



House of Commons  
Communities and Local  
Government Committee

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# **The Private Rented Sector**

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**First Report of Session 2013–14**





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Government Committee

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## First Report of Session 2013–14

*Report, together with formal minutes*

*Oral and written evidence is contained in  
Volume II, available on the Committee website  
at [www.parliament.uk/clgcom](http://www.parliament.uk/clgcom)*

*Additional written evidence is contained in  
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## The Communities and Local Government Committee

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The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some or all written evidence are available in a printed volume.

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The current staff of the Committee are Glenn McKee (Clerk), Sarah Heath (Second Clerk), Stephen Habberley (Inquiry Manager), Kevin Maddison (Committee Specialist), Emma McIntosh (Senior Committee Assistant), Mandy Sullivan (Committee Assistant), Stewart McIlvenna, (Committee Support Assistant) and David Foster (Media Officer).

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## Summary

The private rented sector has seen sustained and consistent growth in recent years. A structural change from owner occupation towards renting began a decade ago, long predating the economic downturn. The sector is home to an increasingly wide range of people—from young professionals to housing benefit claimants—and a growing number of families with children. The regulation and legislation governing the sector has, however, evolved over many years, often in response to problems that arose decades ago. Only in the 1980s did the sector begin to emerge from tight rent control and the shadow of *Rachmanism* and begin to develop. The market is a developing one which we need to help edge its way towards maturity. This requires a careful balancing act which does not upset the market developing naturally. It therefore requires not a single step but action across a number of different areas.

First, there has to be better, simpler regulation. The Government should have a wide-ranging look at the legislation covering the sector and put in place a much simpler, more straightforward regulatory framework. Once it does this, it should launch a campaign to publicise this new framework, to ensure that all tenants and landlords are fully aware of their rights and responsibilities.

Next, we need to give councils the flexibilities they require to enforce the law and raise standards. They need the freedom to implement approaches that meet the needs of their areas. They should be: afforded more flexibility over landlord licensing; given greater ability to generate resources; and encouraged to learn from each other. Local authorities should be able to recoup housing benefit and tenants the rent paid, when landlords have been convicted of letting substandard property.

Third, there is strong evidence of sharp practice and abuses by letting agents, making a clear case for a new approach to regulation. Letting agents should be subject to the same controls as their counterparts in the sales sector. In addition, it is time to crack down on the unreasonable and opaque fees charged not only by a few rogues but by many well-known high street agents.

Next, with the sector home to an increasing number of families, we have to ensure that the market offers longer tenancies to those who need them. To do this requires a cultural change and the removal of barriers, both real and perceived. We need action to speed up eviction processes where tenants breach the tenancy agreement, tackle the objections of lenders, and encourage letting agents to explore all options with landlords and tenants with regards to longer tenancies. Alongside longer tenancies, we should find more systematic, less arbitrary approaches to setting and increasing rents. There should also be a full review of local housing allowance to bring to an end the vicious circle whereby rents and housing benefit drive each other up.

Finally, we cannot escape the need to increase supply across all tenures of housing. Doing so will provide more choice, allowing renters to select housing on the basis of quality as well as price. The Government has to ensure that the benefits of its support for build-to-let development extend to the sector as a whole. It should also revisit the recommendations of

our earlier published report on the *Financing of New Housing Supply*, to ensure it is doing all it can to support the building of new homes.

Taken together, these measures should lead to a more mature market and a sector that better meets the needs of those who live in it. It is important that private renting is seen as an attractive alternative to owner occupation.



# 1 Introduction

## Background: growth of the private rented sector

1. The private rented sector is growing. In 1999, 9.9% of English households rented privately. By 2011/12, the figure had risen to 17.4%, with the number of households renting privately overtaking the number in the social rented sector (see Table 1). In the course of our inquiry, witnesses suggested a number of reasons for this growth including: the deregulation of the private rented sector and changes to tenancies in the late 1980s generating increased investment;<sup>1</sup> the introduction of new lending instruments in the late 1990s;<sup>2</sup> constraints on the other two main tenures—social housing and owner occupation—forcing more people to rent privately;<sup>3</sup> and economic, social and lifestyle factors leading to an increased demand for more flexible forms of housing tenure.<sup>4</sup> Most likely, all these drivers have contributed in some way to the growth.

**Table 1: trend in tenure, 1999 to 2011–12<sup>5</sup>**

| <i>All households</i>          |                            |                           |                            |                        |
|--------------------------------|----------------------------|---------------------------|----------------------------|------------------------|
|                                | <b>owner<br/>occupiers</b> | <b>social<br/>renters</b> | <b>private<br/>renters</b> | <b>all<br/>tenures</b> |
| <i>thousands of households</i> |                            |                           |                            |                        |
| 1999                           | 14,091                     | 4,072                     | 2,000                      | 20,163                 |
| 2000                           | 14,340                     | 3,953                     | 2,028                      | 20,320                 |
| 2001                           | 14,359                     | 3,983                     | 2,061                      | 20,403                 |
| 2002                           | 14,559                     | 3,972                     | 2,131                      | 20,662                 |
| 2003                           | 14,701                     | 3,804                     | 2,234                      | 20,739                 |
| 2004                           | 14,678                     | 3,797                     | 2,283                      | 20,758                 |
| 2005                           | 14,791                     | 3,696                     | 2,445                      | 20,932                 |
| 2006                           | 14,791                     | 3,737                     | 2,565                      | 21,092                 |
| 2007                           | 14,733                     | 3,755                     | 2,691                      | 21,178                 |
| 2008                           | 14,628                     | 3,797                     | 2,982                      | 21,407                 |
| 2008–09                        | 14,621                     | 3,842                     | 3,067                      | 21,530                 |
| 2009–10                        | 14,525                     | 3,675                     | 3,355                      | 21,554                 |
| 2010–11                        | 14,450                     | 3,826                     | 3,617                      | 21,893                 |
| 2011–12                        | 14,388                     | 3,808                     | 3,843                      | 22,040                 |

<sup>1</sup> See, for example, Ev 300, para 13 [Department for Communities and Local Government], Ev w303, para 6.2 [The LandlordZONE], Q 395 [Stuart Corbyn].

<sup>2</sup> See, for example, Q 50 [Alan Ward], Ev 227, para 32 [National Landlords Association], Ev 250, para 7 [Council of Mortgage Lenders].

<sup>3</sup> See, for example, Q 50 [Alan Ward], Q 318 [Richard Lambert], Q 636 [Cllrs Sarah Hayward and Tony Ball] and Ev 307 [Note of meeting with tenants in Leeds].

<sup>4</sup> See, for example, Ev w96, para 2 [SpareRoom], Ev 224, para 8.8 [Grainger plc] and Ev 307 [Note of meeting with tenants in Leeds].

<sup>5</sup> Department for Communities and Local Government, *English Housing Survey: Headline Report 2011 to 2012*, Annex Table 1

*all households*

|         | <b>owner<br/>occupiers</b> | <b>social<br/>renters</b> | <b>private<br/>renters</b> | <b>all<br/>tenures</b> |
|---------|----------------------------|---------------------------|----------------------------|------------------------|
|         |                            |                           |                            | <i>percentages</i>     |
| 1999    | 69.9                       | 20.2                      | 9.9                        | 100.0                  |
| 2000    | 70.6                       | 19.5                      | 10.0                       | 100.0                  |
| 2001    | 70.4                       | 19.5                      | 10.1                       | 100.0                  |
| 2002    | 70.5                       | 19.2                      | 10.3                       | 100.0                  |
| 2003    | 70.9                       | 18.3                      | 10.8                       | 100.0                  |
| 2004    | 70.7                       | 18.3                      | 11.0                       | 100.0                  |
| 2005    | 70.7                       | 17.7                      | 11.7                       | 100.0                  |
| 2006    | 70.1                       | 17.7                      | 12.2                       | 100.0                  |
| 2007    | 69.6                       | 17.7                      | 12.7                       | 100.0                  |
| 2008    | 68.3                       | 17.7                      | 13.9                       | 100.0                  |
| 2008–09 | 67.9                       | 17.8                      | 14.2                       | 100.0                  |
| 2009–10 | 67.4                       | 17.0                      | 15.6                       | 100.0                  |
| 2010–11 | 66.0                       | 17.5                      | 16.5                       | 100.0                  |
| 2011–12 | 65.3                       | 17.3                      | 17.4                       | 100.0                  |

2. It is important to consider whether this growth can be expected to last. The recent trends in tenure predate the 2008 financial crisis. For a decade now, as the private sector has grown, owner occupation as a share of total tenure has been falling. This suggests that, even though the growth might slow as the economy improves, we may be looking at a long-term structural change to the housing market, and potentially a permanent shift towards renting. Certainly, a number of witnesses to our inquiry suggested that, while historically the private rented sector had been a marginal tenure, it can now be seen as a more mainstream housing option. The housing charity, Shelter, for instance, stated that private renting was “becoming the new normal”.<sup>6</sup> Indeed, the Minister of State for Housing, Mark Prisk MP, acknowledged that “with the fact that not only is the population growing but the gap remains at the moment between supply and demand, the prospects for the [private rented] sector are [...] strong in terms of its growth”.<sup>7</sup> One consequence of this trend is that the private rented sector is increasingly catering for people looking for housing for the long-term, including a growing number of families with children.<sup>8</sup>

## Our inquiry

3. It was against the backdrop of steady growth that we decided to conduct our inquiry into the private rented sector. The growth has put the spotlight on four key issues, and these have been central to developing a thriving market and to our inquiry. First, there is a common view that more should be done to raise standards of property and management in some parts of the sector. Second, concerns have been raised about the lack of regulation of letting agents and the extent of sharp practice by some agents, in particular the fees they

<sup>6</sup> Ev 133

<sup>7</sup> Q 683

<sup>8</sup> See, for example, Ev w42 [James Spencer], Ev w115 [Save the Children], Ev w186 [Newcastle City Council], Ev 254, para 2.2 [Paragon Group], Ev w252, para 1.3 [Building and Social Housing Foundation], Ev 133, summary [Shelter], Ev 159, para 2.27 [Citizens Advice], Ev w283, para 2.2 [Chartered Institute of Housing].

charge to tenants and landlords. Third, especially with the increase in the number of families living in the sector, there have been calls by some for much greater security of tenure. Finally, there is widespread lack of awareness amongst both tenants and landlords about their respective rights and responsibilities and about the law covering the private rented sector.

4. Our report has therefore been structured around these issues. In chapter 2 we consider how to raise awareness of rights and responsibilities and how to ensure, where regulation is necessary, that there is a straightforward approach to make it understandable to both landlords and tenants. In chapter 3 we look at how standards of both property and management could be improved. In chapter 4 we consider whether improvements can be made to the way letting agents are regulated. And in chapter 5 we examine rent and security of tenure. At the outset of our inquiry, we stated that we did not intend to focus in particular upon supply. Some of the evidence we received, however, pointed to the importance of building more homes if standards in the private rented sector were to be raised and pressures on rents reduced, and suggested that the issues we were considering could not be viewed in isolation from supply. We therefore consider supply briefly in chapter 6, returning to some of the issues raised in our 2012 report on the *Financing of new housing supply*.<sup>9</sup>

5. In examining these issues, we have been conscious that the private market is still relatively immature, especially compared to that in countries such as Germany, which we visited, where renting has historically been a much more mainstream tenure. There are dangers in interfering too much in a dynamic market that has changed significantly in recent years and has yet to settle down; it is more important to find ways to bring this market to maturity and encourage the sector to grow. In the report, we will consider the roles of a whole range of actors: central government; local authorities; developers; investors; letting agents; landlords; tenants; and their respective organisations. We shall review the operation of the current system, examining how action can be taken to address problems to make the market more mature and the sector a more attractive place to live. We have italicised those conclusions and recommendations which are particularly key to the smooth and sustainable development of the private rented sector.

6. Throughout the inquiry, it was made clear to us that there was not a single market, but a number of distinct (if related) sub-markets, catering for a variety of different people, amongst them: the ‘high-end’ luxury market; students; young professionals; families priced out of owner occupation; and housing benefit claimants.<sup>10</sup> Indeed, Julie Rugg and David Rhodes in their 2008 review of the sector identify as many as eleven sub-markets (and suggest that their list is not exhaustive).<sup>11</sup> Each of these markets has particular needs: families, for instance, may be looking for a long term home, while students may only want a property for a year. Equally, the luxury market will, for the most part, regulate itself, while

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<sup>9</sup> Communities and Local Government Committee, Eleventh Report of Session 2010–12, *Financing of new housing supply*, HC 1652

<sup>10</sup> See, for example, Ev 219 [Westminster City Council], Ev 256, para 7 [City of York Council], Ev 125 [Dr Tim Brown] and Ev 131 [Dr Julie Rugg].

<sup>11</sup> Dr Julie Rugg and David Rhodes, *The Private Rented Sector: its contribution and potential*, Centre For Housing Policy University Of York, 2008, pp 15–28. The sub-markets they list are: young professionals; students; the housing benefit market; slum rentals; tied housing; people on high incomes; middle-age, middle market renters; immigrants; asylum seekers; temporary accommodation; and older tenants and regulated tenancies.

those properties at the ‘bottom end’ of the sector are more likely to require intervention to bring them up to an acceptable standard.<sup>12</sup> Just as it is impossible to pick out a ‘typical’ tenant, there are also many different kinds of landlord: individual landlords who own outright or have buy-to-let mortgages; ‘accidental’ landlords renting out properties they are unable to sell, as well as ones who accidentally become landlords but then decide to stay in the sector; individuals and companies with portfolios of housing; and an increasing number of housing associations and large institutions moving into market renting. Again, there can be no single approach to dealing with these very different types of landlord. In drawing up our recommendations, therefore, we have been conscious that there is not a ‘one size fits all’ model to provision within the sector. We have also been mindful of geographical variations: for instance that the picture in London and the South East is not replicated in other parts of the country.<sup>13</sup> This suggests the need for a more localist approach to housing policy, something we have argued for in previous reports.<sup>14</sup>

### *Evidence and acknowledgements*

7. We received written evidence from over 170 organisations, groups and individuals. We explored the themes arising from this written evidence in nine oral sessions which took place between February and May 2013. In addition, we made two visits: one to Leeds; and one to Berlin, to explore how the English approach to private renting compared with that in Germany. We also held informal discussions with groups of tenants and landlords in London and Leeds. We are grateful to all those who provided written or oral evidence; to the tenants and landlords we met in Leeds and London (and the local authorities who helped arrange these meetings); to Leeds City Council for organising our visit and hosting one of our oral evidence sessions; to the British Embassy in Berlin for arranging our German visit, and all those who took the time to meet us in Berlin; and to the Royal Institution of Chartered Surveyors who hosted a briefing session for the Committee at the start of the inquiry. Finally, particular thanks are due to our specialist adviser, Professor Christine Whitehead OBE of the London School of Economics and Political Science.<sup>15</sup>

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<sup>12</sup> See, for example, Q 524 [John Statham]; Ev w121 [Bob Young]

<sup>13</sup> See, for example, Ev w31 [Sue Thompson], Ev w58 [Tessa Shepperson], Ev w74, para 3.2 [Pennine Lancashire Local Authorities], Ev 243–244, paras 3.1–2 [British Property Federation], Ev w266 [National Housing Federation].

<sup>14</sup> See, for example, HC (2010–12) 1652, Chapter 6.

<sup>15</sup> Professor Whitehead declared the following interests: Adviser to the Board of the Housing Finance Corporation; independent research for Shelter, RICS, JRF, the Housing Futures Network; Project for the European Investment Bank on housing finance for affordable housing; fellow of the Society of Property Researchers; Member, RICS. In terms of independent research working with the National Housing Federation and the Department for Work and Pensions on welfare reform; with Joseph Rowntree Foundation on equity housing products; with Realdania in Denmark on a four country comparison of the role of private renting in different legal, administrative and economic contexts; and with Berkeley Homes, Qatari Diar Delancey via the Young Group on aspects of viability, and Homes for Scotland on aspects of institutional investment in private renting.

## 2 Raising awareness, maturing the market

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8. If the private rented market is to become more mature, it is important that all parties are aware of their respective rights and responsibilities. During our visit to Germany, which has a very mature market, we heard that there was a clear legal framework, set out in the country's Civil Code, high levels of awareness of this framework amongst landlords and tenants, and easy access to advice and information. In this chapter, we will consider what steps should be taken to reach a similar position in England.

### A simpler regulatory framework

9. The first step towards promoting awareness and understanding must be to have in place a clear and easy-to-understand regulatory framework. Our evidence suggested that England does not have such a framework, and concerns were raised about the complexity and sheer amount of legislation relating to private rented housing. Richard Lambert, Chief Executive Officer of the National Landlords Association, was one of a number of witnesses to point out that there were “over 50 Acts of Parliament, and over 70 other pieces of delegated legislation” relating to the sector.<sup>16</sup> Professor Martin Partington, a former Law Commissioner, stated that housing law was “but one example of many of policies being developed over decades, being implemented through myriad legislative enactments, leaving a mass of often unnecessary, certainly over complex legislation that does not work efficiently”.<sup>17</sup>

10. The complexity of the regulation led some of those providing evidence to call for a simplification of the law. One, James Spencer, reflecting on his past experiences as a renter, said that he 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.<sup>18</sup>

The City of Bradford Metropolitan District Council called for “simplification, the removal of overlaps and the creation of consistency across different pieces of legislation and guidance”.<sup>19</sup> Professor Partington referred to a 2006 Law Commission report, *Renting Homes*, which had argued “that the existing law should be recast”. He explained:

Adoption of the Law Commission's recommendations would have created a legal framework that was simpler for both landlords and tenants to understand and more flexible for ministers and officials to operate.<sup>20</sup>

11. Such a simplified legal framework could include the introduction of a standard ‘plain language’ tenancy agreement. Professor Partington said that the Law Commission's proposals

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<sup>16</sup> Q 346; see also, for example, Ev 255, para 5.1 [Paragon Group], Ev w67, para 3.3 [KIS Lettings].

<sup>17</sup> Ev 128, para 2.7

<sup>18</sup> Ev w42, para 4

<sup>19</sup> Ev 259, para 1.4

<sup>20</sup> Ev 130, para 3.13

would have created a system of written tenancy agreements, drafted in plain language, which would have provided an authoritative statement—backed by law—of landlords’ and tenants’ rights and obligations. The documents could be adapted to accommodate specific individual circumstances; but the basic core of the document would reflect the rules that Parliament has laid down. This would replace the current position where tenancy agreements are often drafted in extremely opaque legal language and do not reflect accurately the rights and obligations contained in legislation.<sup>21</sup>

12. In other areas the Government has shown itself open to a consolidation of regulation. In 2012 Lord Taylor of Goss Moor conducted an external review of planning guidance, aiming to reduce dramatically guidance and make it more accessible and effective.<sup>22</sup> The Government subsequently consulted on and responded to the review’s findings, and the process is ongoing.<sup>23</sup> We welcomed this exercise and therefore asked the Housing Minister, Mark Prisk, whether he would take a similar approach and conduct a wholesale review of legislation covering the private rented sector. He said that he was

always happy to talk to industry where we can look at sensible simplification and consolidation of law [...] Like a lot of legislation, naturally it tends to have been in response to a particular event that has driven us as a Parliament to take an action, and then it steadily builds, like a set of barnacles on the bottom of a ship. Occasionally you need to clear that off and have a clear set of rules.<sup>24</sup>

We were pleased by the Minister’s willingness to consider a review of the legislation with regards to tenancy agreements.

