



**Labour's  
Policy  
Review**

# Private Rented Housing

# Labour's Policy Review: Private Rented Housing

## Tackling unscrupulous letting agents and ending rip-off charges

Labour's Policy Review is developing new thinking on housing. Our first step has been to consider the role of the private rented sector and how we support the growing numbers of tenants and families living in privately rented accommodation.

The private rented sector will continue to play a key role in meeting housing need. Labour wants to see a sector based on long-termism and responsibility that works for working people whether they are tenants, landlords or running businesses that operate within the sector. To make this happen, we set out to identify the barriers that stand in the way of such a market developing.

One barrier is the operation of the unregulated lettings market where too many unscrupulous lettings and management agents act in their own short-term interests. This means that tenants and landlords do not get a fair deal and the many responsible agents are undercut and their reputation undermined. Labour wants to ensure that the letting and management market better serves tenants and landlords who currently do not get a fair deal, and supports the many operators who run responsible businesses, helping tenants find a home and landlords get a decent return.

The majority of letting and management agents provide an important service and act responsibly, but too many others are engaged in unscrupulous practices, taking advantage of people who work hard and do the right thing. Too often, unjustifiably high charges are applied to both tenant and landlord. Tenants and landlords also have little financial protection and often face difficulties in contacting agents and getting repairs undertaken.

Letting and management agents do not need any professional qualifications to set up in business. They do not need to conform to any requirements as to conduct or to provide safeguards for the consumer. This allows unscrupulous lettings agents to operate and undermines the reputation of the entire industry.

Labour believes we should take steps now to stop irresponsible agents operating and end the scandal of rip-off fees. Our Policy Review will continue to develop proposals to create a housing market that works for working people.

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## Hilary Benn MP, Labour's Shadow Communities and Local Government Secretary:

"We need a professional lettings market in which unscrupulous agents can no longer hit landlords and tenants with rip-off charges. The private rented sector should provide stability both for families who want to plan for their children's future and for landlords who want to invest for the long term."

## Jack Dromey MP, Labour's Shadow Housing Minister:

"A million families live in the private rented sector. We want to ensure, particularly in these tough times, that they can be confident their money is safe and that they will get a fair deal. There is no place for unscrupulous agents who rip-off tenants by charging them fees they didn't know they would face and who exploit landlords and tenants alike by failing to protect the money they hold for them."

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# A broken lettings market

## Growth in the private rented sector

The private rented sector now consists of 3.6 million households in England. It has been nearly 50 years since more people in England lived in the private rented sector than the social rented sector but on current trends this will be the case by next year.<sup>i</sup>

Nearly a third of all private rented sector households are now families with children.<sup>ii</sup> Young people are also increasingly renting because they cannot afford to get on the housing ladder. The Tories promised change, but they have failed to deliver as affordable house building has fallen off a cliff-edge.

The growth of the private rented sector in the UK has brought with it growth in agents to help manage the process of letting. Many landlords, particularly small scale 'amateur' or 'reluctant' landlords do not have the time, resource or experience to act as full-time landlords. For these landlords, good letting and managing agents have a vital role in providing professional input and support. Approximately two thirds of tenancies involve a letting agent.<sup>iii</sup>

The best letting and managing agents provide this professional advice and assistance. However, unscrupulous letting agents undercut their more professional counterparts and tarnish the reputation of the entire sector. Some encourage landlords to replace tenants regularly so they can earn extra fees, a

barrier to a more professional and stable private rental market. Not only does this deprive tenants, and particularly families, of much needed stability, but also landlords of the benefits of a long-term investment.

### **An unregulated market**

According to estimates there are more than 4,000 managing and letting agents that are entirely unregulated - in that they don't even belong to voluntary bodies which encourage a responsible approach to letting and management practice.

<sup>iv</sup> While not all use lettings agents, there are nearly 1.4 million landlords<sup>v</sup> and 3.6 million private rented sector households<sup>vi</sup> in England, meaning huge numbers of tenants and landlords are currently unprotected.

