



**Written Submission**

**National Assembly for Wales  
Communities and Culture Committee**

**Inquiry into Making the Most of the Private  
Rented Housing Sector**

**December 2010**

## EXECUTIVE SUMMARY

- ◆ If the private rented sector is to be relied upon in the future to bolster social housing stock to a significant degree, there needs to be greater emphasis, not just on acquiring stock, but on facilitating the maintenance of sustainable tenancies. Local authorities wishing to use the private rented sector to meet housing need should seek to work constructively with both tenants and landlords to manage expectations and assist in relation to the relevant responsibilities and obligations pursuant to both parties.
- ◆ The most effective tool for improving property and management standards is through targeted enforcement. We would argue that blanket registration and licensing schemes will not achieve improvements in standards or management within the private rented sector. We would recommend that the appropriate policy to address these issues would be for local authorities to identify problems and assist landlords in developing the required knowledge and skills with local authorities targeting the rogue landlords who blight the sector.
- ◆ The NLA believes a more co-ordinated approach to accreditation at a national level is still required. More regulation is not necessary. Accreditation provides a bench-mark of quality that an increasing number of landlords are subscribing to. We believe to further increase the uptake of accreditation, the Welsh Assembly Government should encourage the use of online systems together with regular forums and local authority incentives for accredited landlords.
- ◆ Security of tenure is not an obstacle to further developing the PRS. Under the current system, landlords have the ability to grant longer tenancies if they so wish and do so where appropriate. However, there are several third party considerations which limit the freedom of professional landlords to vary the terms of their tenancies.
- ◆ We would suggest three short to medium-term initiatives which should result in “quick wins” and significantly assist the development of the private rented sector in Wales:
  - Better communication between local authority departments;
  - Faster processing of benefit applications and LHA in advance rather than arrears;
  - More advertising of services available from local authorities.
- ◆ The changes to the Local Housing Allowance and Housing Benefit will have far reaching implications on landlords in Wales. The Welsh Assembly Government and Welsh local authorities will need to consider what immediate preparation is necessary to mitigate the impact of these cuts and consider what co-ordinated monitoring and preparation in the medium to long-term will be required to secure housing provision against further planned cuts. We have outlined a number of proposed measures between paragraphs 50 and 77 including:
  - Ensuring that local authorities in Wales secure a sufficient proportion of Discretionary Housing Payment funding to alleviate the considerable shortfalls facing LHA recipients;
  - Comprehensive communication and access to information for landlords;
  - Collecting data from both tenants and landlords to identify long-term trends of housing support needs and housing provision.
- ◆ The NLA believes that each empty property is unique and requires an individual solution. We therefore welcome proactive approaches in local authority strategies and support a range of options being made available to land owners which focus on advice and assistance where local authorities consider the use of statutory enforcements powers only as a last resort.

## INTRODUCTION

1. The National Landlords Association (NLA) welcomes the opportunity to contribute to the National Assembly for Wales' Communities and Culture Inquiry into making the most of the private rented housing sector. The NLA believes it can help the National Assembly for Wales and the Welsh Assembly Government establish the right culture for a professional, educated and effective private-rented sector.
2. The NLA believes the private rented sector plays a crucial role in the Welsh housing market. With the suggestions outlined in this response, it can deliver professional, educated landlords who offer high quality, affordable accommodation which is sufficiently flexible to meet the needs of tenants. Simultaneously, we believe our proposals make the best use of the limited resources available to local authorities and provide best practice models for the rest of the UK.
3. In addition to endeavouring to respond directly to the questions raised by the call for evidence, the NLA hopes to use this opportunity to suggest constructive and practical solutions to perceived issues connected with the private-rented sector.

## ABOUT US

4. The NLA exists to protect and promote the interests of private residential landlords. With almost 20,000 individual landlords from around the United Kingdom and over 100 Local Authority Associate Members, it provides a comprehensive range of benefits and services to its members and strives to raise standards in private rented accommodation.
5. The NLA seeks to safeguard landlords' legitimate interests by making their collective voice heard by local, regional and central government and the media. The NLA seeks a fair legislative and regulatory environment for the private rented sector while aiming to ensure that landlords are aware of their statutory rights and responsibilities towards their tenants.

## UNDERSTANDING THE PRIVATE RENTED SECTOR

6. The NLA's body of members are professional landlords covering a range of portfolio sizes spread geographically across the United Kingdom with over 660 members in Wales. In general, professional landlords approach their properties as businesses and their tenants as customers. In common with any other business, landlords make business decisions based on securing value for money in their investments. Whilst a landlord will own the properties they rent to tenants they may use agents to either secure new tenants and/or manage their portfolios on their behalf or they may undertake those functions themselves.
7. It is a myth that landlords see a high turnover of tenants in their properties as beneficial. A high turnover of tenancies generates significant costs for landlords: 'voids' (periods where properties are left empty between tenancies) and any transition costs between tenancies (or in the event of having to end a 'bad' tenancy), both mean that high tenancy turnovers are inefficient in generating rent. There is also no guarantee that the new tenants are going to be well-adjusted or dependable. Therefore, the vast majority of professional landlords prefer longer, well-maintained tenancies as they make better business sense.

8. The 2008 Whitehall-commissioned review of the private rented sector indicated that there is less 'churn' in the private rented sector than previously thought, with over a third of tenants having stayed in their property for five years or more<sup>1</sup>.

