

## Reports on Renting

Two recent reports have been produced making suggestions about the private rented sector and how landlords and agents should operate. The first, commissioned by Communities and Local Government and called the Rugg Review and the second Regulation and Redress in UK Housing.

From October 2008 Estate Agencies have, by law, to be members of an approved independent redress body in respect of some of their activities.

As the legislation was going through parliament the government agreed to carry out a review of the wider market (including lettings) to see if such legislation was required. Professor Jones' report 'Regulation and Redress' is the outcome, looking at the schemes available and any gaps between the schemes.

Professor Jones essentially believes that the private rented sector is the least controlled housing sector (when compared to estate agents, solicitors, surveyors, mortgage lenders etc). He also believes that the level of problems are high in the private rented sector.

The solution he proposes would be to bring both landlords and letting agents into some sort of redress scheme where tenants could go and have their complaints listened to without the time and cost of going to court. He proposes that all letting agents should have to have at least one member of staff with a recognised qualification.

Another suggestion is that tenants would be given security of tenure whilst a complaint was investigated and this could cause significant problems. The claim is that this is to prevent 'retaliatory evictions', but it could result in 'retaliatory complaints' where possession is genuinely sought.

The Rugg Review had a broader remit and looked at the private rented sector and how it was working and where it was failing.

The review analyses current data about the market before suggesting 'directions for travel' for future policy. The report is lengthy, at 178 pages, but contains interesting data and suggestions, some of which are not the usual 'landlord bashing' one often hears.

The review acknowledges that many areas of the private rented sector are increasing in both percentage terms and in absolute numbers of units. A couple, Rent Act 1977 tenancies and tied accommodation, are declining.

The review suggests that policy should focus more on helping the majority of landlords who have but a few units, rather than the often talked about 'institutional investors'. It acknowledges that about three quarters of private tenants are either very or fairly satisfied with their landlord. This is higher than for council housing association tenants. Although comment is made about the high turnover of tenants, they report that this is more often the nature of the way people use the market rather than landlords positively evicting tenants.

### Trespassers

On the expiry of a court order for possession the ex tenant has, for many years, been a tolerated trespasser if they have not vacated.

Where the possession order was a suspended order, it has long been believed that if they breached the suspension conditions, they again became tolerated trespassers. A recent court judgement held that the tenant was a tolerated trespasser even if they did not breach the conditions of the suspension.

As a tolerated trespasser, there is no landlord and tenant relationship and so landlords were not obliged to carry out the usual repairs. It also ended a council tenant's right to buy their property.

To try and improve the situation the government have altered the Housing Act 1988 in relation to possession proceedings. Now the law no longer ends the tenancy on the date of the court order for possession but defers it till the possession order is enforced (by, for example, the tenant vacating or the bailiffs handing the property back to the landlord).

This change makes it clearer that rent will still be due for the time the tenant is in the property and removes the need to claim 'mesne profits', damages for use and occupation of the property. It also means that the landlord has to fulfil all obligations till possession is obtained.