



Chartered
Institute of
Environmental
Health

Memorandum of evidence to the All Party Parliamentary Group for the Private Rented Sector

April 2013

The Chartered Institute of Environmental Health

As a **professional body**, we set standards and accredit courses and qualifications for the education of our professional members and other environmental health practitioners.

As a **knowledge centre**, we provide information, evidence and policy advice to local and national government, environmental and public health practitioners, industry and other stakeholders. We publish books and magazines; run educational events and commission research.

As an **awarding body**, we provide qualifications, events, and trainer and candidate support materials on topics relevant to health, wellbeing and safety to develop workplace skills and best practice in volunteers, employees, business managers and business owners.

As a **campaigning organisation**, we work to push environmental health further up the public agenda and to promote improvements in environmental and public health policy.

We are a **registered charity** with over 10,500 members across England, Wales and Northern Ireland.

1. Executive Summary

1.1 **On how to improve safety in the sector**, the Chartered Institute of Environmental Health believes:

- That the Government should conduct a review of the HHSRS Enforcement Guidance and the ODPM Circular 5 (Regulatory Reform Order) on Housing Renewal.
- Closer co-operation between the councils and third sector bodies providing support or advice on housing related matters should be encouraged, helping tenants approaching the CAB and others by signposting to the appropriate body to address poor housing conditions.
- That the housing renewal budget should be restored
- That there should be a clearer definition within the Housing Act 2004 of a 'Fit and Proper Person' and clearer criteria that LHAs can use to refuse a property licence.

1.2 **On regulation of the sector**, the CIEH

- Supports the case for a national register, and accreditation of landlords, as part of light touch programme, for dealing with the PRS based on sound evidence.
- Believes that the criteria for establishing selective licensing schemes should be widened and the schemes made more flexible.
- Supports the compulsory regulation of letting and management agents by an independent body.
- Believes that the Government should correct the anomaly which means an Energy Performance Certificate (EPC) is not required for some HMOs, where the occupiers are on separate tenancies.

2. How to improve safety in the sector

2.1 The private rented sector has increased by 1.5 million homes since 2001, with the proportion of 17% equalling that of the social rented sector in 2010¹. Demand has outgrown supply, increasing the cost of renting, with average rental increases in the last year being 4.3%².

2.2 40% of PRS homes are over 90 years old, and nearly 30% have serious hazards compared to 13% in the social rented sector³. One of the most common hazards is excess cold and the PRS has the lowest levels of energy efficiency measures; EPC ratings are considerably lower, while DECC's own estimates show 42% of PRS households in F or G rated homes are in fuel poverty.

2.3 The PRS is an increasingly important source of housing for vulnerable people. Changes taking place in respect of homelessness and housing benefit are likely to increase the reliance of vulnerable households on low cost private accommodation. Standards of management vary enormously and there is a particular problem of upholding acceptable standards in some parts of the sector.

¹ English Housing Survey Homes Report 2010 (DCLG)

² RICS Residential Lettings Survey July 2012

³ EH Survey, *ibid*

- 2.4 The increase in demand comes at the same time as reductions in local authority housing budgets. So while complaints about the most serious hazards under the HHSRS are reported to have risen by 25% in the last two years, the number of local authority staff available to respond to those complaints has fallen, probably by at least 10%.
- 2.5 The impact of the total cut in the housing renewal budget (£308m in 2011, now zero), has been vast. Its loss has also had a “reverse multiplier” effect on small builders and other allied businesses. We support the restoration of this budget.
- 2.6 Although important, spending cuts alone do not fully explain lower standards of repair in the sector. Local authorities need to make more effective and consistent use of their powers and duties under Part 1 of the Housing Act 2004 to improve health and wellbeing. The CIEH has pressed the Government to review HHSRS Enforcement Guidance and Advice and the ODPM Circular 5 (Regulatory Reform Order) on Housing Renewal.
- 2.7 Considerable improvements in the standards and quality of local PRS stock can be achieved by a strategic approach which will, by definition, be targeted at the worst properties. Enforcement activity is but one tool to be used together with advice and education. Enforcement, properly used should be constructive and balanced; it should also cultivate a climate of cooperation and engagement with local landlords.
- 2.8 Pro-active inspections of larger landlords by LHAs would improve poor quality accommodation in the PRS. Councils know where the worst housing conditions exist in their area and which landlords are less likely to maintain acceptable standards of accommodation; proactive inspection of a proportion of larger landlords’ stock should be targeted and effective.

