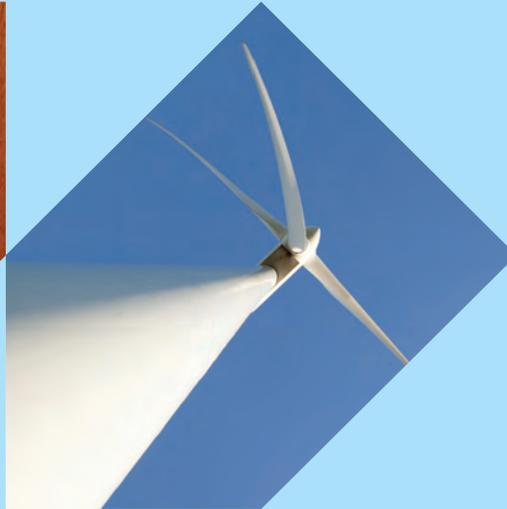
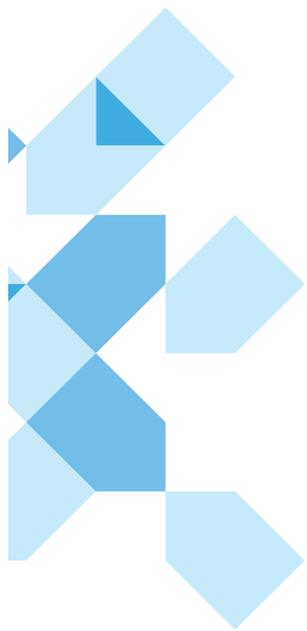




Election Manifesto 2015





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1.0 ABOUT THE RESIDENTIAL LANDLORDS ASSOCIATION

- 1.1 The Residential Landlords Association (RLA) represents 20,000 small and medium-sized landlords in the private rented sector (PRS) who manage over 250,000 properties across the UK with a total portfolio worth an estimated £40.6 billion. Membership has grown by 56.5% over the past three years. In addition to this we are able to reach 80,000 other people who may not have joined the Association but have expressed an interest in its work.
- 1.2 The RLA seeks to maintain high standards in the sector, providing training for its members, promoting the implementation of local landlord accreditation schemes, and driving out those criminal landlords who bring the sector into disrepute. Members also include letting and managing agents.
- 1.3 Members are required to subscribe to the RLA's code of conduct, setting out their obligations to adhere to ethical standards and ensure compliance with all relevant legislation.
- 1.4 The RLA continues to engage constructively with Government and opposition parties in pursuit of a private rented sector that is first choice and not second best.
- 1.5 Further information about the RLA can be found at its website www.rla.org.uk and from its twitter feed @RLA_News.



For more information, please contact Ed Jacobs on 0113 278 0211 or email policy@rla.org.uk
www.rla.org.uk **Twitter: @RLA_News**



2.0 FOREWORD BY ALAN WARD—CHAIR OF THE RLA



The Private Rented Sector is a national success story.

It is the only housing tenure currently growing and now outstrips the social rented sector in terms of both size and tenant satisfaction.

It provides badly needed homes at a time when the social rented sector is failing to meet demand and prospective first-time buyers feel home ownership is out of reach. By providing choice and flexibility, the private rented sector supports workforce mobility, helping underpin the economic recovery.

While this is good news, the sector has reached a crucial point in its development. Its growth has put it at the heart of the debate around housing and the RLA is rolling up its sleeves to respond by promoting a series of policy proposals in this manifesto.

At the outset, the RLA believes that the debate over the place that the sector takes in the country's housing mix and how it should be run needs to be conducted in an atmosphere of calm maturity.

Too often, discussion about the sector is clouded by misconception and assertions not supported by fact, giving a wrong impression that it is impossible for public policy to support both tenants and landlords. Such false choices need to come to an end. The vast majority of tenants and landlords enjoy good relations with tenants living in decent accommodation. Policy needs to reflect this reality and not seek to create divisions that in most cases, simply do not exist.

Pressure is building for more regulation, without proponents explaining how hard-pressed local authorities can take on a greater burden when they already struggle to enforce the powers that they have now. Having witnessed a number of raids in the London Borough of Newham seeking to target criminal landlords, it is clear that the powers are already there to make a significant difference. What is lacking is the will and resources to enforce them.

At the heart of the debate should be the need to increase the number of homes to rent in the sector. Boosting growth is good for the economy and, importantly, good for tenants, giving genuine choices over where they want to live. As in all markets, competition is the most effective tool for raising standards and keeping down rents.

It is a sad fact, however, that despite constituting almost 90% of the country's landlord population, the potential for further investment by those individuals renting out just a few properties is being ignored by a drive to boost institutional investment— institutions which have so far failed to respond to policy. It is time that we support this army of individuals, unlocking their potential rather than seeking to stifle and denigrate them at every available opportunity.

This manifesto seeks to achieve the right balance: rooting out the criminal landlords; supporting the good landlords; raising standards; and boosting supply. We aim to make the private rented sector a first choice for those looking for housing, rather than second best.

We urge all parties to give serious consideration to our proposals.

A handwritten signature in blue ink that reads "Alan Ward". The signature is written in a cursive, flowing style.



3.0 EXECUTIVE SUMMARY

- 3.1 The private rented sector is the only housing tenure that is growing, having overtaken the social sector in size. The combination of: growing waiting lists for social housing; difficulties for many in accessing mortgages; an increasing number of local authorities using the private sector to house the homeless; more young people needing a home to rent as a result of welfare changes; and growing numbers of migrant workers using the sector, have all placed unprecedented pressures on the private rented sector.
- 3.2 This manifesto makes a series of recommendations to ensure that the sector is able to cope with the demands it is now facing, while remaining effectively regulated in a way that properly targets and roots out those landlords who cause misery for tenants.

3.3 Regulation That Works

- There are over 100 Acts of Parliament or regulations that specifically impact on private rented sector landlords. These contain around 400 individual regulations which could affect the way in which a landlord owns and manages their property and conducts tenancies. The problem is not the lack of powers but the ability of local authorities to enforce the powers they have, with finite resources. What is needed is not more regulation, but properly enforced regulation.
- The RLA is calling for a system of co-regulation. Landlords who willingly make themselves known would fall under the remit of industry-run schemes, thereby freeing up local authorities to target and deal with those criminals operating under the radar who would not make themselves known under any registration system.
- If policy makers want to know where private rented homes are, and who the landlord is, additional boxes could be included on Council Tax forms for tenants to tick if they live in a private rented home, and if so, to include the name and contact details of their landlord, if known.
- In May 2014, the Chairman of the Communities and Local Government Select Committee, Clive Betts MP, told an event in Westminster organised by housing association 'Incommunities' that landlords need a "fairly quick method of eviction" for nightmare tenants. The RLA agrees, and strongly opposes any moves to scrap Section 21 notices which would undermine this objective.
- Given that guidance from the Competition and Markets Authority makes clear that retaliatory evictions are already illegal, the problem is not about a lack of powers but tenants not being aware of them to give them confidence to raise concerns. We believe that when signing a contract it should be a legal requirement for a landlord to supply a tenant with details of their rights as they stand at present, including about evictions. To clarify the law a specific defence to Section 21 claims should be introduced if the landlord is evicting the tenant as a result of a complaint made in good faith in relation to property conditions whether to the landlord or the local authority. The answer is not to suspend Section 21 rights in this situation generally as this penalises responsible landlords

3.4 Boosting Supply

- Reforming the way the sector is taxed to recognise renting a property as a trading activity and so encourage investment.
- Growing the sector is the best way to promote competition between landlords on cost and quality, providing tenants with genuine choices over where they want to live.
- End the anomaly that means VAT cannot be reclaimed where a property is being built to rent.
- Utilising small plots of unused public sector land to develop new properties to rent.

- Abolish the use of Article 4 Directions used by many local councils to restrict the growth of shared homes to rent at just the time when demand for them is increasing substantially.
- Opposing moves to introduce rent controls. Official data from the Office for National Statistics shows private rents increasing by less than inflation, and history shows that rent controls deter investment in new homes.

3.5 Tenancy Reform

- The RLA recognises the need for longer-term tenancies to meet the requirement of the growing number of families and older people who now live in privately rented properties. We believe that a way can be found to meet the ambitions for secure tenancies without the need for legislative changes.
- Under the RLA's model, if a tenant is satisfactory, then he or she would have a contractual right, if they wished, to extend a fixed-term tenancy and renew it for six or twelve months at a time for up to five years. Renewals would be the same length as for the current tenancy, although a shorter period could be agreed between both parties. The landlord would have the right to override the tenants' wishes for good reason, for example should they wish to sell the property or the tenant defaults on their rents.
- The contract would include the option of independent adjudication in the event of a dispute between the tenant and landlord where agreement could not be found. This would make it near impossible for a landlord to evict without good cause given that they would be expected to outline to the adjudicator why they wanted to evict the tenant.

3.6 Welfare Reform

- The introduction of Universal Credit is having a major impact on the private rented sector. Whilst the RLA supports a simplified system that is easier for tenants and landlords to understand, there is a need for clarity around a number of aspects of the Government's reforms, most notably the circumstances under which landlords could expect benefits to be paid directly to them rather than to their tenants.
- The RLA, alongside a number of organisations including Shelter, Crisis, Citizens Advice Bureau and the Money Advice Trust, has consistently argued that, to help them budget, tenants should be given a choice as to who should receive the housing element of Universal Credit – themselves or their landlords.
- We call on all parties to agree on the need for a period of stability in the welfare system. The changes now being undertaken are both complex and difficult for many tenants and landlords to understand. It is vital that confidence is given that they will not face another series of substantial reforms to the system with all the uncertainty that this would create.
- We would urge all parties to commit to a full review of the impact of the changes to the Shared Accommodation Rate with a particular emphasis on establishing whether sufficient shared housing is available to meet the increased demands that these reforms are placing on the sector. Since changing the threshold at which claimants could claim only for a room in a shared house from 25 to 35, it is clear that there is simply insufficient shared housing to cope with the extra demands this policy is placing on the sector.

3.7 Immigration

- According to Government figures, 85% of migrants who have been in the UK for less than a year are residing in private rented housing.
- Not only does this place further pressures on the country's existing private rented housing stock, it poses significant challenges for landlords in light of the Government's recent decision to place a legal obligation on landlords to check the immigration status of their tenants.

- In a survey of RLA members, carried out following the announcement of the legislation in the 2013 Queen's Speech, just over 50% of respondents said that their tenants came from outside of the UK, with 82% of them opposing the policy.
- The RLA has serious misgivings because the success, or failure, of the proposal depends on landlords being able to do the job of trained UK Border Agency staff. Despite reassurances to the contrary, landlords will be expected to do the work of immigration officials at a cost to themselves, without support and with the threat of a penalty if they get it wrong.
- **Given that the Government will be piloting the proposal in a single area of the country, and given the severe impact that the proposal could have on the sector, we call on all parties to hold a debate and further vote on the policy before any moves are made to extend the scheme nationwide.**

3.8 Energy Efficiency

- The RLA supports raising energy efficiency standards of housing stock in order to reduce the risk of fuel poverty, and has worked closely with the Department of Energy and Climate Change to discuss the implications of the Green Deal.
- We call on all parties to fix the 'goal posts' for the energy efficiency banding of private rented homes. Indications at the moment show that this banding is likely to be an 'E' rating; however, there are suggestions that this could now be set at 'D' for gas. By the time of the next General Election we will already be in 2015. This needs to be set so that landlords can prepare accordingly within a reasonable timeframe. If left too close to 2018 there is a very real possibility that the energy efficiency industry and Green Deal suppliers/administrators will be unable to cope with the increased demand from landlords trying to reach targets as well as other households trying to access funding.
- We would urge the party of Government not to set the efficiency rating at 'D' as this will be especially expensive for landlords that might rent a property that is 'off gas'.
- Government should also encourage landlords to act early by substantially raising the £1,500 tax allowance (the Landlords Energy Saving Allowance) currently available to landlords for energy efficiency measures. Apart from this small allowance, landlords currently only receive tax relief from Capital Gains Tax at the point of sale. Increased tax relief would be a way that landlords could reinvest funding into their properties, including energy efficiency improvements, on an ongoing basis which would also benefit the tenant.



