

Levelling Up, Housing and Communities Committee

Oral evidence: Reforming the Private Rented Sector, HC 624

Monday 7 November 2022

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[Watch the meeting](#)

Members present: Mr Clive Betts (Chair); Bob Blackman; Mrs Natalie Elphicke; Kate Hollern; Paul Holmes; Mary Robinson.

Questions 86 - 183

Witnesses

[I](#): Councillor Ian Corkin, Deputy Leader, Cherwell District Council; and Councillor Ben Fitter-Harding, Leader, Canterbury City Council.

[II](#): Felicity Buchan MP, Parliamentary Under-Secretary of State, Department for Levelling Up, Housing and Communities; and Charlotte Spencer, Director, Private Rented Sector and Leasehold, Department for Levelling Up, Housing and Communities.

Examination of Witnesses

Witnesses: Councillor Ian Corkin and Councillor Ben Fitter-Harding.

[This evidence was taken by video conference]

Q86 **Chair:** Welcome, everyone, to this afternoon's session of the Levelling Up, Housing and Communities Select Committee. We are having an evidence session with two panels to discuss reforming the private rented sector. This follows on from the White Paper that the Government produced outlining their intentions. First we will have two local councillors, who will introduce themselves in a minute, and then we will hear from the new Minister for the private rented sector in the second panel.

Before we start with our witnesses, I ask members of the Committee to put on the record any interests they have that may be directly relevant to this inquiry. I am a vice president of the Local Government Association.

Kate Hollern: I employ a councillor in my office.



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Bob Blackman: I am a vice president of the Local Government Association and I employ councillors in my office. I am also a private sector landlord.

Mrs Natalie Elphicke: I am a vice president of the Local Government Association.

Mary Robinson: I employ a councillor in my office.

Chair: That is our introductions. Over to our first panel to introduce themselves. We have two witnesses from the local government sector today, Councillor Ben Fitter-Harding and Councillor Ian Corkin.

Councillor Fitter-Harding: I am the leader of Canterbury City Council.

Councillor Corkin: Good afternoon. I am the deputy leader of Cherwell District Council in north Oxfordshire.

Q87 **Chair:** Thank you very much for coming to be with the Committee this afternoon. I will begin with a general question. The private rented sector is incredibly important part of housing supply in many parts of the country. What is your current assessment of the private rented sector in your area? How available is it? How expensive is it? Is it affordable? Do you think the proposals in the White Paper will impact either availability or affordability?

Councillor Fitter-Harding: We have quite a tight private rented sector in the Canterbury district. Availability is low and as a result pricing is high. There is quite a gap, as I am sure there is in most if not all places, between private sector rents and local housing authority rents, which makes it very difficult for people to move from local authority housing into the private sector. That is a problem in itself, but the availability is quite low.

The proposals are very welcome overall. We don't have issues with the enforcement and management of our private rented sector here and we have lots of larger houses in multiple occupancy due to having two universities in the district. That is already managed quite well under the current schemes that are available, but overall I think this paints a bigger picture of how we can improve the scenario for the future and hopefully have an impact on reducing homelessness.

Chair: I will come on to that question in a second, and we will come on to enforcement in further questions. Councillor Corkin, will it affect the supply and affordability of private rented housing?

Councillor Corkin: We also broadly welcome the White Paper and what it can bring to this area. We are a high-growth area. Since 2015 about 1,000 homes a year have been built and delivered in the district, and we aim for a third of those to be affordable in one form or another, but none the less we still have about 15,000 private rented dwellings in Cherwell, 22% of the housing stock and twice the number of affordable homes that



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are available to us. If the impact is negative, it would be very significant for our area, but we think that overall the impact will be positive.

Q88 **Chair:** Does that mean it is not going to reduce supply?

Councillor Corkin: Anecdotally, some landlords will leave. That does not necessarily mean to say that their properties will leave the market, but the evidence base for that is poor at the moment.

Q89 **Chair:** Quite a few of the homelessness cases are down to evictions under section 21, which the Government are going to abolish. Do you expect to have less pressure on your homelessness service with the abolition of section 21?

Councillor Corkin: We would expect the abolition of section 21 to remove that as a reason for presenting. As you rightly say, Chairman, a lot of people are presenting with that at the moment. It depends how many loopholes there are in the legislation and whether or not you would continue to see those people through another format. We have some concerns about the way houses will be able to be repossessed, to do with the families, whether it is a legitimate move and whether putting houses on the market could be gamed to secure evictions before withdrawing the house again. We think there are some mitigations in those areas. In principle it should reduce it, but whether it reduces actual numbers will depend on how tight it is.

Q90 **Chair:** Councillor Fitter-Harding, on homelessness, can I push you again on whether you have done any assessment of the impact on availability?

Councillor Fitter-Harding: Given that the market is so tight, availability is a concern. However, we need to be able to drive up quality and that is important. It is an unknown risk to local government at the moment as to how many properties we might see leave the market. There are probably other risks, which I will come to later, that might have more of an impact on the number of properties available in the market, at least in the short term, but perhaps with some suggestions about how we can mitigate that.

Removing section 21 is very welcome from our perspective in Canterbury district, as it will reduce the number of people presenting as homeless. However, the main concern we would have in delivering our homelessness service is the spike in section 21 notices we are likely to see prior to its implementation. We are already very constrained and have to use temporary accommodation. We are doing everything we can to overcome that. However, availability is one issue and the other issue is cost. Temporary accommodation is incredibly expensive. We may need funding available in the interim period, running up to the implementation, so we can afford to deal with the homelessness consequences should they arise.

Chair: Let's move on to enforcing the existing housing standards.



Q91 **Mary Robinson:** What powers and tools do you find most useful in your enforcement in the private rented sector, and how proactive are you?

Councillor Fitter-Harding: We are reactive more than proactive, with the exception of houses in multiple occupancy where we already have a licensing scheme that works very well in driving up standards. We have low enforcement and prosecution rates in Canterbury district. However, we don't believe that is an issue with needing to be able to enforce and not being able to. We have a very good track record of working with landlords when an issue is reported to us and being able to resolve it without resorting to enforcement and prosecution. The catch is that relies on the report coming through to us in the first place, and we know that tenants are far less likely to come forward with an issue if they think they may end up with a section 21 as a result.

We are very happy with the current situation in enforcement and prosecution. However, we can see that by changing the dynamic we may need to use those powers more. If we are proactively going out and inspecting properties as part of the registration scheme, that will undoubtedly drive a significant amount of workload and cases that we are not aware of currently.

Q92 **Mary Robinson:** Do you see this as a positive?

Councillor Fitter-Harding: I do. I am concerned about the resource implications. However, as a largely unregulated market at the moment, I can see, especially in places like Canterbury district where we have lots of older properties that can be very damp and draughty, leading to poor living conditions, if we have tenants living in fear of reporting those issues and getting them resolved, that is a hugely negative thing for the health and prosperity of our district. If we have a scheme where landlords are forced to register and to be available to us to inspect, I think that gives us an exciting opportunity to drive up standards.

We will undoubtedly need to support some landlords through that process. There will be landlords who are not able to afford to make the necessary improvements to their properties due to the structural issues that some of the properties have, particularly in the city of Canterbury. We may need to consider whether we make available loan schemes with charges on properties to allow those improvements to take place, or else potentially risk a wholesale loss of properties from the private rental market.

Q93 **Mary Robinson:** Councillor Corkin, are you proactive?

Councillor Corkin: We are. We have a team that consists of three environmental health officers and one tenancy relations officer, and they work full time on the agenda. The mix is between proactive and reactive, but more and more the reactive element is getting the lion's share of the attention. With particular pressures at the moment because of the Homes for Ukraine scheme, the placements coming to an end locally are absorbing a lot of that team's time in finding alternatives. All of our



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temporary accommodation is full. We have about 160 host families and a matching pool of about 45 families, so there is a huge additional pressure before any other pressures come on the system.

But we are getting work done. There are robust and flexible notices, including the ability to carry out works in default, but we are quite keen to see costs attached to charging orders against properties. We see some examples of that in the Public Health Act 1936. We think that notices for obtaining documents and information are vital to investigations. We see good examples of that elsewhere, and that could be easily passed across. These are ways of maximising the resource that is available. We see a lot of parallels in the good regulations that exist for HMOs that could be transferred across to non-HMO properties. We are keen to explore all of those as future developments.

Q94 **Mary Robinson:** Do you use civil penalties as part of your enforcement?

