

Private Rented Sector: Combatting 'rogue landlords' – written response.

Terms of reference:-

1. Do local authorities have the powers and capacity required to enforce standards in the private rented sector and deal with 'rogue landlords'?
2. What are the main obstacles to effective intervention in the private rented sector?
3. How effective are landlord licensing schemes in promoting higher quality accommodation?
4. What approaches have local authorities taken to promote affordable private rented sector accommodation in their areas?
5. How effective are complaint mechanisms for tenants in the private rented sector?

Preamble

This written response comes from the Residential Property Group (RPG).

The RPG is an amalgam of many different landlord associations, and larger landlords, and can thus represent a large slice of the Private Rented Sector (PRS). They meet quarterly to help maintain co-ordination across the sector. The current make-up of the group (Oct 2017) can be seen at Appendix A.

Initially the RPG met under the auspices of the British Property Federation (BPF) but following the BPF's decision to concentrate on larger investment landlords the RPG continues to meet separately.

Note that some of the members of the group will be tendering separate responses to this inquiry. This response is a collective.

Response to Inquiry

1. *Do local authorities have the powers and capacity required to enforce standards in the private rented sector and deal with 'rogue landlords'?*
 - 1.1. Local Authorities (LA's) have powers introduced in the 2004 Housing Act (HA04) requiring landlords to carry out certain works if there is a problem under the Housing Health and Safety Rating System (HHSRS), also introduced via the HA04.
 - 1.2. These notices can vary from pointing out a minor problem to a full banning order; or even a demolition order – very rarely used.
 - 1.3. Fixed Penalty Notices, introduced via the 2016 Housing and Planning Act (HA16) allow LA's to keep the monies raised; as against court fines going direct to the Exchequer.
It is hoped that this will encourage LA's to pursue intentional malpractice from criminal landlords.
 - 1.4. We would like to see the extension of training and accreditation schemes to minimise the un-intentional malpractice from ill-informed landlords – ignorance is never an excuse in the eyes of the law.
 - 1.5. Whilst it would be desirable to see mandatory accreditation, the introduction of recognition for accredited landlords would be good; especially discounts for

required costs, e.g. licensing/inspections.

2. *What are the main obstacles to effective intervention in the private rented sector?*
 - 2.1. Understaffing; reduced budgets; lack of front-line intelligence. Note that it is likely that the use of Fixed Penalty Notices will improve this situation.
 - 2.2. The lack of alternative affordable housing can reduce enforcement activity at the lower end of the sector where major HHSRS issues are likely to occur, as rehousing tenants in emergency accommodation can be expensive for the LA.

3. *How effective are landlord licensing schemes in promoting higher quality accommodation?*
 - 3.1. The RPG feels strongly that licensing is a piece of legislation that is being badly abused.
 - 3.2. When it was originally introduced in the 2004 Housing Act (HA04) it was intended that licensing would be an additional power a Local Authority (LA) could use in the event of poor management, leading to antisocial behaviour and/or low demand. This was later extended to other local problems.
 - 3.3. Thus the LA could withdraw the licence if the manager failed to comply. Then a new manager could be found, or the LA could take over the management or the rental property ceased trading.
 - 3.4. We do not believe that it was ever intended to be used as a borough wide scheme. In fact a blanket approach actually has the opposite effect; poorly run rental properties are swamped, and hidden in the plethora of license applications.
 - 3.5. We are of the opinion that these large schemes are brought in without proper understanding by councillors believing them to be the panacea of all ills, and/or a mechanism to generate much needed income via a 'Stealth Tax' allowing them to retain staff.
 - 3.6. We are concerned about:-
 - 3.6.1. Costs:-
 - 3.6.1.1. the wide range of license fees;
 - 3.6.1.2. why (often) no discounts for accredited landlords;
 - 3.6.2. why schemes vary across LA's.

A good example are where [Portsmouth](#) treat all tenant complaints the same way but Southampton have a Triage process - and they are neighbouring schemes;
 - 3.6.3. the immediate proposal by many LA's to introduce a new identical scheme after an existing scheme reaches the end of its allowed term (generally 5 years).

It was intended that licensing have a limited term to ensure the perceived problems were dealt with in that time;
 - 3.6.4. whether all LA's correctly consider other methods of dealing with their perceived problems; and whether they also produce the full audit report at the end of a scheme.
 - 3.7. We would be pleased if alternatives are always considered:-
 - 3.7.1. the voluntary scheme in Southend on Sea that has proved to be successful - [SEAL](#);
 - 3.7.2. the use of private (approved) surveyors, as in Southampton.
 - 3.8. We would be pleased if possible alternatives could be considered:-

- 3.8.1. use Discretionary Licensing for its original purpose to control poorly managed properties, with the ultimate sanction of withdrawing the license from a manager not complying;
- 3.8.2. bring forward the 'Rogues' database;
- 3.8.3. ditto banning orders;
- 3.8.4. point out to the Treasury the probable volume of tax not being taken from 'Rogue' landlords – i.e. investigate the tax matters of anyone prosecuted;
- 3.8.5. encourage Local Authorities to use the Penalty Notice powers given in the Housing and Planning Act – this would both make up any shortfall by smaller licensing schemes, and help rid the industry of unwanted Landlords/Managers;
- 3.8.6. DCLG should publish a 'Best Practice' guide.

4. *What approaches have local authorities taken to promote affordable private rented sector accommodation in their areas?*

- 4.1. Many Local Authorities (LA's) are building some affordable housing, but it generally falls short of what is required.
- 4.2. LA's use of leasing schemes to take on properties at affordable rent.

5. *How effective are complaint mechanisms for tenants in the private rented sector?*

- 5.1. The De-regulation Act 2015 introduced robust measures to deal with protecting tenants. Lack of knowledge within help organisations like Citizen Advice and the Money Advice Centre has led to an environment of confusion with tenants being wrongly advised on matters relating to rogue landlord activity.
- 5.2. The DGLG booklet '*How to Rent*' is a useful source of knowledge for the tenants. All landlord association members have been made aware of this – but many other landlords are still not aware. This is where mandatory accreditation would help.
- 5.3. With the lack of affordable housing it is likely that many tenants are loath to report problems.
- 5.4. Anecdotally it is likely that criminal landlords who don't spend the money they should, nor possibly pay full taxes can 'afford' to offer cut-price rents. Thus forcing tenants to remain in place.
- 5.5. The only way to break this cycle would be for Local Authorities (LA's) to be able to guarantee to be able to re-house anyone reporting a criminal landlord. Being as they are unable to house their current list, they generally can't envisage voluntarily adding to it.

Appendix A - Current members of the RPG (in alphabetic order):-

Brandon Taylor Properties
Calderdale Landlords Association
Cornwall Residential Landlords Association (CRLA)
Dave Wells (DWP Partnership)
East Midlands Property Owners (EMPO)
Eastern Landlords Association (ELA)
National Landlords Association (NLA)
Northwest Landlords Association (NWLA)
Portsmouth & District Private Landlords Association (PDPLA)
Residential Landlords Association (RLA)
South West Landlords Association (SWLA)
Southern Landlords Association (SLA)

During 2017 the SLA are providing the secretariat for the group.