.

2.1 In our view, the committee's inquiry is welcome and timely. The private rented sector – and indeed British society as a whole – is undergoing a period of unprecedented cultural change. The recently-published Census of 2011 showed a jump of 2 million in the number of private renters in England and Wales – a rise of almost 90% in just ten years. In the same period the number of people owning their own homes all but flatlined, rising just 0.5%. It is true to say that a Briton's home is increasingly someone else's castle.

2.2 Historically, landlords and lettings agents do not enjoy the best of reputations. With no qualifications or vetting needed to become a landlord or significant barriers to entry into the marketplace, and more and more people seeking rented accommodation, it is crucial steps are taken by our industry to address this predicament.

2.3 Widely-publicised cases of landlords leaving tenants in conditions which would shame a slum have led consumer body Which? to compare the gamble tenants take when choosing a landlord to a game of roulette and other observers to describe the lettings sector “like the Wild West”. Although the actions of unscrupulous and callous landlords are not remotely representative of landlords in general, there is a real risk that they become representative of all landlords in the public mind.

2.4 Although as we shall argue later in this submission, our worry is that people comparing the lettings industry to the Wild West have a vested interest in saying that – they want to be the sheriff – but there's no question that a handful unprincipled operators are continuing to tarnish the reputation of responsible landlords and agents. As a result the only time you see landlords in the media they're Rogue Traders or Rigsby. The only songs you hear about us say things like “Let's lynch the landlord”. At the risk of sounding overly flippant, if people are singing songs about murdering you, your industry clearly needs to take a good look at itself.

2.5 There's actually something a good deal more serious at stake. It is KIS Letting's contention that if our industry does not get our house in order there's a very real chance that someone else will put it in order for us - maybe even through a Leveson-style intervention following a series of high profile acts of serious negligence or immorality by landlords or agents which seriously and permanently tarnish the reputation of and trust in the Private Rented Sector.

3.0 Why further regulation is unwarranted and unnecessary

3.1 The debate on the future of the Private Rented Sector in the UK has in our view become unhelpfully polarised between those campaigning for the status quo and those who believe further regulation is a silver bullet for the industry's ills.

3.2 As we have seen, it is our contention that doing nothing is not an option. But will new laws or regulations makes things better? In our view, they will not.

3.3 More than enough laws and regulations managing the relationship between landlords and tenants already exist. The private rentals sector is in fact already subject to vast amount of legislation, with more than 50 Acts of Parliament currently on the statutes applying to the way landlords and lettings agents operate.

3.4 The problem is not a lack of laws but a lack of adequate enforcement. It is unlikely any paperwork would change this. In particular, tenants far too often have little idea what their rights actually are, how to enforce them, and a lack of access to routes to justice when they do, other than through prohibitively costly private litigation or reducing access to the support by agencies such as Citizen's Advice, caused by the significant budget pressure these organisations are currently experiencing.

3.5 Moreover, it is crucial that we do not overreact and make this already burdensome framework even more complex and onerous. To do so would make it harder, or even impossible, for the smaller and independent operators who make up so much of the market to compete and even to function at all. To do so would be an affront to the principles of a free market and competition which underpin our economy and would risk distorting the rental market by creating a near-monopoly for the industry's larger players, with only the tenants losing out. We must not forget that the majority of our tenants in the United Kingdom are happy with their landlords and agents, with the National Landlord Association research would suggesting satisfaction rates of 80% and higher. There are problem landlords, but landlords are not the problem.

3.6 In addition, our concern is that those agitating most vocally for new regulatory powers – in particular the compulsory regulation of landlords and agents -are only doing so as they see a role for themselves as the administrators of a new regulatory system. Our fear is that this desire is not born out of any genuine concern for the interest of tenants, but instead in the interest of their own organisation's financial gain.

4.0 Towards an industry-led, nationwide solution.

4.1 It is also our contention that whatever solution, it must be implemented nationwide, and spearheaded by landlords and lettings agents themselves.

4.2 The New Year has seen both the London Borough of Newham and the City of Liverpool introduce a mandatory registration scheme for landlords. It is our contention that their schemes will not work, and cannot work. What is really needed is an industry-led, nationwide approach.

4.3 In line with our previous concerns detailed above, the Newham and Liverpool schemes rely on laws which already exist, but which aren't being enforced enough. Why are the bad landlords any more likely to obey them now? If the councils had the resources to inspect

every property in Newham or Liverpool several times a year before, why didn't it? If it does now, where have they come from?

4.4 If councils – or any other agencies for that matter - act unilaterally like this, our fear is all they do is place an underserved bureaucratic burden on good landlords, probably paid for either directly or indirectly by tenants. Even if the very existence of this scheme makes slum landlords think twice about operating in Newham, all they're going to do is literally cross the road to Barking or Hackney. The problem doesn't go away, it just swaps postcodes.

4.5 The Newham solution also seems to us to again be inadvertently adversarial. Again, we must remember that although there are problem landlords, but landlords are not the problem - landlords and the relevant authorities need to co-operate, not compete. Furthermore, if different local authorities all implement different schemes – which seems to be the government's preference at present– the risk is that all we do is distort the market and create an immensely-complicated, patchy and incoherent system which ultimately does nothing to protect tenant or improve public confidence in the Private Rented Sector.

4.7 Moreover, any solution which is settled upon must be landlord-led. Who is it who really has the tenant's interests at heart? The answer is clearly landlords and lettings agents. Although there is a clear self-interest in us saying this, it is an enlightened self-interest. The best state of affairs for tenants and property owners and managers alike are stable long-term tenancies, with landlord-tenant relations based on trust and respect. It is tenants and landlords who have the most to gain from this scenario, and they too who are most experienced and best placed at creating the conditions necessary for it to happen.

5.0 Recommendations

5.1 As we have argued, no agency, organisation or interest can solve these issues alone and the government and its agencies, local authorities, trade bodies, landlords and lettings agents must collaborate and co-operate on radical and creative solutions.

5.2 It remains our contention that solutions like these will render any further regulation of the industry entirely unnecessary, while also addressing the issues which will continue to plague it should no action be taken.

5.3 As a starting point for debate, we have the following suggestions we would like to put on the table:

- **Mandatory private redress insurance for tenants:** Agents and landlords should be required by law to provide mandatory private redress insurance for tenants signing up to a new tenancy.

As this policy would be in the name of the tenants it would give them the resources and support both to carry out remedial work (boiler repairs, for example) quickly and efficiently if landlords prove unwilling or unresponsive and to quickly and affordably secure legal advice and support in the event of disputes with agents or landlords.

This measure would also make it easier for rogue landlords and agents are bought to book using existing laws, by involving the investigative and legal powers of an insurance industry with a clear interest in ensuring compliance. As premiums would inevitably rise for landlord or agents who fall short of the required standards, they too would have a significant financial interest in providing and maintaining services and facilities of a high standard.

As such, the scheme would also be underpinned by the Financial Service Authority, the government would, indirectly at least, have a key stake in the regulatory framework too.

Furthermore, a key problem with the status quo is that landlords all too often are not aware of their legal rights and responsibilities. As part of this policy, we recommend that every tenant is provided with a mortgage or insurance policy style Key Fact Sheet outlining in Plain English what they can expect, by law, from their tenancy and what their landlords should expect from them in return, along with advice about pathways of arbitration and redress.

- **A code of conduct worth the paper it is written on:** We believe in the introduction of a single unified voluntary code of conduct for the sector, compliance with which would allow landlords and agents to display an easily-recognisable logo giving tenants piece of mind that their landlord is competent, reliable and trustworthy.

While it is true that a number of similar schemes already exist they are clearly not effective as the multiplicity of schemes currently available dilutes any impact, especially as public recognition for the various brands and logos associated with them appears to be practically zero. As such, it is clear a single unified scheme should be introduced, with publicised heavily by the government through its channels.

As the imposition of a compulsory scheme would be in our view unhelpfully adversarial, the government could perhaps incentivise signing up to it by offering a modest reduction in the income tax paid on rental income for signatories.

6.0 Final thoughts

6.1 As we have been preparing this submission, the Housing Minister has announced plans for a *“tenant training scheme” designed to help tenants in social housing make their voices heard.*

6.2 *As our central contention for supplying this evidence is that any changes made to the regulatory framework shaping the Private Rented Market have empowering tenants as their primary focus, we are broadly supportive of this idea and would also suggest the government considers how private tenants may also access similar process of public information and education.*

January 2013

Written submission from the National HMO Lobby (PRS 042)

Executive Summary

1 The Memorandum is submitted by the National HMO Lobby and concerns the houses in multiple occupation (HMOs) segment of the Private Rented Sector (PRS). It identifies the distinctive characteristics of HMOs, their incoherent composition and their main markets, and the detrimental impact they have on the society, environment and economy, and hence cohesion, of local communities. It surveys campaigns, legislation and literatures on HMOs, and attends to the Committee's enquiries about quality, rents, regulation and homelessness. The Memorandum concludes with seven Recommendations to control the development, to discourage the abuse and to encourage alternative forms of accommodation to HMOs. The Memorandum is supplemented by References and by a Review of recent PRS literature.

Introduction

2 The Memorandum is submitted by the National HMO Lobby, founded in 2000, a voluntary association of local community associations concerned about the impacts of HMOs on their communities. It comprises some fifty members in thirty-five towns throughout the UK, whose campaign was instrumental in amending planning legislation on HMOs. Its website is at <http://hmolobby.org.uk/index.htm>.

Information

3 The Memorandum is concerned solely with one segment of the Private Rented Sector, namely HMOs. The reason is the distinctive nature of HMOs, which is indeed recognised as an issue by the Committee in its briefing: "Those making submissions may wish to consider ... the regulation of houses in multiple occupation (HMOs) ..." The Memorandum refers to England especially (the problems are general, but legislation on HMOs differs elsewhere in the UK).

4 What are now recognised as HMOs have always existed, although not distinguished as a housing type until the Housing Act 1985. They were formally defined in the Housing Act 2004, when the concept of 'household' was clarified (as essentially a family), and a HMO was identified as a dwelling shared by three or more households. Defined as such, a HMO exhibits a number of distinctive characteristics.

4.1 Occupancy: the occupation of HMOs is intensive, higher than an ordinary dwelling house, and equal to a high-season hotel.

4.2 Occupants: typically, consequent upon their markets (see 5 below), the occupants of a HMO are mostly from one narrow age range (young adults), unlike the wider mix in most other residential uses, and as such, they are novice householders.

4.3 Occupiers: by the very fact of multiple occupation, HMOs lack the internal structure of a single household (or the management of a residential institution).

4.4 Occupation: typically, tenancies in HMOs are short-term, due to the markets they serve (see 5 below).

5 There are a number of distinct markets for HMOs.

5.1 Young professionals: young single working adults, who as yet are unable to rent a self-contained property (let alone buy one); this market is ubiquitous.

5.2 Student second homes: for students in higher education, away from home, and wanting term-time accommodation; this market of course appears in university towns, and due to current developments in higher education (tuition fees, graduate employment, purpose-built accommodation) is becoming increasingly volatile. This is by far the largest market for HMOs: over a million students are using houses as second homes (ONS 2012). Studying away from home is assumed to be the norm in this country; but everywhere else in the world, only a minority of students go away to study. (See references in 12 below.)

5.3 Benefit claimants: young single adults, claiming housing benefit, who qualify only for the shared housing rate (currently those aged under 25); this market has emerged especially (but by no means only) in seaside towns, and due to changes in housing benefit (raising the age threshold to 35), is likely to increase. (See BURA 2009, CLG 2007, 2010, Smith 2012.)

5.4 Migrant or seasonal workers: workers employed seasonally, in agriculture or in resorts, who want temporary accommodation; this market affects both seaside and market towns. (See CLG 2008, Rugg 2008.)

6 Given the distinctive characteristics noted in 4 above, many HMOs (not all) have a tendency towards a range of internal and external problems. All are endemic, arising from the fact of multiple households, and hence a lack of cohesion, internal and external. Internally, the absence of anyone willing and able to exercise any co-ordination, can readily give rise to health and safety problems, with the result that HMOs can become dangerous to their occupants. These are especially the concern of the National HMO Network.

7 Externally, the lack of cohesion endemic to HMOs extends to the neighbourhood, and this is the particular concern of the National HMO Lobby. Even individually, HMOs can impact detrimentally on the neighbourhood. This fact contributes to the tendency for high concentrations of HMOs to develop. Even a single HMO can frighten neighbours into moving away. At the same time, given the distinctive markets for HMOs, these markets prefer to congregate together, especially in the case of student second homes. It is not uncommon, not only for whole streets, but also for whole areas, to become dominated by student HMOs: in Headingley in Leeds, for instance, there are a hundred streets where the student population outnumbers residents. This process has become known as 'studentification' (Smith 2002).

8 When high concentrations of HMOs develop, the impacts are compounded.

8.1 Social impacts include antisocial behaviour, comprising not only serious incidents, but also endemic low-level antisocial behaviour, such as noise nuisance (in houses, gardens, the street), public drunkenness, evacuation (vomiting, urinating, defecating), vandalism. And student HMOs especially are a magnet for burglary (soft targets, rich pickings).

8.2 Environmental problems include parking problems, and litter, student rubbish and landlord flytipping, which in turn lead to rodent infestation. Streets are blighted by letting boards, flyposting, security grilles. Gardens go wild, or are concreted over. The built environment is exploited for profit, at the cost of residential amenity and the area's character.

8.3 The local economy becomes a 'resort economy', the market fluctuating wildly between term and vacation, retail distorted towards a very narrow demographic, and work becomes casualised.

8.4 There is intense pressure on over-used community facilities, that is, local public services, like waste disposal, policing, and local authority enforcement generally.