It is a peculiarity of current policy that while estate agents, who hold very little money on behalf of their clients, are regulated, letting agents who hold significant sums on behalf of landlords and tenants are not.

### **Unfair and variable charges**

A survey of letting agents found that 94 per cent imposed additional charges on tenants on top of the tenancy deposit and rent or rent in advance.<sup>vii</sup>

It also found huge variation in the size of these charges. The charge for checking references ranged from £10 to £275 and the charge for renewing a tenancy ranged from £12 to £220. In some cases additional charges for a tenancy amounted to over £600.

There are three principal areas of concern when it comes to rip-off fees and charges levied by unscrupulous letting agencies:

- there is substantial disparity in the level of fees charged by different agents for similar services with no apparent difference in the quality of the service received;
- for middle income households moving into the private rented sector, fees and charges can often be a significant upfront cost;
- too often, charges are hidden in the small-print and people are exploited by unfair fees that they were unaware they would face.

### **Satisfaction and safeguards**

The Citizens Advice Bureau found that 73 per cent of tenants they surveyed were dissatisfied with the service provided by their letting agent,<sup>viii</sup> and report that a significant number of people have difficulties contacting agents, serious delays in getting repairs carried out, and inadequacies in the financial protection of deposits.<sup>ix</sup>

There are cases of agencies, even large and well-established businesses, running into difficulties because they had no client money protection, with both landlords' and tenants' money being lost. In some instances, this has not prevented owners of companies which have gone out of business while holding their clients' money from subsequently resuming their activities.

There are no safeguards in place to protect tenants, landlords or reputable agents from being undercut by unscrupulous counterparts:

- it is still possible to set up a letting or management agency with no qualifications whatsoever;
- there is no need to conform to requirements as to conduct or to provide mandatory safeguards for the consumer;
- there are no obligations on letting agents, unlike estate agents, to register with a redress scheme whereby awards can be made against agents for quantifiable financial loss to clients. Letting agents, unlike estate agents, operate outside of any legislation.

73 per cent of tenants surveyed were dissatisfied with the service provided by their letting agent

### Case Studies: Ripping-off tenants

**Tenant A** moved into a one bedroom flat near Essex Road, London. Before the tenant moved in, she paid three separate charges totalling £394: an admin charge of £150, a check in charge of £150 and £94 for references (which involved the Letting Agency sending over forms to the prospective tenant, which she passed to her current employer to print and sign on headed notepaper). The total paid in advance, including a 6 week deposit and a month's rent, was £3,804.

*Case study provided by tenant to Jack Dromey MP*

**Letting Agent X** agreed to rent out a ground floor flat to a tenant. Letting Agent X took the tenant's deposit and a month's rent and gave her the keys. A few days later the "real" Letting Agent (Letting Agent Y), entered the flat and was surprised to find the new tenant. Letting Agent Y said to the tenant that she had to leave as she was trespassing and he had no knowledge of Agent X. The tenant could

not contact Agent X. Agent Y agreed to let her stay in the flat but she had to pay a month's rent. The tenant, who had very little money was left with little option but to stay on Agent Y's terms. The tenant had to pay the equivalent of £1,650 rent for the first month, instead of £550 and lost her deposit in the process.

*Case study provided by Newham Council*

### Case Studies: Ripping-off landlords

**Landlord A** had a letting which terminated in May 2011. Landlord A disputed the release of the deposit monies because of the awful state the tenants had left the house in. The landlord also disputed that the letting agent had properly managed or inspected the property during the course of the tenancy; they let the house fall into an unacceptable state, never reported damage caused and then let the tenants keep the keys when they vacated to "put matters right". The tenants paid no rent and after two weeks the landlord took legal advice and changed the locks. Landlord A challenged the agent's behaviour, set up a Deposit Protection Scheme (DPS) account and asked the agent to transfer the deposit to the account so that he could start the arbitration process with the tenants to settle how the deposit monies should be released.

