

APPENDIX TWO

House of Commons – Communities and Local Government Committee The Private Rented Sector – First Report of Sessions 2013-14 Response of Leeds City Council to the findings

Background

The Committee reported on the 18th July 2013, its findings on its investigation in the private rented sector. The report is divided into 6 main headings, namely:

- Simplifying regulation
- Raising awareness, maturing the market
- Raising standards of property and management
- Letting Agents
- Tenancies and rents
- Increasing supply

The Committee has made a series of recommendations under each of these headings for consideration by Government. Currently officers in CLG are considering the recommendation with the interested parties, including Local Authorities.

Simplifying regulation

The Committee recommended that the Government conduct a review to consolidate legislation covering the private rented sector to produce a simplified and straightforward set of regulations.

LCC response:

The Council agrees that a review of the legislation is required. There are contradictions between Planning, Building Regulations and Housing legislation which are required to be brought into line. A review would allow these contradictions to be removed making it simpler for landlords to understand their responsibilities and for enforcement agencies not to be compromised by such contradictions in legislation when addressing standards in the sector.

The Committee recommended that the Government consult on the future of the Housing Health and Safety Rating System (HHSRS) and the potential to introduce a simplified set of standards

LCC response:

The Council has been invited by CLG to be involved in considering this recommendation. It is our opinion that the HHSRS is fit for purpose and allows the issues that actually affect the health and well-being of occupants to be addressed. The previous “fitness standard” did not address these issues. The Council’s view is that there needs to be a review of the guidance available to support the enforcement of the standards as this is now 10 years old. Initial discussions with CLG and other Local Authorities shows consensus for this view across the Country.

Raising awareness, maturing the market

The Committee recommended that on completion of the review of the legislative framework, the Government, working with interested parties look to promote good standards and increased awareness of the rights of tenants and landlords.

LCC response:

The Council has always supported the sharing of good practice across the sector. The Council is very active in regional and national groups. Through these mechanisms good practice is shared with CLG, the Local Government Association (LGA) and across Local Authorities. Recent presentations and workshops led by officers at Shelter and CLG show the Council's willingness to learn and engage with others to improve service delivery in Leeds. The Council has been asked by CLG to be involved in a review of a number of the Committee's recommendations and this will help to develop further sharing of good practice and ideas within the sector.

Raising standards

The Committee wants the LGA to ensure that good practice was gathered and shared as part of its sector-led improvement role. Concerns were expressed by the Committee regarding the reduction of officers dealing with private rented sector enforcement.

LCC response:

The Council has always recognised the importance of the private rented sector and the maintenance and improvement of standards of accommodation therein. Indeed, the Council has increased funding, against a difficult financial backdrop, to proactively target areas of poor accommodation and privately owned empty properties via the Leeds Neighbourhood Approach.

The Committee recommended that the Government consult on the use of penalty charges without the recourse to court action for non-compliance of minor housing condition breaches. An aggrieved landlord would have the right of appeal to a court.

LCC response:

The Council welcomes proposals to strengthen its enforcement role. However, it does have concerns regarding the effectiveness of this approach. The number of breaches may not be sufficient to cover the costs of the action, including the recovery of the penalty. This could lead to the deterrent effect being insufficient and therefore some landlords may not comply. This could lead to additional costs for the Council some of which may not be recoverable. The Council favours its current approach which is to work with landlords to agree a programme of improvements and should landlords fail to comply, the Council favours enforcement through the Courts. The Council has an excellent success rate in the Courts and it also provides publicity that acts as a deterrent.

The Committee recommended that where landlords are convicted of letting property below legal standards a local authority can recoup the equivalent in housing benefit paid by the tenant.

LCC response:

Rent recovery Orders are already available for use under mandatory Houses in Multiple Occupation (HMO) legislation. The Council has already successfully used this approach against owners who have wilfully continued to fail to comply with their duty and where a successful prosecution has taken place. The Council would welcome the extension of this power to all breaches by landlords to discourage those who wilfully exploit vulnerable households and allow them to reside in substandard accommodation at the public's expense. In cases where the rent has been paid by the tenant direct to the landlord it would be their responsibility to recover the rent paid. This process would be supported by the Council to ensure that the tenant was provided with the relevant information to pursue their claim.

The Committee considered the introduction of a national licensing scheme but Government has made it clear that it is not convinced by the arguments for such a scheme. The Committee therefore recommended that the Government bring forward its proposals to reform selective licensing.

LCC response:

The Council welcomes this recommendation and is already involved in discussions with CLG about reforming the current legislation. Suggestions for reforms include:

- More flexible criteria to meet local needs
- Reduction in the bureaucracy involved in the establishment of the business case to help to reduce the set up costs which cannot be recovered by the licence fee.
- Licence conditions to include standards of accommodation, which **are** currently covered by Part 1 of the Act and can't therefore be covered by licensing

CLG are currently consulting on options for reform and will produce a paper in due course.

