

HOUSE OF COMMONS
ORAL EVIDENCE
TAKEN BEFORE THE
COMMUNITIES AND LOCAL GOVERNMENT COMMITTEE

PRIVATE RENTED SECTOR

MONDAY 4 FEBRUARY 2013

DR TIM BROWN, PROFESSOR MARTIN PARTINGTON CBE QC AND
DR JULIE RUGG

KAY BOYCOTT, COUNCILLOR TONY NEWMAN, JACKY PEACOCK OBE AND
ALAN WARD

Evidence heard in Public

Questions 1-103

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Oral Evidence

Taken before the Communities and Local Government Committee

on Monday 4 February 2013

Members present:

Mr Clive Betts (Chair)
 Bob Blackman
 Simon Danczuk
 James Morris
 Mark Pawsey
 John Pugh
 Andy Sawford
 John Stevenson
 Heather Wheeler

Examination of Witnesses

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

Q1 Chair: Welcome, everyone, to our first evidence session of the inquiry into the private rented sector. Before we begin taking evidence, members of the Committee will want to place on record any interests they have that are relevant to this inquiry. To begin with, I will say I have one flat that I rent out, which is in the Register of Members' Interests.

John Stevenson: I have three flats that are in the Register of Members' Interests.

Simon Danczuk: My wife has a small interest in a rented property.

Andy Sawford: I have interests as both a tenant of a rented property and a landlord—a small interest.

Bob Blackman: I am the joint owner of six buy-to-let properties.

Q2 Chair: We place that on record so that you see the interests we have—it is quite important.

Can we begin by asking you to say who you are and the organisation, if any, that you represent?

Dr Brown: Dr Tim Brown from the Centre for Comparative Housing Research at De Montfort University in Leicester.

Dr Rugg: Dr Julie Rugg from the Centre for Housing Policy at York University.

Professor Partington: I am Martin Partington. I was Law Commissioner for England and Wales in 2001 to 2005. I currently chair the board of the Dispute Service which is one of the four organisations offering tenancy deposit protection in England and Wales.

Q3 Chair: Thank you very much for coming to give evidence to us. The private rented sector is clearly a growing sector—growing in numbers and growing in the percentage of housing that it represents. Should this be seen as a long-term structural change, or just

something that is responding to particular circumstances that then might revert back in the future?

Dr Brown: I would suggest that some quite big changes have been under way and are going to continue to happen to the housing market. It might be argued that, if the owner-occupied housing market becomes more buoyant again and there is more investment in affordable housing, the private rented sector might level off or even decline from the current 17% of households. However, I think it is unlikely, in the next five or six years, that the owner-occupied housing market is going to go back to where it was in the middle part of the last decade. There have been a number of forecasts suggesting that, by 2020, maybe 20% or 25% of households will be in the private rented sector, in which case it represents a fairly fundamental change in tenure in this country, compared with, say, 1990, which was the low point for the private rented sector with about 9% or 10%.

Dr Rugg: That is fair to say, but it is a very complicated picture out there at the moment and there are lots of factors that are very difficult to take into account. There is a proportion of the sector that is landlords unable to sell property, so they are letting them out at the moment. When the mortgage market revives, we will see some reduction there, but there is not evidence that that is a huge part of the market. A counter that will run against that to some degree is how the smaller landlords can accommodate possible rent arrears incidents, which might go up if rents are going up. The smaller landlords might find it is getting to be too difficult to manage one or two properties. If they are falling into rent arrears too often, their job conditions are perhaps not as stable as they were. We are going to see some flurries around the edges of change. It is quite difficult to judge at the moment but, overall, I think that Tim is right—I do not think we will see a substantial shift back to the position we were in, unless there are more substantive interventions.

Professor Partington: The only thing I would want to add, and this may be more wishful thinking than the reality of what is likely to happen, is that if one thinks of the thing from the affordability argument, one of the difficulties about the owner-occupied sector is that there seems to be at least some indication that limits have been reached on the proportion of the population that are going to be able to purchase their property. In that context, the importance of the development of the rented sector, whether it is the private rented sector or the social rented sector, taken together becomes even more important.

One of the pleas that I keep trying to make is that we should not see the private rented sector in isolation from the social rented sector. It does seem to me that the two things need to be seen together. For example, many housing associations are now building accommodation to rent at market rents or near market rents, as well as at affordable rents. There needs to be much more fluidity between the different sectors, including local authorities. They tend to be pigeon-holed over there, but they could be much more dynamically involved in the development of new property for rent, which might actually do something to bring down the very substantial numbers of those who are looking for a decent home.

Q4 Chair: That leads me on to the next question about the differences within the private rented sector and the extent to which growth in recent years may be a bit accidental—people who really would like to have sold but cannot, and end up renting a property out—as opposed to what might happen with a more structured change in the sector. On that point, with housing associations moving in, do we see them taking a bigger role in providing houses at market rents, maybe alongside institutional investment in the private sector itself? Are those sorts of changes likely to happen in the next 10 years, do you think?

Professor Partington: If I can come back, as I have started it, I think that they could happen. Probably there has to be some leadership from Government to encourage it to

happen. To me, the interesting recommendation that came out last summer was the idea, for example, that local authority pension funds might be used as a new source of investment. One of the structural problems with the current buy-to-let market is that the Council of Mortgage Lenders very much wants money to be lent short term so that, if something happens, they can get the properties back within a relatively short term. That does not encourage the longer-term landlordism that I think is necessary, given the sort of demographics of the population, and is also sensible in terms of driving up standards. It is through that that you will get standards, rather than new regulations, for example.

Chair: We will come back to long-term rents in due course.

Dr Rugg: The question is predicated on the assumption that more supply is good. We have become a little obsessed with supply and have to re-engage with the notion of balance, because more supply is not necessarily a good thing for the private rented sector. For example, in York, we have a new institutional investor in student housing, which you would have thought would have brought a lot of good new properties to the sector and released some street properties, but actually the impact it has had is of driving up rents in York for those properties, because it has set a new high ceiling for shared properties in the area.

One of the things we have to think about is what we want this sector to bring. Okay, we might want it to bring supply overall, but it is not necessarily bringing affordable supply and it might not be supply that is flexible enough to meet the needs that we want for it. The key issue here is not supply; it is balance. The second key issue is balance that is affordable. It is new property supply that is affordable. I am not sure the private rented sector, as a market, really wants to deliver affordable housing.

Dr Brown: Really developing Julie's point, the city I live in, which is Coventry, and the city I work in, which is Leicester, have both have seen a huge rise in institutional investment in purpose-built student housing. In many respects, that is a good thing—improving the conditions students live in—but it has left a large number of inner-city, small vacant, terraced properties that are empty and remain empty for long periods of time. It poses major challenges, not just for the local authority but for the communities in which those properties are located. Simply putting in a lot of supply without thinking about the implications can pose major challenges for neighbourhoods and the local authority about how they react to those changes.

Q5 Chair: Before we come on to the next set of questions, can I just ask why that is? Is it because the landlords there have got used to students paying reasonably high rents and, now that they have gone, they are over-ambitious in what they are asking and people do not want to pay it?

Dr Brown: Yes, that is right. Of course, landlords may have relied on the fact that they would be housing four students rather than a family. They have borrowed money for a mortgage on that basis and they now have a major problem.

Dr Rugg: The exact contrary is happening in York, where there is over-demand for accommodation. What we are saying is that the private rented sector is so different in so many places. Institutional investment is not a good for everywhere, in every circumstance, for every part of the private rented sector market.

Q6 James Morris: It is fair to say that the private rented sector has got a kind of reputational problem. I just wanted to explore what that reputational problem was because, Dr Brown, you have made some comments in your submission that we were not living in the days of "Rising Damp", but yet we still had problems about the perception of the private rented sector. Can you just clear up what your actual view is?

Dr Brown: I happen to have been a member of the Montague review last year and I was very impressed by the evidence from a number of local authorities, including leaders of councils in a number of cities, where they made the point that you cannot separate out issues around the existing private rented sector—sometimes referred to as some of the “challenges”; sometimes referred to as “beds in sheds” issues—because that gives an image or perception to the rest of the community about some of the problems.

Q7 James Morris: Is it true, in terms of the extent of overcrowding and non-decency? Is it a perception or is it a reality?

Dr Brown: It is a reality to some extent, bearing in mind that 40% of private rented housing in 2009 did not meet the basic decent homes standards, so there are clearly some issues there about the state of the stock.

Dr Rugg: You are right that the state of the stock is an issue. There is new stock coming to the sector but, for some landlords at the very bottom end of the sector, limits in local housing allowance do restrict their ability to re-invest in their stock, so the existing stock is not ever going to get better. We might see new stock coming to the market, but the existing stock, which was in play 10 years ago, is going to deteriorate because it is quite hard for landlords to re-invest in that property—“hard” being financially difficult. Also, why would they bother at the bottom end of the sector, because they are getting the tenants still? I would not say which percentage of those was which. It is impossible to say, but I think there are disincentives at the bottom of the sector to improve quality.

Professor Partington: When we were doing the work at the Law Commission and consulting very widely—we held roadshows up and down the country and so forth, and I went to large numbers of events—I have to say that my overall impression was that, if there was a problem, it was a problem of ignorant landlords who did not know what their rights and responsibilities were rather than wilfully bad landlords. In some cases, there are going to be severe economic disincentives for landlords to do very much about their property. Indeed, at the bottom end of the market, there will be frankly some tenants who like the fact that they have a cheap place to rent.

A much greater problem, which was one of the key issues that we were trying to do something about, was that many landlords did not really know what they were doing. That is particularly the case at the moment when, as we have just been hearing, quite a lot of landlords have come into the market—they are sometimes called accidental landlords—but they are still operating in a market about which they know very little. We were trying to create a context in which they would have some basic information and both sides would know. We thought that that would address some of the reputational issues that undoubtedly exist—unfairly in my view, having seen many cases.

Q8 James Morris: There are strong arguments and strong moves towards wanting to regulate the sector more with quality standards and various other issues. Is there not a danger that if we over-regulate the private rented sector market, that might stop institutional investors or other investment money coming into the sector and provide a disincentive? Dr Brown, I think you have argued for a regulatory system.

Dr Brown: We heard evidence as part of the Montague review that a number of institutional investors were concerned if there was no political consensus over the future of the private rented sector in terms of regulation. That was seen as a disincentive to invest.

Q9 James Morris: Does that argue against something you have been arguing for, which is a single regulatory system that covers the whole of the private rented sector, which does not necessarily take into account different markets and different levels of scale?