After many requests the agent gave Landlord A the deposit account number, but Landlord A was unable to recover the money because the letting agent failed to agree to transfer the deposit to the account. The deposit monies have now been sitting in the agent's deposit protection scheme account for 14 months since the tenancy terminated. Landlord A's only option is small claims in the County Court which has cost a further outlay in application fees and is soon to cost a further £335 in listing fees which they are unlikely to get back.

*Case study provided by Residential Landlords Association*

## Case Studies: Unscrupulous agent leaving both tenants and landlords out of pocket

**A letting agent in Oxford was prosecuted by Trading Standards** and ordered to pay a total of £309,303 after pleading guilty to seven consumer protection related offences and one of money laundering. The letting agent was investigated after 60 complaints were received from people across the county. Customers complained of not having their deposits returned to them at the end of the lease and others said their deposits were taken and not refunded when the letting agency could not provide a property. Landlords did not receive the rent they were owed. The letting agent failed to ringfence tenants' deposits, let properties without the authority of their owners and failed to pass on rent they collected to the landlords. They also illegally took money out of the business for his own use.

In one instance, a group of students agreed to move into a house for 12 months starting in August 2009. The group paid a deposit of £1,837.50 but, as they came to check on the situation three months later, found the letting agent had closed. The landlord had also written to the letting agent in September 2008 telling them not to let the property. The students and landlord lost a combined £3,292.

*Case study cited in local newspapers and by Trading Standards*

## Calls for reform to the lettings market

Tenants, landlords and the industry itself have all indicated the need for government to act to create a lettings market that works for tenants and landlords and enhances the reputation of the many responsible agents.

### **Ian Fletcher, Director of Policy (Real Estate), British Property Federation:**

"Anyone can set themselves up as a letting agent, and then potentially abscond with hundreds of thousands of pounds of people's cash. It is therefore counterintuitive that estate agents who handle relatively little cash are regulated, but letting agents who handle lots of cash are not. Good landlords also want to ensure that their agents are behaving properly with their tenants, offering access to an ombudsman for example, where they have a dispute.

"Currently, only about 50 per cent of letting agents are members of a self-regulatory scheme that offers money protection and access to an ombudsman. We believe all customers of letting agents, landlords and tenants, should be afforded such basic protections."

### **Ian Potter, Managing Director, Association of Residential Letting Agents (ARLA):**

"The Association of Residential Letting Agents has for many years campaigned to have regulation of the Private Rented Sector.

"We believe it should cover everyone operating in the sector both landlords and agents, as without this there is an opportunity for people to slip through the net. This has proved a difficult conversation in several arenas since the Rugg Review.

"There are in our opinion some key features required to improve the consumer experience, including, mandatory recognised qualifications, consumer redress using recognised ombudsman services, client money protection, and the ability to be banned from trading in a fair but robust manner. We look forward to being able to contribute to any discussions in the future on designing regulation and making it work."

### **Alan Ward, Chairman of the Residential Landlords Association:**

"Landlords are as much victims of corrupt agents as are tenants. It is vital that all letting and managing agents should have client money protection to safeguard deposits and rents held by agents. The RLA supports the call for all commercial letting and managing agents to be registered."



**National Landlords Association:**

"The NLA believes that landlords and tenants using an agency should be able to expect certain provisions, or minimum levels of service across the board to ensure transparency, fairness and a degree of consumer protection.

"Our advice to all landlords is to look for agencies which have a commitment to continued professional development, comprehensive client money protection, professional indemnity cover and have elected to abide by a respected industry code of practice. Currently these features are only available by means of membership of a recognised trade body such as UKALA, ARLA, NALS or the RICS. The NLA would welcome more agencies proactively seeking out these organisations in order to provide the kind of consumer protections and assurances which landlords and tenants need to live and work in the private rented sector."

**Nigel Stockton, Financial Services Director, Countrywide (the UK's largest lettings agency, representing over 50,000 landlords):**

"We fully support regulation which will create a more professional private rental sector operated by quality agents committed to developing and improving standards of landlords and rental stock across the country.