Councillor Corkin: We do. Since 2018 the housing standards team has issued and upheld 21 civil penalties and onerent repayment order. That was an amount of £73,000. Of those, nine penalties were for MEES offences and the remainder for HMO offences.

Q95 **Mary Robinson:** Since 2016 local authorities have had access to a database of rogue landlords and property agents. How useful has this database been to you in Cherwell?

Councillor Corkin: Limited, in truth. We have entered two landlords on to the database, one for an unlawful eviction and one for receiving two civil penalty notices, but in total I think it runs to 80 or thereabouts, no more than 80. We think expanding the range of offences and lowering the threshold will be a useful way to go about that, but it would be much more interesting if it could be brought into the portal and made part of that development as a way of sharing not just high-level prosecutions but intelligence on how rogue landlords are operating.

Q96 **Mary Robinson:** Councillor Fitter-Harding, you were nodding. Does that reflect your experience?

Councillor Fitter-Harding: Yes. We are very fortunate that we have not had any cases of rogue landlords in the district in the recent past, certainly not since I took over a couple of years ago. However, I fully agree with my councillor colleague that incorporating that information into a required register and portal of landlords would be much more useful to us in being able to use and access that information rather than having it as a separate resource.

Q97 **Mary Robinson:** The Government said in the White Paper that they had “reinvigorated” their engagement with local councils to better understand the challenges they face. What does this engagement involve? Is there anything in particular that you would like the Government to do that they are not doing already?



Councillor Fitter-Harding: There are certainly no complaints from us at this level. However, we took the bulk of our housing service back in-house to our council only recently. We had an east Kent shared housing service providing predominantly social housing but also the housing-related functions, which you may be aware was problematic. We have dismantled that and taken it in-house, so we have had a lot of other priorities. We have been under the oversight of the regulator, and we are hoping to come out of that very shortly.

I am appreciative of the things the Government have done to try to make this more accessible for our council, but it simply has not been needed by us at this time; it may be in the future perhaps.

Councillor Corkin: We think it is a very important two-way conversation to have, and we take it very seriously to be able to feed into the policy development. Pre-covid, officers attended some of the DCLG and HCLG workshops. They respond to consultations whenever possible. The DCLG PRS knowledge bank is used by officers on occasion. The thing that would be of benefit to us is that we find it difficult—and I think many councils probably do—to react to short-term pools of funding that come along quite quickly and pass through quite quickly. We did a project recently to identify older people living in rental properties. That was with a grant from local authorities, but we need a longer timescale for implementation and to be able to resource that. As I said earlier, the team is quite tight and is even more stretched with some of the pressures from Ukrainian guests at the moment. Longer timescales for implementation as those funding pools become available would be very useful for a district council of our size.

Q98 **Mrs Natalie Elphicke:** Good afternoon, Councillors. I want to ask about the existing powers and relationships, building on some of the questions that you have just answered, particularly with a focus on selective licensing.

Selective licensing schemes require private landlords in an area that operates a scheme to have a licence for each property that they let, with a view to tackling poor quality and antisocial behaviour. Have you introduced selective licensing in your area? If you have not done it, is there a reason why you have not gone down this route? Is there anything in these proposed reforms that would encourage you to use selective licensing, or do you think the new national registration scheme will mean that individual selective licensing will not be needed as there are different routes to tackle the issues of poor quality and antisocial behaviour?

Councillor Corkin: Most parts of Cherwell are very rural and fall well below the national average. While there are small pockets in urban areas, we exceed the 19% national threshold. We have explored them in some areas. There is only one in the centre of Banbury that potentially may meet the criteria, but it would need some additional support to carry it out. The barriers to entry are quite high and, again, are resource hungry.



We currently explore more proactive inspection work, given the opportunity for it in the district.

We don't see this being succeeded or overtaken by the scheme. We see the two things working together. In fact, it would give us much better visibility across the piece to be able to take and assess the scale of the opportunity with selective licensing.

Councillor Fitter-Harding: I agree with Councillor Corkin's comments about the complexities and challenges of implementation. We have recently started talking about it as an option but, given the picture of our private rented sector in Canterbury district, the proposals that are being put forward here are probably what we would need. We probably would not need selective licensing on top of these proposals, particularly if we were reviewing the decent homes standard, what it means and what the enforcement model looks like. Provided that councils with the responsibility for this have the ability to perform the inspections and to appropriately recover costs, and provided they are well resourced, I don't think we would need selective licensing in the future.

Q99 **Kate Hollern:** Good afternoon, councillors. The Government have made several proposals for reforming the private rented sector that would have an impact on local authorities' enforcement activities. In particular, they plan to introduce a new legally binding decent homes standard. What challenges would this have for councils from an enforcement perspective?

Councillor Fitter-Harding: As Councillor Corkin mentioned, the strains that the system is already under are significant, and I think this could bring in a couple of additional pressures that we need to consider. Provided that districts such as ours have a fee-setting ability to cover our costs and recover the costs of the scheme, I don't see that there would need to be ongoing funding for the vast majority of it. The initial ability to ramp up, to go through the legal processes, to recruit new officers and to get to the point where the scheme is self-financing would certainly need some kind of funding to enable that to take place. We are simply not in a position to be able to move on that without further assistance at the moment. Things are just too tight.

I have a concern that if authorities all look to implement this at the same time—we are already running 20% vacancies in Canterbury district due to staffing issues—it would be very difficult and very challenging to recruit, in competition with all our neighbours, the additional enforcement staff, legal staff and housing team staff that would be needed to execute this. We will need to think about how we phase implementation, how we ramp this up in a gradual way that allows recruitment to take place without authorities competing with each other, otherwise it will end up costing more to get the whole scheme off the ground and will potentially make it less sustainable in the long term.

Councillor Corkin: I definitely agree about resourcing the teams. They are not adequate as they are, and I suspect Canterbury, like Oxfordshire,



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has a very tight labour market. The point about all being in that market simultaneously is a point well made. I think this is predicated on sufficient numbers of suitably qualified officers to carry out inspections and follow-ups, and success will follow. After that, we need some straightforward ways of serving notices.

Maintaining properties to a decent standard should be a strict duty on landlords, similar to the HMO management regulations, backed up by clear guidance on what constitutes "decent." There are some parallels to be had with the model used in health and safety legislation, with landlords, local authorities and tribunals needing to have regard to approved codes of practice and guidance as we move forward.

It would be very useful if local authorities were able to specify remedial works via a simple improvement notice or remedial notice that can be used flexibly with the local authority specifying the timescale for compliance. We also think that serious breaches or a failure to comply with an improvement or remedial notice should result in financial penalties and/or prosecution. All penalties, works and default costs, as I mentioned previously, should be registered as a charge against the property. Registering against the property is not a silver bullet and, by its nature, has a time delay built into it. The front end is the cost, of course, but we think it could be a useful tool for securing the investment.

Q100 **Kate Hollern:** How easy will it be for councils to monitor whether landlords are registered and giving accurate information?

Councillor Fitter-Harding: That is a very good question, and we have been having some discussions about this internally in the council. It will be difficult and intensive to identify landlords who have not registered. We ask that the penalties and the implications of not registering are significant and that, as far as possible, local authorities are empowered to act against those who don't register, to make sure they are registered and brought up to speed. I am concerned that, with the constraints in the court system, the ombudsman process or whatever framework is set up, we need to make sure that things can move quickly. For me, the maximum devolution to local authorities of whatever powers are necessary to implement this and run with it is very important.

I am slightly concerned about how the cost recovery for the investigative and identification process might work. I hope we would be able to take action against landlords who don't register, but would that be enough to cover the various costs involved? Potentially, if it is a very simple process and the authority is given to the districts, but it might be that some funding is needed, at least initially, to set it up so that councils can identify how to balance it out in their fees and charges for an ongoing service. I imagine that the biggest impacts will be initially, and then, after a few years of the system being in operation, cases of unregistered landlords will be fewer and further between.

Q101 **Kate Hollern:** How would you check the accuracy of the information?



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Councillor Fitter-Harding: That would also be difficult. We would have to include that as part of our inspection process if it were to be done by each local authority. Assuming that local authorities do the initial inspection, once we get somebody registered that would give us the opportunity to ensure that all the details are correct and then have periodic inspections after that. I hope we would end up with a very high degree of accuracy once we have gone through and inspected all the properties as they came on stream.