8.5 More fundamentally, other services are under-used, leading to the closure of community facilities., especially schools, which are so crucial to sustaining a community - not simply educating the next generation of residents, but providing a vital social nexus. As the demographic balance shifts, both young and old become isolated. Rising house prices and loss of amenity lead to an exodus of families. There is reduced opportunity for low cost home ownership. Those who are left struggle to maintain the neighbourhood, surrounded by a disengaged population. Cohesion and sustainability are lost, and *anomie* erodes the community. A key factor in reducing the sense of belonging in a community is having a large student population (Sheffield 2008).

9 As a result of the problems they generate, HMOs have been the subject of considerable attention in the last decade or so, in campaigns, in legislation and in different literatures. Two national organisations have been established. The National HMO Network comprises professionals (particularly environmental health officers) and others concerned with the welfare of HMO occupants. On the other hand, the National HMO Lobby, comprises local community associations, and is concerned with the impact of concentrations of HMOs on the wellbeing of local communities.

10 HMOs have been subject to legislation. First identified in the Housing Act 1985, the term 'household' was not defined (which left the meaning of 'multiple households' ambiguous). The Housing Act 1996 provided for discretionary licensing of HMOs ('household' still remained undefined). But the Housing Act 2004 finally provided a definition of 'household' (effectively a 'family' or equivalent), and hence of multiple occupancy, and it provided for the licensing of HMOs, both mandatory and discretionary. (The scope of mandatory licensing was defined in Statutory Instrument (SI) 2006 371, restricted to HMOs with five or more occupants and three or more storeys.)

11 In planning terms, HMOs were recognised in the Use Classes Order of 1987 (SI 1987 764), but again 'household' was not defined, and planning appeals and court cases (especially *Barnes v Sheffield* 1995) established the precedent that (incongruously) HMOs could be considered to be 'single households'. However, lobbying by residents, councillors and MPs succeeded in persuading the government to consider the issue in 2008 (CLG 2008), to consult on legislation in 2009, and to amend the Use Classes Order in 2010 (SI 2010 653). The amendment adopted the definition of HMO from the Housing Act 2004, and established a new Class C4 for smaller HMOs (larger HMOs were already classed *sui generis*). This meant that the conversion of a family home from Class C3 to Class C4 became a change of use, and hence required planning permission. The new Coalition Government of 2010 in fact made such change of use 'permitted development', removing the need for planning permission (SI 2010 2134). But many LPAs have introduced Article 4 Directions, which remove the

permitted development right, and restore the need for planning permission (for details, see the 'Local HMO Plans' page on the Lobby's website).

12 There is a growing literature on HMO concerns, in the media, in commissioned reports and in academia.

12.1 The media, printed and broadcast, have relished the town-gown conflicts generated by student HMOs. Early reports included Chrisafis 2000, Harris & McVeigh 2002, Tysome 2003 and Purves 2005. In 2006, the Universities UK report and HMO licensing provoked Clark 2006, Vine 2006, Allen 2006 and Simpson 2006. The proposals for new legislation in 2009 prompted Channel Four 2009, Wintour 2009, Doward 2009, Robinson 2009 and Buonadonna 2009. Dixon 2011 reported on more recent developments.

12.2 A number of reports on the PRS in general have appeared in the last decade, including Shelter 2002, Rhodes 2006 and Rugg & Rhodes 2008 (see Supplement 2). The PRS in seaside towns was the subject of CLG Committee 2007 and CLG 2010. HMOs specifically were studied by CLG 2006 and by CLG 2008. Studentification was considered by Rugg 2000, and then by Universities UK 2006, NUS 2007 and National HMO Lobby 2008.

12.3 Academic studies of HMOs have been carried out by Professor Darren Smith especially, including Smith 2002, 2008, 2009, 2012, and also Hubbard 2009 and Sage 2012.

13 PRS quality: The quality of HMOs is very varied. Those marketed to benefit claimants or seasonal workers can be very poor indeed, and it was these which prompted HMO licensing. This was also often the case with student second homes. But many in this market are now of very good quality, for a number of reasons. On the supply side, in many university towns, the student market is very competitive. Student HMOs are a lucrative investment, and many investors seek to take advantage - which raises the standard of the HMOs on offer. On the demand side, students are often supported by their unions and their parents, in their search for quality accommodation. In response, therefore, many landlords subscribe to accreditation schemes, like those run by Unipol Student Homes in Leeds, Bradford and Nottingham.

14 PRS rents: Again, rents can be very varied among HMOs. But a defining feature of HMOs is that most rooms in the house are let singly, rather than renting out the house as a whole, and this of course increases the landlord's return on the investment. In particular, student second homes are widely seen as cash cows. According to *Accommodation for Students* website, rents nationally have gone up from £67.11 to £68.70 per person per week in the last year.

15 PRS regulation: The National HMO Lobby supports the Rugg & Rhodes recommendation that "it should not be possible for landlords to let without a licence" (p113) (hence, **Recommendation 4**).

16 HMO regulation: In the interests directly of HMO occupants, and indirectly of HMO neighbours, the Lobby supports HMO licensing schemes. The Lobby welcomed the introduction of mandatory HMO licensing in 2006, though it considered that the licensing

net should be cast wider (hence, **Recommendation 1** below). The Lobby also welcomed the introduction of discretionary additional HMO licensing at the same time, and in particular, the decision in 2010 to delegate that discretion to local housing authorities (LHAs). The Lobby also welcomed legislation on HMOs in planning law in 2010 - and regretted the subsequent weakening of this legislation, noted in 11 above (hence, **Recommendation 2**).

17 PRS tenancies: There is probably a strong case for greater security of tenure in the PRS, as increasing numbers of individuals and families come to rely on renting, rather than home-ownership. However, given the inherently temporary nature of HMO occupancy (see 4.4 above), assured shorthold tenancies are probably adequate for this element of the PRS.

18 Homelessness: It is certainly the case that LHAs have become dependent on the PRS for accommodating homeless households. But this says more about the inadequacy of housing policy generally than it does about the value of the PRS in particular. Indeed, the PRS (especially the HMO segment) bears considerable responsibility for the shift from ownership to renting in general, and for the housing shortage in particular. It is clearly the case that PRS investment has contributed to the inflation of house prices, at a time of shortage of stock, to the disadvantage of aspiring home-owners - who are thereby obliged to rent instead (to the advantage of the PRS!). Investment in HMOs in particular, for the sake of their lucrative returns (as noted at 14 above), exacerbates housing problems. The majority of HMOs, as noted at 5.2 above, are in fact student second homes. This means that thousands of family homes are taken out of the general housing market, in order to feed a demand for second homes - first homes are lost in favour of second homes. "There is no greater inequality in this country than that some people should have two homes while others have none" (George Monbiot, quoted in NHPAU 2008, para 178). Student HMOs thus indirectly contribute to the problem of homelessness in the UK, hence **Recommendations 5 and 6**.

Recommendations

19 In the light of the problems posed by HMOs, the National HMO Lobby recommends to the Committee a number of courses of action, intended to impose controls on their development, to discourage their abuse and to encourage alternative forms of accommodation.

20 As noted at 10 above, licensing of HMOs was implemented in 2006. As noted at 13, it was done in response to the poor quality of many HMOs, and also to the often poor quality of their management (15 above). SI 2006 371 designated HMOs comprising *both* three or more storeys *and* five or more occupants as subject to mandatory licensing. At the time, many (including the National HMO Lobby) argued that this scope was too narrow. Therefore, following 16 above, the Lobby **recommends (1) that HMOs comprising *either* three or more storeys *or* five or more occupants should be subject to mandatory licensing.**

21 As noted at 11 above, smaller HMOs were made subject to development control in 2010. But this control was removed when change of use from Class C3 to Class C4 was made permitted development by SI 2010 2134. This has obliged many LPAs to introduce Article 4

Directions, to remove that permitted development right in designated areas. But most neighbourhoods are not covered by such Directions (often due to costs), and residents there are vulnerable to uncontrolled development of HMOs, individually or cumulatively. In view of the problems posed to neighbours, as described at 8 above, and following 16 above, the Lobby **recommends (2) that the amendment to the General Permitted Development Order SI 2010 2134 be repealed, removing permitted development rights for change of use from Class C3 to Class C4.** [Incidentally, the Lobby also recommends (2a) that the original GPDO (SI 1995 418) be amended to make clear that ‘dwellinghouses’ in Part 1 of Schedule 2 refers only to properties in Class C3, as originally intended, and not to HMOs in Class C4.]

22 As noted at 7 above, the markets for HMOs tend to cultivate areas where the market has already made an inroad. The upshot is high concentrations of HMOs in very specific areas. Many LPAs have responded by introducing policies on HMO development intended to resist the emergence of such concentrations. Manchester and Portsmouth are among several examples, which have set thresholds, above which permission for HMOs will not normally be granted. These LPAs have set the threshold at 10% of residential properties within a defined area: given the above-average occupancy of HMOs (4.1 above), this equates to 20% of the local population - which can be accommodated by the local community. A higher proportion begins to undermine that community (as noted at 8.5 above). The Lobby therefore **recommends (3) that local planning authorities be advised to adopt policies limiting HMO development to not more than 10% of a neighbourhood.**

23 Even with controls on HMOs, as noted at 15 above, landlords may still avoid their responsibilities. At section 4.5 of their report, Rugg & Rhodes propose ‘light-touch licensing’ of landlords, to address this issue: “it should not be possible for landlords to let without a licence” (p113). The National HMO Lobby endorses Rugg & Rhodes’ ‘policy direction of travel’, and **recommends (4) that a simple national registration scheme for landlords be established.**

24 As noted at 5.2 and 18 above, many HMOs, specifically those let to students, are *de facto* second homes. This country cannot afford to tolerate use of its limited housing stock for the benefit of the privileged few. The National HMO Lobby therefore **recommends (5) that measures be explored for discouraging or preventing the use of any domestic property as a second home (for work or study or holiday), unless expressly built for that purpose.**

25 In her study of *The nature & impact of student demand on housing markets*, Rugg (2000) recommended that “a housing strategy should be integral to the expansion plans of every HEI” (p34). Such impacts are noted in 8 above and also in 18. The continued expansion of higher education in the ensuing decade has seen the impacts Rugg studied increase. Given the scale of the on-going student demand for accommodation, the National HMO Lobby endorses Rugg’s proposal, and **recommends (6) that every HEI should adopt a housing strategy designed to minimise its students’ impact on local housing supply.**

26 ODPM 2004 asserts “HMOs ... provide affordable housing options for some of the most vulnerable and disadvantaged groups in society, including benefit claimants or those on low incomes ...” (p18). However, it is debatable whether HMOs are the best response to these demands. Should vulnerable people, who would otherwise be homeless, be dependant on the private sector (rather than on social housing)? For this reason, the National HMO Lobby **recommends (7) that public sector housing provision should be made available to young single people in receipt of housing benefit (as an alternative to HMOs).**

January 2013

SUPPLEMENT 1: References

- Allen, Kate, 'Excessive concentration' *Inside Housing* 7 July 2006
- Buonadonna, Paola, 'HMO Legislation' *The Politics Show*, BBC1, 25 October 2009
- BURA Seaside Network *Turning the tide of HMOs in coastal towns* Reception, Westminster, 27 January 2009
- Channel Four, 'Student HMOs', *News at Noon*, 10 August 2009
- Chrisafis, Angelique, '[Two square miles of housing hell](#)' *The Guardian*, 24 October 2000
- Clark, Laura, 'The student ghettos' *Daily Mail*, 24 January 2006
- CLG (Communities & Local Government) Housing Research *Summary 228 [Dealing with 'Problem' Private Rented Housing](#)* 2006
- CLG, *Evidence Gathering - Housing in Multiple Occupation and possible planning responses* 2008
- CLG, *Strategy for seaside success: Securing the future of seaside economies*, 2010
- CLG Committee *Coastal Towns* 2007
- Dixon, Sara, 'University ghost towns fear as tuition fees rise' *Express*, 18 April 2011
- Doward, Jamie, '[Student ghetto areas "blight lives of locals"](#)' *The Observer*, 13 September 2009
- Harris, Paul, & Tracy McVeigh '[Student takeover alarms cities](#)' *The Observer* 21 July 2002
- Housing Act 1985
- Housing Act 1996
- Housing Act 2004
- Hubbard, P, 'Geographies of studentification and purpose-built student accommodation: leading separate lives?' *Environment and Planning A* 41 (8), 2009
- National HMO Lobby *Balanced Communities & Studentification* 2008
- NHPAU (National Housing & Planning Advice Unit), *Rapid Evidence Assessment of the Research Literature on the Purchase and Use of Second Homes*, 2008
- NUS (National Union of Students), *Students in the Community: Working together to achieve harmony*, 2007
- ODPM (Office of the Deputy Prime Minister) *Licensing in the Private Rented Sector: Consultation on the Implementation of HMO Licensing* 2004
- ONS (Office of National Statistics) 'Number of people with second addresses in England and Wales, March 2011', *Statistical Bulletin*, 22 October 2012
- Purves, Libby, 'Student Lodgings' *The Learning Curve* BBC Radio 4, 15 March 2005
- Rhodes, David, *The Modern Private Rented Sector*, Chartered Institute of Housing, October 2006
- Robinson, Winifred, 'Shared Houses' *You and Yours*, BBC Radio 4, 8 October 2009
- Rugg, Julie, et al, *The nature & impact of student demand on housing markets* YPS, 2000
- Rugg, Julie, & David Rhodes, *The Private Rented Sector: its contribution and potential*, University of York, 2008
- Sage, Joanna, et al, 'The rapidity of studentification and population change: there goes the (student)hood', *Population, Space and Place*, 18(5) 2012
- Sheffield University, *Changing UK: the way we live now*, 2008
- Shelter, *Private Renting: a new settlement* 2002
- SI (Statutory Instrument) 1987 764 *Town & Country Planning (Use Classes) Order*
- SI 1995 418 *Town & Country (General Permitted Development) Order*

- SI 2006 371 *The Licensing & Management of Houses in Multiple Occupation & Other Houses (Prescribed Descriptions) (England) Regulations*
- SI 2010 653 *The Town and Country Planning (Use Classes) (Amendment) (England) Order*
- SI 2010 2134 *The Town and Country Planning (General Permitted Development) (Amendment) (no 2) (England) Order*
- Simpson, Mark, 'Student Housing' *One O'Clock News* BBC1, 8 August 2006
- Smith, Darren, 'Patterns and processes of 'studentification' in Leeds', *The Regional Review*, 12 (1) 2002
- Smith, Darren, 'The politics of studentification and '(un)balanced' urban populations: lessons for gentrification and sustainable communities?' *Urban Studies*, 45(12), 2008
- Smith, Darren, 'The real geographies of studentification', RTPI workshop, 22 June 2009
- Smith, Darren, Ed, '[Student Geographies](#)', *Environment & Planning A*, 41 (8), August 2009
- Smith, Darren, & Richard Tyler 'Studentification: success & failure of the PRS' Northern Housing Consortium *The future contribution & potential of Private Sector Housing* conference, Harrogate, 2009
- Smith, Darren, 'The social and economic consequences of Housing in Multiple Occupation (HMO) in UK coastal towns: geographies of segregation', *Transactions of the Institute of British Geographers*, 37(3), 461-476, 2012
- Tysome, Tony, et al, '[Town & Gown](#)' [series] *Times Higher Education Supplement* August 2003
- Universities UK, [Studentification: a guide to opportunities, challenges and practice](#) 2006
- Vine, Jeremy, 'Estate bans students', *Jeremy Vine*, BBC Radio 2, 31 January 2006
- Wintour, Patrick, '[Minister to act against student enclaves](#)' *The Guardian*, 12 September 2009

SUPPLEMENT 2: Rugg Reviewed

In the last decade, three reports on the Private Rented Sector in general have appeared, including Shelter 2002, Rhodes 2006 and Rugg & Rhodes 2008. The last gave specific attention to HMOs. But the validity of its conclusions has been questioned, both by the National HMO Lobby, and by Professor Darren Smith of Loughborough University, who has studied HMOs for over a decade.