3.9 Safety

- The RLA works to support members in providing safe, legal and secure homes, and regularly updates them with information on all legislation and regulation related to safety in the sector.
- Whilst the Enterprise and Regulatory Reform Act provides the Government with the power to make the installation of smoke and heat sensors a legal requirement, this has not yet happened. The RLA is calling on all parties to commit to making it a legal requirement to install smoke and heat sensors.
- As it stands, it is not a legal requirement that carbon monoxide detectors are fitted in rented properties. We recognise, however, that there are higher risks associated with certain installations such as solid fuel burners, open fires and wood burners. The installation of detectors should, we believe, be on a risk-based approach. We recommend that if advised by a Gas-Safe engineer after an annual landlord inspection, landlords should have such detectors fitted. To support this, we would call on the next Government to draft and issue guidance for all households on the assessment to be made in determining the risks of carbon monoxide leaks.
- At present, it is a legal requirement for electrical safety checks to be carried out on Houses in Multiple Occupation (HMO) every five years. The RLA supports this as a sensible recognition that HMOs tend to have a higher turnover of tenants. We believe, however, that in line with advice from Electrical Safety First for owner occupied properties, non-HMO PRS properties should have checks of the installed wiring within them every five to ten years, on the recommendation of a registered electrician.
- The RLA endorses the installation of Residual Current Devices (RCDs) in domestic premises as an additional measure to be taken in rented properties.



4.0 ABOUT THE PRIVATE RENTED SECTOR

- 4.1 The private rented sector (PRS) is now the only housing tenure growing in the UK. Figures from the most recent English Housing Survey¹ show that in 2012-13, the private rented sector overtook the social rented sector in size for the first time, comprising 18% of all households in England. This represents a 0.6% increase since the previous year and an increase from the low point of 9% recorded in 1992.
- 4.2 In comparison, in 2012-13, the social rented sector made up 16.8% of all English households, a fall of 0.5% from the previous year, and down from its high watermark of 31.7% in 1981. Similarly, the owner occupied sector now comprises 65.2% of all households in England, a 0.1% drop on the previous year and a fall from the 70.9% recorded in 2003.
- 4.3 There are a lot of myths peddled about the sector. It is important that decisions are based on fact and evidence. Therefore in this section we set out key facts based on official statistics wherever possible.

4.4 Demographics of Tenants

- 4.4.1 There are estimated to be 9 million private sector tenants in England² occupying 4.2 million tenanted properties. Of this group, just over half (50.8%) are under 35.
- 4.4.2 The private rented sector also has the highest proportion of residents in full-time work. While 61.1% of private sector tenants are in full-time employment, this compares with just 22.7% in the social rented sector and 54.3% in the owner occupied sector.
- 4.4.3 Given that just 5.3% of private sector tenants are in full-time education, it is clear that the private rented sector is now much more than a housing option for students and increasingly becoming one for those in work.
- 4.4.4 A further noticeable characteristic of the changing nature of the private rented sector is the number of households with children. According to the English Housing Survey, 32.2% of PRS households in England comprise a couple or lone parent with at least one dependant child.
- 4.4.5 Around a third (33.1%) of housing benefit claimants in Great Britain are now living in the private rented sector, according to the most recent Department for Work and Pensions statistics.³ The average weekly award to housing benefit claimants in the private rented sector is £105.87.
- 4.4.6 Between 2008-09 and 2012-13, the proportion of tenants in the private rented sector claiming housing benefits to help cover the cost of their rent increased from 19% to 25%. In comparison, the proportion of social sector tenants in receipt of housing benefit increased over the same period from 59% to 66%.⁴
- 4.4.7 In 2012-13, the proportion of working households in the private rented sector receiving housing benefits stood at 12%, up from 9% in 2009-10. Over the same period, the proportion of such tenants in the social rented sector increased from 20% in 2009-10 to 32% in 2012-13.⁵
- 4.4.8 In 2012-13, the average (mean) length of residence for tenants in the private rented sector stood at 3.8 years, a figure which has remained stable over the past five years. Where tenancies are ended, just 7% of them are ended by the landlord.⁶

¹ Department for Communities and Local Government. (February 2014). *English Housing Survey – Headline Report 2012-13*. Page 48

² Department for Communities and Local Government. (16th October 2013). *Press Release – “A brighter future for hardworking tenants”*

³ Department for Work and Pensions. (14th May 2014). *Housing Benefit Caseload Statistics – February 2014*.

⁴ Department for Communities and Local Government. (February 2014). *English Housing Survey – Headline Report 2012-13*. Page 19

⁵ Department for Communities and Local Government. (February 2014). *English Housing Survey – Headline Report 2012-13*. Page 21

⁶ Department for Communities and Local Government. (July 2014). *English Housing Survey – Households Report 2012-13*. Page 10.

Table 1: Demographics of tenants in the private rented sector in England in 2012-13⁷

Age Range	% of tenants
16-24	14.7
25-34	36.1
35-44	22.0
45-54	12.9
55-64	6.6
65 or over	7.7

Economic Status	% of tenants
Full Time Work	61.1
Part Time Work	10.7
Retired	7.5
Unemployed	5.6
Full Time Education	5.3
Other Inactive	9.8

Household Type	% of tenants
Couple with no dependant children	24.9
Couple with dependant child(ren)	20.4
Lone parent with dependant child(ren)	11.8
Other multi-person household	14.0
One person under 60	22.6
One person aged 60 or over	6.3

Household Size	% of tenants
One	28.9
Two	33.7
Three	19.9
Four	11.6
Five	4.1
Six or more	1.8

⁷ Department for Communities and Local Government. (February 2014). *English Housing Survey – Headline Report 2012-13*. Page 49

4.4.9 In 2012-13, 61% of private sector tenants in England said that they expected to buy a property at some point in the future; 23% of tenants in the sector expect to buy a property within two years, with 44% believing it will be more than five years before they go on to purchase one.⁸

Table 2: Length of residence for tenants' private rented sector in England in 2012-13⁹

Length of Residence	% of tenants
Less than 1 year	34.3
1 year but less than 2 years	20.2
2 years but less than 3 years	12.4
3-4 years	13.2
5-9 years	10.7
10-19 years	4.6
20-29 years	1.7
30+ years	2.8

4.5 Private Sector Landlords

4.5.1 HM Revenue and Customs has previously put the number of landlords across the UK at 1.9 million, the majority of whom are individuals renting out just a few properties.

4.5.2 In 2010, the Department for Communities and Local Government's "Private Landlords Survey 2010" found:¹⁰

- 86% of landlords were private individuals responsible for 71% of all private rented properties.
- 5% were company landlords overseeing 15% of properties in the sector and 6% were classed as "other organisation" landlords, responsible for 14% of all private sector homes to rent.
- 78% of all landlords owned just one property for rent, comprising 40% of all private rented housing.
- 79% of all landlords earned less than a quarter of their income from letting properties, with 21% of all landlords earning no income at all from it.
- Just 8% of all landlords in the private rented sector were full-time landlords, with the remainder part-time landlords.

4.6 Rent Levels

4.6.1 There has been much debate over recent months about the cost of renting, with suggestions that renting is becoming unaffordable for many tenants. As both the English Housing Survey and statistics from the Office for National Statistics (ONS) show, however, rents in the private sector have historically, been increasing by less than inflation and much less than both the monetary and proportional increases in the social rented sector.

⁸ Department for Communities and Local Government. (February 2014). English Housing Survey – Headline Report 2012-13. Page 30

⁹ Department for Communities and Local Government. (February 2014). English Housing Survey – Headline Report 2012-13. Page 23

¹⁰ Department for Communities and Local Government. (October 2011). Private Landlords Survey 2010.

Table 3: Mean weekly rents for 2008-09 to 2012-13¹¹

Tenure	2008-09	2012-13	Change	RPI (Apr 08 – Mar 13)	CPI (Apr 08 – Mar 13)
Social Rented Sector	£71	£89	+£18 (25.4%)	16.2%	16.7%
Private Rented Sector	£153	£163	+£10 (6.5%)	16.2%	16.7%

4.6.2 The English Housing Survey figures support data from the Office for National Statistics showing that across all English regions, including London, rents are increasing by below inflation on both measurements, CPI and RPI.

Table 4: Rent increases¹²

	12 months to September 2014	9 years, September 2005-2014
England	1%	9.4%
England excluding London	0.8%	7.5%
London	1.5%	12.9%
North East	0.4%	5.2%
North West	0.3%	5.6%
Yorkshire and Humber	0.4%	7.5%
East Midlands	0.7%	5.4%
West Midlands	0.6%	6.2%
East	0.8%	8.7%
South East	1%	8.7%
South West	1.1%	8.5%
RPI over the period	2.3%	33.4%
CPI over the period	1.2%	12.4%

4.6.3 While it is true that private sector rents are higher than those in the social sector, this will always be the case, given that the social sector enjoys a large degree of public subsidy. Furthermore, the private rented sector comprises a much more varied range of properties, whilst the social sector tends to be comprised of accommodation which is much cheaper to rent. As the English Housing Survey notes:

“While rents in the social sector are subsidised, the difference in average rents will also partly reflect the difference in the type of properties in the sectors. The private rented sector generally has a much wider and more varied range of stock, while the social sector has a higher proportion of purpose built flats, which tend to be cheaper.”¹³

¹¹ Department for Communities and Local Government. (February 2014). *English Housing Survey – Headline Report 2012-13*. Page 19

¹² Office for National Statistics. (24th October 2014). *Index of Private Housing Rental Prices, Reference Tables September 2014*.

¹³ Department for Communities and Local Government. (February 2014). *English Housing Survey – Headline Report 2012-13*. Page 18

4.6.4 A further noticeable feature of the private rented sector is the readiness of landlords to keep their rents down where tenants stay on long term. This, it should be noted, is already happening under the existing system and has not required legislation of the sort being proposed by some parties. As the English Housing Survey states:

“Private renters who had lived in their current home for less than a year paid an average weekly rent of £175 compared with £154 for those resident for 5-9 years and £106 for those resident for 20 or more years.”¹⁴

4.7 Margins

4.7.1 A common misconception is that private landlords are profiteering from the buy-to-let market. However, this isn't an entirely accurate picture. On the contrary, official figures show that 79% of all landlords earn less than a quarter of their income from letting properties, with 21% earning no income at all from it.

4.7.2 This was confirmed by the findings of a report for the RLA by Michael Ball, Professor of Urban and Property Economics at Reading University, who concluded:

“Current returns in the private rented sector are extremely low and are likely to remain so. The resultant damage to the private rented sector could be huge, because the availability and cost of privately rented accommodation depends on landlords making viable returns on their investments.”

4.7.3 What is often missed from figures working out landlord margins are the considerable costs that landlords face in managing, maintaining and repairing properties – up to 30% of their rental income. With interest rates likely to increase in the near future, prospects for landlord finances remain uncertain.

4.7.4 Despite the popular belief that landlords are making huge returns on their investments, using the ONS 'Annual Survey of Hours and Earnings 2012' we have worked out that self-managing landlords are actually taking home a wage equivalent of £12.20 per hour.¹⁵ With part of this revenue expected to go back into the property, it isn't surprising to see that recent analysis has warned that a number of buy-to-let landlords *“could see their cash flow turn negative as early as 2017 if interest rates rose to the levels hinted at by the Bank of England Governor, Mark Carney.”*¹⁶

4.7.5 Given that landlords don't actually make much revenue from their properties, we would like to see all parties consider the options for effective tax reform to enable landlords to see some benefit from their investment (see below for full taxation proposals). It is now more tax efficient for many landlords to utilise pension and other savings vehicles rather than to continue putting money into rental property. With the Intermediary Mortgage Lenders Association pointing out that just 32% of the additional PRS homes since 2007 having been financed by buy-to-let mortgages,¹⁷ this is a very worrying prospect given that the PRS is currently in such high demand from an overflow of social housing tenants and those unable to get on to the property ladder.

¹⁴ Department for Communities and Local Government. (February 2014). *English Housing Survey – Headline Report 2012-13*. Page 19

¹⁵ ONS (December 2013) Annual Survey of Hours and Earnings, 2012 Revised Results. ASHE 2012 (revised) Table 14 - Occupation. Table 16.5a.