## CONSULTATION QUESTIONS

### **Q1 – How can better use be made of the private rented sector (PRS) so that it will become a tenure of choice and contribute more effectively to meeting housing need in Wales?**

9. The NLA welcomes the recognition that the private rented sector is an integral part of the housing options package for those in housing need. We agree that access to a healthy private rented sector improves the housing choices of those unable or unwilling to buy their own home. Many local authorities look to the private rented sector to house a significant proportion of their vulnerable households and have developed constructive relationships with their local landlords to achieve this objective. However, as government policy has consistently proposed the greater utilisation of private sector stock to meet housing objectives, there has developed a need to cultivate these relationships further. If the private rented sector is to be relied upon in the future to bolster social housing stock to a significant degree, there needs to be greater emphasis, not just on acquiring stock, but on facilitating the maintenance of sustainable tenancies.
10. The NLA is working closely with other stakeholders to develop guiding principles for local authority Private Sector Leasing Schemes covering the full range of issues concerning how a scheme can promote effective working between landlords, tenants and councils. We recognise that there has been a degree of government funding allocated for this and would like to see further expansion to encompass more local authority areas. These initiatives can be particularly helpful in developing relationships between local authorities and landlords which are beneficial to the entire sector.
11. Local authorities wishing to use the private rented sector to meet housing need should seek to work constructively with both tenants and landlords to manage expectations and assist in relation to the relevant responsibilities and obligations pursuant to both parties. It is very useful, wherever possible, to provide named contacts who specialise in working with the private-rented sector, such as liaison officers, make interaction and engagement with landlords much more efficient and reduce the inherent barriers to entry. Allied with this approach, greater synergy between those different departments which necessarily interface with private residential landlords offers benefits to all parties.
12. The NLA realises that the Rugg Review suggested local authorities should reorganise frontline services pertaining to their small business functions, but feel that the benefit derived from this would be minimal. However, extending the same principle to departments responsible for functions such as licensing, environmental health, housing benefits and their wider housing teams in order to provide a more integrated service could reap dividends.
13. In order to better assess the efficacy of enforcement action and various policy initiatives, it could also be productive if the emphasis on local authority data collection and dissemination were increased in line with the direction of travel proposed by Dr Rugg. The establishment of universal

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<sup>1</sup> Dr Julie Rugg and David Rhodes, The Private-Rented Sector: its contribution and potential, <http://www.york.ac.uk/inst/chp/publications/PDF/prsreviewweb.pdf>

statistical data sets would allow regional and local initiatives to be analysed and assessed for effectiveness with a view to wider implementation and greater efficiency.

14. Many of the suggestions and comments outlined above will be dealt with in much greater detail in the inquiry's other questions and therefore we do not propose to go into any further specifics at this stage in the call for evidence response.

## **Q2 – What can be done to address the poor condition of some properties and standards of property management within the PRS?**

15. The NLA acknowledges that some landlords, most often due to ignorance rather than roguish intent do not manage their properties effectively. Many local authorities have introduced discretionary licensing regimes alongside their mandatory HMO licensing scheme in order to raise standards in the private rented sector. However, we believe a more effective tool for improving property and management standards is through targeted enforcement rather than blanket licensing schemes.
16. We would recommend that the appropriate policy to address this issue would be for local authorities to identify problems and assist landlords to develop the required knowledge and skills to improve the sector. The NLA would also argue that the creation of discretionary licensing schemes is not an appropriate policy to tackle a small number of poorly managed or maintained properties and that in such situations local authorities should consider Enforcement Notices and Management Orders as viable alternatives. These measures represent a targeted approach to specific issues, rather than blanket licensing schemes that would adversely affect the professional landlords, whilst still leaving the rogues able to operate under the radar.
17. In this time of austerity, the NLA would suggest that the main problem with licensing regimes is resources. The administration costs associated with licensing regimes takes money away from enforcement activities. For example, in 2009 Swansea City and Borough Council spent approximately £272,000 on its mandatory and discretionary licensing schemes (of which approximately £243,000 came from landlords paying the application fee).<sup>2</sup> We would argue that this money could have been better spent targeting sub-standard and poorly-managed properties.
18. It has been suggested that an effective way of improving property standards would be through a landlord register. The NLA does not believe that a mandatory register of private residential landlords is the most appropriate means of tackling these issues. It is our view that such a register represents an additional intrusive burden for private landlords which is likely to provide little benefit for the majority of tenants. It will also represent a supplementary cost in terms of administration and monitoring. It is our view that government resources would be better used implementing and enforcing the numerous existing measures to target the minority of 'rogue landlords'.
19. The NLA believes that any regulation of the private rented sector needs to be carefully balanced. Additional regulatory burdens must focus on increasing the professionalism of landlords, the quality of private rented stock and driving out the rogue landlords who blight the sector. It should be the shared objectives of all parties involved in the sector to facilitate the best possible outcomes for landlords and tenants and as such good practice should be recognised and encouraged in addition to the required focus on enforcement activity. In light of the current economic climate, the last thing

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<sup>2</sup> Response from Swansea City and Borough Council on 31 March 2010 to an NLA request under the Freedom of Information Act

good landlords need is to be further penalised by new regulations, landlord registers or licensing schemes; particularly where there appears to be limited direct and immediate benefit to landlords or tenants. This is why we have supported the UK Government in scrapping the proposed English register of landlords and hope that the Welsh Assembly Government will agree that a register of landlords is a bureaucratic waste of vital resources.

20. We would argue the key method to improving the condition and management standards in the private-rented sector is through accreditation where landlords are educated on their responsibilities towards their tenants, their properties, the community and local authorities. The NLA strongly believes the result of increasing the professionalism of landlords is that management and property standards will improve. However, as accreditation is dealt with specifically in Question 3, we do not wish to add anything further on accreditation at this stage in the call to evidence response.

**Q3 – Is there sufficient engagement with the PRS through voluntary initiatives like Accreditation Schemes and Landlords Forums to help raise standards across the sector or is more enforcement and regulation needed? Do these efforts need more strategic co-ordination at a national level?**