Dr Brown: One of the issues about regulation is that there are clearly issues that we need to address now, such as beds in sheds, but we also have to think about, with regulation in the long term, what the sector looks like in four or five years' time. One of the trends in the past 10 or 15 years has been the growth of families living in the private rented sector, which is now somewhere between 25% and 33% of households. That is quite a new thing, and those households want a longer tenancy and want to put down their roots in the community. They do not want to be moving their kids between schools every six or twelve months. We have to think, if we are thinking about regulation, about not just the issues now, but where the private rented sector is going to be in five or six years' time, otherwise we are going to be looking at yesterday's problems today.

Q10 Andy Sawford: I want to start with a question to Dr Rugg and then go on to Professor Partington, because in your evidence to the Committee it appears you have a very different view of what would be effective regulation. First, Dr Rugg, you have argued, particularly in your 2008 report but also the evidence to us, the benefits of a nationally administered licensing scheme. What would you see as the benefits of that and, in particular, could you comment on why you think that the local schemes adopted both in Newham and in Northern Ireland are not succeeding where your idea will, as it were?

Dr Rugg: Regulation can have lots of different purposes and, in doing the review, like yourselves, we had lots of people talking to us about what they thought would be effective regulation. Lots of landlords do not like regulation because it is very front-ended. There are lots and lots of rules and hurdles you have to get over, and you have to demonstrate that you are proving that you are doing a thing. You pay a lot of money to the local authority and then you are regulated. In some instances, it is the case that local authorities see that as a way of raising revenue, because they can charge x amount for an HMO licence, but actually never really go and inspect the property. That is one thing that landlords get quite upset about.

What you have to think about is actually not so much the regulation, but how it is monitored, how it is managed and what you want the outcome to be. That is where the debate tends not to happen. You can set in play a very strong regulatory framework that is impossible to manage, because there are no environmental health officers out there to do it. What is the point of having a very heavy regulatory framework that requires lots of hurdles? That was my principal concern: that actually what we should do is regulate every landlord instantly. You have six months to get on board, you register, we give you a number and then you are instantly registered. But, if you do anything wrong, you stop being registered, because then environmental health officers have an incentive to go and seek the people who are doing wrong things, rather than patting on the back everybody who is doing the right thing, because that is a waste of resource. They are just simply not resourced to do that.

Q11 Andy Sawford: What would the incentive be for environmental health officers?

Dr Rugg: Because they then can target the bad landlord, rather than spending six appointments a day going to look at a landlord who he knows is a good landlord because he has to go through the whole licensing system, as opposed to dealing with a landlord who is much more problematic, and he knows is a bad landlord, because he is not coming to the framework. What we have to do is to encourage local authorities to aim their attention at the bad landlords much more effectively—by assuming that the sector is good, and then aiming at the bad landlords—rather than assuming that the whole sector is bad and the whole thing has to be regulated.

Q12 Andy Sawford: How will they fairly target their activities so as to avoid making assumptions about certain types of landlords or properties and so as to deal fairly with the

landlords? What form of redress would there be if a landlord felt that they—if this is as light touch as you describe—had not been dealt with fairly or properly?

Dr Rugg: Every local authority environmental health officer you speak to will tell you who the bad landlords are. They could name six landlords they know, and if they had enough time and resources, and if they were convinced that the punishment that could be offered to those landlords was worth their while, they would go and deal with those landlords, but the framework for dealing with those landlords is more complicated. Say you have a bad landlord in an area with absolutely shocking property and 50 tenancies, all of whom would suddenly become homeless if they dealt with that bad landlord, because that landlord is going around taking people out of hostels to accommodate them in his HMOs. The local authority is a little bit conflicted about how to deal with that landlord, so we want to think about supporting frameworks for management systems to take over control of those properties while we sort out what to do with the situation. Local authorities are stymied about how to deal with bad landlords, because they do not know how to deal with their tenants.

Q13 Andy Sawford: How much would it cost for a landlord to be registered? What would be the fee?

Dr Rugg: I am talking a tiny amount—£20, £30 or £50.

Andy Sawford: A week, a month or a year?

Dr Rugg: A year.

Q14 Andy Sawford: What would be the total budget of this regulator? What current good example would you base this on, in terms of a light-touch regulator doing such a significant role that would be funded by a levy of that amount?

Dr Rugg: What it does is set in play a system that allows the local authorities to do the work that they need to do to sit behind it.

Q15 Andy Sawford: You must have worked out how it might cost to carry out this role effectively.

Dr Rugg: DCLG worked out how much it would cost, and it did not see the cost as being excessively onerous. It thought the system was quite feasible, but by the time it had finished reporting on the feasibility, there was a change of Government and the idea was shelved, so it was not pursued with the detail that would have been helpful.

Q16 Andy Sawford: Why would you not consider Newham's move a step forward, albeit it is at a localised level? The same principles apply as you are describing.

Dr Rugg: It is a strange-looking system, because there is nothing embedded within the system that looks at how they deal with the landlords that have then stopped being landlords. There is an awful lot about what landlords should pay to be part of the system. I am not sure if the local authority has in play a huge phalanx of environmental health officers to go out and examine all the properties in Newham, which is a very poor area. It is a terribly poor area that needs a whole lot of environmental health officer input into dealing with those landlords. If it is anything like somewhere such as Scotland, Northern Ireland, which has got a new system, or the Republic of Ireland, which introduced a licensing system, essentially they have a very big room full of an awful lot of documents that nobody has the time or resource to process.

Q17 Andy Sawford: Professor Partington, the Law Commission has a different view. You have argued for enhanced self-regulation.

Professor Partington: When we started, our opening position in our first consultation paper was a compulsory registration scheme not a million miles from that being proposed by

Dr Rugg. However, in the light of the evidence we received, we came to the conclusion that, if it was going to be a really effective form of regulation, so that there were sufficient staff to do the sorts of things that would need to be done, as has been just sketched out, it could not be as cheap as was being posited.

It was on that basis that we thought that a sensible first step would be to do what we ultimately recommended, which was enhanced self-regulation, which was a combination of regulation of the letting market, because an awful lot of the actual running of rented accommodation is done by agents, not directly by landlords. Landlords themselves could comply with this system, either by using a regulated or licensed agent, or by themselves getting an accreditation through a local authority accreditation scheme. It would be through one or other of those mechanisms that the local authority would begin to acquire the information they would have about the rental sector in their area.

Q18 Andy Sawford: How do you propose within that system that the worst landlords will be tackled? The Law Commission itself is often cited as a good example of self-regulation, but frequently self-regulation fails at the margins with those whose practices are, frankly, the worst.

Professor Partington: We had some preliminary discussions with the OFT about whether some sort of industry standard could be created. I am not sure that anything can happen unless the whole of the rental agent sector of the market is regulated. At the moment, as you know, it is a voluntary thing and large numbers of agents fall outside any professional network whatsoever. We felt that, if there was compulsory letting agent regulation, the industry itself would have codes of practice that would deal with those agents who were letting the side down and raising the reputational problems that still bedevil the market disproportionately, because those are always the stories that get into the press and on to TV programmes and so on. That is the way we thought we would do it, and it would be a reasonable ask for those landlords who wanted to let for themselves and have nothing to do with agents to have some accreditation. Through that, if tenants started complaining, the local authority would have a handle on them because they would have met them at the accreditation sessions. Who knows whether that would work or not, but we thought it was a more sensible and more credible alternative to start with.

Q19 Andy Sawford: To varying degrees, both approaches would aim to improve standards, particularly at the bottom end of the market. We have had evidence from the Council of Mortgage Lenders saying that there is a risk that, in trying to improve quality at the bottom end, you actually drive up rental prices. At a time when people are finding it more difficult, in an economic context, to meet their rent, clearly there could be some consequence if rental prices are pushed up. Do you recognise that criticism and how would you answer it? That is for any of the panel; Dr Brown, you have been quiet for a little while.

Dr Brown: Clearly, one of the crucial issues is dealing with the poor-quality accommodation and rogue landlord issues at the bottom of the market. There is plenty of evidence—for example from the Chartered Institute of Environmental Health—about the relationship between poor-quality property in the private rented sector, poor health and low educational attainment, so it is clearly an issue that has to be addressed. The issue will be whether, by bringing in regulation, you will force out reasonable landlords as well as getting rid of rogue landlords. It is getting that balance that is going to be the issue at the bottom end of the market. In the Montague review, there was really strong evidence that institutional investors were concerned about this “Rising Damp” image. It is often a misconception about what the sector is, but it is a very powerful image and it is something that we have to address.

Dr Rugg: If people tell each other enough that there is a bad reputation about something, then there is a bad reputation about something, as opposed to if they actually address the issues. With property quality at the bottom of the sector, we do not know enough about the economics of private renting at the bottom of the market. There is going to be a proportion of properties that are not rented and are not mortgaged, so the landlord actually would have flexibility to improve those properties, if they were minded to. It might be that new regulation would make them think, “Well, actually I can’t be bothered with this. I’ll sell it to another landlord,” and that new landlord then thinks, “Actually, I am going to get a better quality of rent. I am going to improve it.”

We don’t know what the play of decisions is among small landlords. We have spent a lot of time thinking about institutional investors. The majority of our sector sits with private landlords; we do not have a clue what they think about anything, really. We need more understanding about what the economic drivers for those landlords are, how mortgaged their properties are and, most importantly, what percentage of them are thinking, “I have to pay a mortgage on my rented property, but actually I have just lost my job and the tenant is in rent arrears. How am I going to square this one?” We have to understand more of the sector than just how these big players work. We have to understand the economics at a much more micro level.

Q20 John Stevenson: I am just concerned that you are assuming a great deal of knowledge and understanding of a landlord. Some people are what I would call a “casual landlord”, maybe renting a property to a friend, and you are expecting them to register. They might not even know that they are meant to register.

Dr Rugg: Exactly.

John Stevenson: Do you not think that would create a problem in itself, in that there would be an awful lot of landlords out there who would not have a clue about the regulation and would assume that they did not need to do anything?

Dr Rugg: That is part of the problem. We have a lot of people who are landlords and do not even realise that they are landlords and they have responsibilities.

Q21 John Stevenson: How would your regulation work, then?

Dr Rugg: It is a very simple, smart system. In my mind, I often equate it to seatbelts—clunk, click. Drivers are not stopped at every single point to see if they have their seatbelts on but, if they are found without their seatbelt, there is difficulty and word soon gets round. The biggest thing that you can do to push forward in the sector is to say that local housing allowance claims will not be processed unless there is a landlord licence number. That is a really big way of getting through to people, especially at the bottom end of the market. I am not saying every landlord will be on board tomorrow but, through the taxation system—if they are paying their taxes, which they should be—and all these other systems, there are lots of ways you can inform people that they are indeed landlords.

