



William Tandoh
Private Rented Sector Team
Department for Communities and Local Government
1/C4 Eland House
Bressenden Place
London
SW1E 5DU
Date: Wednesday 5th August 2009

Dear Mr Tandoh,

The government response to the Rugg Review

Authorities and Landlords improving standards together NW (A&List NW) is a North-West accreditation and private rented housing partnership consisting of 33 councils, landlord associations and support agencies. They aim to improve standards in the private rented sector and raise awareness of landlord accreditation and landlord licensing across the North-West.

The group provides a support mechanism for new and existing accreditation schemes through advice, guidance and support to members. It also shares good practice to ensure consistency of standards across the region. Its terms of reference call for, amongst other things, for promotion of investment in the region, recognition of professional standards in the private rented sector and promotion of accreditation and licensing as tools to help achieve sustainable communities.

A&List's Code of Standards (developed in conjunction with A&List steering group, landlords and ANUK) has been agreed with the participating councils. It can be tailored to meet the needs of individual schemes and has an agreed minimum standard to be used as a baseline. The network is currently working to recognition of this as a approved code for the region where members commit to operate accreditation schemes in line with the Code.

The work of A&LIST is voluntary and unfunded. It is lead by Salford City Council who provides secretariat support, a steering group of about 20 councils, landlord representatives and other relevant bodies; meetings are rotated between the councils. An Annual General Meeting and bi-annual meeting are held for all members of A&LIST.

We welcome the opportunity to respond to this consultation.

Yours sincerely

Caren Green

Principal Officer
Salford City Council

For and on behalf of A&List NW.

A&List comments on the Governments response to Rugg Review

The right regulatory framework

How should the regulatory and incentive structure work to bring about improvements in the condition and energy performance of private sector rental properties?

A&List believes that the current regulatory framework already contains sufficient powers to bring about improvements in the private rented sector. What is needed now is a clear strategic role for the use of existing powers combined with available resources to achieve best effect. In the absence of this many cases of poor property condition are dealt with in a reactive manner with no coordinated approach or consistency.

The key is in distinguishing the good landlords from the bad allowing regulation to target the worst landlords. Accreditation schemes have an important role to play in achieving this as they identify and encourage responsible landlords to meet higher standards allowing enforcement resources to be targeted on identifying and regulating the poorest landlords and properties.

Assessment of property condition using powers under part 1 of the Housing Act 2004, namely HHSRS inspections serve to bring about improvements in property conditions and include energy efficiency performance. Both accreditation and enforcement operate to HHSRS standards.

In summation, there is a case for having a 3 pronged system of regulation;

- A light touch register of landlords (name, number and contact address)
- Accreditation, with carrot and stick approach offering incentives and enforcement
- Robust enforcement automatically used against those who do not

A national register of private landlords

Is this the right amount of information? If not, what should also be added or removed?

A&List support the proposal of a register in principle and envisage it containing the following information as a minimum;

- Landlord name and address
- Property details across the region

However, such a register should be clear, simple and easy to administer. In addition to the proposed information there must be a requirement for the landlord to add and remove properties as and when purchased or sold. This should be done within a specified time period with a penalty for non-compliance.

The main cost would be in keeping this information up to date and live rather than being a reflection of a point in time. If this requirement is not enforced the register will be soon outdated. The facility to rapidly update records would need to be built in to a proposed IT system for the register and will have associated cost implications.

If there are no robust enforcement sanctions in place landlords simply will not update this information. If it is not policed this will devalue the register, as current legislation will only serve to get the good landlords signed up and operating in this manner. Others will continue to operate outside this framework with little action being taken. Good landlords again become overburdened.

Are there any other services which could be linked to the register?

We believe the principal aim of a national register is to root out the small minority of bad landlords and force them out of the market.

We would like to see the inclusions of links to local authorities, accreditation schemes and landlord organisation to encourage landlords to achieve higher standards and work in partnership with their local authorities.

Information outlining the legal duties of a landlord with appropriate links to websites could also be made available on a landlord information page. For example, requirements for gas and electrical safety, Energy performance certificates, Tenancy deposit protection etc. This could extend to link to landlord organisations and their on-line training.