The Committee recommended that the Government gives Local Authorities the power to require landlords to be members of Accreditation Schemes

LCC response:

Currently Accreditation Schemes are voluntary. The aim is for landlords to agree to operate at a standard equal to or above that required by the legislation and therefore can use it as a tool to promote themselves and their properties. It gives them a market advantage. Voluntary Accreditation works very well but only in certain markets and with landlords who generally would achieve standards regardless of a scheme being in operation. The Council runs a voluntary Accreditation Scheme which has had a significant impact on standards of accommodation especially in the student market. The Council, therefore, can see merits in some form of compulsory national scheme as a means to ensure that standards are raised and maintained across the sector. The Welsh government are currently considering such a bill.

The Committee recommended a review of mandatory HMO licensing to consider its effectiveness and potential to modify the prescribed definition

LCC response:

A review of mandatory licensing occurred in 2009 under the previous Government. The Council gave a detailed response to the consultation. The Council welcomed opportunities to reduce the cost and bureaucracy of the process but also noted that the scheme had driven up standards and improved the accommodation provided. In Leeds the implementation also improved partnership working with the sector, a relationship we continue to benefit from.

The Committee wants Universities, student groups and local authorities to work together to ensure a sufficient supply of accommodation in appropriate areas.

LCC response:

The Council has a long history of working proactively with the Universities, Unipol and landlords about the supply of good quality accommodation in the student market. In addition, at the behest of the Housing and Regeneration Scrutiny Board, The Executive Member for Neighbourhoods, Planning and Support Services is carrying out a strategic review of the housing markets in the broad area of Leeds 6. .

The Committee recommended that the electrical industry develop safety certificates for the private rented sector and that checks should be required every 5 years.

LCC response:

The Council supports any measure that ensures the safety of the occupant. Currently certain property types, namely HMO's and those subject to discretionary licensing can be required to provide evidence of regular safety checks. A requirement for all properties to provide such certification would be welcomed.

The Committee recommended that all private rented properties should be fitted with working smoke and carbon monoxide detectors

LCC response:

The Council supports any measure to improve the safety of the occupant. However, it is important that landlords are aware that the simple installation of a detector, whilst highly desirable, may not be sufficient to offset the fire safety risk. Under certain circumstances substantial fire safety measure are required, such as in an HMO or back to back property. It is essential that landlords fully understand their legal duty and do not believe that simply fitting a smoke or carbon monoxide detector fulfils that duty.

Letting Agents

The Committee recommended that as part of the current consultation on the redress scheme, the Government should publicise the scheme. The Committee also recommended that as part of the redress scheme, a code of practice should be introduced that includes providing a full breakdown of fees and charges to tenants. The code should forbid double charging. Any failure to follow the code would make any fees illegal.

LCC response:

The Council welcomes the introduction of a requirement for all Letting Agents to be part of a redress scheme. At present two thirds of agents are members of an appropriate organisation that offers a redress scheme and those Agents operate to high professional standards. However a significant number of Letting Agents are not members of an appropriate organisation nor are they members of a redress scheme. Leaving the scheme as voluntarily will not assist those tenants who live in the lower end of the market in the inner city areas where agents are generally less professional. Whilst the code makes it illegal to double charge for services it would appear that unless the agent is in a scheme it will be hard to enforce.

The Committee recommended that the Government consider making Letting and Managing agents subject to the same regulations as estate agents

LCC response:

The Council would welcome any move that would improve the professionalism and the standards of practice across this sector. At present anyone can set themselves up as a Letting or Managing Agent without any experience, knowledge or understanding of the Private Rented Sector. The Council is of the opinion that in certain markets it is the agent who is acting in a way that adversely affects tenants and neighbourhoods by encouraging turnover of lets, to increase income.

Tenancies and rents

The Committee recognised that changes in the market meant that there was a need to overcome barriers that prevented offering longer tenancies. As part of this the Committee recommended that the government sets up a working party to review the eviction process. The Committee urged lenders to review their mortgage conditions where these prevented the offer of longer tenancies. Finally the Committee recommended that the government include in its code of practice for Letting Agents a requirement to both make tenants aware of the option of longer tenancies and to discuss these options with Landlords.

LCC response:

The Council would welcome any move in the sector to offer longer tenancies as it would offer greater stability to both tenants and their families and the communities in which they live. However, any such move would need to offer Landlords sufficient protection to be able to regain their property. A particular issue for Landlords is the length of time it takes to gain an eviction for no payment of rent. Some lenders also contribute to shorter tenancies with conditions to protect them on repossession of a property. Shelter has been running a campaign for a "Stable Contract" and the Residents Landlords Association are also developing a longer tenancy offer. The Council believes that there is considerable common ground between the two parties. Discussions have been held with both organisations and the Council has offered to broker discussions between the two parties.