Professor Partington: Could I just add a comment to that? I think you are going back to this question that I raised earlier about ignorance versus wilful malevolence. For sure, there are some malevolent landlords out there but they are, I think, a small minority. The problem with ignorance cannot be overstated, and one of the things that we were trying to do was to create a form of tenancy agreement that was written in plain English, which would be a document both for landlords and for tenants about what their mutual rights and responsibilities were. The previous Government were minded, I think, to take those parts of our recommendations and develop them. Unfortunately, they lapsed with the change of Government, but I hope that that has not been forgotten entirely, because I do think that these problems of landlord ignorance—I agree with you—can hardly be overstated.

Dr Rugg: I would just quickly say that registering as a landlord on the system would then give you access to tenancy agreements, lots of tenancy regulation and other places you could get information. It would become a single port of call for anyone with an inquiry about renting. It is useful to get people on board to see that that is where the information is.

Dr Brown: It is also worth saying that a lot of local authorities working through private landlord forums have, over the past decade, done a lot of really good work to try to take on board and challenge some of these ignorance issues through publicity. I am thinking of towns and cities such as Stoke-on-Trent and Hull, which have done an awful lot to start to overcome this issue, but then it does become an issue of priorities and funding to decide how much of a priority that is against other things in the housing sector.

Q22 Mark Pawsey: The Committee is quite keen to understand what happens in other countries, and I know, Dr Brown, that you have done some work and submitted some evidence to DCLG about the private sector social supply schemes. Can I sum those up as being incentives for landlords in exchange for some kind of regulation? How does that happen in the countries where it exists?

Dr Brown: Every country is different and has different systems. In federal systems of government, such as in Germany and the United States, it varies enormously within the country. If one talks about a model for the United States, that is very misleading, because what happens in New York is very different from what happens in Washington, and so on. We do have to be careful about it, but it is very much about taxation incentives for landlords—not just institutional landlords, because they are taken up by small landlords as well—where they get taxation incentives in exchange for agreeing, for a certain period of time, which depends on the system, that they will house a particular client group, at a particular rent level, with some sort of control over rent increases.

Q23 Mark Pawsey: Importantly, is this a voluntary agreement on the part of the landlord or is this something that applies to all tenancies within that particular state of a federal body?

Dr Brown: It is not a comprehensive system that covers every landlord, but it is very much local.

Q24 Mark Pawsey: The landlord would choose to opt in.

Dr Brown: Yes, but it is built into the culture so that, in some countries, it has become a natural traditional way of carrying out development.

Q25 Mark Pawsey: What would your views be about implementing a scheme such as that in England?

Dr Brown: I worry sometimes about us doing policy transfer—grabbing an idea in one country and thinking we can just transfer it here straightforwardly. Economic, social, environmental and cultural things are different. What I think is important is that it actually gives us some food for thought—something I sometimes call “shock therapy” for my students, where it challenges us on what we might do going forward.

Q26 Mark Pawsey: Is it the existence of those schemes that has enabled the private rented sectors to be bigger in other areas? I know that ours has grown very substantially, and you have spoken to us about the growth from 9% to 17% between 1990 and today. Could we grow the sector more if we were to implement some of these?

Dr Brown: We could do with those sorts of incentives and that is happening in some countries. It is not a simple picture, because in Germany it is actually declining, that sort of

system, but it is increasing in Australia. It is different patterns in different countries, but it is something we ought to consider and debate.

Q27 Mark Pawsey: Any sector that is unregulated very rarely says, “Yes, give me the regulation.” Do you think that the regulation has worked and that landlords, if offered that kind of scheme in the UK, would take it up?

Dr Brown: I think some would, and it ought to be piloted or prototyped to see if it would work. I suspect there might well be some issues with the Treasury over taxation.

Q28 Mark Pawsey: I was going to ask you why you think it has not happened here.

Dr Brown: Certainly in the work we did for the Department for Communities and Local Government three years ago, we got fairly short shrift from the Treasury over taxation incentive changes, and I personally believe that that is the major obstacle at the moment to being innovative around this sort of approach.

Q29 Mark Pawsey: Do any of our other witnesses have anything to say about private rented social supply?

Professor Partington: We certainly recognise that, if there was to be a new approach to regulation, incentives would have to be put in place. They could be incentives involving preferable access to housing benefit, preferable access to the courts, tax incentives or whatever. We did not go into the details of that because, as the Law Commission, we try to steer away from party political issues, or issues that might become party political, but we undoubtedly recognised that that would be necessary.

The other thing I would say is that in our framework—particularly going back to my hobby horse, which is seeing the social and private rented sector, in a sense, as part of a global whole—we did seek in that context that partnerships between local authorities and the private rented sector could be created. I do not know whether they would, in fact, but our legal infrastructure that we were offering would certainly have provided for that to create the kinds of incentives and the kinds of relationships between local authorities and private landlords that perhaps do not exist at the moment.

Dr Rugg: My slight concern is it sounds a little like temporary housing schemes, which operated across London, which were hugely expensive and actually created a whole expectation amongst landlords that, in order even to think about housing somebody on local housing allowance or housing benefit, £1,000 would be offered by the local authority before he got out of bed, practically. These types of schemes are very varied. As Tim is right in saying, these countries are very varied, particularly in terms of their welfare structures.

Q30 Mark Pawsey: Is there anything we have to learn from these schemes that you are aware of?

Dr Rugg: We have to learn from our own schemes and how they have worked here. Our own schemes are in our own context. We spend a lot of time looking abroad without fully understanding what is going on here. We have to learn what has worked here and what has not worked here, and then we can think about how to expand out from what we have. Certainly I agree with Tim—sometimes a good idea can be expanded, and we can think, “Yes, let’s think about that idea,” but a lot of investment has been given into going around the world and seeing what other people do. They all do not have very large private rented sectors; a lot of these places, such as Germany, have the same rate of small landlordism as we have.

Q31 Mark Pawsey: Do they have the problems?

Dr Rugg: We do not know. From my perspective, yes; you can have lots of studies that tell you what the regulatory and legal frameworks are for renting, but I have not seen, for example, how long a tenancy is. Who brings a tenancy to an end in Germany? What are rent arrears like in Germany? I really do not know, because that information is not routinely collected.

Q32 Bob Blackman: Professor Partington, if I could start with you, in your written evidence, you have given us quite a lot of detail about the legal and political constraints that exist on the sector. Can you give us some examples of what that has meant and how it has impacted the sector, and what changes you would like to see that would benefit the sector as a result?

Professor Partington: The most important message that I was trying to get across was this idea that we should not see the council and the social sector over there, and the private rented sector over there. I do believe really quite passionately that renting is part of the housing market and that, if the social side of that market and the private rented side can be encouraged to work together, it will be for the benefit of the third of the population or whatever it is who now rents in that market. That would be my primary answer to your question.

Q33 Bob Blackman: Can you give us some practical examples of what the impact has been of what you describe as legal and political constraints? What could we suggest, for example, that the Government could do to combat them?

Professor Partington: All I can tell you is what life was like when I was trying to do the project. The then Minister, Nick Raynsford, commissioned the work from us and he was working with the social rented side of the house, as it were. Years went on, and Housing Ministers came and went like water down the drain—that might be slightly unfair, but they did come and go with extraordinary regularity. There was a point at which we suddenly discovered, without any consultation with us, that we were going to be masterminded by the private sector side of what was then still the ODPM. This had the effect that the interest that existed among civil servants for the work that we were doing and the contribution that we might make to overall global social policy became, from my perspective, a narrower one about whether what we were recommending might or might not facilitate the private rented sector.

Frankly, once we had got to this stage, civil servants started saying things to us like, “Hmm, this is all very difficult,” or “I don’t think we’re going to make much progress unless you get political engagement by Ministers.” My difficulty was, because Ministers were coming and going every eight or nine months, you know that the shorthand is that if civil servants tell you “You have to get political engagement,” they have no interest in taking it forwards themselves. That is where I got slightly hacked off about the process that we were going through.

I have to say I went to the retirement party of one of the civil servants who had been leading for DCLG, and he took me aside at the end and said, “Do you know, Martin? I do feel a bit guilty that I didn’t really push the Law Commission stuff as hard as I might have done.” My heart did sink, but I then perked up every time I went to Cardiff and officials in the Welsh Government kept on saying things like, “This is frightfully good. We cannot understand why they are not doing it in Whitehall.” I live to fight another day, and I am not an embittered old Law Commissioner. I do think that what we were trying to do required a bit of imagination and input and, for whatever reason, we lost the political impetus through the way it was managed within the Department, as we were going through the work.

Q34 Bob Blackman: Dr Brown, you were part of the Montague review, as you said. Did you consider legislative changes and, if so, what did you conclude?

Dr Brown: We did have quite a lengthy discussion on setting up a kite mark scheme to profile good-quality private renting, in terms of management and quality of accommodation, as a way of attempting to challenge this misperception about the private rented sector. The issue, which is the reason I believe it was not included in our recommendations, was whether that would be a voluntary scheme, whether it would create another bureaucratic system, or whether it would just create another system of quality control? We left it as an issue and we are hoping that the new task force that the Department for Communities and Local Government is setting up to take forward good practice and advice on institutional investment will consider that. It, in a sense, was trying to create a new brand—a new image—for the private rented sector. Maybe that might be something worth thinking about.

Q35 Bob Blackman: Dr Rugg, I will just make one comment. I completely agree with you about what happened with temporary housing in London. Having lived through it, it was institutionalised poverty. That is the only way to describe it. Do you have any comments?

Dr Rugg: It is just very quickly to say that the sector has grown massively, despite these constraints that we are all being quite upset about. We are looking in the wrong place. Looking at all these regulatory frameworks and how we can free them up to grow the sector, the sector is growing. It is growing as we are talking. These things are irrelevant at the moment. What we have to think about are issues for the tenants about their security and their affordability, because there are too many tenants for the number of properties, in a sense, which means that it is very difficult. If there was a kite mark, the tenants would not be looking for the kite mark; they would be looking for something they can afford. In some areas, that is getting to be very difficult indeed.

Q36 Bob Blackman: Do you think there should be any legislative changes?

Dr Rugg: It is a very big question.

Bob Blackman: It is a very big question, but are you able to give answers to the question as a witness?