Would this be a helpful service for landlords? - Yes

What information should it contain in order to make it as attractive as possible to potential tenants whilst not overburdening landlords? - As above

Do you agree that government should explore whether the EPC data should be made available in this way? In principle, we believe this information should be made available so that a tenant can make an informed housing choice. However, as already stated requesting this level of additional data may be counter productive. Signposting for landlord on the requirement for an EPC and the possible inclusion of data in any model tenancy agreement may be a more appropriate way to record this information.

Are there any other funding or grant based schemes that could be signposted in this way? Warm Front Grant, Landlord Energy Saving Allowance (LESA), small business unit grants etc.

Landlord Accreditation Schemes often provide access to many incentive and benefits that may only be available on a local level.

What sort of activities should be linked to removal from the register? Should this be a cumulative process (like, for instance, the points system for driving offences)?

The register should aim to force the small minority of bad landlords out of the market. Activities that should be linked to removal include;

- Significant or persistent breaches of housing legislation
- Failure to comply with notices
- Convicted for operating without a licence
- Proven landlord harassment and/or illegal eviction
- Proven landlord violence and racial abuse

A&List would not see any objection to a cumulative approach as long as those contraventions are weighted in respect of seriousness.

Who should carry out these roles? Should either one of the Housing or the Estate Agents' Ombudsman have a role (perhaps in offering advice to a quasi-judicial body – possibly the Residential Property Tribunal Service)?

Local Authorities will carry out enforcement and inform the register of relevant actives in relation to landlords and properties within their area. The register should collate and verify information to apply sanctions and the RPTS should hear any representations in respect of the registers findings.

Should the appeals process be carried out by the Lands Tribunal? Do you see any alternative body for this role? - See above

Should only enforcement agencies and advice services run by the voluntary sector be able to lodge

complaints against a landlord within the context of this process?

No, anyone who is experiencing poor quality management and / or poor housing standards should have the right to complain against a registered landlord.

We think that current and potential tenants should also have access to the register – how can this be managed?

There should be a web site for the national register which will allow searches to be carried on the property address or the landlord details.

Which other individuals or organisations should have access to the data? –All, however this access should be limited to checking details of an individual property address, name or registration number of a landlord being able to access only one record at a time.

Any system containing data should be properly protected to safeguard against fraudulent use.

Summary

A&LIST can see the benefit of a national register as long as it concentrates on rooting out the bad landlords and has a mechanism in place to force them out of the market rather than creating a system that will inconvenience and prove costly to good landlords.

Furthermore, A&LIST recognise the role a register will play in simply providing information on the ownership and location of private rented properties. This will allow local authorities to target resources, regulation and provide support for landlords as well as contributing to wider strategy making.

However, the day-to-day running of a national register could potentially be a mammoth task with administrative and financial burdens. Information on every landlord and their properties, including the recording of all purchases and sales per annum would be problematic, especially for larger portfolio landlords. A compulsory registration scheme similar to that proposed has operated in Scotland and only one in four properties are registered. This tends to be the good landlords who feel aggrieved that they are paying the price for a small minority of rogue landlords. Past experience suggests government IT projects have run into trouble.

To work there would need to be the resources in place to adequately to police this or have effective regulation to force landlords to comply.

Assessment of existing licensing regimes

What additional criteria, if any, should be introduced for establishing selective licensing regimes?

The majority of A&List members have not considered and do not operate a licensing scheme in their area. In the absence of an evaluation of selective licensing so far, it seems premature to be adding extra measures.

We believe the existing criteria of selective licensing were based on a naïve understanding of the concepts of low demand and anti-social behaviour and how they operate across the city. In the current economy this is outdated.

Low demand – how can we differentiate between low demand in a recession? How can low demand be pitched as a local problem requiring a local solution when it relies on a number of processes that occur at the national and even international scale?

