

British Property Federation consultation response:

## **The private rented sector: professionalism and quality - the Government response to the Rugg Review**

August 2009

---



### **Executive summary**

1. The review of the private rented sector (PRS) is welcome and generally we are glad to see that the sector is getting the profile it should get in housing policy. However we regret the limitations to the Report, and also the Government's response to it.
2. In the past eighteen months the economic climate has changed dramatically and, if anything, the private rented sector is set to play an even greater role in housing the nation than was contemplated at the time of the Review. The sector has housed one million additional households since 2000, and yet up to eighteen months ago, besides how to regulate the sector, it rarely featured in Government thinking in housing.
3. Government housing policy should seek to satisfy housing demand at all points in economic cycles. Yet Government has done little to encourage the sector to meet demand, and by focussing too much on the regulatory recommendations of the Review and too little on encouraging investment in the sector, risks exasperating a supply and demand imbalance that is only likely to get worse in the short-to-medium term.
4. As a result, we believe the Government's approach to housing is flawed. By cherry-picking measures from the review it will not deliver a coherent strategy. For example, by not supporting many of the measures aimed at increasing investment that the review suggested, it risks creating even more demand for PRS, without an commensurate increase in supply. The approach of the HCA, through its PRS Initiative is more helpful, and we support their efforts in this regard.
5. The experience of registration in Ireland shows that compliance was far easier to achieve when there was a balance of incentives and disincentives for registering.
6. We have been supportive of landlord registration, because landlords had envisaged it would be implemented in its simplest form as the Review set out, simply collecting landlords' names and addresses. The Government's proposal goes beyond this in suggesting a register of landlords' investment properties and is not something we can therefore support.
7. Rather like a driving license a landlord should only need to notify changes on register as they occur rather than on a yearly basis, which will create a lot of futile data exchange and expense given that most small landlords' details will not change from one year to the next.

If the Government pursues a policy of annual registration there should be a simple 'no change' procedure, similar to that many local authorities run for the electoral roll.

8. If the Government pursues its vision of registration we would suggest that LACORS develops a concordat with the landlord community that sets out how it will use registration to target 'the worst first'. Many Local Authorities do not use the powers that they already have, and regulating existing good landlords while leaving the bad minority untouched is poor policy, poorly applied.
9. The provider of the registration scheme should be wholly independent of the sector and the register itself should not be available for commercial use and purposes.
10. We cannot make informed comment on selective licensing, because the research mentioned in the consultation paper has not been published. The Government should conduct a separate consultation exercise on any extension of selective licensing, when the research is accessible by all stakeholders. Clearly any starting point for considering new and additional criteria for selective licensing is to understand why the existing criteria has been felt to be too constraining and hence the need for access to the research.
11. We strongly support the proposal to make it compulsory to have a written tenancy agreement.
12. We are supportive of raising the upper and lower rental thresholds for assured shorthold tenancies, subject to there being no retrospection.
13. We support the proposals for licensing letting and managing agents and the proposition that this should be done by a body that is independent and supported by both the principals of agents and occupier clients.
14. We support some minimum standards for local accreditation schemes. ANUK would seem the most obvious organisation to perform that task.

---

## **Introduction**

15. The initiative to review the private rented sector (PRS) 18 months ago was generally welcomed. Since then Julie Rugg and David Rhodes have published their findings and today we are responding to the Government's thoughts on the Rugg Review.
16. In the past eighteen months the economic climate has changed dramatically and if anything the private rented sector is set to play an even greater role in housing the nation than was contemplated at the time of the Review. We believe a review of the PRS is long overdue, but nevertheless welcome. The sector has housed one million additional households since 2000, accounting for much of the growth in household numbers, and yet up until 18 months ago besides how to regulate the sector, it rarely featured in Government housing thinking.
17. The profile the Review has given the sector and directions of travel that Julie Rugg and David Rhodes suggested have therefore broadly been welcomed. The Government's response, however, is lop-sided and ultimately flawed.
18. All stakeholders want the PRS to be providing good quality affordable accommodation, and generally there is a consensus to improve the image of the sector. However, by focusing too much on the regulatory recommendations that the Rugg Review made and too little on

encouraging investment in the sector the Government risks exasperating a supply and demand imbalance that is only likely to get worse in the short-to-medium term, as a scarcity of mortgage finance creates more demand for renting, but also chokes off some buy-to-let supply.