¹⁶ Daily Telegraph, (April 2014)
<http://www.telegraph.co.uk/finance/personalfinance/investing/buy-to-let/10743997/Could-now-be-the-worst-possible-time-to-buy-to-let.html>

¹⁷ Intermediary Mortgage Lenders Association. (May 2014). *Reshaping housing tenure in the UK: the role of buyto-let*. Page 2

4.7.6 In order to help smaller private landlords reinvest money into the repair and maintenance of their properties, and to attract fresh investment to the sector, the RLA would like to see a number of incentives to make letting in the PRS an attractive option. We feel that this would attract a high calibre of investor, which will ultimately raise standards in the sector. Changes are clearly needed to the way the sector is taxed to make investing a more attractive proposition, and essential to avoid a potential housing crisis in the future.

4.8 Private Rented Housing Stock

4.8.1 A significant number of private rented homes remain under-occupied.

4.8.2 According to the English Housing Survey¹⁸ based on a three-year average between 2010-11 and 2012-13, 15.3% of private rented homes are under-occupied compared with 9.9% of social rented homes. Alongside this, 5.6% of households in the private rented sector are classed as overcrowded compared with 6.4% in the social rented sector.

4.8.3 61% of private rented accommodation comprise houses, the majority of which are terrace properties; 13% are converted flats and less than 4% are low-rise, purpose-built flats.¹⁹

4.8.4 The private rented sector continues to experience considerable difficulty in improving the energy efficiency of its housing stock, given that 33% of homes in the sector were built prior to 1919 and are without cavity walls.²⁰ It is therefore unsurprising that at 23%, the proportion of homes in the private rented sector with cavity wall insulation is the lowest of all housing tenures.²¹ The English Housing Survey notes:

“The lower prevalence of cavity wall insulation in the private rented sector was due in part to the higher proportion of dwellings with non-cavity construction. Only 56% of private rented sector dwellings had cavity walls compared with at least 70% in the other tenures.”

4.8.5 The Government’s Standard Assessment Procedure (SAP) is used to monitor the energy efficiency of homes. It then allocates points to a property: the higher the points, the more energy efficient the property.

4.8.6 Despite the difficulties, the progress made in making rented stock more energy efficient can be seen from the fact that while in 1996 owner occupied stock was more energy efficient than private rented stock (average SAP rating of 44 points compared with 40), by 2012 the two tenures were much the same (57 and 58 respectively).²²

4.8.7 This translates into a further measurement of energy efficiency using the Energy Efficiency Rating (EER) with bands used in Energy Performance Certificates (EPCs). The EPC provides, among other indicators, an energy efficiency rating for the dwelling on a scale from A-G, where A is the most efficient and G the least efficient.

¹⁸ Department for Communities and Local Government. (February 2014). *English Housing Survey – Headline Report 2012-13*. Pages 28 and 29

¹⁹ Department for Communities and Local Government. (February 2014). *English Housing Survey – Headline Report 2012-13*. Page 34

²⁰ Department for Communities and Local Government. (February 2014). *English Housing Survey – Headline Report 2012-13*. Page 33

²¹ Department for Communities and Local Government. (February 2014). *English Housing Survey – Headline Report 2012-13*. Page 38

²² Department for Communities and Local Government. (February 2014). *English Housing Survey – Headline Report 2012-13*. Page 40

- 4.8.8 At 20%, the private rented sector had, in 2012, proportionally more dwellings in the highest EER bands (A to C) than the 13% of owner occupied properties. Just 9% of private rented homes fell within the lowest rated properties in bands F to G.²³
- 4.8.9 Despite not enjoying the government grants received by the social rented sector, the proportion of private rented properties classified as non-decent has fallen from 47% in 2006 to 33% in 2012.²⁴

4.9 Economic Contribution of the Private Rented Sector



- 4.9.1 What is often not appreciated is the economic contribution that the private rented sector makes to the country, given that it is subject to much greater taxation than any other housing tenure.
- 4.9.2 In a report on investment in the private rented sector for the RLA²⁵ published in 2012, Professor Ball, who was also a lead panel member of DCLG's Housing Market and Planning Analysis (HMPA) Panel from 2007 to 2010, explained:

"In contrast to other housing, the tax burden on the private rented sector is rising fast. This has been caused by both a widening and a deepening of the tax take. The tax net has widened because of the expansion of renting and the growth of nominal rents. But it has also deepened in the sense that tax rates have risen in recent years in response to deteriorating public finances and this has significantly affected the private rented sector in a number of ways, through VAT rises and the increases in capital gains and income taxes. Many landlords are in the top half of the income distribution, and so the income taxes they pay on their net rental incomes have been rising fast following government measures in recent years.

²³ Department for Communities and Local Government. (February 2014). English Housing Survey – Headline Report 2012-13. Page 41

²⁴ Department for Communities and Local Government. (February 2014). English Housing Survey – Headline Report 2012-13. Page 42

²⁵ Ball, Michael. (November 2011). Investing in private renting – Landlord returns, taxation and the future of the private rented sector. Pages 10 and 11

“The increasingly adverse tax situation of the private rented sector is unique amongst the various housing tenures and contrasts with experience regarding many competing forms of savings and investment. For example, although there has been a reining back of the tax breaks offered to investments in pensions, the restrictions were mainly targeted at those on the very highest incomes. So, even after recent reforms, for most people the tax efficiency of pension investments is still substantial and has grown with higher income taxation. Similarly, ISA savings vehicles’ maximum permitted annual volumes have risen considerably and other tax-break investment schemes have been introduced. At present, the Treasury in a number of respects takes a dim view of utilising direct ownership of rental housing as an investment medium, and as a result it is explicitly excluded from pensions and savings tax breaks.”

4.9.3 Professor Ball also notes that:

- *The annual tax on rental income paid by England’s market tenancies is in the region of £3.5 billion. This would pay for the Government’s Build to Rent fund one and a half times over. This, he argues, representing roughly £1,000 per tenancy – equivalent to 17% of tenants’ average annual rent costs. Professor Ball continues: “Neither owner occupiers nor social tenants have tax obligations in this way. Quite the opposite: it is estimated that owner occupiers save £11bn in tax annually on the (imputed) rental values of their properties. A future £8.8bn is saved in capital gains tax on the disposal of main residences.*
- *“On top of rental taxes, capital gains tax (CGT) is payable by landlords, typically at the rate of 28% at the time of sale. In 2007-8, more than 100,000 sales of residential land and buildings netted the Inland Revenue £5.7bn, many of which would have been of rental housing. There is a further large liability embodied in unsold properties, as well. By contrast, owner occupiers incur no CGT liability at all. Further tax revenue comes from the 20% VAT charged on the market services that landlords buy, such as those on estate agents’ fees or on repairs, which they cannot directly claim back because rents are not subject to VAT.*
- *“Landlords are also double taxed on building improvements as they have to pay 20% VAT on them and are then taxed on the higher rents that the improvements generate. Owner occupiers admittedly have to pay VAT on the market services they use as well, but they do not incur so many costs as landlords do because they are not in the business of supplying tenant services. Landlords can deduct interest on mortgage payments, which owner occupiers cannot, but even so, huge tax bias remains in favour of owner occupation and social housing.”*

4.9.4 The Intermediary Mortgage Lenders Association has estimated that *“the number of extra rented properties has amounted to a net investment of some £50bn per annum in recent years.”*²⁶

²⁶ Intermediary Mortgage Lenders Association. (May 2014). *Reshaping housing tenure in the UK: the role of buyto-let*. Page 3

5.0 REGULATION THAT WORKS

- 5.1 In April 2014, the RLA published a report prepared by Professor Ball on the impact of regulation on the private rented sector.²⁷
- 5.2 Professor Ball, who was a Lead Panel member of the Housing Market and Planning Analysis Panel of the DCLG from 2007-10, concludes that current regulation of the private rented sector isn't working and calls for a more effective action to root out bad landlords.
- 5.3 In summary, his report notes:
- There is a real danger that the tide of regulation will erode the very mechanisms that have led to the expansion of the private rented sector over the past two decades. Getting operating costs down through a comprehensive re-assessment of the costs and benefits of aspects of the current regulatory regime and their impact on landlords' operating costs would encourage investment. Tighter controls do the opposite by raising costs and stifling incentives for investment.
 - Much regulation of the private rented sector that aims to stop bad practice faces the problem that it is extremely difficult for those responsible for enforcement to identify exactly where such bad practices are occurring, in order to impose penalties.
 - Registration schemes, instead of being comprehensive, fall back on the threat of penalties for those that fail to register, to try to ensure that high numbers do so. Such threats are unlikely to impress the worst landlords because they are currently unfazed by the more draconian penalties they would face if their current practices were found out and punished.
 - The requirement for residential investors to register with local authorities varies across the UK. It is apparent that these schemes are not always effective or offer value for money. The registration scheme in Scotland, for example, costs £11.1m in landlord fees with an additional £5m of public funding. Set beside these costs is the benefit of weeding out only 40 landlords who have been refused registration. **Manchester City Council is to let its trial area schemes, in operation since 2007, run their course, but have acknowledged that they have not worked.**
 - The policy debate over the private rented sector tends to be driven by populism. Private landlords questioned for the report felt frustrated that they are often treated as potential devils, while social landlords are seen as angels. In contrast, surveys of tenant satisfaction show a higher level of satisfaction among private sector tenants than their RSL counterparts. Nor is the social housing stock consistently in tip-top condition.
 - The survey of RLA members conducted as part of the research showed that landlords were willing to support regulations that could deal with the problems caused by the minority of poor or criminal landlords who damage the reputation of the sector.
 - There is a serious danger that excessive regulation will shrink the private rented sector because of the disincentives it creates for potential investors. The oft-made claim that tenants benefit from more controls which are needed to raise standards, is misplaced. The opposite is often the case as such controls discourage better landlords from investing.
 - Less investment typically leads to poorer housing quality. The surge in investment in the private rented sector over the past decade has been the driver of rising housing standards, not regulation.
 - Increased operating costs raise rents due to excessive regulation, so tenants end up bearing much of the burden of regulation.

²⁷ Ball, Michael. (April 2014). *The impact of regulation on the private rented sector*.

5.4 Professor Ball recommends that:

- Policy should move beyond populist debate and a stampede towards more regulation. There is a need both to simplify the regulatory framework and to hold back moves towards introducing further regulation. A good start would be an extensive review of the current regulatory framework using rigorous data and cost-benefit analysis: this should also apply to any future policy.
- Where good quality data is unavailable, policy should err towards the removal of regulatory control on the grounds of 'case not proven'. Emphasis should also be put on the avoidance of exaggerating benefits; on recognising the limits of state actions; and on a properly integrated analysis of the impacts on operating costs, investment, and rent levels.
- In contrast to current experience, a useful mantra for private rented sector policy debate would be: 'The benefits of regulation are often limited, but the costs are not.'

5.5 The Problem with the Existing System

5.5.1 Research conducted by the RLA²⁸ has identified over 100 current Acts of Parliament or regulations that specifically impact on private rented sector landlords. These contain around 400 individual measures which could affect the way in which a landlord owns and manages their property and conducts tenancies. This clearly demonstrates that, contrary to popular belief, the private rented sector is far from under-regulated.

5.5.2 The RLA believes that the problem is not the lack of regulatory powers, but the ability of local authorities to properly enforce the powers already available to them. A study conducted in 2012 by UNISON²⁹ of 70% of councils in the UK, revealed an 8% budget decrease for environmental health services over the preceding two years and a total of 1,272 Environmental Health Officer (EHO) posts having been lost over the same period.

5.5.3 This is a point that is echoed by the tenants' campaign organisation, Generation Rent, which has concluded that "*environmental health teams invariably have too few staff to oversee enforcement of even these low standards*".³⁰

5.5.4 In response to this there are calls for the establishment of a national register of landlords as the answer to tackling bad landlords, but in 2009 the then Labour Government produced an impact assessment for a proposed national register of landlords.³¹ This document concluded that full licensing would be "onerous, difficult to enforce and costly".

5.5.5 In 2009, Shelter Scotland also published its three-year review of the national register of landlords introduced by the Government at Holyrood which found that 15% of all landlords, comprising up to 25% of private rented properties, had not registered.³² Many of this group are those that cause misery for tenants. If the only landlords that come forward to register are those that provide a decent service and standard of accommodation in the first place, how will registration help those tenants whose landlords are the ones that choose to operate 'under the radar'?

²⁸ See research at http://www.rla.org.uk/docs/enews170712/statutory_regulations_affecting_the_PRS.pdf.

