

## Review of the Role and Regulation of the Private Rented Sector

### Role of the Private Rented Sector

We want to make the Private Rented Sector a more attractive housing sector where people choose to live. We are asking for your views on issues impacting the private rented sector. Your views will help shape future policy proposals. Thank you for taking the time to complete these questions

1. Please select from the list below the title that best represents you

- |                         |                       |                       |                       |   |                                  |
|-------------------------|-----------------------|-----------------------|-----------------------|---|----------------------------------|
| Landlord                | <input type="radio"/> | Tenant                | <input type="radio"/> | Letting Agent Representative Organisation | <input checked="" type="radio"/> |
| Landlord Representative | <input type="radio"/> | Tenant Representative | <input type="radio"/> | Estate Agent                              | <input type="radio"/>            |
| Council Representative  | <input type="radio"/> | Housing Professional  | <input type="radio"/> | Other Government Department               | <input type="radio"/>            |
| MLA                     | <input type="radio"/> | NIHE                  | <input type="radio"/> | Member of the Public                      | <input type="radio"/>            |
| Voluntary Organisation  | <input type="radio"/> |                       |                       |   |                                  |

2. Do you agree that further support should be available to tenants living in the private rented sector?

Yes

No

Please provide your reasons

ARLA believes that good quality housing can promote improved health, educational achievements and social stability. We know that poor quality available rental housing across Northern Ireland and the UK is an issue faced by many prospective tenants as well as the inability to accurately establish the quality of the properties on offer. Given that more than 20% of households in Northern Ireland now live in private rented accommodation according to the Family Resources Survey October 2015, this will become an important issue for more and more people. We think this problem could be alleviated by offering a voluntary review process for landlords who wish to have their property classified as 'high quality' or 'kept up to high standards'.

As outlined in the discussion document on Page 8 the private rented sector in Northern Ireland is now home to many households who would traditionally have lived in the social rented sector. There is also evidence that 57% of all private rented sector tenants are in receipt of Housing Benefit. Therefore if Universal Credit is to be rolled out in Northern Ireland it's important that private sector landlords are able to access relevant information about tenants who may come onto Universal Credit in order to support them throughout the remainder of the tenancy as best as possible. Although we understand that third party

deduction orders are not part of Universal Credit, we think it's very important that the Department for Work and Pensions are able to collect rent arrears from a tenant's previous property and not just their current property. This will ensure that tenants are not building up debt and moving property frequently in order to avoid payment. Landlords will also receive what is owed to them. We think the Private Rented Sector Access Scheme in Northern Ireland is a positive initiative that can help tenants afford to live in the private rented sector.

ARLA fully supports the Department for Communities and Local Government's 'How to Rent' guide, which must be served on all new and renewal tenancies in England. The guide outlines the rights and responsibilities you have as a tenant, and helps tenants to understand the questions to ask to create and maintain a positive relationship with their landlord or letting agent. A similar guide, produced by the Assembly, would provide further support to tenants living in the private rented sector in Northern Ireland.

3. Do you agree that further support should be available to landlords operating in the private rented sector?

Yes

No

Please provide your reasons

For instance, ARLA has been calling for simple changes to tax policy for landlords, such as reduced rates of VAT on property improvements and being able to offset works against Income Tax rather than Capital Gains Tax. These tax benefits are already available to businesses and would allow landlords to cost effectively churn their portfolios to meet local housing needs and better resource their maintenance budgets.

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### **Supply and Investment**

4. Do you agree that the private rented sector should play a role in bridging the identified shortage in housing supply?

Yes

No

Please provide your reasons

The Private Rented Sector is now the second largest housing tenure, after owner occupied in Northern Ireland. The latest analysis provided by Ulster University's Quarterly House Price Index (November 2015) shows that the private rented sector in Northern Ireland will continue to grow as house prices rise and first time buyers find it more difficult to purchase property.

For many people the private rented sector provides them with the only option as the cost of home ownership is far beyond their means, whereas for others the flexible nature of renting suits their lifestyle and aspirations. ARLA believes there needs to be more incentives for developers to build houses for rent, such as those offered to builders of homes to buy. Local authorities can also help to incentivise the private rented sector by contributing land. Investor-friendly regimes akin to those for commercial property, such as Real Estate Investment Trusts would be beneficial if they could be used for the private rented sector as well.

Although we understand the market is smaller in Northern Ireland as outlined on Page 13 of the discussion document, we believe that interest would pick up in these types of investment when the housing market in Northern Ireland gets closer to 2007 construction levels.