19. A better regulated sector, if registration of landlords and licensing of letting agents works, will create even more demand for private renting. Much of the Rugg Review's supply side agenda, however, has been ignored. There is virtually no support for example, for encouraging investment from either individuals or institutions with all the points about small landlord taxation, REITs and aggregation of stamp duty all ignored.
20. Similarly many of Julie Rugg's recommendations on housing benefit have not received support, which is a pity because in the face of direct payment, and growing evidence of landlord losses, Government should be conscious of the need to do more to encourage landlords to let to those on local housing allowance.
21. One aspect of the Review that particularly disappointed us was the arguments used against institutional investment. These seemed to be based upon a limited number of interviews. The Review reached the correct conclusion that we need a PRS that consists of all types of landlord and supports all types of landlord. In the current climate, institutional investment could provide a very welcome source of finance for housing, when buy-to-let funding is severely constrained and likewise public money.
22. We therefore are glad to see the intervention of the HCA in the form of its Private Rented Sector Initiative and CLG's support for it in its response. The arguments against institutional investment do not make sense. For example, suggesting that big companies are bad and small ones good, doesn't live up to the reality that the vast majority of us rely on the majority of our goods and services on large companies. Also, suggesting that institutional investment PRS would make us like the USA; seems to simply play on popular prejudices and perceptions of the USA.
23. Across the Atlantic the equivalent of our PRS, the Multi Family housing market, provides high quality housing for hundreds of thousands of blue and white collar workers and is a major contributor to the mobility of labour. Important lessons could also be learned from practices and fiscal policy in Northern Europe and Holland.
24. We also fail to see why growth in the institutional PRS will some how be bad for the lower income end of the sector. The whole rationale behind a build-to-let sector is that it adds to supply and the experience of existing funds is that they mainly invest in providing accommodation to people like key workers (and not flats for high earners) because that is where occupancy is high and a landlord can generate sustainable income returns. Put simply the strains in terms of demand for private rented sector accommodation looking forward means that Government should be supportive of all forms of investment, large and small, as supported some years ago by the Barker Review.
25. To conclude, we believe that Julie Rugg and David Rhodes delivered a Review that broadly provided a coherent strategy for the sector, and a balanced set of directions of travel which compliment one another. By cherry-picking, the Government cannot claim to have a coherent strategy and worse still, could be creating the conditions which see increasing numbers of households wanting to access PRS housing, but unable to find a home.

---

## Energy performance improvement

### **Q1 How should the regulatory and incentive structure work to bring about improvements in the condition and energy performance of private sector rental properties?**

26. We do not believe there is a silver bullet to cracking this. The fundamental issue is the disconnect between the landlord investing in improvements and the occupier(s) deriving the benefits of improved energy performance and lower fuel bills. A lower rate of VAT on residential repair and renovation is now possible under EU legislation and we believe that would provide the most effective and attractive incentive to make improvements. Particularly for the smaller landlord the most effective measure is likely to be one that bridges the aforementioned disconnect, perhaps by providing loans to make improvements and recouping repayments through future energy bills.

---

## Landlord registration

27. We are concerned that there is not a common understanding of the purpose of registration, and until that is resolved it is difficult to get too much in to the detail. Many landlords see the purpose of registration as taking out the 'bad guys', based on existing enforcement activities. The landlord should register their name and address and can then trade until such time as their registration is removed for misdemeanours. There are also spin-off benefits in terms of a means of communication between Government and landlords.
28. On the other hand, Government (including local government) sees registration far more in terms of an aid to its enforcement work, helping to make local authority enforcement work better targeted, but also aiding departments such as HMRC in its collection of taxes and DWP in tackling benefit fraud. This model of registration requires the additional collection of landlords' investment property addresses. Some landlords object to this on the basis of invading their privacy, security concerns and so forth.
29. It is difficult to see how this initiative can move forward on the basis of consensus until this basic but fundamental issue is resolved.
30. There is strong support from landlord representatives for improving the image of the sector and therefore there has been a willingness to consider landlord registration. Our emphasis is that it must be light touch and proportionate. Other points would be that it should be made available via the internet, should be properly enforced, and should be applied through all landlord activities. For example, the landlord would be required to state their registration number on their tax returns, to access the courts, and for their tenants accessing benefits.
31. Landlords naturally, however, have concerns. There is a concern that it must deliver the benefit of expunging the sector of bad landlords. Anecdotal evidence of universal registration in Scotland and the Republic of Ireland would suggest that it has not led to a great deal more enforcement activity, or more worryingly, better targeted enforcement.
32. No additional enforcement activity is perhaps understandable given resource constraints, but even where local authorities in theory could cover the costs of enforcement, for

example with HMO licensing in England, they have not been as proactive as they might have been. The greater concern from the experiences of Scotland and Northern Ireland is a lack of evidence of better targeted enforcement. We would suggest that LACORS develops a concordat with the landlord community that sets out how it will use registration to target 'the worst first'.