Councillor Corkin: There is an education piece, and we hope central Government would help lead that, but I guess we are talking about those who are more reluctant to come forward. We think we will need mechanisms to require documents and information to be produced, similar to section 235 of the Housing Act 2004 or section 35 of the Housing and Planning Act 2016. Providing false or misleading information needs to be treated as a serious offence, and we anticipate some landlords may attempt to register some but not all properties to hide assets or may register under a limited company or proxy and switch if fined, so the ability to pursue directors is needed.

The regulations should also include a duty on landlords to keep the portal updated, especially addresses and other key contact details. I have another couple: failure to register needs to be a quick discharge to minimise burdens on local authorities and to encourage compliance through timely justice. Our suggestion is a straightforward fixed penalty notice in the first instance, possibly with a discount against the tariff for timely completion of the information, with options to escalate to civil penalties and prosecution for repeated or serious breaches.

Q102 **Kate Hollern:** The White Paper talks about new burdens on councils, but there is an argument that councils already have a duty to enforce housing standards and, therefore, the decent homes standard for the private rented sector may not count as a new duty. The Government guidance also defines new duties as extensions of existing duties under primary legislation. What is your assessment of that debate?

Councillor Fitter-Harding: It is certainly quite a significant change to how we currently operate in Canterbury district. I consider that it would need additional funding, purely because our current set-up is very reactive. We don't have a mechanism for being incredibly proactive because we have no licensing scheme and there is no reason to carry out inspections unless we have complaints from tenants or others. I think there is a very strong case to be made that local authorities would need support.

However, I genuinely believe the scheme will work best if local authorities are empowered to ensure they can make these schemes self-financing. I think that is incredibly important. No local authority wants to be reliant on Government funding for this, not least because income streams from Government chop and change as the years go by, and we want a well-resourced service that provides a consistent standard of service and



quality of care to our residents. Ultimately, if we are able to recover those costs and set our own fees and charges within parameters to make sure it is cost recovery and nothing more, I am confident that the long-term burdens on Government of introducing these changes would be minimal.

For me, it is more about upfront funding and support with the transition from how we have done things up to now to how we will do them in the future.

Q103 Kate Hollern: How much upfront funding would you estimate for your council?

Councillor Fitter-Harding: I knew that question was coming. It could vary from anything between £150,000 and £450,000, depending on how much we would need to implement to cover us for the first year. It is potentially significant, but hopefully not overwhelmingly so. It is about being able to recruit officers to the different posts and getting the whole scheme up and running. As a council, there is an element that we should be taking a step back and saying that, over three or five years, we can build in cost recovery to recover some of the initial costs. It should not all need to come from Government, but we will need some help to get it off the ground.

Councillor Corkin: Ben sums it up quite well. You will not be able to draw me on a figure, otherwise I suspect I will feel a sharp elbow in my ribs. We are very much a can-do authority. We engage proactively with all sorts of different agendas. As the legislation becomes more apparent, we will react more. If I understood the premise of the question, it is could we do all this and somehow, because it is an extension, do it within the existing envelope? The answer is a categoric no. We couldn't do it.

Q104 Kate Hollern: Is there a risk that these reforms will simply add to the burdens on good landlords—you have both said it has to become self-financing—and do nothing to deter rogue landlords?

Councillor Fitter-Harding: It is a risk. It concerns me that we might be overburdening landlords. It is important that the scheme, the registration process and the portal are all very low-friction. The costs won't be nothing and there is a risk that those costs will be reflected in rents and passed on to tenants in areas where we are already struggling. It would be fantastic, as part of this, to look at local authority rents as well and see how local authorities can increase their rents and, potentially, the amounts of housing benefit to try to even this out a bit.

However, all that said, in being able to go after the landlords who are not compliant, who are problematic, who don't register, who provide inaccurate information or who provide poor standards and don't take action to remedy them, provided that we factor those costs in and we are allowed to recover them—particularly if there is guidance on setting this up and a level of proactive enforcement—there should not be anywhere



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to hide. The burden should fall disproportionately on those who don't play the game rather than on those who do.

I hope that good landlords would be rewarded, perhaps by being able to promote their compliance and inspection records, and that this information will be freely available so that potential tenants can see inspection records, whether improvement works have been required and so on. The financial penalties on those who don't comply need to be such that they are genuinely a disincentive. We know that landlords can be unscrupulous with tenants, particularly if they are demanding cash or doing other workarounds to charge exorbitant rents but provide very poor quality.

Councillor Corkin: Of course there is a potential that it will increase the burden on good landlords. There is a need to seek mitigations and, as Ben has just said, to have some positives for good landlords in the system. We think the opportunity to remove other burdens, notably on licensing, could be a good win for good landlords, and to consolidate and reduce other burdens. I am thinking about consolidating databases into a single location so that landlords only have to log things once. We have things like the rogue landlord database, the MEES exemption database, trading standards and other intelligence databases. Making that resource easier and friendlier for good landlords to use, and to allow them to use it as a shop window for what they have to offer.

Does that go far enough? I don't know. It needs a good degree of work with the sector to establish that, but the converse of the question is: do we accept bad landlords and people living in poor and unsafe conditions because we don't think we can manage the better part of the rental estate? I don't think any of us would agree that we can leave people in those conditions simply because we don't want to work to find solutions for the good landlords.

Chair: Thank you both very much indeed for coming to give us some very detailed, practical and helpful information so we can see what the reality of this legislation, if it eventually comes in, will mean for councils and their ability to implement it and, as you say, make sure that good accommodation remains on offer and that bad accommodation and bad landlords are positively dealt with.

Examination of Witnesses

Witnesses: Felicity Buchan MP and Charlotte Spencer.

Q105 **Chair:** It is a pleasure to welcome the very new Minister for the private rented sector, Felicity Buchan. Obviously it is your first visit to the Committee, so congratulations on your appointment and, again, welcome to the Committee. Would you like to introduce your official?

Charlotte Spencer: I am the Department's director for the private rented sector.



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Q106 **Chair:** Thank you. You are welcome as well.

Minister, on the issue of the private rented sector, there are a number of recommendations and challenges in the White Paper. Clearly, you have consulted on some of the proposals but, in the end, the one issue that does not seem to be addressed is the problem of affordability. Isn't the fundamental problem in the private rented sector—and you have probably experienced it as much as anyone in your constituency—that in many parts of the country private renting is simply not affordable to so many people who need it?

Felicity Buchan: I think it is very important to look at what the White Paper is trying to achieve, which is a fairer deal for tenants and landlords. Affordability is a separate issue that is clearly very tied to supply, and it is not the purpose of this White Paper to look at housing supply as a whole. This is very much making sure that we get a good deal for tenants and landlords. The vision of the White Paper is to ensure that every tenant has a decent and secure home, that they are in a position to exercise their rights and that, at the same time, landlords have the ability to get possession if they need it on reasonable grounds, but this is not intended to be an overall housing strategy.

Q107 **Chair:** We might ask, then, when the overall housing strategy will come.

Felicity Buchan: If you invite the Secretary of State, I am sure he will be delighted to take up your invitation.

Q108 **Chair:** We will do that. When he comes to see us in a couple of weeks' time, we will tell him that you suggested we ask him that question.

Of course we want to see better standards of accommodation for tenants, but many people watching this might think, "I would love to have a better standard of accommodation, but I can't afford to be a tenant in the first place."

Felicity Buchan: Yes, and clearly we are doing a lot if you look at the broad housing policy. For instance, we are investing £10 billion over the spending review in new housing to unlock 1 million homes over the course of the Parliament. We achieved 240,000 new homes in 2019-20, which is one of the highest levels over the last 10-plus years. We are investing £11.5 billion in the affordable homes programme. We have a lot going on to increase the supply and, in particular, to increase the supply of affordable housing both for sale and for rent.

Q109 **Chair:** We have challenged the Government before on the intention, which the Committee believes ought to exist, to build 90,000 new affordable and social rented homes a year. I don't think Ministers, when they replied, even addressed that recommendation. I think we can say that the Committee didn't quite agree the Government got it right in that regard, but let us come back again to the issue of affordability.

As you will know, the local housing allowance is not part of the White Paper, but nevertheless there is a problem that in many parts of the



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country it simply doesn't cover the cost of renting or, going to my own city of Sheffield, it covers it in some parts of the city but not in others. If you are on a lower income, you can rent in only certain parts of the city, not necessarily where you have family connections, work and all that sort of thing, because you simply can't afford it. Why is there not even an acknowledgement in the White Paper that that is an issue that needs to be addressed?

