



Industry and Regulators Committee

Corrected oral evidence: The regulation of property agents

Tuesday 5 March 2024

11.45 am

Watch the meeting

Members present: Baroness Taylor of Bolton (The Chair); Lord Agnew of Oulton; Lord Altrincham; Baroness Armstrong of Hill Top; Lord Best; Viscount Chandos; Lord Clement Jones; Lord Cromwell; Lord Gilbert of Panteg; Baroness O'Grady of Upper Holloway; Viscount Trenchard.

Evidence Session No. 4

Heard in Public

Questions 29 - 39

Witnesses

[I](#): Martin Boyd, Chair, LEASE; Alison Farrar, Operations Manager, Estate and Letting Agency Team, National Trading Standards; Rebecca Marsh, Ombudsman and Chief Executive, The Property Ombudsman.

Examination of witnesses

Martin Boyd, Alison Farrar and Rebecca Marsh.

Q29 The Chair: Good morning. This is the Industry and Regulators Committee of the House of Lords. We are looking at the potential need for regulation of property agents. Our witnesses in the second session this morning are: Martin Boyd, Chair of the Leasehold Advisory Service; Rebecca Marsh, the Property Ombudsman; and Alison Farrar, the Operations Manager at the National Trading Standards Estate and Letting Agency Team. First, could you very briefly outline your organisation's relationship with this particular sector?

Alison Farrar: We are the lead enforcement authority for the Estate Agents Act, which covers the whole of the UK. We are the lead enforcement authority for the Tenant Fees Act, which covers England only. As part of that role, we oversee the two redress schemes that letting agents and estate agents need to belong to. We need to remember that there are different pieces of legislation that cover the different requirements. Some of these would be dealt with differently. We have already had the conversation about what happens in Scotland, Wales and Ireland. The estate agent function covers the whole of the UK.

One of the things we need to remember is that, when we talk about consumers and businesses in this space, there are a lot of crossovers. Estate agents might also be letting agents, property managing agents, block management agents and a myriad of other things, but letting agents are most likely to just be letting agents. There are a lot of crossovers with the kind of work that they do and the impact that they have on the market when things go wrong.

Rebecca Marsh: I am the Property Ombudsman. The Property Ombudsman has been around for about 30 years. It was set up originally as a not-for-profit organisation to provide redress for estate agencies and, as Alison said, it covers that wider geographical remit. We are also the only approved independent ombudsman for mandatory redress in the private rented sector, helping tenants, leaseholders and landlords, as well as covering the estate agency world. Last year, 57,000 people came to us for help. Half of that was for lettings. The rest was an almost equal balance between sales and residential leasehold management, with 8,000 leaseholders coming to us for some help and support, which Martin will be interested in.

We also run voluntary schemes covering everything from surveyors to Build to Rent landlords. We include freehold estate managers. The fact that we are an independent, not-for-profit organisation validated by the Ombudsman Association is very important, because the nature of ombudsmanry seeks to address the power imbalance that Generation Rent made reference to in one of your previous sessions. It removes the inherent bias that basic redress processes contain. It removes the responsibility on the individual to be an expert and able to evidence their case. We do that for them.

Finally, as an ombudsman, we offer three components to our service. We do the advice and support function at the start of a process. We offer that inquisitorial approach to decision-making. We also gather all the data and intelligence from all of that, and we use it to drive change, whether it be working with the industry to improve standards, or whether it be with policymakers. Key issues, such as no DSS and no kids, which you will have come across in various environments, come through from our casework. They give us a solid evidence base to think about how we might want to address those sorts of things.

Unusually—this is important for the Committee—we also operate our own codes of practice for agents. Our sales and lettings codes are well known. We have done that in the absence of a regulator. It would be quite nice to have a regulator take that area of work, because it is not a normal ombudsman function. All that gives us a unique perspective when we are thinking about both regulation of property agents and the challenges that we have faced in the private property sector more generally at the moment.