However, in order to encourage a stable long term rental culture we must build more houses to bring down the cost of renting. The 'Report and Recommendations' from the Housing Supply Forum (January 2016) says that in Northern Ireland for every 10 jobs created or sustained in the construction industry through housing projects a further 7 jobs are sustained in other areas of the economy. Whilst we understand that house building in Northern Ireland is showing signs of recovery with stability in 2012 and 2013, as well as a rise in 2015, output is still dramatically below its peak in 2007. Therefore to achieve the number of houses required to meet demand, Northern Ireland like the rest of the UK needs to focus on additional skills, apprentices and innovation in the construction sector.

Along with our sister organisation the National Association of Estate Agents (NAEA), ARLA responded to the House of Lords Select Committee on Economic Affairs Inquiry into the economics of the UK Housing Market and we said that there must be a continued partnership with industry and the education sector to boost apprentice numbers in order to attract more people into the construction industry. Funding must also be provided to support their training. This is particularly important to increase the number of brick layers and carpenters who are desperately needed.

ARLA believes it is also important that existing landlords who want to expand their property portfolios have new investment channels to tap into and there is a more flexible tax regime putting private landlords on a level playing field with the social rented sector and owner-occupiers.

5. Would it be appropriate for Government to incentivise growth and investment in the private rented sector?

Yes

No

Please provide your reasons

In addition to our answer to Question 3, ARLA believes that consideration should be given to allowing Capital Gains Tax roll-over relief to apply where proceeds of a rented property are re-invested in a rental property. In addition, we believe that Capital Gains Tax should be removed where a property is sold to a sitting tenant or first-time buyer.

To support landlords in Northern Ireland and across the UK to invest in new rental homes and to raise standards the Government should encourage development by landlords on small plots of unused public sector land that commercial investors do not find attractive.

We included these arguments in our response to HM Treasury consultation on higher rates of SDLT on purchasers of additional residential properties in February 2016.

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### Housing and Tenancy Management

6. The Department should consider making changes to the Landlord Registration Scheme. Do you agree?

Yes

X No

Please provide your reasons

According to the Chartered Institute of Housing there are around 90,000 private tenancies covered by landlord registration in Northern Ireland. ARLA welcomes the fact that the landlords of these properties receive a toolkit, which details their duties and obligations as well as news about any developments so they can be more involved in the development of policy relating to the sector.

In addition, ARLA also welcomes the revised legal advice in Northern Ireland, which says that while landlords must continue to register and provide details of joint owners, only one registration fee is due when joint owner landlords register with the scheme. This means that joint owner landlords who were originally required to register separately with the scheme and pay the registration fee will get a refund. Potentially freeing up more money for these landlords to improve property or invest elsewhere in the private rented sector.

However, ARLA believes that Environmental Health Officers and their teams in local councils in Northern Ireland must be properly resourced to remove rogue landlords and agents from the sector. It is essential that prosecuting bodies are given the powers to become revenue generators for local authorities rather than revenue drains. The fines collected by local council should be kept and ring-fenced with the money going towards further enforcement.

7. The Department should consider making changes to the Tenancy Deposit Scheme. Do you agree?

X Yes

No

Please provide your reasons

The 14 days required from when landlords or agents receive a deposit from a tenant and must register it in an approved scheme such as Tenancy Deposit Scheme Northern Ireland is too short. In England and Wales a landlord or agent should protect a deposit in an authorised scheme and provide the tenant with details about the protection within 30 days of receiving the deposit. Considering that it can take five working days for cheques to clear the rules should be amended in Northern Ireland to allow a more workable timeframe.

8. Is licensing of landlords needed in Northern Ireland?

Yes

X No

Please provide your reasons

ARLA believes in maintaining the highest professional standards in the sector and have long called for the Government to develop a comprehensive regulatory regime for the Private Rented Sector to ensure that consumers are protected across the UK.

However, ARLA is generally not supportive of licensing of landlords on the basis that most schemes fail because they are not adequately resourced to undertake the necessary enforcement activity. Our concern is that the regime becomes an administrative exercise, penalising those landlords who comply with the regulations whilst still allowing the landlords the scheme was designed to target to continue operating under the radar. As mentioned in this discussion document on page 15, in 2011 "...88% of tenants were either very satisfied or fairly satisfied with the services provided by their landlord/agent."

We also think that powers to allow the Housing Executive, Registered Housing Associations and private sector landlords in Northern Ireland to deal with issues like anti-social behaviour through the use of injunctions against offenders is a better way to stop and resolve problems in the private rented sector.

Furthermore, we regularly highlight the low number of prosecutions brought about through licensing against those landlords who do not carry out their obligations as evidence that such schemes are not effective in tackling the issues they are created to overcome.

