

ASSOCIATION OF RESIDENTIAL LETTING AGENTS (ARLA)

WRITTEN SUBMISSION

Background:

1. The Association of Residential Lettings Agents (ARLA) was formed in 1981 as the professional and regulatory body for letting agents in the UK. Today ARLA is recognised by government, local authorities, consumer interest groups and the media as the leading professional body in the private rented sector.
2. In May 2009 ARLA became the first body in the letting and property management industry to introduce a licensing scheme for all members to promote the highest standards of practice in this important and growing sector of the property market.
3. ARLA members are governed by Codes of Practice providing a framework of ethical and professional standards, at a level far higher than the law demands, and the Association has its own complaints and disciplinary procedures so that any dispute is dealt with efficiently and fairly. Members are also required to belong to an independent redress scheme which can award a consumer financial redress where a member has failed to provide a service to the level required.

Part 3: Private Rented Sector

Q7: Do you have any comments on the proposals for transferring certain private rented sector cases from the Sheriff Courts to the new First-Tier Tribunal?

4. ARLA welcomes the proposals to transfer certain private rented sector cases from the Sheriff Courts to the new First-Tier Tribunal. Many organisations, including ARLA, have longed called for cases involving the private rented sector, particularly landlord possession claims, to be moved out of the standard court system and into specialist tribunals.
5. However, we feel the provisions of the Bill could go further and would suggest the Scottish Government should consider transferring all landlord possession claims to the new First-Tier Tribunal. Such a course of action should have several positive benefits:
 - a. Providing the First-Tier Tribunal is well resourced, this should speed up the possession process; meaning cases will reach court hearing dates much faster and allow landlords to gain Possession Orders in a much more timely fashion than currently exists. Indeed, anecdotal evidence suggests that landlords currently have to wait several months before a court hearing date becomes available; all while, in many cases, tenants have stopped paying rent. This delay causes landlords and letting agents

significant financial hardship and places their businesses in financial jeopardy.

- b. The Sheriff Courts are, by their very nature, generalists. This has resulted in some Sheriffs hearing landlord possession cases despite not being experts in housing matters and not always aware of recent developments in case law. The First-Tier Tribunals could appoint members who are experts in housing law and landlord possession cases to solely hear such matters. This will ensure decisions are made by experts in the field of the case and that Tribunal members can be easily updated on relevant developments in case law. This will result in much greater consistency in the application of the law than currently exists through the Sheriff Courts.
- c. Only moving certain private rented sector cases to the First-Tier Tribunal is likely to cause confusion for letting agents, landlords and tenants as to where to bring a claim. This is particularly true for cases that may involve both rent arrears (brought by the landlord) which would sit in the Sheriff Court and repairing standards (either brought by the tenant or used as their defence to a rent arrears case) which would sit in the new First-Tier Tribunal (assuming the provisions in this Bill come into force). The result may be that two cases have to run simultaneously in two different courts. This will increase costs for all parties and may act as a significant disincentive for tenants to bring legitimate claims against unscrupulous and criminal landlords and letting agents.
- d. Finally, in moving landlord possession claims into the new First-Tier Tribunal, much needed time will be made available in the already overstretched Sheriff Courts for other matters.

Q8: Do you have any views on the adjustments to private rented housing legislation, which are intended to enhance local authorities' discretionary powers to tackle poor conditions in the private rented sector

6. ARLA has always supported targeted enforcement by local authorities of the minority of unscrupulous and criminal landlords and letting agents who provide substandard accommodation and poor property management. They blight the industry and bring the entire private rented sector into disrepute.
7. It is regularly reported by tenant organisations and local authorities that tenants do not bring complaints against landlords and letting agents for fear of eviction. Therefore, we can certainly see the benefits in allowing third parties, such as local authorities (as outlined in Section 23(1) (a)), to bring repairing standard claims. This would both remove the fear of eviction from tenants and; as part of a targeted, intelligence-led enforcement operation; should help raise property standards in the sector.

8. However, we would suggest that any persons “specified by order made by Scottish Ministers” (as outlined in Section 23(1) (a)) should be restricted to public bodies in order to ensure a consistent approach to such third party applications.

Q9: Do you have any comments on the Scottish Government’s intention to bring forward provisions at Stage 2 to provide additional discretionary powers for local authorities to target enforcement action at an area characterised by poor conditions in the private rented sector?