33. Looking at the detail of registration we would make the following main points:

- i. A lot of comparisons have been used to explain landlord registration, such as the driving license or TV license. The latter is a tax, and the better comparison is with a driving license. One aspect of a driving license that we believe should be followed for landlord registration is its long duration. Annual registration seems to be very wasteful as many landlords' data does not change from year to year. We would rather have a system that only required the landlord to notify changes, so for example, change of landlord's registered address (or change of ownership if property was included). Where there is a change, landlords should be given a timeframe in which to notify it, say six or twelve weeks.
- ii. As described in the introduction to this section there is opposition to including landlords' investment property details on the register. We agree with the proposed basic information that the register would host: name and registered address at the time of registration. We would want to ascertain whether name and address mean a home name and address or business name and address? As said under (i). we believe that for the register to be of value it should be relatively up-to-date and if there is a change of circumstances during the year that should be registered within a reasonable time.
- iii. The provider of the registration scheme should be wholly independent of the sector. The function of the provider is simply to operate an efficient registration process and to manage effectively the resultant database. We do not believe the registration scheme provider should have any role in policing the scheme, beyond registering any penalty points and communicating with the relevant enforcement authorities.
- iv. There should be strict rules on the use of the data collected. If there is to be use of the data beyond registration then landlords' permissions should be sought at the point of registration. If access is to be granted to organisations outside Government then it should be on the basis of fair access for all. We have no strong views on whether those outside Government should pay for access.
- v. There would be tangible benefits to Government of having a register, particularly as we have set out one with landlords' investment property addresses, in terms of greater assurance that taxes are being paid, less benefit fraud and more effective and efficient enforcement work. If that is what the Government pursues it is doubly disappointing that the Government finds it so difficult to support any measures that support the sector.

34. Turning to some of the questions posed in the consultation paper, it suggests that landlords would be given access to various services in return for registering. These could include a 'starter pack' for new landlords, standard forms (such as the appropriate form for possession proceedings and standard tenancy agreements) and electronic notifications linked to legal and other requirements. A major advance would be to allow Registered Landlords to be taxed as a business, and to allow the roll over relief for Capital Gains Tax.

**Q2 Are there any other services which could be linked to the register?**

35. These seem sensible. We would not want to see Government providing services that compete with private sector suppliers. One thing Government might want to contemplate is to allow landlords to opt in or opt out of being surveyed. One of the needs identified by the Rugg Report was for better information on the sector.
36. The paper suggests there would be a public-facing element of the register which landlords could opt in to and use as a shop window for their properties. This could include additional information about properties for rent, such as whether a landlord was a member of a landlord association or accreditation scheme.

**Q3 Would this be a helpful service for landlords?**

37. We would worry that this would add unnecessary complication, need for monitoring and moderating, etc. Add to cost and therefore fee. Also potentially it is competing with letting agents and online agents.

**Q4 What information should it contain in order to make it as attractive as possible to potential tenants whilst not overburdening landlords?**

38. As said, we do not believe that marketing of properties should be offered as it diverts from Julie Rugg's vision of keeping it simple and therefore inexpensive. An interesting issue is whether advertising should be allowed on the site, which is generally not the case with Government sites, but could help reduce costs for landlords. So far as tenants are concerned they will want to be able to take the registration number and cross reference it on some easily accessible website to ensure their landlord is registered. Letting agents would also be able to check before accepting instructions to market properties.
39. The paper stresses that the register will also be a valuable tool for making landlords more aware of the reason to and mechanisms which are available to help them improve the energy performance of their properties, such as the carbon emissions reduction target and the forthcoming community energy saving programme. Energy Performance Certificates (EPC) data potentially provides a way to target offers for landlords and potentially also, information to local authorities in support of their enforcement work.

**Q5 Do you agree that government should explore whether the EPC data should be made available in this way?**

40. Again we are concerned that this is departing from the concept of a simple register and cheap registration process which only collects the information required for registration. Plus, we are aware that a central register of EPC's also exists for residential property, and we wish to stress the need to prevent any duplication in this area.