Dr Rugg: Okay, just to focus on the regulation, I think the compulsory regulation of landlords would still carry substantial benefits, yes.

Professor Partington: I just wanted to add something. Undoubtedly the market has been a great success, but as I think we were saying at the beginning of this session, it is still the case that an awful lot of the market is provided by people who are in it, for whatever reason, for the short term, not least driven by the terms and conditions of the CML. I suppose the line that I would take is that it is still worth trying to get new forms of investment into it that are more institutional investment.

Q37 Bob Blackman: Sorry, can I just clarify? Are you saying that the landlords are in it for the short term, or that they are being driven to short-term tenancies? That is a very important point.

Professor Partington: I personally think that there is an element of both. Some landlords probably went into it for the short term at a time when house prices were rising. Many of them are probably stuck in it for a longer term than they may have thought they were. There is this structural problem in that, because the Council of Mortgage Lenders wants to be able to ensure that if they default, they can get the property back fairly quickly, you therefore cannot let for more than a year and so on. That is a problem, whereas if you

had institutional investment, pension funds and the like, as was being suggested in the Montague report, as I understand it, those constraints change—the balance changes.

I remain of the view that to get that there has to be a tipping point to deal with some of these reputational issues. It might be that we could, in theory, do what we want to do with the existing framework, but a new legislative settlement would reassure that sector of the investment market that the Government were in it for the long term. It would have to go forward on a cross-party basis, and that was one of the things that we achieved. We got a very high degree of buy-in from all the political parties for the work that we were doing.

Q38 Chair: I have one point to see whether there really is a difference. Dr Rugg, you are talking about the registration of all landlords. If we pursued the line that Professor Partington was suggesting about having regulation of the agents who manage properties, and then merely deal with landlords who choose to manage themselves through a regulatory framework or registration, would not that be satisfactory?

Dr Rugg: You run into all sorts of definition difficulties, because some letting agents are landlords. It is easier just to deal with everybody the same, in my view.

Chair: There is a difference then.

Q39 John Stevenson: Just talking about the tenancy agreement itself, and the assured shorthold tenancy primarily, do you think that the present arrangements are fit for purpose, or do you think we should have a statutory tenancy agreement that would be the industry norm?

Professor Partington: We absolutely clearly adopted the view that there should be a statutory minimum that would be the industry norm but, having said that, we did not think that every tenancy agreement had to be a six-month one. On the contrary, we said you could have five-year ones or you could have 15-year ones. You could have them until the children leave home and go to school or whatever. They could be used with great flexibility. The key point, from our point of view, was that there should be a document that explained, in plain language, what the mutual rights and responsibilities were. My experience of seeing tenancy agreements is that they are still provided for tenants in what I would call legalese. They are not easy for people to understand. They are often inaccurate and they certainly do not reflect the protections that Parliament has already prescribed in historical legislation. From my point of view, they are not fit for purpose and they are part of the problem.

Q40 John Stevenson: You foresee that the best way forward is for Parliament actually to prescribe a set lease that is used in the industry.

Professor Partington: That was certainly a major part of our recommendations, and I would not resile from that five years down the track.

Dr Rugg: Looking at the AST and tenancy lengths—I have argued this in the past—is deflecting attention from what the problem is. The problem is why tenancies come to an end in a way that is satisfactory neither to the tenant nor the landlord. We have limited information about that; we need a lot more information. We are beginning to understand that, actually, 75% of tenancies are ended by the tenant, but then we do not know what that means. Are they ended by the tenant because they have fallen into arrears and they have ended the tenancy, or have they ended the tenancy and are quite happy to move on? We kind of do not quite know. Unless we are very clear about why tenancies come to an end, the length of the tenancy is immaterial, in a sense. You could go to Germany and all these places with different tenancy structures and ask them, “Actually, could you tell us what happens with the tenancies in real life? How long are tenancies? Who moves? How quickly? What is going on?”

Q41 John Stevenson: From what you are saying, there has been no research as to the reasons why tenants give up their tenancies. You are saying that 75% of tenancies are brought to an end by the tenant, rather than the landlord.

Dr Rugg: It was the latest evidence that demonstrated that. The market is very different. A lot of students only want it for a term. A lot of people are in the sector because they are between jobs or they are moving from house to house. There are lots of different reasons why people move on.

Q42 John Stevenson: You could argue that actually that is a sign of success, in terms of the present arrangements.

Dr Rugg: The sector has remarkable flexibility and that is its strength. It can be remarkably flexible. Anything that ties people to a single set of principles means the sector stops being as flexible as it needs to be, so we have to be a little concerned. I am absolutely in agreement with Martin on the issue that we need to be very clear about what tenancy agreements are about, but also landlords and tenants need to be very straight with each other. A landlord might think, “Actually, I only want a tenant for six months, because I am hoping to sell,” or “I am just out of the country for six months.” He should tell the tenant that, but they are not, and tenants are entering into a tenancy thinking, “I might settle here for a few years,” and then finding they are not.

Q43 John Stevenson: In terms of the actual tenancy agreement, are you in agreement that it should be statutorily prescribed?

Dr Rugg: We need to think a little more about what is happening with the sector at the moment. We are rushing into, “This is a good thing; this is a bad thing,” without thinking what is the problem we want to solve and what is the best way of doing it.

Dr Brown: I will not go over the same ground. All I would want to do is point out that, with the increasing number of families who are in the private rented sector looking for long-term accommodation, we have to be forward-looking and thinking about the length of tenancy and what the nature of the tenancy is, if that is going to become—and I think it is going to become—a much bigger part of the private rented sector. In a sense, what we have at the moment is based around the issue or a picture that people living in the private rented sector are mobile and will want to move regularly.

Q44 John Stevenson: The present arrangements do give the potential for somebody to have a five-year assured shorthold tenancy, which would give them security if they had a landlord who was willing to grant them that.

Dr Brown: Yes.

Dr Rugg: There are assured shorthold tenancies available. People can offer those if they want to. What we have to do is look at that bit of the market and say, “Why are they offering them in that part of the market, but not in other parts of the market?” There are bits of the market where we could maybe start encouraging landlords who want long-term tenants to gather together, and let them badge themselves slightly differently from landlords who really only want short-term tenants. The market is very immature in getting a good link between what people want and what the market is supplying.

Q45 John Stevenson: You have commented that the market is very immature. Is that not therefore an argument for actually doing very little at this moment in time to allow it to develop and mature?

Dr Rugg: There are arguments in favour of that. It is a market. We have to let it mature but, at the same time as thinking we should let it get on with itself, we are also larding

on top of it lots of intentions that the market should not really have. The big concern about families and private renting is that a lot of these families should be in social housing. We are expecting the market to deliver social housing at the same time as being an open market where you can charge market rent. You cannot have both.

Q46 Simon Danczuk: Just a brief question: how much are banks restricting the growth of the private rented sector, in terms of offering mortgages for buy-to-let and things? We see that in terms of owner-occupation. How much are banks playing a part in dampening down the potential growth of the private rented sector, or are they not?

Dr Rugg: Some landlords would argue that they would be expanding their portfolios if they had access to further mortgage finance. To go back to the point about rent arrears, some landlords might be thinking a little carefully at the moment about whether that is a good idea or not. If they have had a bad experience of rent arrears and they are not really sure of the area that they are in, and if the house prices do not look like they are going up and yields do not look as good, the decision to expand your portfolio, if you are a small landlord, is a very difficult decision to make. Certainly there would be more options if those mortgages were more readily available, but I am not sure if landlords would be automatically rushing forward to do it.

Dr Brown: There is some evidence that there are more buy-to-let mortgage schemes available than there were two or three years ago, but I do not see a large take-up of that. Certainly in the reports of mortgage lenders, there is not a huge take-up of that and I think that is because of the reasons Julie said—landlords themselves are thinking, “What is the picture?” at what is quite an uncertain and unclear time in terms of rent and rent arrears.

Q47 Simon Danczuk: Is there a shift towards owner-occupiers privately renting out properties because they are in negative equity but they want to move on? They are renting out properties perhaps informally or in a different way?

Dr Brown: Yes, it is another part of what is happening to the sector. Unlike owner-occupation or the social rented sector, we always have to remember it is such a diverse sector in terms of who is providing and who needs or is going into that sector. It is often like lots of very small sub-sectors that we bring together, when they are actually quite separate functioning systems.

Q48 John Pugh: Can I also declare an interest as a tenant in London? Just very quickly, if you had to pick on two things that could improve the sector—this is to each of you—what would those two things be?

Dr Brown: I do not want to go on about it, but I do think that doing something about the misperception of the image of the sector would be really crucial.

Dr Rugg: I would change the broad rental market areas, because the local housing allowance rates simply do not reflect what is happening in the market.

Professor Partington: I would go for two things. One is get a grip on the documentation. Get a plain language tenancy agreement on the books so that everybody can use them and sing from the same song sheet. The other would be to regulate agents. Get the letting agents regulated fully, rather than just putting all the regulatory burden on the 40% or so who are signed up to RLA or RICS.

Chair: Thank you very much indeed for coming to give evidence this afternoon. It is very much appreciated.

Examination of Witnesses

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

Q49 Chair: Good afternoon and welcome. Thank you very much for coming to give evidence. Could you just say who you are and the organisation you represent to start off with, please?

Jacky Peacock: I am Jacky Peacock from the National Private Tenants Organisation. My day job is actually running the Brent Private Tenants Rights Group.

Kay Boycott: Kay Boycott from Shelter.

Alan Ward: Alan Ward from the Residential Landlords Association and a working landlord.

Councillor Newman: Councillor Tony Newman, representing the Local Government Association and member of the Environment and Housing Board.

Q50 Chair: Thank you for coming. If you do find yourselves in agreement with one of the other witnesses, please say so, but you do not have to repeat exactly what they have said. We can then get on and cover more of the subject areas, so that would be helpful.

The private rented sector has been growing in recent years. Do you think that is a norm, or is it a product of the particular circumstances we are in economically? Will this all change and the sector start to shrink again, if we get back to a more normal position when the housing market picks up?

Councillor Newman: To take that head on, if you look at the reduction in the supply of new homes coming forward at the moment, there is something going on with the private rented sector becoming, rather than perhaps a short-term alternative for many people, part of what might have to be a long-term solution, because there is a reduction in supply. There is a lot of evidence that mortgages are harder to come by. The average deposit required is now £26,000, so there is a lot of pressure. It is very hard for many people to access the housing market, so the private rented sector is therefore where many people are currently heading.