21. The NLA would suggest that Wales is leading the way on voluntary initiatives like landlord accreditation and landlord forums and as such additional regulation is not necessary. All 22 local authorities are NLA Associate Members and we have hosted landlord meetings in every local authority area. Our meetings, many in conjunction with the local authority, cover all aspects of being a landlord; from mortgage issues and methods of growing landlord's portfolios, to ways to improve the energy efficiency of properties, to recent legislative changes that affect the private rented sector. For example, in Cardiff we have hosted three meetings this year; in Carmarthen we have organised six meetings co-hosted with Carmarthen County Borough Council; and in Wrexham our local representatives regularly attend and speak on a variety of issues.
22. Turning to accreditation, the NLA believes that the focus of accreditation should be on raising standards by improving the professionalism of individual landlords which in turn will improve the quality of private-rented properties. As such, we believe that schemes based on management standards, rather than a property assessment provides a more effective service. The NLA strongly believes that giving landlords the knowledge to effectively manage their properties is a more efficient and cost-effective tool for professionalising the private rented sector than additional regulation or licensing.
23. Landlord Accreditation Wales (LAW) has achieved a national scheme which has accredited more than 800 landlords across Wales. The NLA recognises and applauds this achievement. We are also delighted that NLA Accreditation has been so well received in Wales. As many landlords who operate their portfolios in Wales also have properties in England, we have worked together with LAW to passport landlords between the two schemes and look forward to our continued good working relations in the future. However, as Landlord Accreditation Wales is voluntary, there are three hurdles that prevent growth:
  - ◆ Time: A landlord has to undertake a one day course and keep their continued professional development (CPD) up-to-date by attending seminars, workshops and forums.
  - ◆ Money: A landlord has to pay to attend and travel to the course.
  - ◆ Lack of incentives for landlords to get accredited.

24. The NLA can help with all three hurdles. Already we provide our Landlord Library to our NLA members in Wales. This online development tool can be used to not only become accredited in the first place (the usual one-day Foundation Course is broken down into 23 sections that can be undertaken at a landlords own pace and in their own time), but also can keep landlords required CPD up-to-date.
25. The library also provides all members with their own individual CPD record which automatically records any modules that are completed. In addition to this automated facility, the online CPD record allows landlords to manually enter their attendance at appropriate events.
26. However, the NLA believes a more co-ordinated approach to accreditation at a national level is still required. At present, LAW charges local authorities to provide accreditation and landlords to undertake the required 'Foundation Course'. NLA Accreditation is a scheme provided free to local authorities and NLA members thus providing a key route to not only getting more landlords accredited but also keeping LAW sustainable. Despite LAW's recognition of our scheme and our Library providing free subsequent CPD this is not currently communicated to accredited LAW landlords. If this route was further explored and the cost hurdle removed we believe engagement with accreditation would grow significantly.
27. More regulation is not necessary. Accreditation provides a bench-mark of quality that an increasing number of landlords are subscribing to. With greater incentives from local authorities for accredited landlords (such as reduced HMO licence fees, access to local authority loan and grant schemes and preferential treatment should rental arrears arise) landlords will be incentivised to join accreditation schemes for both their personal development and their legitimate business interests.
28. It is clear LAW has made great strides with its scheme but rather than more regulation, we believe the Welsh Assembly Government should encourage the use of online systems together with regular forums and local authority incentives for accredited landlords. We believe this is required to drive participation in accreditation and increase standards in the private rented sector across Wales.

**Q4 – Is security of tenure an obstacle to developing the PRS further? Are there any other critical barriers preventing access to the PRS? How can these be overcome?**

29. The NLA does not believe that security of tenure is an obstacle to further developing the PRS. Under the current system, landlords have the ability to grant longer tenancies if they so wish and do so where appropriate. However, there are issues we would like to raise in relation to security of tenure and the associated possession process as there are several third party considerations which limit the freedom of professional landlords to vary the terms of their tenancies.

**Lender and Insurance companies**

30. Many Buy-to-let lenders and insurance companies require landlords to let properties for no more than 12-months. This is predominantly due to the fear of tenants getting into financial difficulty and not being able to pay the rent. In these circumstances, landlords may not be able to cover mortgage payments and by the time the landlord has regained vacant possession through the courts considerable mortgage arrears could have built up and/or damage been done to the property which would require significant repairs in order to let the property again. The NLA has seen this problem a number of times with Private Sector Leasing Schemes (PSLs) – as they usually require the landlord to sign-up for three to five years – whereby mortgage companies refuse to allow landlords to sign-up

for concerns over their ability to regain vacant possession, subject to provisions of the Law of Property Act 1925, during the PSL term.

### Flexibility

31. Many people choose the private rented sector because it provides flexibility for those who choose not to buy and affordability for those who are unable to buy their own home. Students, young professionals and migrants who, for many reasons, are not looking to stay in an area for a significant period of time want the option of 6 or 12 month contracts. The private-rented sector is the only tenure where this type of mobility and fluidity in housing supply is available and to reduce the flexibility from the private rented sector will have a significant and detrimental effect on housing options for many socio-economic groups. It may also result in landlords leaving the market for fear that they will have great difficulty in regaining possession of their asset.

### Possession

32. Landlords have no legal means to recover possession of their property without recourse to law and a subsequent Court Order. Any attempt to remove a legal tenant, irrespective of their contractual compliance, without a court order could be construed as harassment or illegal eviction. Both of which are criminal offences. Landlords are therefore likely to come into contact with the courts service more frequently than most individuals and companies in the course of their business.

33. Between 1999 and 2009 landlords issued 1,872,063 possession claims resulting in 1,238,660 possession orders<sup>3</sup>. During this period the number of claims has declined marginally, but landlords still issued an average of 170,188 possession claims per year, equating to approximately 466 per day in England and Wales. In 2008, the most recent complete figures available, 7.18 percent of all non-family civil proceedings initiated were landlord possession cases.<sup>4</sup>

34. As the figures demonstrate, access to the courts is essential to the effective operation of a lettings business. It is therefore crucial that sufficient capacity exists to ensure that both landlords and tenants are able to access the service in a timely manner leading to professional and positive experiences. Given the frequency of court usage by private housing provider's timely access to legal services and expedient procedures are important to the viability of any letting business.