**Q6 Are there any other funding or grant based schemes that could be signposted in this way?**

41. Grants for private sector landlords are very rare these days, bar environmental improvements. Programmes such as the Community Energy Savings Programme and Warm Front might be appropriate to signpost in this way. More generally, the existence of a register should make it easier for Government to communicate with private landlords.

42. The paper explains that in the event of persistent abuses and/or failure to comply with the regulatory regime, the Government would wish to remove a landlord from the register and use existing powers to take over the management of his or her stock. The process of complaint against a landlord and the decision to remove a landlord from the register would be carried out by an independent body with a right of appeal to a separate judicial body. The effect would be that a landlord would no longer be able to let out a property by his or herself. As part of this proposal, we might also want to consider whether the landlord should continue to be able to receive housing benefit on properties which did not fall within the management arrangements.

**Q7 What sort of activities should be linked to removal from the register? Should this be a cumulative process (like, for instance, the points system for driving offences)?**

43. This question is one of the most important in the paper from a landlord representative body's perspective. Any system needs to strike the right balance between removing the 'bad', whilst ensuring it is fair, because after all this will often be someone's livelihood. With regards to taking out the 'bad' landlord the system will soon lose credibility if the 'bad' landlord is struck off one week and next week the property is being managed by a family member or associate.

44. There is also a significant issue about who is the registered holder in a corporate structure, the firm, or an individual? For example, in the case of corporate landlords is it the landlord or underlying principals that are registered? If the company, would it be fair to disqualify a company on the basis of bad conduct by one of its employees? How would the alternative management arrangements cope with the loss of license of a large landlord?

45. All this leads us to conclude that the system should not be as rigid as that for a driving license. Certainly all offences should be recorded and there should be 'penalty guidelines' to assist those tasked with enforcing the register, but these should allow an element of discretion to the enforcement body. So for example, where a landlord had known about and deliberately ignored health and safety legislation, or a corporate landlord had persistently performed the same breach of the law without any attempt to rectify this they could be struck off instantly, but where a specific employee of a larger landlord had persistently breached, unbeknown to the firm, this would not lead automatically to removal from the register. Similarly minor breaches by a small landlord may simply lead to additional training, without any penalty points.

**Q8 Who should carry out the role of removing a landlord from the register? Should either one of the Housing or the Estate Agents' Ombudsman have a role (perhaps in offering advice to a quasi-judicial body – possibly the Residential Property Tribunal Service)?**

46. The Residential Property Tribunal Service (RPTS) is currently mainly staffed by surveyors who are able to make sound judgements on the limited issues the Service has to judge on under the Housing Act 2004. Whether the tribunals would have the knowledge and skills to be able to judge a far broader range of issues on which removal of registration could result is a concern. We can therefore see why it is suggested that an Ombudsman might have a role in advising the RPTS. However, we worry that this might be a costly option and should be weighed up against simply ensuring that the RPTS is able to call on a broader range of people to sit on tribunals judging registration issues. Ultimately the CLG will have to weight up the costs and benefits and bearing in mind Julie Rugg was envisaging a cheap license fee there should be a strong emphasis on value for money in any decision.

**Q9 Should the appeals process be carried out by the Lands Tribunal? Do you see any alternative body for this role?**

47. If the RPTS is the first stage the Lands Tribunal would seem the logical appellate body.

**Q10 Should only enforcement agencies and advice services run by the voluntary sector be able to lodge complaints against a landlord within the context of this process?**

48. We don't want to shelter the bad landlord, but on the other hand this is somebody's livelihood and we feel uneasy about voluntary organisations, many of which have few credentials themselves, being able to log complaints. We would therefore at this stage advocate that only local authorities and the organisation responsible for removing registration should be able to log landlord's misdemeanours on the register. It might be in time that there could be other bodies designated, but that would require some detailed work beyond the scope of this paper.

**Q11 We think that current and potential tenants should also have access to the register – how can this be managed?**

49. Clearly it is important that a tenant or prospective tenant should be able to check whether a landlord is registered and therefore cross-check the registration number and landlord. Any proven offences should also be accessible. Beyond that it is difficult to see what additional information they would need.

**Q12 Which other individuals or organisations should have access to the data?**

50. The landlord themselves may wish to check that their record is accurate, similarly letting and managing agents. The enforcement authorities will need access, and that will include DWP, HMRC and HMCS. Government agencies should also be able to use the database to communicate regulatory requirements, changes to legislation, etc. As described earlier in our response, beyond that we would not like to see the register being used for commercial purposes, without first seeking the individual landlord's permission when they register for their data to be used in that way.