We also have concerns, which you may, Chair, come on to later, around what I heard being discussed in the piece of evidence we were just listening to around what is happening now in terms of some of the practices, such as with the letting agents. Hugely exorbitant fees are being charged out there that are now making the private rented sector, for many people who previously perhaps could not afford to get on to the home ownership market, equally inaccessible. Yesterday—anecdotally, but as a fact—I was being told about people having to find £3,000 upfront for a two-bedroom property in Croydon, which is the borough I am from, because they were being asked for £350 in admin fees and another £100 in reserve fees, etc, all of which was non-returnable. There is another issue going on there in terms of what is happening with the private rented sector in some parts of the country, and the difficulty in accessing that from an affordability point of view.

Kay Boycott: If I were to add to that, the work that Shelter has commissioned, in terms of the growth of the tenure, suggests that even on all sorts of different economic scenarios the sector is going to grow for some of the reasons that have been said. We have seen long-term trends in terms of the numbers of people on housing benefit in the sector, which shows the pressure in terms of a lack of social housing and a growth in the lower-income groups who are now accessing the sector. At the higher end, there are difficulties in terms of being able to save for a deposit whilst also paying rents, which take up a large amount of household income, meaning that you are seeing the long-term decline in home ownership.

We see that the sector is going to grow, most notably in terms of families with children. In fact, there are now over a million families with children in the private rented sector. It is the fastest-growing segment and it has doubled in the last five years. It is important to note that the growth is here to stay. It is partly because of the market changes and particularly to do with the recessionary environment, but actually some of those trends were there before we saw the credit crunch.

Alan Ward: It is the most accessible form of housing, for the reasons that my colleagues have said: home ownership is difficult to afford and it is expensive to get into. Notwithstanding Kay's comments about the family market growth, the under-35s are still 50% of the market and we have a considerable shortfall every year in the number of properties available. There is a 100,000 shortfall in actual construction.

It may be worthwhile looking at how the PRS has developed. It began in 1997 with the introduction of the buy-to-let product but, at the same time, a lot of individuals felt that their pensions were a poor investment because of the Government's policy at that time to take away tax credits, so they were looking for alternative forms of investment. It may be the conflux of those two things: an investment product, in other words buy-to-let funding, and then the growth that came about in the property market that produced a million homes in the private rented sector in that first decade.

Why it will continue growing? Mention has already been made of accidental landlords. There are people who, since 2007, have found themselves unable to sell properties, or perhaps inherited properties and did not want to sell them in that market. There is an estimate of about 300,000 who are accidental landlords. Professor Partington spoke earlier about the changes going forward. He was not confident that the market would actually grow. You have to look at those 300,000 as potentially quite a volatile group, as landlords are going to face maintenance and refurbishment costs somewhere down the line. Rental properties require constant investment, and I am sure we are going to come back to that on standards. At a point at which those accidental landlords find they need to spend money that they have not got, they may well withdraw from the market, so you may find a balance.

Growth in the market will probably come from corporate investment, and that is a relatively recent innovation, although it has some of its own problems, not least because of the levels of return. Perhaps, again, you might like to come back to that one.

Jacky Peacock: It clearly is growing at a rate of knots at the present time, and I cannot see that turning around very quickly. I am tempted to say it is, in part at least, up to you and your colleagues. If you are going to increase the supply of social housing and if you are going to regulate the banks in the sort of way that will release more borrowing to make it easier for people to buy homes, we could see some stemming of the demand in the private rented sector. If you are minded to introduce some form of regulation at least to drive out the very worst landlords, that obviously will affect the market as well.

Q51 Chair: We discussed earlier the issue of the reputation of the private rented sector, which often is not very good. "Rising Damp" has been mentioned as something people often think about when the sector is mentioned. On the other hand, when surveys are done, satisfaction levels are very high. How do we square that?

Kay Boycott: With satisfaction surveys, "Are you satisfied?" is different from "Are you delighted?" When you ask people, they cannot imagine anything different from the rental market they have. When you have an overheated rental market, you are literally chasing lots of different properties. A lot of the stories we hear are that you take what you can get. Are you satisfied with that? "Do I have a roof over my head? Yes, I have." You can then delve deeper with people and ask them questions such as, "Would you like this? Would you like that?" For example, when we surveyed families and talked about more stability, the ability to

know that you were not going to be evicted so that your children could stay in a school for a school year and the ability to put down roots in your local community and make that home your home, the numbers got much bigger at that point.

It is a very immature market, as we heard before. It is almost the equivalent of the telecoms market, where there were very limited providers, and you got a fixed-line phone and you knew that it would take a while to come. It is almost that the private rented sector has not evolved to an extent where tenants have a sense of what could be, given that on average they are paying £9,500 a year for this service.

Jacky Peacock: My feeling is that tenants do have very low expectations of the private rented sector. I am not denying there are some private rented tenants where, if the tenant is satisfied, they are probably justified in being satisfied. I was visiting a property this morning for example, having seen the tenant on Friday. It was only when I went there I found that she had not thought to mention this enormous crack going right down the corner of the wall, for example. That is just part and parcel of private renting.

Q52 Chair: I suppose you have a different view, Mr Ward.

Alan Ward: I think the phrase is, “They would say that, wouldn’t they?” People do not go to Shelter or to tenants’ organisations to say, “I’ve got a good landlord.” On the scale of things, there are 8.5 million people living in the private rented sector, and Shelter’s figure is, I think, 85,000 complaints in a year, so that is 1%. I am not suggesting that that is all of them—there are probably others—but the other figure is the 85% satisfaction figure from the English Housing Survey, which says that tenants are fairly or very satisfied with their tenancy. Interestingly, owner-occupiers are only 92% satisfied, and they have the solution in their own hands. There is always going to be a rump of dissatisfied occupiers, one way or the other.

Isn’t this part of the problem? The vast majority of the legislation and the regulation are predicated on the problems, but they are applied to the majority of compliant landlords.

Q53 Chair: We may come on to that in detail in a second.

Decent homes standards were used as a measure for whether properties were decent to live in. It was probably reasonably successful in the social housing sector. Is it really applicable to the private housing sector, or is the quality of management very often more important, or as important, as the actual physical quality of the dwelling?

Alan Ward: It is all of that, Mr Chairman. The private rented sector, for a start, has the oldest stock. Some 40% of it is pre-1919, so we are dealing with some pretty ancient stuff. We have not had the benefit of the £40 billion that has been invested in the social sector for improvements, as well. We have improved. The EHS again says that reported damp conditions have improved from 21% in 2001 to 13% in 2010. There are opportunities for improvements with the green deal but, if you look at the figures on the cost to make homes decent within the private rented sector, the average cost is £6,000, and the cost for all sectors is £5,500. That is indicative, I suggest, that the problems are more serious within the private rented sector.

For the landlord, the improvement costs come straight off the bottom line. You do not get any allowances, not least until the property is sold, and then when it is sold we still get taxed through capital gains. If a landlord wants to sell a property to re-invest, we suffer from 20% to 28% capital gains tax. The RLA has argued for a long time that there should be rollover tax relief if a landlord wants to change markets, and move within the market to re-invest and use that money to best advantage. It is a factor of the private sector that a landlord buys a property and tends to make improvements and to spend at that time, and then

has a programme of ongoing improvement for maybe five to 10 years. That is my experience anyway.

Kay Boycott: One of the things that I should say upfront is that the private rented sector and landlords are having to play a role that they were never expected to play. They are being asked to house an increasing number of people and people in more vulnerable circumstances. I do not think we can sit here and think it is acceptable for that number of properties and that number of people to be living below decent homes standards. We are talking here about thermal comfort; we are talking about damp; we are talking about gas safety. Regardless of who is paying for it, that is not an acceptable place to be.

We asked on Thursday for people to give us their stories to feed into the inquiry, as well as all the other evidence, and 13% of properties being affected by damp is many hundreds of thousands of people. Some of those stories are all about the health consequences of damp, and also some of the consequences that people felt, in overheated rental markets, when they complained that actually there was going to be some sort of consequence for that and were very concerned about where they would go. It is very important to understand the landlord's business model, but is it right that this number of properties are below decent homes standards? It feels to us at Shelter that Decent Homes Standards are appropriate.

Councillor Newman: You also have to look at the thing that everybody has alluded to: the pressure is only going to grow. There has been a 30% increase in the private rented sector since 2005. In boroughs like Newham, I am aware of recent exercises where 1,800 families were found living in little more than garages and sheds, so it is being exploited as well, although I am not suggesting that that is by the many decent landlords there are out there. With the pressures there are in some areas, there is a huge potential for the real exploitation of people. It is making sure that local authorities and others have the necessary powers to tackle that. There is an issue about where we are going if that 30% increase was the same over the next five years, given what we have heard about some of the conditions already.

Q54 Simon Danczuk: Let me start by conducting a quick survey. We will start with you, Jacky, and move along. What percentage of landlords would you estimate to be rogue landlords?

Jacky Peacock: As has been pointed out, tenants tend to come to us if they do not have very good landlords.

Q55 Simon Danczuk: I was looking for your best estimate, as a quick survey.

Jacky Peacock: Based on my personal experience, I would say 50% are—this may sound high. There was a debate earlier about ignorance versus rogue. The problem is that it pays to be ignorant, and therefore I do not think there is this great dividing line between so-called rogues. Rogues these days, I have noticed, have become almost the definition of people who are renting without—

Simon Danczuk: Do you want me to come back to you?

Jacky Peacock: Every week, we see vast numbers every week of people renting the most atrocious slums with high fire risks and no management, and being charged a fortune for the rent. If the tenant dares to complain, they are thrown out. That is my definition of a rogue landlord.

Simon Danczuk: That is the definition.

Jacky Peacock: They are not this tiny percentage they are often portrayed as.

Q56 Simon Danczuk: Jacky, do you want to give me a percentage that you think are rogue landlords?

Jacky Peacock: I would say it is probably getting on for 50%.

Kay Boycott: When we talk about rogue landlords, we talk about people who are wilfully disregarding the law and the most egregious crimes. In that case, I can only talk from the tenant's point of view. Last year, there were 85,000 complaints. As Alan has already said, that will not be the full amount. What we cannot talk about is what the multiplier effect is, but at least 85,000 people are affected. In terms of breaking the law, one of the things that we do know is that with tenancy deposits, for example, there is a gap between the number of tenancy deposits protected and the actual number of tenancy deposits that there should be, which is about 1 million. That is breaking a law, and whether you think that is rogue behaviour is a different thing. That is where you start to get into this grey area. If there are no tenancy deposits, is there a gas safety certificate? Are repairs done on time?