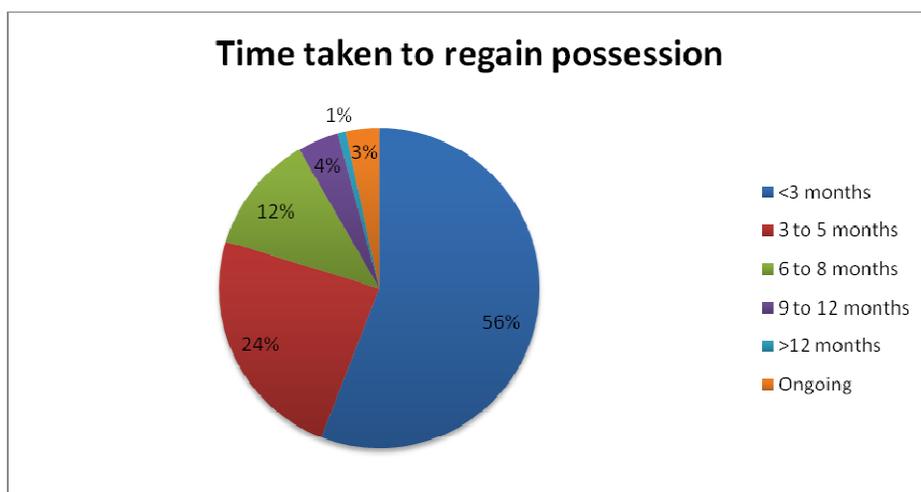


Figure 1 – 'NLA Quarterly Landlord Survey Q2 2010'

<sup>3</sup> 'Statistics on Mortgage and Landlord Possession Actions in County Courts', Q.1. 2010, Ministry of Justice, 2010.

<sup>4</sup> 'Judicial and Courts Statistics 2008', Ministry of Justice, Sept. 2009

35. As figure one illustrates the majority of landlords report that their most recent experience of obtaining vacant possession of rental property took less than three months. This figure demonstrates a significant improvement since 2005, when only 17 percent of landlords reported that possession proceedings lasted on average less than three months to complete.
36. However, it should be noted that more than one third of landlords partaking in the NLA quarterly research programme recount experience of such proceedings lasting between three and eight months.
37. During this time landlords are very unlikely to receive rental income in respect of their assets and will be liable for the expense of recovering possession.

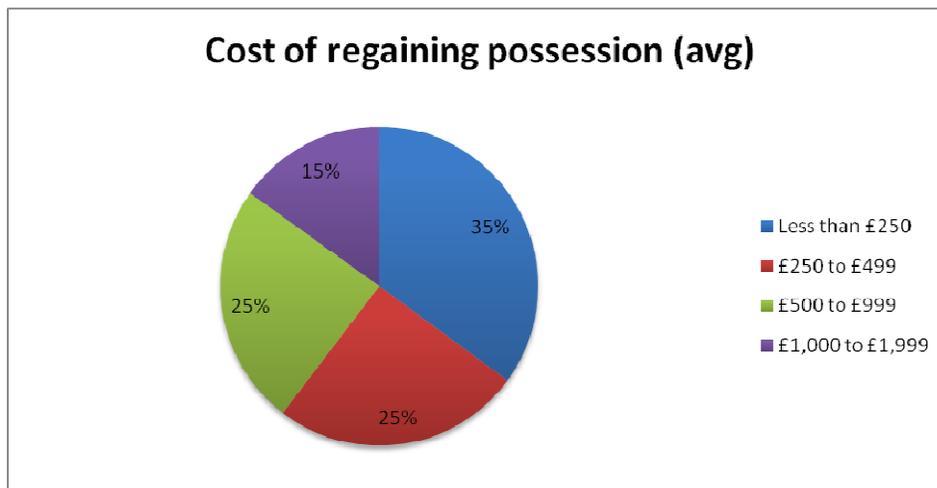


Figure 2 – 'NLA Quarterly Landlord Survey Q2 2010'

38. As illustrated by figure two, 40 percent of landlords report that it costs on average more that £500, while 15 percent estimate their costs in excess of £1,000. The increase in marginal cost of possession proceedings is logically in direct correlation to the time taken to obtain vacancy.
39. The NLA therefore does not believe that increasing security of tenure is a barrier to accessing the private rented sector. However, we do believe that consideration should be given to other measures which could raise efficiency within the court system. For instance, housing cases represent a disproportionate percentage of cases heard by county courts. However, court officials regularly demonstrate a lack of experience and understanding in relation to the specific matters of law involved. This has a negative impact on the user experience of landlords and tenants and impedes effective working.
40. While little can be done in Wales at present to affect change in this area, should there be a positive outcome to the forthcoming referendum, consideration should be given to the impact that specialist housing specific services could have on user experience, efficiency and cost in the Welsh court service. Such measures could considerably speed up proceedings, reduce errors and expedite cases benefiting all service users. In particular the NLA advocates the need to establish a two tiered process for landlord possession cases. An approach similar to the 'money claim online' system employed for smaller financial claims could be introduced to allow uncontested accelerated possession applications to be assessed as a desktop exercise without necessarily requiring a formal court hearing.

**Q5 – Can you identify any “quick wins” (that wouldn’t require new legislation) which could have an immediate impact on improving the PRS?**

41. The NLA supports long-term strategic planning which seeks to ensure that the PRS can contribute effectively to the provision of sustainable homes in Wales. Consequently, the Association would prefer to see local and national government efforts focussed on long-term measures based on a sound empirical foundation. However, in response to this call for evidence the NLA would like to suggest three short to medium-term initiatives which should result in “quick wins” and significantly assist the development of the private rented sector in Wales:

**Better communication between local authority departments**

42. A key concern for landlords across the UK is a lack of joined up working in local authorities. It is not uncommon for landlords who wish to engage with their local authority to not know which department to approach when in need of support. Every local authority works slightly differently and landlords are often unsure where responsibility for the private rented sector lies. The NLA believes that a single point of contact in local authorities is essential for creating both a coordinated approach to the private rented sector and a proactive relationship with local private residential landlords.

43. Many local authorities across Wales, but not all, have ‘Tenancy Support Officers’ who provide that single point of contact. They can be instrumental in resolving issues between landlords and tenants before they reach crisis point and a breakdown of the landlord-tenant relationship occurs. This in turn decreases the number of failed tenancies, thus reducing the number of people on housing waiting lists and assists in the private rented sector becoming a source of long-term housing solutions, rather than short-term stop-gaps.