9. As has been stated at paragraph 6 above, ARLA supports the targeted enforcement by local authorities of the minority of unscrupulous and criminal landlords and letting agents who provide substandard accommodation and poor property management.

10. However, until the intended provisions have been announced, we are unable to comment on whether an area-based approach is the most appropriate method of achieving these aims. We would also suggest that before additional powers are created, robust scrutiny is required in order to determine why the extensive statutory powers local authorities already have to deal with poor conditions in the private rented sector are not being effective. Without such scrutiny and a clear understanding of why existing legislation is not being effective, the Scottish Government risks creating additional ineffective regulation.

Part 4: Letting Agents

Q10: Do you have any comments on the proposals to create a mandatory register of letting agents in Scotland, and the introduction of statutory provisions regarding letting agents’ practice?

11. ARLA has long called for more regulation of the lettings industry. As you will see from paragraphs 1 – 3 above, we have strict entry criteria for membership (including the need for professional qualifications) combined with a requirement for Continued Professional Development (CPD), compliance with our own Code of Practice, participation in an independent redress scheme, the need for robust Client Money Protection procedures and regular financial reporting. Failure to comply with these strict conditions can result in financial penalties, compensation to tenants and the termination of membership.

12. As such, we do not feel a register of letting agents is sufficient to remove the criminal operators from our sector. We also do not think that the proposed Code of Practice (outlined at Section 42) which will contain a prescriptive set of requirements is sufficient to raise standards in the industry. Codes of Practice are only effective if users understand the background to why certain provisions are

contained within the Code and why they need to comply with them. The only way letting agents will gain this level of understanding is by undertaking appropriate training and qualifications which is then backed up with CPD. This is the way the medical, legal and many other professions already operate and we would strongly urge the Committee and the Scottish Government to look to these professions as a model for how the lettings industry should be governed.

13. Therefore, we feel the Scottish Government may be missing an opportunity by only creating a register of letting agents and a Code of Practice. Last year ARLA produced a comprehensive proposal for regulating the property sector (attached as Appendix One). We would urge the Infrastructure and Capital Investments Committee as well as the Scottish Government to consider our suggested approach with a view to using the Housing (Scotland) Bill as an opportunity for much more comprehensive regulation of the letting industry. We firmly believe this is the only way of removing those criminal letting agents from the sector and feel the Scottish Government has both the ability and political will to show real leadership over the other legislatures of the United Kingdom on this issue.

Q11: Do you have any views on the proposed mechanism for resolving disputes between letting agents in Scotland and their customers (landlords and tenants)?

14. We consider the proposals outlined in sections 43 – 46 as sensible and reasonable mechanisms for resolving disputes between letting agents and their customers. If the committee were to take forward our recommendations outlined in paragraph 5 above the PRS Tribunal could become a very effective body for dealing with all issues relating to the private rented sector in Scotland.

15. Indeed, if the committee and the Scottish Government take forward the recommendations we have outlined in this Call for Evidence, ARLA believes Scotland can create a model framework for the sensible, appropriate and practical regulation of the private rented sector.

**Association of Residential Letting Agents
28 February 2014**

Why the letting industry needs regulation

The Association of Residential Letting Agents (ARLA) has campaigned over many years for regulation of the letting agency sector. The majority of letting agents are professionals, working in the interests of their clients and consumers. However the sector is tarnished by the conduct of a minority of agents who fail to adhere to basic standards. Failure to protect client money, mis-advertising of properties, failure to properly maintain leased accommodation and provide a safe environment for tenants – all of these issues must be addressed.

Failure to do so will mean that rogue agents continue to blight the sector, failing consumers and undermining trust in the majority of responsible agents.

Industries including energy, telecommunications and transport are currently regulated, and rightly so. Energy bills constitute a significant proportion of the average family's budget, consumers should be able to expect basic standards from digital communications providers, and promotion of safety on our roads and railways is paramount.

Yet the property sector on the whole – and the lettings sector in particular – remain largely unregulated. Given that the average member of the public spends significantly more on rent or a mortgage than they do on energy or transport, for example, it beggars belief that such an important industry is not properly regulated. This needs to change, and soon.

“The case for the regulation of agents’ lettings function is in some ways stronger than for sales. Letting agents are responsible for handling significant sums of money over the length of the tenancy in the form of deposits, service charges and rents. As well as this, they are responsible for compliance with health and safety regulations which are vital to the well being of the tenants, and ensuring the proper upkeep and maintenance of the landlord’s property.”