²⁹ UNISON. (2012). Environmental health - how cuts are putting individuals and communities at risk and damaging local businesses and economies.

³⁰ Generation Rent. (May 2014). The Renters' Manifesto: A consultation document.

³¹ Department for Communities and Local Government. (June 2009). *Impact Assessment of a national register for landlords*. Page 4

³² Shelter. (April 2009). *Landlord registration in Scotland: three years on*. Page 2

- 5.5.6 Selective licensing has also had mixed results. Manchester City Council has chosen not to renew its scheme, with a spokesperson declaring that the council “*found that selective licensing did not achieve the outcomes*” it wanted. They continued: “*Responsible landlords often came forward quickly, but the time required to process the applications, chase up paperwork and inspect properties, pulled the focus away from targeting and enforcing poor landlords to raise standards, so the main aim of the scheme could not be effectively achieved.*”³³
- 5.5.7 Cllr Jonathan Glanz, Housing Portfolio holder at Westminster City Council, has previously told the CLG select committee: “*We find that we are able to do that [enforce standards] within existing legislative frameworks, rather than by imposing upon the large majority of good landlords additional obligations to comply with the proposals that might arise out of a further regulatory framework, which could come from a compulsory licensing scheme.*”³⁴
- 5.5.8 **As these councils, and others, have all found, running a licensing scheme under which responsible landlords are registered takes up all the time that otherwise could be used for seeking out and dealing with bad landlords. The same would apply with a national register.**
- 5.5.9 Furthermore, HMO and selective licensing does little to drive up standards since it does not, as accreditation does, utilise the educational and training opportunities for landlords that improves their understanding of their obligations.
- 5.5.10 Shelter claims it receive 85,000 complaints a year from PRS tenants – roughly 1% of all tenants. It also says that prosecutions in English courts amount to no more than 500 a year. Given that the English Housing Survey shows that 83% of PRS tenants are satisfied, or very satisfied, with their accommodation, why are resources being spent on the majority of compliant landlords when the problem is with a minority?
- 5.5.11 **There is a danger that a national register is seen as a simple solution, attractive because it is a tangible demonstration that something is being done, whereas it would be completely ineffective at tackling the problem of bad landlords and would just add further costs for landlords, leading to higher rents for tenants.**

5.6 Kicking out the Crooks, Supporting the Good Landlords through Co-Regulation

- 5.6.1 Hard-pressed local authorities need to be able to devote their finite resources to properly enforce existing legislation and target those landlords who cause problems rather than spending significant amounts of time registering and regulating those landlords who sign up to accreditation or licensing schemes and so make themselves known.
- 5.6.2 **If policy makers want to know where private rented homes are, and who the landlord is, additional boxes could be included on Council Tax forms for tenants to tick if they live in a private rented home, and if so, to include the name and contact details of their landlord, if known.**
- 5.6.3 **If the landlord is not known, the tenanted address can be checked against the Land Registry database and the property owner identified. Not only would such a system prove much less costly than a full registration scheme – saving potentially £300m based on the last Government’s impact assessment of a national register – it would also make it much more difficult for criminal landlords to avoid making themselves known since it would be the tenant identifying where the properties are. This system would have benefits to other agencies such as HM Revenue and Customs.**

³³ Mortgage Introducer. (31st July 2013). NLA slams licensing schemes .

³⁴ Communities and Local Government Select Committee. (11th March 2013). *Transcript of oral evidence as part of inquiry into the private rented sector - HC 953 -i v.*

- 5.6.4 Local authorities should also be allowed to retain some of the fine income from successful prosecution of criminal landlords, to be used to fund further enforcement action.
- 5.6.5 **The RLA proposes a system of co-regulation with local authorities whereby landlords are given the opportunity to join an industry-run accreditation scheme taking them out of the purview of local authority control. Such a scheme would not be a soft option. It would include Alternative Dispute Resolution (ADR) and independent property inspections, with strong sanctions against those landlords failing to abide by their obligations to be accredited under the scheme.**
- 5.6.6 Experience in HMO regulation and selective licensing indicates that 80% of decent landlords would apply, as it would help them to market their properties and free them from unnecessary, more intrusive, control. This would then free local authority time and resource to pursue those choosing not to join the self-regulation scheme, as these are more likely to be the landlords seeking to evade scrutiny. Such a model is already used for building control.
- 5.6.7 This proposal for co-regulation would:
- Recognise good practice and property standards within the PRS.
 - Encourage compliance by the majority of landlords.
 - Save costs for landlords and the costly duplication of licensing schemes by councils by operating across local authority boundaries.
 - Introduce independent dispute resolution for tenants either using Alternative Dispute Resolution as a standard feature of accreditation membership or less formal mediation.
 - Release local authority resources to take action against the worst types of landlords.
 - Help tenants choose better landlords and property through the development of a recognised 'brand'.
 - Enable tenants to check a landlord's status through a dedicated website and phone number.
 - Involve all sectors of the PRS – private and corporate landlords as well as agents.
 - A similar accreditation scheme has been operating successfully in Leeds since 1997. Landlords who join, agree to provide quality housing and in turn are awarded accreditation status by Leeds City Council. In 2003 the scheme was extended to include tenant accreditation. Combined, the council's own scheme, together with that run by UNIPOL in the city for student accommodation, has accredited over 35,000 bedrooms in the city.
- 5.6.8 **There is a need, also, for better informed tenants so that they understand what to look for when choosing a property, what questions to ask, and when, as well as how, to complain where they face a landlord refusing to carry out work that is needed. Accreditation could play a major role in supporting and encouraging greater tenant awareness through the development of a single, simple badge to show that a landlord is providing safe, legal and secure accommodation. Such a badge should be developed in conjunction with property portals and letting agents which are often the first port of call for tenants when looking for a property.**
- 5.6.9 **If a landlord's conduct was such that they fail to meet the required standard, then accreditation would be revoked and that landlord would be subject to local authority enforcement.**

5.6.10 Through co-regulation, standards would improve because:

- Council Tax returns would provide intelligence-led, targeted enforcement.
- Local authorities would improve their enforcement activities by targeting those who have not joined the scheme.
- Landlords would be incentivised to avoid the costs of Alternative Dispute Resolution by encouraging them to resolve problems with their tenants beforehand.
- Sanctions would include exclusion from the scheme and referral to the local authority.
- It would involve all sectors of the PRS – private and corporate landlords, agents, and portals.
- It would help identify criminal landlords through better use of technology. It would polarise the PRS into an independently regulated professional landlord sector, and an unaccredited sector, resulting in diminishing returns for the fragmented remainder through reduced tenant demand for non-branded property and lower rents.



5.7 Evicting Nightmare Tenants

- 5.7.1 Whilst the RLA's proposal for co-regulation would support good landlords by properly finding and rooting out the crooks in the sector, the flip-side of this is that landlords need to be able to swiftly repossess their properties when faced with nightmare tenants who engage in anti-social behaviour or criminal activity or fail to pay their rent. Such behaviour can and does cause substantial problems for residents living close to properties containing such tenants.
- 5.7.2 At present, landlords can regain possession of their properties based on two key sections of the 1988 Housing Act.
- 5.7.3 Section 21 gives a landlord an automatic right of possession without having to give any reasons once the fixed term of a tenancy has expired. Section 8 allows a landlord to seek possession on a number of grounds listed in the legislation, including anti-social behaviour and tenant rent arrears. Unlike a section 21 notice, if a tenant refuses to leave the property on the date specified in a section 8 notice, landlords then have to apply to the courts for a 'possession order', a process that can be both lengthy and expensive.

5.7.4 Whilst RLA survey data of its members shows that the overwhelming majority of landlords do not and will not evict tenants without good reason, the back-stop that section 21 notices provides is crucial to maintaining confidence and hence keeping them in the sector. This is all the more important given the substantial number of calls received by the RLA helpline showing that many landlords are concerned that faced with tenants causing misery for them and the communities they live in, section 8 notices are a one-way street for tenants causing problems to hold up eviction processes.

Former Liberal Democrat Communities and Local Government Minister Sir Andrew Stunell MP commented during the passage of the Localism Act:³⁵

“Section 21 is one of the key characteristics of assured shorthold tenancies to which the tenancy deposit scheme relates. It allows a landlord to evict a tenant, having given reasonable notice, on a non-discretionary basis and without having to give a reason. The ability to gain possession of their property is key to a landlord’s confidence in letting out that property in the first place, and in the current economic climate, we would not want to undermine that confidence.”

5.7.5 The reality is that the removal of section 21 notices would amount to a charter for anti-social tenants, with landlords and communities powerless as tenants who cause misery clog up the court system and grind eviction proceedings to a halt.

5.7.6 In May 2014, the Chairman of the Communities and Local Government Select Committee, Clive Betts MP, told an event in Westminster organised by housing association ‘Incommunities’ that landlords need a “fairly quick method of eviction” for nightmare tenants. The RLA agrees, and as such strongly opposes any moves to scrap Section 21 notices which would undermine this objective.

5.7.7 It is important to note that tenants already enjoy protection from retaliatory evictions under Consumer Law. In June, the Competition and Markets Authority issued guidance on the relationship between landlords and tenants. This guidance makes clear that under the terms of the 2008 Unfair Trading Regulations, coming from the Consumer Protection Act, it is a breach where

“any commercial practice that, in the context of the particular circumstances, intimidates or exploits consumers such as to restrict (or be likely to restrict) their ability to make free or informed choices in relation to a product, and which cause or are likely to cause the average consumer to take a different transactional decision. These are known as aggressive practices.” In the examples of what could constitute aggressive practices, it includes: *“Threatening the tenant with eviction to dissuade them from exercising rights they have under the tenancy agreement or in law, for example where they wish to make a complaint to a local authority about the condition of the property, or seek damages for disrepair.”*³⁶

5.7.8 We consider that a Section 21 notice should be overridden by the Courts in this situation already under existing laws but agree that in order to clarify the position there should be a specific targeted statutory defence introduced. The answer is not a general moratorium on the use of Section 21 in this situation.

5.7.9 **Given that retaliatory evictions are already illegal, the problem is not about a lack of powers but tenants not being aware of them to give them confidence to raise concerns. We believe that when signing a contract it should be a legal requirement for a landlord to supply a tenant with details of their rights as they stand at present, including about evictions. There needs to be greater awareness generally within the Sector that retaliating by evicting a tenant who complains about the condition of the property in good faith is a criminal offence. A specific defence to a Section 21 claim could be introduced to amplify protection for the tenant where the Section 21 notice has been served because a tenant has complained about disrepair or property conditions.**

³⁵ House of Commons Hansard. (10th March 2011). c951

³⁶ Competition and Markets Authority. (13th June 2014). *Guidance for lettings professionals on consumer protection law - Helping you comply with your obligations.*

6.0 BOOSTING SUPPLY

- 6.1 Whilst the private rented sector remains the only housing sector that is growing, with predictions that 35% of UK households will be renting privately by 2032,³⁷ and 4.1 million British adults having given up on the idea of ever owning their own home,³⁸ it is clear that the private rented sector needs to grow substantially to meet the ever-growing demand being placed on it.
- 6.2 The supply shortage in the sector is being compounded by a multitude of problems, including, as outlined by the Intermediary Mortgage Lenders Association: *“The fall in social housing; growing obstacles to home ownership; changes in the employment landscape; greater numbers of students; high levels of immigration; later marriage and rising separation rates.”*³⁹
- 6.3 The pressures on the sector are growing further as a result of the Localism Act enabling local authorities to discharge their homeless duties by using private rented accommodation; and changes to the Shared Accommodation Rate increasing the number of people needing to access privately rented shared accommodation as opposed to a house or flat of their own.
- 6.4 This current, chronic lack of supply of private rented homes in some areas can be seen most acutely in London, resulting as it does in tenants scrambling to find whatever property they can without there being genuine choices for them to make. Boosting supply is therefore crucial to secure greater competition in the market – the most effective mechanism to keep rents affordable and ensure accommodation is maintained to a high standard.
- 6.5 Growing the sector also makes good economic sense, given the contribution it makes to Treasury revenue as outlined above.
- 6.6 Welcome though it is, Government efforts to encourage institutional investment in private rented housing will only go so far, given that the vast majority of the sector comprises individuals who are treated by Government as investors and not businesses.
- 6.7 The RLA is therefore calling on all parties to support this army of individuals to develop the properties the country needs. As the Communities and Local Government Select Committee asserted in its report on financing new housing supply in 2012: *“While it is right to consider the potential for large institutions to invest in the private rented sector, it is also important to remember that the sector is, and will continue to be, dominated by small companies and individual landlords. Although these smaller landlords tend to invest in existing property, they do make an indirect contribution to new housing supply, and in the past have provided upfront funding for development by buying property ‘off-plan’.”*⁴⁰
- 6.8 In order to encourage investment in new homes to rent, the RLA is calling on all parties to pledge to:
- Reform the way the sector is taxed to encourage investment by individual landlords, and to treat renting a property as a trading activity.
 - Better utilising small plots of unused public sector land to develop new properties to rent.