13. Efforts to boost understanding of rights and responsibilities are unlikely to succeed without a clear legal framework being in place. ***We recommend that the Government conduct a wide-ranging review to consolidate legislation covering the private rented sector, with the aim of producing a much simpler and more straightforward set of regulations that landlords and tenants can easily understand. As part of this review, the Government should work with groups representing tenants, landlords and agents to bring forward a standard, plain language tenancy agreement on which all agreements should be based. There should be a requirement to include landlords’ contact details in tenancy agreements.*** In subsequent chapters, we identify some specific changes to regulation that should be considered as part of the review. In drawing up our recommendations we have been mindful that the imposition of additional regulations brings with them additional costs which could adversely affect the incentives to provide much needed accommodation.

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<sup>21</sup> Ev 130, para 3.14

<sup>22</sup> Department for Communities and Local Government, *External Review of Planning Practice Guidance: Report submitted by Lord Matthew Taylor of Goss Moor*, December 2012

<sup>23</sup> Department for Communities and Local Government, *Government response to the external review of government planning practice guidance consultation and report*, May 2013

<sup>24</sup> Q 705



### *Housing Health and Safety Rating System*

14. One particularly complex area of regulation is the housing health and safety rating system (HHSRS) which local authorities use to assess the health and safety risks present within a property. Some local authorities expressed support for the principles behind the HHSRS.<sup>25</sup> Other evidence, however, raised concerns about its complexity. Tom Gilchrist, Service Manager for Private Housing and Accessible Homes at Bristol City Council, said that the hazard rating system was “a really complicated process”. He explained:

It is a risk-based exercise: you look at a property to identify whether there is a risk there, and what the likely outcome of that risk would be.[...] There is quite a complicated mathematical exercise that has to be gone through to establish whether it is a category 1 hazard—a serious hazard—or a less serious category 2 hazard. [...] for most people, that is quite a complicated thing to get your head around, unless you are a professional working in the field.<sup>26</sup>

According to the Private Landlords Survey 2010, 85% of landlords had not heard of the HHSRS.<sup>27</sup> By implication, we can expect levels of awareness amongst tenants to be even lower. Even amongst those who supported the HHSRS, there was a view that the guidance underpinning it should be updated.<sup>28</sup> We also received evidence that the HHSRS was inconsistent with other regulations. Bradford Council pointed out that in some instances planning and building regulations were not consistent with the HHSRS:

It is possible for a housing development to pass through the planning process and comply with Building Regulations and yet contain hazards relating to lighting, crowding and space, noise and falls on stairs. Examples include rooms without windows and the use of ‘pigeon’ staircases in loft conversions.<sup>29</sup>

15. The complexity of the HHSRS can be illustrated by examining the processes for assessing hazards and carrying out enforcement. When a local authority inspects a property, judgments about hazards are made by reference to those who, mostly based on age, would be most vulnerable to the hazard, even if people in these age groups are not actually living in the property at the time. However, where a hazard exists but the current occupant is not identified as vulnerable to the particular hazard, an improvement notice or prohibition order can be suspended but has to be re-assessed after a year.<sup>30</sup> Such nuances are not straightforward and must be difficult for an individual, part-time landlord to understand.

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<sup>25</sup> See, for example, Ev w142 [Thanet District Council], Ev w242, para 10 [Stockton-on-Tees Borough Council].

<sup>26</sup> Q 274

<sup>27</sup> Department for Communities and Local Government, *Private Landlords Survey 2010: Tables*, Annex 7.2; see also Q 451 and footnote [Richard Blakeway].

<sup>28</sup> Ev w242, para 10 [Stockton on Tees Borough Council]; see also Ev 266, para 20 [Leeds City Council], Ev 144 [Local Government Association].

<sup>29</sup> Ev 259–260, para 3.1.6; Bradford Council provided supplementary evidence setting out the inconsistencies in more detail: see Ev 262.

<sup>30</sup> *Housing, Health and Safety Rating System*, Standard Note SN/SP/1917, House of Commons Library, November 2008; see also Bournemouth Borough Council, *Private Sector Housing Enforcement Policy*, May 2010, pp 8–9 and 10.

16. Some evidence called for a new approach to assessing the quality of private rented housing, although views varied about what form this approach should take. Some suggested applying the decent homes standard used in social housing to the private rented sector, or establishing a variant upon it.<sup>31</sup> The campaign group Housing Voice said that

a regular ‘MOT’ style certificate showing that a property is free of serious hazards and meets a new, minimum decent homes standard would be a major step forward and ensure more homes are fit for purpose.<sup>32</sup>

17. Mr Prisk told us that he had heard “diverse views” about the HHSRS but that it had “not been at the top of the list of the representations I have received”. Nevertheless, he said that if the Committee had “heard differently” he would be “more than happy to look at that more carefully”.<sup>33</sup>

18. The HHSRS may well be a robust tool to enable professionals to assess health and safety risks within properties, but we are concerned that few landlords (and, by implication, tenants) understand how it works. If we are to expect landlords to provide housing of a decent standard, and tenants to complain if it fails to meet this standard, it is important that there is a straightforward way of assessing whether the standard has been met. The HHSRS does not achieve this purpose. There is a strong case for a clear, easy to understand set of standards that landlords should be expected to meet. **We recommend that the Government consult on the future of the housing health and safety rating system and the introduction of a simpler, more straightforward set of quality standards for housing in the sector. The Government should also ensure that planning and building regulations are consistent with standards for the quality and safety of private rented housing.**

## Awareness and advice

19. Establishing a clear and streamlined legal framework would, then, be a helpful step towards raising understanding. Consideration must also be given to getting the message out about the key points included within the framework. Throughout the inquiry, we heard concerns that landlords and tenants were not sufficiently aware of their respective rights and responsibilities.<sup>34</sup> Grainger plc, a large landlord, told us that “many difficulties arise in the sector because of lack of understanding among all parties” and that “a very real positive impact can be made in the [sector] simply through greater awareness of rights, responsibilities and best practices among landlords, agents and tenants”.<sup>35</sup> A number of existing groups, some of which are entirely voluntary, do an excellent job in providing advice to tenants. It is important that all tenants know that sources of advice are available and how they can be accessed.

<sup>31</sup> See, for example, Ev w163 [Digs], Ev w288 [Electrical Safety Council] and Ev w203 [Hastings Borough Council].

<sup>32</sup> Ev w128, para 2.6

<sup>33</sup> Q 706

<sup>34</sup> See, for example, Ev w126 [Communications Workers Union], Ev 221, para 1.8 [Grainger plc], Ev 307 [Note of meeting with tenants from Greater London], Ev 307 [note of meeting with tenants in Leeds], Ev w156, para 3.3 [Broadway Homelessness and Support].

<sup>35</sup> Ev 221, para 1.8



20. It is not, however, only tenants who need advice and information. Many landlords are also unaware of their rights and responsibilities, including those who may have become landlords accidentally but have chosen to remain in the sector. The Central Association of Agricultural Valuers stated:

There are those who become landlords “accidentally” for an interim period, for example as executors of a will or when managing a property for an elderly relative who has moved into a nursing home and using letting as an interim measure (to ensure the property is occupied over a winter, for example). Any proposals to regulate landlords must acknowledge the position of this group which is less likely than professional landlords to be aware of necessary compliance.<sup>36</sup>

Landlord accreditation schemes (see Chapter 3) play an important role in providing information and education. Most landlords are, however, not part of such a scheme.

### **Raising awareness**

21. We heard a number of suggestions for how awareness of rights and responsibilities could be increased. KIS Lettings, an agency based in the North East, suggested 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.<sup>37</sup>

The National Private Tenants Organisations said that all tenants should be issued with a “tenancy information pack” based on that introduced in Scotland.<sup>38</sup> Andrew Cunningham, Chief Executive of Grainger plc, saw merit in a Government publicity campaign, saying that “the Government manages to publicise smoke alarms, breathalysers and changing to digital TV, so I am sure it can publicise landlord and tenant relationships.”<sup>39</sup>

22. The Dispute Service Ltd suggested that there was a particular case for greater publicity around deposit protection requirements. It observed that when *The One Show* ran a small item on deposit protection, there was a “huge spike” in calls to the service’s contact centre and those of other deposit protection schemes, which it said showed “powerfully the impact which wider publicity can have on consumers”.<sup>40</sup>

23. Mr Prisk declared himself “a strong believer that an effective market works when, in the broadest sense, the consumer understands exactly what their rights are”. He added that the Government had “published guidance already in this field, and it is something where we have said to the industry that we would be happy to support an industry-led scheme to get this across”.<sup>41</sup>

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<sup>36</sup> Ev w120, para 7.3

<sup>37</sup> Ev w68, para 5.3

<sup>38</sup> Ev 151, para 6.4.2

<sup>39</sup> Q 334

<sup>40</sup> Ev w63, para 3.1; see also, for example, Ev 222–223, para 3.11 [Grainger plc], Ev 181, para 37 [Office of Fair Trading].

<sup>41</sup> Q 698

### **Awareness and advice: conclusion**

24. The Minister is right to say that the industry—the various member organisations and regulatory bodies—has an important role to play in making landlords and tenants aware of their rights and responsibilities. Given the diverse range of providers within the sector, however, it may be difficult to identify a single sector body that can take the lead. We therefore consider that there is merit in a publicity campaign led and funded by the Government. *We recommend that, once the review of the legislative framework we have called for is completed, the Government, working with tenants', landlords' and agents' groups, establish and help to fund a publicity campaign to promote awareness of tenants' and landlords' respective rights and responsibilities. Our recommendation for a wholesale review of the regulation in the sector provides the obvious platform on which to base a publicity campaign.*

25. As part of this publicity campaign, there is merit in requiring tenancy agreements to be accompanied by a fact sheet for tenants, giving a clear statement of their key rights, what they can expect from their landlord, and where they can go to seek advice or raise concerns. Indeed, we consider that a similar document should be provided to landlords. This could be distributed by lenders to those who apply for a buy-to-let mortgage, and by local authorities and landlord organisations. **We recommend that the Government bring forward proposals for the introduction of easy-to-read key fact sheets for landlords and tenants, and consult on the information these sheets should contain. The sheets could include links to further information available online. As a minimum, the sheets should set out each party's key rights and obligations, and give details of local organisations to whom they could go for further advice and information. This fact sheet should be included within the standard tenancy agreement we propose earlier in this chapter.**

## 3 Raising standards of property and management

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26. Although we received some evidence suggesting that standards in the private rented sector had risen in recent years,<sup>42</sup> we heard concerns from a number of people about the physical standards of property in some parts of the sector, and the way in which some landlords carried out their management responsibilities. In this chapter, we will consider how local authorities carry out enforcement to tackle poor standards in property and deal with unscrupulous landlords; we will then consider the potential of accreditation and licensing schemes, before looking at safety standards.

### Local authority enforcement

27. We heard concerns about unscrupulous landlords operating in the private rented sector. The housing charity, Shelter, stated that it had

been campaigning for action to tackle the small but dangerous minority of rogue landlords who make people's lives a misery. These landlords condemn their tenants to living in rundown, unsafe, or overcrowded properties. They will often neglect their properties, avoiding making the necessary, legal improvements. Or they will intimidate those who speak out, threatening them with eviction. Despite an increase in the number of prosecutions against these landlords, the problem is getting worse.<sup>43</sup>

28. A number of witnesses told us that, while local authorities had the powers they needed to deal with such unscrupulous landlords, often these powers were not used effectively. The Residential Landlords Association noted that “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”.<sup>44</sup> It said that “the problem is not a lack of powers, but the willingness and ability of local authorities to enforce their existing powers”.<sup>45</sup>

29. We did, however, hear some good examples of local authorities working effectively to raise standards through targeted enforcement and education work, and the introduction of licensing and accreditation schemes. We consider some of these examples below.<sup>46</sup> For all this good practice, there were concerns that local authorities were inconsistent in their approach to enforcement.<sup>47</sup> Kay Boycott, Director of Communications, Policy and Campaigns at Shelter, said:

There are some good examples out there. In the work that we have been doing with local authorities over the last two years, we have seen some waking up to this and

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<sup>42</sup> See, for example, Ev 299, para 1 [Department for Communities and Local Government], Ev w172 [Colin Wardle], Ev w183 [Reads Davies Estate Agents & Valuers], Ev 190 [Royal Institution of Chartered Surveyors].

<sup>43</sup> Ev 137, para 20

<sup>44</sup> Ev 152, para 3.3

<sup>45</sup> *As above*

<sup>46</sup> See also Ev 143 [Local Government Association] for further examples of good practice.

<sup>47</sup> See, for example, Ev w271, para 48 [Houselet Direct].

putting in some quite innovative solutions. It would be good if that best practice was spread.<sup>48</sup>

The Local Government Information Unit (LGIU), which had conducted a survey of local government to establish councils' approaches to the private rented sector, stated that "many councils are starting to try different approaches, but there appears to be scope for more coordination with regard to sharing learning".<sup>49</sup> Mark Prisk, the Housing Minister, said that there was "a wide variability in enforcement, whether it is trading standards, environmental health, planning or whatever, and one of the things I want to encourage is how we can strengthen that, so that good and best practice becomes more of the norm".<sup>50</sup> The Local Government Association has responsibilities for co-ordinating "sector-led improvement" across local government.<sup>51</sup>

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

31. Some witnesses suggested that local authorities struggled to find resources to carry out enforcement or to promote improvement in the sector. Pennine Lancashire Councils stated:

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.<sup>52</sup>

LGIU, commenting on its survey, concluded that a "lack of resource is perceived as the biggest barrier to greater engagement with the PRS, and subsequent improvements in quality".<sup>53</sup> We heard particular concerns about the impact of resource constraints upon tenancy relations and environmental health officers and on councils' ability to work proactively.<sup>54</sup> **We are concerned about reports of reductions in staff who have responsibility for enforcement and tenancy relations and who have an important role**

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<sup>48</sup> Q 60

<sup>49</sup> Ev w342

<sup>50</sup> Q 707

<sup>51</sup> Local Government Association website: [www.local.gov.uk/sector-led-improvement](http://www.local.gov.uk/sector-led-improvement)

<sup>52</sup> Ev w76–77, para 4.17 [Pennine Lancashire Local Authorities]; see also, for example, Ev w28, para 3 [Nicholas Nicol], Ev w30 [Luke Gidney], Ev w65, para 3.1 [Calderdale Metropolitan Borough Council], Ev 214, para 4.17 [Blackpool Borough Council], Ev 308 [Note of meeting with tenants in Leeds].

<sup>53</sup> Ev w342, para 11

<sup>54</sup> See, for example, Ev w113 [Save the Children UK], Ev 158, para 2.20 [Citizens Advice], Ev 288, para 5.2 [District Councils' Network], Evs w310 and w312, paras 4.1 and 5.3 [Royal Borough of Kensington and Chelsea].

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

### *Penalty charges*

32. Tom Gilchrist from Bristol City Council said that it “could be an expensive business” for the local authority to prosecute a landlord. He suggested the introduction of fixed penalty notices, to make it easier for local authorities to carry out enforcement:

Penalty charge notices for simple offences would be so much easier to do. You can give a ticket to a landlord for relatively minor management offences within the house—a broken electricity supply, a broken fire alarm or storage and equipment stored in escape routes—which are going to be fixed relatively quickly. You can serve a fixed penalty charge notice on the landlord. If that can be repaired/resolved within seven days, there is no charge at all.<sup>55</sup>

Others were more doubtful about the use of penalty charges. John Statham, Head of Housing Partnerships at Leeds City Council, suggested that “you would need a significant influx of resources to be issuing fixed penalty notices and then to be managing whatever happens with the payments or non-payments of it”.<sup>56</sup>

33. We see merit in a system which allows local authorities to identify minor infringements, and requires fast remedial action by a landlord which if not carried out would allow the local authority to impose a penalty charge. It would have the benefit of achieving improvements and generating resources to fund authorities’ wider work to raise standards in the sector. **We recommend that the Government consult on proposals to empower councils to impose a penalty charge without recourse to court action where minor housing condition breaches are not remedied within a fixed period of time, though an aggrieved landlord would have the right of appeal to a court.**

### *Linking housing benefit to standards*

34. Some witnesses suggested that the payment of housing benefit be made conditional upon landlords meeting certain standards. Camden Council said that it “would like to discuss the possibility of benefits that are paid to cover part or all of rent only being paid to landlords whose properties meet the decent homes standard”.<sup>57</sup> Camden’s Leader, Cllr Sarah Hayward, thought it “scandalous that my taxpayers’ money is spent on people living in sometimes really very terrible conditions”.<sup>58</sup>

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<sup>55</sup> Q 270

<sup>56</sup> Q 554

<sup>57</sup> Ev 294

<sup>58</sup> Q 668

35. Other witnesses rejected this approach. John Statham did not think that housing benefit should be linked to property condition.<sup>59</sup> He said that “housing benefit is there to support the income of the individual, because they are unable to provide fully for themselves at that point in time”, adding that there were other mechanisms in place to deal with property standards.<sup>60</sup> Shelter, in a published briefing note, stated that “restricting housing benefit because of a landlord’s behaviour or a property’s condition would penalise the tenant who would remain legally liable for the contractual rent” and that tenants would be “put at risk of arrears, debt and homelessness through no fault of their own”.<sup>61</sup>

36. Others were concerned about how such an approach could be implemented. Ruth Abbott, Housing Standards and Adaptations Manager for the City of York Council, suggested that the introduction of Universal Credit would make it harder to link benefits to standards “because standards are enforced at a local level and benefits [...] will be administered more centrally”.<sup>62</sup> Mr Prisk questioned the practicality. He warned that, if local authorities had to clear a property as acceptable before it could be let

as an HB tenant you might find yourself at a significant disadvantage when trying to get the property, because someone who is not an HB tenant will be able to sign without having to go to the local authority.<sup>63</sup>

Haringey Council agreed that “placing the burden to ensure compliance before housing benefit (or the subsequent element of the Universal Credit) is paid, would be unduly cumbersome” and instead proposed that “authorities are given the power to reclaim benefits where breaches occur without the requirement to apply to take enforcement action through the courts”.<sup>64</sup>

37. The idea of making the payment of housing benefit conditional upon landlords meeting certain standards is of interest. It is concerning that there is a minority of landlords who, whilst effectively being subsidised by public money, have little regard for the wellbeing of their tenants or the condition of the property they let. Nevertheless, to try to withhold payment of housing benefit would not only be extremely complicated to administer, but would also unfairly penalise the tenant and could leave them homeless. Moreover, it is important that the push to improve standards focuses on the sector as a whole, not just the housing benefit market. Where, however, housing benefit has been paid, and a landlord is found to have let substandard property, the local authority should be able to recoup it. **We recommend that, where landlords are convicted of letting property below legal standards, local authorities be given the power to recoup from a landlord an amount equivalent to that paid out to the tenant in housing benefit (or, in future, universal credit). We hope that such a measure will help to prevent unscrupulous landlords from profiting from public money. Local authorities should be able to retain the money recouped to fund their work to raise standards. To ensure a**

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<sup>59</sup> Q 564

<sup>60</sup> Q 563

<sup>61</sup> Shelter, *Policy Briefing: Rewarding Rogues? Housing benefit and rogue landlords*, September 2012, p 2

<sup>62</sup> Q 565

<sup>63</sup> Q 747

<sup>64</sup> Ev w224–w225, para 3.10

consistent approach, those tenants who have paid rent with their own resources should also have the right to reclaim this rent when their landlord has been convicted of letting a substandard property.