Anti-social behaviour – landlord licensing does not solve the problem and root cause of anti-social behaviour it merely asks the landlord to treat the symptoms. If anything, it simply moves the problem around

Bureaucracy - Paperwork involved in the selective application is overbearing, bureaucratic and has become a paper based exercise for the authority

Consideration should be given to the selectively licensing of a landlord as it is often an individual landlord who is the issue and not the area or tenants

Notwithstanding the drawbacks of the current criteria for selective licensing, A&list are open and are willing to show support to additional criteria, that allow for a broader range of circumstances to be considered, for the introduction of selective-licensing. CLG should enter into full and open discussions with local authorities in relation to any proposed new selective licensing criteria. Criteria should not be imposed without consultation.

Is there merit in including criteria related to a high incidence of violations of the Housing Health and Safety Rating System or low EPC rating?

It could provide an evidence base to target resources and policies but there is a need to ensure enforcement tools and resources are in place.

It would be difficult to provide a baseline or a comprehensive picture of a typical HHSRS level of an area or region due to lack of data. It is unlikely that this baseline will be achievable in the short or mid term as there is no requirement for this data to be gathered.

Written tenancy agreements

We propose that all tenancies should take the form of written agreements

A&List are of the opinion that all tenancies must take the written form. This is long overdue.

What would be the most helpful way for the legislation to set out a written tenancy agreement?

A&List supports the development of core clauses to be included in all tenancy agreements as a minimum standard or an agreement containing legally required minimum clauses with the option to include additional clauses.

We feel it would be difficult to have a prescribed standard tenancy unless there is allowance for additional clauses to be added.

Ensuring the right coverage for the legislative framework

We, therefore, propose to increase the threshold to £100,000.

Is this is the right level for the threshold? - Yes

Should there be regular reviews of the AST threshold? - Yes

How frequently should these be carried out?

5 to 10 years or linked to other financial market reviews.

Full mandatory regulation of private sector letting agents and management agents.

Government is strongly of the view that such regulation should be carried out by an independent body and that it should be compulsory.

A&List strongly supports the full mandatory regulation of private sector letting agents and management agents. This will inspire public confidence and improve the reputation and professionalism of the PRS ensuring a supply of well managed and well maintained properties.

A clear definition of who / what is an agent is required, the definition of when a landlord becomes a managing agent needs to be prescribed.

Which of the functions above should be kept within the independent regulatory body?
All described should be kept within the independent regulatory body.

Which of the functions above should be procured by the independent regulatory body from existing organisations?

What organisations could carry out the functions outlined above?

Is there merit in establishing an entirely new organisation to carry out any or all of these functions independently? - Yes

Do you agree that managing agents operating in tenures other than renting should be included in the proposed regulatory regime?

Only if they include an element of private rented letting or tenant finding services within their overall business operation.

Improved redress for tenants and landlords

These timescales do not seem unreasonable to us. But are there any types of cases which typically take much longer?

Are there any ways in which court procedures could be streamlined without jeopardising the requirement to allow all parties a proper opportunity to prepare and support a fair hearing?

A&List believes the judiciary to acknowledge that the length of time taken to hear housing cases can have severe consequences for both landlord and tenants. Time scales stated in law should be adhered to by courts.

Supporting the market to deliver increased supply and professional management

Private rented housing investment fund (PRSI)

Mortgages for the private rented sector

The fiscal framework for landlords

Improved engagement with the sector

Improving the evidence base

A&List agree that there should be coordinated evidence gathering on the PRS on all scales enforced by Government. This should be based on a sound evidence base and statistics. There is a huge gap in this area.

Private rented sector and the voluntary sector

We would encourage landlord organisations to make these services more widely available to enable better understanding of what is involved in truly professional private rented sector housing management.

Are there other ways in which voluntary organisations can both engage more helpfully with the private rented sector and offer help and support to others?

A&List supports greater engagement with the voluntary sector. Many of the authorities covered by A&List already engage positively with partners' cross-sector and run innovative initiatives in areas such as rental bond schemes, tenancy sustainment, affordable warmth and home improvement agencies.