The Lobby (National HMO Lobby, 'PRS Review 2008: Response' 2008, online at <http://hmolobby.org.uk/prsreview08.htm#response>) is concerned that Rugg & Rhodes fail to take an objective approach. They state, "At the heart of the Review is the general desire to see the PRS as a less marginal tenure" (p6); but they admit that this can be done only at the expense of owner-occupation or social renting (p47). Rugg & Rhodes also neglect HMOs other than student HMOs, and they underestimate their impacts on local communities. Most seriously, their quantification of the issue is highly suspect.

The following are extracts from Darren Smith, 'The real geographies of studentification', a paper presented to a RTPI workshop at Brighton on 22 June 2009, which challenges Rugg's & Rhodes' narrow representation of studentification.

1. Introduction

Despite the consensus of opinion, a recent government-commissioned report (Rugg and Rhodes, 2008) asserts: ‘the limited nature of the problem [studentification]’ (p.100) has been exaggerated by well-organised lobbying groups. Contrary to the majority of current political (DCLG, 2008), policy (e.g. Durham City Council, 2007), academic (e.g. Hubbard, 2008) and media discourses (The Guardian, 2008a) on student housing, and town/gown relations (e.g. UniversitiesUK, 2005), Rugg and Rhodes analysis of studentification reveals a piecemeal process of change, arguing that ‘intensive student habitation is not common’ (p. xxi). In this paper, I challenge this narrow representation of studentification, asserting that Rugg and Rhodes’ analysis of the scale of studentification (they use the term ‘intensive student habitation’) is methodologically flawed; based on out-dated data, and a limited methodology.

4. The Rugg and Rhodes review of the private rented sector

The geographies of private rented student housing affect the wider operation of the private rented sector. Indeed, as Rugg *et al.* (2002: 289) note in previous research: ‘student demand affects all aspects of the local housing market’.

This is particularly important given the deeper penetration of students into the private rented sector. King Sturge (2008) reveal that 730,000 students (51% of total student population) are accommodated within shared housing in the private rented housing sector in 2008 (Rugg and Rhodes (2008) show the total 2,611,000 private rented dwellings in 2006). Given the high proportion of students residing in the private rented sector, it is therefore imperative that any problematic issues of private rented student housing are fully acknowledged and addressed, and that the residential geographies of students are represented in accurate and meaningful ways; which the Rugg and Rhodes report unfortunately fails to deliver.

5. A narrow representation of studentification?

First, by basing their analyses on the incidence of households with a student Household Reference Person (HRP), Rugg and Rhodes construct a partial representation of the scale of high-density, student populations in local neighbourhoods. This will mask the vast majority of students living in high concentrations, such as students co-residing with a student HRP, or students co-residing with a non-student HRP.

Second, the methodology employed by Rugg and Rhodes’ is further limited by the use of census wards as the geographical unit of analysis. This geographic resolution tends to ‘hide’ localised concentrations of students; despite Rugg and Rhodes acknowledging that: ‘this kind of problem can evidently be felt very acutely at street by street or neighbourhood level, but is clearly not a widespread issue’ (p.99).

With this in mind, a micro-geographic perspective of studentification is essential, and the use of census data at Lower Super Output Areas (LSOA) is imperative, since this provides information, on average, for spatial areas with 1,500 residents (Office for National Statistics, 2008a), compared to electoral wards which include 5,500 individuals on average, and range from 100 to 30,000 individuals (Office for National Statistics, 2008b).

6. The ‘real’ geographies of studentification in 2001

Table 1 shows that there are LSOAs from 15 university towns and cities within the top 20 highest concentrations of student populations in England and Wales at LSOA.

Further analyses of 2001 census data reveal 687 LSOAs with a student population of 20% or more in England and Wales. This cut-off point was the measure identified by Berube (2005:11), to define ‘student-heavy wards ... due to studentification’. It is also noteworthy

that there were a further 1,287 LSOAs with a student population of between 10-19% in 2001. It is a plausible hypothesis that the concentration of students in many of these latter LSOAs will have increased since 2001, as student populations have expanded (see next section).

Further analyses show that there were a total of 47 towns and cities with one or more LSOAs with a student population of 50% or more.

To further demonstrate the wide-scale of studentification, Table 2 provides a breakdown of the total number of LSOAs in university towns and cities with a student population of between 25-49% and 50-100%. It can be seen that there are 28 English university towns and cities with four or more LSOAs with student populations of 25% or more.

7. Exploring the post-2001 geographies of studentification

As Savills (2008) note, the total student population has expanded by 31% over the last decade, and currently totals 2.34 million. Crucially, Rugg and Rhodes (2008) interpretation of intensive student habitation does not take into account these changing factors, which will have transformed the residential geographies of students in profound ways.

Overall, the total student population in the core cities of England increased by 52,400 students (+17.3%) from 250,145 to 302,545 students between 2000-01 and 2006-07. Although increases are common across all eight core cities, there is some variance, with rises being most pronounced in Nottingham (+22.7%), Newcastle (+22.5%), Birmingham (+21.5%), Leeds (21.3%), and, to a lesser extent, in Liverpool (+14.9%), Manchester (+13.7%), Bristol (+12.8%), and Sheffield (+9.9%).

Student populations have increased in the most dramatic ways in many of the smaller English university towns and cities since 2001. Figure 2 demonstrates how the total full-time undergraduate student populations increased in between 2000-01 and 2006-07, in a number of case studies. ... Strikingly, increases were most marked in Bournemouth (+47.1%), Norwich (+36.8%), Bath (+30.0%), Plymouth (+29.2%), Canterbury (+25.3%), York (+23.9%), Reading (+22.6%), Durham (+21.4%), Loughborough (+16.1%), Brighton and Hove (+12.7%) and Southampton (+8.2%).

Indeed, when couched within broader societal changes, the general shortcomings of using the 2001 census data are emphasised. For example, Dorling *et al*'s (2008) recent study of the changing geographies of the UK reveals that 'demographic segregation' is unfolding in the UK, with 'areas becoming more segregated, most quickly from 2001 to 2006' (p.2). Such analyses clearly emphasise the pitfalls of using 2001 GB census to understand the current scale of studentification in 2008, or similar processes of change which are giving rise to a more segregated society.

Arguably, pinning down the geographies of studentification in accurate ways is important for formulating effective public policies to mitigate detrimental societal conditions, such as the breakdown of community cohesion, the fragmentation and disintegration of local neighbourhoods, and social exclusion. As Dorling *et al.* note: 'today communities tend to be more geographically polarised: we tend to now more live alongside people with similar age, economic and lifestyle status' (p. 16). Processes of studentification are inherently interwoven here into these pressing, broader societal patterns of change. The dismissal of studentification as a widespread process of change may have serious consequences for the general future health and well-being of many local communities and neighbourhoods. It may also lead to the disempowerment of local residents from articulating their views on the locally

important issues of studentification, which are clearly voiced to local and national political actors in many university towns and cities.

[from Darren Smith, 'The real geographies of studentification', RTPI workshop, Brighton, 22 June 2009]

Written submission from Stonewall Housing (PRS 043)

1.0 EXECUTIVE SUMMARY

- 1.1 Stonewall Housing believes that the Communities and Local Government Committee's inquiry into the Private Rented Sector should take time to consider how well the private rented sector (landlords and agents) meets the particular needs of those with protected characteristics.
- 1.2 More and more people will be reliant on the private rented sector as social housing supply becomes more limited. Poor access to advice, limited affordable options and badly managed properties may mean those with protected characteristics will be forced to live in unsafe, insecure housing which will have a detrimental affect on their health and future prospects.
- 1.3 There should be more regulation of the private rented sector which includes considerations for disadvantaged groups in order to drive up standards, ensure high quality management and keep rents low.
- 1.4 Local authorities who refer to the private sector, private landlords and their representative bodies need to work more closely with the voluntary sector to become more aware of issues faced by LGBT people and ensure easy access to the best advice and high quality, safe housing, where people can receive support where necessary; then promote best practices to the widest audience.

2.0 INTRODUCTION

- 2.1 Stonewall Housing provides advocacy, advice and housing support, and influences housing policy and practice, in order to improve the lives of lesbians, gay men, bisexual and transgender (LGBT) people.
- 2.2 1,200 people approached Stonewall Housing last year. 2/3 stated that their housing problem was directly related to their sexual orientation or gender identity. 33% experienced domestic abuse. 44% experienced harassment.
- 2.3 Sexual orientation and gender identity are core to someone's identity and unfortunately LGBT people face harassment and abuse because of these characteristics, at times from those they are living with. LGBT people need to find safe, affordable housing that will be secure. For more and more this will be in the private rented sector, especially since local authorities are discharging their duty to house people in need using the private rented sector.
- 2.4 It is vital that LGBT people feel safe, secure and can afford private rented housing or their situations will become worse, their health, care and support needs will not be met, they

may require more expensive interventions in the future and they will fail to reach their full potential: missing out on education or employment opportunities because of poor housing experiences.

3.0 INFORMATION

3.1 **AFFORDABILITY:** Private rented tenants who approach Stonewall Housing for advice are more likely to be in full-time employment compared to other tenures. However, 41% felt insecure and/or faced eviction from their accommodation and 32% could no longer afford their rent. We expect these numbers to grow as the welfare benefit and housing reforms take hold.

3.2 **ACCESSIBILITY:** LGBT people come to Stonewall Housing for advice and support because they need suitable accommodation as well as urgent, safe accommodation. They need access to advice about housing options and support to make their housing a success. Some LGBT people are nervous about contacting or coming out to mainstream agencies because they fear their situation may not be fully understood or they may face homophobic, biphobic or transphobic attitudes. LGBT people should have the choice to access advice and support given by agencies run by and for their communities.

3.3 Stonewall Housing was fortunate to receive funding from the Tudor Trust for a Private Rented Access Project and it clearly established that some LGBT people found it difficult to access rent deposit schemes. Also, Housing Options were uncertain about the specific needs of LGBT people and some landlords were nervous about housing LGBT people in case it upset other tenants.

3.4 **LGBT AWARENESS:** Stonewall Housing has provided training and consultation to hundreds of individuals and businesses about LGBT housing needs over the past 4 years to improve how landlords work with LGBT people to make them feel welcome, safer and more secure. Only 3 of those who received training were private landlords or managing agents.

3.5 **POOR STANDARDS:** 11% of private rented tenants call us because of the poor standard of their accommodation. There needs to be a drive to improve the quality of private rented accommodation since for many they have no affordable alternative housing options. Standards are not being improved voluntarily by some landlords and many tenants are nervous about making complaints for fear of their tenancy not being renewed or that their rent will be increased.

3.6 **SECURITY OF TENURE:** LGBT people need more security of tenure as well as safe housing. If they are fortunate to find a location where they feel safe they should be able to spend a number of years putting down their roots and developing support networks as many may not have the support of their families or they may not approach mainstream agencies. At the same time tenancies should be flexible so that if LGBT people are

experiencing harassment or abuse they can give a short notice period without being tied to their accommodation where they feel unsafe.

3.7 SAFETY/MANAGEMENT: It makes sound business sense for private landlords to attract more customers and one way they can do that is to improve how they offer their services to LGBT people. According to our statistics, there is a higher proportion of transgender people living in the private rented sector than in other tenures and if they are under 35 they may only be entitled to Shared Accommodation Rate of Housing Benefit and will need to share with others who may not understand their situation. They will be open to transphobic abuse, at a time when they most need a supportive, welcoming environment. Landlords and their letting and managing agents need to understand all of their tenant's circumstances to ensure they feel safe and do not have to abandon their home, flee harassment or accrue arrears.

4.0 RECOMMENDATIONS

4.1 AFFORDABILITY: Stonewall Housing calls for a more affordable private rented sector, with more accessible rent deposit schemes and rent controls if possible. Also, more landlords should be encouraged and supported to accept those receiving benefits.