---

**The extension of selective licensing**

51. The Government's response to the Rugg Review stresses that a BRE research proposal will be published shortly, and that it has drawn a number of conclusions including there being a need to give further consideration to the circumstances in which it would be appropriate to license privately rented property in specified areas. Clearly it is difficult to make educated comment on this without sight of the research ourselves.

52. It would be wrong to conclude from recent experience of selective licensing that the limited number of schemes means that the criteria are too constraining. The roll out of selective licensing has taken place at the same time as mandatory licensing of HMOs and many councils have rightly chosen to prioritise the latter. Many local authorities have also not grasped that selective licensing is meant to be a targeted measure and not one that should apply across whole wards, towns or cities – by definition it is meant to be selective.

53. We fear that by broadening the criteria it will simply give some authorities even less incentive to think through their applications for selective licensing and put in the work to make such measures sufficiently targeted.

**Q13 What additional criteria, if any, should be introduced for establishing selective licensing regimes?**

54. As said, we find it difficult to comment on this without first having sight of the BRE research report. Clearly any starting point for considering new and additional criteria is to understand why the existing criteria has been felt to be too constraining and since the research report is not in the public domain we believe this issue should be subject to a separate consultation when it is.

**Q14 Is there merit in including criteria related to a high incidence of violations of the Housing Health and Safety Rating System or low EPC rating?**

55. With no prejudice to our former response we can just about understand the logic behind some link to HHSRS, but what would constitute a suitable trigger point and sample? Basing the ability to selective license on the basis of a low EPC rating is we believe nonsensical. Some of the most expensive property will have a low EPC rating, but that doesn't make it in poor condition or a festering ground for anti-social behaviour.

---

**Written tenancy agreements**

**Q15 We propose that all tenancies should take the form of written agreements.**

56. We strongly support this proposal, and have recently launched our own "plain English" AST Agreement as detailed below in 16.

**Q16 What would be the most helpful way for the legislation to set out a written tenancy agreement?**

57. Any legislation needs to allow for sufficient variation, whilst also providing clarity, and protecting each parties' rights and responsibilities. One way of achieving this is the approach suggested by the Law Commission in its Rented Homes Bill, which required a number of core terms, other issues that had to be covered, but allowed for some flexibility and then totally optional issues that may or may not be covered.

58. The Federation has had to consider these issues recently as part of drafting its own interactive assured shorthold tenancy agreement. Having a web-based system makes it easier to mix and match core terms, whilst allowing the users to add their own. Not every landlord or agent, however, will have access to the internet.

59. Our suggestion would be to have the best of both worlds. Therefore there would be a simple basic default tenancy agreement, which could be provided in hard copy format and available for free from various sources. For those that wanted something a bit more bespoke Government could dictate core terms and other issues to be covered, whilst leaving the parties some discretion to augment these. In essence this is what our interactive AST does, providing a set of core terms, allowing the user to also download and add some common additional terms, and thirdly allowing the users the complete flexibility to also add their own terms.

---

## **The limit on Assured Shorthold Tenancies**

60. The consultation paper proposes to increase the threshold on ASTs to £100,000.

### **Q17 Is this is the right level for the threshold?**

61. We understand the rationale for extending the assured shorthold tenancy threshold to provide those in larger student houses with the protection of tenancy deposit legislation and broadly support this, but are concerned that a number of consequences, both positive and negative, may not have been considered.

62. Extending the threshold also makes sense in the context of the 1987 Housing Act and the right to first refusal that tenants that are not on assured tenancies have. It is not a perfect solution to this issue, however, since a landlord still has to ascertain whether the tenant (to qualify) uses the property as their only or principal home, which itself can be difficult to determine.

63. Any change in the upper rent threshold will affect other statutory provisions and have other consequences and a key issue for members is the extent to which any change would have retrospective effect or simply apply to new tenancies. We would urge that it should not have retrospective effect to mitigate these other consequences.

64. One consequence that will not be remedied by retrospection is the interplay between the threshold and the 1989 Act, which grants an assured tenancy upon the expiry of a long lease at a low rent. Clearly if the threshold goes up this will have a significant impact on the number of tenants qualifying for an assured tenancy.

65. We are also advised there will be consequences for section 9(1) of the Leasehold Reform Act 1967, which refers to the now £25,000 threshold. This section of the Act relates to valuations and a rise in the threshold will bring more leases within a formulaic, rather than market based approach to valuations in cases where enfranchisement rights have been extended.