In contrast, some agencies within the voluntary sector still have a negative perception of the private rented sector and private sector landlord. The perception of landlords letting out slum properties is no longer the case in the main, as property standards on the whole have improved. Agencies dealing with tenants and complaints of disrepair or poor management should first be advised to engage with the landlord or through accreditation schemes. There is anecdotal evidence that some tenants use agencies as a lever to access social housing.

Local authorities and the private rented sector

In looking to improve the private rented sector, which approach should be prioritised?

A&List believes a strategic view approach should be prioritised to improve the private rented sector. This strategic approach should take the form of an Accreditation Scheme.

Day-to-day engagement

We propose that local authorities should be actively encouraged to explore ways in which to improve their engagement with private landlords in their areas.

Are there other models for constructive engagement with landlords?

A&List sees Accreditation as the strategic vehicle for promoting engagement with the landlord through partnership working to address property management standards and property condition. Accreditation schemes that are robust and comprehensive and have regard for properties, their standards and management should be encouraged in all localities.

However, it is recognised that not all local authorities have the resources to run such schemes and in this instance we would recommend the following;

- Landlord Forums and working groups
- Landlord Newsletters
- Landlord Training
- Work with landlord organisations

How can we best help and incentivise local authorities to work more constructively with the private rented sector in their areas?

A&List is strongly of the opinion local authorities need the available resources and guidance to develop a meaningful engagement with the PRS. For example, A&List have developed a robust Code of Standards which incorporates the 'Core Values' promoted by ANUK.

We would welcome the approval of any model scheme which provides consistency not only to local authorities but also to landlords who often operate in many geographical locations. This would remove barriers leading to a transparent approach to partnership working.

There needs to be a balance between enforcement and support, with the weight on support and government needs to acknowledge this.

A&List would welcome the opportunity to demonstrate the impact of its work through, the comprehensive approach being delivered in this area and the progress achieved through Innovation.

Local lettings agencies

We therefore propose that each local authority should develop a more co-ordinated approach to securing private rented sector tenancies for low income households, particularly where this involves government funded landlord incentives.

In late spring/summer 2009, we will be seeking opportunities to work closely with individual LAs or groups of LAs, on their own or with partners from other sectors, who are interested in leading the development of this comprehensive approach on the ground.

Which approaches have been shown to work best, and are there any which have been tried but shown to meet major hurdles?

Many local authorities using Rental Bond Schemes already carry out this function with bond approval only being granted when a property meets accreditation standards.

What could usefully be added to the “menu” of options set out above?

A&List sees the benefit of one point of contact providing constructive engagement with landlords, support with rental bonds and tenancies, guidance on legislation, access to training and learning, links with housing advice and LHA departments. This is essentially the basis of most accreditation schemes in the North West.

Are there any barriers to the type of approach outlined above?

A&List shares the view that Local Housing Allowance (LHA) in some instances deters good landlords from housing LHA tenants. This can be a barrier where initiatives to re-house vulnerable tenants are no able to ensure direct payment under current vulnerability criteria.

We would like to see accreditation being made available to all landlords wherever they operate to a nationally agreed code. CLG need to recognise, acknowledge and promote the positive impact of accreditation and what It can achieve when run well.

Improved coverage for accreditation schemes

We would like to see accreditation being made available to all landlords wherever they operate. We also think that consideration should be given to whether a national standard for accreditation schemes should be established.

Is the time right to establish a basic standard for accreditation? - Yes

If so, should this be industry led, prescribed by government or carried out by an independent body (like ANUK)?

Yes, prescribed by Government with an independent body such as ANUK to police it.

What should a basic standard for accreditation cover?

A&List promotes the core values of ANUK and the A&List Code of Standards covering tenancy and property management standards. We believe that a basic standard should mirror this approach.

Value 1: The Declaration

Value 2: Verification

Value 3: Continuing Improvement

Value 4: Complaints

How can local authorities and landlord associations be encouraged to work together to develop continuous professional development schemes?

We have evidence that this is already taking place and having positive outcomes.

Should accreditation registration fees also be standardised?

No, it would be too prescriptive if a charge made.