

A new settlement for the private rented sector

An independent Private Rented Sector Commission, organised by Shelter and the Joseph Rowntree Foundation, has led to agreement between individuals from organisations representing tenants and landlords, and other bodies, on measures which would increase the quantity and improve the quality of accommodation in this sector.

A package of measures is proposed which combine incentives and support with clearer regulations (*see the back page for a summary of these*). Its components will vary from the high demand areas which need more homes to address acute shortages, to the low demand areas where improved conditions and housing management are needed to regenerate neighbourhoods.

The Commission

Members of the Commission were:

Joint chairs

Lord (Richard) Best, Director, Joseph Rowntree Foundation

Chris Holmes, Director, Shelter

Members

Alan Wright, National Federation of Residential Landlords

Gareth Hardwick, Small Landlords Association

Richard Lambert, British Property Federation

Adrian Turner, Association of Residential Letting Agents

Jacky Peacock, Brent Private Tenants Rights Group

Simon Kemp, National Union of Students

Liz Phelps, National Association of Citizens Advice Bureaux

Maggie Drury, New Deal Private Rented Project, Newcastle upon Tyne

Michele Davies, London Borough of Camden

Andrew Griffiths, Chartered Institute of Environmental Health

Peter Jones, Winchester Housing Group

Philip Leather, Centre for Urban and Rural Studies, University of Birmingham

Sue Regan, Institute of Public Policy Research

Bev Coukham, Sheffield City Council

Nick Beacock, Shelter

Rachel O'Brien, Shelter

Alastair Jackson, Shelter

Ben Jackson, Shelter

To get further information

The report of the Shelter/JRF Commission on the Private Rented Sector, **Private renting: A new settlement**, is available free of charge from Shelter, 88 Old Street, London, EC1V 9HU, Tel: 020 7505 2000 (ISBN 1 903 59508 8).

Investment opportunities

Government projections suggest that 80% of the 4 million plus extra households which will emerge in the 25 years up to 2021 will be for only one person. Half of these are of working age and this represents a new market that contrasts with past demands for family housing.

For many single person households, owner-occupied housing will not be appropriate. Private renting may be a better option for those on the move for job reasons, for those who do not take on family commitments until later in life, for those who are divorced (often with a partner and children remaining in the family home) and for all those who do not want the financial commitments and maintenance responsibilities of home-ownership.

Individual investors can, directly or indirectly, fund the provision of extra homes for this expanding market. Those without the time or expertise to take on direct landlord responsibilities can use reputable agents to manage their investment. 'Buy-to-Rent' loans have increased individual investment in the sector.

However, even to maintain the private rented sector (PRS) at its current level of 10% of total housing stock, investment is needed of over £1 billion per annum. To enlarge the PRS to meet the demands of only a quarter of the new market would take over £3 billion per annum. This suggests that only the *major institutional investors* are likely to have the resources needed.

Fortunately, there is an excellent match between residential property investment – with its long-term security and with income/value likely to rise ahead of RPI – and the needs of institutional investors like pension funds. These are investing well over £150 billion in commercial properties such as office blocks and could be major players in relation to residential lettings.

Pilot schemes of City-centre Apartments for Single People at Affordable Rents (CASPAR) by the Joseph Rowntree Foundation, in Birmingham and Leeds, have demonstrated that net returns in excess of 10% per annum (6% from net rent, plus capital growth following the pattern of earnings) are possible.

Tax reforms

Currently there are barriers to both individual and institutional investment in private renting from the tax system.

If individual private landlords take responsibility for managing and maintaining their properties, they cannot off-set the costs of their own time against tax in the way they can offset fees paid to managers. In this and other respects, lettings by individuals need to be treated for tax purposes like any other small business.

At the institutional level, there are disadvantages for those who use intermediary bodies to pool risk between different developments in different areas and between different investors. Tax transparency for these intermediary vehicles is needed as exists for pooled investment in stocks and shares through Investment Trusts.

A further anomaly for the major investor relates to rates of Stamp Duty. If individual apartments are sold separately they might only attract Stamp Duty of 1%

whereas sale of the whole block to a single investor can incur a rate of 4%: it is clearly unfair that the Exchequer can receive four times as much in respect of a block that goes for rent, compared with one where all the flats are sold.

Housing associations

The work of housing associations will always be primarily to provide permanent homes for those on modest incomes who cannot afford market rents. However, housing associations may also have an important role in providing unsubsidised market lettings at least until the private sector becomes familiar with the new opportunities.