4.2 ACCESSIBILITY: LGBT people, even those with no support needs, may require targeted advice and support in order for them to sustain their tenancies. Needs and risk assessments should be carried out with a particular focus on sexual orientation and gender identity so that they can be matched with appropriate housing and services. Stonewall Housing has been successfully supporting a number of LGBT people in the private rented sector through the East London Housing Partnership's Single Homelessness Project over the past year. Some have needed advice about liaising with landlords about disrepair issues, welfare benefits and budgeting while others have needed support around issues specific to their sexual orientation and gender identity, such as addressing harassment from neighbours and dealing with inappropriate language used by agents. LGBT private tenants have also benefited from assistance to develop networks to support each other.

4.3 Local authority commissioners and housing departments should recognise the specific needs of equality groups and ensure rent deposit schemes, housing advice and support services meet the needs of those with protected characteristics in all tenures.

4.3 LGBT AWARENESS: Stonewall Housing has provided training and consultation to hundreds of individuals and businesses about LGBT housing needs over the past 4 years to improve how landlords work with LGBT people to make them feel welcome, safer and more secure. Only 3 of those who received training were private landlords or managing agents. More landlords and their agents should make use of available training and guidance to make them more aware of LGBT issues and build links with groups such as Stonewall Housing who can act as advocates for particular communities.

4.4 REGULATION: Stonewall Housing calls for more regulation of the private rented sector to cover quality and management issues, though doubts this will be seen as realistic in the current 'light touch' approach to other housing providers. A licence or accreditation scheme, even if it is voluntary, should incorporate equality issues. Private landlord representative bodies should support the development of a charter mark to make it clear to LGBT people that landlords or agents welcome LGBT people and take harassment seriously. Landlords and their agents should actively promote their services to the LGBT communities with positive images and policies.

4.5 Not all landlords will comply and there will continue to be 'rogue landlords' who charge the lowest rents for substandard, badly managed properties. Stonewall Housing works with other partners such as Shelter, Housing Quality Network and Chartered Institute of Housing to drive up standards and promote good practice within the social housing sector. Similarly, private sector landlords, their representative bodies and local authorities should cooperate with such agencies to ensure private rented housing is safe, secure and affordable for people with protected characteristics.

January 2013

Written submission from Allan Murray (PRS 044)

Landlords Who Steal Their Tenant's Deposit

There are more people renting property today than ever before. Figures suggest there are about 800,000 private landlords with around 3,500,000 tenants (with their families some 10 million people) renting properties from them. These people are often the most financially vulnerable in society. With an average deposit of £500 this means that there is about £1,750,000,000 (1.75 BILLION pounds) of deposit money, some still in the hands of landlords and not deposited as required.

Sections 212 -215 of the Housing Act 2004 were written to put an end to the age-old habit of rogue landlords “unlawfully” keeping some or all of the deposit money, often by claiming that there was some damage or other loss he had to make good. Where the tenant believed this to be false and made a complaint to the Police he was dismissed with “It's a civil matter, take your own action.” I know this to be true because, as a former police officer, this was how I was told to deal with these complaints – and I had quite a number of them.

While the tenancy deposit scheme has - hopefully - reduced the incidence of such complaints it has not solved the case where a landlord fails to protect the deposit in accordance with the tenancy deposit scheme and then pockets the deposit money.

Unfortunately, what the Act has done is provide the Police with a different excuse to complaints of theft, because they now believe that **ALL MATTERS** involving landlords' actions are covered by the Housing Act 2004 and they are **ALL**, therefore, civil matters.

My daughter's case is a classic example of the skewed thinking by both Police and the Crown Prosecution Service. The property she rented was filthy, dangerous and flea infested and she never moved in. After two weeks she told her landlord she wanted to leave. He subsequently agreed and promised to return her rent (£675) and deposit (£675). When he failed to return her money, she took action through the County Court and obtained a Judgement that he repay the money. He failed to pay, and, in two further County Court financial hearings, he admitted spending the deposit money (Theft). He also deliberately told a number of important lies on oath (Perjury) and produced a forged tenancy agreement showing his common law wife, with whom he lives, to be a private landlord with whom he has no connection (Forgery). You may see some similarities with the former M.P. David Chaytor case, after which Simon Clements, then head of CPS serious crime, proudly boasted on the steps of the High Court “***No-one, no matter what their position, should be allowed to take money they are not entitled to***”.

According to the North West CPS this does not apply to landlords!

I have been helping my daughter pursue this landlord through the courts, then the Police and the C.P.S. since November 2007.

Neither the Police nor the CPS recognise the fact that the Housing Act 2004 (ss 212-215) **DOES NOT** deal with the situation where the deposit is unlawfully appropriated by the landlord for his own use. Such appropriation is Theft.

Greater Manchester Police have consistently refused to acknowledge that the aforementioned are crimes. A Police Sergeant even accused me of “*masquerading these circumstances as a criminal matter to achieve a quicker remuneration of the monies that are under debate*” and added “*when there is a specific area of civil law designed to deal with this issue we will not shoehorn these circumstances into a criminal definition because of your dissatisfaction with the actions or lack of in the civil courts.*”

These statements not only show a woeful lack of understanding of the role and powers of the civil courts, a total lack of understanding of the Housing Act 2004, and a more worrying lack of knowledge of the criminal law, viz. the Theft Act 1968 and the legislation regarding Perjury and Forgery. These are arrestable offences and, in the case of Perjury, lead to a custodial sentence.

I made a formal complaint to Greater Manchester Police but this was not recorded as such and was merely passed to the above mentioned Sergeant's Inspector. (In response to my complaint about this to the I.P.C.C. they stated that GMP had now recorded the complaint and my complaint to them had been marked “invalid”. I was bemused.)

In his reply the Inspector conceded that “***the fact that the legislation does not address the situation whereby deposit money is already spent is not something within the control of the police***” but, incredibly, still did not recognise that Theft had been committed.

My further complaint to the I.P.C.C led to an informal resolution procedure by a Detective Inspector at the same Police Station. In summarising his findings, the Detective Inspector clearly believes that:

Landlords are immune from prosecution for theft of a tenant's money.

A piece of civil legislation (The Housing Act 2004) usurps a piece of criminal legislation (The Theft Act 1968).

If someone is awarded compensation in a Civil Court this prohibits any criminal prosecution.

If someone is “successful with her case in civil court” it doesn't matter what lies the “defendant” tells under oath in a later hearing.

Admitting, on oath and in a court of law before a judge, that he has taken and (intentionally) disposed of someone else's property does not prove intent to deprive that person of it.

GMP would have difficulty proving that someone who has spent another's money (impossible to recover) did not intend that the owner would never get it back.

Producing a bank statement (his only account and with no other assets) showing he is overdrawn by £2000 does not prove he does not have possession of my daughter's money.

The Police have no interest in protecting the property of the millions of people who live in rented accommodation.

Even though they have all the details of the two witnesses (who live in their force area) and all the details of the perpetrators (who also live in their force area) GMP do not have the ability to investigate an obvious theft of £675.

*When any defendant pleads "not guilty" he commits perjury - even though this is not under oath - and that this is the same as someone lying **on oath** and signing a contemporaneous record of his statements as being true.*

Perjury in a County Court is not a crime.

A judge must stop a civil hearing and refer it to the police at that time for any action to be taken for perjury. (Jeffrey Archer?)

The lies someone will tell on oath in court are usually known before he says them.

Although GMP DO have the authority to investigate perjury (per ACPO guidance) it's not important.

Making and producing a forged document in a court of law is not a criminal offence.

I think you will be as horrified with these responses as I was. I spent 27 years as a Police Officer to the rank of Inspector and several of those were spent teaching law, practice and procedure to officers.

His response was so staggeringly incorrect in so many areas of law and practice that I again complained to the I.P.C.C. They replied that they were not concerned with the accuracy of the response but only with the fact that the informal resolution procedures had been followed.

I had already sought advice from the academics at Sheffield University, and three solicitors (civil and criminal) and been assured that Theft had been committed.

I consulted the Government's own website

http://www.direct.gov.uk/en/HomeAndCommunity/Privaterenting/Tenancies/DG_189120

which carried the following statement:

“Under insurance-based schemes, the landlord or the landlord's agent holds the tenant's deposit and pays a fee to insure it (**against the landlord illegally keeping the deposit**).”

Unfortunately the website as been re-designated as gov.uk and does not carry this and lots of other information it used to.

At this point I consulted my MP who agreed with my assessment and wrote to the Chief Constable of GMP. In his reply the Chief Constable supported the position of the Detective Inspector. (From my own experience I know that the Chief Constable will not have seen any of the relevant correspondence but his Staff Officer will have drafted the letter for signature.)

My MP then wrote to the head of CPS North West, Mr Nazir Afzal, expressing his concerns. In his reply Mr Afzal stated that CPS had not formally been consulted about the matter, he had no knowledge of the circumstances but, nevertheless, agreed with the Chief Constable's view. He then declared that for it to be theft the landlord must intend to permanently deprive the tenant of that money AT THE TIME he receives it and not later. In his words:

“This requires that at the time the money was taken (not at any later time) the property must be taken dishonestly, with the intention that it will not be returned. There is no evidence..... to demonstrate that Mr Wakelin dishonestly intended to permanently deprive at the time that the money was lodged with him. If he formed the intent later, that does not suffice.”

This is:

- totally at odds with the wording of the Theft Act, viz :

Section 3. “Appropriates”.

(1) Any assumption by a person of the rights of an owner amounts to an appropriation, and **this includes**, where he has come by the property (innocently or not) without stealing it, **any later assumption of a right to it by keeping or dealing with it as owner**.

Section 6 “With the intention of permanently depriving the other of it”.

(1) A person appropriating property belonging to another without meaning the other permanently to lose the thing itself is nevertheless to be regarded as having the intention of permanently depriving the other of it if his intention is to treat the thing as his own to dispose of regardless of the other's rights; and a borrowing or lending of it may amount to so treating it if, but only if, the borrowing or lending is for a period and in circumstances making it equivalent to an outright taking or disposal.

- (2) Without prejudice to the generality of subsection (1) above, **where a person, having possession or control (lawfully or not) of property belonging to another, parts with**

the property under a condition as to its return which he may not be able to perform, this (if done for purposes of his own and without the other's authority) amounts to treating the property as his own to dispose of regardless of the other's rights.

- at odds with legal advice I have received,
- at odds with the decision of the Judges in Ruse v Read 1949,
- at odds with the Judge's decision in the Leeds Crown Court who, in March 2012, convicted and sentenced landlord [***] for stealing his tenants' deposit money.

I have spoken with the arresting officer in the [***] case and she tells me that it was a barrister in the West Yorkshire CPS who decided to charge [***] with theft (he had been arrested on suspicion of money laundering). There was no evidence provided or asked for regarding when [***] intended to permanently deprive the tenants, because none is needed.

Under Mr Afzal's ruling it would be impossible to prove theft under almost any circumstances, e.g. a man hires a car for a week intending at the time to return it. On the eighth day he sells it and pockets the proceeds.⁴⁸

I wrote to Mr Afzal setting out clearly why he was incorrect in his interpretation of the law of theft. He replied saying he did not agree with me.

I then formally complained to the CPS about the matter. Complaints to CPS must follow a prescribed path – namely First Stage, Second Stage and Third Stage. I am greatly concerned with the responses I have had to my complaint.

The reply to my First Stage complaint (via the CPS website) was from the Area COMPLAINTS Co-ordinator, a subordinate of Mr Afzal. He merely referred me to Mr Afzal's earlier response to my letter. It was the content of that letter I was complaining about.

My Second Stage complaint was to Mr Afzal's deputy who advised me that my complaint should be addressed to the CPS communication unit as he was Mr Afzal's deputy and not in a position to deal with it.

When I contacted the CPS Communication Unit I was told I could not make a Third Stage Complaint as my complaints had been recorded as FEEDBACK and therefore I could not pursue this any further. My complaints were clearly marked "Complaint" and the letter from the Deputy Head referred to my "complaint".

I wrote to the Attorney General's office and they replied saying that because the full complaint procedure had not been completed (because I had been prevented from making a Third Level complaint) they could not assist.

⁴⁸ Landlord's name redacted.

On the 16 November 2012 I wrote directly to the Attorney General – but I have not had a reply. I have written again, but more in hope than expectation.

This suggests closing ranks, protectionism, and corruption. It is very worrying and suggests a cover-up. It does not equate with the recent statement by the Director of Public Prosecutions, Mr Kier Starmer, regarding CPS having to look again at cases where they have failed to take appropriate action.

I believe that there is already sufficient legislation to address this problem – as evidenced in the Leeds trial of [***]. What is lacking is guidance to the Police Service, the CPS and some wider general publicity to increase public awareness.

Until the Police and the CPS are advised that the Housing Act DOES NOT cover all aspects of landlord and tenant, more vulnerable people will be victims of similar rogue landlords.

If just 1% of landlords keep or dispose of their tenant's deposit, i.e. steal, that equates to 8000 x £500.

That's FOUR MILLION POUNDS.

Unfortunately, because complaints of this nature are dismissed out of hand by the police, there is no record of how many tenants have already been victims. I cannot believe my daughter and several Leeds University students are the only victims. This is a hidden crime.

Shelter are aware of this particular issue but their ability to do anything about it is limited by their charity status.

I would appreciate the opportunity to appear before the Commission and expand on the details I have given above, as well as produce the mass of correspondence briefly referred to above.

January 2013

Written evidence submitted by Leeds City Council (PRS 045)

1. **Background**

2. The private rented sector (PRS) is an important sector in providing homes for individuals and families. It allows flexibility and economic migration, offers life long homes, and provides people with a good quality home in which they can lead their life. Unfortunately it is still saddled with a relatively poor image with some landlords being seen as greedy, charging high rents for poor housing and throwing vulnerable occupiers out on to the street at the first opportunity. Nothing could be further from the truth. Whilst there are poor landlords and criminal landlords the majority of the sector is of a good standard and well managed.
3. It is important to reiterate that there is no single private sector housing market as it made up of different sectors catering to different housing needs. In this respect it is not dissimilar to the owner occupied market. Sub markets dictate the quality and condition of the offer and the level of management provided by owners or agents.

