

## **Communities & Local Government Select Committee**

### **Private Rented Sector: Combatting rogue landlords inquiry**

1. The Zacchaeus 2000 Trust (Z2K) is a London anti-poverty charity providing an in-depth advice service and long-term support for Londoners struggling on low incomes. In 2011, we established our *NextDoor* project to help those threatened with homelessness as a result of the Government's caps on Local Housing Allowance (LHA) and its subsequent £500 a week Benefit Cap. As well as a specialist casework and advice service to those suffering eviction and homelessness as a result of the reduction in their Housing Benefit, *NextDoor* created a Private Rented Sector Access Scheme (PRAS), which aims to help people access sustainable tenancies with reputable landlords. Over the past four years, this service has brokered private tenancies for nearly 300 homeless people.
2. Given the growing use of the PRS to prevent homelessness and accommodate those on low incomes, and the huge sums of public money going to private landlords through Housing Benefit, Z2K believes that a much more determined effort needs to be made to raise physical and management standards in the sector. The most important change that could be made is to enhance the rights of tenants within the basic Assured Shorthold Tenancy, by lengthening its duration for those who want to stay. More homes should also be brought within the scope of local licensing schemes, a national registration scheme introduced and legislation brought in giving tenants themselves more powers to challenge landlords of homes which are not fit for human habitation.
3. Z2K therefore welcomes the Communities & Local Government Select Committee's inquiry into the private rented sector (PRS). As part of the Pro-Housing Alliance, we submitted evidence to the committee's previous inquiry in 2013. We welcomed many of its recommendations, especially on HMOs and retaliatory eviction. This follow-up inquiry provides an opportunity to challenge DCLG about the slow progress in implementing some of those recommendations it accepted, as well as provide additional evidence to support those it rejected or which have been proposed by others since then.

#### **Do local authorities have the powers and capacity to enforce standards in the private rented sector and deal with rogue landlords?**

4. No. The deregulation of the PRS in the 1990s has been a disaster for most low-income tenants dependent upon it. The Housing Act 2004 took an important first step to strengthening the regulation of the PRS, particularly through the introduction of mandatory licensing for some Houses in Multiple Occupation (HMOs) and powers to introduce a selective licensing scheme in areas of low demand or experiencing anti-social behaviour. The requirement for a Tenancy Deposit Protection Scheme (TDPS) was also very positive. However, the benefits of the Housing Health & Safety Rating System (HHSRS) also introduced by the 2004 Act were always less obvious and it does not appear to have contributed much to improving conditions.

5. The second step to strengthening the powers of local authorities to deal with bad landlords should have been the national landlord and managing/letting agent registration schemes proposed by the independent “Rugg Review” in 2008. Under this light-touch approach, landlords would have been required to register and receive a licence number which would be a pre-requisite for any kind of landlord activity. The then Government responded positively to these proposals in May 2009, publishing a consultation paper proposing a national register of private landlords and greater encouragement for landlord accreditation schemes.
6. Frustratingly, these proposals were dropped by the Coalition Government when it came to power in 2010, and for the next four years ministers insisted further regulation was unnecessary. However, against a backdrop of growing concern amongst private tenants about both the affordability of the PRS and standards, the Coalition Government relented and published a discussion paper, *A review of conditions in the private rented sector*.<sup>1</sup> The weakness of the proposals in it is best illustrated by the statement in the introduction that “*We believe that non-regulatory alternatives, e.g. incentives or peer pressure, can be as effective as regulation*”.
7. To be fair, the paper did at least confirm the Coalition Government’s desire to reduce the threat of “retaliatory eviction” faced by tenants who made complaints about the condition of their home. The weakness of the Assured Shorthold Tenancy, allowing tenants to be quickly evicted after their initial six or 12 month period under the section 21 procedure, discouraged many from pursuing complaints when landlords/agents refuse to respond to requests to carry out repairs, and so the introduction of a restriction on the use of the section 21 procedure was very welcome. Even here, however, the restriction eventually brought in by the Retaliatory Eviction & Deregulation Act 2015 requires the disrepair to have been verified by the local authority and an improvement notice issued.<sup>2</sup> It also only applies to tenancies commenced after 1<sup>st</sup> October 2015, leaving many unprotected, and the Act made it more straight-forward for landlords to evict tenants where they are allowed to do so.
8. Given our own experience trying to help tenants at the bottom end of the PRS, Z2K also strongly supports the measures contained in Karen Buck’s Homes (Fitness for Human Habitation & Liability for Housing Standards) Bill. The CLG select committee was instrumental in encouraging ministers to support Bob Blackman’s Homelessness Reduction Bill, and so we hope it will offer similar support to this PMB, and encourage ministers to facilitate its passage through the House of Commons.
9. While Z2K believes that local authorities need more powers to address poor standards in the PRS, we also believe that many do not utilise the powers that have already. For example, our clients frequently complain that Westminster City Council do little or nothing to help them challenge private landlords who fail to carry out repairs.