Citizens Advice Bureau, May 2009

ARLA believes that the best way to tackle rogue agents and promote professionalism and basic standards in the letting sector is to introduce a system of mandatory regulation for those working in the letting, sales and management of property.

Currently, anyone can set up a letting agency. They can do so without appropriate qualifications or industry knowledge – leading to a public perception of ‘wheeler dealers’ dominating the sector. There is also no requirement to participate in a client money protection scheme, meaning that significant sums of money belonging to tenants and landlords are put at risk. And agents can operate without any sort of professional indemnity insurance. It is little surprise that as a result, not all letting agents operate with the professionalism, expertise and ethics that ARLA agents do.

In the absence of full, mandatory Government regulation, ARLA has introduced a licensing scheme for its members. We believe this scheme provides the most effective protection for consumers currently on offer. However not all agents are members of professional bodies such as ARLA, and the levels of professionalism and consumer protection vary widely as a result. There are many agencies that are failing consumers – and the time has come to do something about them.

Why we need regulation now

At a time when the Government is working to reduce red tape and bureaucracy – which is to be welcomed – new regulation may not be seen as desirable. However the private rented sector (PRS) in the UK is growing at a rapid rate, and more households are renting privately than any time in the past fifty years¹.

According to the Government, more than 3.6 million households in England rent their home from a private landlord² - making up one in six UK households.

The PRS is also expanding at a rapid pace – it made up just 8 per cent of housing tenure in 1993/94, but by 2010/11 this figure was 16 per cent³.

In the past, private renting was broadly used for short term tenures – often by young people and students. Yet today, the PRS is no longer the ‘stop gap’ that it once was. More than one million families with children are renting privately⁴ – almost double the number that were just five years ago – and this figure continues to rise year on year.

Likewise the PRS is increasingly becoming an involuntary mode of tenure for young people, many of whom are unable to build up enough capital for a deposit to buy a home (or unable to secure a mortgage from increasingly cautious banks).

The Private Rented Sector – Key Facts

- **3.6 million households** in England rent their home from a private landlord
- The PRS has **doubled in size** in less than 20 years
- During the last year, there were over **85,000 complaints** about private landlords
- **Complaints** about private landlords have **risen by 27%** over the last three years
- **37%** of privately rented homes fail to meet the Government's **Decent Home Standard**

Of course, many who use the private rented sector do so voluntarily – it offers flexibility, choice, and an alternative to investing in buying a home. However with more and more private tenancies come more unscrupulous landlords and letting agencies. As a result, standards in the sector are, according to many measures, slipping:

- 37 per cent of homes in the PRS in England fail to meet the Government's Decent Home Standard⁵

¹ <http://www.labouremail.org.uk/files/uploads/a350eec8-d1ff-36b4-857c-47450d6fc0d7.pdf>

²

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15547/montague_review.pdf

³ http://england.shelter.org.uk/campaigns/why_we_campaign/Improving_private_renting#1

⁴ http://england.shelter.org.uk/campaigns/why_we_campaign/Improving_private_renting#1

⁵ http://england.shelter.org.uk/campaigns/why_we_campaign/Improving_private_renting#1

- The total number of complaints made to councils about private landlords has risen 27 per cent over the last three years⁶
- During the last year, there were over 85,000 complaints about private landlords⁷
- 62 per cent of those complaints were about serious hazards – e.g. dangerous gas and electrics⁸
- There were 487 successful prosecutions against private landlords last year – up by 77 per cent⁹
- Calls to a Shelter helpline from PRS tenants about concerns over how their deposits are being protected have increased by more than 80% over the last two years¹⁰

Furthermore as availability of social housing stock drops and pressure on housing stock grows, more and more vulnerable people are moving into the PRS.

In short, we have a rapidly growing sector serving more and more people, with all projections pointing towards further rapid growth in the years ahead. And as the economy recovers from recession, we will likely see rents rising across the sector. In these circumstances, consumers will need better basic protection.

ARLA believes that we need to address these issues as a matter of urgency, with mandatory regulation of the sector, to ensure that tenants are protected in the future. Without government action, millions of PRS tenants – many of whom are vulnerable – will potentially face poorer housing conditions and unscrupulous agents.

Consumer confidence is paramount to revive faith in the letting sector. ARLA sets out below how we think that this can be achieved.

The problem

With the majority of letting agents operating legitimate, professional practices, one could argue that it is the responsibility of consumers to make an informed choice about which agent they use. In reality, the system is much more complex.