44. The NLA is concerned that with the inevitable budget cuts within local authorities these examples of best practice are likely to be withdrawn. We would urge the Welsh Assembly Government, in the strongest possible terms, to maintain this service where it exists and require the appointment of a ‘single point of contact’ for landlords in all local authorities. Although this will represent additional expenditure in the short-term, the long-term impacts will pay dividends.

**Faster processing of benefit applications and LHA in advance rather than arrears**

45. Landlords are understandably cautious about accepting tenants who are LHA or Housing Benefit recipients before applications have been processed as the prospective tenant would have limited or no ability to pay the rent without the benefits. This is then compounded by two factors which could be relatively easily solved:

- ◆ The length of time it takes for local authorities to process LHA or Housing Benefit payments. Many LHA and Housing Benefit tenants move into a property before applications are processed. This often results in tenancies beginning with the tenant unable to pay the rent. If local authorities decreased the time taken to process LHA and Housing Benefit applications, or had a system of pre-approval for claims, then tenancies would not be forced to begin badly with the tenant moving in and a landlord unsure when or if they will get the rent.
- ◆ LHA and Housing Benefit are paid in arrears rather than in advance. The rental payment process on the open market is predominantly conducted in advance rather than arrears. With the caps and cuts in LHA due to come into force next April, a quick win to encourage landlords to continue letting to LHA and Housing Benefit recipients would be to align the LHA system with

the business practices of the open market. Therefore, ensuring payment of LHA in advance rather than arrears.

### **More advertising of services available from local authorities**

46. All local authorities in Wales have mandatory HMO licensing regimes and many have created discretionary licensing regimes. The NLA specify in all our discretionary licensing consultation responses that licensing should not be used as a check-box, census exercise to identify landlords operating in a local authority area.

47. Should an area become subject to a discretionary licensing regime, the local authority must use the information gained to engage with landlords. A key tenet of local authority engagement should be to encourage landlords to participate in other appropriate measures enacted by the local authority and its partners to improve the quality of the local private rented sector.

48. However, having collected the information and issued the licenses, we have seen little evidence of local authorities contacting their landlord databases to provide information that may assist them in running their businesses. Local authorities should be using their landlord databases to notify local landlords of:

- ◆ New loan and grant schemes (for restoring or renovating property, or for improving the energy efficiency of their properties);
- ◆ Landlord forums and/or consultations and working groups relevant to the private rented sector;
- ◆ Legislative changes that will affect the running of their businesses;
- ◆ Local private-sector leasing initiatives which landlords may wish to engage with.

49. The NLA believes that better information sharing and advertising by local authorities will significantly increased engagement with the private rented sector and lead to more proactive relationships with local landlords.

## **Q6 – What can Wales, and the Welsh Government, do to prepare for the changes to Housing Benefits announced by the UK Government?**

### **The impact of the cuts to Local Housing Allowance in Wales**

50. On the 30 November 2010 the Government published the first in a series of legislative measures<sup>5</sup> intended to implement planned changes to Local Housing Allowance (LHA) and Housing Benefit previously announced in the June Budget and October Spending Review. At the end of July this year the Department for Work and Pensions released an impact assessment<sup>6</sup> of the changes due to come into effect in 2011/12 which models the effect on tenants' awards from the introduction of:

- ◆ Removal of the £15 excess from April 2011;
- ◆ The removal of the 5-bedroom entitlement and the capping of overall LHA rates per property size from April 2011;
- ◆ Setting LHA rates as the 30<sup>th</sup> percentile of PRS rents from October 2011.

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<sup>5</sup> The Rent Officers (Housing Benefit Functions) Amendment Order 2010, <http://www.legislation.gov.uk/ukxi/2010/2836/contents/made>, The Housing Benefit (Amendment) Regulations 2010, <http://www.legislation.gov.uk/ukxi/2010/2835/contents/made>

<sup>6</sup> DWP July Impact Assessment, <http://www.dwp.gov.uk/docs/impacts-of-hb-proposals.pdf>

51. This assessment estimates that as a package the average loss, across all LHA claimants, will be £9 per week. Yet there has not been any assessment of the overall impact of the package of policies, making the true impact on tenants and landlords in the Welsh private rented sector difficult to predict. For example, the published July assessment ignores the impact of forthcoming changes: the linking of LHA rates to the Consumer Price Index, the additional 10 per cent reduction for Job Seekers Allowance claimants after one year and the inclusion of single under-31 year-olds to the shared room rate requirement.
52. It also masks the disproportionate affect of the reduction of LHA rates to the 30<sup>th</sup> percentile, rather than the median, of local market rents on particular parts of the community. This means that the cuts families who require bigger properties face is spread across the whole range of LHA claimants.

### **New timetable for 2011/2012 changes**

53. The regulations, as published by Government, also reflect changes Ministers have had to make to the implementation of these changes in the face of widespread concern from across the housing sector. These changes include:
- ◆ **For existing claimants:** Both the LHA 'cap' and the 30<sup>th</sup> percentile rate will apply from the anniversary of the claim following the 1 April 2011 commencement of the regulations. Local authorities will be able to provide up to nine months additional transitional support for claimants at their original LHA rate.
  - ◆ **For new claimants:** The application of the 30<sup>th</sup> percentile rate has been brought forward to coincide with the LHA 'cap' which will apply from the 1 April 2011.
54. The increased transitional arrangements for existing LHA claimants is a welcome acknowledgement of the time necessary for landlords and tenants to ensure their financial situation is not left in crisis following these changes. However, the effect of bringing forward the move to 30<sup>th</sup> percentile rates for new claimants after 1 April 2011 is a retrograde step that jeopardises the ability of new LHA claimants being able to access housing in the private rented sector. Given the fragility of the job market and weak state of the economy, we believe that the growth in new LHA claims will continue to bring fresh housing problems.
55. The Assembly Welsh Government and local authorities in Wales will need to consider what immediate preparation is necessary to mitigate the impact of these cuts. The Welsh Assembly Government is also in a strong position to consider what co-ordinated monitoring and preparation in the medium to long-term will be required to secure housing provision against further planned cuts to LHA.