### **Q18 Should there be regular reviews of the AST threshold?**

66. There should be some clear mechanism for reviews, but we don't think the industry would want the threshold to change that often, because of the work it would create.

### **Q19 How frequently should these be carried out?**

67. If the Government pursues the rise in the threshold to £100,000 we would have thought another revision will not be required for some time and would suggest a review every 10 years.

### **Q20 We also wish to take this opportunity to confirm that the minimum rent threshold will remain in place unchanged.**

68. We do not support this. The lower threshold should be reconsidered to avoid the possibility of properties let on long leases at high ground rents coming within the Act. Currently the lower limit is set at £1,000 per annum in Greater London, and it is already the case that some ground rents have reached that level.

---

## Licensing of private sector letting agents and management agents

69. We are glad the Government is taking forward proposals to license agents. There has been strong support for this from virtually every quarter and stakeholder for some time. From an agency perspective we understand there is some irritation that the professional part of the sector is constantly seeking to raise standards and yet having the sector's image tarnished by agents that fall outside current self-regulation. Equally, that a two tier market has developed in which some agents followed good standards, but at some cost, and therefore cannot compete with those agents that opt for little or no regulation.
70. From our perspective, as a representative body for landlords, we believe agents should be licensed so that landlords can enjoy the client money protection that only professional agents currently provide, and therefore have some reassurance that if the agent disappears the landlord's money is safe. Secondly we believe agents should be licensed because many landlords take a pride in their work and want to employ agents that are following good professional standards.
71. We strongly support the view that such regulation should be carried out by an independent body and that it should be compulsory.
72. The consultation paper sets out that full regulation could have many elements:
- entry requirements;
  - a code of practice for members (including a requirement that they do not let properties which do not comply with decent homes standards);
  - requirements to have in place business and consumer protection measures (such as client money protection, independent complaints procedures and linked redress, professional indemnity insurance);
  - monitoring of compliance by the regulatory body;
  - and, enforcement powers and the ability to put in place sanctions.

### **Q21 Which of the functions above should be kept within the independent regulatory body?**

73. We believe all of these functions could be performed by the regulatory body. Redress is something that probably sits better outside the body, and there is a wide variety of current providers that compete with each other to provide such a service.
74. A key requirement from landlords' perspectives is client money protection, which ensures that our members' monies are protected.
75. The only concern we have from the list of described functions is not letting houses that do not meet the decent homes standard. We agree in principle with the aim of getting lettings agents to be choosy with what to let, but the decent homes standard is not particularly well known in the private sector and it somewhat complex for an agent to check on the basis of what might be relatively little exposure to the property. Any pursuit of this should be based on some far simpler standard.

76. This is obviously a complicated issue, which needs to be discussed further.

**Q22 Which of the functions above should be procured by the independent regulatory body from existing organisations?**

77. As we have described there is no reason why the list of functions should not be delivered by the one body. We think from both the landlord and occupier clientele perspectives it is often easier to identify with one body than a range providing different elements of licensing. Clearly the licensing body may wish to subcontract functions based on commercial considerations and providing there are sufficient KPIs and safeguards we see no reason why that should be prevented, providing there are mechanisms for ensuring landlords and consumers are not confused.

**Q23 What organisations could carry out the functions outlined above?**

78. NALS would be the obvious choice as the existing government-backed accreditation scheme for the sector. There would need to be mechanisms to passport in agents already in membership of the professional bodies – RICS, ARLA and NAEA.

**Q24 Is there merit in establishing an entirely new organisation to carry out any or all of these functions independently?**

79. Not if there is a perfectly acceptable body such as NALS that already exists. It would seem wasteful to reinvent the wheel.

**Q25 Do you agree that managing agents operating in tenures other than renting should be included in the proposed regulatory regime?**

80. Certainly there is a need to license managing agents and strong support from that industry's main trade body, ARMA. Pursuing licensing of both letting agents and managing agents will throw up challenges. For example, what organisations should be captured by licensing? Is the husband and wife letting out their daughter's flat whilst she is taking a year out, acting as landlord or letting agent? If the latter, does licensing cover them? Similarly, does licensing of managing agents cover resident's management companies? The roles of managing tenanted property and long leasehold property are very different, and the legislative frameworks are also very different, and we therefore believe that the two issues should be dealt with separately.

**The Courts**

81. The papers stresses that CLG and the Ministry of Justice will work closely to make sure that tenants and landlords receive the best service possible. They are not convinced that landlords always have to wait an unreasonable length of time to have their cases heard in court (6 weeks from claim date for s21 notices and 15 weeks for other possession claims).