Felicity Buchan: That is clearly a matter for the Treasury and the DWP. Coming up to the autumn statement on 17 November, I am sure you will appreciate that I cannot comment on what the Treasury may or may not do.

Q110 **Chair:** It would be nice to think that Ministers in charge of the private rented sector were at least recognising that there is an issue. Could we get that far?

Felicity Buchan: We continue to talk to the Treasury and the DWP. We are in constant communication, but I am not in a position to say anything publicly.

Q111 **Chair:** Right, okay. It would be nice if at some point the Department said, "There is an issue here that we are talking about because we know it is a problem." It is a problem, isn't it? As a constituency MP, you know it is problem, don't you?

Felicity Buchan: As I say, we are in regular discussion with the Treasury and the DWP on all these issues.

Q112 **Chair:** One of the issues—and maybe you can't go into this territory either—is that there is a concern that smaller landlords are already starting to leave the sector. I don't know whether the Government have a view on what the size of the offering from smaller landlords should be in the sector. Tax changes, again, are not in your remit, I understand, but they are there and presumably you are monitoring whether these have had an effect. If you add section 21 on top, do you have concerns, and have you done any impact assessments, that the accumulation of these measures, together with rising interest rates, will push out many small landlords?

Felicity Buchan: We are monitoring the market very closely, and we will publish a full impact assessment alongside a Bill, as you would expect. If you look at the percentage of the private rental sector, it has been pretty constant from 2013-14 to today. We are monitoring that. You seem to be disagreeing.

Bob Blackman: That is not what the evidence shows. I am sorry.

Felicity Buchan: We have the size relative to the entire market as being a pretty similar percentage from 2013-14 to today.

Q113 **Chair:** Could you let us have the figure?



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Felicity Buchan: Yes, absolutely. We continue to monitor the stock. Supply is important and we want to encourage good landlords to stay. We are pretty agnostic as to whether they are small landlords with one property or large landlords with multiple properties. We want to ensure that good landlords remain in the sector.

Q114 **Chair:** I will not go into the details about tax changes, which clearly affect small landlords more than large landlords by and large, agnostic or not, but there is a problem that, with the growth of Airbnb, short-term lettings and holiday lettings, in some parts of the country landlords are finding it more attractive to go into those areas than to deal with longer-term tenants. You are abolishing section 21 to give security for tenants but, on the other hand, landlords are moving into even more short-term ventures. Are there concerns about that? Is any action going to be taken to deal with it?

Felicity Buchan: Yes, very much so. We need to focus on the short-term holiday let market because there are very significant pressures in some parts of the country, places like Devon, Cornwall and central London. You will be aware that DCMS has made a call for evidence on a tourist accommodation registration scheme. That has closed. It had about 4,000 responses that are being analysed, and one of the first things on my agenda is to sit down with DCMS to address the sector, because it is leading to significant shortages in particular geographical areas. As you say, there are some tax advantages for short-term lettings, as opposed to long-term lettings. Again, that is a matter for the Treasury, but I assure you that there will be joined-up thinking on this issue.

Q115 **Bob Blackman:** The data shows that about 94% of the PRS is landlords with one, two or three properties. Large numbers of them are leaving the market, but those properties are not being sold for owner-occupying. Therefore, those properties are becoming available and are being used across the country. This is not limited to coastal areas; it is right across the country where landlords are realising that they can make far more money, have no restrictions and not have any tenancy agreements or anything. The risk here is that, by regulating still further, we drive people into more of a wild west show. Are you not concerned that that is one of the issues you are inheriting as a Minister? I accept that you are new to the job, but you are inheriting that potential problem.

Felicity Buchan: As I say, I am fully aware that, across Government, we must collectively look at the issue of short-term rentals.

Q116 **Bob Blackman:** Have you collected data on this? It is a DCMS issue, but has your Department collected data on what is happening to these properties where landlords are leaving the market? They are leaving in droves, which is the key concern.

Felicity Buchan: I don't have that data at hand, but I am very happy to—

Bob Blackman: That is the concern I had when you presented evidence



to us suggesting that the percentage is similar from 2013 through to today when the number of properties in the housing market has obviously increased as more properties have been built. The PRS is dropping as a proportion because more people are dropping out and more properties are in this very short-term market, which is a concern because there is a shortage of private rented accommodation, the rents go up and the conditions get worse for people who desperately need this housing. It must be of concern to you if we end up in a position of creating a worse problem than we have now.

Felicity Buchan: Absolutely, in the sense that it is very important that we retain supply in the private rental sector, and I think it goes without saying that we need the supply.

Q117 **Chair:** You will tell me this is not your job to answer either, I am sure, but when are we going to see the Bill?

Felicity Buchan: I am very happy to answer that. It is very much our intention to introduce the Bill as soon as parliamentary time allows and within this Parliament. As you will appreciate, we published the White Paper in June but the White Paper, by definition, is not the final product. We are engaging with stakeholders. I was doing that last week in my first week in the job, and I am doing it this week. We need to do that engagement. I would very much appreciate the Committee's input on how we can optimise and refine the Bill, and on the best way for implementation. It is not 100% in final form. We are working on it. We have just closed the consultation on the decent homes standard. That closed only a couple of weeks ago on 14 October. This is work in progress, but it is a key priority of the Government and there is a desire to get on with it.

Chair: We will forward you our report anyway.

Felicity Buchan: I am very serious. I very much appreciate your input.

Q118 **Bob Blackman:** The Government have published their ambition, as the manifesto said they will abolish section 21 no-fault evictions. There is a risk—and we debated this at length on Thursday—that it will drive landlords who want to get their tenants out to use section 8. In particular, there is an issue that it could leave tenants with county court judgments against them, making it impossible to get another private sector rental. I understand there are suggested reforms on section 8 as well, but we have evidence from landlords that they are worried those suggestions do not go far enough in protecting against antisocial behaviour in particular.

In later questions, colleagues will ask about the length of fixed-term tenancies, but one of the key issues is that it can take more than 12 months to evict a tenant who has committed antisocial behaviour. The other tenants in the property, particularly if it is a flatted area, are reluctant to give evidence for fear of retribution against them, and



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therefore landlords struggle to get people out. How will you ensure, particularly on this, that where landlords need to evict antisocial tenants they can do so with speed?

Felicity Buchan: Those are all very reasonable points. Let's go through that step by step. First, I am very conscious from my own constituency of the effect antisocial behaviour can have not just on the landlord but, more importantly, on neighbours and the community. There is no question but that we need to get the grounds for antisocial behaviour correct. We are working with stakeholders. We need proper guidance, which we are working on and would include local authorities and the police. There is no question but that we need to be in a position where, if someone is committing antisocial behaviour, there is an efficient way to remove them from the property.

I also completely agree with you, Bob, that court action needs to be efficient and swift. We are working with the judiciary, the Ministry of Justice and His Majesty's Courts and Tribunals Service to introduce reforms to make the possession process as efficient as it can be for landlords while, of course, protecting the rights of tenants. We completely get that the court process needs to be efficient and swift.

Q119 **Bob Blackman:** Do you accept, though, that the risk here is that tenants who are being evicted will end up with court judgments against them and, therefore, when they go for another tenancy will be in a position where a landlord will say, "We are not touching you" or, worse still, "You can come in, but we are going to increase the deposit or the rent because we think you are a bigger risk"?

Felicity Buchan: We are also introducing a mediation service, and we see that as being a potential first step before court action. That could have mediation between landlord and tenant.

Q120 **Bob Blackman:** That is all fine and dandy but, as you say, the fellow tenants around the person who is causing the antisocial behaviour will not necessarily welcome that sort of mediation. One of the things that you have ruled out, as I understand it, is the Committee's suggestion of a housing court that specialises in these particular cases. That, to me, is a retrograde step because you would have people and lawyers with expertise who could deal with these cases. They could be dealt with expeditiously, which is to the benefit of both the landlord and the tenant. Why are you ruling it out?

Felicity Buchan: I think it is very important that we work with the Ministry of Justice to find the right solution. It is very much my focus to work with the Ministry of Justice and across Government to find what is most efficient.

Charlotte Spencer: The reasons for this in our response to the call for evidence about the case for a housing court were fundamentally that a new court would not be the most effective way to address the concerns;



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it was not that they were not accepted as concerns. The reforms that are planned for the court service now—

Q121 **Bob Blackman:** It can take 12 to 18 months to get an antisocial tenant out. Is that perfectly acceptable to the Department?

Charlotte Spencer: It is not acceptable.