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<sup>1</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/283979/Review\\_of\\_Property\\_Conditions\\_in\\_the\\_Private\\_Rented\\_Sector\\_2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/283979/Review_of_Property_Conditions_in_the_Private_Rented_Sector_2.pdf)

<sup>2</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/465275/Retaliatory\\_Eviction\\_Guidance\\_Note.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/465275/Retaliatory_Eviction_Guidance_Note.pdf)

## **What are the main obstacles to effective intervention in the private rented sector?**

10. The main obstacles to effective intervention are an ideological opposition to regulation of the PRS that has permeated governments of all parties for nearly thirty years. This is informed by the propaganda of some of the landlords' representative bodies. Z2K has no doubt there are many decent landlords who do care for their tenants, and we also believe there are some who do even forego the above-inflation rent increases which are now the rule across the sector. However, we do not accept the Government's view that there are only a small minority of "rogue" landlords or that the majority of people enjoy a positive experience as private tenants. Most of the private tenants we work with would welcome having greater rights and smaller rent increases.
11. We recall that both HMO licensing and especially the Tenancy Deposit Protection scheme were bitterly opposed by landlords representatives during the passage of the Housing Act 2004. Despite those siren voices, neither has led to an exodus or private landlords from renting. In fact, contrary to those predictions of the demise of the sector, it has doubled in size since those regulations came into effect. Similar opposition has been in evidence more recently against even modest policy reforms such as the restrictions on retaliatory eviction and the proposed extension of mandatory licensing of HMOs. It prevents any meaningful discussion of enhancements to security of tenure in the sector or caps on rent increases.

## **How effective are landlord licensing schemes in promoting higher quality accommodation?**

12. Z2K believes the introduction of mandatory licensing for HMOs of three or more storeys and five or more occupants has been very effective in raising standards in what has historically been the worst part of the PRS. While there are undoubtedly still unscrupulous landlords and agents operating in this part of the sector, the requirement for landlords/agents to hold a licence and the parallel requirement for the licence-holder to be a "fit and proper" person, has proved to be a significant step in driving up physical and management standards. Local authorities now need to spend less time trying to identify HMOs and can focus more on inspections. Our only concern about HMO licensing is that the mandatory threshold is placed so high, only a minority of HMOs are covered. That is why Z2K has always supported the threshold being lowered.
13. We were therefore pleased to note the Government's proposal in November 2015 to extend the mandatory licensing of HMOs to cover all properties of two or more storeys with five or more occupants.<sup>3</sup> The same concerns outlined in that discussion paper also apply to those HMOs with three or four occupants, but we would accept this as a useful step forward in the protection of tenants most at risk. We are very frustrated therefore that, two years later, we are still waiting for these regulations to be introduced. While

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<sup>3</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/474408/151106\\_HMO\\_discussion\\_Doc\\_FINAL\\_for\\_publication.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/474408/151106_HMO_discussion_Doc_FINAL_for_publication.pdf)

we appreciate this has been a busy year in politics, we are disappointed DCLG has been dragging its feet on this issue, and hope the committee will challenge ministers to bring these regulations forward as a matter of urgency.

14. Z2K recalls that, in 2013, the committee looked closely at Newham's decision to utilise the powers of selective licensing to address problems across the PRS in that part of East London. Following Newham's lead, ten other of London boroughs have introduced licensing schemes for the PRS in all or part of their areas - Barking & Dagenham, Brent, Croydon, Ealing, Hammersmith & Fulham, Harrow, Newham, Redbridge, Southwark, Tower Hamlets & Waltham Forest. However, following DCLG's introduction of a threshold that any selective licensing scheme covering more than 20 per cent of the geographical area of a borough or 20 per cent of its PRS requires the authorisation of the Secretary of State, most of those introduced have focussed on only two or three wards, rather than being Borough-wide. For example, Tower Hamlets originally consulted on a scheme covering seven wards, but the scheme introduced only covered three.
15. While these discretionary schemes have been opposed by some landlords and their representative bodies, there is actually no evidence they have driven any landlords out of business or undermined the PRS in those places. We note with concern that one of the three local authorities that requested area-wide selective licensing since 2015 was rejected by ministers. We are also concerned about the length of time DCLG has been taking to reach a decision on Newham's application to re-new its borough-wide scheme when it expires at the end of the year, which was exposed in Stephen Timms' recent adjournment debate. Z2K hopes the committee will challenge ministers to justify their "20/20 threshold" and recommend the withdrawal of this barrier to effective protection of tenants if it is unconvinced by DCLG's arguments.

**What approaches have local authorities taken to promote affordable private rented sector accommodation in their areas?**

16. Z2K is tenure-blind in that we do not have a preference for home ownership over renting or *vice versa*. Our key concern is that people have the degree of security they need to make the place they live in a real home, and to enjoy the many advantages of being part of a sustainable community. We recognise that, while the PRS never provided a decent, secure and affordable home for all, for a century or so, institutional investment meant generations of Londoners did at least have a roof over their heads, and for some it was a genuinely settled home. For that reason and others, we understand the benefits of encouraging an expansion of institutional investment.
17. That said, Z2K is uneasy about the rapid growth of the "Build-to-Rent" sector in London over the past decade. We believe too many of the developments permitted so far have failed to include an appropriate proportion of genuinely affordable homes. Even where the local planning authority has the desire to ensure "Build-to-Rent" schemes include affordable housing too, the difficulties of scrutinising and challenging rental income values has made it hard to ensure targets are met.