At present, there are a huge number of organisations, industry bodies and government departments involved in the letting and property sector more widely, all playing a different role, which complicates the industry for consumers:

⁶ http://england.shelter.org.uk/news/october_2012/complaints_about_landlords_up_almost_30

⁷ http://england.shelter.org.uk/news/october_2012/complaints_about_landlords_up_almost_30

⁸ http://england.shelter.org.uk/news/october_2012/complaints_about_landlords_up_almost_30

⁹ http://england.shelter.org.uk/news/october_2012/complaints_about_landlords_up_almost_30

¹⁰ http://media.shelter.org.uk/home/press_releases/rent_deposit_complaints_up_80_in_two_years



Multiple Government Bodies

Various Government Departments have oversight over the sector – for example BIS is the sponsor department for the estate agency sector whilst DCLG oversees the lettings sector. However given that many agencies offer both lettings and sales, this arrangement clearly does not make sense.

DECC also has oversight of environmental standards in rented accommodation, whilst the Office of Fair Trading (OFT), a non-ministerial government department, and Trading Standards also hold various responsibilities within the sector.

Multiple Means of Redress

Likewise in terms of bodies offering some sort of redress, the landscape is very complex. Trade bodies such as ARLA and the NAEA offer a complaints process for their members' clients, ensuring that agents acting unprofessionally or against ARLA policy are dealt with appropriately. However a number of other means of lodging complaints also exist.

Local Trading Standards are a port of call for many, whilst complaints can be made about private landlords to local authorities. The OFT handles complaints about estate agents, and The Property Ombudsman (TPO) and Ombudsman Services – Property are able to consider disputes referred by landlords or tenants relating to lettings and management – but only if the agency in question is a member of the relevant scheme.

In short, it is not always clear to tenants – and consumers more generally – where and to whom they should complain about their agent or landlord, and who holds responsibility for oversight of the sector.

Kite Marks and Accreditation Schemes

Finally, and serving to increase the complexity of the sector further, several ‘kite marks’ and accreditation schemes are also emerging – in part as an attempt to remedy the lack of regulation in the sector.

ARLA and the NAEA, like RICS and others, operate a comprehensive licensing policy for their members.

Other ‘kite mark’ schemes have however emerged, particularly in recent years, which have served to complicate the sector – particular for consumers who are looking for a simple, known brand that denotes quality and professionalism.

- **SAFEagent** – a mark denoting firms that protect landlords and tenants money through client money protection (CMP) schemes – is one recent example – although these schemes have different rules and parameters
- Likewise, the Mayor of London has recently proposed a **London Rental Standard**, which accredits both landlords and letting agents through a voluntary scheme
- Finally, and like London, new and emerging schemes are being developed in both Scotland and Wales, serving to complicate the landscape further

Whilst these schemes are inevitably well intentioned, the result is a hugely complex system which consumers do not understand.

The Complexity of the Letting, Sales, Management and Landlord Sectors

BODY	ROLE
BIS	<ul style="list-style-type: none"> • Government oversight of the estate agency sector, including some regulatory functions • Oversight of the Office of Fair Trading (OFT)
DCLG	<ul style="list-style-type: none"> • Government oversight of the private rented sector
DECC	<ul style="list-style-type: none"> • Government oversight of environmental performance standards of rented accommodation
OFT	<ul style="list-style-type: none"> • Enforcement of laws pertaining to estate agency sector – including the Estate Agents Act and Consumers, Estate Agents and Redress Act • Handles complaints about estate agents at a national level
Trading Standards	<ul style="list-style-type: none"> • Port of call for complaints about the estate and letting agency sectors at a local level
TPO	<ul style="list-style-type: none"> • Operates a Code of Practice for Residential Estate Agents • Deals with unresolved disputes in the estate agency sector, but only for those agencies registered with a TPO scheme

