

Covering Email from Richard Williams (National Landlords Association)

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Dear Sir Michael,

Please find attached the National Landlords Association's response to the Interim Report and Consultation Document published in December.

The National Landlords Association (NLA) was founded in 1973 as the Small Landlords Association, and is the largest association for landlords of residential property in the country. Membership is spread throughout the United Kingdom and the association has about seven thousand five hundred member landlords who, together, have an investment in residential property worth an estimated £1.5 billion.

The use of "small landlords" in the original name of the association is in reference to the fact that, in comparison to large landlords such as local authorities and the Ministry of Defence, the private landlords who compose our membership have much smaller interests. While most private landlords in England and Wales have only one letting, the NLA has a disproportionate number of members with, typically, a small handful of lettings, often contained within buildings that are designated as houses in multiple occupation (HMOs). Membership is, however, very varied, ranging from the widowed lady who lets a few rooms in her own home, to the larger landlords who may have several dozen lettings. About two thirds of the association's membership is in London and the south-east, reflecting the distribution of let property in the country.

For many of our members, rental income may not be their main source of income. Some may be wealthy but others will be struggling to make ends meet. NLA members are all concerned to see a fair and just private rented sector. The act of joining the NLA is usually a demonstration that the landlord wants to "get it right". Members are expected to abide by a Code of Conduct and its introduction has been welcomed by them.

Please do not hesitate to contact us should you have any queries or should anything in the consultation response be unclear,

Kind regards,

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National Landlords Association  
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## **Lyons Review**

### *Introduction*

The private rented sector works closely with local government. Much housing legislation, such as licensing of properties and health and safety rules, is governed by statute law and national frameworks but is implemented by local authorities. The same is true of the administration of council tax and housing benefit. In addition with some 2.5 million privately rented properties in England, landlords are an important part of local housing provision, something many local authorities recognise in their housing strategies. Local authorities are therefore often the immediate point of contact for many landlords when dealing with Government.

### *Structure and Functions of Local Government*

The National Landlords Association does not wish to comment in detail on the structure and function of local government. However, landlords need local authorities who actively engage with the private rented sector. The nature of local government should encourage such engagement and we do wish to make some general observations on Questions 4 and 7 of the consultation.

In respect of national standards, given the degree to which local authorities implement national legislation we would expect to see minimum standards used. Landlords may have properties across local authority areas or interact with other landlords who have properties in neighbouring authorities. As such, comparative differences will often emerge. While regional variations are to be expected we would expect that variations between local authorities in the performance of their services, enforcement regimes and fee levels should be minimised. Where minimum national standards do not exist landlords may face an incoherent and confused regime with differences between local authorities. We would therefore expect that where local authorities administer or enforce national powers, such as council tax or housing benefit, national standards should be enforceable. In terms of the enforcement and implementation of housing legislation such as the Housing Act we would also wish to see this principle carried through. While we would argue strongly that standards should be understandable and comparable across local authorities we do accept that in response to local circumstances some variations may be appropriate. However we are encouraged that in a number of areas sub-regional cooperation is being adopted by local authorities to prevent large variations within small areas. This form of cooperative discretion should be supported.

In respect of local consultation the National Landlords Association has close relations with many local authorities. Indeed a number of local authorities, as part of their commitment to working with landlords, have joined the organisation as associate members. Should '*clearer accountability and consultation with local people*' in respect of allowing local authorities greater

discretion in standards be adopted further we would expect landlords and other involved in the private rented sector to be identified as stakeholders within that process.

In regard to Question 7 we would merely reiterate the points expressed above and note further that in respect of the private rented sector there is already clear delineation of responsibility between the various aspects of Government. However there is some friction where local authorities are viewed as over-applying or mis-applying central government policy and any streamlining of responsibilities which served to better define them would be welcome.

### *Local Government finance*

Many landlords have particular concerns about local government finance and the manner in which it applies to the private rented sector. While many of these issues were raised in the Interim Report, we are concerned that the unique nature of the private rented sector has been overlooked. Given the scale of the private rented sector (just under 2.5 million households, representing 11% of households) much wider consideration needs to be given.

Local government finance is problematic for the private rented sector given the separation between ownership and occupation within the sector (this is of course also true of the social rented sector representing a further 18% of households; albeit that many of these at present will receive council tax benefit). The current Council Tax system, whilst linked to property values, in the majority of cases see the burden of payment placed onto the occupier. Any proposals for replacement or reform of the current system would need to consider this division within the private rented sector and be robust enough to ensure no disproportionate burdens were created on either party.