18. The Mayor of London has clearly tried to address this in his recently-approved Supplementary Planning Guidance on Affordable Housing & Viability.<sup>4</sup> Even this document, however, accepts that *“where a developer is proposing a Build-to-Rent development .... The affordable housing offer can be entirely Discounted Market Rent (DMR)”*. The Mayor’s preferred DMR model is the London Living Rent, which is specifically designed for households on middle incomes who want to be able to build up savings to buy a home. The GLA’s website states that, *“across London as a whole the average monthly rent for a two-bedroom London Living Rent home is around £1,000 a month. That is two-thirds of the median market rent.”*
19. Z2K understands the logic of this approach for developers pursuing Build-to-Rent schemes – it makes it easier to achieve unified management. However, we believe the failure to include social housing for homeless and overcrowded families, and others on London’s local authority Waiting Lists is too great a price to pay. We will never make meaningful progress in tackling London’s now chronic housing crisis, unless we ensure all new developments play their part in meeting need. Z2K also concerned about the number of housing associations now pursuing this model themselves, with small flats at barely sub-market rents offering security of tenure only slightly greater than an AST. As such, if Build-to-Rent schemes are not to include genuinely affordable homes, then we believe the planning system and government policy should discourage them.

#### **How effective are complaint mechanisms for tenants in the private rented sector?**

20. Z2K believes that so long as the balance of power between private landlords and their tenants remains so tilted in favour of the former, it will be impossible to have a meaningful complaint mechanism. This can perhaps be best summed up by the words of one of our clients who was badly let-down by the Royal Borough of Kensington & Chelsea when it failed to follow-up an earlier Improvement Notice issued to a private landlord for 29 hazards in her basement flat, including fire, sanitation, damp, mould, excess cold, lack of heating. She says,

*“The complaints mechanism is non-existent in my experience. If you are brave enough to challenge or complain, you face bullying, intimidating tactics, character assassination and illegal eviction. I have not been supported with my landlords’/letting agents’ abhorrent behaviour from my local authority. If the truth be told, my local authority have empowered my rogue landlord / letting agents and left me to fend for myself.”*

21. While they are helpful as far as they go, the recently-introduced restrictions against retaliatory eviction only actually protect those who are able to persuade their local authority to issue an improvement notice. With most local authorities experiencing significant reductions in their spending power since 2010, Environmental Health Services and Private Rented Sector Teams have often been amongst those frontline service facing cuts. As a result, we believe local authorities lack the resources to deal effectively with most complaints about private landlords/agents.

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<sup>4</sup> [https://www.london.gov.uk/sites/default/files/ah\\_viability\\_spg\\_20170816.pdf](https://www.london.gov.uk/sites/default/files/ah_viability_spg_20170816.pdf)

22. Z2K believes that the lack of any meaningful security of tenure within Assured Shorthold Tenancies (ASTs) lies at the root of many of the problems within the PRS. It is too easy for landlords to gain possession with no cause at two months' notice or impose unaffordable rent increases. More vulnerable tenants, including low income families with children, struggle to compete in such a market and often end up losing out to young professionals and students. This makes it very difficult to make the dwelling a home. The only real way to resolve this problem is to restore the balance between tenants' rights and those of landlords.
23. The recent Homelessness (Suitability of Accommodation) regulations require local authorities to ensure that a minimum 12 month AST is in place before discharging their duty with the offer of a private rented home. This indicates that CLG is aware of the problems experienced by vulnerable families at the bottom end of the market and is willing to take steps to try to protect them. However, this insecurity affects a much wider number of families than those accepted as legally homeless and in priority need. Despite this, DCLG seems to continue to accept the landlord lobby's view that increased security of tenure is undesirable. Our direct experience dealing with private landlords leaves us in no doubt that a voluntary approach to increasing security of tenure will not deliver such a shift, unless it is accompanied by meaningful financial incentives for landlords to do so. There appears to be little sign of the latter from HM Treasury.

### **Conclusion**

24. Z2K believes vulnerable and low-income households will always lose out or even be at risk of exploitation so long as the PRS remains subject to minimal regulation. The Tenancy Deposit Protection Scheme has shown that positive change can be made without undermining the vitality of the sector. We hope the committee's inquiry will help accelerate the implementation of those further regulations ministers have already promised and help prompt some renewed thinking in DCLG about the need for broader mandatory licensing, a national registration scheme, and perhaps most importantly of all, a genuine enhancement in the rights of private tenants, especially increased security of tenure beyond the current 6/12 month Assured Shorthold Tenancy.

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