In addition, the licence fee is always a controversial issue as it may only cover the costs involved in administering the scheme; not enforcing against those who do not get licensed. In our view, it is for this reason most licensing schemes fail to adequately enforce and become little more than administrative exercises.

9. Is Landlord Accreditation needed in Northern Ireland?

X Yes

No

Please provide your reasons

For the reasons outlined in our answer to Question 8 ARLA would advocate that local authorities adopt collaborative approaches to tackling issues within the private rented sector rather than introducing licensing schemes. As an example of such an approach,

ARLA was appointed by the Mayor of London to be one of the accrediting bodies for the London Rental Standard; a voluntary minimum set of rules that landlords and letting agents must adhere to in order to operate within the private rented sector in London.

ARLA currently accredits over 600 letting agent branches in London including ten of the biggest names in the lettings industry; Andrews, CBRE, Chestertons, Douglas and Gordon, Knight Frank, Leaders and Stirling Ackroyd. ARLA fully supports the aims of the London Rental Standard because we believe it is crucial that we eliminate the small minority of rogue landlords and agents who neglect their responsibilities and bring our industry into disrepute.

Further, the London Rental Standard separates out agents and landlords performing their duties to a high professional standard thus allowing local authorities to target their scarce resources on intelligence-led enforcement rather than the administrative burdens of a licensing scheme.

10. Do you think the private rented sector needs to be further professionalised?

Yes

No

Please provide your reasons

ARLA believes that the Government should promote the benefits of being a better landlord and encourage consumers to use trained and qualified landlords and agents. ARLA has long campaigned for more appropriate regulation of the letting industry. To improve the sector and provide a better service to both landlords and tenants, we believe that all letting agents should be professionally qualified and required to undertake regular Continued Professional Development.

11. Are there other amendments to the Private Tenancies Order that should be considered?

Yes

No

Please provide your reasons

We understand that substantial amendments have been made and these are ongoing.

12. Is further regulation of the private rented sector necessary?

Yes

No

Please provide your reasons

ARLA believes it should be compulsory for letting agents to be members of a client money protection scheme and we helped to table an amendment in the Housing and Planning Bill to include this. Client money protection is an issue that has unanimous support among everyone involved in the housing sector. The Consumer Rights Bill started moving us in the right direction, with firms having to display whether they have client money protection and further regulation to ensure that all letting agents have client money protection will protect millions of tenants and landlords.

We believe this because letting agents hold a significant amount of money on behalf of tenants and landlords. Client money protection acts as an insurance policy, which offers landlords and tenants an avenue to pursue the recovery of misappropriated funds and affords peace of mind should an agency go bust.

All our ARLA Licensed members must have client money protection, so that in the event that any one of them goes bust or misappropriates the funds, we reimburse the money (up to certain caps). Additionally, we audit every single one of our member firms' client accounts and we require this in order for them to join our professional body.

13. Do you agree that longer term tenancies are a good thing?

Yes

X No

Please provide your reasons

ARLA is not against longer minimum tenancies lengths such as three year tenancies. However, we don't believe that they should be mandatory because there are a lot of situations where people do not want this type of tenancy. For instance, students who have been in halls for one year and have only two years left of their undergraduate course, it is unlikely that they would want to sign a three-year tenancy when they do not know what they will be doing at the end of their third year.

Furthermore, according to a survey carried out with our members across the UK last year, the average tenancy is now 20 months and in the vast majority of cases tenancies actually end at the request of the tenant, not the landlord. Consequently, removing that element of flexibility could do more harm than good to the majority of tenants in the private rented sector.

14. Are the current notice to quit periods appropriate?

Yes

X No

Please provide your reasons

Unfortunately longer notice to quit periods mean that landlords are more likely to grant shorter tenancies so that tenants do not 'play the system' and benefit from the longer notice to quit period, which costs the landlord time and income to resolve and often results in higher rents for the next tenant as the landlord tries to recoup their losses.

15. Is the current eviction process fit for purpose?

Yes

X No

Please provide your reasons

The eviction process in Northern Ireland can take years rather than months so ARLA would welcome stronger rules on eviction to make it make it easier for landlords in Northern Ireland to regain possession of their properties from problem tenants more quickly and at a lower cost.

16. Is overcrowding an issue in the private rented sector in Northern Ireland?

Yes

No

Please provide your reasons

We do not hold sufficient empirical data to provide a robust, evidence based response to this question. However, based on the fact that 61% of private rented households according to the 2011 Census had no dependent children in the household and 39% had one or more dependent children, we don't see overcrowding as a significant issue in Northern Ireland.