4. **Quality of PRS Housing**

5. A significant part of the PRS is self regulating based on these markets. The top end of the market in Leeds where rents can run into thousands of pounds a month does not require regulation by the Council as quality and standards must be maintained to maintain market position. The position is not dissimilar in a lot of the outer higher rental markets within the city. Clients expect higher than basic legal minimum standards and the market has to provide these. The clients are also more likely to take up any dispute with owners or agents directly rather than complain to the local authority. Here reputations are important to owners and agents so good management of quality homes is essential for business.
6. The poorer quality PRS stock tends to be concentrated in the inner city in the older housing stock. Stock condition surveys confirm this to be the case for all private sector housing, but as 55% of the PRS is located in the pre 1919 stock this issue is exacerbated. However, even within the pre 1919 PRS sector, markets dictate quality of the stock. Within the traditional student market quality is dictated by the market. Standards have been increased due to the client group demanding higher standards and having a sufficient supply of properties to enable them to make a choice, resulting in the poorer standard housing in this market not being let, adversely affecting landlords income.
7. With the loss of the PRSG there has been a reduction in any financial assistance that could be made available to the sector. Using intelligence on stock condition, health indices etc there may be the potential to look at the savings between housing investment and improvements in health and well being as an invest to save model. A report by Sheffield Hallam University showed that for every £1 invested into energy efficiency or falls prevention in the Leeds Housing Stock resulted in a £2 saving to city.

8. **Rent Levels in PRS**

9. Rental levels vary greatly within Leeds from a few hundred pounds at the lower end of the market to thousands of pounds a month at the top end. Market sectors and locations tend to dictate rents.
10. There is an increasing issue of affordability across all sectors of the private rental market. Even within traditional affordable rental markets for the average household private rents are taking an increasing amount of incomes. In some areas, based on 25% of spending being on housing cost, household incomes would need to be £30k per annum compared to actual average incomes in these areas of £24k. These areas were traditionally markets for the average household, so rents are now taking a greater proportion of their income. This is on top of fuel and food costs. This will be exacerbated by overall reductions in benefits as a result of welfare reform.
11. The interaction between housing benefit and rents has mainly been at the lower end of the rental market. However this is not the case for everyone with increasing issues of affordability for those who have made their home and life in the more suburban markets of the city but who require housing benefit to help with costs. With the impending introduction of welfare reform and proposals to reduce the welfare bill it is likely that rental levels in these markets will become unaffordable to those who rely on housing benefits to help pay for their home. This has the potential to cause migration of households into new areas and potentially new markets. It also has the potential to see increased investment by the PRS into areas of the city which have been predominately owner/occupied increasing the transient nature of areas and their sustainability.
12. The main interaction between rents and housing benefit has been at the lower end of the market especially as the way in which housing benefit is calculated has changed in terms of reduction of the rent percentile level at which it is awarded. It is difficult to regulate the rental market without some sort of Government interventions. However the current model is resulting in an increase in a lack of affordable rented accommodation as rents increase and amount of a persons income require to meet that rent increases. This situation is likely to increase with the introduction of the proposed welfare changes.

13. **Regulation of Landlords**

14. Firstly what is a rogue landlord? How does someone become defined as a rogue landlord.?
15. There has recently been an increase in reluctant landlords due to the current economic conditions and the lack of movement in the selling of properties. Owners who have to move for employment or who inherit properties are increasingly turning to the PRS as

they are increasingly unable to sell their houses due to market conditions or negative equity.

16. Part of the issue with the PRS is due to a lack of knowledge and understanding of the business. Individuals enter the sector with little knowledge of their responsibility or of business planning as to the cost of renting a property. The perception is that it is easy money that can be made with very little effort. Education is a tool by which landlords should be helped to understand the rental business. The Council has its own web site which it uses to provide guidance to owners and tenants around this type of information. There is a place in this for CLG and the landlord organisations to provide more help and assistance. LCC already works closely with NLA and RLA on their landlord foundation courses, helping promote these and linking them to licensing scheme conditions. This could be web based information or courses which would offer help and advice. Ideally these would be free but used as a marketing tool to encourage landlords to join organisations to improve their business skills and knowledge of the market.
17. Strategically working with landlord associations at a local level can help with regulation of the sector. By engaging and forming partnerships with PRS representative clear policies and strategies can be developed for the sector and gain the support of the landlords themselves. Standards and policies can be agreed and when implemented they have the backing of the landlords themselves as the minimum requirements for the sector.
18. Accreditation schemes can also help to regulate the sector. To be successful there needs to be a market advantage to be a member, this also needs to include incentives such as parking and refuse concessions to encourage membership. Therefore accreditation does not work in all sub markets. For the Leeds Landlords Accreditation scheme the main area of success has been in the student market. If an owner is not a member then letting of their property will be difficult. However this is not the same in other sub markets where there is no perceived advantage to being accredited. The scheme needs to gain significant market advantage city wide by obtaining membership across all markets. This needs to be done in partnership with Landlords organisations, promotion of the scheme to the sector, especially the tenants so that they are asking for their landlords to be members. Accreditation schemes allow owners to learn about the sector, future developments and to become better landlords. Leeds has its own Landlords accreditation scheme which has been recognised nationally. Currently there are 337 members and the number is increasing. This covers over 14,000 bed spaces in the city.
19. A robust enforcement policy allows the targeting of resources to deal with those landlords who despite having the defects to their properties pointed out by the local authority do not resolve the issues without more formal enforcement. Having a triage system allows enforcement to be targeted to landlords who refuse to undertake the

works required via informal means. This allows enforcement to be targeted and resources deployed where required. All staff involved in enforcement are highly professional and competent in taking action. The teams involved last year took 97 prosecutions against owners for non compliance with legal notices, failure to obtain a licence or breaching their licence conditions. In addition, the service responded to 3,303 requests for service, carried out over 2,000 property inspections and served 1,360 separate enforcement notices, including 22 prohibition orders. However this approach relies on tenants to complain about their housing conditions. Unfortunately, those who are in worst need generally don't complain due to fear of losing their home, lack of knowledge about their rights or a lack of options in relation to their income.

20. As part of the enforcement process we would welcome or up to date date on the enforcement of the HSHRS as the current guidance is now considered out of date.
21. Consideration should be given to revising the existing powers of entry process. To have to serve and re-inspection a property when invited in by a tenant is laborious and a waste of resources. Any enforcement concordat show offer any landlord the right to put any defects right initially, unless there is serious risk. The need to serve a section 239 Housing Act 2004 notice should be removed.
22. Intelligence allows the authority to identify where the poorest quality housing stock and levels of associated PRS are located. By dedicating resources to address these areas, tenants who would not usually make contact with the authority are proactively protected. To achieve the best outcomes such proactive targeting of locations should be as part of a wider intervention involving the Planning, crime and grime teams, Anti-social behaviour, Police etc. The intervention should not just be about enforcement but should also include education and improving management standards so that once the actions are complete the improvements remain sustainable.
23. Mandatory licensing of HMO's has shown that this can improve the conditions within this property type. The issue in terms of poor standards is with those HMO's which do not require a licence. These and those properties owned in the areas described above are the main causes for concern. The Rugg Review considered registration of the PRS as a whole. This would allow better regulation, improved standards and would bring an element of professionalism to the sector. A consequence may be that it reduces the supply of homes as single or small portfolio holders do not see the business case or it puts off those who are currently renting out of necessity due to the current economic climate.
24. There has also never been any link between property standard and housing benefit. There are arguments for and against this in terms of affect on supply for vulnerable individuals, rent levels etc. that can be made especially with the introduction of universal credit.

25. Regulation of letting agents

26. As with the sector as a whole this varies from market to market. At present anyone can set up as a managing agent without any experience or training. This leads to a spectrum of quality in the sector, with the best being very good at their business and the worst causing considerable hardship and difficulties to customers of the sector.
27. The average management fee for the city is 10% of rent. This is for basic management and precludes a finders fee which is paid on top of this amount. Discussions with landlords indicate that management costs with agents tend to be closer to the 20% level due to the add-ons charged.
28. Tenants with choice and their own financial means to make that choice will shop around to get best value. This is especially the case in the professional and student market where there are considerable options to allow choice. There is also a tendency for agents in this type of market to be a member of a professional organisation and to have the appropriate training and professional qualifications.
29. Leeds has seen an increase in the number of managing agents who deal with the lower rental end of the market. Here the offer is generally cheaper than the city normal which brings with it associated problems in terms of poor management and getting repairs done. There have been a number of cases where agencies have set up, quickly changed names or ownership or closed down only to re-open a few weeks later under a different name but with the same owner. This practise tends to be within the lower rental areas where the most vulnerable and socially excluded client groups reside though necessity rather than choice.
30. Leeds has considered an accredited Managing Agents scheme. Unfortunately, there was little appetite from the managing agents themselves and resources did not allow the scheme to be progressed. The scheme as with landlords would have been voluntary and would not have fully addressed the issue of the poor managing agents in the sector. This is perhaps an area that should have an increased priority and would benefit from Government led policies..
31. Again the option of proper regulation of the managing agents sector could be considered with legal minimums for entry into the market. Even this will not help some tenants whose properties are self managed by landlords who do not give agreements and whose only contact with the tenant is via a mobile phone with rents collected on a Monday night in cash.
- 32. Regulation of HMO's, including discretionary licensing**
33. Leeds has the largest number of mandatory licensable HMO's in the country, around 3000 properties at any one time. This has created resource issues around the five year re-licensing process due to the volume of applications. It was not helped this year due

to the potential changes in the process which came in but during the period of re-licensing rather than at the start and this in effect was too late for over 90% of landlords in Leeds.

34. The standard of accommodation in mandatory HMO's has been found to be better than in other types of HMO's. Landlords expect to have a compliance check and to comply with the licence conditions. It is in the non licensable HMO's where standards are the worst due to poor conversions, a lack of planning enforcement, tenants not bringing problems to the Council's attention, etc. Leeds has considered additional licensing as an option but decided against it based upon an option appraisal which showed the preferred option to be proactive work in targeted areas with a dedicated resource. Having introduced selective licensing it was determined that the lessons from this scheme would be learnt before any additional licensing schemes would be introduced. Article 4 Direction has been adopted by the City in 2012 which will help to manage future development of the sector under certain circumstances.
35. Leeds received Secretary of State approval to introduce a selective licensing scheme in the city. The designation commenced in October 2009. It is perceived to have been a success by all parties, however we are just in the process of conducting a review to determine what has worked over the initial 3 years, what do we need to do over the next 2 and how do we ensure continued improvements in the area. The business case for selective licensing cost the Council at least £80k to produce. A consequence of this is that any further additional licensing scheme would require up front funding by the Council, which is difficult to justify in the current financial climate.
36. As a result of the cost of additional licensing the Council is looking to use an alternative approach of proactive locality working targeting the poorer areas as described above.
37. **Tenancy agreements and security of tenure**
38. The landlords use assured shorthold tenancy agreements (ASH) as part of their letting. These are generally 6 or 12 month agreements depend upon the market. It is very rare that anything longer than a 12 month agreement will be in place. This gives limited security to tenants to allow longer term planning for their home and life.
39. Again this is market dependant and will depend upon the relationship between the individual landlord and tenant. Whilst there may be a 12 month agreement in place this can be rolled on year after year where both the tenant and owner agree. This minimises costs to the owner and provides an element of stability to the tenant. This type of relationship can be seen to occur across all markets'
40. There is always a risk of retaliatory evictions when enforcement action occurs. One option may be reduce the right of repossession/eviction were the LA has served notice due to the presence of a category 1 hazard.

41. The way managing agents charge their fees can affect security of tenure. Managing agents charge a finders fee for new tenants, usually a months rent, so it is in their interests to increase turn over of tenancies. In the more unscrupulous agencies this could be a way of operating. It would be down to the owner to do their homework on agencies before engaging them to manage their property as it will affect their income streams as well tenants lives.
42. Longer tenancies is an issue that the PRS have considered. However there are concerns about repossessing their properties if a tenant fails to pay or causes damage. The current ASH allows them not to renew in these cases and is quicker and cheaper than court action. Longer tenancies may also restrict those who use the market to be mobile.
- 43. Homelessness duty and the PRS**
44. Leeds engages with the PRS to assist homeless individuals/families to find suitable homes. Through its Housing Options Service the Council has a Private Sector Letting Scheme. The scheme encourages the PRS to offer up properties to those on the Local Housing Register by offering incentives. Landlords offer accommodation to an agreed standard and the Council following a homelessness assessment, places a suitable individual/family into the accommodation. The scheme offers the landlord damage liability for the first tenancy period, direct housing benefit payments and support of the tenant by the Council. After the initial tenancy period it is up to both parties to agree to continue the arrangement. The scheme offers the landlord a “probationary” period to consider a vulnerable tenant whilst offering the tenant a home. The scheme does not discharge all of the Council’s homelessness duty but is successful in finding homes for those in need.
45. The Council is currently considering it’s option to discharge its homelessness duty to the PRS under the Localism Act. This is at an initial stage and the option will be explored fully prior to any decision being made in respect of the tenancy policy by the Council. However are considers regarding the standard of accommodation. Any accommodation should be free from a any category 1 hazard and fit for purpose in terms of size standards etc. Currently Leeds has an inspection regime for its private sector letting scheme to ensure properties met the require standard prior to occupation. Prior to any discharge of duty to the private sector such an inspection regimen would be essential to ensure standards of accommodation for tenants.
46. To increase the supply of property available to the Council a private sector leasing scheme is being explored in partnership with the PRS. This work is on going with a view to determining a suitable scheme, subject to the financial model being workable, in the new year.

