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Dear DCLG

Tackling rogue landlords and improving the private rental sector

CIH intends to respond to this consultation paper in general terms rather than responding to the detailed questions.

Resource implications

Overall, the intention to deal with the worst parts of the private rented sector (PRS) is very welcome and many of the detailed proposals are worthwhile. Our major concern is about the resources available for implementation, and we believe that it is paramount that this issue is considered before any legal changes take place.

Given the very limited and declining staff resources for PRS enforcement work, it is vital to ensure that new resources are put in 'up front' if there is to be sea change in securing better conditions in the sector. Essentially this can be done in three ways: through central government funding initiatives, through local authority General Funds, and by self-financing arrangements designed into any new enforcement arrangements.

CIH presumes that the scope for new initiatives such as the rogue landlords fund or the beds and sheds scheme is limited. Through their General Funds, councils spend only £40m annually on PRS enforcement work by environmental health officers (EHOs), or less than £10 per tenanted household per year. Unknown but probably very small proportions of LA housing and planning resources are also dedicated to work in the PRS. However, all the feedback suggests that councils are already struggling to cope, especially as resources have declined over a period in which the sector has doubled in size.

The new proposals will add to the duties of EHOs and other enforcement staff, as will the introduction of immigration checks in the PRS if the Right to Rent scheme is rolled out nationally by the Home Secretary as planned. CIH believes that the only way in which these can be successfully implemented is if they become increasingly self-financing, through fees and penalties.

We therefore welcome the government's initiatives in these respects but believe that they need to go much further, their potential impact should be assessed beforehand and government should recognise that there will be a time lag before new measures generate new resources.

Impact assessment

We note that, unlike the recent introduction of immigration checks, there is no published impact assessment of the proposals. Yet this appears to be required by the government's Better Regulation Framework, since the new rules are a business regulation (i.e. of private landlords). Furthermore, because it has public sector resource implications, it would also appear to require assessment according to the Treasury's Green Book. We urge the government both to carry out and publish such an assessment, and in addition to monitor the use and effectiveness of the new powers when introduced, so their impact in tackling rogue landlords can be judged over time.

Blacklisting landlords

The practicalities of this proposal have to be considered very seriously. Bad landlords can operate under different names, and change names easily: how will this be dealt with? If a list is to operate across LA boundaries (e.g. across London) who will administer it and how will this be resourced? Also, if a landlord is blacklisted they will have no incentive to aim to comply and there is a real risk of creating a larger below-the-radar sector. At the very least, this proposal should be piloted to test its value and the costs of implementation.

It should be noted that operating management orders is staff-intensive, and for this reason most LAs use this measure very sparingly. This may deter LAs from blacklisting landlords who have multiple tenancies.

Tenant deposit data is only relevant to landlords complying with the rules: bad landlords probably fail to comply with most rules, including ones where the fines are more serious such as fire safety.

Fit and proper person tests

The dangers of a more comprehensive fit and proper person test are twofold. One is that the worst landlords ignore it and rely on tenants being unaware of it, so it misses its target (yet the expense of setting it up is still incurred). The other is that there are insufficient staff resources to check that all those listed are really 'fit and proper'. This can lead to the list being really just a guide to who is letting property and is not actually banned from doing so.

On the other hand, the present arrangement creates difficulties for councils that might be resolved by a more prescriptive test, since it would be less open to challenge. It is therefore important that any revised test be based on councils' experiences and if possible it should be piloted.

Connection with 'illegal' immigration

CIH considers that 'continuing to let to an illegal immigrant' in the list of relevant housing offences implies additional work for enforcement staff who

will have to check the immigration status of different tenants, and confirm their tenancies, possibly at several different stages. We recommend this is omitted. The inclusion of a requirement that the landlord not be themselves an illegal immigrant seems excessive, as this requires further background checks that are nothing to do with their ability as a landlord.

Rent repayment orders

On rent repayment orders, while we support their wider use, there are fundamental problems with the current arrangements: there is a case for speeding up the process, removing the 12-month time limit and considering how applications can more easily be made.

It is suggested that government work with practitioners who have a strong track record in obtaining RROs, to review the regulations and the First Tier Tribunal processes to improve their effectiveness.

Civil penalties

We welcome this proposal and consider the scope should be as wide as possible, e.g. including gas safety and similar requirements. We would also support a high level of penalties.

Abandonment

The proposals on abandonment are a concern. While there may be a fairly small number of genuine cases where abandonment occurs and cannot be quickly resolved, equally a new procedure opens new possibilities for abuse. If the proposals are to go ahead, we recommend that they be monitored for an initial period to judge the extent of any potential abuse, so that they can be modified or withdrawn if necessary.

Yours sincerely



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