Q57 Simon Danczuk: Kay, what do you think is the percentage of rogue landlords?

Kay Boycott: I tried to work it out. It would be 85,000 over about 8 million.

Q58 Simon Danczuk: Alan, what percentage of landlords do you think are rogue landlords?

Alan Ward: I am happy to adopt Shelter's figures on that. There is another figure that they quote, which is the 1,400 criminal prosecutions in the year. I prefer the term "criminal landlords"; "rogue" is a bit Del Boy—they are a bit dodgy but they are quite agreeable. It is the criminals who I really think are the bad ones, and I would put the figure of landlords who are wilfully criminal at 0.1%. There are those who are naïve and can be persuaded to mend their ways.

Councillor Newman: I do not like the sound of the ones who are a bit dodgy, myself. I will stick with Shelter's figures, but I would just say you could have one landlord who is in charge of maybe only two or three properties that are homes in multiple occupation, and you would then have an awful lot of people suffering as a result of that one landlord. I started off my contribution by saying you may have a perfectly reasonable landlord, but it could be the agent ripping people off before the people even get into the property.

Q59 Simon Danczuk: Okay, let me move on. Councillor Newman, you are the weakest link—not you personally, but local government—according to the Residential Landlords Association, because it says it is not a lack of powers, but the willingness and ability of local authorities to enforce their existing powers. Is that a fair reflection of what is going on?

Councillor Newman: I do not think that is a fair reflection. I can list some of the authorities taking a proactive role in this—Oxford, Newham, Harrow and others. I would, from a local government perspective, bring it back to the key driver of many of the pressures that the private rented sector is facing, which is supply. Local government has made it very clear indeed, in terms of prudential borrowing caps, that if they were lifted, we could deliver another 60,000 affordable homes to rent under the banner of local government. I would take that head on and say no. I think local government would want some streamlining of powers actually around the definition of houses in multiple occupation and one or two other areas, which would make life simpler for us in terms of tackling rogue or criminal landlords. The thing we would be arguing for most strongly, here today and elsewhere, is that we have got to unlock supply in the private rented sector, whether that is through institutional investment or other channels, or prudential borrowing caps on local government, and we actually have to see a significant increase in supply because otherwise this problem is only going to get worse.

Q60 Simon Danczuk: In terms of enforcement, what do you think, Alan? Could they do more to tackle rogue landlords?

Alan Ward: I most certainly do. The EHOs I have spoken to say that it is the most difficult criminal landlords who they cannot really touch. They hide behind limited companies, they change directors, they shift property around within partnerships, families or whatever, and they are very slippery. The process, before they can even begin to prosecute them, is that they go to their legal department and get cross-charged for it, so they are reluctant even to take advice. They would rather go for the low-hanging fruit and prosecute a landlord for not having a licence, because they can tick a box and add a statistic.

Kay Boycott: There are some good examples out there. In the work that we have been doing with local authorities over the last two years, we have seen some waking up to this and putting in some quite innovative solutions. It would be good if that best practice was spread. They are things like using the Proceeds of Crime Act to get at prolific rogue landlords, using some of the planning regulations as well, and also having teams with the police and fire officers to have a monitoring and intervention multidisciplinary team. Actually, this is all about resources. We are also seeing local authorities cut back on resources at a time when we think resources should be going in. There is a lot to go at, but it is about the will and all about making examples. If people are slippery and they think they can get away with it, they will carry on. It is only by doing this and publicising it that we will eradicate these rogue landlords.

Councillor Newman: On that specific point, we have had local authorities complaining that, with potential fines of up to £95,000, they have seen fines of only £3,000 when a court case has been pursued. There is an issue with the attitude of magistrates, in some cases.

Jacky Peacock: I just wanted to say that we have started doing some fairly low-key research just trying to identify in each local authority the number of enforcement officers they have, compared with the size of the private rented sector. For example, Lewisham has three officers to inspect and enforce 25,000 homes, which means that, every year, each officer ought to be expecting to inspect 8,333 homes. That is one of the worst examples. Richmond has three and half officers for 17,000 homes. Sutton has two and a half officers for 14,000 homes. Tower Hamlets has six officers for 32,000 homes. You can see that, with the kind of regulation that we have at the moment, officers are having to go out, find fault and then enforce, which in itself, even if it is just one property, probably could be two or three weeks' work, if you have a reluctant landlord. It is just a drop in the ocean. Effectively, there is no enforcement by local authorities.

Q61 Simon Danczuk: I am conscious of time, so let us keep it brief. Kay, you talked in your submission about retaliatory eviction and also about sentencing, which Tony picked up on there. Do you have anything to add? Is it widespread? Are landlords retaliating and evicting?

Kay Boycott: It is always hard; these are people who are frightened. In some ways for a tenant, it is much easier to quit the property and move on than it is to take a landlord to court. We do have a real problem in getting tenants to take that case on. We do think that, in terms of the fines available, it is also quite hard for the councils to put that amount of money in when tenants might actually back out, because of their fear, and if you are not going to get a big fine at the end of it. The whole thing needs looking at.

Councillor Newman: I must come back on what Jacky said, because there are councils such as Oxford that have licensing schemes for HMOs. This is about trying to prevent the problem. There are other approaches. It was challenging with some of the landlords down there, but they are now working very closely together so that you have a licensing scheme. There is a small fee involved, but people then work in partnership, which is a far better way of

doing it than waiting until something has fallen into disrepair and then trying to chase the issue.

Q62 Heather Wheeler: I am interested in whether we could quickly skip down the panel on whether you think there should be a national licensing scheme or whether we should go for a local one. Jacky, what do you reckon?

Jacky Peacock: Personally, I think there is a lot to be said for a national scheme, because it does mean you then have consistency. The problem with licensing, as it has been drafted, is that it is still down to local authorities actually having to check that people are doing what they need to be doing. When we started campaigning for licensing, what we had in mind was something that was very similar to what you have for cars. Most of us drive cars, and do we find it really onerous to get an MOT? Do we think it is an outrageous bureaucratic regulation to pass a driving test before you actually get behind the wheel, or that when you buy your road tax somebody checks that you have your insurance, that you are competent to drive and that your car is roadworthy? That is all we are asking for; it is not that difficult. Millions of people have cars. They do not regard it as some big bureaucratic thing.

With online facilities these days, it is quick and easy. All the local authority has to do is have proactive teams that go out inspecting regularly just to ensure that people are not defrauding the system, rather than relying on tenants to complain. As Kay has just said, if you have a shorthold tenancy and the landlord is going to throw you out if you complain, you do not complain to the local authority or anybody else.

Kay Boycott: Simply layering a national licensing scheme over all the tools that are already available is not really going to work. What you need is for the whole system to have some bite to it. The bigger question is how that is going to be enforced and how it is going to be much more rigorous. If it was a replacement, for example, for lots of the different schemes—which if you are a landlord operating in different local authority areas inevitably will layer on more complexity and will reduce your margin, which reduces your margin for repairs—that is not necessarily going to help. Putting something else on top is not the solution. Equally, something that had real bite might actually be successful.

Alan Ward: Bad landlords do not register, do they? I am afraid I agree with Shelter again. The solution, we believe, is to have a scheme of self-regulation and accreditation, but to have that on a national standard. As Kay has already said, if you have separate schemes in different boroughs, you have to register and become accredited with each one. We need to be uniform. The RLA has been working with ANUK—the Accreditation Network UK—to create some uniform standards on this. A bit of the steam has gone out of accreditation with local authorities, simply because of resources, cutbacks and so forth, but we believe that a national scheme would benefit.

What we also want to do is to take this accreditation away from local government, a bit like building control. Building regulations are enforced by independent organisations. The building regs are set by the local authority, but for the implementation of them, if you build a new house, for example—as I have done recently—that building regulations approval is done by an independent body. The same could apply to accreditation. That would then release the resources within local authorities to focus on the bad landlords.

Councillor Newman: I would think that we still want to see the emphasis on local schemes, perhaps with some national guidance or national standards sitting behind them. I would say the role should still be with local authorities in terms of accreditation.

Q63 Chair: Just one point, Mr Ward: you say you do not want a national scheme because the bad landlords are not going to register. Why should a bad landlord register for a self-regulated scheme?

Alan Ward: They probably would not.

Q64 Chair: So what is the point of it?

Alan Ward: It takes the cost away from local government, because it would be an administrative process. The accreditation scheme would have additional value. All the landlord licence is going to do is to give you a name and a number. Variations on it ask for property details as well but, in essence, it is only a name and a number. An accreditation scheme is more than that, because it requires the landlord to sign up to confirm that their properties are safe, legal and secure—there are three basic elements within it—so that they are compliant with regulation. If they are not, they are still subject to local government enforcement, so accreditation is more than just licensing. If the bad landlord does not sign up, they are therefore outside of the accreditation scheme and subject to enforcement.

Q65 Chair: They would be subject to enforcement anyway. I am not quite sure—

Alan Ward: Yes, indeed they would be, but a lot of local government time is spent counting beans on registration schemes, licensing and so forth. It does not add anything. When I have spoken to Manchester City Council, it has admitted that it has dropped its selective licensing scheme, because all it was doing was getting landlords to pay to get an officer to issue a licence. It was not doing anything for the tenants or the conditions of the property.

Jacky Peacock: I went to one of these training courses for accreditation, and 10 landlords walked in that room. During that time, it was very clear that they were not professional. They really did not have any idea what they were doing, but they did sign a piece of paper saying that they would do this, that and the other. They signed to say that they had attended this course and they walked out with their accreditation. I have to say the brightest one there was very proud to declare that he kept a book in which he wrote down every single thing that his tenants put down the lavatory. He was the best of that bunch. They all ended up at the end of that being accredited, and frankly I was not convinced.

Q66 Bob Blackman: Turning to the issue of houses in multiple occupation, Councillor Newman, the LGA in its written evidence has given us some views that the legislation needs changes. It needs either needs to be less prescriptive, or definitions need to be changed. Can you be clear what the LGA wants changed in the legislation?

Councillor Newman: We would like to see it simplified. We would like to see it so that if somebody was bringing into use a house in multiple occupation, they would have to advise the local authority of that and work with the local authority. You can have a situation at the moment where somebody could have a house in multiple occupation as a landlord but, for whatever reason—rogue, criminal or otherwise—it could be closed down overnight, yet if they owned another one next door, they could open that up as a house in multiple occupation. We want to see some simplification of the powers—I think they are called the article 4 powers.

Bob Blackman: I will come on to that in a minute.

Councillor Newman: Have you got the written evidence there?

Bob Blackman: Yes.