3. Regulation of the sector

- 3.1 The CIEH supports the case for a national register of landlords, alongside action on the part of LHAs to establish properly developed strategies for dealing with the PRS, based on sound evidence. Responsible landlords need have no fear of registration or accreditation.
- 3.2 It is important that responsibility for any enforcement activity in respect of a register should not place undue burdens on LHAs, the majority of which experience difficulties in fulfilling their current duties and responsibilities in respect of the PRS.
- 3.3 We believe that the criteria for establishing selective licensing schemes should be widened and schemes made more flexible. There would be considerable merit in adding to the criteria for schemes the existence of a high proportion of properties in poor repair or containing category 1 hazards as well as other local issues, such as crime, vandalism, graffiti, high levels of harassment or eviction etc, that may be having an adverse effect on the sustainability of the local community.
- 3.4 The requirement for long, complicated and bureaucratic licensing application forms should be removed, allowing local authorities to ask for the bare minimum of information and ascertain the rest themselves during the licensing process.
- 3.5 The complexities of using the sanctions for licensing would be helped if simplified guidance could be provided on critical areas such as ‘Fit and Proper Person’ decisions.
- 3.6 The PRS has many inexperienced landlords who own a small number of properties and are unaware of their legal obligations. 89% of all landlords are private individuals,

with 78% owning just one dwelling⁴. There should be a renewed focus by government to support landlord organisations in their efforts to increase membership.

- 3.7 Improving competence among landlords is critical to improving standards and management in the PRS. The basis of more effective coverage is consistency and a national model based on the best of the existing schemes needs to be developed and prescribed by government and should form unequivocal guidance to LHAs.
- 3.8 We believe that landlords should be accredited, with training being an essential element. This also represents an opportunity for greater self-regulation, a necessary element of efficient regulation in a climate of diminishing resources.
- 3.9 There is little consistency in fines imposed by magistrates on landlords; neither do they act as effective disincentives. More training is needed for magistrates and members of Residential Property Tribunals so that fines levied/hearing decisions
- 3.10 The RPT system has struggled to deal with the complexity of and decision making process when using the HHSRS. The process is cumbersome and the people on the bench do not always understand the HHSRS and as a result some decisions can be contradictory or out of line with the evidence base or previous decisions. Evidence provided to the RPT is not given under oath and as a result, could be wrong. Returning cases to the magistrates' court will ensure that all evidence is given under oath, bringing greater consistency in decision making and allowing complicated evidence to be explained correctly and fully.
- 3.11 The HHSRS is not well understood by those who do not use this assessment process. Increased promotion of the CLG document "HHSRS guidance for landlords and property professionals" would be welcomed.
- 3.12 The original data in the HHSRS evidence base was collected before 1999 and has never been reviewed or updated. The hazards identified in the operating guidance along with the information on Health and Housing data also needs a review, as do the "worked examples".
- 3.13 Criminal landlords can be difficult to trace. Local authorities must give a minimum 24 hours notice to effect powers of entry in order to take formal action and whilst mandatory licensing and voluntary accreditation schemes allow for efficient registration systems enabling a local authority refer to identify relevant person(s), tracing elusive landlords can be costly and time consuming delaying enforcement action and prolonging the risk of illness or injury to occupiers living with disrepair.
- 3.14 We think that there should be an exemption to notice of entry where an imminent risk to health is anticipated or where giving notice could be detrimental to the purpose of the visit or where the LHA cannot easily obtain contact details for the landlord.
- 3.15 We support the compulsory regulation of letting and management agents by an independent body. It is simply not acceptable that any person can set up a lettings agency without appropriate qualifications, knowledge or understanding of the rental process. Letting and managing agents should be required to be members of an approved scheme and meet the 'Fit and Proper person test' to operate as a letting or management business. It is important that regulation incorporates a robust complaints and redress system which has a clear independent focus.

⁴ CLG 2010 Landlord survey

4. The regulation of HMOs

- 4.1 Although the Housing Act 2004 has been effective in improving conditions in HMOs through licensing, different Councils use the regulations for different purposes. A national accreditation scheme setting standards on minimum room size, fire safety and amenities for example should be established with landlords required to inform the council if they have a HMO, allowing councils to programme and prioritise in relations to the size and type of HMO.
- 4.2 The definition of an HMO in the Housing Act 2004 has proved to be overly complicated and has substantially reduced the number of properties deemed to be HMOs. It should be broadened to include any property that has been converted to provide multiple dwellings.
- 4.3 There is a loophole allowing individual units within HMOs to not need an Energy Performance Certificate in the regulation of HMOs, which needs closing. As an individual HMO unit (rather than the whole property) is not defined as a dwelling, it is not deemed to be covered by the EU Energy Performance of Buildings Directive. Government should correct this anomaly.