### **Immediate preparation**

56. The NLA believes that there are three areas where the Welsh Assembly Government and Welsh local authorities should focus their immediate efforts:
- ◆ Securing sufficient Discretionary Housing Payment funding for Welsh LHA tenants' needs;
  - ◆ Pro-active information, education and support for new and existing tenants and landlords;
  - ◆ Developing more Private Sector Leasing Schemes to secure family housing supply.

### **Discretionary Housing Payments**

57. The Social Security Advisory Committee noted that the Government's increase in Discretionary Housing Payments (DHP) "represents around 4% of the total cash losses that will result from these

measures [the Government's changes to LHA and Housing Benefit]."<sup>7</sup> The Government has said that it is already engaging with local authority associations to identify how this new money should be distributed.

58. The Welsh Assembly Government should ensure that local authorities in Wales secure a sufficient proportion of DHP funding to help alleviate the considerable shortfalls facing LHA recipients. Whilst the Government's regulations defer the immediate need for support for existing claimants, Welsh local authorities should ensure that they have access to sufficient DHP funding to support claimants as their transition period ends. The primary reason for this is that the transition period and anniversary dates of a tenant's claim do not necessarily coincide with their tenancy dates.

	Not losing	Losses of £0-£5	Losses of £5-£10	Losses of £10-£15	Losses of £15-£20	Losses of £20-£30	Losses of £30-£40	Losses of over £40
Percentage (%) of LHA recipients in Wales	0	20	39	39	1	0	0	0
No. of recipients	0	9,742	18,997	18,997	487	0	0	0
Range of annual loses		£0-£260	£260-£520	£520 - £780	£780 - £1,040	£1,040 - £1,560	£1,560 - £2,080	£2,080+

**Table 1 – Annual shortfall of Welsh LHA recipients (based on DWP impact assessment)**

59. Table one suggests the changes coming into effect in April 2011 will see just under 20,000 Welsh recipients face annual shortfalls of £520-£780, with a further 487 facing an annual shortfall of £780-£1,040.

60. As previously highlighted, there is little evidence that the growing need for housing support has reached its peak. Between March and July 2010 there was a 13.8 percent increase in the number of LHA claimants in Wales (6,720 more claimants).<sup>8</sup> If the growth of new LHA claimants continues at this pace then local authorities will need to consider how DHP money can be used to support these new claimants to access suitable accommodation. There is widespread concern that, without additional support, the sudden change in LHA rates may mean new claimants will risk renting in the unprofessional, lowest end of the housing market.

61. As Table two (overleaf) indicates, from current levels of weekly shortfall by property size, it is clear that particular areas will need to focus support on families. The shortfall for larger properties will easily place families in danger of generating reoccurring rent arrears which, in the long-term, will make tenancies unsustainable. In addition these figures offer a good prediction of the level of support that new LHA claimants will need from local authorities' DHP funding.

<sup>7</sup> Report by the Social Security Advisory Committee, November 2010, p4

<sup>8</sup> March 2010 = 48,710 claimants in Wales, July 2010 = 55,430 (both DWP estimates from the Single Housing Benefit Extract)

Impact of LHA rates at the 30 <sup>th</sup> percentile and estimated average loss (£/pw)	Shared Room	1-bed	2-bed	3-bed	4-bed	5-bed
Blaenau Gwent		540 (neg)	500 (-4)	120 (-6)	20 (-7)	
Bridgend		1,000 (-9)	1,000 (-6)	290 (-13)	40 (-5)	
Caerphilly		710 (-3)	890 (-11)	320 (-9)	30 (-7)	
Cardiff		1,830 (-9)	1,820 (-6)	570 (-11)	80 (-17)	10 (-16)
Carmarthenshire		1,240 (-5)	910 (-7)	360 (-8)	90 (-14)	
Ceredigion	230 (-2)	430 (-11)	320 (-12)	110 (-10)	20 (-15)	
Conwy	300 (-2)	1,680 (-5)	900 (-9)	280 (-11)	50 (-8)	10 (-18)
Denbighshire	280 (-2)	960 (-5)	710 (-9)	230 (-11)	30 (-9)	20 (-13)
Flintshire	230 (-9)	460 (-11)	650 (-8)	210 (-6)	20 (-13)	
Gwynedd	180 (-9)	540 (-5)	380 (-11)	120 (-13)	30 (-23)	
Isle of Anglesey		420 (-5)	310 (-14)	120 (-15)	20 (-14)	
Merthyr Tydfil		360 (-8)	360 (-2)	120 (-5)	20(-14)	
Monmouthshire		280 (-6)	250 (-7)	100 (-6)	10 (-7)	
Neath Port Talbot	330 (-1)	920 (-6)	920 (-7)	280 (-6)	70 (-15)	10 (-8)
Newport	460 (-5)	670 (-9)	810 (-6)	230 (-11)	30 (-12)	10 (-24)
Pembrokeshire		1,240 (-7)	670 (-11)	240 (-11)	30 (-13)	
Powys		660 (-9)	380 (-8)	140 (-11)	20 (-11)	
Rhondda Cynon Taf	430 (-1)	1,340 (-3)	1,790 (-11)	530 (-8)	60 (-16)	10 (-9)
Swansea		1,250 (-7)	1,070 (-6)	380 (-12)	30 (-11)	
Torfaen		330 (-6)	420 (-11)	110 (-4)	20 (-14)	
Vale of Glamorgan	240 (-6)	740 (-10)	840 (-11)	270 (-11)	20 (-17)	
Wrexham		580 (-11)	500 (-9)	140 (-11)	10 (-7)	
<b>Total /(ave loss £/pw)</b>	<b>2,680 (-4)</b>	<b>18,180 (-7)</b>	<b>16,400 (-8.5)</b>	<b>5,270 (-9.5)</b>	<b>750 (-12)</b>	<b>70 (-15)</b>

Table 2 – Average LHA shortfalls by property size and local authority (taken from the DWP's impact assessment)

### Information, Education and Support

62. Local authorities also face the critical task of ensuring that new claimants and existing claimants, as well as the landlords who provide housing to this part of the market, are proactively informed about these changes. Without comprehensive communication and access to information about the time and extent of the changes there is a significant danger that tenants and landlords will make future housing plans based on media reports and hearsay.