## Illegal eviction

38. The Association of Tenancy Relations Officers (ATRO) said that “unlawful eviction; or the threat of it, and harassment and intimidation from landlords are at the very worst end of the scale of bad experiences that a private tenant can have”.<sup>65</sup> Many local authorities, however, were under-using their powers of prosecution under the Prevention from Eviction Act 1977 (PEA).<sup>66</sup> ATRO stressed that a “consistently applied, properly resourced PEA prosecution strategy should be strongly encouraged as a part of any local authority’s private rented and homeless prevention strategies” and called on the Government to

consider making it a statutory duty for local authorities to have a coherent policy as to how they will deter, investigate, and intervene in cases where private tenants are being unlawfully intimidated and subject to threats of illegal eviction.<sup>67</sup>

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

39. We also heard concerns that in some instances the police did not understand the law on illegal eviction, wrongly considering it a purely civil matter, not a criminal offence, and on occasion even assisting the landlord in removing a tenant.<sup>68</sup> The North West Housing Practitioners Association said that action was “urgently required to ensure that the police are properly trained in dealing with reports of unlawful eviction and should become equally responsible with local authorities for prosecutions”.<sup>69</sup> **We are concerned that the police are sometimes unaware of their responsibilities in dealing with reports of illegal eviction. We recommend that the Department for Communities and Local Government work with the Home Office on guidance that sets out clearly the role of the police in enforcement of the Prevention from Eviction Act 1977.**

## Licensing, registration or accreditation

40. One suggested approach to raising standards in the sector is the licensing of landlords. In 2008, Dr Julie Rugg and David Rhodes of York University conducted a Government-commissioned independent review of the contribution and potential of the private rented

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<sup>65</sup> Ev w195, para 2.2

<sup>66</sup> Ev w195–w196, para 2.6

<sup>67</sup> Ev w197, para 3.2–3

<sup>68</sup> See, for example, Ev w59 [Tessa Shepperson], Ev w164 [Digs], Ev w196, para 2.7 [Association of Tenancy Relations Officers], Ev w249, para 14 [North West Housing Law Practitioners Association].

<sup>69</sup> Ev w249, para 14



sector ("the Rugg Review"). One of the key recommendations of this Review was a proposal for "light touch licensing and effective redress". The report of the review stated:

Light-touch licensing and effective redress can encourage local authorities to target the very worst landlords, by ensuring that effective sanctions are in place. A permit or licence would be required by all landlords, but would be available without any hurdle criteria on payment of a small fee. Nationally administered, the licence would be revoked if the landlord did not meet statutory requirements on housing management and quality. The licence fee income would finance the establishment of an augmented system of housing redress.<sup>70</sup>

41. Some witnesses were supportive of the Rugg Review proposal. The British Property Federation, for instance, said that the proposal for a registration scheme

seemed to offer some prospect of improved communication with landlords and tenants, rationalisation of local schemes (important for larger landlords), and effective enforcement. This was to be achieved by landlords and tenants having to quote the landlord's registration number in all their transactions with the state—access to the courts, tax returns, benefit claims, tenancy deposit lodgement, etc.<sup>71</sup>

42. Support for a national licensing scheme was not, however, universal. Some witnesses suggested that local discretion to introduce licensing schemes would be preferable to a blanket national approach. Cllr Tony Ball, from the District Councils' Network, stated:

My personal view is that as much discretion to react to local factors has to be good, because it is not a "one size fits all"; the issues are not the same up and down the country.<sup>72</sup>

The Government did not favour a national licensing scheme. Mark Prisk stated that "a national scheme can be very rigid and not reflect local circumstances".<sup>73</sup>

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

<sup>70</sup> Julie Rugg and David Rhodes, *The Private Rented Sector, Its Contribution and Potential*, Centre for Housing Policy University of York, 2008, p xxiii

<sup>71</sup> Ev 245, para 4.5

<sup>72</sup> Q 641

<sup>73</sup> Q 708



### Selective licensing

44. The Housing Act 2004 provides for the introduction of a scheme of selective licensing of private landlords in a local housing authority's area. Where such a scheme is in place, all private landlords must obtain a licence and, if they fail to do so or to achieve acceptable management standards, the authority can take enforcement action.<sup>74</sup> The Housing Act 2004 sets out two sets of general conditions under which an area can be "designated" for selective licensing. First, that "the area is, or is likely to become, an area of low housing demand; and that making a designation will, when combined with other measures [...] contribute to the improvement of the social or economic conditions in the area".<sup>75</sup> Second, that "that the area is experiencing a significant and persistent problem caused by anti-social behaviour; that some or all of the private sector landlords [...] are failing to take action to combat the problem [...]; and that making a designation will, when combined with other measures [...] lead to a reduction in, or the elimination of, the problem".<sup>76</sup> In 2010, the Government published a "general consent" enabling local authorities to introduce selective licensing without first seeking approval from the Secretary of State.<sup>77</sup>

45. During our visit to Leeds, we visited the Cross Green area of the city where a selective licensing scheme was in place. John Statham, the council's Head of Housing Partnerships, said that the focus extended beyond property standards towards "trying to tackle issues in the area, whether that is crime and disorder or fly-tipping, as well as to tackle the standards in properties". The scheme was seen as a success and Mr Statham said that a number of landlords had been prosecuted, and that "antisocial behaviour and general environmental issues in the area have improved significantly as a result of the work".<sup>78</sup> There was also broad support for selective licensing from the group of landlords we met in Leeds.<sup>79</sup>

46. More controversially, a landlord licensing scheme has been introduced across the whole of the London Borough of Newham. The council said that it was

concerned about increasing levels of anti-social behaviour associated with those rented properties that fail to meet satisfactory levels of tenancy and property management. The benefit of having a mandatory scheme is it will ensure poor landlords have nowhere to hide so we can target our enforcement action on them. We will also be creating a level playing field for good landlords, where they will no longer be undercut by landlords who do not manage their properties correctly.<sup>80</sup>

There was some unease, particularly amongst landlords, about Newham's scheme, and in particular its potential impact upon investment in the sector. Richard Lambert, Chief

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<sup>74</sup> Housing Act 2004 as interpreted in *Selective Licensing of Privately Rented Housing*, House of Commons Library Standard Note SN/SP/4634, 16 June 2010

<sup>75</sup> Housing Act 2004, section 80(3)

<sup>76</sup> Housing Act 2004, section 80(6)

<sup>77</sup> *The Housing Act 2004 Licensing of Houses in Multiple Occupation and Selective Licensing of other Residential Accommodation (England) General Approval 2010*; see also "John Healey: Greater council powers to give housing help for private tenants", DCLG press release, 1 April 2010; see also: *Selective Licensing of Private Rented Housing*, House of Commons Library Standard Note SN/SP/4634, 16 June 2010.

<sup>78</sup> Q 529; for more information on the outcomes of the scheme so far, see Ev 268 [Leeds City Council].

<sup>79</sup> Ev 308

<sup>80</sup> Ev 223, para 2.1

Executive Officer of the National Landlords Association referred to anecdotal evidence from his members that “lenders are reluctant or actively telling them that they will not lend on properties in a borough area that has selective licensing”.<sup>81</sup> Some landlords were concerned that they were required to complete a form for each property they owned. Andrew Cunningham, Chief Executive of Grainger plc, said that Grainger had to “fill in 60 forms. All we would ask is that, if we have 60 properties, we fill in one form and list 60 addresses”.<sup>82</sup> He said that, while he did not think investors would “flood out of the borough” as a result of the scheme, nevertheless

if you are looking to invest in various places, if there are exactly equivalent properties in two boroughs, one where you have to spend an hour filling in a form and spend some money on fees and one where you do not, then investors will go to that one.<sup>83</sup>

Newham let us have sight of its form,<sup>84</sup> which we were surprised to find was such a substantial document being 11 pages, and accompanied by a further 32 pages of guidance.<sup>85</sup>

47. Newham Council told us that it was a legislative requirement to complete a separate form for each property, although the electronic version of its form was designed to reduce the burden on landlords registering multiple properties.<sup>86</sup> Newham said that it would “advocate simplification of the licensing process” and “would like to see a significant decrease in the burden placed on landlords and local authorities in administering licensing applications”.<sup>87</sup> Leeds City Council also considered the process of introducing selective licensing to be very laborious and said that the scheme in just one area had taken two years “to develop and get approved at a cost of around £100k to the authority”.<sup>88</sup> It also pointed out that selective licensing was “specific to management issues and does not cover standards”.<sup>89</sup>

48. Other local authorities said that they were unable to use selective licensing as a tool for raising standards because their areas did not meet the criteria under which it could be introduced. Cllr Sarah Hayward, Leader of Camden Council, stated:

The criteria need to be broader. For any licensing scheme to really work, it probably needs to cover everybody or a majority of people, so you get the good practice buying into the scheme, as well as using it as a stick with which to beat the bad landlords.<sup>90</sup>

Mr Prisk said that if there was

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<sup>81</sup> Q 344

<sup>82</sup> *As above*

<sup>83</sup> *As above*

<sup>84</sup> Form supplied to the Committee (unpublished)

<sup>85</sup> Newham Council, *Private Rented Property Licensing Guide for Landlords and Managing Agents*, available at [www.newham.gov.uk](http://www.newham.gov.uk)

<sup>86</sup> Ev 236

<sup>87</sup> *As above*

<sup>88</sup> Ev 268

<sup>89</sup> *As above*

<sup>90</sup> Q 679

a good argument demonstrated that a significant proportion of local authorities would welcome something going beyond low demand and antisocial behaviour—in other words, other circumstances they are finding they would like to approach—I would certainly be happy to look at the evidence, absolutely.<sup>91</sup>

49. Selective licensing can be an effective tool for dealing with poor property management and making wider improvements to the local area. At present, however, local authorities are limited in the circumstances in which they can introduce it, and the legislative requirements can make it burdensome for both local authorities and landlords. Local authorities should have greater freedom over when selective licensing can be introduced and the information they require landlords to provide. **We recommend that the Government bring forward proposals for a reformed approach to selective licensing, which gives councils greater freedom over when licensing schemes can be introduced and more flexibility over how they are implemented. Councils should ensure that the cost of a licence is not set so high as to discourage investment in the sector.**

### Accreditation

50. A number of witnesses suggested that landlord accreditation schemes were an effective way of raising standards in the sector. We heard about a number of accreditation schemes, including ones run by local authorities, the Residential Landlords Association and the National Landlords Association (NLA).<sup>92</sup> The landlords we met in Leeds spoke very highly of the accreditation scheme run by the City Council, which they believed had helped to raise standards and drive out bad landlords. It also provided education and training to landlords. The NLA told us that its scheme

allows tenants to seek redress if the landlord does not meet their obligations in the tenancy agreement. If the NLA receives a complaint from a tenant, we will investigate, and if we find that the landlord has fallen short of the standards expected in our Code of Practice, will recommend the action that they should take to rectify the situation.<sup>93</sup>

It added that “if the landlord refused to accept or act on the decision of the complaint investigation, they would face removal from the accreditation scheme and potentially expulsion from membership of the NLA”.<sup>94</sup>

51. A number of witnesses favoured a system of self-regulation through accreditation. Professor Partington told us that the Law Commission had proposed a system of “enhanced self-regulation’ developed by all key stakeholders: landlords, agents, local authorities and tenants”; this system would include “greater use of accreditation schemes”.<sup>95</sup> The Mayor of London wished “to establish a set of voluntary yet ambitious standards that renters should expect from any accreditation scheme operating in the

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<sup>91</sup> Q 711

<sup>92</sup> See Ev 151, para 1.1 [Residential Landlords Association], Ev 226, para 26 [National Landlords Association] and Ev 296 [London Borough of Camden].

<sup>93</sup> Ev 230

<sup>94</sup> *As above*

<sup>95</sup> Ev 130, para 3.10

capital, matched with benefits for landlords and agents to join”.<sup>96</sup> Accordingly, he had published a Draft London Rental Standard for consultation.<sup>97</sup>

52. There was some concern that the accreditation schemes currently in place, being voluntary, tended to include only conscientious landlords. The District Councils’ Network, for instance, said that voluntary accreditation schemes “tend to attract landlords who are already maintaining a good standard of accommodation and management”.<sup>98</sup> Sir Robin Wales, Mayor of Newham, told us that, when his Borough had introduced voluntary accreditation, only 600 of a known 15,000 landlords had joined the scheme.<sup>99</sup>

53. Members of landlord accreditation schemes, those run by local authorities and those run by landlords’ associations, speak positively of the benefits they offer. Membership of these schemes is, however, voluntary and they tend not to include unscrupulous or ‘accidental’ landlords. There may be a case in some areas for local authorities to require landlords to be part of such a scheme. **We recommend that the Government give local authorities a power to require landlords to be members of an accreditation scheme run either by the council itself or by a recognised landlords association.**

### *Other approaches: neighbourhood working*

54. Leeds City Council decided against further discretionary licensing and has introduced a neighbourhood approach which was “seen as more flexible than licensing”.<sup>100</sup> This approach targeted “neighbourhoods on a street by street basis addressing the area as whole and dealing with standards in the private rented sector as well as empty homes”.<sup>101</sup> The approach included close work with partner organisations, the provision of help, advice and mentoring, and an intention to inspect all private rented properties in an area to ensure they met minimum standards. The council stated that the approach was “seen as more flexible than licensing [and] can target a single street or 4/5 streets over a 6/9 month period rather than have a scheme for up to 5 years”.<sup>102</sup> Blackpool Council had similarly developed an area based approach. It considered this to be “resource intensive but [...] cost effective because it identifies and deals with problems rather than just moving them on to other areas.”<sup>103</sup>

55. **It is important that local authorities have options and tools to raise standards in their areas. Three particular options are: (1) greater use of landlord licensing schemes; (2) compulsory accreditation; and (3) taking a proactive neighbourhood approach to raising standards. In each of these cases, given resource constraints, the schemes have to pay for themselves, and, as far as possible, place the burden of payment on the**

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<sup>96</sup> Ev 238

<sup>97</sup> “Mayor sets out proposals to empower tenants and landlords in the private rented sector”, Greater London Authority press release, 13 December 2012

<sup>98</sup> Ev 288, para 5.1

<sup>99</sup> Q 331

<sup>100</sup> Ev 268

<sup>101</sup> *As above*

<sup>102</sup> *As above*

<sup>103</sup> Ev 214, para 4.19

unscrupulous landlords, with financial deterrents for non-compliance. Councils should be given the powers to impose heavy penalties on those who do not register for licensing or compulsory accreditation after appropriate notification. Neighbourhood approaches could be funded by local authorities recouping costs from landlords whose properties fail to meet minimum standards. We further recommend that the Government initiate a review of the fines imposed by the courts for letting substandard properties, to ensure they act as a sufficient deterrent.

## Houses in Multiple Occupation (HMOs)

56. Historically and for good reasons Houses in Multiple Occupation have been treated as a distinct category of housing, certain types of which require greater regulation than the rest of the private rented sector. Larger houses in multiple occupation (HMO) are currently subject to mandatory licensing: “prescribed” HMOs requiring a licence are defined as those comprising three or more storeys, *and* occupied by five or more persons living in two or more single households.<sup>104</sup> Local authorities are also able to introduce an additional licensing scheme to other types of HMO providing certain conditions are met.<sup>105</sup> As with selective licensing, the Government has published a general consent enabling local authorities to introduce additional licensing without seeking the approval of the Secretary of State.<sup>106</sup>

57. Some evidence suggested that the definition of prescribed HMOs was too narrow. The National HMO Lobby proposed that “HMOs comprising *either* three or more storeys *or* five or more occupants should be subject to mandatory licensing”.<sup>107</sup> Newcastle City Council went further, saying that it would “like to see the licensing requirement extended to all classes and sizes of HMOs in line with the scheme operational in Scotland”.<sup>108</sup> Others suggested that there should be a review of the effectiveness of mandatory licensing. The NLA said that there was “a growing awareness that there has been very little review or assessment of the effectiveness of mandatory licensing since its implementation” and that “a comprehensive review of licensing would be greatly welcomed by those investing in shared housing”.<sup>109</sup>

58. Given the heightened safety issues that can arise in larger HMOs, there remains a case for a national requirement for mandatory licensing, alongside the greater flexibilities for local authorities proposed above. It may, however, be timely to review the processes for mandatory licensing of HMOs, particularly if there is to be a broader review of the regulation governing the private rented sector as we recommend. **We recommend that the Government conduct a review of the mandatory licensing of houses in multiple**

<sup>104</sup> The Licensing of Houses in Multiple Occupation (Prescribed Descriptions) England Order 2006 (SI 2006/371)

<sup>105</sup> The Housing Act 2004 Licensing of Houses in Multiple Occupation and Selective Licensing of other Residential Accommodation (England) General Approval 2010. See also Department for Communities and Local Government, *Approval steps for additional and selective licensing designations in England*, November 2006, p 4 and *Houses in Multiple Occupation* House of Commons Library Standard Note, SN/SP/708, November 2010, p 14.

<sup>106</sup> Housing Act 2004, section 56; see also *Houses in Multiple Occupation*, House of Commons Library Standard Note, SN/SP/708, November 2010, p 15.