Councillor Newman: The local authority at the moment cannot actually levy a fee for even the basics. We keep hearing that we are bean counters, but we cannot actually levy a fee to count the beans in some of these cases.

Q67 Bob Blackman: Do you think there should be a fee for the registration?

Councillor Newman: Yes, we absolutely do, and make that a more formal process.

Q68 Bob Blackman: Is there a problem with consistency in how local authorities apply the rules that exist already, meaning that landlords, and particularly larger-scale landlords, who may cross a number of boundaries in boroughs or councils across the country may experience different regimes, depending on where their properties are.

Councillor Newman: I think that is probably a fair comment. I would accept there needs to be a greater consistency, but we would argue we need some extra tools to make that work.

Q69 Bob Blackman: Also in your written evidence, you refer to the article 4 directives. You say that there are disincentives to applying these. Could you just explain for the benefit of the Committee what the disincentives are for local authorities?

Councillor Newman: There would be a cost involved, but also it is possible that somebody could be operating a series of HMOs and it takes some time to become aware of it. It is straying slightly off here but if we are going to have more of a licensing scheme in place, HMOs need to be integral to that, rather than something where local authorities, as I was saying earlier, are waiting until the damage is done and running around trying to close the worst practices. We would rather be in a position of working with the best landlords to put the right HMOs or other properties in place.

Q70 Bob Blackman: Mr Ward, you want to see article 4 directives done away with so that many local authorities will not have this. If you had your way, would we not see HMOs spreading out all over the place, uncontrolled by local authorities?

Alan Ward: Can I clarify this definition of HMO? Councillor Newman is referring to small HMOs under article 4, which are properties occupied by between three and six people. He is right the planning requirement for those is not charged for. There is a statutory requirement to license an HMO with five or more people occupying property on three or more floors. It is slightly more complicated than that, but that is the essence of it. That is a licensable HMO and local authorities do charge a licence fee for that. It varies from probably as low as £400 to as much as £1,600 or £1,700, and that is a local discretion.

Article 4 is a special case and this came about 10 years ago with a lobby group. “Studentification” was the term. It was concern from some residents about the growth of student accommodation in certain cities. What happened in October 2010 was that this Government modified a measure from the previous Government that gave local authorities discretion about using article 4 directions, and this means that a family house is class 3 use, whereas a shared house with three, four or five people in it is class 4. In order for me to rent a family house—class 3—to a group of three nurses or three young people not related to each other, for example, I have to go and get planning permission. It is not going to work. If I already have a shared house with a group of four or five people in it—not a statutorily licensed one—I am unable to rent that to a family because I would lose my entitlement to rent it to sharers. That virtually freezes the market for shared houses.

There are 35 or so local authorities that have implemented article 4, and it is detrimental to the shared market for young people. Typically, when they leave university, burdened by debt, they want to share a house. They have been doing it while they are at uni and they want to go on with that, because it is the most economical form of renting for them. Those houses are going to become harder to find, and it is frankly a piece of social engineering by some local authorities, trying to get sharers to move into residential areas. That is not going to be popular either.

Q71 Bob Blackman: That is your objection. That helps qualify the position. Jacky, how big a problem are HMOs in the housing market?

Jacky Peacock: I think they are a significant problem but, to be honest, I do not think that we see a clear dividing line of HMOs' bad management and real problems, and other accommodation. We see it across the board, unfortunately, with very poor conditions.

Q72 Bob Blackman: Just clarify, because you have obviously given us some strong evidence about the position of landlords. The landlords who let HMOs—so shared properties not with families, but a group of sharers—are no worse than those who let to families, for example.

Jacky Peacock: Managing an HMO is more difficult so, if you are not a professional landlord, you are likely to mess it up even more if you have the common parts to look after and keep clean, compared with self-contained flats. As I say, I cannot emphasise enough that we need to see improved management and decent minimum physical standards for properties across the board. We have probably made a mistake by just seeing HMOs as the problem; it is across the board. Also, it is much harder to regulate. Depending on the number of people living in the property, you could have a licence for an HMO one day, but it would not be one the next day because somebody has left. It may be again the day after. It is impossible to police and impossible to operate. It would be so much better just to have a basic standard. Going back to my car analogy, if you are driving a heavy-goods vehicle, you have to pass a stiffer driving test. Nevertheless, it should be in principle the same regulation for any private rented home.

Q73 Bob Blackman: Kay, how big a problem is overcrowding in the private rented sector, particularly in HMOs?

Kay Boycott: It is impossible to push it down to that level. Some 5.6% of private rented homes were overcrowded in the last period, so one in 20 will be overcrowded. In terms of the HMO thing, we have to remember in all of this, when we talk about the composition of the sector, that only 6% of renters are in full-time education. Although things like studentification has been important in some areas, there is a lack of evaluation of a lot of these schemes. Many boroughs need to understand the dynamics of their local needs, and need both shared housing for young people and for families in rented accommodation. Our view on all this is broadly neutral. Actually, it is up to the local plan and using the powers there.

Q74 John Stevenson: My questions are really aimed at Kay and Jacky. It has been argued that assured shorthold tenancies and assured tenancies combined with market rents have transformed the private rented sector. They have obviously increased in the last few years and would appear to be increasing. Both of you have come up with suggestions on starting maybe to interfere with the present set-up. For example, Shelter is going for the stable rental contract. I have a question, Kay, on this one. Do you not think that your suggestions are actually fundamentally flawed for a number of reasons? For example, the landlord can break the contract if he or she sells. The risk there is that people can engineer that by transferring to a spouse or another member of the family, and it also interferes with people who are accidental landlords who want to rent it out for only a few months or a year or so, because they are trying to sell or are having to move away because of a job. Do you not think that, by interfering in the market, you are actually going to upset what appears to be a success?

Kay Boycott: No solution is going to be perfect, and we have thought long and hard about the exceptions. If you are prepared to go to the lengths of actually transferring through

the Land Registry to a spouse and adding all that cost in, that is quite an extreme measure, and I do not think we would see that happening in the majority of circumstances.

Q75 John Stevenson: You could see it by somebody just changing trustees, for example, which I know is a Land Registry change but, nevertheless, a very easy one to do.

Kay Boycott: Some landlords are limited companies, so it would be changing all that. That is quite extreme, but it might happen—no system is perfect. One of the things that we are advocating is that stable rental contracts work already. The assured shorthold tenancy would allow that to happen. Actually, this is more about the cultural barriers to longer-term tenancies. The work that we have done with landlords would suggest that, actually in the long run, given that capital appreciation is no longer going to be such a big part of the investment, longer-term tenancies would be better financially for landlords.

Q76 John Stevenson: How would you deal with what I call the accidental landlord—somebody who is moving their job to a different part of the country and cannot sell their house, but wants to rent it out just in the short term with a view to selling?

Kay Boycott: This is a very disparate market. We propose that this is a tenancy that could be used right now to cope with a certain segment of the market. If it was deemed that, actually, it was preferable for the whole market to go to longer-term tenancies with predictable rents, that is a slightly different situation. What we are advocating is that it becomes a more normal contract that offers particularly this predictability of rent rises to the tenant, with some safeguards on both sides. If it is better for the landlord to have that longer-term assurance that the rent is going to be there, they are not going to have the cost of voids and changing tenancies.

Q77 John Stevenson: How would you establish your initial rent, because I notice you are suggesting it increases by inflation?

Kay Boycott: At the moment, there are many people paying market rents. If you start with the market rent, what seems to be important to people when we talk to them is the predictability of it. At this point, income shock is one of the most difficult things for people to cope with. If you can plan your finances, particularly your family finances, so that you know how that will rise—and we have looked at that in terms of CPI which, having spoken to landlords, seems to be the best index to go against—that is what people are after. People are after predictability. They want to be able to plan their financial future and their children's future, in terms of knowing that they are going to be in the same place.

Q78 John Stevenson: Jacky, you actually go a little bit further with your new model of rent determination. How do you foresee that working?

Jacky Peacock: It is partly because we were looking at what exists now, and that structure does exist now, so it would not be a question of having to tweak it or invent some new method of regulating rents. I must just add that, last year, we ran, perhaps to some surprise, a joint conference with the National Landlords Association, and we did ask how it felt about longer-term tenancies and why it did not let such tenancies. To a person, they said, "Well, we've never thought about it. Nobody's suggested it." Since we did suggest it, they went away to think about it. They could not see any real reason against it and, indeed, did feel that that would be an incentive to stabilise.

Q79 John Stevenson: Bringing it back to rents, your suggestion is to interfere with the market rent.

Jacky Peacock: In the context of the enormous demand that we are seeing now and the huge imbalance, yes.

Q80 John Stevenson: Do you think that that is the right approach? You are sort of accepting that landlords have to have a return, but you are determining what that return should be. Different landlords will invest different amounts of money in their properties. Some will do it to a higher spec, which means they might need a better return to pay for that, and some might do it at the cheaper end.

Jacky Peacock: I accept that, in normal markets, you let supply and demand dictate the price that the supplier is paying, but I do think that, when you are talking about people's housing, it is a unique sort of market, because people need a roof over their head. Whatever else they can do without, they need to live somewhere. If there is no choice but the private rented sector, it is not a question of "Well, this is too high; I am not going to rent anywhere." What else are they going to do? What we are seeing with rents at the escalating level that they are at the moment is a rapid increase in overcrowding, which is going to be increased far more when the welfare benefit cuts come in, because we are already seeing people downsizing and we are going to see families grossly overcrowded in the future.

Q81 Mark Pawsey: Kay, you said earlier that the private sector is today playing a role it was never expected to play. Does that role extend to providing housing for the homeless?

Kay Boycott: With the changes that are coming in terms of homelessness legislation, there are likely to be more homeless families discharged into the private rented sector. Local authorities have some responsibilities about that, so they will need to do minimum two-year tenancies, to assess suitability and to assess affordability, so there is quite a lot of difference in terms of that. Whether the market will be able to react to that is quite tricky at the moment, given that, for example, lenders may put in place restrictions in terms of the sorts of tenants who are allowed in properties that have a mortgage. For example, they may put restrictions on letting to people on welfare, for which it is likely that homeless families will have some sort of assistance. There is going to be a big change in terms of families coming in.

Q82 Mark Pawsey: In principle, you do not see any objection to the private rented sector meeting the needs of the homeless.

Kay Boycott: Our experience in terms of those who have become homeless is that they are likely to be vulnerable for some time afterwards. A more stable home and a longer-term tenancy would be better.