17. Do you agree that the regulation of letting agents needs to be addressed?

X Yes

No

Please provide your reasons

ARLA believes that full mandatory government regulation of sales and letting agents is the quickest and most effective method to eliminate unprofessional, unqualified and unethical agents from the rental market. We think increasing supply of rental properties and raising standards across the industry must go hand-in-hand.

ARLA would like to see much greater regulation and much more appropriate regulation of the lettings and management industry, something akin to the London Mayor's London Rental Standard as explained in our answer to Question 9.

18. Do you agree there should be an alternative means to resolving disputes other than small claims court action?

X Yes

No

Please provide your reasons

In January 2016 ARLA responded to the Civil Justice Council's Property Disputes Working Group discussion paper and highlighted the need for the establishment of a new housing court or tribunal to deal with all matters concerning housing and property. We believe that by establishing a new housing court or tribunal to deal with all matters concerning housing and property this will speed up the system, increase expertise in the decision making process and ensure greater consistency with reduced costs.

We also wrote in January to Michael Gove, the Secretary of State for Justice urging him to consider allowing High Court Enforcement Officers to enforce County Court Possession Order without the need for landlords to make further applications to the Court. ARLA believes the ability for landlords to access a swift, efficient and cost effective justice system is a key component of a successful lettings industry.

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### Property Standards

19. Do you agree that it is important to enforce minimum property standards in the private rented sector?

Yes

No

Please provide your reasons

For instance, landlords providing a gas safety certificate to tenants and an Energy Performance Certificate are very important because they will affect tenant's energy bills. A record of any electrical inspections to ensure all appliances are safe every five years will also increase safety in private rented property.

20. In relation to fitness what specific areas warrant further improvement and what means should be used to drive improvement. (i.e. through regulation or some form of non-regulatory route such as guidance)?

We believe that a voluntary review process as explained in our answer to Question 2 will help to drive improvement in the private rented sector in Northern Ireland.

21. Should the current system of applying rent control to unfit properties built before 1945 be extended to include other private rented property?

Yes

X No

Please provide your reasons

It is estimated that there are around 100,000 remaining tenancies in the UK still under rent control that applied to landlords before the introduction of the Housing Act 1988. The gap between the rent charges on these properties compared with similar unregulated property near to them underlines just how much private rents have overtaken wages and living costs since the 1980s. However, many of these properties are in very poor condition often because it is not in the landlords' or the tenants' interest to maintain them, which highlights the problem with rent control.

22. Should consideration be given to introducing standards similar to those in place in other parts of the UK around requirements to install additional safety measures, such as smoke alarms and carbon monoxide detectors, and requiring periodic electrical inspections?

X Yes

No

Please provide your reasons

ARLA was entirely supportive of the aims of the regulations in England and Wales to ensure that all tenancies have a smoke alarm fitted on every floor of their property where there is a room used wholly or partly as living accommodation as well as the requirement for landlords to put a Carbon Monoxide alarm in any room where a solid fuel is burnt. However, we raised concerns with the Government about the extremely short timescale for compliance. Concerns were also raised from letting agents and inventory providers about what constitutes the alarms being in working order, with guidance from the Government stating to only press the test button.

23. Should consideration be given to requiring a minimum standard of energy efficiency for all private rented properties as in England and Wales?

X Yes

No

Please provide your reasons

This is an important issue because it effects tenants' energy bills. In addition, more energy efficient properties do assist landlords. Maintenance costs are lower in energy efficient properties and tenants that do not have to pay significant sums of money to keep their homes at a comfortable temperature generally stay in properties longer, thus void periods are reduced.

In October 2015, ARLA responded to the Westminster Parliament's All Party Parliamentary Group on the Private Rented Sector's Inquiry on How to support energy efficiency improvements in private rental housing. We believe that the UK Government's decision to end funding to the Green Deal Finance Company is disappointing and could mean that the

Minimum Energy Performance Standard (MEPS) regulations may become impossible to implement.

However, we caveat our support for minimum standards on the basis that Northern Ireland follow the same principle as England and Wales in that landlords should only have to comply if it is at no upfront cost to the landlord. To do otherwise is likely to be prohibitively expensive for landlords which could result in both increased rents to tenants coupled with the removal of much needed accommodation from the market.

ARLA also believes it should be standard practice to refund the cost (estimated to be between £60-120) of the Energy Performance Certificate when landlords act upon one of the recommended 'lower cost' improvement measures.

## Review of the Role and Regulation of the Private Rented Sector

### Contact Details

24. Are there any other comments you would like to make?

There are no other comments that we would like to make.

25. If you wish to be kept up to date with progress on the review please give your name and contact details

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