<sup>107</sup> Ev 283, para 20

<sup>108</sup> Ev w184

<sup>109</sup> Ev 226

**occupation. This review should consider, amongst other things, evidence of the effectiveness of mandatory licensing, how well it is enforced, and whether the definition of a prescribed HMO should be modified.**

### *‘Studentification’*

59. We heard some concerns about high concentrations of houses in multiple occupation in particular areas. The National HMO Lobby stated that it was

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’.<sup>110</sup>

It listed a number of social and environmental impacts that arise when HMOs are concentrated in a particular area. These included crime, vandalism and anti-social behaviour, parking problems and litter.<sup>111</sup> We received a number of representations from people concerned about similar issues in their community.<sup>112</sup>

60. Liam Burns, President of the National Union of Students, however, questioned the National HMO Lobby’s assumptions, stating that “nobody knows how many HMOs are out there; hence, it is not factual to say there is a causal link between antisocial behaviour and HMOs”.<sup>113</sup> He added that “many HMOs are simply not just about students”,<sup>114</sup> and also pointed out that student unions did a lot of work to promote positive work between students and the communities they lived in.<sup>115</sup>

### *Article 4 directions*

61. A number of local authorities have sought to address problems with high concentrations of HMOs through the use of Article 4 directions to remove permitted development rights allowing change of use from dwellinghouse to small HMO.<sup>116</sup> Newcastle City Council had introduced an Article 4 direction in some parts of the city and considered it “a useful tool for local authorities to call on to try and re-balance the housing market in areas experiencing high levels of private renting”.<sup>117</sup>

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<sup>110</sup> Ev 281, para 7

<sup>111</sup> Ev 281, paras 8.1–2

<sup>112</sup> See, for example, Ev w15 [Lorraine Barter], Ev w17 [Stewart Morris], Ev w146 [Nottingham Action Group on HMOs], Ev w279 [Storer and Ashby Residents’ Group].

<sup>113</sup> Q 612

<sup>114</sup> *As above*

<sup>115</sup> Q 611

<sup>116</sup> Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 allows local authorities to remove permitted development rights. In these instances, local authorities have removed permitted development rights allowing change of use from dwellinghouse (class C3) to HMO (class C4). Planning permission is therefore required when change of use from C3 to C4 is sought.

<sup>117</sup> Ev w184; see also, for example, Ev 266 [Leeds City Council], Ev 257–258, para 21 [City of York Council], Ev w223, para 2.6 [Haringey Council], Ev w305, para 1.4 [Nottingham City Council].



62. Others, however, were opposed to the use of Article 4 directions and suggested that they had a negative impact upon supply.<sup>118</sup> The Residential Landlords Association, for instance, said that they were “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”.<sup>119</sup>

63. There are clearly concerns in some communities about high concentrations of HMOs and their social and environmental impact. Local authorities should be able to respond to these concerns by using Article 4 directions to remove permitted development rights and so limit the concentration of HMOs. In some cases, the use of Article 4 could impact upon supply. However, local authorities are well placed to weigh up the arguments and make a judgment based on local circumstances. **Where there are community concerns about high concentrations of houses in multiple occupation, councils should have the ability to control the spread of HMOs. Such issues should be a matter for local determination. We therefore consider it appropriate that councils continue to have the option to use Article 4 directions to remove permitted development rights allowing change of use to HMO.**

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

## Safety standards

65. We heard concerns about electrical safety within the private rented sector. The Electrical Safety Council (ESC) told us that there were “numerous cases of landlords failing to provide safe electrical installations and appliances, thereby compromising the wellbeing and safety of tenants”.<sup>120</sup> There were some calls for electrical safety regulation along the lines of the gas safety certificate schemes.<sup>121</sup> The ESC recommended

that landlords have a full wiring check carried out on their property by a competent person every five years as an effective means of enhancing safety. We believe this should be required by law, with an add-on specifying the need for visual checks on change of tenancy (if occurring before the 5-year cycle ends).<sup>122</sup>

It also said that “electrical appliances should be subject to a combined inspection and test at least every 5 years”.<sup>123</sup>

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<sup>118</sup> See, for example, Ev w23 [Finders Keepers], Ev w98 [SpareRoom], Ev 275, para 30 [National Union of Students], Ev w231 [Nottingham Students Union].

<sup>119</sup> Ev 152, para 2.7

<sup>120</sup> Ev w287, overview

<sup>121</sup> See, for example, Ev w 48, para 4.2 [Keith Williams], Ev 147, para 1.2.2.2 [National Private Tenants Organisation].

<sup>122</sup> Ev w288, para 12

<sup>123</sup> Ev w289, para 17

66. Mark Prisk did not see the need for further regulation on electrical safety. He referred to “the 1985 Landlord and Tenant Act, which specifically requires that all installations, whether it is gas, water or electricity, are maintained in good repair and working order” and said that that was “probably the right place to stay in”.<sup>124</sup> We consider, however, that there is a case at least for confirming that electrical installations are in order. A check of the wiring every five years is not going to place a significant additional burden on landlords. **We recommend that the Government work with the electrical industry to develop an electrical safety certificate for private rented properties. To obtain such a certificate, properties should be required to have a full wiring check every five years and a visual wiring check on change of tenancy. Landlords should be aware of the legal requirement to provide safe installations and appliances.**

67. A number of other ideas for improving safety were put to us. Evidence from the Association of Residential Letting Agents included a suggestion from one of its members for

Smoke alarms to be made compulsory as they are in Scotland. Similarly carbon monoxide alarms, fire blankets, and extinguishers, should also be required [in] all rented properties.<sup>125</sup>

The All Party Parliamentary Group on Carbon Monoxide recommended that all rented properties be required to have an audible carbon monoxide detector manufactured to the European Standard EN 50921 and that gas engineers be mandated to test appliances for the presence of carbon monoxide.<sup>126</sup> In our 2012 report, *Building Regulations applying to electrical and gas installations and repairs in dwellings*, we recommended that

Part J [of the Building Regulations] should [...] require audible, wired-up EN 50291-compliant carbon monoxide alarms to be fitted wherever a relevant heating appliance is installed in any new-build or existing homes.<sup>127</sup>

We consider such a requirement to be particularly important in the private rented sector. In addition, smoke alarms are available at very low cost but can make an enormous difference to safety in the home. **We recommend that the Government introduce a requirement for all private rented properties to be fitted with a working smoke alarm and, wherever a relevant heating appliance is installed, an audible, wired-up EN 50291 compliant carbon monoxide alarm.**

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<sup>124</sup> Q 712

<sup>125</sup> Ev 171, Annex 4; see also Ev 147, para 1.2.2.1.1 [National Private Tenants Association].

<sup>126</sup> Ev w319

<sup>127</sup> Communities and Local Government Committee, Tenth Report of Session 2010–12, *Building Regulations applying to electrical and gas installations in dwellings*, HC 1851, para 24



## 4 Letting agents

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68. The growth of the private rented sector has brought to greater prominence the role played by agents both in the process of finding tenants and letting properties, and in the management of housing on behalf of landlords. In this chapter we will consider how letting agents should be regulated. We will also look at key concerns raised about letting agent behaviour, in particular the fees they charge to landlords and tenants. Where we use the term letting agents we refer both to those agents who find tenants and those who manage properties on behalf of landlords. By sales agents, we mean those involved in the sale of properties.

### Regulation of agents

69. A number of witnesses considered the regulatory framework covering letting agents to be inadequate. The Residential Landlords Association stated that the letting and managing agent part of the sector had “remained unregulated far too long and as such is on occasion unprofessional”.<sup>128</sup> The Royal Institution of Chartered Surveyors (RICS), which has described the lettings sector as “the property industry’s Wild West”,<sup>129</sup> considered that the “the regulatory framework in the lettings market and the ever-increasing number of registration schemes offers limited protection for the consumer and costs business money”.<sup>130</sup> Time and again, we heard concern that anyone could set up as a letting agent without qualifications or prior knowledge of the industry.<sup>131</sup>

70. We heard that the lack of regulation was giving rise to bad practice in parts of the industry. The consumer organisation, Which?, referred to research it had carried out in 2012, which identified a number of problems in the market including, from a tenant perspective: the mishandling of deposits; missed appointments, aggressive sales tactics, poor customer service and out of date and misleading adverts; opaque and variable fees; and the letting of properties in poor condition.<sup>132</sup> From a landlord’s perspective, Which? found agents: not passing on rent; not properly vetting tenants; and failing to carry out regular inspections or adequate check-out procedures.<sup>133</sup> We heard particular concerns about the fees charged by letting agents, which we consider in more detail later in this chapter.

### Government proposals: redress

71. Initially, the Government told us that it did not believe that “significant burdensome regulation was needed” as “new regulation could increase costs for both landlords and so

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<sup>128</sup> Ev 154, para 6.2

<sup>129</sup> “Renting: Property’s Wild West”, RICS press release, 22 November 2012

<sup>130</sup> Ev 187

<sup>131</sup> See also, for example, Ev 266, para 26 [Leeds City Council], Ev w86, para 6.2 [Pro Housing Alliance], Ev w148, para 7.0 [Nottingham Action on HMOs], Ev 215 [Bristol City Council].

<sup>132</sup> Ev 206, para 3.7

<sup>133</sup> Ev 207, para 3.10

far tenants”.<sup>134</sup> In April 2013, however, the Government laid an amendment (subsequently enacted) to the Enterprise and Regulatory Reform Bill providing for an order-making power to require letting agents (and agents providing management services for leasehold housing) to belong to an approved redress scheme.<sup>135</sup> In a letter to our Chair, the Government explained that

ensuring that landlords and tenants have access to redress, via an Ombudsman, will not only provide an avenue for dealing with complaints when they arise, but in the case of those agents who do not currently offer redress, will act as a strong deterrent to those providing unacceptable services and engaging in unlawful practices.

The Government said that it would carry out a consultation and consider the Committee’s recommendations before bringing forward secondary legislation.<sup>136</sup>

72. We found support for the Government’s amendment. The Office of Fair Trading (OFT), which had carried out a review of complaints made about letting agents to Consumer Direct, said that “an effective redress scheme should be able to deal with the majority of complaints identified in our report, where the issue involves an allegation of misconduct by a letting agent”.<sup>137</sup> To address potential problems with the scheme, the OFT suggested it was important that “the benefits of using an agent that is a member of a redress scheme are sufficiently publicised, and that there is robust enforcement against agents that do not join a scheme”.<sup>138</sup> It also suggested that the Government should consider the “interaction between the letting agent/property management redress schemes and deposit protection schemes”.<sup>139</sup>

73. The Property Ombudsman, who already provides a voluntary code of practice for letting agents,<sup>140</sup> was keen that adherence to a code of practice be made mandatory alongside the redress scheme:

While the Government’s amendment will set up a basic redress mechanism for letting and managing agent consumers, if an adherence to a code of practice is not made mandatory [...] there is a real concern that letting agents will continue to operate to their own set of standards until such times as they are brought into question. This would mean that, for the foreseeable future, consumer confidence in relation to the service provided by letting and managing agents may remain low.<sup>141</sup>

The Housing Minister, Mark Prisk, intimated that the redress scheme would be underpinned by a code of practice.<sup>142</sup>

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<sup>134</sup> Ev 301, para 27

<sup>135</sup> Enterprise and Regulatory Reform Act 2013, sections 83–84

<sup>136</sup> Letter from Mark Prisk MP and Jo Swinson MP to CLG Committee Chair, 15 April 2013, published on CLG Committee website, [www.parliament.uk/clg](http://www.parliament.uk/clg)

<sup>137</sup> Ev 183, para 4; see also, for example, Q 460 [Richard Blakeway].

<sup>138</sup> Ev 184, para 8

<sup>139</sup> Ev 185, para 21

<sup>140</sup> Ev 194, para 1.6

<sup>141</sup> Ev 203; see also, for example, Ev 210 [Which?].

<sup>142</sup> Qq 720–1

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

### **Further regulation**

75. A number of witnesses described the Government's proposals on redress as a "first step".<sup>143</sup> It was suggested that they had to be part of a wider regulatory framework. RICS set out what it saw as the two "first steps" to a simplified framework.<sup>144</sup> The first of these arose from concern that letting agents were not subject to the same regulation as estate agents. RICS proposed amending "the definition of 'estate agency' in section 1 of the Estate Agents Act 1979 to include lettings and managing agents",<sup>145</sup> and associated changes to the Consumers, Estate Agents and Redress Act 2007.<sup>146</sup> This, it said, would

give the OFT powers to ban agents who act improperly, require agents to provide client money protection, professional indemnity insurance and clear redress mechanisms in the event of a dispute. It will prevent sales agents who have been banned from operating from starting up a new business as a lettings and/or managing agent.<sup>147</sup>

The second of RICS's suggested changes was to implement section 22 of the Estate Agents Act 1979, which would "require all sales, lettings and managing agents to acquire statutory minimum professional standards before they start trading".<sup>148</sup> Mechanisms such as mandatory client money protection and minimum professional standards or qualifications enjoyed support from many of those submitting evidence to us.<sup>149</sup>

76. We also received a number of suggestions that letting agents should either be licensed or required to be registered with an accredited industry body.<sup>150</sup> The Association of

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<sup>143</sup> See, for example, Q 497 [Paul Smee and Ian Fletcher], Ev 191 [Royal Institution of Chartered Surveyors], Ev 304 [UK Association of Letting Agents].

<sup>144</sup> Ev 192

<sup>145</sup> *As above*

<sup>146</sup> Ev 188

<sup>147</sup> Ev 192

<sup>148</sup> *As above*

<sup>149</sup> On mandatory client money protection, see, for example, Ev w64, para 5.3 [The Dispute Service Ltd], Ev 202–203 [The Property Ombudsman], Ev w102, para 25 [DASH], Ev 209 [Which?], Ev w285–w286, para 6.4 [Chartered Institute of Housing]. On minimum professional standards or qualifications, see, for example, Ev 202 [The Property Ombudsman], Ev 215 [Bristol City Council], Ev 177 [Association of Residential Letting Agents], Ev w283, para 1.7 [Chartered Institute of Housing].

<sup>150</sup> See, for example, Ev w22 [Finders Keepers], Ev w27 [Greg Jones], Ev w49 [Roy Kitchen], Ev w64, para 5.3 [The Dispute Service], Ev w82–w83 [\*\*\*name redacted\*\*\*], Ev w120, para 8.2 [Central Association of Agricultural Valuers], Ev w133, para 5.1 [Chartered Institute of Environmental Health], Ev w225, para 4.5 [Haringey Council], Ev w303, para 4.4 [LandlordZONE].

Residential Letting Agents (ARLA) has published its own proposed structure for regulation of the property industry. Under this structure,

letting agents and other property professionals would be licensed, registered and monitored by an accredited industry body—such as ARLA, [the National Association of Estate Agents], RICS and others. These bodies in turn would be audited and overseen by a single industry regulator. ARLA would propose that The Property Ombudsman would be the most appropriate body—its structures already exist, and would only need to be ‘beefed up’ and better resourced, as opposed to created from scratch.<sup>151</sup>

77. We asked Mr Prisk whether he would be prepared to look at regulation beyond a redress scheme. He said:

In due course, but let us not get ahead of ourselves. We have quite a complex process to go through, and if we can get the code of practice right that underpins the redress scheme we probably will drive out the vast majority of the kinds of problems that our constituents face.<sup>152</sup>

78. While the Government’s proposals were welcome, there was widespread recognition that much more was needed. There is a strong case for a single regulatory framework covering all agents, be they involved in lettings, management or sales. ***We recommend that the Government make letting and managing agents subject to the same regulation that currently governs sales agents. This includes giving the Office of Fair Trading the power to ban agents who act improperly, and making client money protection and professional indemnity insurance mandatory.*** Moreover, if any changes are made to the regulation of sales agents, these changes should also be applied to letting and managing agents. **Any proposal to require sales agents to meet minimum professional standards before they begin trading should also be applied to letting and managing agents. In addition, if at any point a requirement for sales agents to be registered with an accredited industry body is to be introduced, this should be part of a wider framework also covering letting and managing agents. We recommend that the Government review these arrangements in two years’ time.**

### **Fees and charges**

79. We heard many concerns about the fees charged by letting agents, both in terms of the amount charged and lack of transparency. In June 2013, the housing charity Shelter published a report which stated that fees were “variable but high, costing £355 on average” and that one in seven renters who had used a letting agency had paid fees of more than £500.<sup>153</sup> The OFT, when conducting its analysis of complaints about letting agents made to Consumer Direct, grouped the complaints into five main areas. The largest of these areas related to complaints about fees and charges, which represented 30% of the total number.<sup>154</sup> Jason Freeman, Legal Director of the OFT’s Goods and Consumer Group,

<sup>151</sup> ARLA, *A proposal for the regulation of the property sector*, March 2013, p 7

<sup>152</sup> Q 733

<sup>153</sup> Shelter, *Letting Agencies: The Price You Pay*, June 2013, pp 10–11

<sup>154</sup> Ev 179, para 13

explained that mainly, these complaints related to “drip pricing”, that is charges were revealed gradually to the prospective tenant:

The effect tends to be that people become increasingly committed to the transaction psychologically, if you like. They do not have the opportunity to appraise the whole cost of the letting at the time they are going to compare properties. They might compare based on the level of rent or the amount of security deposit they need to pay, but they would not factor in the many other fees that they might need to pay.<sup>155</sup>

He added that the second main area for complaints about fees and charges related to holding deposits and that there seemed “to be quite a lot of uncertainty around what holding deposits are for and how people are going to get them back”.<sup>156</sup> We heard in other evidence that the fees charged for referencing, inventories and contract renewal were not commensurate with the costs to the agency.<sup>157</sup> Moreover, Cllr Sarah Hayward, Leader of Camden Council, suggested that there were instances where agents were “double charging, so charging both the landlord and the tenant for searches”.<sup>158</sup>

80. Opaque charging is not confined to a small number of “rogue” agents. Which? told us about a mystery shopping exercise it had carried out at London branches of four leading agents (Barnard Marcus, Foxtons, Martin and Co and Your Move).<sup>159</sup> This exercise suggested that the agents were often failing to provide potential renters with upfront information about fees:

None of the letting agents provided information about fees in any property listings on their website, on Rightmove.co.uk or after tenants had registered online.

Only one tenant (at a Foxtons’ branch) was proactively given fee information when they registered in branch or called to arrange a viewing

No tenant was provided with a written schedule of charges.

In some cases tenants were either not given fee information even when they asked, or they were not given the complete details.<sup>160</sup>

81. The Advertising Standards Authority (ASA) told us that it had “ruled against an ad by the estate agent, Your-move.co.uk, that appeared on the property website, Right Move, for not making clear that administration fees had been excluded from the quoted price, or providing enough information to allow the consumer to establish how further charges would be calculated”.<sup>161</sup> The ASA explained that

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<sup>155</sup> Q 153

<sup>156</sup> *As above*

<sup>157</sup> Ev w141 [Victoria Roberts Vukmanovic]; see also, for example, Qq 598–603 [Irfan Ahmed], Ev w191, para 22 [Housing for the 99%].