Q122 **Bob Blackman:** Okay. What is happening about it then?

Charlotte Spencer: The Minister mentioned the plans for mediation. I understand your scepticism. I heard you say that it might not be acceptable to the neighbours, but it is quite important that the tenant has an opportunity to improve what they do and to understand the points made against them.

Q123 **Bob Blackman:** In social housing it is almost impossible for local authorities or housing associations to get rid of antisocial tenants. A private sector landlord, if they are acting properly, will have the same challenges. The whole point about this is that, if people think they can carry on causing antisocial behaviour with impunity, they will and they are making people's lives a misery. Minister, you must know this as an MP with your particular constituency. I see this all the time with my constituents, and it is a real challenge because people say, "Well, you can't do anything to me" and just carry on. We need the process to be speeded up, so we suggested a route. I can quite accept that we are not the fount of all knowledge, but we have some people on this Committee with quite detailed knowledge of the history of all this who can make recommendations. I will leave that particular issue.

There is also concern that the new sales and occupation grounds that are suggested in the Bill could act as a de facto section 21 process. How will you prevent landlords from regaining possession on those grounds?

Felicity Buchan: We heard in the debate the other day about the risk of someone simply saying, "I am going to sell the property or move in my daughter," and we do not want that to happen, so we want there to be a requirement, if necessary, that it should be evidenced. For instance, that could be listing the property on the market. Landlords would be restricted from remarketing or reletting the property for a period of at least three months. We are comfortable with the fact that evidentiary proof could well be required.

Q124 **Bob Blackman:** Is that after an eviction has taken place?

Felicity Buchan: If a landlord—and I am just talking this through—were to say, "I need the property back. The ground is that I need to move in," and if the tenant were to challenge it in court, it is at that point that you would have to show the evidence. Talking through the logical process, it would be—

Q125 **Bob Blackman:** How do you prevent the landlord? We can take your constituency. I am not sure what the average price of property is in your



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constituency, but it is probably over £1 million. They put the property on the market for £2 million instead of £1 million, "It is not selling but, I'm sorry, you've got to leave because I'm trying to sell." How do you deal with that particular issue?

Felicity Buchan: Again this is for the court to determine on the basis of the evidence.

Q126 **Bob Blackman:** What happens to the tenant in the meantime while that is proceeding? In court procedures this will take months. It is not going to be quick by any means.

Felicity Buchan: It is very important that the court process is swift. We are in the process of thinking through these issues. One of the reasons why we are not publishing the Bill tomorrow is that we want make sure that we have the appropriate processes in place in terms of evidence.

Q127 **Bob Blackman:** There are also a number of mortgage lenders who will say, for example, that owner occupation is not allowed under the mortgage terms. What are you going to do about those circumstances, if anything?

Felicity Buchan: These examples—and it is great that you are raising them—need to be analysed and thought through properly.

Q128 **Bob Blackman:** The other issue is that the evidence that has been presented is that something like 7% of private tenants are in serious rent arrears that would give grounds for possession in a court, namely three months or more. That is about 300,000 properties in England alone. Clearly there is a problem because, once a tenant is in the court process, they often stop paying rent completely. A landlord may end up with a very long process of not getting any money at all, a judgment is made in the courts that they can get possession and the tenant should repay the rent, but the tenant says they do not have any money. They are then evicted and are paying back a small amount every month, if they can be pursued. What action are you going to take in those particular circumstances to protect landlords? Otherwise landlords are going to leave the market in even bigger droves, because they will seek alternative ways of making money.

Felicity Buchan: It all comes back to the fact that the court process needs to be very swift and efficient. It is clearly a requirement of this Bill that we have a court system that works and works well.

Q129 **Bob Blackman:** Excellent, so we can look forward to your supporting our call for a housing court? You have given great grounds for why this is needed.

Felicity Buchan: That is a step further than I can go, because I have only been in the job five days and I have not looked at the pros and cons of a housing court. I will say that I am very, very conscious that the legislation needs to have analysed all potential issues and that we need



to get it in tiptop form. I am prepared to look at everything to make sure that—

Bob Blackman: I will come back to the section 21 issue, because one of the issues for landlords—we will look at the length of tenancy in a minute—is tenants on assured shorthold tenancies who go into rent arrears. Landlords will often say, “I’ll write that bit off and issue a section 21 notice, and you will leave the property by convenience.” By abolishing section 21 you remove that capability, which will potentially lead to large-scale rent arrears right across the sector. I hope that is being taken into account in your deliberations.

Q130 **Paul Holmes:** Welcome to the job, Minister. A baptism of fire. The other big reform that you have outlined in the White Paper in terms of tenancies is the abolition of fixed-term contracts. What is wrong with fixed-term contracts, and why not allow them where both the landlord and the tenant wants them? It does not promote choice, does it?

Felicity Buchan: We have talked to an awful lot of stakeholders. Locking tenants into fixed-term contracts clearly means that tenants lose flexibility if their circumstances change. If they need to move somewhere for work or education, they lose that ability. Also, if they are in a situation where the property is not up to muster, if it is not a decent property, they are locked in to paying rent for that period. That is why we have looked at a standardised periodic system. I am aware there are potential issues in certain sectors. The student housing market has come up. We are very much looking at those particular sectors to find potential solutions or systems that will work.

Q131 **Paul Holmes:** You are right, Minister. That is the next thing I will come on to, so I will resist the temptation at the moment.

You mention two things: losing flexibility if the property is not up to scratch or if the tenant chooses to move. What is wrong with serving notice on the property or going through local authority enforcement action instead of allowing the flexibility of not having a fixed-term contract? It does not really need fixing, does it?

Felicity Buchan: One of the issues is that fixed-term contracts go hand in hand with section 21 to an extent. Clearly with a fixed-term contract, you cannot use section 21. Once you get rid of section 21, the rationale for fixed-term contracts goes. The reality is that the vast majority of landlords want good tenants in place for as long as they can get them. That is one of the reasons why rent inflation is way lower, on average, than when new tenants coming in. Therefore, I think the sector very much wants the same thing and we feel that periodic tenancies will achieve those ends. However, as I say, I am very much talking to stakeholders and would appreciate the Committee’s views.

Q132 **Paul Holmes:** One of the big concerns has been the impact of abolishing fixed-term contracts in the student PRS, with some people saying that tenancies must align with the academic year and that, if students were to



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leave in the middle of the academic year, landlords would have trouble letting to students and properties would or could leave the student market. Landlords said they would have no way of guaranteeing that properties would come back on to the market at the end of an academic year in areas such as Southampton, close to me, where student housing is a huge part of the housing mix. In some cases they have said that the number of properties available to students could reduce. Essentially there is a concern that there will be a reduction in choice for the student and damage for small, honest landlords. Have you taken into account the flexibility of following the academic year? If you have, what has been the feedback from the sector in terms of following the academic year in the student market?

Felicity Buchan: That is exactly what I am in the process of talking to stakeholders about. I have talked to the National Residential Landlords Association about this, and I will be talking to student groups. Clearly we need to find a solution that works. We have exempted purpose-built student accommodation, and we need to find a solution that works for the rest of student accommodation.

Q133 **Paul Holmes:** You said that you are talking to the NRLA. In oral evidence to this Committee, Ben Beadle, the chief executive, said he did not agree with other parts of the White Paper but this is the only piece of the White Paper that he simply could not understand. Has he changed that view, if you have met him yet, or are you waiting to meet him?

Felicity Buchan: I have met him. I do not want to put words into his mouth, but he did raise the issue of student housing.

Q134 **Paul Holmes:** As we have outlined, there is a huge concern about the impact of abolishing fixed-term contracts, but there is also a concern about the uneven playing field created by exempting purpose-built student accommodation from the reforms. What is the Department's assessment of the impact of your reforms on the general student PRS market and, in particular, on purpose-built student accommodation?

Felicity Buchan: That is precisely why we are in conversation with the student sector, and it would be premature for me to come back to you just now, but I am happy to write to you as our thinking and our conversations advance.

Q135 **Paul Holmes:** This has been going on for a while. I understand that you have only been the Minister for five days, so maybe Charlotte could answer.

There has been feedback to the Committee about purpose-built student accommodation, that taking away choice will lead to students having to pay more expensive rents because they will have to move into PBSA if there is a reduction in the number of student houses in the private sector. Has that come before the Department in the feedback on the White Paper?



