

William Tandoh
Private Rented Sector Team
Department for Communities and Local Government
1/C4 Eland House
Bressenden Place
London
SW1E 5DU

By e-mail: PRSreview@communities.gsi.gov.uk

6 August 2009

Dear Sir

Re: Accreditation Network UK (ANUK) response to The Government response to the Rugg Review Consultation

The Accreditation Network UK (ANUK) welcomes the opportunity to respond to the Government consultation on the proposals arising from the Rugg Review.

ANUK currently has 125 constituent members, largely from local authorities, Government bodies, universities and other public sector agencies. This response has been prepared following a roundtable meeting of ANUK members at CIEH as well as in consultation with the ANUK Executive Committee.

ANUK is a multi-agency partnership working together to raise standards in the private rented sector and was formed in May 2002 to publicise, promote and share good practice in accreditation. This was in response to the increasing popularity of accreditation across the UK.

The growth of accreditation came to the Governments attention in the late 1990s and so the Government, in 1999, commissioned the University of Birmingham to undertake research into the operation and benefits of accreditation.

The positive findings encouraged the Government to support and encourage accreditation and in 2001 the Government issued comprehensive guidance to local authorities on how to successfully develop and operate accreditation schemes.

Following the introduction of the Housing Act 2004, ANUK runs two national accreditation schemes for large student developments which cover in the region of 130,000 student bed spaces in a tightly managed operation.

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

ANUK believes that the current regulatory framework contains sufficient powers to bring about improvements to the private rented sector. There is a plethora of regulation already in place to ensure that properties meet minimum standards. It is vital that the impact of any further regulation on the existing framework should be well-considered before being introduced or else it will be ineffective and simply add yet another regulatory burden to both responsible landlords and local authorities.

The problem is the absence of a strategic use of the available powers, often caused or exacerbated by inadequate resources. As a result cases of poor property conditions are addressed as they arise and responsible landlords bear the brunt of enforcement while there is never sufficient time or resources to follow up the worst conditions.

It is important that any regulation of the sector must target the worst landlords. The problem, however, is how to identify the good from the bad and focus on the rogue operators. Accreditation has a key role to play in identifying and encouraging responsible landlords to meet higher standards voluntarily, allowing local authorities to target their resources on finding and regulating the poorest quality conditions in the sector.

It is the view of ANUK that the Housing Health and Safety Rating System (HHSRS), brought in under part 1 of the 2004 Housing Act, provides the most effective foundation tool for regulation of standards in the private rented sector. It provides flexibility to address hazards based on the potential risk that they present within an individual property. In particular it deals with two of the issues presenting the most serious hazards – thermal comfort and fire safety. Although the HHSRS deals primarily with property conditions, the sign of a multitude of hazards (or the response to requests to make necessary improvements) can indicate poor management practices which can be improved through other means.

Currently the resources available to many local authorities only allow them to use HHSRS in response to complaints or as required by law eg in licensing HMOs. More pro-active use of HHSRS by local authorities would serve to bring about improvements in the property conditions in the private rented sector.

At the same time the Government should exercise the power they sought under the Housing Act 2004 to approve a management code of practice.

A NATIONAL REGISTER OF PRIVATE LANDLORDS

Is this the right amount of information (name, address, address of property holdings?) If not, what should also be added or removed?

In order to be effective ANUK believes that the information required for the register should be as straightforward as possible and the proposals are a sufficient minimum. However, in addition to the information proposed in the consultation document ANUK believes the landlord should give a declaration that they will follow good management practices and a declaration of membership of any accreditation scheme and/or landlords association.

The register would also need to list whether a property was managed by an agent so that any complaints about management standards could be properly dealt with. CLG needs to consider how this would tie in with their proposals for separate regulation of letting and

managing agents so as to ensure that complaints were dealt with without duplicating the regulatory burden.

The register would need to have some means of identifying landlords who attempt to avoid removal from the register and continue to let property by setting up as a company and registering the company instead of the individual or those who continue to be involved in the management of property or run agencies by registering in the name of another family member.

Are there any other services (beyond a 'starter pack', standard forms and tenancy agreements, notification of legal requirements) which could be linked to the register?

Information about accreditation schemes available to a landlord may be helpful to landlords registering.

Would a public facing element of the register, enabling landlords to advertise their properties or further information such as their accreditation status or membership of a landlords' association, be a helpful service for landlords?