**Written evidence submitted by Blackburn with Darwen Borough Council on behalf of
Pennine Lancashire Local Authorities (PRS 046)**

1. INTRODUCTION

1.1 Pennine Lancashire authorities (Blackburn with Darwen, Burnley, Hyndburn, Pendle and Rossendale) welcome this opportunity to present observations and put forward recommendations about the future of private rented housing, which has a profound impact on this area. Blackburn with Darwen has led the submission, representing both the views of this Council and our neighbouring authorities in Pennine Lancashire. Statistics quoted refer to Blackburn with Darwen, but these are reflective of conditions and issues across Pennine Lancashire including Burnley, Hyndburn, Pendle, and Rossendale. In Pennine Lancashire private renting is becoming an increasingly sizeable and important tenure and it is vital that privately rented properties are managed properly by responsible landlords. Councils here are committed to working in partnership with good landlords.

1.2 Our main recommendations also mirror some of those expressed in the Rugg report presented to the previous Government in 2009.

2. SUMMARY AND RECOMMENDATIONS

2.1 The submission explains the extent of private rented housing in the Borough and across Pennine Lancashire together with the challenges this brings. The issue of private renting has previously been identified as a key priority for the sub region in the joint Pennine Lancashire Housing Strategy. Our main recommendations for action for the Select Committee to investigate are:-

- Better regulation of private landlords;
- Tighter regulation of lettings agencies;
- Simplified selective licensing schemes;
- Longer term tenancies and security;
- Impact of welfare reform;
- Council funding for regulation of private landlords.

3. HOUSING CONTEXT OF BLACKBURN WITH DARWEN AND PENNINE LANCASHIRE

3.1 Blackburn with Darwen has a population of 147,500 being the largest of the five Council districts making up Pennine Lancashire which has a total population of approximately 522,000.

3.2 Our housing challenges are vastly different from those of London and the South East. The major housing challenges in this area are caused by the legacy of industrial decline and the preponderance of older terraced housing in poor condition combined with failing housing markets. 27,300 (45%) of the Blackburn with Darwen stock is

terraced, a pattern which is repeated in the other Borough areas, much in disrepair and with Category 1 hazards under the Housing Health and Safety Rating System. It was the acceleration of neighbourhood decline and failing housing markets which led to the establishment of the Housing Market Renewal Programme, which was making a vital impact on addressing some of the poorest housing conditions before the Government curtailed the programme.

- 3.3 In recent years we have seen a significant increase in private renting, primarily in the terraced housing stock. In 2001 6.9% of the stock was privately rented and 70% owner occupied. The remaining 23% was Council or housing association. The 2011 Census shows Blackburn with Darwen having 15.6% of the total stock privately rented with 64% owner occupied. Some neighbourhoods and streets are now over 30% privately rented. Across Pennine Lancashire 7.66% of housing was privately rented in 2001 and this has now increased across the authorities to 14-19% with certain streets having 40% privately rented.
- 3.4 Failing housing markets, population exodus and difficulties experienced by home owners when trying to sell and by prospective buyers struggling to obtain a mortgage due to low incomes or current mortgage policies of lending institutions, have contributed to the growth in private renting. Many houses are being bought by investors living outside Pennine Lancashire. Unfortunately, this change in tenure patterns have contributed to neighbourhood decline and depressed local housing markets. The reluctance of some landlords to maintain and manage their properties and in some instances their uncaring attitudes have directly contributed to the incidence of tenants' anti-social behaviour.
- 3.5 Together all these factors contributing to decline of neighbourhoods have led to a steep growth in empty houses with over 3,440 houses in Blackburn with Darwen empty in October 2012 (5.7% of total stock). Of these over 1,600 houses (2.7%) have been empty for more than 2 years. The number of empty homes across Pennine Lancashire is around 13,500.
- 3.6 The housing register for Blackburn with Darwen currently stands at 4,300 households with 2,400 having high category housing needs. In 2011/12 there were 135 households rehoused as a result of becoming homeless, of which 24% were due to private landlords terminating tenancies. Overall, 1,066 households were rehoused by housing association partners. In 14% of these cases homelessness was caused by private landlords terminating tenancies. This pattern is replicated across Pennine Lancashire.
- 3.7 For the majority of households seeking social rented accommodation there is virtually no prospect of obtaining social housing. Government housing reforms will not ease this situation, in fact they could make it more difficult. This means that PRS will continue to be the only housing option available to those excluded from home ownership and given low and often insecure incomes this will remain so for the foreseeable future.

4. CHALLENGES OF THE PRIVATE RENTED SECTOR POOR MANAGEMENT AND MAINTENANCE

- 4.1 In recent years Blackburn with Darwen have received very high levels of complaints about privately rented houses which are directly connected to poor property conditions, poor management or about anti-social behaviour. This rise is inevitably associated with the expansion of private renting, but the Council's ability to respond to the growing number of complaints has been badly affected by budget cuts leading to cuts in staffing and expertise.
- 4.2 Advice agencies and housing services nationally including those operating in Pennine Lancashire such as Citizens Advice and Housing Advice, are receiving increasing requests for assistance from private tenants about poor quality or mismanaged PRS housing. Tenant insecurity and the impact of welfare reforms are reducing their capacity to respond to other urgent advice matters.
- 4.3 Two of the largest problems facing the PRS sector today are the growth in unregulated letting agents, with the concomitant bad practice that is often endemic, and the increase in buy-to-let amateurs or 'reluctant landlords' where people either inherit a property or are unable to sell their home and turn their hand to renting it out with little knowledge of their responsibilities as a landlord.
- 4.4 Experience in Blackburn with Darwen and elsewhere show landlords owning several properties have some of the poorest quality houses and are often the most resistant to carrying out improvements or caring for the interests of their tenants. There are landlords who treat their properties as a business and usually have the knowledge and the financial stability to weather the ups and downs of their sector, but there are other 'portfolio' owners who ignore basic health and safety duties.
- 4.5 However, although one of the single largest causes of 'rogue' landlord behaviour is simple ignorance of the laws, rules and procedures that govern a private letting, there are many landlords who are fully aware of the legislation and ignore it when it suits them, often when they are trying to obtain possession quickly. The length of notice they need to legally give tenants, delays in court hearing dates and dates for bailiffs when they are not receiving rent means they often try to obtain possession by making threats. A quicker route to possession in cases of tenants failing to pay rents or committing anti-social behaviour would lead to less threatening and intimidating landlord behaviour.
- 4.6 In Pennine Lancashire the complete lack of regulation over the lettings sector which manages properties for small scale landlords means that businesses can be set up by people who have little or no experience of managing properties. This is an issue recently highlighted by professional bodies such as the RICS (1). There are lettings agencies operating in the area which lack the professional qualifications, experience of the rental process and understanding of the standards they should be achieving. To overcome this, there needs to be a single regulatory system for letting agents to ensure they are fully accountable. Poor landlord management is closely associated with tenant anti-social behaviour. The result of failing to ensure landlord/letting agent accountability is resulting in an increase in such anti-social behaviour and a concomitant decrease in community cohesion. Already the growth in private renting has seen a pronounced increase in anti-social behaviour and disruption to existing communities.

- 4.7 Across Pennine Lancashire Councils have been obliged to establish selective licensing areas to require landlords to improve and manage their properties responsibly. In recently declared selective licensing areas over 60% of property, often privately rented, failed to achieve the Decent Homes Standard because they contained category 1 and 2 hazards (2). Such dangerous failings are a threat to health and well-being; these include unsafe electric wiring and appliances, unsafe gas appliances and very poor energy efficiency. A Health Impact Assessment carried out for the local Health Authority and Blackburn with Darwen Council in the Griffin area of the Borough confirmed the close association between poor health of residents' health and substandard rented housing (3).
- 4.8 Another detriment of the PRS is the impact that a proliferation of absent landlords has on the sustainability or regeneration of neighbourhoods. It is difficult to attract investors to develop solutions for bringing empty homes back into use in areas where the Council has difficulty securing the engagement of owners. Blackburn with Darwen Council has also been required to adopt Supplementary Planning Documents to better control proliferation of Houses in Multiple Occupation (HMO's) failing to meet health and safety standards.
- 4.9 The belief that poor quality accommodation and uncaring landlord attitudes are seriously contributing to population churn and destabilisation of communities was confirmed locally by a recent (September 2012) by a study in Blackburn with Darwen, completed by the Centre for Local Economic Studies(4).
- 4.10 Selective licensing of areas with high levels of privately rented properties can be a useful tool. but the procedure is open to challenge by landlords, some of whom are clearly reluctant to recognise their duties. It is recognised Councils should make a robust and transparent case for selective licensing, but given the tendency by landlords and lettings agencies, supported by landlord organisations, to oppose selective licensing there is a need to further standardise guidance and procedures over designation of areas and the grounds for challenge.

NEED FOR LONGER TERM TENANCIES

- 4.11 Instability in the sector leads to tenants paying higher rents because of uncertainty of tenure, landlords recovering costs of vacancies and letting agency fees.
- 4.12 2011-12 figures for the number of households rehoused in Blackburn with Darwen show that a high percentage of homeless households lost their last settled home when a private rented short-term tenancy ended. The lack of stability brought about by these tenancies and the need to move home when they end often compounds the disadvantage already experienced by the affected households. In families with school-age children educational attainment suffers because the house move may necessitate a change of school or a larger journey to remain at the same school and may lead to reduced attendance. The CLES report (4) on migration patterns in Blackburn along with many other reports (5) highlights the impact of high turnover on schools and social cohesion.
- 4.13 Evidence from Shelter (6), the RICS and from local authorities' own experiences suggests that landlords' returns and business operations are enhanced by longer

tenancies. Greater stability brought about by longer term tenancies will substantially reduce landlord costs by avoiding voids, cutting out letting agent fees and making rental income more predictable. For tenants longer term tenancies would ease difficulties over managing their personal budgets and would avoid the need to pay a further bond/deposit as they moved to a new tenancy. A possible incentive could be to offer regulated landlords tax concessions when they let on longer term tenancies.

WELFARE REFORMS

- 4.14** Welfare reforms are having a detrimental effect on the health and wellbeing of private tenants who claim Housing Benefit, whether in work or not, yet tenants have little, if any, opportunity, to improve their personal situation. Like elsewhere in the country (7) they have little option other than to remain living in cold and unsafe housing fearing any complaints they make may lead to eviction or higher rents. Feelings of insecurity are heightened by trying to live on a small budget, contributing to increased levels of stress and anxiety. Families feel increasingly isolated from local community life. Debt damages relationships with families and friends as they cannot afford to socialise. They lack confidence to find work and for those with a job, it is difficult to concentrate at work. This is both a Pennine Lancashire and a wider national issue.
- 4.15** Across the country the public purse is paying out massive amounts of money to fund rents on houses which are failing basic standards.
- 4.16** Currently the Borough has 4,900 live claims from people who are living in private rented accommodation, which is roughly 9% of residents in the borough. The Council currently pay out £376,200 a week in Housing Benefit to private tenants equating to £19,560,000 during 2011-12 for tenants living in private rented houses which are supposed to offer decent housing conditions (n.b. these figures exclude people living in Hostels). Linking the payment of benefit to the condition of privately rented housing would ensure that the public purse is not being used to provide income for landlords who do not comply with minimum standards.

IMPACT ON COUNCIL RESOURCES

- 4.17** The necessity to intervene is growing while at the same time Council resources needed to respond to the issues discussed are already over stretched. If it continues this situation will lead to greater risks to health for tenants and the overall reputation of the PRS. General existing enforcement powers work, but they are very time consuming and costly. Some of the Pennine Lancashire authorities no longer have the capacity to carry out statutory responsibilities and this has been made worse by the continuing expenditure cuts. Greater regulation, higher standards and better management would reduce costs to Councils and other agencies. However, cost cutting by many Councils in the North West is leading to amalgamation of teams, the resultant loss of specialist housing officers and the decline of relationships with landlords that have been built up over many years. Dilution of expertise and the requirement to deal with what may appear to be more immediate problems has led to a decline in the ability to respond to complaints in the private rented sector and a lack

of enforcement. This combination of factors will inevitably lead to continuing decline of neighbourhood in which the private sector is on the increase.

5. MAIN RECOMMENDATIONS

5.1 A national system of landlord registration

Social landlords are regulated through the HCA and a similar independent regulation is required for the private rented sector. There are many other examples, such as in public health and consumer protection, where regulation helps protect standards and public safety. A national system of landlord registration would have wide ranging benefits for landlords, tenants and the taxpayer. These include improving understanding of landlord and tenant responsibilities; promoting a better reputation for the private rented sector; improving standards and providing a system of redress for tenants. It would also improve the function of the National Rent deposit schemes. We fully support ways of promoting landlord accreditation, such as through national landlord organisations, but accreditation has to be distinguished from compulsory regulation. Accreditation is discretionary and many landlords see little benefits of membership. The schemes run by the national landlord associations are open to abuse and are self-regulating. Inspections are not carried out to properties nor do landlords have to provide addresses of the properties they rent out. They are meant to carry out training on-line, but this in itself is open to abuse.

5.2 Tighter regulation of lettings agencies

Improving the standards and behaviour of private letting agencies is essential. A Code of Practice similar to that required for estate agents or banks, with an independent complaints procedure, is necessary. Acceptable standards should be recognised by a 'kitemark' standard which provides a quality and safety certification.

5.3 Simplified and standardised Selective Licensing schemes

Licensing of neighbourhoods and HMOs are effective tools. We welcome the Government's previous decision to delegate final designation approvals, but there is a need for further guidance to standardise designation procedures to give greater clarity to both local authorities and landlords. This will assist local authorities in preparing robust and transparent evidence and reduce the ability of landlords to resist selective licensing intervention when action is clearly necessary.

5.4 Longer term tenancies and tenant security

We propose that standardised, and written tenancy agreements and licences are necessary together with a requirement for longer term tenancies. This will help give tenants greater security and stability and will aid their ability to budget. In turn this will give landlords more certainty over income and business planning.