³⁷ Intermediary Mortgage Lenders Association. (May 2014). *Reshaping housing tenure in the UK: the role of buyto-let*. Page 2

³⁸ Financialreporter.co.uk. (11th February 2014). *4.1m adults have given up on home ownership*.

³⁹ Intermediary Mortgage Lenders Association. (May 2014). *Reshaping housing tenure in the UK: the role of buyto-let*.

⁴⁰ Communities and Local Government Select Committee. (7th May 2012). *Financing of new housing supply – Eleventh Report of Session 2010-12, Volume 1*. Page 25

- Scrap planning and Council Tax regulations restricting the growth of much-needed shared housing in many areas of the country.
- Oppose rent controls which would critically undermine investment in homes to rent.

6.9 Taxation Reform

6.9.1 As has already been noted, the private rented sector is disadvantaged by a taxation system that favours owner occupiers and the social sector, thereby leading to higher rents for tenants.

6.9.2 As Professor Ball has noted:

“The relative attractiveness of private rental investment has been notably diminished as a virtually unseen but adverse consequence of the ways in which governments over the past four years have altered and raised taxes. It is now more tax efficient for many landlords to utilise pension and other savings vehicles rather than to continue putting money into rental property.

“It is important to recognise that taxation is not simply an extra burden on landlords and as such can be politically justified on grounds of ‘fairness’ and ‘equity’. As will be explained later, much of these growing levels of taxation are passed on to tenants in the form of higher rents. Meanwhile, higher income and capital gains taxation make owner occupation even more attractive as a tax haven. So, the contrast with private renting is stark. People now have even greater incentives than before to buy housing for themselves but less incentive to buy to let.”

6.9.3 For growth to happen, an aspiration on the part of landlords to invest is required, together with the finance needed. However, with the Intermediary Mortgage Lenders Association pointing out that just 32% of the additional PRS homes since 2007 have been financed by buy-to-let mortgages,⁴¹ changes are needed to the way the sector is taxed to make investing a more attractive proposition.

6.9.4 At present, the key taxes levied on smaller-scale private sector landlords are income tax on rental income and Capital Gains Tax (CGT) when a property is sold. The PRS is at a disadvantage compared to other tenures as neither the social sector nor owner occupiers pay these. It should also be noted that much of the tax notionally paid by the landlord is in fact paid by the tenant, as landlords set rents to allow for taxes.

6.9.5 As has already been noted, Professor Ball calculates that the annual tax on rental income paid by England’s market tenancies totals £3.5 billion – equivalent to £1,000 per tenancy or 17% of tenants’ average annual rent costs. CGT is also payable by landlords, typically at the rate of 28% at the point of sale.

6.9.6 A more appropriate and fairer tax regime would assist tenants by allowing landlords to stabilise rents and invest in existing properties. The RLA proposes:

- **Roll-over relief for Capital Gains when re-invested.** To encourage landlords to re-invest, roll-over capital gains tax should be allowed where the sale proceeds are being re-invested in a property for rent. Landlords are traditionally good at regenerating property, but they need the ability to move with the market and release capital without CGT liabilities.
- **Roll-over relief for Capital Gains when sold to a first-time buyer.** To help first-time buyers and free up rental property, roll-over CGT should be allowed where the sale is to a first-time buyer, with suitable controls to prevent abuse, such as an upper limit on price.

⁴¹ Intermediary Mortgage Lenders Association. (May 2014). *Reshaping housing tenure in the UK: the role of buy-to-let*. Page 2

- **Entrepreneur relief for CGT.** This would bring the sector in line with other businesses and encourage disposals where the proceeds are not to be re-invested. This, together with the roll-over reliefs proposed, would result in a turnover of properties with more being refurbished. Experience shows that improvements are most likely to be carried out when a property is sold.
- **Capital Allowance.** Properties devalue as they are lived in and periodic refurbishments are essential if property standards are to be maintained. The tax system currently allows no relief for re-investment and improvement until, and only if, a sale is eventually made. Indeed, the increased rent resulting from improvements is taxed, making the maintenance of quality and standards very difficult. Instead, there should be a capital allowance for enhanced repair and refurbishment.
- **SIPPS.** Self-Invested Pension Plans (SIPPs) should be allowed to buy residential accommodation for letting. To avoid possible abuse, the letting would have to be via a recognised agent, the property would have to be retained and let for a certain number of years, and it would only apply to lower-value properties. The RLA suggests a one property limit of £600,000 in London and £300,000 outside London. This would help the less well-off obtain accommodation. There is over £1 billion invested in more than 800,000 SIPPs, of which 200,000 could potentially invest in the PRS.
- **VAT relief for build to rent – construction of a new dwelling.** VAT can be reclaimed on goods and services in connection with the construction of a new dwelling when it is a place where someone is intending to live. This also applies to the conversion of a non-residential building into a dwelling. It is an anomaly that a VAT refund cannot be claimed on building work if the building is being used for business purposes as a landlord, i.e., is being let.
- **5% VAT relief for repairs.** Introduce a 5% rate of VAT for property repairs.
- **LESA.** An expanded landlord's energy saving allowance (LESA) needs to be incorporated into the general allowance for improvements to cover a wide range of energy efficiency improvements. The current limit is £1,500 which does not go far on many properties, particularly older ones which comprise a high percentage of rented accommodation. The RLA is calling for the limit to be increased to £14,500, spread over four years.

6.9.7 Combined, these proposals would not lead to a loss of revenue to the Treasury, since they would:

- Bring many unoccupied properties into use, so generating fresh income.
- Bring forward tax allowances, many of which would otherwise be claimed at a later date.
- Enable a greater turnover of property, thereby boosting stamp duty receipts.
- Boost other taxes.

6.9.8 Figures suggest that every £1 invested in the PRS provides a return to the economy of £3.50 through expenditure on building work and furniture. On average, a sum equivalent to 10% of the purchase price of a property bought for renting is spent on renovating it. As well as VAT receipts from purchases, there would be income tax from the employment created. Tax reliefs should be the same across the board, irrespective of whether or not longer-term tenancies are granted. Otherwise, the market will be skewed against those tenants who want shorter-term tenancies anyway, because this suits their needs.

6.10 Using Small Plots of Vacant Land

6.10.1 With the Government in the midst of a drive to sell off large plots of unused public sector land for house building, the RLA is calling for a similar sell-off of small plots or redundant buildings which small-scale landlords could purchase to use for the development of up to five units of private rented accommodation. Small plots are not of interest to large-scale developers, but they can be developed more quickly by individual landlords.

- 6.10.2 Within a short, specified time period, central government, local authorities and other public sector bodies should identify all their plots of vacant land or redundant buildings.
- 6.10.3 Within a further short specified period, the same bodies should have to identify, in principle, whether or not they are designated in planning terms for residential development which could include conversions as well as new-build properties.
- 6.10.4 In order to secure the necessary funding, we would urge all parties to look at expanding the housing guarantee scheme to enable individual landlords to pool their developments to collectively reach the £10 million threshold. This could be pooled under the umbrella of a bank or, potentially, a landlord association.

6.10.5 The RLA believes that there could be various models for land transfer:

- The public owner of the land retains ownership of the land and receives a share of the rental income to reflect the land value as an overall proportion of the developed property.
- The land is transferred for payment once the building has been erected or converted and completed. This would mean that the landlord would not have to finance the land purchase up front, avoiding paying the holding costs.
- The land is held back on a longer lease for the covenanted private rental period. This would mean that the landlord would not have to finance the land purchase at the outset. This model would encourage the landlord to build new units and improve property standards rather than buy older, cheaper stock. Leaseholds of 125 years would create equity for lenders.

6.10.6 There would be a minimum 10-year requirement for renting out in the private rented sector. No affordable housing contribution would be required, as well as there being an exemption from Community Infrastructure Levy.

6.10.7 At the end of the 10-year period, the landlord would be expected to refinance, but equally they would be free at that point to resell, and the user restriction would be lifted.

6.10.8 The overall intention of such a proposal would be:

- To create new rental units (new-build or conversion) to increase supply.
- Provide extra revenue for local authorities from the New Homes Bonus and Council Tax by bringing derelict land into use.
- Support for small-scale, local builders; some PRS landlords are also builders.

6.10.9 Packages could be offered with outline planning permission for residential use to encourage rapid development.

6.11 Planning Reform

6.11.1 **An increasing number of local authorities are using planning powers, in the form of Article 4 Directions, to tackle perceived anti-social behaviour. Initially used in areas with a large student population, Article 4 Directions are now more widespread. These are causing more harm than good to communities: they restrict growth in the PRS and do not solve endemic social problems. The RLA believes they should be scrapped.**

6.11.2 Councils have the power to restrict the creation of new, small shared homes known as Houses in Multiple Occupation (HMOs) by making Article 4 Directions.

- 6.11.3 Previously, planning permission was not required to convert a property from use as a single family dwelling to become a small HMO lived in by up to six unrelated residents as a single household. Under regulations introduced in 2010, councils have the power to require planning permission before this change of use can be made for properties in selected districts. This procedure is regularly being misused.
- 6.11.4 A new use class has been created for planning purposes, Class C4, for small shared houses and flats in multiple occupation lived in by between three and six unrelated individuals.
- 6.11.5 A growing number of local authorities either have made, or are considering making, Article 4 Directions to enable them to prevent family houses and flats being used as small HMOs without planning permission in designated areas. Usually these areas are where there are significant populations of students, but they also affect young professionals, such as nurses, or migrant workers. The reality is that permission will frequently be refused.
- 6.11.6 While much of the case for restricting the growth of HMOs relates to the desire of a number of councils to address the phenomenon known as 'studentification', the reality is that HMOs play a vital role in the regeneration and supply of housing in many communities. As demographics shift, landlords make better use of existing stock which would otherwise be under-utilised and poorly maintained.
- 6.11.7 HMOs help to provide a mobile workforce with necessary accommodation, vital for many local economies. HMOs are not just occupied by students but, with record social housing waiting lists and first-time buyers facing increasing difficulties, are increasingly required by young professionals and workers.
- 6.11.8 Due to the 2012 increase from 25 to 35 as the age limit at which housing benefit claimants can claim only for a room in a shared housing unit (shared accommodation rate), more housing of this kind is needed. This is especially the case given that half of all renters are aged under 35 and 36% are aged between 25 and 34 – the group directly affected by this change. This is a point raised recently by the Work and Pensions Select Committee which observed:⁴²
- "We are concerned that the extension of the Shared Accommodation Rate (SAR) to single claimants up to age 35 may have reduced the availability of safe, appropriate accommodation for younger people, some of whom may be vulnerable. We recommend that the Government assess the impact of changes to the SAR. If it appears that it is resulting in some vulnerable young people having to live in situations which are inappropriate or which put them at risk, the Government should investigate introducing exemptions for vulnerable people, and take steps to increase provision of appropriate accommodation"*
- 6.11.9 As evidence from the leading flat-sharing website, Sparerroom.co.uk, shows, the situation is being exacerbated by a 20,000 increase over the past five years in the number of over-40s looking for a room in shared housing.⁴³ In February 2014, the Office for National Statistics published an analysis of 2011 census data showing that the number of families living in shared houses increased by 70% in the decade up to the 2011 census, as typically young families are increasingly locked out of the UK's housing market.⁴⁴

⁴² Work and Pensions Select Committee. (2nd April 2014). *Support for housing costs in the reformed welfare system - Fourth Report of Session 2013-14*

⁴³ The Observer. (26th January 2014). *Over-40s forced back into flatsharing by housing shortage, high rents and divorce*. Page 13

⁴⁴ TheGuardian.com. (6th February 2014). *Almost 300,000 'concealed families' share their home with another family*.