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Charlotte Spencer: To check that I understand the question, you are saying as a result of the—

Paul Holmes: As a result of the reforms it has been argued by some people that there will be a reduction in the number of houses available in the private student rented sector, and that it will force people to have to move into purpose-built student accommodation blocks, which is more expensive. We have this problem in Southampton. The companies can charge more expensive rents because there are fewer places. It will potentially be exacerbated by the amount of student housing within an area. Has that concern been fed back to the Department during this process?

Charlotte Spencer: We have heard that concern. We have also heard the reverse concern from student union groups and others, who have said that, in the current system of student housing, they do not like the pressure of having to sign up far ahead. They may be at the very start of their term and they have to commit to contracts with people they have barely had a chance to get to know. That is also something that has been raised with us. The White Paper proposal is trying to strike the right balance between all these different concerns. As the Minister said, she is very alive to these questions about the student market and plans to look at it.

Paul Holmes: I am reassured by that.

Q136 **Mrs Natalie Elphicke:** I want to explore the concept of being able to challenge unjustified rent increases, as set out in the White Paper. Could you share with us your definition of what “unjustified” means in this context?

Felicity Buchan: The White Paper is very much looking at rents that would be significantly above market value. I am not saying that is a legal definition; it is me explaining the concept.

Mrs Natalie Elphicke: Under that definition, “justified” would mean in line with the market, and “unjustified” would mean excessively over the market.

Felicity Buchan: Above market value.

Mrs Natalie Elphicke: By what proportion could that be—5%, 10%, 15%, 20%, 100%?

Felicity Buchan: I would simply be throwing out a number if I were to say it to you now.

Q137 **Mrs Natalie Elphicke:** As I think some landlords do. If I may dig down a little more into the concept of market rents, it is, as the Minister will know, not a straightforward assessment. That baseline for being above the market, would it be the market rate for letting or reletting? Given the fact that the ONS’s private rented pricing data is still experimental after a



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number of years, what steps is the Department taking to ensure there is publicly available and reliable information about private rented pricing in each area?

Felicity Buchan: Clearly this would be a decision for the first-tier tribunal. These are things that need to be refined, and I appreciate your input, but a rent that is above what a tenancy would be on the open market.

Q138 **Mrs Natalie Elphicke:** To press you on that, would you accept that there is a need to have better data and information for this to be effective in terms of the tribunal being able to refer to and have confidence in the dataset?

Felicity Buchan: My understanding is that this process already exists. Is that correct?

Charlotte Spencer: That is right. Tenants can already challenge if they are in a periodic tenancy. The tribunal will have access to all the data that tenants have access to in terms of Rightmove property listings and so on. There is a wealth of data there.

Q139 **Mrs Natalie Elphicke:** That data is very different, is it not? The ONS's latest statistical report confirms that the information from those sources you might reference, Rightmove and so on, are different from the experimental dataset used by the ONS. Does the Department accept that there is more work to do on assessing a common and effective base for people to draw on to understand whether they have an excessive rent that they should challenge?

Charlotte Spencer: We would want to return to the Committee with the details of the ONS data but, in general terms, we would not want to fetter a judge's discretion. There is huge local and regional variation, and we would want to make sure that can all be factored in.

Q140 **Mrs Natalie Elphicke:** There is great variation. If I am a tenant, how do I know whether to make this challenge if I do not have reliable independent information about the types of rents that could be charged in my area?

Felicity Buchan: All I would say is that the process does exist at the moment. It is a functioning system at the moment with the first-tier tribunal. I am very happy to get back to you with more colour. However, as I say, this is not an innovation in the market.

Q141 **Mrs Natalie Elphicke:** This White Paper proposal is not something new?

Felicity Buchan: That is correct. It already exists if there is a periodic tenancy.

Q142 **Mrs Natalie Elphicke:** You are not proposing to give any new, additional rights to tenants?



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Felicity Buchan: No, we are simply talking about the definition of how the first-tier tribunal would look at what is an unjustified rent increase. My comments are very, very specific to that.

Q143 **Mrs Natalie Elphicke:** Yes, and my question is about how the tenant will be able to assess whether to make that claim.

Going on to another couple of questions about the justification, or lack thereof, for rises. Other countries that have looked at these sorts of bases have set the justification for increased rent levels by reference to an indexation basis. Is that something you are considering?

Felicity Buchan: As I say, this is very much for the tribunal to decide as opposed to the Department.

Q144 **Mrs Natalie Elphicke:** You do not think that it is a question of policy as to the basis on which the justification is set, be that by reference to the market price, by reference to letting or reletting on the market price, by reference to indexation or, indeed, by reference to local housing allowance rates or welfare increases? Do you not think there is a policy decision to be made in relation to this particular proposal?

Felicity Buchan: As I say, these decisions are already being made at the moment.

Mrs Natalie Elphicke: That would be a no, then. You think it is entirely up to the tribunal, and there will be no guidance given to the tribunal by the Department.

Charlotte Spencer: We have said that we will issue updated guidance. To your previous question about whether there will be any increased rights for tenants in this process, the White Paper says we will prevent the tribunal from increasing the rent beyond the amount that the landlord originally asked for, which is something that happens now.

Mrs Natalie Elphicke: The amount that the landlord originally asked for?

Charlotte Spencer: Yes.

Mrs Natalie Elphicke: The landlord will not be able to increase the rent when they are reletting?

Charlotte Spencer: No, sorry, it sometimes happens when a rent increase is challenged at the first-tier tribunal that the tribunal says that a fair market rent would be more than the landlord had proposed. We have said in the White Paper that we will stop that.

Q145 **Mrs Natalie Elphicke:** I understand that. That is a different point from the one we are exploring. As you say, that is a feature.

Finally, because this is important, in looking at the level of rent increases at the moment, there are a number of people who would suggest that it



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is reasonable for landlords to increase the amount of rent in view of their own interest rate increases at the current time. Do you agree?

Felicity Buchan: Again, we need to get this right. I am very conscious that I want to make sure I talk to all relevant stakeholders before opining on some of these situations. It is great that you have raised it, and we will give it due thought when we come up with guidance.

Q146 **Mrs Natalie Elphicke:** Finally on that, does the Department have information on the proportion of landlords who have buy-to-let mortgages and what their fixed periods are? Will the Minister share that information with the Committee if it is not available today?

Felicity Buchan: We do not have information on specific people's mortgages. We know that, as a whole, the mortgage market is roughly 75% fixed at the moment, but we do not have specific information.

Q147 **Mrs Natalie Elphicke:** Will the Minister make inquiries, because I think there may be information available about the proportion, the duration and the rates by reference to buy-to-let mortgages as a standard collection basis?

Charlotte Spencer: We have information about the numbers in the English private landlord survey.

Mrs Natalie Elphicke: This would be from the mortgage lending side and the Bank of England.

Q148 **Kate Hollern:** Will tenants be discouraged from appealing through fear of losing their tenancy? Is it a situation where a tenant will think that the rent increase is too much but they are a bit nervous about losing their tenancy if they make an appeal?

Felicity Buchan: I do not think that would be the case, on the basis that it will go to the first-tier tribunal and what they decide will be implemented. If there were no other grounds, the tenant would not lose their tenancy. There would be no other grounds.

Q149 **Kate Hollern:** By going to the tribunal in the first place, tenants may be a bit nervous that they could lose their tenancy because their landlord decides to use another method if he cannot get the rent that he wants.

Felicity Buchan: Yes, but as I was saying, there would not be another method in that particular circumstance.

Kate Hollern: I think there is a danger of that.

Q150 **Mary Robinson:** A simple one. Given the potential that there could be significantly more cases in these tribunals, what is your assessment of the capacity of the tribunal system to deal with it?

Charlotte Spencer: We do not necessarily think it is the case that more cases will go to any of the courts involved in the private rented sector system. Much depends on how we implement the ombudsman, the



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mediation that the Minister mentioned and the premise that alternative and early dispute resolution will help everybody is firmly embedded in the White Paper. Therefore, it is not necessarily the case that more cases will end up at the tribunal, but we are working very closely with the Ministry of Justice and the court service to make sure they can cope. We have discussed with them the lead-in times they would need for reforms. That is one of the reasons why the White Paper commits to giving at least six months' notice of the first stage of implementation of the tenancy reform, to make sure that the court service can gear up in the way that is needed.