63. Early engagement with landlords is particularly important. Many landlords will not necessarily have access to information about exactly how the cuts will affect their lettings but will be aware of severe cuts occurring nationally. Without clear information about what local authority help is available for tenants, landlords could be lead to believe that their current LHA tenancy will no longer be financially sustainable or make a premature decision to leave the LHA market all together.

64. Local authorities should create direct lines of communication with landlords, so that concerned landlords can discuss the impact of the changes with the relevant local authority. As mentioned earlier in the response, the NLA undertakes a rolling programme of landlord forums and would encourage local authorities to use these to engage with landlords if they are not already doing so.

### Private Sector Leasing Schemes

65. The pressure on family housing should encourage Welsh local authorities to make greater use of long-term Private Sector Leasing Schemes. DWP Ministers have fixed the rates at which Private Sector Leasing Schemes are set for two years from January 2011 so they represent a useful short term measure which could be used to try and secure some supply of family housing for LHA claimants.

66. Not all examples of leasing schemes are successful. Where they work, Landlords view these arrangements as beneficial because most guarantee regular payment and eliminate void periods. They also provide a simple access point for a range of other local private rented sector services. We will discuss in greater detail these schemes later in the response but believe Welsh local authorities should look to work with other councils running successful schemes and use them to secure a supply of larger family properties which face significant shortfalls from LHA cuts.

### **Medium to Long-Term Preparation**

67. In addition to the above areas which require immediate attention, the Welsh Assembly Government should recognise that these changes are only the first in a series of changes that will occur throughout the current Parliament. The Welsh Assembly Government should work to co-ordinate action by local authorities in order to:

- ◆ Ensure that Welsh local authorities consistently applies LHA powers given to local government in both identifying vulnerability criteria and direct payment to landlord;
- ◆ Monitor the impact of changes to LHA to provide an early warning system to inform support decisions;
- ◆ Build in ability for local authorities to support accredited landlords in providing LHA housing through. Local LHA rate up-rating, coordinated landlord/tenant services, etc.

### **Consistency amongst local authorities**

68. Although local authorities will face differing support needs amongst LHA claimants, it is important that both tenants and landlords see consistency in decision making. Landlords frequently operate portfolios across numerous local authority areas and regularly see large differences in the way local authorities approach LHA.

69. The Government has provided local authorities with increased discretion on how they apply direct payment to landlords. With the danger of increasing rent arrears due to these LHA cuts, local authorities should be more pro-active in using their powers to secure tenancies. This could be done through a pan-Wales agreement on how local authorities approach action to combat rent arrears, vulnerability and tenancies in danger of failing.

### **Monitoring**

70. Much of the Government's case for cuts to LHA has been made with limited official information about the private rented sector. As more changes to LHA entitlements are implemented, it is important that local authorities and national Government's monitor their effect in order to pro-actively identify at-risk groups.

71. Local authorities should also collect data from both tenants and landlords to identify long-term trends of housing support needs and housing provision for this group. The complex interaction between different LHA cuts and overall changes to the private rented sector make this type of monitoring and data collection relevant for local authorities struggling to plan for and accommodate housing needed.

72. Local authorities should also seek to understand the relative increases and decreases in LHA caseloads and why they occur. As Table three (overleaf) demonstrates, current caseloads show particular concentrations of LHA claimants in Cardiff, Rhondda Cynon Taf, Conwy and Carmarthenshire. However, the changes to LHA rates could see migration to cheaper local housing markets which will have knock-on impacts for local housing affordability.

<b>Local Authority</b>	<b>LHA caseload</b>
Blaenau Gwent	1,390
Bridgend	2,880
Caerphilly	2,600
Cardiff	6,750
Carmarthenshire	3,090
Ceredigion	1,400
Conwy	3,770
Denbighshire	2,660
Flintshire	1,970
Gwynedd	1,490
Isle of Anglesey	1,110
Merthyr Tydfil	1,390
Monmouthshire	870
Neath Port Talbot	2,950
Newport	2,540
Pembrokeshire	2,630
Powys	1,460
Rhondda Cynon Taf	4,840
Swansea	3,970
Torfaen	1,120
Vale of Glamorgan	2,600
Wrexham	1,950
<b>Total</b>	<b>55,430</b>

**Table 3 – LHA caseload by Local Authority (July 2010 DWP figures)**

73. For example, increases in the demand for shared accommodation likely as the age condition for shared room rates increases to under-31s will put pressure of local authorities to support the provision of this type of housing. However, additional support will be necessary to ensure that increased supply of shared housing does not result in the reduction of provision for larger families who need bigger properties.

#### **Valuing LHA Housing Provision**

74. At the moment LHA does not recognise the greater cost of providing professionally managed and decent accommodation. As previously mentioned, there is a danger that the programme of changes will encourage a rush to the cheapest bottom of the market, potentially putting vulnerable tenants at risk of exploitation by a minority of rogue landlords.

75. The Welsh Assembly Government should explore the provision of some measure of financial up-rating in LHA rates for accredited landlords. This would encourage both landlords and tenants in Wales to seek out good quality, affordable accommodation.

76. Given the wider social costs of poor housing, this would go some of the way to ensuring value for money for the housing benefit they pay. By creating an inbuilt incentive for tenants to pick accredited landlords, providing decent and professionally managed properties, Welsh local authorities could encourage a more pro-active consumer mentality amongst tenants which would foster greater tenant responsibility. Such a scheme would also create an incentive for landlords to engage with the already successful Landlord Accreditation Wales. Crucially this would create a business case for engagement.

77. The NLA would be happy to work with the Welsh Assembly Government to explore how such a scheme could work in practice.