- 6.11.10 The availability of shared housing is simply unable to meet this growing demand. A survey published before Christmas 2012 by Crisis⁴⁵ found that 74% of housing advisers were struggling to find housing for young people only eligible for the shared accommodation rates. Advisers reported that their clients are often competing for the same properties as young professionals on higher incomes. This bears out findings of a survey of members of the RLA and the Scottish Association of Landlords, 55% of whom reported there being insufficient numbers of shared homes to cope with the shared accommodation rate changes.
- 6.11.11 Concentrations of HMOs are renowned for their vibrant nature with local, independent retailers and a café culture which helps promote a diverse and strong local economy. As Ian Bell, Executive Director of the Bath Chamber of Commerce, warned in 2012, Article 4 Directions have the potential to cause *“a reduction in supply and increase in price and an exodus of young talent – the very opposite of what we need for the long-term success of our community”*.⁴⁶
- 6.11.12 The Rugg Review⁴⁷ commissioned by DCLG into the PRS, argued against the use of planning powers to limit HMO numbers, with research showing problems were confined to less than 1% of council wards.
- 6.11.13 Where Article 4 Directions have been applied, a significant decrease in property prices has been seen. In Nottingham and Leeds, up to one-third has been shaved off the value of properties in areas where the council has made a direction. Those most often affected are elderly owner occupiers who have been in the area for years, well before renters moved in, and see the value of their homes plummeting.
- 6.11.14 In Newcastle, concerns have been expressed that landlords are not allowing families to move into empty properties. The reluctance of landlords to do so is the direct result of the use by Newcastle City Council of an Article 4 Direction. Where a landlord is already letting a property to students they are unlikely to rent it out to a family, because when they leave, the landlord would need to apply again for planning permission to allow them to rent it out as a shared house, and it is likely that this would be refused.
- 6.11.15 Local authorities have a duty to ensure that sufficient HMO accommodation is provided in their area, but are disregarding this. If an Article 4 Direction is put in place, the result is that HMOs may be established in areas where they may not be welcome, such as where there is a dominance of family units. This is likely to create community disharmony.
- 6.11.16 Instead of local authorities adopting Article 4 Directions, it would be better to address problems that may occur where there are high concentrations of HMOs using the existing powers, including those used for tackling anti-social behaviour.
- 6.11.17 Article 4 Directions do nothing to alter the make-up of existing communities, but by making them, local authorities are denying tenants the choice of where they can live, drying up supply, increasing rents and significantly reducing the value of houses owned by local residents.
- 6.11.18 **These powers should be repealed to alleviate the restriction on supply, protect the asset values of residents’ homes and allow people to choose where they want to live. This would also force councils to be more creative and work with landlords to address any problems caused by large HMO populations.**
- 6.11.19 **In the interim, the RLA is calling for so called ‘flipping’ to be allowed. At present, where a property gains planning permission to be an HMO under an Article 4 Direction, if a landlord then decides to let it to a family (which they are able to do without planning permission) and later wants to revert to it being an HMO, they would once again need**

⁴⁵ Crisis. (December 2012). *No room available: study of the availability of shared accommodation*

⁴⁶ See <http://democracy.bathnes.gov.uk/documents/s16235/Appx%2013%20Statement%20Matt%20Benka.pdf>.

⁴⁷ Rugg, J and Rhodes, D. (Centre for Housing Policy, York University). (2008). *The private rented sector: its contribution and potential*. Page xxi

planning permission. Flipping would mean that once a landlord had received permission for a building to be used as a HMO it would be in force indefinitely, enabling them to flip the use of the property from HMO to family use and back to HMO again, if they so wish, to meet demand.

6.12 Rent Controls would Deter Investment

6.12.1 Based on a pick and mix approach to using statistics on rent levels to suit, there is a perception that rents are spiralling out of control. As outlined above, official data shows that rents, on average, are increasing by less than inflation and have been over a number of years.

6.12.2 While it is true that private sector rents are higher than in the social sector, this will always be the case, given that the two tenures perform very different functions, and given the high levels of public subsidy enjoyed by the social sector.

6.12.3 It is crucial that in conducting a debate around the cost of renting, there is confidence in the data being used. Much of the alarmist rent data is coming from letting and property agencies with an interest in demonstrating to potential landlords that they are able to maximise the rents they can gather, in order to attract custom.

6.12.4 **The Office for National Statistics, the English Housing Survey and the Valuation Office Agency all provide official and comprehensive data on trends in PRS rents, and we would urge all parties to consider what more could be done to consolidate these measurements into a single, clear rent level survey that all parties can use.**

6.12.5 That said, the RLA recognises that there are some areas, most notably inner London boroughs, where rents have increased more than the average. Such a scenario is always going to be the case so long as house prices in the capital and the south-east continue to rise and as long as there remains a chronic shortage of homes to rent.

6.12.6 While rent controls might seem superficially attractive to address rising rents in these selected areas, the reality is that they are akin to a sticking plaster to treat the flu. What is needed are efforts to boost the supply of private rented homes. Based on all experience both here and abroad, rent controls would have the opposite effect, acting to deter much-needed investment.

6.12.7 Assessing the considerable impact that rent controls have had on growth in the sector, a paper published by the Treasury in February 2010⁴⁸ noted that whilst “over half of households in the UK” were housed in the PRS as late as 1939, this figure stood at 9% by 1991. Pointing to rent controls as a key reason for the decline, the paper noted:

“A key factor behind the decline in the PRS was the introduction of rent controls during the First World War, and these became more extensive over time. Artificially low rents reduced investment in the sector, contributing to a tenure shift to owner occupation and lower maintenance standards in the stock that remained.”

6.12.8 Research published by the Organisation for Economic Cooperation and Development in 2011⁴⁹ has also shown that rent controls lead to greatly reduced quality and quantity of new homes. It concluded:

“An illustrative correlation shows that across countries, stricter rent control tends to be associated with lower quantity and quality of rental housing, as measured by the share of tenants who lack space and who have a leaking roof.”

⁴⁸ HM Treasury. (February 2010). *Investment in the UK Private Rented Sector*. Page 11

⁴⁹ OECD. (2011). *Housing and the Economy: Policies for Renovation*. Page 18.

6.12.9 The cross-party Communities and Local Government Select Committee has also raised concern about the impact that rent controls have on investment. In its report into the PRS in July 2013, it observed that such controls “*would serve only to reduce investment in the sector at a time when it is most needed*”.⁵⁰

6.12.10 The Committee continued:

“We agree that the most effective way to make rents more affordable would be to increase supply, particularly in those areas where demand is highest.”

6.12.11 One of the key drivers behind arguments for rent controls has been that they work in Europe and so should work in the UK. But such assertions are not borne out by the facts.

6.12.12 Most recently, the Socialist Government in France has decided not to proceed with plans for rent controls nationwide following recognition that such a measure would deter investment in new homes to rent.⁵¹

6.12.13 In Germany, seen by many as the model to follow in how the private rented sector works, their rent controls cannot easily be applied to the UK. In a recent paper published by the Institute for Economic Affairs⁵², Ryan Bourne has noted that it is difficult make assumptions based on the Germany model. As he concludes: “*There are huge structural differences between Germany and the UK – not least that there is significantly more development of new dwellings in Germany, making rent levels much lower in general.*”

6.12.14 In Sweden also, the architect of its welfare state, Gunnar Myrdal, a former Socialist Minister and holder of a Nobel Prize for Economics, has concluded that “*rent control has in certain Western countries constituted maybe the worst example of poor planning by governments lacking courage and vision*”.⁵³

6.12.15 **Given the danger that rent controls pose to investment in much-needed new homes, and given that the authoritative, official data show rents increasing by much less than inflation, the RLA is calling on all parties to rule out any prospect of rent controls, in whatever form they might take.**

⁵⁰ Communities and Local Government Select Committee. (18th July 2013). *The Private Rented Sector – First Report of Session 2013-14*. Page 24

⁵¹ See <http://www.landlordzone.co.uk/news/french-government-does-u-turn-on-rent-controls>.

⁵² Bourne, Ryan for the Institute for Economic Affairs. (September 2014). *The Flaws in Rent Controls*.

⁵³ See <http://www.econlib.org/library/Enc/RentControl.html>.

7.0 TENANCY REFORM

- 7.1 The RLA recognises the need for longer-term tenancies to meet the requirement of the growing number of families and older people who now live in privately rented properties.
- 7.2 Until now, the sector has operated largely on the basis of short-term fixed lets of six or twelve months, although in practice tenants have regularly stayed on either because the tenancy agreements have been renewed by agreement or the tenant has stayed on under a periodic tenancy. As outlined in the background section, the English Housing Survey notes that almost 66% of tenants have been in their properties for longer than a year.
- 7.3 Underlying many calls for longer tenancies in the PRS are unjustified claims, giving the impression that landlords somehow relish the prospect of being able to evict their tenants as quickly as possible. Such claims are not only wrong but unhelpful in ensuring a rational, evidence-based debate.
- 7.4 As outlined in the background section, just 7% of tenancies are ended by a landlord, largely due to tenants committing anti-social behaviour or not paying their rent. Indeed, many landlords will often freeze their rents where a good, rent-paying tenant decides they want to stay on.
- 7.5 It is against this background that the RLA agrees that a debate is needed on these issues and that the industry itself needs to respond. **We believe that a way can be found to meet the ambitions for secure tenancies without the need for legislative changes.**

7.6 The Need for Flexibility

- 7.6.1 One proposal is the potential for new three-year tenancies to become the norm in the sector. Whilst superficially attractive, the reality is that the key to the private rented sector is flexibility. Whether it is students needing a property for less than a year at a time, seasonal workers or indeed families, each demographic and its needs are different. It is essential that any system does not seek to strait-jacket the sector into a rigid, single option. As the last Labour Government's consultation on investment in the sector clearly noted:⁵⁴



⁵⁴ HM Treasury. (February 2010). *Investment in the UK Private Rented Sector*. Page 7

“The Rugg Review highlighted how for many the PRS is a tenure of choice and provides a long term home, with over a fifth of PRS households having lived at their current address for five or more years.

“But for those that need it, the PRS offers unparalleled mobility. Many industries rely on short term or temporary workers for whom owner-occupation, with its significant transaction costs and lengthy processes, would be expensive and impractical.

“The PRS allows households to move easily both within and between regions, leading to a more efficient allocation of labour and skills. The corollary of this is that if the supply of PRS tenancies were to become limited, those needing uncertain or short periods of accommodation in a particular area would find themselves severely disadvantaged.”

7.7 Striking a Balanced Tenant-Landlord Relationship

7.7.1 Central to tenancy reform is the need to ensure a balanced relationship between the landlord and tenant, which is key to ensuring a well-run private rented market.

7.7.2 The ‘stable rent’ model proposed by Shelter would create an imbalanced relationship between tenants and landlords, giving tenants a one-way ticket to terminate their tenancies at any point in the contract. For a landlord, it would effectively mean that no tenancy would be seen to last for longer than the two-month notice period tenants could give. This would be deeply destabilising for the market and strikes at the heart of the need for a more equal relationship between tenant and landlord. It would not be attractive to corporate investors or individual landlords.

7.7.3 This is a point made by the Chair of the cross-party Communities and Local Government Select Committee, Clive Betts MP, who is quoted as saying in May 2014:⁵⁵

“You’ve got to make sure you protect the landlord. I’m not sure we can get that one [three-year tenancies] to stick.”

7.8 The European Experience

7.8.1 Many have pointed to European countries as examples to follow on longer-term tenancies, believing that it is possible to take systems used elsewhere and impose them on the UK.

7.8.2 Again, while seemingly simple, the reality is that longer-term tenancies in Europe often go hand in hand with heavy state intervention through the establishment of new bureaucracies to enforce them, substantial tax breaks to avoid collapses in investment, and generally low levels of investment. As Professor Ball has noted in a report for the RLA:⁵⁶

“European experience shows that enforcement of long-term rental contracts goes hand in hand with quite severe rent controls and heavy state intervention; the need for tax breaks to avoid a collapse in investment; and more public expenditure. The benefits for some in those countries also come not only at the expense of investment, but also worse housing for others, particularly the mobile and vulnerable, including many families who are screened out of better accommodation. This experience overall is therefore a poor one to wish to import. Furthermore, housing shortages are particularly intense in the UK, which would make the situation even worse here.”