	<ul style="list-style-type: none"> • Operates a Letting Code of Practice • Deals with unresolved disputes in the lettings sector, but only for those agencies registered with a TPO scheme
Ombudsman Services - Property	<ul style="list-style-type: none"> • Similar to the TPO, resolves disputes with registered estate and letting agencies, but also offers ombudsman services across other sectors • Appointed by RICS and ARMA to handle complaints about their members
ARLA	<ul style="list-style-type: none"> • Voluntary membership body offering full licensing based on a code of practice and best professional standards in the letting agency sector
NAEA	<ul style="list-style-type: none"> • Voluntary membership body offering full licensing based on a code of practice and best professional standards in the estate agency sector
NALS	<ul style="list-style-type: none"> • Voluntary membership organisation without educational requirement for members
ARMA	<ul style="list-style-type: none"> • Trade association for managing agents, offering a self-regulatory regime for members
NLA	<ul style="list-style-type: none"> • Voluntary membership association for private residential landlords • Helps landlords to understand the legal and regulatory environment in which they operate
RLA	<ul style="list-style-type: none"> • Voluntary membership organisation operating a professional Code of Conduct for members
SAFEagent	<ul style="list-style-type: none"> • A 'kite mark' denoting firms that protect landlords and tenants money through client money protection schemes operated by other bodies
Tenancy Deposit Schemes – e.g. The Dispute Service	<ul style="list-style-type: none"> • Various schemes that adjudicate issues around deduction disputes for deposits at the end of a tenancy

Too much complex legislation

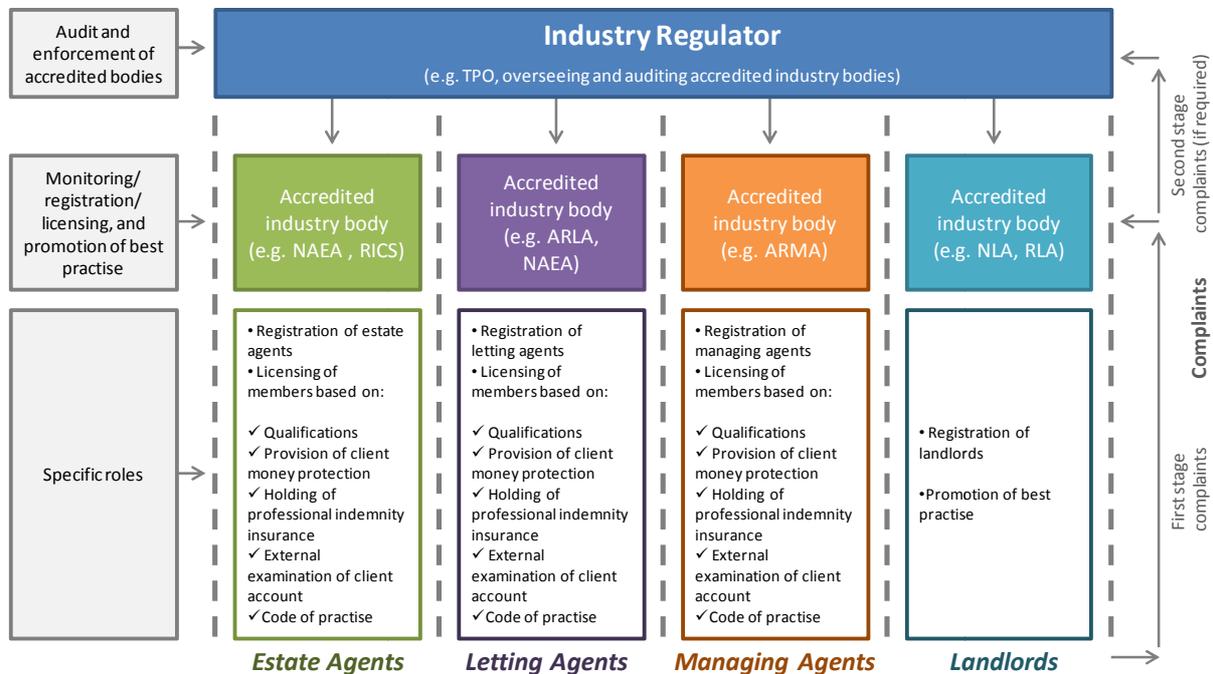
Finally, the lettings sector – like the estate agency sector – is subject to multiple pieces of legislation, creating an unclear, complex environment in which agencies must operate. The RICS 'Blue Book' – a best practice guide developed in conjunction with consumer groups and industry bodies – lists no fewer than ninety pieces of legislation currently on the statute book that apply to the sales and lettings sectors across the UK.

Navigating such a complex legislative landscape is a burden for agents. Furthermore, different laws and regulations are overseen by different government departments, serving to complicate things further. In short, an overly complex legal landscape only increases the likeliness of agents failing to adhere to the law.