Currently, those institutional investors who are now interested in acquiring portfolios of rented apartments, find there is very little for them to buy. House builders have not traditionally undertaken such projects so the institutions find few opportunities to purchase 'off-the-peg' developments (of the CASPAR variety). Housing associations can show the way, using their extensive development experience, and, where appropriate, could sell apartment blocks to investment institutions as going concerns.

The regulatory framework for the registered social landlords, which rightly ensures no unwise risk-taking, should not prevent the skills of these registered social landlords being applied to bolster the supply of market renting.

Key workers

In many places, a healthy private rented sector would assist employers recruiting key workers, like nurses and bus drivers. But rent levels in the areas of greatest demand – particularly London – mean those on lower rates of pay than the average will be no more able to afford to rent than to buy.

Opportunities exist to use planning gain to create an intermediate rented sector. Any sub-market rented housing provided in this way should have guarantees in place that ensure that the discount is retained in perpetuity.

Security of tenure

For many households in the rented sector, the requirement is for a permanent home where children can have continuity in their school years and adults can put down roots in the local community. For these, security of tenure is an important component in achieving stability.

However, it is clear from the history of private renting during the last century that investors will stay away if they have no certainty when they can have possession of their property. Unless possession is guaranteed at a fixed point, individuals will not let houses on which they are temporarily absent for work reasons or to which they plan to retire or which they cannot sell because of market conditions. And the major institutions will avoid the sector unless they can be sure that they can sell their properties with vacant possession if they find private renting does not work out.

The Commission, therefore, while recognising that long-term security of tenure is important to many tenants, also realises that any change in the

current law could close off the extra investment the sector needs.

Nevertheless, it does not follow that a six month shorthold tenancy is the most satisfactory format for all landlords or all tenants. Much greater use of longer tenancy periods and assured tenancies would seem to be helpful to those landlords not wanting the management costs of high turnover and for tenants wanting to stay much longer. As confidence in private renting builds up, the Commission feels longer tenancies will become an attractive selling feature by those marketing new lets.

Good practice

As well as noting the Law Commission's work on simplifying forms of tenancy and grounds for possession, there are good practices which could be better promulgated by all those who can influence landlord behaviour. In particular all landlords who seek deposits should join the Tenancy Deposit Scheme (TDS) – which has proved very successful in its first trial period of two years and will now run for a further two: this has been shown to prevent and resolve landlord-tenant disputes over deposits.

The Independent Housing Ombudsman which runs the TDS is well placed to extend its arbitration role as it has done very successfully for housing associations and their tenants.

There are other practices on which the Commission would wish to see change in relation to the charging and payment of fees for agents' work. We would like to see a good practice guide produced to address these matters.

Local authorities

The Commission sees local authorities with their strategic overview of all aspects of housing in their areas, as key players in supporting and regulating the private rented sector.

In areas of low demand where economic and social regeneration are needed, the significance of the private rented sector has frequently been neglected. Good landlords can bring much-needed investment to the area. But irresponsible landlords can accelerate the downward slide of the neighbourhood.

Particularly in areas in need of neighbourhood regeneration, local authorities need to work in partnership with landlords, organising voluntary accreditation schemes (not least to cover student lettings) and helping ensure that tenants in this sector receive all the support they need. They can assist through tapping regeneration funds (e.g. *Neighbourhood Renewal* and *New Deal* for Communities funding) and through paying *Supporting People* grants to cover extra management support which private landlords cannot be expected to provide, as well as by helping the creation of Rent Guarantee schemes.

Where local authorities have provided resources specifically for private sector renewal and support, very positive results have been demonstrated from working in co-operation with responsible landlords.

Fit and proper landlords

Many individual landlords are purely investors who entrust responsibility for managing their properties to

competent qualified agents. But for those who take on the duties involved themselves, a minimum level of expertise will be essential in complying with all the necessary Health and Safety legislation, understanding the legal requirements upon them, etc. The Commission recognises that a small minority of landlords have woefully neglected their responsibilities. We note the government's proposals for *selective licensing*, in this respect.

In addition, the Commission would also wish to ensure that all those who accept the obligations of managing property – whether individual landlords or their agents – have a basic knowledge of all the requirements upon them (most of which are contained in the statutorily approved RICS Management Code). To satisfy this, new landlords should be required to attend a course of instruction on the legal requirements placed on landlords and the content of the Code.