⁵⁵ Inside Housing online. (16th May 2014). *Betts: Three-year tenancies ‘won’t stick’.*

⁵⁶ Ball, Michael. (October 2013). *Why governments should not enforce long-term contracts in the UK’s private rented sector. Page 13*

7.9 The Right to Renew

- 7.9.1 The RLA's solution to the calls for longer tenancies would be on an entirely contractual basis and could be introduced without Government intervention, much quicker than would be the case if legislation was needed.
- 7.9.2 Under the RLA's model, if a tenant is satisfactory, then he or she would have a contractual right, if they wished, to extend a fixed-term tenancy and renew it for six or twelve months at a time for up to five years. Renewals would be the same length as for the current tenancy, although a shorter period could be agreed between both parties. For example, if a landlord grants an initial one-year tenancy, a separate agreement would contain an option for the tenant to extend that tenancy for another year at a time, provided the tenant's conduct had been satisfactory and the landlord did not have a good reason to want the property back. The landlord would have the right to override the tenants for good reason, for example should they wish to sell the property or the tenant defaults on their rents.
- 7.9.3 Crucially, the contract would include the option of **independent adjudication** in the event of a dispute between the tenant and landlord where agreement could not be found. This would make it near impossible for a landlord to evict without good cause, given that they would be expected to outline to the adjudicator why they wanted to evict the tenant.
- 7.9.4 The tenant would not have to take up this option to renew but could rely on a statutory periodic extension of the contract if they did not want to tie themselves down to a fixed term. Equally, if the tenant did not want to take up a fixed-term renewal, the landlord would have the option, using Section 21 powers, to require the tenant to leave with two months' notice.
- 7.9.5 The reasons that the landlord could refuse to renew, in addition to the tenant breaching the contract or the landlord wanting to sell the property, would be spelled out, and as a fall-back would include other good reasons. This should be left undefined as it might cover special situations. Again, where the tenant was not happy with the reasons given, this could be taken to dispute resolution. To provide certainty to the tenant, however, the landlord's right to 'walk away' would only operate at the time of the annual or other periodic renewal of the contract.
- 7.9.6 Fundamentally, the RLA's proposal would operate on the basis of market rents. The RLA believes that if that principle is departed from, then landlords will not sign up to this or any other proposed reform.





8.0 WELFARE REFORM

- 8.1 As outlined in the background section, 33.1% of housing benefit claimants in Great Britain are now living in the private rented sector, according to the most recent Department for Work and Pensions statistics,⁵⁷ and the average weekly award to housing benefit claimants in the sector is £105.87.
- 8.2 Between 2008-09 and 2012-13, the proportion of tenants in the private rented sector claiming housing benefits to help cover the cost of their rent increased from 19% to 25%. In comparison, the proportion of social sector tenants in receipt of housing benefit increased over the same period from 59% to 66%.⁵⁸
- 8.3 Based on these statistics, the welfare and benefit systems matter a great deal to ensuring the good health of the sector for tenants, landlords and the country more broadly.
- 8.4 We are in the midst of some of the most far-reaching changes to the welfare state ever seen, with the introduction of Universal Credit having the biggest impact on the private rented sector. While the RLA supports a simplified system that is easier for both tenants and landlords to understand and navigate, we nevertheless remain concerned about the ongoing confusion around the roll-out of the project as highlighted recently by the decision of the Major Projects Authority to classify Universal Credit as a new scheme due to the slow progress in its implementation.⁵⁹
- 8.5 This uncertainty for landlords is being compounded by a lack of clarity around a number of aspects of the Government's reforms, most notably the circumstances under which landlords could expect benefits to be paid directly to them rather than to their tenants.
- 8.6 It is little wonder, therefore, that landlords are sceptical about current reforms, however well-intentioned they may be.
- 8.7 In October 2012, more than 1,000 members of the RLA and the Scottish Association of Landlords took part in a survey to measure landlord attitudes to Universal Credit.⁶⁰ The results showed that 65% of respondents do not support the Government's plans, compared to 20% who did support them and 16% who did not have a view.
- 8.8 It is for this reason that we call on all parties to adopt a number of measures to improve the situation, both for tenants and landlords.

8.9 Tenant Choice

- 8.9.1 The RLA, alongside a number of organisations including Shelter, Crisis, Citizens Advice Bureau and the Money Advice Trust, has consistently argued that, to help them budget, tenants should be given a choice as to who should receive the housing element of Universal Credit – themselves or their landlords.
- 8.9.2 Whilst Ministers have argued that tenants should by default have the benefit paid directly to them to encourage financial responsibility, for many it would be a perfectly rational and financially responsible decision to have the assurance that their rent had been paid so that they could decide how to spend the remainder of their income. As part of its ambition to promote responsibility, Ministers should trust tenants to make their own decisions based on their own circumstances, rather than seek to restrict this ability.

⁵⁷ Department for Work and Pensions. (14th May 2014). *Housing Benefit Caseload Statistics – February 2014*.

⁵⁸ Department for Communities and Local Government. (February 2014). *English Housing Survey – Headline Report 2012-13. Page 19*

⁵⁹ The Guardian. (23rd May 2014). *Watchdog now treating universal credit as 'new project' after successive delays*.

⁶⁰ Full details of the survey results can be found at <http://news.rla.org.uk/wp-content/uploads/2013/09/universalcredit.rla-sal-survey-results-and-comments.051112.pdf>.

8.9.3 Support for tenant choice has been given by the Money Advice Trust which runs the national debt line. Its Chief Executive, Joanna Elson, has said of the proposal in a letter to the RLA: *“We feel that this would enable many tenants to avoid housing benefit arrears and thus tackle their debts and manage their money wisely.”*

8.9.4 In 2009, Shelter published a survey of tenants in receipt of Local Housing Allowance which showed support from them for being given the option of payments being made directly to their landlord:⁶¹

- Of the claimants who would choose landlord payment if they could, 95% are struggling to manage their finances.
- Almost half of the claimants who have had experience of both forms of payment believe that landlord payment better helps them in managing their rent and household budgets.

8.9.5 It is a policy that also had the support of both parties in the current Government prior to the 2010 election.

8.9.6 Speaking in October 2009 at a conference run by Crisis, the then Shadow Housing Minister and now Conservative Party Chairman, Grant Shapps MP, said:⁶²

“Fearful that rent money may never be paid, some landlords routinely include the words NO HB in their ads, further restricting the supply of housing for affordable rent.

“At the same time, some of the most chaotic tenants have struggled to manage their finances, meaning that the cash is already spent by rent pay-day.

“It strikes me that the current situation is bad for everyone and I can see no reason why people on Local Housing Allowance shouldn’t enjoy the freedom to have their Housing Benefit paid direct to their landlord. Our proposal will de-stigmatise the system and increase the amount of affordable homes available.”

8.9.7 Likewise, speaking to UK Landlord magazine in 2010, the then Liberal Democrat Housing Spokesperson, Sarah Teather MP, said:⁶³

“The Liberal Democrats opposed making it compulsory to pay tenants housing benefit when the new LHA rules were proposed, and we continue to feel that individuals should have the choice. Many people genuinely don’t want to manage their rent and feel safer if their housing allowance is paid directly to their landlord.”

8.9.8 The policy of tenant choice was further supported by Liam Byrne MP when, as Shadow Work and Pensions Secretary, he called for such a policy during an interview with Inside Housing magazine, as a way of addressing the *“risk building up in Universal Credit”*.⁶⁴

8.9.9 An inevitable consequence of the current arrangement that prohibits tenant choice, is that many landlords are now reluctant to rent to tenants on benefits for fear that they will not receive the rent. This makes life more difficult for tenants seeking accommodation and may force them to accept lower-standard housing. In a survey of RLA members, of those who would not rent to tenants receiving housing benefits, 45% reported that it was due to a lack of guarantee of receiving the rent.

⁶¹ Shelter. (2009). *Campaigns Briefing - Local Housing Allowance and direct payments - giving claimants a choice.*

⁶² BBC News Online. (22nd October 2009). *Tories urge tenant benefit change.*

⁶³ UK Landlord Magazine. (March/April 2010). *Feature: General Election Special. Page 14.*

⁶⁴ Inside Housing Online. (15th March 2013). *Labour to scrap direct payment.*

- 8.9.10 Following pronouncements made by the Welfare Reform Minister, Lord Freud, that the Government's temporary policy of allowing landlords in the private rented sector to have housing benefits paid directly to them in return for reduced rents had been a success, 62% of respondents said they would not lower rents in return for direct payments, compared to 24% who would and 14% who did not know.
- 8.9.11 Asked how they would respond if the 'right to demand' direct payment once a tenant gets into eight weeks of arrears, as is allowed at present, became only a 'right to request', 92% of landlords said it would make them less likely to rent to those on benefits.
- 8.9.12 In 2012 it was announced that Northern Ireland's Social Security Minister, Nelson McCausland, had secured agreement with the Department for Work and Pensions to permit payments of the housing element of Universal Credit to be made directly to the landlord in the province.⁶⁵
- 8.9.13 Not only does this show that payments to landlords are logistically possible under Universal Credit, it raises also the question as to why, if it is suitable for tenants and landlords in Northern Ireland, the Department for Work and Pensions does not provide the same rights in the rest of the UK.

8.10 Further Reforms

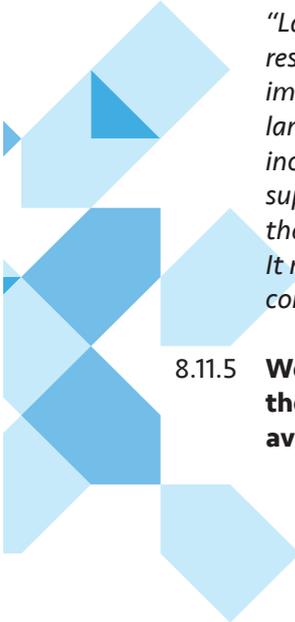
8.10.1 Linked to this, we would call also on all parties to:

- Agree on the need for a period of stability in the welfare system. The changes now being undertaken are both complex and difficult for many tenants and landlords to understand. It is vital that confidence is given that they will not face another series of substantial reforms to the system, with all the uncertainty this would create.
- Provide much clearer guidance for landlords and tenants as to the situations which could trigger automatic payments to landlords in terms of the length of arrears that would have to amass or definitions of what constitutes a 'vulnerable' tenant. Landlords need to have security of income.
- Make it clear how private landlords can provide input on or obtain information about benefit claims or wider Universal Credit questions, especially on the timing of decisions being made. Landlords ought to be able to provide early warning to the DWP about the risk of a tenant reaching arrears triggers to allow for early interventions. Landlords further need to be able to confirm that claims have been submitted or are in payment for housing.
- Use the experience of demonstration projects with care. The sample is not representative (tenants can opt out of the projects); they only include housing benefit payments, not all benefits as will be the case for Universal Credit; and they focus only on social sector tenants and landlords, whilst not replicating the Universal Credit system.
- Ensure that a right to demand direct payment to landlords is retained when there are arrears.
- Ensure PRS landlords have the same right to know if a tenant is in receipt of Universal Credit as social landlords.

⁶⁵ Northern Ireland Executive press release. (22nd October 2012). *Tailoring welfare reforms for Northern Ireland: McCausland.*

8.11 Shared Accommodation Rate

- 8.11.1 In 2012 the Government introduced measures that increased the age limit at which housing benefit claimants could claim only for a room in a shared house from 25 to 35. This is known as the Shared Accommodation Rate (SAR).
- 8.11.2 With over 36% of tenants in the private rented sector aged between 25 and 34, this policy has the potential to have serious consequences for the sector. The Government estimates that it could affect 88,000 claimants.⁶⁶
- 8.11.3 Whilst the Government's intentions for the policy primarily rest with the need to save money, the reality is that given the chronic lack of supply of shared housing as a result of Article 4 Directions, many tenants now included within the SAR simply do not have accommodation available to them, leading many to being forced to present themselves as homeless. Such a situation has the effect, contrary to Government objectives, of driving public sector spending up, rather than down.
- 8.11.4 This is a concern that has been echoed in an interim report commissioned by the Department for Work and Pensions into the impact of changes to the Local Housing Allowance. The report, led by Professor Ian Cole of Sheffield Hallam University, stated:⁶⁷



"Landlords seemed generally reluctant to undertake conversions or develop their HMO portfolios in response to SAR changes, and expressed concerns about the management burden of HMOs and the impact of Article 4 planning restrictions in some areas. Indeed, a common theme in interviews with landlords and housing advisers in differing housing market contexts was the mismatch between the increased demand for shared accommodation, brought about in part by the LHA changes, and the slow supply response. Landlords in all case study areas said they were reluctant to move more strongly into the HMO market, often due to what they perceived as the burden of managing shared accommodation. It remains to be seen whether this view will change as the SAR changes bed down, or whether other companies will move into this market."