A landlord's declaration of their accredited status or membership of an association could be usefully included in the public register.

However, it is important that advertising of properties is helpful to the market and contains clear information and advice to this end. A register simply acting as an advertising tool would be unhelpful and may lead to consumers viewing the register as a guarantee of standards.

Unipol works in partnership with Educational Establishments in Leeds and Nottingham to deliver effective advice and information to student consumers, where as commercial websites such as Student Pad and Accommodation for Students are very poor at giving information and advice making the sector less clear.

What information should the public register contain in order to make it as attractive as possible to potential tenants whilst not overburdening landlords?

Information on accreditation and membership of landlords association, as above.

Do you agree that government should explore whether the EPC data should be made available in this way [via the register]?

Are there any other funding or grant based schemes that could be signposted in this way?

Registration could be used to inform landlords of their entitlement to the Landlords Energy Saving Allowance and the measures that it covers. It could also be used by local authorities to notify landlords locally of other funds that might be available for regeneration or repair of properties.

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)?

Should the register achieve what it is surely aiming to do, in capturing details of landlords operating in the market, and this is only possible if the register is central to a landlords operations, then the consequence of removal will be severe. The mechanism for removal would appear to bear some resemblance to that of licensing, namely a 'fit and

proper person test' although this has been used with extreme caution by Local Authorities due to the impact it has on a persons livelihood.

It would therefore appear likely that the register will only be free from the very worst landlords who are refused a licence as the entry threshold is set to be low.

Who should carry out these roles [investigating complaints against a landlord and penalising/removing from the register]? 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)?

The Residential Property Tribunal Service would appear well placed to deal with these cases.

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

The Lands Tribunal would appear a suitable body to deal with appeals.

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 affected by the poor management of a property should have the right to lodge a complaint against a registered landlord. Denying access to any system directly from tenants would encourage dependency and discourage tenant empowerment

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

If this means that tenants should have full access to the entire Register then this will be both difficult to achieve and unnecessary. It was this type of access that caused the Northern Ireland registration scheme to fail

Which other individuals or organisations should have access to the data?

It is important that tenants have access to the register to check that their landlord is registered. Other individuals who are affected by the management of a property (such as neighbours) may also need access. In all cases, however, this access should be limited to checking the details of an individual property address or name or registration number of a landlord. The Scottish licensing scheme is an example of how this can work, relying on an individual knowing either an address (in whole or in part) or the name of a landlord and being able to access only one record at a time.

The information should be accessible in such a way that it cannot be used for 'fishing trips' by anyone. Being able to use the register to look up the full list of properties that a landlord owns, for example, would at best create a marketing burden but at worst could present a risk to the landlord's safety and security.

SELECTIVE LICENSING

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

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?

ANUK does not believe that any further criteria should be introduced as a basis for selective licensing schemes. In any event, the proposals for a national register of landlords could, in due course, remove the need for selective licensing.

We believe that the procedure for approval of such schemes should be simplified, with a presumption that any application will be approved. We would like to see a 30 day timeframe for approval of selective licensing schemes, with schemes deemed approved if no objection is made within that timeframe (in a similar process to that which currently applies to approval of renewal areas).

WRITTEN TENANCY AGREEMENTS

We propose that all tenancies should take the form of written agreements. What would be the most helpful way for the legislation to set out a written tenancy agreement?

ANUK agrees that all tenancies should be written, with a prescribed amount of information to ensure that written agreements are of value. However, there are significant problems associated with setting out a written tenancy agreement in legislation. A single model agreement would have extreme difficulty covering the variety of properties available to rent across the country, the types of tenancy and the conditions attached to each letting. Scotland already provides a standard written tenancy agreement which has not been used by the sector. UNIPOL provides a single written tenancy agreement, however it is aimed at student lets and would not work for other parts of the private rented sector.

The proposals in the Law Commission document 'Renting Homes' to simplify housing tenure and create two types of tenancy for both social and private rented housing would have lent themselves to the creation of written tenancy agreements in legislation.

Using legislation to set out the principles of what a model tenancy agreement should contain is of limited use in improving the legal protection of tenant or landlord.

ASSURED SHORTHOLD TENANCY THRESHOLD

Is £100,000 the right level for the threshold?

Should there be regular reviews of the AST threshold?