The solution

ARLA believes that through the implementation of a new, comprehensive regulatory structure for the whole property professional sector, a simpler, more transparent system would emerge – trusted by consumers and industry alike.

The following section sets out ARLA’s current thinking, and proposes a simple, feasible model for regulation. However we are not wedded to one model, and are open to discussion on how regulation should work. ARLA would welcome the views of parliamentarians, government, other industry bodies and consumers about how a new regulatory structure could, and should, work.



Under this simplified regulatory structure, letting agents and other property professionals would be licensed, registered and monitored by an accredited industry body – such as ARLA, NAEA, RICS and others. These bodies in turn would be audited and overseen by a single industry regulator. ARLA would propose that The Property Ombudsman would be the most appropriate body – its structures already exist, and would only need to be ‘beefed up’ and better resourced, as opposed to created from scratch. We would also encourage a wider debate about which body would prove the most appropriate for industry oversight.

We would propose that for each level of the regulatory structure, the roles are as follows:

Industry regulator

- A single industry regulator would oversee the work of a number of accredited bodies across the lettings, sales, management and landlord sectors

- It would audit these accredited bodies and, should it be necessary, remove their ability to grant licences
- It would also act as a final port of call for complaints from consumers – handling complaints in instances where the complaints process of the relevant accredited body has been exhausted without satisfactory results

Accredited industry bodies

- All letting, estate and management agencies, and landlords, would be required by law to be members of an accredited industry body
- In the letting, sales and management sectors, accredited industry bodies would be required to register all members, and to license members based on a comprehensive set of criteria, including:
 - ✓ Education and qualification to a satisfactory level
 - ✓ Use of an approved client money protection scheme
 - ✓ Holding of professional indemnity insurance
 - ✓ Proof of external examination of client accounts and satisfactory accounting practices
- Accredited industry bodies would be the first port of call for consumers looking to complain about the service that they are receiving from an agent
- These bodies would also be responsible for provision of relevant training – for example on legal issues – and for the promotion of best practice throughout their memberships
- Finally they would be responsible for monitoring the activities of their members, and where unprofessional conduct has taken place, use their powers to take disciplinary action – including revocation of licenses if necessary

In the case of landlords, licensing would be overly onerous, given that many landlords own just one or two properties. However landlords would be required to register with an accredited industry body, which in turn would be responsible for promotion of best practice

Property Professionals

All companies and landlords operating in the property sector should be required by law to hold membership of one of these accredited bodies. This regulatory structure allows for a choice of memberships, which is essential given that some letting agents also manage properties; some estate agents also offer lettings etc.

In order for an agency to be licensed, they would need to demonstrate to the accredited industry body that they are promoting professionalism amongst their client facing staff – for example through provision of qualifications. Without a basic ‘entry level’ criteria for those working in the professional property sector, there needs to be a degree of flexibility in this regard. For example, we cannot expect a letting agency to sponsor their staff through significant amounts of training before taking up a client facing role.

ARLA would propose therefore that licences are granted at a company level. Companies would then hold responsibility for ensuring that their staff attain relevant qualifications. Basic criteria for licensing should be established – for example a requirement to ensure that all client facing staff are fully qualified within three years. Failure to do so would result in an agency risking their licence, and the accredited industry body would hold responsibility for monitoring this.

Landlords should also be required to hold membership of an accredited industry body – for example the National Landlords Association (NLA) or Residential Landlords Association (RLA). Given that in the UK many landlords own just a few properties let out for private income – as opposed to being full time property professionals – ARLA would propose that registration is compulsory, but licensing is not.

We would envisage that under this new regulatory structure, the burden on local authorities would be reduced, as landlords would be required to register with an accredited body, and professional standards would be encouraged across the sector.

Ultimate oversight – the Department for Communities and Local Government

ARLA believes that one government department should hold responsibility for overseeing the property sector more broadly, as well as the appointed sector regulator (e.g. The Property Ombudsman). When so many estate agents offer lettings, and vice versa, it seems illogical that BIS currently oversees estate agency, whilst the DCLG oversees lettings.

The establishment of clear lines of accountability will ensure a transparent regulatory structure. Oversight by just one department will reduce the burden on industry bodies and agents to understand a highly complex legislative landscape, and will also ensure joined up thinking across the estate and letting sectors, which currently is somewhat lacking.