<sup>158</sup> Q 652; see also, for example, Ev w102, para 35 [Cornwall Residential Landlords Association].

<sup>159</sup> See Ev 208, para 2.2 for details of Which?’s methodology.

<sup>160</sup> Ev 208, para 2.3; see also, for example, Ev 137–138, paras 25ff [Shelter].

<sup>161</sup> Ev w329–w320

The ruling makes clear that advertisers must include all compulsory fees and charges upfront in the price quoted. If the fee cannot be calculated in advance because of, for example, an individual's circumstances, then the advertisers must make clear that compulsory fees and charges are excluded and provide adequate information for consumers to establish how additional fees are calculated. This means that potential tenants will have all the information they need in the first instance to help them make an informed choice and to avoid being drawn into contracts they haven't budgeted for.<sup>162</sup>

The ASA added that it was now working to ensure that its rulings were "followed by the sector as a whole".<sup>163</sup>

82. Those representing agents suggested that publishing fees on a website was not straightforward. Caroline Kenny, Executive at the UK Association of Letting Agents, said that "there is an element [of tenants' fees] that agents could perhaps display on their website, but other fees will be more complex and would need to be calculated according to individual circumstances".<sup>164</sup> She added, when asked why agents could not set out the costs of an inventory from the start, that properties were "rented so quickly because of market conditions that it may be quite onerous for agents to do that".<sup>165</sup> Mark Hayward, representing ARLA, suggested that "because of the climate with lettings at the moment, the urgency to secure a property is such that people will not read the small print" and that even if the information was "bold, compelling and specific, they will not necessarily see it".<sup>166</sup>

83. These arguments are less than convincing. That there is currently so much urgency to secure a property makes it all the more important that tenants are aware of fees and charges from the very start, before they commit themselves to a particular property. It is also important that landlords are made aware of what the tenant is being charged. Agents should include details of their fees and charges to tenants with property listings on their website, in their windows and elsewhere. We are therefore very concerned to hear reports of letting agents being less than transparent about their fees and charges, especially as this practice appears to extend to some of the leading high street firms. It is encouraging that the ASA is cracking down on such sharp practice but more needs to be done. A requirement for transparency should be enshrined in the new code of practice. **We recommend that the code of practice accompanying the new redress scheme include a requirement that agents publish a full breakdown of fees which are to be charged to the tenant alongside any property listing or advertisement, be it on a website, in a window or in print. This breakdown should not be "small print", but displayed in such a way as to be immediately obvious to the potential tenant. The code should also require agents to explain their fees and charges to tenants before showing them around any property. Furthermore, the code should forbid double charging, and there should be a requirement that landlords are informed of any fees being charged to tenants. If agents do not meet these requirements, the fees should be illegal. Finally, the professional**

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<sup>162</sup> Ev w330

<sup>163</sup> *As above*

<sup>164</sup> Q 165

<sup>165</sup> Q 168

<sup>166</sup> Q 164



bodies should make a commitment to full, up front transparency on fees and charges a requirement of membership.

### *The Scottish approach*

84. In 2012, the Scottish Government announced that the law would be “clarified so that all tenant charges, other than rent and a refundable deposit, will be deemed illegal”.<sup>167</sup> A number of witnesses suggested that fees and charges to tenants should also be made illegal in England.<sup>168</sup> We also, however, heard strong opposition. One agent, Simon Shinerock, told us that the Scottish market was “now in a total mess” as a result of the decision to ban fees to tenants.<sup>169</sup> RICS said it “would not support regulation of agent fees as this would be a restriction of the market”.<sup>170</sup> Mark Prisk said that he was “generally not in favour of banning things” and that, in Scotland, some agencies had gone out of business as a result of the ban.<sup>171</sup>

85. A particular concern about banning fees to tenants was that it could lead to an increase in fees charged to landlords, and that landlords could then raise rents to cover this increase.<sup>172</sup> The Building and Social Housing Foundation suggested, however, that, even if rents were to increase, a ban on fees might still be advantageous:

Although the Scottish approach is likely to result in higher charges to landlords by agents, which may be reflected in rent levels, it ensures that tenants are not excessively burdened at the start of a tenancy, or hit by additional charges at later stages. This reduces the barrier to entry for tenants to the sector and makes it easier for tenants to predict their outgoings. However, the wider consequences for the market as a whole warrant further investigation.<sup>173</sup>

86. At the very least there should be a requirement for complete transparency on fees. In addition, we are interested in the approach that has been adopted in Scotland but consider that the impact on overall costs and the operation of market should be fully understood before a decision is made to make fees to tenants illegal in England. **We intend to gather further information on the impact in Scotland of the decision to make fees to tenants illegal, and to return to this issue in 2014.**

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<sup>167</sup> “An end to illegal charges to tenants”, Scottish Government press release, 26 August 2012

<sup>168</sup> See, for example, Ev 150, para 4.2.1 [National Private Tenants Organisations], Ev w249, para 15 [Housing Law Practitioners Association], Ev w162 [Digs], Ev w191, para 22 [Housing for the 99%], Ev 275, para 25 [National Union of Students].

<sup>169</sup> Ev w1, para 17; see also Ev w80 [Barrie George].

<sup>170</sup> Ev 190

<sup>171</sup> Q 724

<sup>172</sup> See, for example, Ev w97 [SpareRoom], Ev w183 [Reads Davies Estate Agents and Valuers], Ev 198, para 4.21 [The Property Ombudsman], Ev 167, para 4.5 [Association of Residential Letting Agents], Q 95 [Alan Ward].

<sup>173</sup> Ev w255, para 5.3

## 5 Tenancies and rents

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87. In this chapter, we will first consider the tenancies on offer and any changes that could be made to tenancy structure, before turning to rents and affordability. We will then consider a number of related matters, including the placement of homeless households in the private rented sector, the calculation of local housing allowance, the quality of data about the sector, and steps that can be taken to tackle tax evasion.

### Tenancies

88. The Housing Act 1988 introduced two forms of tenancy: assured and assured shorthold tenancies. The Housing Act 1996 made the assured shorthold tenancy the default,<sup>174</sup> and today it accounts for the vast majority of tenancies.<sup>175</sup> It has become the norm, and it gives landlords an automatic right of possession without having to give any grounds once the fixed term has expired. In this case, a landlord must give two months notice in writing (a “section 21 notice”).<sup>176</sup> Under assured tenancies, which are now far less common, the landlord does not have an automatic right to repossess the property when the tenancy comes to an end.<sup>177</sup>

89. The routine use of the assured shorthold tenancy has been thrown into relief by the increasing number of families with children living in the sector. We heard that there was a case for longer tenancies in some circumstances and some calls for greater security of tenure. The housing charity, Shelter, stated:

Renters in England typically have short contracts of only 6 or 12 months, resulting in uncertainty for renters and high levels of churn in the sector. [...]

This is a particular problem for families with children. Renters are eleven times more likely to have moved house in the last year than people with a mortgage. Moving house this frequently is not only extremely expensive, it can have a negative impact on children’s education and well-being. Government research found that frequent movers are significantly less likely to obtain 5 A\* to C GCSEs, or to be registered with a GP.<sup>178</sup>

We heard from some of those looking for more security of tenure, including one renter, Carl Thomas, whose ten year old daughter had “already moved 7 times in her life”.<sup>179</sup> In contrast in Germany, we found that there was much greater security of tenure, with tenancies generally being indefinite and tenants having strong protection against eviction.

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<sup>174</sup> Ev 302, para 40

<sup>175</sup> “Assured Shorthold Tenancy Agreement”, National Landlords Association website, [www.landlords.org.uk](http://www.landlords.org.uk)

<sup>176</sup> “Gaining possession of a privately rented property let on an assured shorthold tenancy”, [www.gov.uk](http://www.gov.uk)

<sup>177</sup> Department for Communities and Local Government, *Assured and Assured Shorthold Tenancies: A Guide for Tenants*, p 6

<sup>178</sup> Ev 134

<sup>179</sup> Ev w321



90. As well as providing longer-term housing for families, the sector still has to retain its traditional function as a provider of housing for those in need of flexibility. Richard Blakeway, Deputy Mayor of London for Housing, Land and Property, saw a challenge in trying to

balance the flexibility that the PRS offers, which is critically important, particularly for labour mobility and for our economic competitiveness, with greater security, particularly for families, who are forming a larger proportion of private tenants, certainly in London.<sup>180</sup>

Dr Julie Rugg found the market “immature in getting a good link between what people want and what the market is supplying”.<sup>181</sup> She said that “we could maybe start encouraging landlords who want long-term tenants to gather together, and let them badge themselves slightly differently from landlords who really only want short-term tenants”.<sup>182</sup>

91. A number of those representing landlords and agents pointed out that the assured shorthold tenancy already offered flexibility. The National Landlords Association (NLA) said that the “existing tenancy structure is more flexible than many realise” and suggested that there was “a lack of understanding in all quarters about what can be achieved with the Assured and Assured Shorthold Tenancy”.<sup>183</sup> The UK Association of Letting Agents agreed that the current structure was flexible but said that “the full extent of this flexibility has yet to be fully explored by the market, given a number of limitations and the relative youth of the PRS in its current form”.<sup>184</sup> It was also suggested that, while initial tenancies might only be for six months or a year, in practice tenants would often stay in a property for much longer. Mark Prisk, the Minister, told us that half of tenants were “over two years in tenancy, and in fact about 19% are over five years”.<sup>185</sup> Richard Lambert, Chief Executive Officer of the NLA, suggested that we draw “a distinction between the term of a tenancy and the duration of a tenancy”. He said that

if you are dealing with somebody for the first time, you want to get to know them; you want to understand them; you want to see if it works for you and it works for them. In the same way that you do not get married on a first date, you are not going to offer somebody a longer tenancy straight off.<sup>186</sup>

92. We heard about proposals and work underway to promote longer tenancies. Shelter set out details of its proposed Stable Rental Contract which it described as a “mutually beneficial rental product”.<sup>187</sup> It said that a “more stable and balanced private renting offer can be developed from the existing legal framework”.<sup>188</sup> Under its model, tenants would be

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<sup>180</sup> Q 432

<sup>181</sup> Q 44

<sup>182</sup> *As above*

<sup>183</sup> Ev 227, para 38

<sup>184</sup> Ev 161–162

<sup>185</sup> Q 692

<sup>186</sup> Q 361

<sup>187</sup> Ev 134, para 4

<sup>188</sup> Ev 134, para 6

given “five years in their home, during which landlords could not end their tenancy without a good reason”. At the same time, renters would be allowed two months’ notice to end their tenancy.<sup>189</sup> The Residential Landlords Association was consulting on a different model for longer term tenancies,<sup>190</sup> and the Mayor of London would be “inviting major landlords to participate in a pilot to test out how they can offer tenants longer contracts and greater certainty over rent increases”.<sup>191</sup> The Mayor’s Deputy, Richard Blakeway, said that they were keen to explore whether longer tenancies could be achieved within the assured shorthold tenancy framework rather than having additional legislation.<sup>192</sup>

93. We noted that where institutional investors and housing associations were moving into market renting, there seemed to be greater scope for longer tenancies. The website of Genesis Housing Association states that “on most of our properties we offer rental tenancies for 1, 2, 3, 4 or even 5 years”.<sup>193</sup> Neil Hadden, Chief Executive of Genesis, confirmed that these tenancies would give a tenant, after six months, the opportunity to bring the tenancy agreement to an end with two months’ notice, and that this provision would be built into the tenancy agreement.<sup>194</sup> Qatari Diar Delancey, a joint venture between the Qatari Sovereign Wealth Fund and the principal client fund of Delancey Real Estate Management Ltd, was offering tenancies in the former Olympic village for up to three years (with tenants able to give two months’ notice after the first six months).<sup>195</sup>

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

## Barriers to longer tenancies

### Gaining possession

95. It was suggested that landlords preferred shorter tenancies because they wished to retain the ability to gain possession without going through lengthy eviction procedures. The British Property Federation said:

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<sup>189</sup> Ev 134

<sup>190</sup> Residential Landlords Association, *Longer term tenancies: a consultation*, May 2013

<sup>191</sup> Ev 239

<sup>192</sup> Q 421

<sup>193</sup> [www.geneshahomes.org.uk/for-rent/](http://www.geneshahomes.org.uk/for-rent/)

<sup>194</sup> Qq 411–16

<sup>195</sup> Ev 242

‘Bad-tenants’ exist and long-term fixed contracts create another hurdle that a landlord must overcome to get an investment generating a viable return. Landlords often defer action and rely on the tenancy coming to an end to save costs associated with potentially more complicated litigation.<sup>196</sup>

One landlord, Oliver Cornes, said that it took between four and six months to evict a tenant.<sup>197</sup> Shelter said that, alongside the introduction of its Stable Rental Contract, the Government should investigate “ways of increasing confidence in court processes and landlords’ ability to use possession grounds to end the tenancies of tenants who breach their contract”.<sup>198</sup> Tessa Shepperson, a solicitor specialising in landlord and tenant law, suggested 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.<sup>199</sup>

96. Landlords also need confidence that they will be able to gain possession promptly should they wish to sell the property. East Midlands Property Owners noted that “a property with a sitting tenant will negatively affect its selling price”.<sup>200</sup> Shelter said that one of the conditions of its Stable Rental Contract would be that landlords would “still be able to end the tenancy if they sell the property”.<sup>201</sup>

97. If landlords are to offer longer tenancies, they will need confidence that they can gain possession quickly if they wish to evict tenants who do not pay the rent or if they wish to sell the property. Because it can take months to evict a problem tenant, some landlords will offer shorter agreements in the confidence that, if necessary, they will be able gain possession at the end of the fixed term. Equally, they might wish to keep open the option of selling the property. **We recommend that the Government convene a working party from all parts of the industry, to examine proposals to speed up the process of evicting during a tenancy tenants who do not pay rent promptly or fail to meet other contractual obligations. The ability to secure eviction more quickly for non payment of rent will encourage landlords to make properties available on longer tenancies. The Government should also set out a quicker means for landlords to gain possession if they can provide proof that they intend to sell the property.**

## Lenders

98. Another barrier was the insistence of some mortgage lenders on tenancy agreements of one year or less. The NLA stated that

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<sup>196</sup> Ev 246, para 6.5

<sup>197</sup> Ev w51

<sup>198</sup> Ev 134–135, para 7

<sup>199</sup> Ev w61

<sup>200</sup> Ev 272, para 6.3

<sup>201</sup> Ev 134, para 5

many buy-to-let lenders prohibit the establishment of tenancies longer than 12 months in their lending conditions. This has the obvious effect of restricting the number of landlords who are able to offer longer tenancies.<sup>202</sup>

Where landlords do not have a mortgage, there seems to be more scope for offering longer or more secure tenancies. Sue Thompson, a landlady, told us that she used “Assured Tenancies not Assured Shorthold [...] because I do not have any mortgages”.<sup>203</sup>

99. Paul Smee, Director General of the Council of Mortgage Lenders told us that lenders were concerned about “the ability to get vacant possession if a landlord gets into trouble” but were “looking very seriously at how they can remove that condition from mortgage offers, and the circumstances in which they can do so”. He added, however, that “the lender has not felt a great surge in demand for these mortgages from landlords”.<sup>204</sup> In June 2013, the Nationwide Building Society Group announced that The Mortgage Works, part of the group, was to become the first mainstream buy to let lender to enable its borrowers to offer their tenants the option of contracts with terms up to three years.<sup>205</sup>

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

### **Letting agents**

101. In some cases, letting agents might also be a barrier to longer tenancies. The NLA was concerned that “letting agents very rarely discuss the possibility of longer fixed-terms with their landlord clients or applicants”.<sup>206</sup> Tessa Shepperson stated that it was “very much in the interests of letting agents to retain the current [tenancy] system, as their income is largely derived from finding new tenants and charging for ‘renewals’”.<sup>207</sup> Agents’ groups denied this. Caroline Kenny, Executive at the UK Association of Letting Agents, said that

when property becomes available there are marketing costs and staff have to go out, physically, to show the property and call at the property. That outweighs the other costs involved.<sup>208</sup>

She also said that “a trained letting agent should know they have to listen to the requirements of the tenants” and that when a tenant requested a longer tenancy, “the agent

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<sup>202</sup> Ev 228, para 43

<sup>203</sup> Ev w32

<sup>204</sup> Q 521

<sup>205</sup> “Nationwide gives landlords the option to offer longer term tenancies”, Nationwide press release, 26 June 2013

<sup>206</sup> Ev 227, para 41

<sup>207</sup> Ev w60; see also Ev 304 [Note of meeting with tenants from Greater London].

<sup>208</sup> Q 192; see also Q 243 [Peter Bolton-King].

should be the facilitator and try to achieve the tenant's request, if it is suitable for the landlord to release the property for a longer duration".<sup>209</sup>

102. Letting agents have an important role to play in making sure tenants are fully aware of the tenancy options available and in facilitating longer tenancies where they are desired. **We recommend that the Government include in the code of conduct for letting agents a requirement both to make tenants aware of the full range of tenancy options available, and, where appropriate, to broker discussions about tenancy length between landlords and tenants.**

## Retaliatory eviction

103. A number of witnesses raised concerns about 'retaliatory eviction', whereby landlords would serve notice on a tenant if they complained or asked for repairs to be carried out. Bradford Metropolitan District Council stated that

one of the consequences of the relative lack of security of tenure in the PRS, is the incidence of retaliatory evictions. We have concerns that when some landlords become aware that their tenants have contacted the local authority for assistance with the poor standard of their accommodation, that they then serve notice on their tenants, who are then required to move out. This can occur either due to malice on the part of the landlord, or simply because the landlord lacks the funds to address the disrepair or hazards which the tenant has complained about.<sup>210</sup>

Geoff Fimister from Citizens Advice observed that "for assured shorthold tenancies you do not have to give a reason as to why you are bringing the tenancy to an end". He said that in these cases the tenant was "particularly vulnerable".<sup>211</sup> The Building and Social Housing Foundation said that the risk of retaliatory eviction made it difficult for local authorities to carry out reactive enforcement.<sup>212</sup> It suggested that councils could take a more proactive approach, rather than rely on tenants reporting problems.<sup>213</sup> We discuss proactive enforcement in chapter 3.<sup>214</sup>

104. Some witnesses suggested that legislation was needed to prevent retaliatory eviction. The National Private Tenants Organisation stated:

New legislation should be introduced to deal with the problem of tenants being evicted in response to legitimate complaints about housing conditions [...] Several countries such as New Zealand and states in Australia and the U.S.A. have introduced legislation to deal with this problem.<sup>215</sup>

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<sup>209</sup> Q 177

<sup>210</sup> Ev 261, para 3.6.2

<sup>211</sup> Q 180

<sup>212</sup> Ev w253, para 2.2

<sup>213</sup> Ev w253, para 2.3

<sup>214</sup> See para 55.