"It is widely acknowledged that this is a rapidly growing area affecting more and more people as we increasingly face a new and expanding generation of renters. With growing pressure on the private rental sector stock and changing types of tenure, it is even more important that regulation and quality standards are introduced.

"Failure to extend the regulation will undoubtedly give additional opportunities for unscrupulous agents to take advantage of both landlords and tenants."

**Duncan Shrubsole, Director of Policy and External Affairs, Crisis:**

"Whilst there are good and reputable lettings agencies, for too long sharp practices and exorbitant fees have gone unchallenged leaving tenants short-changed and the victim of poor services. The regulation of lettings agencies was first recommended in an independent review some four years ago and backed by both tenants and landlords. Introducing an effective regulatory framework for lettings agencies will be good for tenants, good for landlords and good for agents themselves. With ever more people reliant on renting privately we urge it to be introduced as quickly as possible."

## A better lettings market for all

**Labour has been listening to these calls for action as part of our Policy Review and we have been looking at how we could deliver real change and fairness in tough times.**

We will consider different models to improve standards and practices in the private rented sector, with the goal of creating a level playing field for the many responsible operators and basic protection for tenants and landlords. We intend to work in partnership with the sector to develop solutions, and will look at potential measures including a code of conduct with entry requirements for letting agents and compulsory business and consumer protection measures. We will consider how compliance could be monitored, for example by a regulatory body with enforcement powers.

We also want to end the confusing, inconsistent and opaque fees and charges regime:

- We will work with the lettings industry to achieve greater transparency, clarity and accessibility of information relating to fees and charges. We want to see a regime where fees and charges are easily understandable, upfront and comparable across agents;
- We will assess the level and extent of activities that can be charged for, including the size of deposits required in proportion to rent and the level of 'administration' fees for basic services, such as those for swapping, renewing or editing contracts.



## Case Studies: learning from experience

**In New South Wales and Victoria, Australia,** there are restrictions on what fees can be charged for, size of deposits and maximum rent advances. On fees, agents are not able to apply charges for making, renewing or ending a tenancy agreement. On deposits, in Victoria, the maximum deposit is four weeks rent, where the tenancies are worth less than \$350 per week. Where tenancies are in excess of \$350 per week deposits are decided at tribunal on application by the landlord. In New South Wales the upper limit for deposits is four weeks for unfurnished premises, and six weeks for furnished premises with rent of less than \$250 a week and an unlimited amount for furnished premises with weekly rents of more than \$250. The upper limit for any rent advance is two weeks rent if the rent is less than \$300 a week or four weeks otherwise.

**In British Columbia, Canada,** fees cannot be charged by landlords for accepting an application for, or processing of, a tenancy. Charges are also prohibited for investigating the applicant's suitability as a tenant, or accepting the person as a tenant.

*Renting in the Dark: creating a lettings market that works for tenants, Resolution Foundation, Dec 2011*

- <sup>i</sup> English Housing Survey: Headline Report 2010-11, 9 February 2012: <http://www.communities.gov.uk/publications/corporate/statistics/ehs201011headlinereport>
- <sup>ii</sup> *ibid*
- <sup>iii</sup> Rugg, J. and Rhodes, D. 'The Private Rented Sector: its contribution and potential', 2008
- <sup>iv</sup> Jones, C 'Government review of regulation and redress in the UK housing market', 2009
- <sup>v</sup> National Landlord Survey, 2010, <http://www.communities.gov.uk/publications/corporate/statistics/privatelandlordssurvey2010>
- <sup>vi</sup> English Housing Survey: Headline Report 2010-11, 9 February 2012: <http://www.communities.gov.uk/publications/corporate/statistics/ehs201011headlinereport>
- <sup>vii</sup> Let down CAB evidence on letting agents and their charges, Citizens Advice Bureau, May 2009
- <sup>viii</sup> *ibid*
- <sup>ix</sup> *ibid*