Case Study – Medical Regulation in the UK

ARLA's proposed regulatory structure for the property sector is similar to that utilised to regulate medical professions in the UK. The **Professional Standards Authority** is the industry regulator, overseeing nine organisations – for example the General Medical Council – and auditing their performance. These organisations in turn oversee one or more of the health and social care professions (e.g. opticians, or dentists) by regulating individual professionals across the UK. This structure ensures that an expert body oversees specific professions – as ARLA would oversee letting agents for example – whilst also providing for overall industry supervision and audit, with clear lines of responsibility and accountability, as well as a clearly defined and transparent complains procedure.

The advantages

ARLA envisages that the introduction of mandatory regulation of the property sector will result in a number of advantages – for consumers, industry and government alike.

Advantages for consumers

- **Consumers want a simple and recognisable quality standard.** A key problem for consumers is that there is currently no one, clear mark of a responsible, professional agent or landlord. Multiple industry bodies and ‘kite marks’ exist, resulting in confusion. A simple regulatory structure should remedy this.
- **A clear means of redress.** Consumers will be able to look for ARLA accreditation – or similar – as a clear signal that the agent in question is reputable, licensed and monitored. There will be clear means of redress should a consumer not be satisfied with the service that they receive. There will also be a single body to which a consumer can raise their complaint, in the case that an initial complaint to an accredited industry body is not resolved satisfactorily.
- **Illegitimate agents will be easy to identify.** With all legitimate agents registered with an accredited body, consumers can be confident that they are dealing with a professional agency, adhering to basic standards.
- **Raising standards.** As a result of compulsory licensing, the quality of rented accommodation should rise, resulting in more satisfied customers, and better safeguards on health and safety.
- **Consumer trust in the sector will improve.** All evidence suggests that current consumer trust in the letting sector is very low indeed. Through licensing agents and promoting professional practice, consumer trust will improve. Vulnerable consumers will receive the same level of protection, and rogue agents will be forced out of the market – or forced to change their practice – as a result.

Advantages for industry

- Although some within the property industry are opposed to mandatory regulation, these individuals tend to be those that would be forced to improve their practices as a result of regulation. **Rogue agents operating illegitimate agencies would suffer as a result of statutory regulation.** Shelter has argued that for the landlord sector, regulation “would protect, not affect, good and law-abiding landlords”¹¹. The same can be said for letting agents sector.
- Professional, reputable agents on the other hand – including those represented by ARLA – have been calling on the Government to introduce mandatory regulation for many years. The

¹¹ http://england.shelter.org.uk/__data/assets/pdf_file/0004/206779/A_Licence_to_rent_Briefing.pdf

reputation of letting and estate agents is poor – almost exclusively as a result of unlicensed, unprofessional agents damaging the reputation of professionals.

- Not many industries call on the Government to increase or strengthen regulation. Yet in the property sector, a regulatory vacuum has allowed rogue agents to thrive. ARLA therefore believes that **mandatory regulation would be a positive move**.
- The system does not need to be overly complex or burdensome – letting agents are not calling for more red tape and bureaucracy. What is needed is a simple structure and clear lines of accountability within which legitimate agents can operate, whilst **unprofessional practices are weeded out**.
- Finally, the property sector is currently burdened by both a considerable range of relevant legislation, as well as a number of government departments with which the sector must engage. By simplifying legislation, potentially repealing repetitive laws, and giving one government department – the DCLG – oversight of the entire sector, **a simpler, more transparent system emerges**. Industry would welcome this.

Advantages for government

- ARLA understands that the Government is working to reduce the regulatory burden on businesses – this is to be welcomed. However regulation does have a legitimate place in some areas, and the property sector is one such sector.
- The Department for Business, Innovation and Skills is operating a ‘one in, one out’ policy on regulation at the moment. ARLA’s suggested regulatory structure would add new regulation for the sector, but there is also **ample opportunity to reduce regulation** elsewhere.
- Numerous pieces of legislation – from across different Government Departments – apply to the property sector, including many that are decades old. ARLA believes that the Government should look to **consolidate these laws, scrap unnecessary red tape** and use the opportunity to **legislate for a basic regulatory structure**. Much of the organisational infrastructure is already in place – including The Property Ombudsman and industry bodies. As such, a new regulatory system would be about structuring these bodies in a meaningful way to promote accountability, as opposed to creating new regulatory bodies.
- ARLA also believes that the Government can **save taxpayers’ money** by using our proposed regulatory structure. By giving one government department responsibility for oversight of the sector, multiple workstreams will be merged and result in **economies of scale**. Likewise the need for joined up thinking across Departments will be reduced, saving effort and time. We would envisage that the number of civil servants working in this area could be marginally reduced.
- By **simplifying legislation**, savings could also be made. Likewise savings would be made at the Office of Fair Trading (in the short term) and at Trading Standards, allowing these

organisations to concentrate on their core roles, and local authorities would have to spend less capital overseeing landlords locally.