<sup>215</sup> Ev 147, para 1.2.2.3; see also Ev w164–w165 [Digs], Q 180 [Geoff Fimister].

Friends of the Earth and the Association for Conservation of Energy were concerned that tenants would be unlikely to request energy efficiency measures from landlords for fear of eviction and proposed that legal protection be given to tenants requesting energy efficiency improvements.<sup>216</sup> They said that a “simple solution would be to limit the use of section 21 by landlords when an energy efficiency request had been made by a tenant under the regulations”.<sup>217</sup>

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

## Affordability

106. Some witnesses were particularly concerned about the affordability of rents within the sector. Dr Julie Rugg of York University said that

the combined influence of a strong PRS and limited alternative options for households seeking accommodation means that rental affordability is compromised. According to the most recent English Housing Survey (2010/11) housing costs for private renters absorbed 43 per cent of their gross weekly income; amongst owner occupiers the figure was 19 per cent, and social renters 29 per cent.<sup>218</sup>

Digs, a grassroots organisation of renters in Hackney, London, said that nearly all its members had faced large rent increases, in some cases as high as 40%, over the last three years, and that many of the members facing an increase had been forced to move.<sup>219</sup>

107. While concerns were raised about rising rents, we also heard that rent increases in many parts of the country were below inflation, and that the yields landlords received were stable. The buy-to-let lender, Paragon Group, referred to survey findings which showed

that the average nationwide yield—the property portfolio’s annual rental income as a percentage of its total value—has remained approximately 6% since Q1 2011. There are a number of possible causes but the overall picture is clearly not one where

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<sup>216</sup> Ev w327, para 28

<sup>217</sup> Ev w327, para 34

<sup>218</sup> Ev 132; see also Department for Communities and Local Government, *English Housing Survey Households Report 2010/11*, para 2.21. The survey includes the note: “The percentages of income spent on housing costs in this section are the average, across all cases in the sector, of individual percentages of income spent on rent/mortgage payments. It is not the same as the percentage of the average income spent on the average rent/mortgage in a particular sector”.

<sup>219</sup> Ev w165

landlords are ‘profiteering’ especially when interest on the mortgage finance is taken into account.<sup>220</sup>

The British Property Federation stressed that not all tenants had a rent rise every year and that it was “very common practice in the market for private landlords only to rebase their rent when a tenant moves out”.<sup>221</sup> The Government said that “across England as a whole, increases in private sector rents in recent years have been modest and remained below inflation”.<sup>222</sup>

### Rent control

108. We heard some calls for rent control or capping below market levels.<sup>223</sup> The University of Sussex Students Union said that

consideration should be given to the idea of rent control as this may provide protection to students and other tenants in the private rented sector against inflated rents for poor quality properties and over inflationary rent increases.<sup>224</sup>

The Housing Law Practitioners’ Association (HLPAs) said that rent control already existed “for three classes of residential occupier”, including benefits recipients who it said were subject to “de facto rent control” because of restrictions on housing benefit.<sup>225</sup> The HLPAs said that there was “a pressing case, both for the protection of individuals and in order to make wider savings, for rent control to be extended to bring down the rental levels in the private sector”.<sup>226</sup>

109. For the most part, however, our evidence was against measures to control rents. It was suggested that rent control would adversely affect investment in the sector and consequently lead to a reduction in supply.<sup>227</sup> Richard Blakeway, Deputy Mayor of London for Housing, Land and Property, said that

rent controls are not the answer. One of the most striking things about London’s rental market is that yields are the lowest in the UK. If you introduce rent controls, you will drive away investment, limit mobility and drive away people improving

<sup>220</sup> Ev 254–255, para 4.2

<sup>221</sup> Ev 248, para A6

<sup>222</sup> Ev 299; see also Ev 248 [British Property Federation] and Office For National Statistics (ONS), *Index of Private Housing Rental Prices*, June 2013. This document stated that between May 2012 and May 2013, rental prices grew by 1.3% in England (p 7). The ONS said that these were experimental statistics and recommended that caution be exercised when drawing conclusions from the final data (p 2).

<sup>223</sup> See, for example, Ev w7 [Melissa Robinson], Ev w168, para 10 [Alice Ashworth], Ev w248, Ev w122–w123, paras 7ff [Barristers of Arden Chambers], Ev w144 [Thanet District Council]; Ev w190, para 15 [Housing for the 99%], Ev w204, para 15 [Hastings Borough Council].

<sup>224</sup> Ev w138, para 10

<sup>225</sup> Ev w248, para 6. The other two classes of tenant were those occupying property pursuant to the Rent Act 1977 and those who occupied assured tenancies governed by the Housing Act 1988.

<sup>226</sup> Ev w248, para 8

<sup>227</sup> See, for example, Ev 305 [note of meeting with landlords from Greater London], Ev w37 [Sir Henry Elwes], Ev w53 [Home Counties Property], Ev w54 [Graham Heather], Ev w56 [NetRent], Ev w62 [Mark Walton], Ev w78 [Tom Glancz], Ev w109 [Andrew Wernick], Ev 219 [Westminster City Council], Ev w158–w159 [Investment Property Forum], Ev 249–250, para 6 [Council of Mortgage Lenders], Ev 290, para 2.1 [Country Land and Business Association], Ev w257–w258 [Judy Bowie-Britton], Ev w278 [Young Group].



their properties. You will see a deterioration in the quality of rented accommodation as well as a reduction in quantity.<sup>228</sup>

**110. Problems with the affordability of rents are particularly acute in London and the South East. Although in other parts of the country average rents and yields are relatively stable, we are still concerned that some families are struggling to meet the costs of their rent. We do not, however, support rent control which would serve only to reduce investment in the sector at a time when it is most needed. We agree that the most effective way to make rents more affordable would be to increase supply, particularly in those areas where demand is highest. We consider supply in chapter 6.**

### *Setting rents for longer tenancies*

111. One of the features of Shelter's Stable Rental Contract was that landlords would only be able to increase rents at the rate of inflation.<sup>229</sup> It referred to modelling by Jones Lang Le Salle which showed that

indexing rents would increase landlords' returns by making increases more steady and predictable. This is because many landlords do not increase rents for a number of years, and then when faced with a significant rent increase, renters may leave and create the risk of a void period for landlords.<sup>230</sup>

Shelter also said that, while the maximum annual rent increase would be in line with the consumer price index, landlords "would not be obliged to charge it if they felt it was above rent increases in their local market".<sup>231</sup>

112. The British Property Federation, however, expressed concern about index-linking:

Recent history [...] shows that index linking is neither stable or predictable, flitting between -1.6% and 5.6% over the past three years, and with what might appear to be quite small annual increments compounding into a far larger increase than people might anticipate.<sup>232</sup>

It offered other suggestions for how rents could be set, but warned that there was "no 'perfect way'"<sup>233</sup> to do it:

A very stable and predictable way of setting rents is simply to set a fixed uplift in an occupiers' tenancy or lease agreement, for example the rent will increase by 2% per annum. This is sometimes used in both sectors but represents a gamble for landlords or tenants about what is going to happen in the wider economy.

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<sup>228</sup> Q 440

<sup>229</sup> Ev 134

<sup>230</sup> Ev 141

<sup>231</sup> *As above*

<sup>232</sup> Ev 248, para A3

<sup>233</sup> *As above*



Rent inflation tends to correlate very strongly with average earnings (with some lag), 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’ at some date in the future as they do now, but only for the ‘average’ person.<sup>234</sup>

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

## Placement of homeless households in the private rented sector

114. The private rented sector is playing an increasing role in the provision of housing for homeless people. Provisions in the Localism Act 2011 allow local authorities to discharge their homelessness duty with an offer of accommodation in the private rented sector without the applicant’s consent.<sup>235</sup> We heard several times that it was too early to consider the impact of this legislation.<sup>236</sup> Nevertheless, the NLA considered it to be a “positive step” because it showed “that the Government sees the PRS as part of the housing solution rather than part of the problem and that the PRS is no longer a short-term stop-gap but a source of long-term housing”.<sup>237</sup> Others were less supportive of the measure. The homelessness charity, Crisis, said that it had opposed the measure throughout the passage of the 2011 Act because it was concerned that it would lead to repeat homelessness.<sup>238</sup>

115. The Government said that, in response to concerns about the quality of private rented accommodation, it had “decided that additional regulatory safeguards were necessary”.<sup>239</sup> It had therefore issued the Homelessness (Suitability of Accommodation) (England) Order 2012<sup>240</sup> which “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”.<sup>241</sup> The criteria covered five broad areas: the physical condition of the property; health and safety; licensing for houses in multiple occupation; landlord behaviour; and elements of good management.<sup>242</sup>

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<sup>234</sup> Ev 248, paras A4 and A5

<sup>235</sup> Department for Communities and Local Government, *Supplementary Guidance on the homelessness changes in the Localism Act 2011 and on the Homelessness (Suitability of Accommodation) (England) Order 2012*, November 2012, para 7

<sup>236</sup> See, for example, Ev w96, para 27 [Housing Law Practitioners Association], Ev w124, para 27 [Barristers of Arden Chambers], Ev 247, para 7.1 [British Property Federation], Ev w318, para 16 [Law Society of England and Wales].

<sup>237</sup> Ev 228, para 50

<sup>238</sup> Ev 276, para 6.1

<sup>239</sup> Ev 303, para 48

<sup>240</sup> Homelessness (Suitability of Accommodation) (England) Order 2012 (SI 2012/2601)

<sup>241</sup> Ev 303, para 50

<sup>242</sup> As above

116. The charity, Herts Young Homeless, referred to the earlier consultation on this order and said that it was ‘a good start’ but that it had to be “enforced by local authorities and any concerns regarding rogue landlords must be followed up and resolved using this and other relevant guidance”.<sup>243</sup> The Chartered Institute of Environmental Health was concerned about the wording of the order. It said that it should “be amended to make clear that local authorities MUST arrange an inspection of a property to ensure no Category 1 hazards exist before it is used”.<sup>244</sup>

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

### ***Out of area placements***

118. The Homelessness (Suitability of Accommodation) (England) Order 2012 also provides that local authorities “must take into account the location of the accommodation”, including “where the accommodation is situated outside the district of the local housing authority, the distance of the accommodation from the district of the authority”.<sup>245</sup> In its response to a consultation about the Order, the Government explained:

This Order does not prevent or prohibit out of borough placements where they are unavoidable nor where they are the choice of the applicant. Some households will wish to leave their current district as such a move can have a positive effect for those escaping violence or those seeking to move to take advantage of employment opportunities.<sup>246</sup>

119. Crisis, however, was concerned that the order would not

be strong enough to prevent local authorities discharging their homelessness duty using out of borough placements, which can uproot households and force them to move miles away from their support networks.<sup>247</sup>

Cllr Jonathan Glanz, Cabinet Member for Housing and Property at Westminster City Council, considered it “inevitable that central London boroughs will have to look at ways in which the requirements of people presenting as homeless within those boroughs are accommodated slightly outside their boroughs, or even outside London, depending on

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<sup>243</sup> Ev w149

<sup>244</sup> Ev w131

<sup>245</sup> Homeless (Security of Accommodation) (England) Order 2012, Article 2

<sup>246</sup> DCLG, *Homelessness (Security of Accommodation) (England) Order 2012: Government’s Response to Consultation*, November 2012, p 11

<sup>247</sup> Ev w276, paras 6.2–3

where we end up with the market”.<sup>248</sup> He said that people from Westminster had been placed in Bognor Regis and on the north coast of Kent, but that it had been “in discussion and by agreement with people who have either got family connections there, or who have said that they would be quite happy to do so”.<sup>249</sup> The London Borough of Newham said that there were “simply not enough properties in our borough that fall within the new [local housing allowance] rates, much less the overall benefit cap or private rented sector landlords who will consider benefit claimants as tenants”.<sup>250</sup> It added that it was “hugely unhelpful for Government to put restrictions on what local authorities can do when our work in this area is simply concerned with mitigating against the consequences of Government policy”.<sup>251</sup>

120. Hastings Borough Council, as one of the areas in which homeless households were likely to be placed, had concerns about “risks associated with an influx of vulnerable households from outside of the area in terms of increased demand for local services and the negative impact on the overall local economy”.<sup>252</sup> It said that there should be

a requirement for Local Authorities to inform a receiving Authority of any household relocated to another area with details of how ongoing support needs will be addressed. The receiving Local Authorities should be able to stipulate which areas should not be used to relocate homeless households e.g. areas with significant levels of deprivation and large concentrations of private rented stock where extensive work is ongoing to regenerate the area through tenure diversification and enforcement.<sup>253</sup>

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

### **Good practice**

122. We heard some examples of positive work to ensure homeless households were placed in suitable private rented accommodation and to provide them with ongoing support. Broadway Homelessness and Support, a charity based in London, described how it had “set up set up Real Lettings—a social enterprise providing stable private rented accommodation for people who have been, or are at risk of becoming, homeless”.<sup>254</sup> A number of local

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<sup>248</sup> Q 302

<sup>249</sup> Q 307

<sup>250</sup> Ev 234, para 3.6

<sup>251</sup> *As above*

<sup>252</sup> Ev w206, para 32

<sup>253</sup> Ev w206, para 34

<sup>254</sup> Ev w153

authorities were also running or setting up local letting agencies.<sup>255</sup> The charity Centrepoin called for social letting agencies to be expanded.<sup>256</sup> The NLA referred to the Private Rented Sector Access Development Programme being funded by DCLG through Crisis.<sup>257</sup> The NLA was one of the organisations on the panel selecting access schemes to receive funding.<sup>258</sup> It said that these schemes had

been successful in working with some of the more challenging people to house, for example, seeing great results in supporting rough sleepers into private rented accommodation and in housing former offenders. Schemes have also seen some results in housing under-35s in shared accommodation, although there is recognition that this takes considerably more time and resources both to set up and sustain.<sup>259</sup>

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

### *Local housing allowance*

123. We heard some concerns about the way local housing allowance (LHA) was calculated. Blackpool Borough Council explained that the town faced problems because of “artificially high”<sup>260</sup> levels of LHA:

The dominance of Housing Benefit within the large private rented sector in Blackpool means that it is difficult to establish a market rent when calculating the Local Housing Allowance (LHA), simply because so few properties are let to people paying their own rent without assistance through LHA. Also, the LHA is calculated across a Broad Rental Market Area that covers a wider suburban and rural area of the Fylde Coast that has much lower rates of benefit claimants and higher market values than Blackpool. So the LHA rate applied to Blackpool tends to be higher than might be expected from just looking at the quality of accommodation on offer to benefits claimants in Blackpool itself because it is based on the few best properties that aren’t let to benefits claimants, and market rents in better areas.<sup>261</sup>

It was therefore “very profitable for landlords to buy and let out accommodation to benefits claimants in Blackpool, demonstrated by the doubling in HB claimants in the private rented sector seen in the last 10 years”.<sup>262</sup> This had a destabilising effect on

<sup>255</sup> See, for example, Ev w109 [Northampton Borough Council], Ev w198, para 3 [DASH], Ev 144 [Local Government Association].

<sup>256</sup> Ev w228, para 2

<sup>257</sup> Ev 229–230, paras 5ff

<sup>258</sup> Ev 229, para 8

<sup>259</sup> Ev w206, para 9

<sup>260</sup> Ev 212, para 4.3

<sup>261</sup> Ev 212, para 4.1

<sup>262</sup> Ev 212, para 4.2

neighbourhoods and created “a vicious circle where economically in-active residents in poor privately rented accommodation make neighbourhoods less attractive to people looking to buy a home”.<sup>263</sup> The council had discussed with the Department for Work and Pensions (DWP) a change to the way LHA was calculated, but its request for a “refined approach to reflect particular local housing markets” had been refused.<sup>264</sup>

124. In other places, the boundaries of broad rental market areas were giving rise to the opposite problem. Ruth Abbott, Housing Standards and Adaptations Manager for the City of York Council, said that the establishment of LHA in Yorkshire had created a big issue because

it took into account the rural area just outside of York. When they set the local housing allowance in York, it was a significant impact in the fact that 57% of the properties outside of York were okay with the local housing allowance, but only 8% of properties in York were able still to attract housing benefit tenants. [...] We would want York to be looked at in isolation, rather than being looked at across such a broad assessment, including the rural areas. It has caused us a major problem.<sup>265</sup>

125. Mark Prisk acknowledged that there were “some local anomalies” with LHA. He added that it was “something that both DWP and ourselves have an interest in, we need to keep an eye on”.<sup>266</sup> In our view, it is not enough just to monitor the situation. In Blackpool, landlords are profiting from artificially high levels of local housing allowance while neighbourhoods are being destabilised by increasing numbers of benefit claimants. It is perverse that large sums of public money are being spent in a way that serves only to drive up rents and damage the fabric of the town. **We recommend that the Government take immediate steps to allow councils to apply for a variation of broad rental market area boundaries where anomalies occur.** This issue raises wider concerns about the interaction between housing benefit and rents, whereby housing benefit can drive rents up across the area, which in turn leads to upward pressures on the local housing allowance, creating a vicious circle and increasing costs for the taxpayer. **We recommend that the Government conduct a wide-ranging review of local housing allowance (LHA). This review should assess whether there is greater scope for local flexibility over the setting of LHA rates and the boundaries of broad rental market areas. Local authorities could be incentivised to reduce the housing benefit bill by being allowed to retain any savings for investment in affordable housing.**

## Data quality

126. A concern throughout the inquiry was the adequacy of data about the private rented sector. Digs stated that

the private, unregulated nature of the PRS makes valid statistical research into the sector difficult. The DCLG’s own annual survey of private landlords has only been

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<sup>263</sup> Ev 212, para 4.4

<sup>264</sup> Ev 212, para 4.5

<sup>265</sup> Q 568

<sup>266</sup> Q 742

running since 2009, is based on no more than 650 landlords and fails to take into account that most landlords—particularly those at the least scrupulous end of the spectrum—will not participate in government surveys. While there is not even a register of private landlords (as discussed in the methodology section of the DCLG’s Private Landlords Survey), it remains impossible to record accurate levels of tenancy ‘churn’ or to survey landlord behaviour.<sup>267</sup>

Concerns about the quality of data were brought home to us when we asked the Mayor of Newham, Sir Robin Wales, about the percentage of accredited landlords in Newham. He suggested that it was only following the introduction of the licensing scheme that the council had begun to establish how many landlords there were in total:

We thought it was 10% [accredited], but it is 600 out of a known 15,000 now, and we are fairly confident that will go up to 20,000 to 25,000, although these things are difficult to predict.<sup>268</sup>

127. Given there is so much doubt over the number of landlords, it must, by implication, be difficult to get an accurate picture of rent levels. The Government, however, said that rent data was improving:

[The Office for National Statistics] 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.<sup>269</sup>

128. It is important that policy on the private rented sector is informed by an accurate evidence base. While the quality of data on rents may be improving, there is more work to be done, especially to get an accurate picture of the number of landlords in the sector. **We recommend that the Government establish a small task group of key organisations and academics to consider how data relating to the private rented sector can be improved and made more readily available. In addition, we encourage the National Audit Office to contribute to an effective evidence base about the sector and to draw upon our recommendations when developing studies on housing related topics.**

## Tax

129. Haringey Council expressed concern about tax evasion in the private rented sector:

The admission in late 2012 by HMRC that the private rented sector is a key area where the government is losing tax revenue demonstrates that many landlords, if they feel that they can, will attempt to dodge their responsibilities. We welcome the

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<sup>267</sup> Ev w164

<sup>268</sup> Q 331

<sup>269</sup> Ev 300; see also Q 501 [Ian Fletcher] and fn 222 on the Office For National Statistics (ONS), *Index of Private Housing Rental Prices*, June 2013

creation of an HMRC taskforce to investigate this issue and advocate closer working with local authorities to crack down on rogue landlords cheating the tax system.<sup>270</sup>

In our view, close working of this kind would be particularly beneficial where the local authority has introduced a landlord licensing or accreditation scheme.<sup>271</sup> Such an approach would also be helped if there were a simple means of verifying that a landlord was registered for tax.