Q83 Mark Pawsey: But it can do something. Jacky, you feel completely the opposite to that, because you are saying that families must not be forced to accept private rented sector accommodation. Why? Why can the private rented sector not fulfil that need?

Jacky Peacock: It is demonstrable that it does not and it would be hard to see how it could. A private owner does not want to have that additional role. They are running a business, for goodness' sake.

Q84 Mark Pawsey: In which case, Councillor Newman, why is the LGA putting homeless families in the private rented sector?

Councillor Newman: Local authorities have a duty to homeless families and do not necessarily object. I think that is the way you are phrasing the question. To answer the question, to disagree with Jacky, it can play a role, but this gets us into a much wider discussion than we have been having in the last hour, in terms of conditions of the private

rented sector, security of tenants and if the landlords will welcome it. In principle, if you have an expanded private rented sector that is of a good quality, the principle of discharge into the private rented sector is not something local government has as a fundamental issue.

Q85 Mark Pawsey: Local government is routinely placing people in the private rented sector.

Councillor Newman: It is an option but, by definition, if the private rented sector is under the pressure it is, it is not going to be an option in the long term.

Q86 Mark Pawsey: So the question arises: where? That is the big issue now. The LGA has said, “Where placements out of area are necessary, councils will take a responsible approach.” Councillor Newman, what is a responsible approach?

Councillor Newman: I think a responsible approach should preferably be housing people within the area or community that they are from, if at all possible, or near it, if otherwise. In an area like London, the local authorities are hopefully working in partnership together to exchange information, if there are other options. All this has to be seen within the context of ever-increasing supply. In two years’ time, we could be going over the same discussions, only more dramatically, because there will be less supply if that is not addressed.

Q87 Mark Pawsey: Are councils routinely able to fulfil that need locally?

Councillor Newman: No. Councils are often being forced to put people—I can speak about the London borough of Croydon. There are huge pressures there. The current administration there and the chief executive went public in the last week and declared a housing crisis, because the private rented sector was full. Sadly, some of it has appeared in “Newsnight” in the last three months for being in an appalling state and there are massive pressures on the private rented sector. A choice would be a fine thing. There is not actually a choice. There is such a fundamental shortage of housing in some places. The private rented sector is one option but, for many local authorities, there is not a choice.

Q88 Mark Pawsey: Mr Ward, are private landlords happy to accept as tenants people who were previously homeless?

Alan Ward: As a landlord, I would be asking why that tenant is homeless. Was it because of non-payment of rent? If so, I am not going to be very attracted towards them.

Q89 Mark Pawsey: Can I talk to you about the non-payment of rent, because some landlords are suggesting that local authorities are encouraging tenants—this is perhaps an issue for you, Councillor Newman—to remain in private rented properties rather longer than they should have been? They are advising them to stay in place until court action for eviction has been commenced. Why are local authorities giving that advice?

Councillor Newman: I have asked for evidence of that and I have not been provided with any.

Q90 Mark Pawsey: We were given some by one landlord, Steve Gracey, in his advice to the Committee. I was just wondering, Mr Ward, what impact that advice from local authorities is having upon private landlords.

Alan Ward: It increases the landlord’s losses if they are not getting their rent paid, so they are going to have to take legal action, which again is not speedy. Even the so-called “accelerated process” can take up to eight months if you have a devious tenant.

Q91 Mark Pawsey: Do any of our witnesses feel that that advice from local authorities is justified?

Kay Boycott: There is an anomaly here, which is that to be eligible for assistance, homeless families actually have to have received a court order. If you are desperate and you do not have anywhere to go, and you have to receive a court order in order to get assistance, I think it would be very difficult to resist that.

Q92 Mark Pawsey: If a family had been previously made homeless because they had not paid the rent, does not that justify Mr Ward's concerns about having a tenant in that category on a subsequent occasion?

Kay Boycott: I was talking about the specific point. In terms of taking on homeless families, the Shelter position is very much that, if you have become homeless, you should have a stable home. We are not getting to the availability of affordable housing or social housing. Private renting is not going to be the optimum place for homeless families to go to. We have been following homeless families who have been placed in the private rented sector over the last two years, in a longitudinal study. We are just reporting on phase 3. If you have just become homeless, a study recently in Hackney shows that if you are in receipt of housing benefit, only 0.6% of properties are available to you at a point you could afford. You are not going to have your pick of properties. We have examples of families moving into properties that do not have a fridge for the first six weeks and all the accompanying things. This is not an optimum situation for everybody. The question is right back to asking the private rented sector to play a role it is not designed to play. Private landlords cannot be expected to pay for those—

Q93 Mark Pawsey: Would you want local authorities to deal with the issue more effectively than they currently are?

Kay Boycott: Absolutely. We will get back to the root cause of lack of supply, on which I am sure you will have an inquiry in due course. For local authorities, it is unlawful for them to place homeless families out of area if it is going to cause substantial disruption, including education, family ties and everything. If there is no social housing and no private rented sector at a level of housing benefit for that family, we are in a Catch-22 situation. The point is very well made that, unless something is done, we will be back here in two years' time and all that will have happened is that everything has pointed the wrong way.

Q94 Heather Wheeler: We have mentioned letting agents quite a lot in today's evidence. I am just interested, Mr Ward, that you are very keen to have licensing and regulation for letting agencies, but you will not join in regulation for private landlords. How do you square that?

Alan Ward: Two thirds of tenancies are actually initiated and/or managed by letting agents. Landlords are just as likely to suffer from a criminal or fraudulent agent as a tenant is. It is a good starting point. We are really supporting the flow within the marketplace. All the legitimate agents are supporting legislation. We feel that that would be a good thing. As regards the licensing of landlords, we just feel it is too big a task to impose on local authorities or some central body, because it would be an additional cost and those costs are inevitably then reflected back on to rents.

Q95 Heather Wheeler: I am just going to zip through this quickly. In Scotland, it is illegal for letting fees to be charged. Do you think that should happen in other parts of the United Kingdom, all the way down? I have one final question for Councillor Newman, in a minute.

Jacky Peacock: Yes, I do.

Kay Boycott: We are currently looking at the entire market, but it is fair to say that we want to make sure that there is no immediate disruption to the market. What we are finding from tenants is actually there is a big thing of, “Do I want lots of upfront unknown fees, or would I potentially like those fees added into the cost of renting, so at least I know what they are?” We are currently looking at what would be best for tenants, but also what would be better for landlords.

Alan Ward: My colleagues in Scotland tell me that there is already evidence that rents are being increased to reflect the charges being made by agents. What there is definitely a case for is greater clarity of the fees being charged by agents to landlords and tenants.

Q96 Heather Wheeler: Councillor Newman, I know that my council does it in South Derbyshire. Do you think councils should become letting agents?

Councillor Newman: I see absolutely no reason why not. Some of the advantages are that it can be very responsive to a local market and local need. I do not think we should pretend it is going to be the long-term answer, but absolutely, where appropriate, and it is working well. I actually think more will in response to some of the issues you have been discussing today.

Q97 Chair: Just one point, Mr Ward. You talk about the clarity of the fees. How would you ensure that that happened?

Alan Ward: They should publish them on their terms and conditions. When I, as a landlord, commission an agent to market my property, I should have a list of the fees—some do.

Q98 Chair: It would be included within the regulatory environment that you want to see. This would be one of the requirements.

Alan Ward: Yes. I want to see the list of charges to me, but also what he is going to charge the tenant. That is not done. The tenant should also see what is being paid by me.

Q99 John Pugh: This is a question for Jacky really. We are talking about the tenant panels, and we are talking also, if you recommend tenant panels, of a very disparate sector, aren't we really? Tenant panels would be different things in different places. Do you think they can be effective?

Jacky Peacock: Yes. I do not understand what is behind your question.

John Pugh: It is this issue of the variety of the private rented sector. Would not that make tenant panels less effective?

Jacky Peacock: I do not see why. One thing I do have concerns about is the fact that, at the very time when tenants need advice on how to exercise what few powers they have, even now, legal aid and other local authority cuts mean that there is a decreasing amount of advice and support available for private tenants. I would agree that having powers is the first stage, and knowing how to exercise them and getting support and advice are also needed, particularly for more vulnerable people.

Q100 John Pugh: What about tenant information packs? Home information packs were not a roaring success.

Jacky Peacock: Every help they can have. If you have a professional landlord, and certainly with social landlords, when you move in you get a little tenants' handbook. We frequently find really basic things—the landlord has not even left the manual for how to work the boiler, and then he wonders why his plumber is being called out because the heating is not

working. The tenant has probably never been shown how to adjust the thermostat. It is just really basic things like that.

Q101 John Pugh: Do the others have any views on the panels or packs?

Kay Boycott: I think that increasing the level of education in the entire market will help their rights and responsibilities. I want to pick up on the whole thing about an amateur landlord, though, and the idea that landlords do not know. If you are receiving, on average, £9,500 a year in terms of income, presumably you have talked to your mortgage lender about the impact that will have on your mortgage. Presumably you are talking to the tax people or you are working out how you are going to do that on your tax return. You can Google within 30 seconds and find out what your rights and responsibilities are, in terms of decent homes standards, gas safety, tenancy deposits and the basics of a written contract. I do not buy that actually tenants should be educated first to go against the landlords who are not meeting what are actually fairly minimum statutory requirements. It should be the landlords who do it. I am afraid, for £9,500 a year, that you can spend 10 minutes on Google educating yourself. I do not buy that there are 3,000 people who are not doing that every year.

Q102 John Pugh: Councillor Newman, clearly a lot of councils have forums through which they consult private landlords about the situation that confronts them, the role of the council and so on. I am familiar with one in my own area, for example. How effectively do councils consult private tenants, if at all?

Councillor Newman: A number of councils have got private rented tenant forums of different types and they are reasonably effective. The challenge with them is, like many other issues in this discussion, that the landlords you might want to be attending are not there, because it is a voluntary set-up. You can have some conversation with perhaps the best landlords because, by definition, they are in attendance with some of the private rented tenants.

Q103 John Pugh: The question is more about how councils get a feeling for the situation of the private tenants in their area and what they confront in the way of private landlords.

Councillor Newman: Some of that is through their councillors and MPs, I would suggest, in terms of casework and pressure. Some of it is through if a council has an active housing department and the pressures they will be reporting or otherwise, in terms of their area. It is coming through a whole variety of channels a feeling for what is happening out there, but a lot of it is actually people presenting themselves, either at a council or a surgery, saying that they do not have anywhere to live.

Chair: Thank you all very much indeed for coming and giving evidence to us. It is appreciated. That brings us to an end of the public session.