Q151 Paul Holmes: I am slightly concerned that there seems to be quite a large emphasis on the mediation element. I know, having worked for a housing association, being a local councillor and now being a constituency Member of Parliament, that antisocial behaviour cases are one of the hardest to overcome and resolve. You must have had evidence or statistics on how many antisocial behaviour cases are currently ongoing within social housing and housing associations. They very rarely result in a resolution, partly because you have neighbours who do not want to enter mediation because their lives have been made hell by antisocial behaviour cases that cannot be proven, and partly because there is no responsibility on the tenant who is allegedly causing the antisocial behaviour to enter into that mediation. Why are you so sure that, under these proposals, mediation is going to make any difference whatsoever to the policy?

Felicity Buchan: Mediation is simply one potential route, but there is the route of going to court. Then it becomes the judge's decision as to whether there has been a nuisance or annoyance. However, I am completely in your camp that, when there are episodes of antisocial behaviour, the courts need to be able to deal with them swiftly and efficiently. That is very much a red line for me, that courts need to be able to deal with these situations.

Q152 Paul Holmes: We have already heard the challenges that the courts will face with the current length of time, which comes back to the concern that Mr Blackman has about the housing court—I know you have said you will go away with that.

Have you received any feedback from the housing ombudsman about the impact these reforms could have on their caseload going forward and on any extra investment or work from the Government that they might need because of a concern about supply and demand?

Charlotte Spencer: We talk to the housing ombudsman a lot about social housing. We are still to determine who will be the provider of the ombudsman that we talk about in the White Paper. We are looking at all options for that. Yes, in informing our understanding of the appointment process for that ombudsman, we talk a lot to the existing ombudsmen.

Q153 Chair: I hope you do go away, Minister, and look at the issue of the court



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process. I am sure you are genuinely telling us of your intentions, but we are totally sceptical that the justice system will deliver on your intentions in the way you are saying. That is our concern.

Felicity Buchan: Thank you for being so candid and for raising so many good questions. It is very much my philosophy and my mindset that I want to get this right. I want to discover issues now, not three months after the Bill has received Royal Assent.

Q154 **Chair:** That is helpful. Following up on that, I met Grainger the other day. I am sure you are aware that it is a good institutional landlord with lots of properties. It is spreading outside London now as well. It said, "Why can't we have a system, as many landlords do now, where with a tenant's agreement, rents go up each year by a given index? If you come to a situation where every rent increase has to be negotiated and potentially goes to the tribunal, not merely can we not cope with hundreds of these cases each year but the tribunal certainly won't cope. It's just another part of the justice system that will fall over." What is being done? Charlotte just said that she does not think there will be any change in the pressure on tribunals. That is going to be a significant pressure in the future. Most rent increases do not go to tribunals at present, but they will in future.

Felicity Buchan: If there is no agreement, yes.

Chair: Yes. If there is no index basis and it is simply that the landlord says this and the tenant says that, that is where it is going to end up, is it not?

Felicity Buchan: It all comes down to if it is not a justified increase, back to the conversation we had with Natalie. Yes, I take on board everything that is being said, and I want to explore these issues.

Q155 **Chair:** Can we come back to dispute resolution, where there is a proposal to bring in a new ombudsman for the private rented sector? That has generally been welcomed. However, why are we going to end up with one ombudsman for the private rented sector and two existing schemes for letting agents? Why can we not just have one?

Charlotte Spencer: They serve different purposes. The redress schemes that we have for agents, the two schemes, are not only for the private rented sector at the moment; they also provide redress for the selling of properties, so for the home-ownership market as well. It could be that one of those schemes takes on the role of the private rented sector ombudsman. We are still working through all the options for that, but we think there is a different purpose. We do not think that one would replace the other.

Q156 **Chair:** Why do you not just amalgamate them? Either use one of these organisations to pull the lot together, or create a new body to do everything.



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Charlotte Spencer: We are looking at who would provide the ombudsman. It could be that an existing ombudsman or one of the existing redress schemes takes on that role.

Q157 **Chair:** Why do you not just have one scheme?

Charlotte Spencer: Because we first want to work through what the best route will be. The primary consideration is whether the ombudsman will be able to provide the service that we need in terms of what landlords and tenants need. We will need to look at the candidates for that and—

Q158 **Chair:** Just write the terms of reference for the ombudsman and keep them all-inclusive. It is not difficult, I do not think. Okay, I hope you will take that point away, Minister, and have a look at it. It seems common sense from the evidence that we have had.

We have talked about mediation quite a bit, so we will move on from there. You are going to produce a White Paper on the mediation service, following the pilot you introduced. Could you give us some information about the timing of that?

Charlotte Spencer: That is due to be published very soon. The Minister has not yet seen it, nor have the new Ministers in the Ministry of Justice. A copy exists and it is going through the internal processes, so I would expect to see it published soon.

Q159 **Mary Robinson:** We often hear about ombudsmen being set up, but the driving question is: who is going to fund this new role? How will it be funded and what do you assess the cost will be?

Felicity Buchan: It will be funded by the landlords. In terms of an assessment of the cost?

Charlotte Spencer: We are still working through that, but we would want the cost to be modest.

Mary Robinson: It is relevant because it is an added cost to the landlord. The temptation may be to pass that straight on to the tenant.

Q160 **Chair:** Moving on to the property portal. Generally the evidence that we have had is that this has been welcomed as a very positive move forward as a general concept. In the end, it is going to depend on how it is designed and how easy it is to use. Can we have assurances that you are going to listen very carefully both to local authorities and to the National Residential Landlords Association, to make sure it is useable, fairly simple and effective?

Felicity Buchan: Yes, that is critical, and also that it has functionality that can be adapted going forward.

Q161 **Chair:** Who is going to pay for it?



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Felicity Buchan: Again there will be a registration fee for PRS properties. We are expecting that not to be de minimis but to be a small amount.

Q162 **Chair:** That will pay for the ongoing costs, but the evidence we have heard from a number of bodies today and in our previous session is that there will be a real cost in setting it up, doing the initial check on all the properties that are registered, to check that all landlords are giving full information and are not hiding behind sham companies and the sorts of things that we know go on among the worst operators in the private rented sector. Local authorities are going to need some help, are they not? Is that considered to be a new burden that the Department is going to fully fund for local authorities?

Felicity Buchan: We will go through the new burden assessment. To the extent that it is a new burden, it will be funded.

Q163 **Chair:** Surely the principle is that it is a new burden, is it not? There is no property portal at present, so setting up a property portal is a new burden, is it not?

Charlotte Spencer: There will be some costs to build the portal. We expect those to fall to the Department. The ongoing cost to local authorities is something that we are exploring in very great depth, further to your point about making sure it works well. We are following the Government's gold-standard process with a discovery phase and an alpha phase. I could say a bit more about this if that is helpful to the Committee.

On the point of how much it might cost local authorities, we heard one of the councillors on the previous panel say that he was worried about having to inspect every single property once it is put on the portal. That is not our expectation. We are now working through with local authorities in great detail exactly how they would go about this, but we would probably be relying on a degree of self-certification and then a random sample of inspections. It will not be that the local authority has to go and inspect every single property as part of the portal set-up.

Chair: I think they will end up inspecting every property of some landlords in the area.

Q164 **Mrs Natalie Elphicke:** I want to link this up with some of my earlier comments. Does the Minister consider that there is an opportunity, when implementing this new property portal, to collect real rents that are set in relation to property and to start to have a more extensive, more reliable dataset for assessing rents by property and by area that can be of use to current tenants, future tenants and, of course, the tribunal?

Felicity Buchan: It is certainly worth considering. We would have to think about privacy and GDPR, but it is worth considering and I will put that on the list to be considered.



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Q165 **Chair:** Finally, some of the worst landlords—we know who they are—get rather upset when selective licensing is mooted in an area. One suspects the reason is that HMRC might get to know some details about them, because we know that lots of rent gets paid cash in hand at the bottom end of the market. Are you working with HMRC to make sure this information is useful in highlighting those who are currently avoiding paying the tax on the rent they collect?

Charlotte Spencer: We do work with HMRC. Was your point specifically about selective licensing?

Chair: If you are going to have a property portal, you are going to have the names of landlords. Particularly if you start collecting information about rents as well, there is some quite useful information there, is there not, about the incomes of certain people who may not be disclosing it at present?

Charlotte Spencer: We do talk to HMRC and will do so on that. As the Minister said, we have to balance the privacy concerns. We also talk to the Information Commissioner's Office. Yes, noted on the HMRC point.

Chair: Thank you. Moving on now to decent homes.