**Q26 These timescales do not seem unreasonable to us. But are there any types of cases which typically take much longer?**

82. The feedback from our members is that although the figures do not seem too long to CLG, they are averages, and there is significant variation between different areas. Ideally landlords would wish to see some targets on which courts in different areas can be judged.

**Q27 Are there any ways in which court procedures could be streamlined without jeopardising the requirement to allow all parties a proper opportunity to prepare and support a fair hearing?**

83. The problem with the Government's response as set out in paragraph 20 above is the word 'always' which recognises that although the figures quoted might seem reasonable they are averages, with significant variation. Landlords would like to see service level agreements or targets for the time they can expect a proceeding to take.

**The relationship with local authorities**

**Q30 Are there other ways in which voluntary organisations can both engage more helpfully with the private rented sector and offer help and support to others?**

84. We believe that a number of our local landlord associations have good local links with voluntary organisations and there is some reciprocity vis-à-vis training. One of the constant irritants in the relationship is the advice given to tenants by voluntary organisations to remain in possession and therefore have to be evicted otherwise they will not qualify as homeless and therefore be eligible for support from their local authority.

**Q31 Are there other models for constructive engagement with landlords?**

85. There is a range of good practice out there. The Chartered Institute of Housing compiled a publication called 'Ways and Means' a couple of years ago, which illustrated a lot of this. Anecdotally, local authorities that tend to do best on this have a staff member dedicated to the PRS who co-ordinates PRS activities across the council so that landlords in effect have a 'one stop shop'. A good example is the London Borough of Barnett, who have placed a high number of those with housing needs in the private rented sector, supported by specialist staff and adequate supervision.

**Q32 How can we best help and incentivise local authorities to work more constructively with the private rented sector in their areas?**

86. There was strong and consistent feedback from our members that where there is a local landlord association links tend to be stronger and relationships more cordial. There is a richness of contact at local level that is often not appreciated at a national level. For example, we have associations that invite local officers to their training events and vice versa. Having a local association makes it easier for local authorities to co-ordinate their efforts. It was also felt that local authorities that had a single co-ordinator for their private rented sector activities tended to work better. It is noticeable that many of the areas that have pursued that approach are Housing Market Renewal Pathfinder areas, which have additional resource to put effort into this and we have some sympathy for the broader body of local authorities who may not have such resource.

87. Having a clear local authority strategy for the private rented sector is usually also helpful, and there should be more pressure from central Government to ensure local authorities are taking account of the PRS in their strategic housing duties, not just seeing it as a regulatory issue, but as a source of housing supply.

88. Also important is an understanding of the PRS and PRS issues at councillor level and we welcome the efforts of LACORS to educate and inform councillors. Overall, it may be helpful to carry out some sort of audit looking at existing links at a local level because we

think central Government might be a) pleasantly surprised at what exists, and b) better able to use this resource in future.

---

89. The paper explores the concept of local letting agents, stressing a holistic approach to a local authority's engagement with the private rented sector would be central to this approach, preferably linking up with unified housing options appraisals and building on and complementing existing choice based letting (CBL) arrangements. Tenancy sustainment would be an important part of an LLA's work as would a focus on improving the quality of the local housing benefit market in the private rented sector. Providing grants to improve the quality of stock, and lending (or underwriting) the upfront costs of a tenancy (such as rent deposits) could also, if appropriate, be part of the package or packages on offer. Close co-operation and a shared sense of purpose between the housing, housing benefit and environmental health teams would also be vital, as would good liaison with social care teams and others supporting vulnerable people.

90. We therefore propose that each local authority should develop a more co-ordinated approach to securing private rented sector tenancies for low income households, particularly where this involves government funded landlord incentives. This 'local lettings agency' (LLA) (based in large part on Rugg's 'social lettings agency' concept) should also be the focus of local authorities' engagement with private rented sector providers. In late spring/summer 2009, we will be seeking opportunities to work closely with individual LAs or groups of LAs, on their own or with partners from other sectors, who are interested in leading the development of this comprehensive approach on the ground."

**Q33 Which approaches have been shown to work best, and are there any which have been tried but shown to meet major hurdles?**

91. The example we are best aware of is Homes 4 Let, based in Poole. Its success is probably attributable to the fact it tries to understand what the landlord wants, rather than being driven by the local authority's need. It is also good at thinking about what the local authority can provide to reduce the risk of letting to what are often more risky tenants, for example, assistance with HB claims and a dedicated HB officer, tenant referencing and a 'good' tenant scheme, rent collection, deposit bonds and so on. The only concern we have is that local or social letting agents or whatever they are called should not compete with private letting agents.