## **Q7 – How can more empty homes be brought back into occupation as rented accommodation?**

78. Landlords do not leave properties empty. Void periods represent waste in terms of failure to meet housing needs and generate financial cost to a landlord through rent losses, mortgage payments and Council Tax obligations. Landlords need the rental income from their properties in order to run their businesses and given the current state of the housing market, no landlord making money purely from capital appreciation.
79. The issue of empty homes is particularly important today when the lack of affordable housing has resulted in an increasing number of homeless families being housed in temporary accommodation. In the private rented sector, empty homes may be due to the effects of low demand, but empty properties also exist in areas of high market demand and where there is an acute shortage of affordable housing. It is regularly claimed that the private rented sector has a pivotal role to play in resolving this issue with many feeling that landlords purchase properties to let and when no tenant is available leave them to fall into decay and disrepair. This is not the case. Evidence from the Empty Homes Agency suggests that just one empty property can cost a landlord £6,000 a year.
80. The NLA supports proposals that focus on promoting and assisting with the renovation and restoration of empty properties in the private sector. The NLA welcomes this type of public-private sector partnership as it assists landlords, tenants and people on housing waiting lists. Such strategies will also support the regeneration of derelict and decaying areas.
81. The NLA believes that each empty property is unique and requires an individual solution. A one size fits all solution will not work for such a complex issue. We therefore welcome proactive approaches in local authority strategies and support a range of options being made available to land owners which focus on advice and assistance with local authorities considering the use of statutory enforcements powers only as a last resort.
82. Whilst the NLA welcomes the encouragement of individuals to become landlords and let their homes, we are cautious that when local authorities do encourage people to let property they must ensure that sufficient advice and support is made available and accessible. The following are a few factors that should be considered when considering empty home strategies.

### **Landlord Associations**

83. Many local authorities have incorporated into their Empty Homes Strategy a desire to work with professional landlord organisations in order to provide high standards in the private rented sector. The NLA wholeheartedly agrees with such initiatives and would welcome involvement with any local authority and the Welsh Assembly Government on this topic.

### **Empty Home Loans and Grants**

84. Many local authorities offer grants for those with insufficient funds to refurbish their empty home. These grants are usually only available to those land owners who agree to provide property for affordable housing through a management or leasing scheme for a period of years (usually five). Whilst we do not object to this practice, we would suggest that some forms of loan or grant scheme should also be put in place for people who want to rent out their property themselves but cannot access immediate funding for repairs.
85. The NLA has been involved in the construction of a number of local authority loan and grant scheme proposals and would welcome involvement with any local authority which is considering introducing such schemes and the Welsh Assembly Government on construction of national guidelines.

### **Private Sector Leasing Schemes and Social Letting Agencies**

86. We fully support the appropriate use of Private Sector Leasing Schemes as an innovative way for local authorities to provide assistance to landlords wanting to restore properties to use.
87. The establishment of ‘Social Letting Agencies’ has also proved successful in providing cost effective support to small landlords. One particular example of best practice which the NLA has encountered is a Social Letting Agency called EXtraLet which is run by Exeter City Council<sup>9</sup>. There are lessons which could be learned from greater examination of this form of joint working as a method of combating the problem of empty homes.
88. However, caution should be exhibited in light of the degree to which these schemes compete with management agencies operating in the open market. While the NLA supports the provision of high quality services by local authorities, these services should not seek to aggressively compete with legitimate local businesses.
89. The NLA is also concerned that most local authorities only allow land owners to access empty home loans and grants if they join their Private Sector Leasing Scheme or Social Letting Agency. The NLA believes that landlords should be able to access any loans or grants without having to join a scheme, and that such a policy would benefit the wider market beyond those landlords previously engaged with the local authority.
90. It is also important, when creating a private sector leasing scheme in conjunction with empty home loans and grants, that local authorities consider the following:
- ◆ Whether landlords will be provided finance to restore their properties or whether landlords will be required to join the schemes in order for the local authorities undertake the work on behalf of the owner.
  - ◆ Whether any grants would involve land charges and penalties if the landlord leaves the schemes or sells the property.

### **Rent Levels**

91. When considering conditions imposed on private sector grant or leasing schemes, the NLA would like to highlight that it is not practical for any private landlord to let their properties at a level equivalent to average Registered Social Landlords (RSL) rents as this would constitute providing their services ‘below cost. Such conditions would likely cause a landlords business to run at a substantial loss and lead to ultimate business failure. RSLs can afford to let their properties at low rent levels because they are subsidised by both central and local government and can generally utilise greater economies of scale than small landlords. Private landlords would not receive such financial subsidy and so, whilst any loan or grant could potentially provide funding to bring a property back into use, once it is back in use the landlord would not be able to afford the upkeep on the property at such low rents. This has the potential for the property to once again fall into disrepair and the empty home cycle to begin again.
92. Unless any loan or grant also includes an annual maintenance grant (which is not practical) affordable rent levels are not a sustainable solution to the problem of empty homes. Rent levels of Private Sector Leasing Schemes or Social Letting Agencies tenancies must be at the Local Housing Allowance level rather than the RSL rent level.

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<sup>9</sup> For more information on EXtraLet, please contact Sue Haigh, Empty Homes Partnership Manager at Exeter City Council on [Sue.haigh@exeter.gov.uk](mailto:Sue.haigh@exeter.gov.uk) or 01392 277888.

### **Nomination Rights**

93. The NLA would discourage the use of terms such as "nomination rights". Insurers require the landlord to have control over tenant choice (leasing schemes often have to insure the property for this reason). We would suggest that any references to "nomination rights" in Empty Homes Strategies are re-phrased. We are also aware of cases where grant assistance has been given with exclusive nomination rights reserved. Unfortunately, the local authority was not able to find a tenant in several weeks but refused the landlord permission to let it himself, leaving the property empty and the landlord operating at a loss. We would therefore suggest the adoption of a time limit on these rights or that the nomination rights should not be exclusive so as to prevent such a situation occurring.

### **Advertising**

94. As mentioned earlier in this response, without advertising to the local community, landlords and property owners will not know what is available to them in terms of assistance to bring empty homes back into use and thus the onus will fall on the local authority empty homes teams to find empty properties. The NLA would therefore urge all local authorities and the Welsh Assembly Government to be aware of their advertising requirements, in order to ensure strategies are adequately communicated to local property owners.