130. Written evidence from Robert May, who has developed software for the property industry, suggested that unique tax reference numbers could be included on tenancy agreements:

Each tax paying landlord [...] should have a Unique Tax reference. If through a minor legislation change the Landlord's UTR or UTR linked reference number is required for all Assured Tenancy Agreements new and existing, it would become immediately apparent which landlords do not have a UTR and therefore will not be declaring or paying tax on their Rental income.<sup>272</sup>

131. We do not endorse any particular scheme, but more co-ordinated approaches and closer working between HMRC, local authorities and letting agents could help to address issues of evasion of both income and capital gains tax in the private rented sector. **We recommend that the Government, in reviewing the regulation covering the private rented sector, set out proposals for greater co-ordination between the tax authorities and those regulating the private rented sector.**

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<sup>270</sup> Ev w225, para 3.11; in November 2012, HMRC announced that it would launch a task force in the South East of England targeting those in the rental sector who did not pay the right amount of tax, "More Tax Cheats to Feel the Force", HMRC press release, 19 November 2012.

<sup>271</sup> See chapter 3.

<sup>272</sup> Ev w330; see also Ev w163 [Digs].



## 6 Increasing supply

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132. While it was not our intention to focus upon supply in this inquiry, we cannot leave it as the elephant in the room. We heard from a number of witnesses that increasing supply was an important way to raise standards and tackle issues of affordability in the sector.<sup>273</sup> The landlord, Grainger plc, said that “many of the problems in the PRS are a result of the significant lack of supply and therefore lack of choice for the consumer”.<sup>274</sup> In this final chapter, we will consider the Government’s current proposals to boost supply in the sector, notably its work to attract large scale institutional investment. In doing so, we will revisit some of the issues raised in our 2012 report on the *Financing of New Housing Supply*.<sup>275</sup>

### Institutional investment

133. Historically, the private rented sector has not played a major role in increasing the supply of new housing. Indeed, although the sector has seen substantial growth over the past decade, this growth has not made a significant contribution to new build.<sup>276</sup> In recent years, however, a focus has been placed on the potential for institutional investment in new large-scale developments of market rented housing, and we commented on the potential of this “build-to-let” development in our earlier report:

Increased investment from large financial institutions and pension funds may not be a panacea, but could make a significant contribution to the building of new homes in both the private and social rented sectors.<sup>277</sup>

### Housing associations

134. We also heard about the contribution housing associations could make to new build, market rented housing. The National Housing Federation stated:

Housing associations [...] as established developers and managers of rental housing, are well placed to move into market rental and many are already doing so, especially in student housing but increasingly in other areas. A key aim for them in doing so is to make prospective tenants a better offer than is currently available, thereby raising standards. Moreover, they are likely to develop new housing for the purpose, in contrast to some other investors who might prefer simply to acquire existing stock and thus not increase overall housing supply.<sup>278</sup>

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<sup>273</sup> See, for example, Ev 298 [Department for Communities and Local Government], Ev 153, para 3.12 [Residential Landlords Association], Ev 274, para 14 [National Union of Students], Ev w274, para 2.5 [Crisis].

<sup>274</sup> Ev 221, para 1.6

<sup>275</sup> HC (2010-12) 1652

<sup>276</sup> Ev 298–299, introduction

<sup>277</sup> *Financing of New Housing Supply*, summary, p 3

<sup>278</sup> Ev w266, para 1.8



## Montague Review

135. In November 2011, the Government published *Laying the foundations: a housing strategy for England*. This strategy included a commitment to put in place “an independent review of the barriers to investment in private homes for rent”.<sup>279</sup> This review, chaired by Sir Adrian Montague, published its report in August 2012. The report’s recommendations included: making use of flexibilities in the planning system; the establishment of a task force to support build-to-let development; the allocation of public sector land for build-to-let; and the use of targeted incentives to encourage the development of build-to-let business models.<sup>280</sup> The Government told us that it had taken up the key recommendations in Sir Adrian’s report: it referred in particular to a new equity fund, a housing guarantee scheme and the creation of an investment task force.<sup>281</sup> We now consider each of the measures.

## Build to Rent fund

136. The Government explained that the Build to Rent fund was

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.<sup>282</sup>

In the 2013 Budget, the Government announced that it would expand the Build to Rent Fund from £200 million to £1 billion.<sup>283</sup>

137. One question arising from the introduction of the fund is whether it will lead to additional homes being built or merely speed up the delivery of those already in the pipeline. Richard Blakeway, Deputy Mayor of London for Housing, Land and Property, said that the fund would “certainly help to contribute to overall housing numbers, and I think we can be very confident that these homes would have been built far slower if they had not benefited from the fund”.<sup>284</sup> Neil Hadden, Chief Executive of Genesis Housing Association, one of the successful bidders for resources from the fund, said that, while development would have gone ahead anyway, the fund had influenced decisions about tenure mix:

we already own the sites and we were going to develop them anyway. The issue was what tenure mix we would deliver on those sites. This fund came along, so we said, “Okay, we might as well see whether it works for us”.<sup>285</sup>

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<sup>279</sup> Department for Communities and Local Government, *Laying the Foundations: A Housing Strategy for England*, November 2011, p 33

<sup>280</sup> Department for Communities and Local Government, *Review of the Barriers to Institutional Investment in Private Rented Homes*, August 2012; see also “Montague Plan offers boost to private rented sector”, DCLG press release, 23 August 2012.

<sup>281</sup> Ev 298–99

<sup>282</sup> Ev 298

<sup>283</sup> HM Treasury, *Budget 2013*, March 2013, para 2.26

<sup>284</sup> Q 407

<sup>285</sup> Q 402

Mark Prisk, the Minister, said that amongst the successful bidders was a good spread of new providers and locations.

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

### *Housing guarantee*

139. The Government evidence also referred to the introduction of 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.<sup>286</sup>

140. Neil Hadden, Chief Executive of Genesis Housing Association, said that guarantee would not necessarily affect his commercial investment decisions

because we can borrow money quite cheaply anyway. There will be a fee that goes to the [Homes and Communities Agency], and there will be a fee that goes to the aggregator. By the time you have totted all that up, with the guaranteed low cost of borrowing it will perhaps not be much different from what we can borrow at anyway.<sup>287</sup>

He said that it was difficult to say whether the guarantee would be of interest “because all the details of the scheme are not yet known”.<sup>288</sup>

141. We asked Mark Prisk about the likely impact of the guarantee. He said that it was “unclear sometimes as to whether, simply by announcing your intention to do something, you affect the market without having done it yet”.<sup>289</sup> Following his oral evidence, the Minister made a Written Statement about the outcome of the procurement process for delivering the private rented sector guarantee scheme:

The response to our invitation to tender for delivery of the scheme indicated a demand from larger investors for individual direct debt guarantees and that Government should take the first steps in developing this new market. We are in conversation with the sector and committed to exploring all of the market-led options, which will lead to guarantees becoming available as soon as possible. [...]

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<sup>286</sup> Ev 298

<sup>287</sup> Q 409

<sup>288</sup> Q 408

<sup>289</sup> Q 689

Some potential borrowers are already discussing applications with my officials and others are invited to do the same. A formal application process will open shortly.<sup>290</sup>

This statement followed reports in the press that no private company had formally expressed an interest in running the scheme.<sup>291</sup>

**142. It remains to be seen how much impact the guarantee scheme for the private rented sector will have in delivering additional new homes. The policy may be well-intentioned in its aim to encourage organisations to have more confidence to invest in the sector, but the Government needs to measure results. We invite the Government in its response to our report to update us on the number of applications it has received for the private rented sector guarantee scheme, and to provide an estimate for the number of additional homes it expects the scheme to deliver. If there is any doubt that the scheme is going to deliver the homes required, we recommend that the Government rapidly explore other options for the use of the resources identified.**

### **Task force**

143. The Government said that, in response to the Montague review, it was establishing 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.<sup>292</sup>

We asked Sir Adrian whether the task force was needed because the Government lacked the capacity to carry out such a role:

If you look at the skills you or I would expect a task force to have, I think it is institutional investment, development finance, land-use planning, property management, and the ability to broker deals. Now, I know that civil servants are renaissance men, but they do not necessarily have training in these areas.<sup>293</sup>

He did not think this was “a quango, because it is intended to be a task force with a limited life of two years” and said that it was aimed at kick starting the process.<sup>294</sup> A number of task force members have now taken up post.<sup>295</sup>

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

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<sup>290</sup> HC Deb, 20 June 2013, col 38WS

<sup>291</sup> “‘Build to let’ plans fall flat after investors show scant interest”, *Financial Times*, 10 June 2013

<sup>292</sup> Ev 298

<sup>293</sup> Q 138

<sup>294</sup> Q 139

<sup>295</sup> “Improving the rented housing sector”, 20 June 2013, [www.gov.uk](http://www.gov.uk)

**the amount of additional investment brokered, and the number of additional homes it would deliver.**

### *Impact on the sector as a whole*

145. While it is hoped that the focus on build-to-let will lead to the development of additional, new homes, it is also important to consider its impact on the wider private rented sector. As we have seen, one of the main arguments in favour of boosting supply is that it will lead to improvements in quality and affordability. The focus of the Montague Review, however, was very much on the “higher end” private rented markets. While Sir Adrian said that that increasing the supply of a higher quality accommodation would “have beneficial knock-on effects on the low quality stock at the lower end of the private sector”, he did not see this as a particular area of focus for his review:

We were concerned more to try to raise the average level of stock by commissioning new units of an undoubtedly high character, so we did not focus on improvements at the lower end at all.<sup>296</sup>

146. It appears, then, that the impact of institutional investment in new supply on other parts of the private rented market relies on a trickle-down effect. Nigel Terrington, Chief Executive of the buy-to-let lender Paragon Group warned that large scale build to let development could lead to “the creation of what may be almost rented ghettos when you perhaps wanted a more integrated housing market”.<sup>297</sup> Dr Tim Brown of De Montfort University, himself a member of the Montague Review group, suggested that the focus on institutional investment had diverted attention from other parts of the market:

There has, of course, been considerable debate and discussion on the potential of institutional investment for build to let as evidenced by the Montague Review findings and the subsequent actions of the Government. This has, to some extent, diverted attention away from the issues of quality of the existing private rented stock and its regulation.<sup>298</sup>

147. When we asked Mr Prisk whether the focus of the Build to Rent scheme was on the development of new housing for the middle class, he replied that

this is a sector that needs an injection of investment, further to what it has already had. If you do that, not only do you get the additional dwellings themselves, but that then starts to open up the market more and give tenants genuinely better choice, both overall but also, most importantly, in the locality they are seeking. If you like, by growing the market it will give all tenants greater choice. [...] I have certainly been to see a number of schemes, one or two of them in the east end, where they have quite a range of steps, as it were, in terms of the tenancy and the rental package, for those

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<sup>296</sup> Q 117

<sup>297</sup> Q 477

<sup>298</sup> Ev 126

who are young people not looking to spend a fortune through to a more serviced facility, as it were.<sup>299</sup>

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

## Other measures

149. In addition, the focus on new supply has to consider other tenures. Increasing the supply of affordable housing and building more homes for owner occupation will also alleviate pressures on the private rented sector. In our report on the *Financing of New Housing Supply*, we set out a number of measures the Government could take to boost housing across all tenures. These measures included:

- an expansion of the Green Investment Bank to cover housing;<sup>300</sup>
- clarifying plans for delivery of affordable housing post-2015;<sup>301</sup>
- consulting on arrangements for the future financing of housing associations;<sup>302</sup>
- lifting the local authority borrowing cap and enabling the sharing of borrowing power between local authorities;<sup>303</sup>
- the establishment of pilot schemes to support large volume self-build.<sup>304</sup>

150. Given that our report highlighted the extent of the housing shortfall and the need for urgent action to build more homes, we were disappointed that the Government rejected a number of our key recommendations. *There is an urgent need to boost supply across all tenures of housing. We recommend that the Government revisit the Committee's report on the Financing of New Housing Supply, and set out proposals to implement those recommendations it initially rejected.*

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<sup>299</sup> Q 688

<sup>300</sup> HC (2010–12) 1652, para 41

<sup>301</sup> HC (2010–12) 1652, para 60

<sup>302</sup> HC (2010–12) 1652, para 87

<sup>303</sup> HC (2010–12) 1652, paras 93–96

<sup>304</sup> HC (2010–12) 1652, para 155

## 7 Conclusion

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151. Policy and regulation on the private rented sector have developed organically over a number of years. Given how much the sector has grown over the past decade and that growth looks set to continue, it is time to step back and consider how the private rented sector can be supported to better meet the needs of those who live in it. In Germany, we saw a much more mature market, better able to meet the needs of tenants. We are not advocating the application of the German model to England but it shows what can be achieved when a private rented sector market matures and functions well. The German private rented sector took years to reach that point, and change in England will not happen overnight, but we need to encourage its growth and to ensure it matures to meet the needs of many more than it has in the past. To do so requires change in a number of areas. There are five key points on which we expect to see action:

- getting the law right, by reviewing and simplifying the legislation covering the sector, and promoting awareness of rights and responsibilities;
- giving local authorities the tools they need to enforce this law and raise standards across the sector;
- better regulation of letting agents, and a crackdown on unreasonable, opaque fees and charges;
- a cultural shift towards longer tenancies, with a more consistent and predictable approach to setting rents; and
- a renewed effort to boost housing supply, with the aim of increasing choice, quality and affordability across the private rented sector.

We hope that these measures, taken together, will lead to a more mature market. This, in turn, will make the private rented sector a better place to live and an attractive alternative to owner occupation.

# Conclusions and recommendations

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## Simplifying regulation

1. *We recommend that the Government conduct a wide-ranging review to consolidate legislation covering the private rented sector, with the aim of producing a much simpler and more straightforward set of regulations that landlords and tenants can easily understand. As part of this review, the Government should work with groups representing tenants, landlords and agents to bring forward a standard, plain language tenancy agreement on which all agreements should be based. There should be a requirement to include landlords' contact details in tenancy agreements. (Paragraph 13)*
2. We recommend that the Government consult on the future of the housing health and safety rating system and the introduction of a simpler, more straightforward set of quality standards for housing in the sector. The Government should also ensure that planning and building regulations are consistent with standards for the quality and safety of private rented housing. (Paragraph 18)

## Increasing awareness

3. *We recommend that, once the review of the legislative framework we have called for is completed, the Government, working with tenants', landlords' and agents' groups, establish and help to fund a publicity campaign to promote awareness of tenants' and landlords' respective rights and responsibilities. Our recommendation for a wholesale review of the regulation in the sector provides the obvious platform on which to base a publicity campaign. (Paragraph 24)*
4. We recommend that the Government bring forward proposals for the introduction of easy-to-read key fact sheets for landlords and tenants, and consult on the information these sheets should contain. The sheets could include links to further information available online. As a minimum, the sheets should set out each party's key rights and obligations, and give details of local organisations to whom they could go for further advice and information. This fact sheet should be included within the standard tenancy agreement we propose earlier in this chapter. (Paragraph 25)

## Raising standards

5. Some local authorities are doing excellent work to raise standards in the private rented sector, but there appears to be more scope for sharing this good practice, so that all councils are performing to a high standard. The Local Government Association should, as part of its sector-led improvement role, make sure that mechanisms are in place to ensure all councils learn from the good practice and take effective steps to improve standards of property and management in the private rented sector. (Paragraph 30)
6. We are concerned about reports of reductions in staff who have responsibility for enforcement and tenancy relations and who have an important role in making



approaches to raising standards successful. Given the financial constraints that councils face, it is important to identify approaches to raising standards that will not use up scarce resources. One approach is to ensure that enforcement arrangements pay for themselves and help to fund wider improvement activity. Therefore, where possible, the burden of payment should be placed upon those landlords who flout their responsibilities. (Paragraph 31)

7. We recommend that the Government consult on proposals to empower councils to impose a penalty charge without recourse to court action where minor housing condition breaches are not remedied within a fixed period of time, though an aggrieved landlord would have the right of appeal to a court. (Paragraph 33)
8. We recommend that, where landlords are convicted of letting property below legal standards, local authorities be given the power to recoup from a landlord an amount equivalent to that paid out to the tenant in housing benefit (or, in future, universal credit). We hope that such a measure will help to prevent unscrupulous landlords from profiting from public money. Local authorities should be able to retain the money recouped to fund their work to raise standards. To ensure a consistent approach, those tenants who have paid rent with their own resources should also have the right to reclaim this rent when their landlord has been convicted of letting a substandard property. (Paragraph 37)

## Illegal eviction

9. We do not agree that a statutory duty to have to take steps to tackle illegal eviction should be placed on local authorities, as it would be inconsistent with a localist approach. Nevertheless, it is again important that local authorities learn from each other and share best practice on tackling illegal eviction. The Local Government Association should ensure that lessons on illegal eviction are learnt and disseminated. (Paragraph 38)
10. We are concerned that the police are sometimes unaware of their responsibilities in dealing with reports of illegal eviction. We recommend that the Department for Communities and Local Government work with the Home Office on guidance that sets out clearly the role of the police in enforcement of the Prevention from Eviction Act 1977. (Paragraph 39)