Q166 **Bob Blackman:** Yes, and here is the good news, I suppose. The evidence we have is that everyone is very keen on getting a decent homes standard in the private rented sector. However, there are doubts about some landlords being able to bring their properties up to the right standard. There is then a concern that those landlords may say, "Well, that's all very well. If we've got to invest in our property, we're going to put the rent up." Therefore, what may happen, particularly in deprived communities, is that by insisting on higher standards, which we all support, there is a risk that rents go up accordingly. How are you going to stop that?

Felicity Buchan: As you know, we have just run a public consultation. Part of that public consultation addressed this very issue of how to ensure that we reduce the risks of adverse impacts such as rent increases. We will look at all the responses, which will inform policy development. We will publish our response to the consultation, but it is something that we are very aware of.

Q167 **Bob Blackman:** Are you considering rent controls?

Felicity Buchan: No, we are not considering rent controls.

Q168 **Bob Blackman:** Obviously one of the issues here is that a lot of what the Chair is covering in relation to the property portal depends on landlords self-declaring, with quite high potential fines of up to £30,000 if they fail to declare the accurate information. There is also a concern about how councils will be able to enforce this, particularly given the potential fines we are talking about and the evidence that landlords will have to produce. Have you been able to consider what will be needed for local



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authorities to do this?

There is a risk, is there not, of a landlord accidentally entering information incorrectly? It may be a pure mistake, but deliberately entering misinformation could lead to an incorrect calculation. How will you control that to make sure it is done properly?

Charlotte Spencer: I mentioned the digital process we are following, which attempts to thrash out these very things. You begin with the digital discovery process, where you establish everybody's needs within the system and make sure of the thing you are homing in on. There is a problem to be solved. We did that last year with very wide consultation. We started the so-called alpha phase two weeks ago, where you test potential solutions but have not fixed on an exact solution. The point you raise is exactly the sort of thing we talk to people about through the alpha phase. We are in very live discussions—

Q169 **Bob Blackman:** The problem there, if I may interrupt, is that data is one thing but the quality of what you are looking at could be completely different. What may be acceptable to some people is completely unacceptable in terms of a standard.

Charlotte Spencer: Through this alpha phase my team is sitting down with local authorities and working through exactly that sort of question—what will you do if a landlord mis-enters? What would be an appropriate response to that? How often might this happen? These are exactly the sorts of questions that we are looking at.

Q170 **Bob Blackman:** One of the issues here is the standards that are going to be required. You have obviously considered that during the consultation phase. When are you going to publish the standards that will be required and that landlords will be expected to reach? Will they be given a timeframe to reach those standards if their property does not do so at the moment?

Charlotte Spencer: We are analysing the responses to the consultation, so we could not say what the date would be for this. One of the things we asked in the consultation is what sorts of implementation timescales we should give, what sort of lead times would be reasonable and whether we should have a phased implementation. Those were among the questions that we asked.

Q171 **Bob Blackman:** The key here is the standard that you are going to expect. If the standard requires some quite big expenditure by certain landlords, it is going to take quite some time. The other risk, of course, is that if the standards are such, they may force the tenants to leave the property while they carry out that work. What happens to the tenants under those circumstances?

Charlotte Spencer: We asked questions on these points in the consultation as well. When it comes to the Bill, we will set out what the standard is. We fully expect to give landlords plenty of notice.



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Q172 **Bob Blackman:** Are the standards going to be on the face of the Bill or will they be in regulation?

Charlotte Spencer: Very possibly in regulation.

Bob Blackman: Yes, I thought as much. Thank you.

Q173 **Kate Hollern:** How many responses did you receive through the consultation?

Charlotte Spencer: Something over 1,000 responses on the decent homes standard.

Q174 **Kate Hollern:** Levels of enforcement of housing standards by local authorities vary enormously, as does the size of local housing teams. What can the Government do to ensure much greater consistency?

Felicity Buchan: Engagement with local authorities is very important. I am very new to the job, but one of the first things I said is that I want to start talking to local authorities because the Department so overlaps and works with local authorities that I want to hear from them what works and what does not work, so engagement is very important here. We are also delivering a series of funded pathfinder projects so that we can work with local authorities to better understand barriers and solutions to enforcement.

Q175 **Kate Hollern:** I presume your predecessor was already talking to local authorities.

Felicity Buchan: Yes, and officials have a very active dialogue with local authorities.

Q176 **Kate Hollern:** The White Paper said very little about selective licensing. Some evidence says the reforms will render selective licensing unnecessary, others say it is the only way to enforce them. What is the Government's position?

Charlotte Spencer: The Government's position is that selective licensing is and will still be needed as part of the tools in a local authority's armoury. The independent review of selective licensing in 2019 found it was useful when it was part of a proper enforcement strategy. We do not have plans to scrap selective licensing, but I can say that we are aware that some of the requirements might be duplicatory where, for example, a landlord has to show the gas safety certificate to the local authority through licensing and also has to put it on the property portal. We are very keen to minimise all such duplication. We are working that through as part of the digital process that I talked about earlier, but we are certainly alive to duplication for landlords and trying to minimise it.

Q177 **Kate Hollern:** Civil penalties were introduced as a means of funding housing enforcement, but the power is rarely used and councils have told us that it is largely because it is so difficult to get the money from landlords. What are you doing about it, and what should you be doing about it?



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Charlotte Spencer: In the White Paper we talk about increasing the tools that local authorities have here. One of the things we talked about was the minimum fines framework. In evidence to this Committee, some local authorities said to you that it would be easier if there were some kind of matrix so that, where landlords challenge the penalty in court, a judge would only have to look at what the landlord had done and whether the penalty should have been issued at all, rather than at the level of the penalty. We are working on a framework for fines to have greater consistency and to help local authorities with that. We will be talking to local authorities about that as part of our White Paper implementation.

Q178 **Kate Hollern:** How much was raised from enforcement fines in the year ending March 2022, and does the income outweigh the costs?

Charlotte Spencer: I do not have at my fingertips the total enforcement revenue for the country. We can come back to the Committee on that.

Kate Hollern: Do you have an instinct of the costs?

Charlotte Spencer: It will vary enormously between local authorities. Some that have been very active on this will have recouped a lot more. We certainly have data from end-of-scheme selective licensing reports and data that local authorities have given us on that. I am very happy to look into that, but I do not have a national figure.

Q179 **Kate Hollern:** Thank you. The Government said they would carry out a new burdens assessment of the reforms in the White Paper and, where necessary, fully fund the net additional cost of all new burdens. Have you carried out that assessment? If so, can you say precisely what new funding will be made available and where it will come from?

Felicity Buchan: That assessment has not been done as of yet, but it will be done.

Charlotte Spencer: We are still finalising much of the implementation, and we have talked about how we are working on the detail of the portal, for example. The ultimate costs of that, and the ultimate burdens for local authorities, will vary depending on how exactly we approach it.

Q180 **Kate Hollern:** Do you have an inkling of where the money will come from?

Charlotte Spencer: All new burdens have to be funded. As the Minister explained earlier, a premise here is that landlords will need to pay for the ombudsman and the property portal, and they will be self-financing in that respect.

Q181 **Kate Hollern:** Will there not be a negative impact on local authorities?

Felicity Buchan: If it is a new burden, they will not pay for it.

Q182 **Chair:** One final point. When you are talking to the Ministry of Justice about all these issues, will you have a word with them about trying to



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encourage judges, when they make judgments in some of the difficult cases that local authorities bring where they spend an awful lot of time gathering evidence and prosecuting landlords in pretty horrible situations, not to award full costs to local authorities? The taxpayers of the area end up paying for the malpractice of some landlords. It would be very helpful if guidance could be given to judges in those cases to give full cost recovery.

Felicity Buchan: I will certainly pass that on in my discussions.

Do you mind if I say a few words, just summing up from my perspective? I want to thank you for such a constructive session. I am very conscious that I am new to the role, so I have a lot to learn. Thank you for all the suggestions. They will all definitely be considered, and I look forward to continuing our conversations.

Q183 **Chair:** We will be producing a report taking account of all the evidence that we received, including our conversations here today. We hope in the end that you might find your way not just to consider our recommendations but to implement and agree with them.

Felicity Buchan: When will you be publishing the report? I do not need to know the exact date, but just roughly.

Chair: I could say "shortly."

Felicity Buchan: In due course.

Chair: Early in the new year. I presume we will not have a Bill before then?

Felicity Buchan: We are working on everything.

Chair: We will produce our report in a timely way so that you can take full account of it when producing your Bill. Minister and Charlotte, thank you very much for coming to give evidence to us. It is appreciated.