- Finally, by introducing mandatory regulation of the property industry, **we can expect the amount spent in the courts on disputes to fall rapidly**. The Government estimates that tenancy breakdowns and evictions currently cost around £120 million per year¹². Regulation and the promotion of professional practice should result in this figure falling significantly.

Wider advantages

As demand for private rented housing increases, so too must the supply. In the UK, much of the private rented sector is owned and run by relatively small private landlords and agents. Indeed only 1% of landlords in the UK own more than ten properties¹³. This alone is unlikely to satisfy demand – we need to do more to encourage institutional investment in private housing for let.

This was the recommendation of Sir Adrian Montague in his recent report for the Government on barriers to investment in private rented housing. Sir Adrian pointed out that in 2009/10 there were just 115,000 new build housing completions in England, whilst projections suggest that the number of households will grow by an average rate of 232,000 per year until 2033¹⁴.

One barrier to institutional investment in the sector is the reputation of the lettings and management industries – and ARLA believes that promoting a more professional industry is vital to encourage investment. We need to expand and improve the managerial capability of the sector to demonstrate to investors that the PRS is ripe for both investment and returns.

As Sir Adrian Montague also argues, the benefit of building more homes for private rent is not just satiating rising demand – it is also a key driver of growth. Housing construction, repairs and maintenance are worth an average 3% of GDP over the last decade¹⁵, whilst housing construction supports jobs – for every £1m of new housing output, 12 additional jobs are supported¹⁶.

¹² http://england.shelter.org.uk/__data/assets/pdf_file/0004/206779/A_Licence_to_rent_Briefing.pdf

¹³ Private Landlords Survey 2010. Published by DCLG, October 2011

¹⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15547/montague_review.pdf

¹⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15547/montague_review.pdf

¹⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15547/montague_review.pdf

Advantages in brief...

- **Tackle rogue agents** – force them to improve or force them out of the market – and improve the reputation of the sector as a result
- **Encourage investment** in the PRS, and **encourage economic growth** as a result
- **Simplify governance** of the sector by taking BIS, Trading Standards and the OFT out of the equation
- **Reassure consumers**, improve their experience of the sector and encourage better housing stock
- Provide a clear means of complaint, and **prevent complaints** by ensuring that all agents' activities are monitored by an accredited body
- Ensure that **client money is always protected**
- **Save taxpayers' money** by resolving disputes before they end up in court

Conclusion

ARLA believes that the exponential growth that we have seen in the private rented sector – and the growth that is widely expected over the coming years – means that the time is right to regulate the letting industry. ARLA also believes that a cross-industry approach – encompassing the estate agents, managing agents and landlords that letting agents work with every day – would ensure a simpler, yet more comprehensive system. Clear lines of accountability, compulsory licensing and statutory regulation will lead to a more professional property sector, weeding out rogue agents and promoting consumer protection.

Like all industries, we do not want to see over-regulation. We support the Government's drive to rid industry of unnecessary red tape and bureaucracy – particularly during tough economic times. However regulation – if implemented in a pragmatic way – does have its place. For most people, monthly rental payments (or mortgage repayments) are their biggest single expenditure. When so many other industries, which account for less of the average person's outgoings, are regulated, it rather begs the question – why shouldn't we regulate the property sector?

The advantages of regulation are numerous. Consumers can expect a better experience when dealing with letting agents and other property professionals, their money and rights are protected and better quality rented accommodation will result. Industry too will benefit – unprofessional practices will be weeded out and the reputation of the sector will improve as fewer members of the public have to deal with the small number of agents that tarnish the reputation of the industry. And the Government too will reap the rewards in the medium term, with fewer laws to enforce, fewer civil servants to employ in this sector, and the cost of resolving property disputes through the courts falling.

This paper sets out ARLA's current views, and proposes a feasible model for regulation. However we are open to discussion on how regulation should work – our position is not set in stone. Indeed in order to make regulation work as best it can, a full and open debate – encompassing agents, landlords, consumers, industry bodies and the Government – is paramount. We hope that this paper catalyses that debate.