## Licensing and accreditation

11. *The idea of national licensing has some merit, and such a scheme could bring a number of benefits, particularly if introduced alongside an effective system of redress. It is clear, however, that the Government has not been convinced by these arguments, and we have some sympathy with the Minister's assertion that a national scheme could be very rigid. Having tailored local schemes may bring its own costs, especially for landlords operating across several areas, but on balance we would prefer to see local authorities develop their own approaches to licensing or accreditation in accordance with local needs. The Government's focus should be on giving local authorities greater flexibility and encouraging the use of existing powers.* (Paragraph 43)

12. We recommend that the Government bring forward proposals for a reformed approach to selective licensing, which gives councils greater freedom over when licensing schemes can be introduced and more flexibility over how they are implemented. Councils should ensure that the cost of a licence is not set so high as to discourage investment in the sector. (Paragraph 49)
13. We recommend that the Government give local authorities a power to require landlords to be members of an accreditation scheme run either by the council itself or by a recognised landlords association. (Paragraph 53)
14. It is important that local authorities have options and tools to raise standards in their areas. Three particular options are: (1) greater use of landlord licensing schemes; (2) compulsory accreditation; and (3) taking a proactive neighbourhood approach to raising standards. In each of these cases, given resource constraints, the schemes have to pay for themselves, and, as far as possible, place the burden of payment on the unscrupulous landlords, with financial deterrents for non-compliance. Councils should be given the powers to impose heavy penalties on those who do not register for licensing or compulsory accreditation after appropriate notification. Neighbourhood approaches could be funded by local authorities recouping costs from landlords whose properties fail to meet minimum standards. We further recommend that the Government initiate a review of the fines imposed by the courts for letting substandard properties, to ensure they act as a sufficient deterrent. (Paragraph 55)

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

15. We recommend that the Government conduct a review of the mandatory licensing of houses in multiple occupation. This review should consider, amongst other things, evidence of the effectiveness of mandatory licensing, how well it is enforced, and whether the definition of a prescribed HMO should be modified. (Paragraph 58)
16. Where there are community concerns about high concentrations of houses in multiple occupation, councils should have the ability to control the spread of HMOs. Such issues should be a matter for local determination. We therefore consider it appropriate that councils continue to have the option to use Article 4 directions to remove permitted development rights allowing change of use to HMO. (Paragraph 63)
17. Universities have a responsibility to ensure that student housing does not have a detrimental impact upon local communities. They should be working with local authorities and student groups to ensure that there is sufficient housing in appropriate areas and that students act as responsible householders and members of the community. (Paragraph 64)

### **Safety standards**

18. We recommend that the Government work with the electrical industry to develop an electrical safety certificate for private rented properties. To obtain such a certificate, properties should be required to have a full wiring check every five years and a visual

wiring check on change of tenancy. Landlords should be aware of the legal requirement to provide safe installations and appliances. (Paragraph 66)

19. We recommend that the Government introduce a requirement for all private rented properties to be fitted with a working smoke alarm and, wherever a relevant heating appliance is installed, an audible, wired-up EN 50291 compliant carbon monoxide alarm. (Paragraph 67)

## Regulation of letting agents

20. We recommend that, as part of its consultation on the redress scheme, the Government seek views on how best to publicise such a scheme and what penalties should be in place for those agents who do not comply. The Government should also explore how the redress scheme fits alongside existing arrangements for deposit protection. We further recommend that the redress scheme is accompanied by a robust code of practice that sets out clear standards with which agents are required to comply. (Paragraph 74)
21. *We recommend that the Government make letting and managing agents subject to the same regulation that currently governs sales agents. This includes giving the Office of Fair Trading the power to ban agents who act improperly, and making client money protection and professional indemnity insurance mandatory.* (Paragraph 78)
22. Any proposal to require sales agents to meet minimum professional standards before they begin trading should also be applied to letting and managing agents. In addition, if at any point a requirement for sales agents to be registered with an accredited industry body is to be introduced, this should be part of a wider framework also covering letting and managing agents. We recommend that the Government review these arrangements in two years' time. (Paragraph 78)

## Agents' fees and charges

23. We recommend that the code of practice accompanying the new redress scheme include a requirement that agents publish a full breakdown of fees which are to be charged to the tenant alongside any property listing or advertisement, be it on a website, in a window or in print. This breakdown should not be "small print", but displayed in such a way as to be immediately obvious to the potential tenant. The code should also require agents to explain their fees and charges to tenants before showing them around any property. Furthermore, the code should forbid double charging, and there should be a requirement that landlords are informed of any fees being charged to tenants. If agents do not meet these requirements, the fees should be illegal. Finally, the professional bodies should make a commitment to full, up front transparency on fees and charges a requirement of membership. (Paragraph 83)
24. We intend to gather further information on the impact in Scotland of the decision to make fees to tenants illegal, and to return to this issue in 2014. (Paragraph 86)

## Longer tenancies

25. *The demographics within the private rented sector are changing. No longer can it be seen as a tenure mainly for those looking for short-term, flexible forms of housing. While some renters still require flexibility, there is also an increasing number, including families with children, looking for longer-term security. The market, therefore, needs to be flexible, and to offer people the type of housing they need. The flexibility of assured shorthold tenancies should be better exploited, and the option of using assured tenancies should also be considered where these meet the needs of landlords and tenants. That we are beginning to see some institutions and housing associations offering longer tenancies under the current law suggests that we do not need legislative changes to achieve them. Rather, we need to change the culture, and to find ways to overcome the barriers to longer tenancies being offered.* (Paragraph 94)
26. We recommend that the Government convene a working party from all parts of the industry, to examine proposals to speed up the process of evicting during a tenancy tenants who do not pay rent promptly or fail to meet other contractual obligations. The ability to secure eviction more quickly for non payment of rent will encourage landlords to make properties available on longer tenancies. The Government should also set out a quicker means for landlords to gain possession if they can provide proof that they intend to sell the property. (Paragraph 97)
27. Some landlords are not able to offer longer tenancies because they are prevented from doing so by conditions in their mortgage. We are pleased that lenders are considering how such conditions can be removed, and that Nationwide Building Society is to begin allowing its borrowers to offer longer term contracts. We urge the Council of Mortgage Lenders to work with other lenders to ensure that they quickly follow suit. Lenders should only include restrictions on tenancy length in mortgage conditions if there is a clear and transparent reason. (Paragraph 100)
28. We recommend that the Government include in the code of conduct for letting agents a requirement both to make tenants aware of the full range of tenancy options available, and, where appropriate, to broker discussions about tenancy length between landlords and tenants. (Paragraph 102)

## 'Retaliatory eviction'

29. There is a perception amongst some tenants that if they speak out it could result in their losing their home. Tenants should be able to make requests or complain without fear that doing so will lead the landlord to seek possession. We are not convinced, however, that a legislative approach is the best or even an effective solution. Changing the law to limit the issuing of section 21 notices might be counter-productive and stunt the market. Rather, if we move towards a culture where longer tenancies become the norm, tenants will have greater security and also more confidence to ask for improvements and maintenance and, when necessary, to complain about their landlord. Moreover, if local authorities take a more proactive approach to enforcement, they will be able to address problems as they occur rather than waiting for tenants to report them. (Paragraph 105)

## Rents and affordability

30. Problems with the affordability of rents are particularly acute in London and the South East. Although in other parts of the country average rents and yields are relatively stable, we are still concerned that some families are struggling to meet the costs of their rent. We do not, however, support rent control which would serve only to reduce investment in the sector at a time when it is most needed. We agree that the most effective way to make rents more affordable would be to increase supply, particularly in those areas where demand is highest. (Paragraph 110)
31. *There is no perfect way to set rent, but, where longer tenancies are being established, linking increases to inflation or average earnings, or voluntarily agreeing a fixed uplift each year merit consideration and could provide tenants and landlords with a degree of stability, though over time mechanisms may emerge as, for example, in the commercial property sector. Tenants', landlords' and agents' groups should encourage their members to discuss these options at the outset of a tenancy. Existing arrangements for setting and increasing rent are often arbitrary and uneven, and reflect the immaturity of the market.* (Paragraph 113)

## Placement of homeless households in the private rented sector

32. We welcome the Government's use of secondary legislation to clarify when accommodation is unsuitable for homeless households. We expect councils to pay full regard to this order and to ensure that homeless households are only placed in suitable accommodation. Given that many of these households will be vulnerable, councils have a particular responsibility to ensure that the properties they are placed in are free from serious health and safety hazards. We recommend that, as a matter of good practice, local authorities should inspect properties before using them for the placement of homeless households. (Paragraph 117)
33. All agree that, wherever possible, councils should be placing homeless households within their local area (unless there are particular circumstances that mean it is not in the households' interests). It nevertheless appears inevitable that councils in areas with high rents, London in particular, will place homeless households outside the area, including in coastal towns. Before any placement, there should be a full discussion with the receiving authority and the prospective tenant and information about the household and its ongoing needs should be shared. The Government should consider making this a statutory duty. (Paragraph 121)
34. We were pleased to hear of positive examples of work to support homeless households in the private rented sector, including the establishment of social letting agencies and the development of private rented sector access schemes. We encourage the Government to work with local government, the charity sector and industry bodies to ensure best practice is shared and lessons learned. (Paragraph 122)

## Local housing allowance

35. We recommend that the Government take immediate steps to allow councils to apply for a variation of broad rental market area boundaries where anomalies occur. (Paragraph 125)
36. We recommend that the Government conduct a wide-ranging review of local housing allowance (LHA). This review should assess whether there is greater scope for local flexibility over the setting of LHA rates and the boundaries of broad rental market areas. Local authorities could be incentivised to reduce the housing benefit bill by being allowed to retain any savings for investment in affordable housing. (Paragraph 125)

## Data quality

37. We recommend that the Government establish a small task group of key organisations and academics to consider how data relating to the private rented sector can be improved and made more readily available. In addition, we encourage the National Audit Office to contribute to an effective evidence base about the sector and to draw upon our recommendations when developing studies on housing related topics. (Paragraph 128)

## Tax

38. We recommend that the Government, in reviewing the regulation covering the private rented sector, set out proposals for greater co-ordination between the tax authorities and those regulating the private rented sector. (Paragraph 131)

## Increasing supply

39. We welcome the introduction and expansion of the Build to Rent Fund. The Government should take steps to ensure that the fund makes a net addition to new housing, as well as speeding up the delivery of those homes already in the pipeline. (Paragraph 138)
40. It remains to be seen how much impact the guarantee scheme for the private rented sector will have in delivering additional new homes. The policy may be well-intentioned in its aim to encourage organisations to have more confidence to invest in the sector, but the Government needs to measure results. We invite the Government in its response to our report to update us on the number of applications it has received for the private rented sector guarantee scheme, and to provide an estimate for the number of additional homes it expects the scheme to deliver. If there is any doubt that the scheme is going to deliver the homes required, we recommend that the Government rapidly explore other options for the use of the resources identified. (Paragraph 142)
41. We welcome the establishment of the task force to promote and broker investment in build-to-let development, and are pleased that the task force is already in operation. It is important that this task force does not become another quango but

quickly delivers on its objectives. We invite the Government, in its response, to set out the progress made by the task force in its first few months of operation. This update should quantify the amount of additional investment brokered, and the number of additional homes it would deliver. (Paragraph 144)

42. *Efforts to promote high-quality build-to-let development have commanded significant amounts of government attention and resources. One of the main arguments in favour of this approach is that it will lead to improved choice, quality and affordability across the whole of the private rented sector. It is too early to assess the impact, but a key part of the evaluation of these measures must be the impact they have on the sector as a whole. If, in a year's time, there is no evidence of this broader effect, the Government must reconsider its strategy and look to other measures to boost supply across the sector as a whole. (Paragraph 148)*
43. *There is an urgent need to boost supply across all tenures of housing. We recommend that the Government revisit the Committee's report on the Financing of New Housing Supply, and set out proposals to implement those recommendations it initially rejected. (Paragraph 150)*



# Formal Minutes

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**Monday 8 July 2013**

Members present:

Mr Clive Betts, in the Chair

Bob Blackman

Simon Danczuk

Mrs Mary Glendon

Mark Pawsey

John Pugh

Andy Sawford

John Stevenson

Heather Wheeler

Draft Report (*The Private Rented Sector*), proposed by the Chair, brought up and read.

*Ordered*, That the Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 151 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the First Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for printing with the Report, together with written evidence reported and ordered to be published on 21 January, 28 January, 4 February, 11 February, 4 March, 11 March, 20 March and 15 April (in the last Session) and 8 May, 15 May and 20 May.

Written evidence was ordered to be reported to the House for placing in the Library and Parliamentary Archives.

[Adjourned till 3.30 pm, Monday 15 July 2013]

# Witnesses

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## Monday 4 February 2013

Page

**Dr Tim Brown**, Director, Centre for Comparative Housing Research, De Montfort University, **Professor Martin Partington CBE QC**, Emeritus Professor of Law, University of Bristol and **Dr Julie Rugg**, Senior Research Fellow, Centre for Housing Policy, University of York

Ev 1

**Kay Boycott**, Director of Communications, Policy and Campaigns, Shelter, **Cllr Tony Newman**, Member of Environment and Housing Board, Local Government Association, **Jacky Peacock OBE**, Secretary, National Private Tenants Organisation and **Alan Ward**, Chair, Residential Landlords Association

Ev 10

## Monday 11 February 2013

**Sir Adrian Montague CBE**, leader of review of the barriers to institutional investment in private rented homes

Ev 21

## Monday 4 March 2013

**Geoff Fimister**, Social Policy Officer, Citizens Advice, **Mark Hayward**, Managing Director, National Association of Estate Agents, representing the Association of Residential Letting Agents, **Caroline Kenny**, UK Association of Letting Agents Executive, UK Association of Letting Agents and **Jason Freeman**, Legal Director, Goods and Consumer Group, Office of Fair Trading

Ev 28

**Peter Bolton-King**, Global Residential Director, Royal Institution of Chartered Surveyors, **Christopher Hamer**, the Property Ombudsman, **Louisa Darian**, Senior Policy Adviser, Which?

Ev 38

## Monday 11 March 2013

**Cllr Simon Blackburn**, Leader, Blackpool Borough Council, **Tom Gilchrist**, Service Manager, Private Housing and Accessible Homes, Bristol City Council and **Cllr Jonathan Glanz**, Cabinet Member for Housing and Property, Westminster City Council

Ev 45

## Monday 25 March 2013

**Andrew Cunningham**, Chief Executive, Grainger plc, **Richard Lambert**, Chief Executive Officer, National Landlords Association and **Sir Robin Wales**, Mayor, London Borough of Newham

Ev 56

## Monday 8 May 2013

**Richard Blakeway**, Deputy Mayor for Housing, Land and Property, Greater London Authority, **Stuart Corbyn**, Chairman, Qatari Diar Delancey, East Village Operations and **Neil Hadden**, Chief Executive, Genesis Housing Association

Ev 70

**Ian Fletcher**, Director of Policy (Real Estate), British Property Federation,  
**Paul Smee**, Director General, Council of Mortgage Lenders and **Nigel Terrington**, Chief Executive, Paragon Group of Companies Ev 79

### Monday 13 May 2013

**Ruth Abbott**, Housing Standards and Adaptations Manager, City of York Council, **David Shepherd**, Assistant Director, Housing, Employment and Skills, City of Bradford Metropolitan District Council and **John Statham**, Head of Housing Partnerships, Leeds City Council Ev 87

**Irfan Ahmed**, Director, East Midlands Property Owners, **Liam Burns**, President, National Union of Students and **Dr Richard Tyler**, Co-ordinator, National HMO Lobby Ev 97

### Wednesday 15 May 2013

**Cllr Tony Ball**, District Councils' Network, **Harry Cotterell**, President, Country Land and Business Association and **Cllr Sarah Hayward**, Leader, London Borough of Camden Ev 105

### Monday 20 May 2013

**Mark Prisk MP**, Minister for Housing, Department for Communities and Local Government Ev 113

## List of written evidence

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| Blackpool Borough Council                       | Ev 211                 |
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| British Property Federation                     | Ev 243                 |
| Dr Tim Brown                                    | Ev 124                 |
| Citizens Advice                                 | Ev 155, Ev 160         |
| City of Bradford Metropolitan District Council  | Ev 258, Ev 262         |
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| Country Land and Business Association           | Ev 289                 |
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| Genesis Housing Association                     | Ev 242                 |
| Grainger plc                                    | Ev 221                 |

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| National Landlords Association           | Ev 224, Ev 228         |
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| Paragon Group of Companies               | Ev 253                 |
| Professor Martin Partington              | Ev 127                 |
| The Property Ombudsman                   | Ev 194, Ev 202         |
| Residential Landlords Association        | Ev 151                 |
| Royal Institution of Chartered Surveyors | Ev 187, Ev 191         |
| Dr Julie Rugg                            | Ev 131                 |
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| Westminster City Council                 | Ev 219                 |
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| Which?                                   | Ev 204, Ev 208, Ev 209 |

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| Meetings with landlords and tenants in Greater London and Leeds | Ev 305 |
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| All-Party Parliamentary Party on Carbon Monoxide   | Ev w318 |
| Association of Greater Manchester Authorities      | Ev w235 |
| Association of Tenancy Relations Officers          | Ev w195 |
| Barristers of Arden Chambers                       | Ev w121 |
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| Dr Stephen Battersby, Pro-Housing Alliance         | Ev w84  |
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| Gerald Kennedy  | Ev w193          |
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## List of unprinted evidence

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The following written evidence has been reported to the House, but to save printing costs has not been printed and copies have been placed in the House of Commons Library, where they may be inspected by Members. Other copies are in the Parliamentary Archives ([www.parliament.uk/archives](http://www.parliament.uk/archives)), and are available to the public for inspection. Requests for inspection should be addressed to The Parliamentary Archives, Houses of Parliament, London SW1A 0PW (tel. 020 7219 3074; email [archives@parliament.uk](mailto:archives@parliament.uk)). Opening hours are from 9.30 am to 5.00 pm on Mondays to Fridays.

Hazel Speed



# List of Reports from the Committee during the current Parliament

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The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

## Session 2012–13

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| Second Report  | European Regional Development Fund   | HC 81 (CM 8389)            |
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| Fourth Report  | Pre-appointment hearing for the Chair of the Audit Commission  | HC 553                     |
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| Sixth Report   | Councillors on the frontline   | HC 432 (CM 8582)           |
| Seventh Report | The Committee's response to the Government's consultation on permitted development rights for homeowners | HC 830 (HC 173)            |
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| First Report          | Local Authority Publications  | HC 666 (HC 834)   |
| Second Special Report | Local Authority Publications: Government response to the Committee's Sixth Report of Session 2010–11                              | HC 834            |
| Second Report         | Abolition of Regional Spatial Strategies: a planning vacuum?  | HC 517 (CM 8103)  |
| Third Special Report  | FiReControl: Government response to the Committee's Fifth Report of Session 2009–10   | HC 835            |
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