Housing Benefit

It is through Housing Benefit (HB) that private landlords – who must obtain a market rent for their property – are able to house those who could not otherwise afford to pay. However, the current system has suffered immense problems in its administration by local authorities (not least because of its complexity). Moreover, the basis for assessment of rents by Rent Officers frequently means a substantial shortfall between the amount received by the tenant in Benefit and the amount that must be paid in rent: large numbers of households whose Income Support makes no allowance for payment of rent must contribute toward their rental payments nonetheless, because Housing Benefit does not cover it all. Both the administrative problems and the rental shortfalls flowing from the current HB system are severely affecting landlords and poorer tenants alike.

The Commission recognises that government is taking steps to simplify and improve Housing Benefit administration, and that others are looking at longer term ways in which the arrangements can reduce the hardship currently resulting from HB failing to cover the rent. But the Commission sees these matters as a high priority if the private rented sector is not to be prevented from playing a positive role for less affluent households.

The Commission is also concerned about a separate problem: it believes that current HB arrangements are working against the government's 'welfare to work' policies by creating disincentives to employment.

In conclusion

The Commission would like to see its twelve recommendations implemented through partnership between bodies representing landlords and their agents in the private rented sector, central government, with local authorities and the Housing Corporation, together with representatives of tenant organisations, over a three year time-span. On this basis, the Commission believes that its report could provide the basis for the expansion and improvement of this vital sector.

Summary of proposals

- 1 Opportunities now exist for *substantial investment* both by institutions and individuals in residential lettings: this could create hundreds of thousands of extra homes, reducing overall shortages at no cost to the tax-payer.
- 2 To assist this process, the *taxation* of the returns from residential lettings should be on a similar footing to that of comparable investment opportunities: for institutions, this means tax transparency and changes to unfair Stamp Duty rates; for individual landlords, it means enabling private renting to be treated like other small businesses.
- 3 The role of *housing associations* is vital in supplying permanent, low-rent housing. But barriers to housing associations developing projects for market renting should be removed: this would assist the build-up of portfolios of apartments which investors could acquire.
- 4 In high demand areas – particularly London – where key workers in essential services cannot afford the accommodation they need, homes are needed at rents between those for social housing and on the open market: these sub-market rents require a subvention which can be delivered through planning gains. Such schemes are likely to involve partnerships between private developers and housing associations.
- 5 Although a requirement on landlords to provide long-term *security of tenure* would be welcomed by many tenants, such a change in the current law would deter new investment and diminish the existing investment in the sector. However, the Commission recommends greater use of assured tenancies and agreement between landlords and tenants on longer term lettings than the six months period which is becoming the norm.
- 6 Work by the Law Commission on the *legal framework* for private letting - simplifying forms of tenancy, addressing conditions in tenancy agreements, and grounds for possession - are welcome. In the interim, there are aspects of good practice which government, and associations representing landlords and managing agents, should promulgate widely.
- 7 The Commission is pleased that the *Tenancy Deposit Scheme* - introduced by the government two years ago through the Independent Housing Ombudsman service to ensure the safety of tenants' deposits and to arbitrate on disputes - is to be continued and extended.
- 8 More often by default than by design, private landlords have been expected to house people whose tenancies in the social housing sector have failed, or who have special needs of other kinds. Planned and funded schemes are needed to *support tenants* (eg through Rent Guarantee schemes and Supporting People grants for intensive management) and also to *support landlords*.
- 9 Local authorities have a central role – particularly in areas needing regeneration - in ensuring that private renting fulfils its potential for meeting local housing need. They can organise training opportunities and voluntary accreditation schemes, not least to cover student lettings, and are key players in *supporting* as well as *regulating* the sector.
- 10 Local authorities should enforce not only forthcoming licensing of Houses in Multiple Occupation but also existing environmental health *standards for properties* throughout the sector: sufficient resources should be set aside for this purpose and the authority's performance in relation to the private rented sector should be the subject of a Performance Indicator established by central government.
- 11 Although there is a case for licensing where landlords abrogate their housing management responsibilities, creating problems for tenants or their neighbours, this should only occur in tightly-defined circumstances, alongside measures to engage with and support responsible private landlords. Those who fail to meet basic management standards, or to use a competent managing agent, should be required to receive relevant training.
- 12 *Housing Benefit*, which enables private landlords to house those on lower incomes, is currently the subject of very poor administration in a number of areas. The system is in urgent need of simplification, of changes to treatment of overpayments to tenants (recoverable from landlords) and of the basis for assessment of rents which frequently means substantial shortfalls between the actual rent and the amount received by the tenant. These problems are undermining the capacity of the sector to meet the needs of low income households.

The Commission recommends implementation of these proposals over the next three years, through co-operation between those representing all the different aspects of private renting.