- 8.11.5 **We would urge all parties therefore to commit to a full review of the impact of the changes to the SAR, with a particular emphasis on establishing whether sufficient shared housing is available to meet the increased demands that these reforms are placing on the sector.**

⁶⁶ House of Commons Hansard. (1st November 2010). cc537-8W.

⁶⁷ Cole, I et al. (1st May 2013). *Monitoring the impact of changes to the Local Housing Allowance system of Housing Benefit: Interim report.*

9.0 IMMIGRATION

- 9.1 According to Government figures, 85% of migrants who have been in the UK for less than a year are residing in private rented housing.⁶⁸
- 9.2 Not only does this place still further pressures on the country's existing private rented housing stock, it poses significant challenges for landlords in light of the Government's recent decision to place a legal obligation on them to check the immigration status of their tenants.
- 9.3 In a survey carried out of RLA members following the announcement of the legislation in the 2013 Queen's Speech, just over 50% of respondents said that their tenants came from outside of the UK, with 82% of them opposing the policy.
- 9.4 The RLA has serious misgivings because the success, or failure, of the proposal depends on landlords being able to do the job of trained UK Border Agency staff. Despite reassurances to the contrary, landlords will be expected to do the work of immigration officials at a cost to themselves, without support and with the threat of a penalty if they get it wrong.
- 9.5 Given, that landlords would need to be able to recognise the 404 different types of European identity documents that may be possessed by a tenant (as outlined by the Council of Europe's '*Public Register of Authentic Identity and Travel Documents Online*') which give holders the right to free movement, how can landlords possibly be expected to know every legitimate document from every country that proves someone's immigration status, let alone recognise high-quality fraudulent documents?
- 9.6 Landlords will need to cover their backs and avoid accusations of discrimination by examining identity documents of all potential tenants. In the absence of mandatory identity cards, how are the 17% of 'usual residents' who, according to the 2011 Census, do not have a passport, supposed to prove their nationality?
- 9.7 Landlords will also be expected to undertake immigration checks at a cost to themselves, as well as pick up the bill for any potential future legal action that may be taken against them if they fail to undertake their untrained duties correctly.
- 9.8 The RLA believes that the policy will not be effective in practice. Given the checks that landlords and agents already carry out, such as credit checks, most of the intended targets, namely illegal immigrants, are unlikely to present themselves to law-abiding landlords – as the vast majority are. Instead they will seek to live in properties operated by criminal landlords operating under the radar in the 'hidden economy'. Little wonder that page 48 of the Home Office's consultation on the proposal stated that there "*may ... be increased activity in the hidden economy*".⁶⁹
- 9.9 There is no doubt that will lead to unintended, but increased, discrimination against migrants, with some landlords refusing to house them for fear of falling foul of the new rules.
- 9.10 The RLA is deeply concerned that contrary to Government claims that this is a 'light touch' scheme, it is nothing of the sort. The reality is that the legislation is more draconian and extends far beyond the remit originally envisaged.

⁶⁸ Home Office. (October 2013). *Immigration Bill Factsheet: Tackling illegal immigration in privately rented accommodation (clauses 15 – 32)*.

⁶⁹ Home Office. (3rd July 2013). *Tackling illegal immigration in privately rented accommodation – Consultation document*.

- 9.11 The Government is establishing a redress scheme for letting and management agents, which the RLA welcomes. However, the scheme does not go far enough to address many concerns about the lack of regulation governing the letting and management agent sector. Landlords, as much as tenants, can fall foul of cowboy agents, and this proposal provides another opportunity for unscrupulous agents to overcharge landlords for immigration checks, and the potential for such checks actually not to be undertaken.
- 9.12 The proposal will also severely damage landlord-tenant relations. At the heart of a well-run private rented sector is the need for a balanced and mutually co-operative relationship between the landlord and tenant. By turning landlords into border control officers, landlords will become more suspicious of tenants as a result of the greater risks of renting out a property.
- 9.13 **Given that the Government will be piloting the proposal in a single area of the country, and given the severe impact that the proposal could have on the sector, we call for a careful evaluation of the pilot and a further vote on the policy before any moves are made to extend the scheme nationwide.**



10.0 ENERGY EFFICIENCY

10.1 The RLA supports raising energy efficiency standards of housing stock in order to reduce the risk of fuel poverty, and has worked closely with the Department of Energy and Climate Change to discuss the implications of the Green Deal.

10.2 However, the PRS has been particularly singled out in terms of energy efficiency targeting and have some concerns regards the Green Deal. In particular:

- The Green Deal finance could have a blighting effect on properties, making them harder to rent because of tenant resistance to repaying Green Deal charges.
- The private rented sector has been unfairly discriminated against, because of the compulsion provisions. Greater national energy improvements would be obtained by bringing about improvements in the much larger owner occupier sector, which has a lower energy efficiency rating than the private rented sector. We believe that all tenures, wherever possible, should be treated the same way.
- The improvement work involved is much more problematic in the private rented sector, due to the greater proportion of pre-1919 housing stock and a significant proportion of tenants currently living in fuel poverty.
- Under Green Deal, resulting savings cannot be more than the cost of the Green Deal charge. However, this is calculated on a hypothetical average basis without regard to the personal circumstances of the tenant. Green Deal tenants may therefore not experience the reduction in costs that they expect, which could give Green Deal a bad name.
- The cost of Green Deal will have a disproportionate effect on those tenants in fuel poverty, who will not see their costs reduced. It would be better to increase landlord tax allowances and/or allow landlords to pay Green Deal finance charges to achieve band E.
- The interest rate on Green Deal could put off many tenants from involvement in the Green Deal. Research by the Energy Savings Trust has shown that if interest rates exceed 5%, this reduces take-up.
- Despite the imposition of minimum energy efficiency requirements in the private rented sector, the Energy Company Obligation (ECO) subsidy has been cut and the rules keep changing. ECO is not structured to cater for private rented sector properties.
- Constant changes to Government programmes, for example the Green Deal, mean that no one has confidence to plan going forward.

10.3 To protect the interests of both landlords and tenants in this period of transition, the RLA is calling on any future Government to:

- Fix the 'goal posts' for the energy efficiency banding of private rented homes. Indications show at the moment that this banding is likely to be an 'E' rating across the board. However, there are suggestions that this could now be set at 'D' for gas. By the time of the General Election we will already be in 2015. This needs to be set so that landlords can prepare accordingly within a reasonable timeframe. If left too close to 2018, there is a very real possibility that the energy efficiency industry and Green Deal suppliers/administrators will be unable to cope with the increased demand from landlords trying to reach targets, as well as other households trying to access funding.
- Not to set the efficiency rating at 'D' as this will be particularly expensive for landlords who might rent a property that is 'off gas'.

- The same cash incentives and tax breaks under the Green Deal and ECO should be available for landlords that rent out HMOs, as these properties are often difficult and expensive to heat. Under government welfare changes such as the extension of the SAR to 25 to 35-year-olds, the number of HMOs is increasing and therefore there is a risk that if this type of private rented stock is overlooked the number of private rented tenants at risk of falling into fuel poverty will increase. We believe that all tenants should have access to energy efficient accommodation and that all landlords should have the opportunity to improve the efficiency of their properties through affordable means.
- Alongside legislation, it is also essential that landlords have the financial help, greater incentives and information they need to improve their properties. The Green Deal will help, but Government should also encourage landlords to act early by substantially raising the £1,500 tax allowance (the Landlords Energy Saving Allowance) currently available to landlords for energy efficiency measures. Apart from this small allowance, landlords currently only receive tax relief from Capital Gains Tax at the point of sale. Increased tax relief would be a way that landlords could reinvest funding into their properties, including energy efficiency improvements on an ongoing basis which would also benefit the tenant.
- We would also like to see cash incentives under the Green Deal and ECO that are only targeted at the PRS, given that this is the only sector under compulsion to undertake energy efficiency improvement works. For example, the recent Green Deal Home Improvement Fund was a good example of a popular initiative under the Green Deal, but because of the demand the scheme had to close. It will be interesting to see how many private landlords were successful in securing this funding, given the fierce competition. This seems unfair when these landlords are under the most pressure to meet efficiency targets.
- Landlords should be allowed to choose to pay the Green Deal charge directly in order to avoid tenant resistance and allow them to see real savings on their energy bills.



11.0 SAFETY IN THE PRIVATE RENTED SECTOR

- 11.1 The RLA is committed to raising standards in the PRS so that it can truly become 'first choice, not second best'. One of our key aims is to ensure that we are providing the best example to landlords of what a 'safe, legal and secure' house to rent looks like.
- 11.2 We provide advice and guidance through resources, including our visual online 'safe rented house', so that our members are fully equipped with the knowledge and expertise needed to provide high-quality, but above all safe, accommodation to their tenants.
- 11.3 The RLA works to support members to provide safe, legal and secure homes, and regularly updates them with information on all legislation and regulation related to safety in the sector.
- 11.4 The RLA believes that it is an anomaly that smoke and heat sensors, which are advised under guidance from the Association of Chief Fire officers, are not legally required. While the Enterprise and Regulatory Reform Act provides the Government with the power, should it wish, to make such sensors legally required in private rented homes, this has so far not happened. **The RLA is calling on all parties to commit to making it a legal requirement to install smoke and heat sensors.**
- 11.5 As it stands, it is not a legal requirement that carbon monoxide detectors are fitted in rented properties. We recognise, however, that there are higher risks associated with certain installations such as solid fuel burners, open fires and wood burners. The installation of detectors should, we believe, be on a risk-based approach. We recommend therefore that if advised by a Gas-Safe engineer after an annual landlord inspection, landlords should have such detectors fitted. To support this, **we would call on the next Government to draft and issue guidance for all households on the assessment to be made in determining risks of carbon monoxide leaks.**
- 11.6 Although we recommend that our members consider the use of carbon monoxide detectors in their properties, if the proposal for compulsory carbon monoxide detectors were to go ahead at the very least, the landlord's responsibility should be no more than to install the detectors and make sure that they are properly positioned and commissioned. After that the tenant should be responsible for ensuring that the indicator on the detector is working and that any batteries are not run down. The tenant must then tell the landlord. Importantly, the landlord must be told by the tenant if the equipment activates and this must be done quickly and confirmed in writing. We would recommend that if this is to go ahead there are also considerable resources put into tenant education on how carbon monoxide detectors work.
- 11.7 At present, it is a legal requirement for electrical safety checks to be carried out on Houses in Multiple Occupation every five years. The RLA supports this as a sensible recognition that HMOs tend to have a much higher turnover of tenants. **We believe, however, that in line with advice from Electrical Safety First for owner occupied properties, non-HMO PRS properties should have checks of the installed wiring within them every five to ten years, on the recommendation of a registered electrician.**
- 11.8 The RLA does not feel that it is necessary to make annual Portable Appliance Testing (PAT) mandatory as this goes beyond what is required of even the largest employers. We do recommend visual checks when tenancies change, with the risk assessed in line with guidance from the Health and Safety Executive.
- 11.9 **The RLA endorses the installation of Residual Current Devices (RCDs) in domestic premises as an additional measure to be taken in rented properties.** They provide a significant safety feature to prevent electric shock. Additionally, the former Department for Trade and Industry report "Consumer Safety Research – Residual Current Devices – Added Value for Home Safety", estimated that 20% of electrical fires have been prevented by the presence of RCDs. One can legitimately say, therefore, that the presence of an RCD reduces the need for an electrical safety report and also protects from fires and shocks caused by appliances or their wiring. The Electrical Safety Council Report based on the 2010 EHS Survey notes that 62.3% of properties at that time had an RCD installed, as against 59.9% of owner occupied properties.



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