5.5 Welfare Reforms and direct payment of housing related benefit

The Government's welfare reforms will have a massive impact on individuals and families on low income and will certainly drive up homelessness. This will have a direct impact on the PRS where those on low income are heavily dependent on housing benefit and private renting. Monthly benefit payments to people unused to budgeting and direct payment of housing-related benefits to tenants rather than landlords will lead to landlords not receiving their rents and this in turn will lead to

more illegal evictions as landlords will be reluctant to wait for the courts to obtain possession legally. Direct payment of rent is often the only way to ensure landlords will let to tenants in receipt of benefit. Permitting the continuation of direct payment linked to house condition would be a far more effective way of securing the continuation of a supply of housing for those in receipt of benefit.

5.6 Council funding for regulation of private landlords

We ask the Select Committee to take account of the impact of Government cuts on the ability of Councils to undertake statutory enforcement of housing standards against unscrupulous landlords offering poor quality housing. Some of the enforcement costs should be recovered from landlords through licensing, but there also has to be better financial support for Councils to assist effective local regulation in recognition of the continuing growth of private renting.

January 2013

References

1. RICS (November 2012). Consumer Letting survey
2. Blackburn with Darwen Housing Stock Condition Survey 2009
3. M.E.L. Research (2011). Griffin Renewal Area Health Impact Assessment.
4. Centre for Local Economic Strategies (September 2012). Churn: Exploring and investigating the reasons for migration out of, into and within Blackburn with Darwen.
5. Bailey N. and Livingston, M. (2007) Population turnover and area deprivation. Joseph Rowntree Foundation.
6. Shelter (2012). A better deal-towards more stable private renting.
7. Public Health Alliance (October 2012). Poor homes. Poor health-to heat or eat...

Written evidence submitted by the Residential Landlords Association (PRS 047)

1.0 About the Residential Landlords Association

1.1 The Residential Landlords Association (RLA) represents 16,000 small and medium-sized landlords in the private rented sector (PRS) managing over 150,000 properties in England and Wales. It promotes and maintains high standards in the sector, provides training for its members, runs local landlord accreditation schemes and seeks to drive out criminal landlords.

2.0 Summary of Points and Recommendations

2.1 English Housing Survey statistics have shown that at 17% the private and social rented sectors now comprise an equal proportion of the overall housing market. In a recent report, Savills and Rightmove estimated that by 2016 one in five households will be renting in the private sector.

2.2 The most recent English Housing Survey figures show that 85% of private tenants are very or fairly satisfied with their landlord, compared with an 81% satisfaction rate for social housing tenants.

2.3 A new banning or disqualification order should be established to prevent criminal landlords being involved in the management or letting of privately rented properties.

2.4 Local authorities should no longer be the sole sector regulator. Their resources should be freed up to target non-compliant landlords through the introduction of self-regulation via accreditation for compliant landlords, run by approved independent accreditation bodies. A similar model exists under Building Control.

2.5 Ministers should work with local authorities to review the skill set of Environmental Health Officers to ensure they have the training needed to bring swifter prosecution against criminal landlords.

2.6 Underpinning all such changes is the need for measures, to boost supply since it is only through boosting the number of properties available to rent that tenants can better exercise choice.

2.7 Article 4 Directions, legal tools that local authorities can use to restrict the growth of Houses of Multiple Occupation, are being misused and should be repealed to alleviate the restriction on supply, protect the asset values of residents' homes and allow people to choose where they want to live.

2.8 Ministers should bring together representatives from across the sector to establish a single, authoritative, common rent level survey.

- 2.9 Agreeing with the Business Secretary's, assertion that rent controls "reduce supply" the RLA would strongly argue against any adoption of rent controls.
- 2.11 One of the most effective measures in professionalising the rental market would be to introduce greater controls on letting and managing agents. This part of the sector has remained unregulated far too long and is on occasion unprofessional.
- 2.12 Letting agent's terms and conditions should be clearer along with what is chargeable and what is not, both to the landlords and tenants. Details of fees should be available to either party before signing any terms either on a web-site or by request on business premises.
- 2.13 Imposing statutory security of tenure is not the answer. A contractual based longer term tenancy model should be encouraged for those who need it. Many tenants, however, prefer the flexibility that the sector currently offers. Written tenancy agreements are to be encouraged but failure to use them should not be penalised; rather there could be a statutory basic fall back agreement.

3.0 Regulation of the Private Rented Sector

- 3.1 One of the RLA's core objectives is to promote and maintain high standards within the sector. The provision of sub-standard accommodation that can often be dangerous is not acceptable. It should be noted however that **the most recent figures available from the English Housing Survey show that 85% of private tenants are very or fairly satisfied with their landlord, compared with an 81% satisfaction rate for social housing tenant.**
- 3.2 Key to tackling problem properties is to radically change the regulatory system and root out criminal landlords who fail to provide the service or the standard of accommodation that is legally expected of them. There needs to be a smarter system of regulation that better pinpoints those operating under the radar and who are difficult for local authorities to find, rooting out for good those who reap misery on tenants.
- 3.3 According to figures from Shelter, just 487 landlords in England were prosecuted last year; a figure that is remarkably low out of an estimated 1.2 million landlords in total. This is despite our analysis showing over 100 individual pieces of legislation and regulations containing around 400 individual measures affecting the sector. The problem is not a lack of powers, but the willingness and ability of local authorities to enforce their existing powers.
- 3.4 In his report for the RLA on investment in the sector, Professor Michael Ball of Reading University noted that landlord-tenant relations are subject to a wide-variety

of housing, health and safety, planning, social policy, and environmental legislation. This, he concludes “*has all developed in a haphazard, uncoordinated manner over many decades*”. This, he notes, inevitably raises landlord costs; increases landlord administrative time; heightens risks because of the liabilities associated with regulations and elevates the ‘hassle-factor’ of being a landlord.

3.5 Professor Ball concludes that “*there is a wide variety of regulatory bodies, often with overlapping responsibilities. Many have risk-minimising, rather than optimal risk strategies, and do not bear the costs of their own actions. Responsibilities are spread between quangos, central, national and local government with limited or no coordination and potential negative overlap.*”

3.6 **As with building control local authorities should cease to be the only regulator. There should be a specific housing ‘code’ which alone sets out the requirements applicable to the sector. Whoever is the regulator should take sole responsibility for their enforcement. The same minimum standards would apply under all regulators.**

3.7 **A new banning or disqualification order should be established to prevent criminal landlords being involved in either the management or letting of privately rented properties.**

3.8 **Local authority resources should be freed up to target non-compliant landlords. by the introduction of self-regulation via accreditation for compliant landlords by approved independent bodies.**

Given the funding difficulties they face, it is much easier for councils to target compliant landlords who can easily be found than spend the time and energy needed to pursue those operating under the radar. Robust accreditation, would act as a kite mark giving accredited landlords a marketing advantage. Scheme members should be expected to provide tenants at an early opportunity with a guide to both their rights and responsibilities with details of what to look out for and questions to ask before and after signing a contract. The RLA has developed such material.

3.9 Under the model in operation in Leeds, Fylde and East Lancashire, landlords are accredited, with an emphasis placed on Continual Professional Development (CPD) and the improvement of management standards. The property standards are essentially compliance with existing legal standards.

3.10 The RLA scheme has been developed to comply with the requirements set by the Accreditation Network United Kingdom (ANUK), which are:

- Declaration – applicants must declare that their properties comply with the scheme requirements.
- Verification - by a system of auditing the declaration and evidence of CPD

- Continual Improvement – the RLA is committed to ensuring that:
 - Standards are being constantly raised.
 - Benefits of membership are developed.
 - Scheme operations are improved and made more efficient.
- Complaint Procedure – to enable a good system of redress to tenants and to assist in maintaining standards. Disputes are considered by a thorough procedure with sanctions in the worst cases of non-compliance.

3.11 **Ministers should work with local authorities to review the skill set of Environmental Health Officers to ensure they have the training needed to bring swifter prosecution against criminal landlords.**

3.12 **Underpinning all such changes is the need for measures to boost supply since it is only through boosting the number of available properties to rent that tenants can be truly discerning in their housing options.**

4.0 Regulation and availability of Houses of Multiple Occupation

4.1 Councils now have the power to restrict the creation of new Houses of Multiple Occupation (HMOs) by making Article 4 Directions.

4.2 Previously, planning permission was not required to convert a property from use as a single family dwelling to become a small HMO lived in by up to 6 unrelated residents as a single household. Under regulations introduced in 2010, councils have the power to require planning permission before this change of use can be made for properties in selected districts. This procedure is regularly being misused.

4.3 A new use class has been created for planning purposes, Class C4, for small shared houses and flats in multiple occupation lived in by between 3 and 6 unrelated individuals.

4.4 Over 35 local authorities either have made or are considering making Article 4 directions to enable them to prevent family houses and flats being used as small HMOs without planning permission in designated areas. Usually these areas are where there are significant populations of students, but they also affect young professionals, such as nurses, or migrant workers. The reality is that permission will frequently be refused.

4.5 Whilst much of the case for restricting the growth of HMOs relates to the desire of a number of Councils to address the phenomenon known as “studentification”, the reality is that HMOs play a vital role to the regeneration and supply of housing in many communities. As demographics shift, landlords make better use of existing

stock which would otherwise be under-utilised and poorly maintained. Article 4 Directions are motivated by sentiment against young people.

- 4.6 HMOs help provide a mobile workforce with necessary accommodation, vital for many local economies. HMOs are not just occupied by students but, with record social housing waiting lists and first time buyers facing increasing difficulties, are increasingly required by young professionals and workers. Due to the increase to 35 as the age for the (housing benefit) shared accommodation rate, more housing of this kind will be needed.
- 4.7 Areas with concentrations of HMOs are renowned for their vibrant nature with local, independent retailers and a café culture which helps promote a diverse and strong local economy.
- 4.8 The Rugg Review (2008), commissioned by DCLG, into the PRS argued against the use of planning powers to limit HMO numbers with research showing problems to be confined to less than 1% of council wards.
- 4.9 Where Article 4 Directions have been applied, a significant decrease in property prices has been seen. In Nottingham and Leeds, up to one third has been shaved off the value of properties in areas where the council has a direction. Therefore, local owner/occupiers feel the impact.
- 4.10 The use of the regulations to restrict the availability of HMOs has a direct impact on the supply of new homes. Consequently rent levels increase in popular areas.
- 4.11 Local authorities have a duty to ensure that sufficient HMO accommodation is provided in their area but are disregarding this. If an Article 4 direction is put in place, the result is that HMOs may be established in areas where they may not be welcome, such as where there is a dominance of family units. This is likely to create community disharmony.
- 4.12 The imposition of the regulation takes away the freedom of people to choose where they want to live. It allows local authorities to engage in social engineering, restricting who can live where.
- 4.13 Instead of local authorities adopting Article 4 Directions, it would be better to address problems that may occur where there are high concentrations of HMOs using the existing powers at local authorities' disposal including those used for tackling anti-social behaviour.
- 4.14 **Article 4 Directions do nothing to alter the make-up of existing communities but by making them, local authorities are denying tenants the choice of where they can**

live, drying up supply, increasing rents and significantly reducing the value of houses owned by local residents.

- 4.15 **These powers should be repealed to alleviate the restriction on supply, protect the asset values of residents homes and allow people to choose where they want to live. This would also force councils to be more creative and work with landlords to address any problems caused by large HMO populations.**

5.0 Levels of Rent

- 5.1 The RLA recognises that for many tenants' rents are simply too high for them to manage, particularly in London. Whilst there are a plethora of organisations producing data on average rent levels, each has its own methodology enabling organisations to simply cherry pick those figures that best suit their case. It is important, however, to identify real increases in rents, stripping out the inflation element.

- 5.2 **Given the widespread public and political interest in rental levels in the private rented sector we call on Ministers to bring together representatives from across the sector in conjunction with the Valuation Office Agency to establish a single, authoritative, common rent level survey. Such discussions should establish a robust methodology which gives the most accurate and comprehensive data that can properly inform policy making in relation to the sector.**

- 5.3 Methodologies aside, the RLA does recognise the concerns of many over the amount that tenants can find themselves paying for their properties. Ultimately though, the answer lies in boosting the supply of properties.

- 5.4 Any suggestion of rent controls would be a regressive step at just the moment that more needs to be done to encourage investment in new properties. As the previous Housing Minister, Grant Shapps observed, as a result of previous rent controls, the private rented sector shrank from 55% of households in 1939 to just 8% in the late 1980s. If replicated now, rent controls would cause untold damage to the sector.

- 5.5 Rent controls would further dissuade lenders from advancing money to purchase properties to rent and would damage the finances of many buy to let investors. Experience from the past shows that property quality suffers markedly if rent controls are imposed.