How frequently should these be carried out?

ANUK agrees that £100,000 is a reasonable upper limit for a tenancy to be an Assured Shorthold Tenancy. It is our view that this threshold should be linked to the Retail Prices Index to enable periodic updates.

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.

Which of the functions above [setting entry requirements, code of practice for members (including a requirement that they do not let properties which do not comply with decent homes standards), requirements to have in place business and consumer protection measures (such as client money protection, independent complaints procedures and linked redress, professional indemnity

insurance), monitoring of compliance by the regulatory body, enforcement powers and the ability to put in place sanctions.] should be kept within the independent regulatory body?

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

The current voluntary framework governing the regulation of agents focuses heavily on good financial and business practice. Very little attention is given to the quality of the management of the properties and tenancies but this must be a priority for any regulatory regime for agents in order to improve standards across the private rented sector. A registration scheme for agents could be combined with accreditation (carried out by a local authority or other provider) to ensure that agents are working to proper management standards.

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?

The definition of what is a 'letting agent' or a 'managing agent' governed by separate regulation to the landlord register needs very careful consideration. Many landlords will also manage properties for other landlords or family members. While it is important that they should be managing to agreed standards, and may be in most need of assistance to help them do this, requiring them to adhere to a rigid regulatory regime appropriate to high street businesses will be an administrative burden.

ANUK believes that voluntary sector, public sector bodies and bodies within approved Codes of Practice which are managing privately rented properties should be excluded from these regulatory requirements as they are already subject to regulation elsewhere.

POSSESSION TIMES

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?

The courts currently are dealing with a heavy workload associated with repossession of owner-occupied properties. This has an immediate impact on the time available to deal with rental possession procedures.

PRIVATE RENTED SECTOR AND THE VOLUNTARY SECTOR

We would encourage landlord organisations to make these [training and support] 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?

ANUK believes that there is a greater potential role that voluntary sector agencies could play in the development of local housing strategies. This would result in better understanding between voluntary services and local government and improve joined-up working between the two. Currently there can be conflict between housing advice provided by voluntary sector agencies and local authority policies and involving the voluntary sector in the development of local strategies would be a means to greater awareness of policy.

Problems can also occur in communication between voluntary sector and local authorities, with it not always being clear who in the local authority is responsible for the private rented sector and therefore the main point of contact. Overcoming this problem would enable voluntary organisations to engage successfully with the private rented sector.

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

In looking to improve the private rented sector, which approach should be prioritised [following up on complaints or strategically tackling poor housing conditions in an area]?

The strategic approach is vital if standards in the private rented sector are to be improved. There are a number of reasons for this:

- Reacting to tenant complaints alone will not raise standards as tenants may not complain about items that might be considered problems. In some cases they may be frightened to complain for fear of eviction but in other cases, particularly with low-level problems, they may be willing to tolerate the conditions.
- Reacting to complaints alone may not identify the worst landlords in the sector and may simply penalise good landlords. Julie Rugg pointed out that many of the problems that occur are from landlords who are trying to do their best and do not have adequate knowledge or support. Complaints may be made about these landlords and their properties while the tenants of the worst landlords frequently have concerns about their security of tenure or renewing their tenancies to complain. Many vulnerable tenants are the least likely and least able to complain.
- Taking a strategic approach will also enable local authorities to provide advice and support and signpost resources to the well-meaning landlords who are having difficulties rather than using enforcement measures against them. It will also help to provide assistance and support to ensure that standards are met and prevent problems occurring in the first place.

Are there other models for constructive engagement with landlords?

ANUK disagrees with the proposal in the original Rugg review that landlords should engage with the local authority through the Small Business Unit. Although the reason for the suggestion is understandable landlords need advice and support on housing problems first and foremost and rarely business problems. Furthermore they may already have alternative sources of advice on any business problems that may occur.

There may be a role for the Small Business Unit in providing business information and assistance to landlords but it is the private sector housing team who should take the lead in liaising with landlords and all information should be channelled through their efforts.

In order for constructive engagement to take place one of the fundamental building blocks is, therefore, a single clear point of contact within the local authority housing team with responsibility for engagement with the private rented sector. Sadly, this is too often missing. As a result landlords who need advice are passed from pillar to post within a local authority and eventually will cease to engage. Without a specifically allocated team or manager with responsibility for the private rented sector it will also be difficult for the local authority to establish measures to engage with landlords (such as landlords forums or accreditation).