The division between ownership and occupation creates a range of particular patterns within the private rented sector. Firstly, where void periods occur (i.e. where no tenant is resident in a property) the liability for council tax falls on to the landlord. Exclusions apply if building work is being carried out or where the property is left unfurnished. Given that the average length of tenancy in the private rented sector in England is 10 months, this means on average that at least one point during any year the landlord may be responsible for payment of the council tax. This may often be only for a short period but where landlords own multiple properties, especially where they may fall across multiple local authorities, this creates additional cost and work load. Secondly, for certain types of property, particularly certain Houses in Multiple Occupation (often larger houses converted into 'bed-sits'), the liability for council tax remains with the landlord. The landlord can then recoup the payments made through the rent payments by the tenants. At present therefore some landlords act as an intermediate tax collector for the local authority. In addition to the administrative burden that this creates, it causes particular problems where non-payment of rent occurs. Existing remedies are insufficient in this regard; a landlord can either seek accelerated possession (where no money can be claimed) of the property writing off three or four months of council tax or pursue the matter as part of non-payment of rent proceedings which may take even longer to recoup monies owed (having

already paid the council tax bill). An HMO landlord, in acting as a middleman, therefore bears an unjust risk in respect of the council tax payments of their tenants. Finally, it should be noted that property values and rental yields vary independently of each other. Thus with local taxation based on property values it may be difficult for a landlord to pass on the cost of the taxation to tenants through inclusion in rental payments especially if rents are falling.

As an aside in respect of the division between ownership and occupation this creates problems for the private rented sector when accessing financial resources provided by local authorities. Some landlords experience grant application processes which are opaque, convoluted and drawn out. Consideration should be given to how local authority grant making powers could be reformed particularly given the role that grants to landlords might play in reducing fuel poverty and fear of crime amongst tenants.

### *Options for the future of local government funding*

Any consideration of whether to retain, reform or replace the current system of local government funding must therefore bear in mind the particular position of the private rented sector and the complexities outlined above. Given the size of the rented sector (both private and social) the National Landlords Association believes that this is imperative and should not be treated as an after thought. The ability to cope with the separation of ownership and occupation inherent in the rented sector must be at the heart of this. We would also expect the following issues to be considered:

- ? Various proposed methods of local government funding would focus the financial burden upon the owner of the property. If appropriate we would expect landlords to retain the ability to pass liability to tenants in a transparent manner rather than through inclusion in rent.
- ? There should also be understandable mechanisms for dealing with liability when tenancies change. These should ensure that landlords do not receive large numbers of complex bills.
- ? There should be accessible points of contact with whom to take up enquiries about the financing method. The existing relationship between central government regulations, local authority administration and the Valuation Office Agency often confuses landlords under the current council tax system and consideration of a more transparent structure should be considered.
- ? The current methods of valuation create particular problems in respect of Houses in Multiple Occupation where once the level of installed amenities in a particular room (i.e. cooking and washing facilities) passes beyond a minimum threshold it is regarded as self-contained and can receive an individual banding separate from the banding that remains for the property as a whole. In addition the liability then passes from the landlord to the tenant. This can result in sudden jumps in liability particularly where the whole property may be Band E and the unit then receives a separate Band A designation. This can cause hardship for some vulnerable tenants.

This problem is indicative of the need for, regardless of the system adopted, a much clearer valuation structure for local government financing.

- ? Overall, no system of local government finance should place undue burdens on landlords.

At present, the National Landlords Association does not regard it as part of its role to suggest a preferred system of local government finance. It merely argues that any system must be workable and understand the particular issues relating to the private rented sector, tenants and landlords. We do however believe that certain methods proposed such as local income tax or an annual tax based on a proportion of property value would create significant problems in respect of workability if applied to the private rented sector. We would hope that the context and suggestions given above would be given due consideration by Sir Michael when publishing his final report.

### *Conclusions*

Any review of local government and particularly local government financing should consider the particular position of the private rented sector and landlords as stakeholders within that. We believe that the interim report of the Lyons Inquiry is to be applauded and has created an important basis for further debate. However, given that nearly one-third of households do not own their homes there does need to be greater consideration of local government financing in the context of a division between owners and occupiers. Should the final report of the inquiry propose any significant changes to local government financing mechanisms then much wider consultation should be undertaken.