- 5.6 **In agreeing with the Business Secretary, Vince Cable's assertion recently that rent controls "reduces supply" the RLA would strongly argue against any adoption of rent controls.**

6.0 Regulation of Lettings Agents

- 6.1 The dubbing by the Royal Institution of Chartered Surveyor's recently of lettings agents as being akin to the "Wild West" highlights a major area of concerns in the sector. Around two-thirds of landlords use agents in some way.
- 6.2 **One of the most effective measures in professionalising the rental market would be to introduce greater controls on letting and managing agents. The sector has remained unregulated far too long and as such is on occasion unprofessional.** With the greater focus on increased responsibility and higher standards in the PRS, it should be led by the industry that serves it. Landlords should be receiving advice from their agents and as such these companies and their employees should not be operating until that competence is proven.
- 6.3 The key reason for licensing is to protect monies held by agents. There is a need for proper bonding and audit of client accounts. This should be via participating agent organisations.
- 6.4 It is important that agents are brought into line to give a fair option to landlords who may consider the increased burden of management too much to operate themselves and opt instead to pass the responsibility to an agent. As it stands, there are not enough competent, qualified agents available to do this leading to landlords giving a property over to companies that may not effectively manage the property. There will be a period of time required to improve the standards of agents, especially as some of these may be using their client account to trade. Although clamping down on such agents quickly may seem a tempting option, it would be better to see these agents manage either their exit or recovery from this situation rather than disappear entirely.
- 6.5 Although landlords can learn by compliance with various forms of licensing, subject to proper enforcement, it is unacceptable for agents to learn at landlords' expense. There should be a minimum qualification level for a principal and an appropriate qualification level for a percentage of the staff to licence the company.
- 6.6 Due to the size and unregulated nature of the market, the fee structure is not particularly homogenised or transparent. **Terms and conditions of agents should be clearer along with what is chargeable and what is not, both to the landlords and tenants. The level of all fees should be available to both parties before signing any terms either on a web-site or at request on a property. We do not believe that fees should be set or influenced by government.**
- 7.0 **Tenancy Agreements and Security of Tenure**
- 7.1 The introduction of the shorthold tenancy has been key to reviving the sector, along with market rents. At the moment we are concerned that Article 8 of the European Convention on Human Rights (Respect for the Home) may be held to apply to the private rented sector. As the Montague Report pointed out a stable regulatory regime

is vital. Imposition of security of tenure or rent controls (including restrictions on rent during a tenancy) will undoubtedly lead to disinvestment from the sector.

- 7.2 The Association supports long tenancies to those who need them such as families and the elderly. However, the sector caters for many tenants who appreciate the flexibility of the sector and do not want long term tenancies. We have now developed a model for long term tenancies based on an option to renew for tenants. However, certain barriers need to be removed particularly requirements by mortgage lenders to limit tenancies to 12 months and the ability to evict non compliant tenants through the Court system must more quickly
- 7.3 We support the use of written tenancy agreements. The RLA is the only organisation which publishes Crystal Mark Plain English compliant tenancy agreements. Making them compulsory though raises difficulties in practice and this could adversely affect tenants more than landlords. One answer could be a statutory fall back agreement setting out minimum terms rather than imposing tenancy contracts or penalties for failure to provide them.

January 2013

Written evidence submitted by Tom Glancz (PRS 048)

I jointly created and ran a successful pub/restaurant business restaurant pub business in Nottingham from 1974 to 1990 employing at its peak 100 full and part time staff .

I entered the buy to let market as, it is now called in the late 1980's. Most of my portfolio has been long term. I have endured all the recessions / property crashes and black wednesday over that time. I have been in recent years an unpaid Director of a local Landlord association called EMPO representing 300/400 landlords. I sat on several Landlord / City Council committees with the view of improving the sector. I am no longer a Director.

There are a number of factors effecting the private rented sector. These all have an impact on having a healthy and thriving private rented sector (PRS).

Rent Controls

When I first came into the market in 1990, rent controls had just been abolished. I live in a good residential area. It was blighted because the rent controls had the effect of stopping capital investment in the properties being rented out. Large numbers were run down. I know because I bought one. There are various references to the fact that rent controls had a devastating effect in reducing dramatically the the supply and quality of the private rented sector.

Vince Cable was recently interviewed on TV by Andrew Marr on the 18th November when asked about rent controls, his comment is quoted below

You have housing benefit escalating out of control. It's effectively a subsidy to landlords and you cannot continue in that way. So what do you do about it? Well you could introduce rent control, but that creates more problems, it reduces supply. So we've got to cap the housing benefit element while at the same time increasing the supply of affordable housing. That is absolutely critical

One past report into this area

Review by York University

<http://www.york.ac.uk/media/chp/documents/2006/modernprivaterenting.pdf>

This chapter has set out a short history of the private rented sector, and outlined some of its key features that cannot be examined through analysis of the 2001 census data. Although it is the minority tenure, the PRS is marked by diversity in terms of both its supply and demand characteristics. It is perhaps due to its small size and heterogeneity that the PRS has sometimes been defined by reference to what it is not: that is, it is not owner occupation and it is not social rented housing (for example, Dodd, 1990; Holmans, 1987).

Compared with the other tenures, important characteristics of the PRS are its flexibility and relative ease of entry and exit, which are features that can be important in supporting, amongst other things, geographical mobility for job movers (Crook, 1992). A healthy private rented sector may perform other important functions within the modern housing system, such as helping to dampen overheating on the owner occupied housing market (Maclennan, 1994).

In general terms, there is a broad political consensus on the importance of the modern private rented sector. Thus, New Labour has emphasised on a number of occasions that it has no intention of making changes to the tenancy arrangements introduced by the Conservatives in the 1988 and 1996 Acts, and neither that there is any question that it would re-introduce rent controls in the deregulated private rented market (for example, DETR, 2000).

Financial factors that have an impact on the PRS.

- The private rented sector is classified by the Inland Revenue as unearned income. That has various consequences. Unlike a trading business any sale is subject to capital gains tax of 28% on the profit gained on the increase in the property value. No tax roll-over tax relief is available. (I am assuming that the investor has some other income that uses the lower 18% rate). A normal business would be taxed 10 per cent on its gains under qualifying for Entrepreneurs' Relief and would be entitled to rollover the gain into another qualifying business. This encourages entrepreneurship.
- Unearned income cannot be used to gain pension payments relief.
- Any improvements on a property (as opposed to repairs) cannot be set against current tax calculations. They can be eventually be set against a gain at the time of a sale.

3 The assets are subject to inheritance tax.

- Any money used to pay off a loan is not allowable against tax, only the interest. It has to come out profits earned. It therefore does not appear in profit and loss accounts at all. It has to be paid though. Tax paid does not appear in the accounts but does come out of the surplus.

1 There is no relief on capital expenditure.

6 There is an option to take a 10% of rent relief on fixture and fittings

- Many mortgages taken out in recent times have been interest only. There is talk of stopping these. Forcing people to then repay the capital and interest would force many out of the market completely.

- The supply of buy to let mortgages on offer are vastly reduced compared to pre 2008. Getting a buy to let mortgage either as a new entrant or re-mortgaging is extremely difficult. Signing up fees are high. Due to the financial crisis larger deposits are required and proof of income is much more stringent. All this will have a negative effect in the overall market place.
- If roll over tax relief were introduced, the market would become much more fluid, investors could go out and improve more properties, sell them on as but to let and move on. It would generate jobs raise quality and with all the current regulations be done in a controlled way to suit councils.

Purpose Built Accommodation in the Student Market, what happens when institutions enter the market place.

- Only a tiny percentage of the market is controlled by large providers. One may think that a bad thing. I believe the opposite from a tenants of view. The proof is what has happened in the student purpose built block market. Here you will see the private rented sector offers amazing value to the tenants whereas the large providers have pushed rents sky high. UNIPOL are a registered charity that work with local councils and universities to service the accommodation needs of students in Leeds and Nottingham. They supply local market data on the student market. Attached is a photo of the average rent for student accommodation in a shared house in Nottingham . The higher price is £70.01. Below is a link to a survey on purpose built accommodation nationally. Apart from London, Nottingham will be no different to other Cities and the average rents. Far in excess of the individual private rented sector. I suspect that difference will apply whenever a large institution enters the market.

<http://news.rla.org.uk/wp-content/uploads/2012/12/002118-nus-unipol-purpose-built-student-accommodation-survey.pdf>

B Clause 4

The need to apply for planning consent for residential properties that wish to be able to enter the rented market.

This has now been introduced on a wide spread basis and has the effect of basically putting the breaks on any expansion. I fully understand the reasons for introducing this rule. It has one big downside, by stopping new entrants, mostly of a higher quality, it will protect the provider of poorer quality accommodation.

C. Licensing.

I support the HMO licensing of properties of 5 or above in 3 stories. However through the new Localism Act, Councils can now, and have done so, introduced licensing of properties with only 3 occupants and above. At least under the Housing Act any scheme could be challenged and vetted by a government department, That is no longer the case. The introduction of the localisation bill removed any independent challenge/review. I am afraid

that Public consultation does not work if a council is set to introduce its policy. Please review this part of the bill and ensure proper vetting of policy decisions in the future. I am told that in Leeds ex student areas are becoming blighted.

D Getting rid of rouge landlords.

At the end of the day this is the wish of all parties, including landlords. The only way to do this is for councils to send personnel onto the streets and find those not conforming to legal requirements. For this reason I do support additional and selective licensing in high density rented areas, but only if a pro-active policy is introduced to find the culprits.

E Part time landlords and those ignorant of their responsibilities.

This is such an important area. My view is that no-one should be allowed to rent out a property until they have completed a basic course and have a certificate. I am sure this would have a dramatic effect on making people fully aware, encourage them to join landlord associations and create a database for councils and the inland revenue to act on and communicate on.

Summary of suggested actions/inaction.

- Not to introduce rent controls
- introduce capital gains roll over tax relief in the private rented sector. Consider allowing pension contributions to be set against profits.
- ensure that local councils have a policy to “go onto the streets” to seek out rogue landlords and not wait to be informed as is now the case.
- Alter the localism bill to allow proper challenges to additional/selective licensing proposals.
- Make it a legal requirement that any person wishing to offer buy to let go on a basic training course and obtain a certificate.
- Be wary of institutional investors entering this market just for profit.

January 2013

Nottingham average rent student private rented sector £70.01

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Self-Contained Flat	28	16	
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House	2	1	

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Written evidence submitted by Barrie George (PRS 049)

I am in favour of regulation to enhance and professionalise the industry and drive out the cowboys. However this should be limited to agent and landlord registration without increased bureaucracy and increased cost to landlords and agents (ARLA licensed agents are already paying a considerable premium for the privilege of being licensed, putting them at a commercial disadvantage to non-registered agents).

Landlord returns are typically between 3-5%, which is hardly excessive or exorbitant. Increased costs to landlords and agents would be passed on to tenants in increased rents and would drive landlords away from the market, reducing housing stock, exacerbating the housing shortage and further increasing pressure on rents.

An example of deeply flawed and ill conceived regulation/legislation is the SHELTER driven outlawing of tenant charges in Scotland, assumedly to protect people on low incomes and benefits. If you want to help specific minority groups, then **help the specific groups** (in this case more effectively through the benefits system) rather than have blanket regulation which adversely affects everyone, including, ironically the very people it is trying to protect. Again, the tenant costs would be passed on to the landlords, increasing rents and reducing the housing stock available. It will also drive reputable agents away (less reputable agents simply cut corners).

We are in an open market economy with the safety net support provided for those in need. Private tenants should pay for services they receive like anybody else in any other business. If the safety net in this case is not working properly, fix it. Do not put the burden on a small sector of industry which is a valuable part of the economy.

January 2013

Written evidence submitted by E J Wilamowski (PRS 050)

I have seen a couple of submissions to yourselves, (EMPO and NetRent) but want to add as follows.

This relates to - Regulation, in particular of HMO's/discretionary schemes/Local authorities discharging their duties.

I fear that the current/proposed HMO related schemes are going to have a two fold effect.

On the one hand, a divisive one, where many homeless people under HMO, whilst homeless, are going to be housed in accommodation that is superior to what others can afford whilst in work, or to what the homeless will end up in.

On the other, that the homeless and the young will end up being housed in inner city areas, of lower standards than average, thus creating ghettos of unemployment, reversing any regeneration gains of recent years, and reversing gains, if any, from reduction in student numbers in such areas.

I draw your attention to the fact that HMO regulation under the 2004 Act, when one considers exemptions, as for example, buildings owned or managed by a public body such as NHS or Police, a local housing authority or a registered social landlord etc, is directed primarily at the PRS, exempting just about every one else. Coupled with discretionary HMO licensing, for example one side of the road in HMO land and the other not, will mean that a property on one side of the road will be treated differently to a property on the other side. This is very divisive and will impact on prices. I know which side of the road I would want to own a property in the above circumstances, and which side of the road is likely to be let. Here is an analogy on divisiveness, in a school class, the children with parents in the public sector do not have to abide by rules that apply to other children. The same applies to HMO legislation/application. Discriminatory in effect.

The currently proposed systems of HMO regulation as suggested are going to give only marginal benefits, and are likely to cause more crime and inner city problems, at best shift them to adjacent areas, whilst not solving the young people's problem of required additional housing in HMOs resulting from benefit changes, whilst causing divisiveness between the public and PRS sectors. When coupled with the view of some Council employees that PRS is the dump for their problem I fear that we will not improve on matters but possibly aggravate them, particularly in the current austerity climate that councils and others operate.

The fact is that problems associated with the imbalance of Supply and Demand, and poor behaviour, cannot be solved merely by increased regulation. The proposals I have seen in particular wrt HMO's seem to try to deal with symptoms not the real problems. The regulation medicine is unlikely to make the housing ills better, there is already a considerable amount of regulation affecting the PRS.

There is no better solution than to build more HMO's or convert more properties into HMO's, perhaps with the assistance of grants.

The milk cow of PRS is not infinite. PRS has been growing and providing a valuable service, effecting a switch from the public to private sector provision, increased regulation is likely to stifle its progress.

My comments are not intended against the safety aspects of HMO's, rather some of the provisions, such as room sizes and number of people permitted (which do not apply to owner occupied property for example), and where a newborn child can tip a property into HMO status, with a newborn considered to be a person on the premises, under the 2004 Act. My personal opinion is that the 2004 Act is very poorly written, and does not take account of the real world situation and the increasing demand for multiple occupation.

The matter is further aggravated by the insurance position, and insurance companies either refusing to insure DSS occupied properties, or putting on heavy increased premiums, at a time when income from such persons via benefits is falling and is becoming less and less certain. There is an urgent need for a Government funded insurance scheme to cover some properties, something on the lines of pooling together of premiums on a non profit basis.

The increasing imposition of discretionary HMO licensing as things stand, with insurance and other problems, seems to me to be a recipe for disaster, which will not improve matters and if anything create more homelessness.

January 2013