Local authority models which are successful in engaging with landlords will trust and assist landlords in their business and use regulation only when necessary and appropriate. A cultural focus on enforcement leads to distrust among landlords (and the local authority) and consequently makes it difficult to engage. If sufficient resources are allocated then enforcement and liaison can go hand in hand.

There is some evidence that engagement models delivered on a regional basis may be particularly successful. DASH (Decent and Safe Homes) in the East Midlands and the London Landlord Accreditation Scheme (LLAS) are two particular examples of successful regional working.

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

No answer

ACCREDITATION

We would like to see accreditation being made available to all landlords wherever they operate.

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)?

The standard itself should be prescribed by government after development in association with experienced stakeholders. Ensuring that accreditation schemes meet the standard is a role that ANUK should play.

As CLG is aware, ANUK (along with Unipol) already runs two approved Codes of Practice that it operates for high density student accommodation managed by both educational establishments and private providers. These Codes are governed by an independent body consisting of all the key stakeholders, which ensures that the requirements of the Codes are being met by applicants via a sophisticated self-assessment and verification procedure.

ANUK therefore has both the experience and the techniques to ensure that any basic standards for accreditation can be effectively monitored and maintained.

What should a basic standard for accreditation cover?

The basic standard should not be overly-prescriptive by setting out a national standard accreditation scheme. It is important to keep the flexibility to meet particular local needs.

Because of the diversity of successful accreditation, ANUK has defined four core values which are central to any accreditation scheme being run to raise standards in housing. These core values should be found in existing accreditation schemes or should be built into any future local, regional or national scheme. These are:

Value 1: The Declaration

Accreditation is about accountability: to be accountable there must be a voluntary declaration by the supplier or manager of the housing to a set of processes or standards (normally both). The declaration should be regular and made no less than every three years. Those joining an accreditation scheme should do so publicly, in a declaratory manner.

Value 2: Verification

A core part of any accreditation scheme is verifying that those who sign up to meet standards are doing so.

To maintain both consumer and landlord confidence there must be a regular and transparent verifying process that checks on the standards being met, issues a report on what has been verified where any shortcomings are identified and, if necessary, a landlord or housing supplier should be helped to agree to any necessary improvement package.

Whatever the verification process is, it must be public, realistic and achievable.

Verification should allow for comparable performance to be measured. Verification is not a "pass" or "fail" test, although some may fail. It is a process that identifies good and better practice and asks those involved, in a supportive way, to raise their game. Verification should also publicly recognise good housing management standards.

Value 3: Continuing Improvement

The verification process will also identify areas where good practice can be identified and seek to share this within the sector. Information on good practice will also be an important input into reviewing the accreditation scheme itself, which should be undertaken on a regular basis, and in any event not less than every three years.

Value 4: Complaints

Accreditation must have a proper complaints process that allows those that think standards are not being met to have their concerns heard, investigated and a resolution reached. The complaints procedure must not be a first line of complaint, that should be to the housing provider directly by the complainant, but if that complaint fails or is ignored then the procedure should be simple, inclusive, transparent, rapid and known.

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

ANUK was set up to encourage the sharing of best practice in the area of accreditation, particularly amongst local authorities. The limited level of resources available means such events can carry substantial risk and it is ANUK's experience that landlords are often willing to take up opportunities for professional development where available. A wider network of training for landlords should be supported with appropriate funding and an established trainer such as Unipol would appear well placed to fulfil such a role.

The IDeA/LACORS/ANUK *Landlord Development Manual* forms the basis of most short training modules. Short training programmes should be developed at minimal cost (although not free) with an established bank of national trainers delivering courses across England. In reality, there is already a small cadre of such trainers who are recognised for excellence and consistency. It may be that CLG could encourage a "training the trainers" scheme to speed up and assist the ongoing development of a wider reliable training cadre of specialists.

Should accreditation registration fees also be standardised?

Accreditation fees should be set by the schemes themselves because of the wide variety of local factors that affect the cost and resources available to implement accreditation. Setting fees locally would also make it easier to change them periodically in response to changing circumstances. It is important however, that accreditation fees are not seen as a disincentive to join or a barrier to entry.

Yours Sincerely

Accreditation Network UK