**Q34 What could usefully be added to the "menu" of options set out above?**

92. The menu is reasonably comprehensive. This is what Homes 4 Let offers in Bournemouth and Poole:

- \* Tenant find and referencing
- \* Completion of legal tenancies
- \* Preparation of inventory
- \* Collection of rent, preparation of monthly account and organisation of deposit bond
- \* Conduct meter reading and inform utilities
- \* Completion and assistance with on-going housing benefit claim

- \* Liaising with mortgage/insurance company and freeholder if applicable
- \* Conduct regular quarterly inspections
- \* Liaise, organise and ensure progress of repairs
- \* Renew tenancy or offer advice and practical assistance in the repossession of property
- \* Deal with all other third parties where required

There is also a tenant-facing aspect to their work, for example a 'good tenant' accreditation scheme and some of the tenancy sustainment activities that a local authority can provide and covered by Julie Rugg in her review.

**Q35 Are there any barriers to the type of approach outlined above?**

93. We suspect the main one will be resource and as said in response to Q33, the approach the local authority takes should be to think about it from the landlord's perspective, which may require some training.

**Accreditation**

94. The Review suggested that local authorities should disengage from providing accreditation and leave it to landlord associations, because it diverted scarce resource from what councils should be doing, which is enforcing regulations. Whilst we can understand the reasoning we do not agree. Part of the benefit of accreditation is building a close relationship between the local landlord community and local authority enforcement officers and allowing them to work with landlords beyond those they would just be exposed to if their sole focus was enforcement work. Where local landlord associations exist local authorities should work closely with them and seek to involve them in designing and running local schemes.

**Q36 Is the time right to establish a basic standard for accreditation?**

95. We believe it is. Occupiers rely on accreditation schemes and there should therefore be some basic minimum standards. From a 'good' landlords perspective you also want to ensure that such schemes are setting sufficient standards and will not be called into disrepute because they have allowed the 'bad' to get away with sub-standard property or behaviour whilst being badged as accredited.

**Q37 If so, should this be industry led, prescribed by government or carried out by an independent body (like ANUK)?**

96. We believe that the industry should, in partnership with government and in the spirit of its objectives, should seek to set its own standards. In this example, industry includes landlords, occupiers and local authority representatives and so a body like ANUK would be an obvious choice. However, we are concerned that the governance of ANUK is predominantly made up of local authorities and therefore any standard would only be acceptable if it has the endorsement of the main organisations representing landlords and occupiers. Government and the LGA or LACORS representing local government should also endorse what is produced.

**Q38 What should a basic standard for accreditation cover?**

97. There is a perennial issue as to whether accreditation should apply primarily to the property or the person/organisation managing it. We strongly believe that it should be property led. That is, however, in no way to devalue the provision of training within accreditation schemes which is a valuable service which many schemes provide and ultimately which can underpin property standards.

98. A further complication is that some landlords, such as those we represent, can operate within several local authority boundaries and therefore accreditation per local authority can be a burdensome, costly and bureaucratic exercise. We believe that ultimately there should be a national scheme for landlords, similar to the scheme for larger student developments which samples a large landlord's property; and, local authority led schemes that appeal to local landlords. Any national scheme aimed at larger landlords may want to set different standards that should apply more to larger landlords, for example testing their systems and processes more, and perhaps making independent redress a standard feature, as the student code does and our own code of practice for larger members.

**Q39 How can local authorities and landlord associations be encouraged to work together to develop continuous professional development schemes?**

99. There are many ways in which local authorities and landlord associations can mutually support each other to pursue continuous professional development of landlords. Some local authorities for example, already provide premises for CPD sessions and offer incentives linked to accreditation for those participating in training. At a national level the IDEA provided a training manual for landlord development and more generally training materials could be sourced in this way. Landlord associations can support such schemes through promoting them to their members and the wider local landlord community.

**Q40 Should accreditation registration fees also be standardised?**

100. We cannot see this being beneficial. Local schemes will want to pursue different benefits beyond meeting minimum standards and fees will reflect this. The schemes are voluntary and therefore if the fee is too high landlords will not pay it and the scheme will rightly flounder.

Ian Fletcher  
Director, Commercial and Residential  
British Property Federation  
[ifletcher@bpf.org.uk](mailto:ifletcher@bpf.org.uk)  
02078020112