The Committee recognised that the affordability of rent levels is a significant issue in the sector. They do not propose rent control but suggest longer tenancies with agreed rent rises as the best way of controlling rents.

LCC response:

The Council believes that the introduction of longer tenancies with agreed rent rises would be an effective mechanism to keep rents affordable. It is important to the development of the sector that Landlords are able to have a long term plan for their income. This will enable effective investment in the sector. At the same time planned rent increase give tenants certainty and an ability to plan their budgets accordingly.

The Committee recommended that as a matter of good practice all private rented properties which are to be used to house homeless individuals/families be inspected.

LCC response:

The Council welcomes this recommendation as it ensures that the most vulnerable in society can live in a safe and secure environment. The Council already undertakes inspections where properties are being used as temporary accommodation or if a bond is to be provided to help an individual or family access privately rented properties to ensure they meet the minimum legal requirements under the Housing Act and other relevant legislation.

The Committee recommended that the Government allows Councils to apply for a variation of Local Housing Allowance (LHA) where anomalies occur. It also recommends that the Government conduct a review of LHA to allow local flexibility.

LCC response:

The Council would welcome this approach as there are certain areas where LHA is adversely affecting the market. Within inner city areas the market rent is below the LHA and owners are deliberately letting to benefit claimants to get a higher rent than the market. This affects the stability of a neighbourhood; traps individuals in the benefit cycle, as if they gained employment they may not be able to pay the rent; and can lead to an increase in empty properties as landlords wait for tenants on benefit.

The Committee recommended 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 to interested parties.

LCC response:

The Council would welcome any process or system that allows the Council to identify the location, size and ownership of privately rented properties.

The Committee recommended that the Government review the regulations to allow those in the private sector to work more closely with the HMRC.

LCC response:

This is an area of partnership working that the Council would welcome. Better data sharing would help to tackle rogue landlords. Closer working to target this end of the market in a comprehensive and holistic way is very much welcomed by the Council. The Council responds annually to HMRC requests to provide information relating to all mandatory licensed HMOs.

Increasing supply

The Committee welcomes the Build to Let Fund and the guarantee scheme which may boost the supply of privately rented properties. The Committee invites the Government to create a task force to promote and broker investment in build-to-let investment

LCC response:

The Report into the Private Rented Sector supports efforts to extend the Private Rented Sector (PRS) and endorses the views expressed within the Montague report (November 2011) which identified a role for institutional investors in the PRS. Following Montague the government introduced a number of measures aimed at expanding market rent housing which this report considers – the introduction of the Build to Rent programme, the proposal to introduce a loan guarantee scheme and the establishment of a Task Force to identify barriers and develop measures to support large scale development.

Of these the Build to Rent fund is the most advanced and a programme has been established which is managed by the Homes and Communities Agency. Build to Rent (BTR) provides either a loan guarantee or equity finance to enable the development of market rent housing. There have been two BTR rounds to date. In the context of the Leeds City Region, the Council has been working with Bradford Council to explore the potential for attracting an institutional investor to develop market rent housing. An expression of interest has been submitted to the HCA for BTR Round 2 to ascertain whether resources could be attracted to developing a schemes and a site identified as a pilot. A formal procurement exercise would follow if the HCA indicate initial support. More generally there has been some interest in BTR from commercial providers in Leeds although none went forward under Round 1, there have been some submissions under the second round and if they are supported by the HCA the council will seek to identify whether any further support would be required to help the development of schemes. This is considered in more detail in a report elsewhere on this agenda.

The proposed guarantee programme is intended to use the government's fiscal strength to reduce the cost of borrowing for housing providers, although they are seeking a private sector partner to establish the fund and to date none had expressed an interest in running the scheme. Further the report acknowledges that the housing association sector can already borrow on relatively favourable terms and it therefore might not be of direct interest to them.

The establishment of a Task Force given that large scale PRS is relatively unfamiliar in the U.K. is also supported and is yet to be established.

The report recognises the opportunity to raise standards and address affordability as well as increase supply and choice. The government's route has focussed on attracting institutional investors into new large-scale developments of market rented housing. There is a recognised role for housing associations, some of whom already have market rent properties within their portfolio (including some of the associations operating in Leeds) although the measures following Montague focus on the high end market and the report questions how this could be integrated into the wider PRS and how it could have a positive effect on pushing up standards. Lastly the report

recognises that an enlarged sector will take some time to reach maturity nationally and this is almost certainly true of Leeds which still has a relatively small PRS characterised by small investors.