Martin Boyd: I have several hats today. I am here as chair of the Leasehold Advisory Service. I am also chair of trustees of the Leasehold Knowledge Partnership. You heard from my colleague last week. I was asked to take over the role as chair of LEASE at the end of last year. The organisation had been under review almost constantly for 10 years, and the Government were not sure what they wanted to do with us. They are now. They want LEASE to be much more proactive in assisting consumers in this sector and helping them understand the law. It is quite a unique organisation because it covers both England and Wales. It covers legislation sitting across multiple departments.

I hope that, as we move forward, we will use that unique experience that exists amongst the lawyers to help the Government to improve legislation on a range of issues.

Q30 The Chair: We have been hearing about some of the challenges facing the whole sector. Some of you heard some of the evidence that we had earlier. I wonder if you could give us your thoughts on what the key challenges are and what the limitations are. What are the issues that surround self-regulation at the moment?

Martin Boyd: I see regulation in a very holistic way. There are four elements to it, in my mind. They start off with the qualifications that sit in the relevant area, and we have a voluntary qualification system. Unfortunately, that means that some people can come into the leasehold sector with no qualifications at all. It strikes me as utterly ridiculous that we have buildings that are as complex as a jumbo jet, and more expensive than a jumbo jet, but that you do not need any qualification to operate a high-rise residential building.

There is the regulation of agents, which Lord Best's group looked at. I have said clearly that I am supportive of a statutory regulatory system.

There are two further elements to regulation that are being partly considered in this Bill and that are important. One is the control and transparency of the funds involved. We still have a fundamental problem there. Although in the rental market every tenant's deposit sits under a mandatory deposit scheme, there is no oversight of funds in the leasehold market. We have two agents that are possibly each looking after more than £1 billion-worth of funds. There is no oversight of those funds by the FCA at all.

Perhaps the most important element is consumer choice, which my colleague Sebastian mentioned last week. We still have too many consumers in this market who are not able to exercise their choice of who they want as managing agent. The Bill does quite a lot to improve that, but if we are looking at regulation, we need to consider all four elements rather than just the regulation of managing agents.

Rebecca Marsh: There are a few things that are dear to my heart that are important in terms of regulation. It is that drive for cultural change. I absolutely support the thought that we need licensing and qualification to professionalise the sector, because I come back to thinking about who I would trust to look after my parents' interests or my children's interests when it comes to the most fundamental thing: their property.

The vulnerability and diversity across the private property sector—I use that term in the widest sense—are crucial to take account of when we are thinking about how the regulator might operate in the space. We talk a lot about vulnerable tenants. We definitely have issues with vulnerable leaseholders. We have people at the start of life and at the end of life who can be landlords and tenants at the same time, and often end up as leaseholders in some form of sheltered or retirement accommodation. We need to think about how we protect those individuals in a way that does not rely on them having to be responsible for it and deal with the systemic issues that exist.

It is about picking up that cultural change, driving that professionalisation and removing that burden from individuals to drive systemic change, because they cannot. We as ombudsmen seek to do so from the intelligence and information we get from the individual cases. On an individual case-by-case basis, and certainly through a plain redress mechanism, you cannot drive that cultural change.

Alison Farrar: I sat on the working group for the RoPA code of practice. I also help certain agencies—for example, Rent Smart Wales, PropertyMark and Rightmove—to deliver some of their training that has been talked about already this morning. My views from all of that and the other work that we do is that consistency in approach is the most important thing here. We have talked a lot about the qualifications. It would be incredibly important to make sure that all those qualifications reach the same standard across every one of the people delivering it. We have talked a lot about consistency of enforcement across different kinds of local authorities.

Trading standards try to work in an intelligence-led way. The delivery and prioritisation would be very different if you were in one of those authorities where there are no high-rise buildings and there are very few private rented sector properties, for example. Enforcement would be different than it would be in the centre of Leeds, for example. Consistency of approach and consistency of regulation is really important across the piece.

Q31 Lord Altrincham: This is turning to the topic of the new regulator, which you have touched on. Do you agree with proposals for a new regulator of property agents, as previously proposed by the Government and the working group on the regulation of property agents? Why do you think the Government have not yet brought forward legislation to establish a regulator? Do you believe that a regulator would be able to deal with the challenges in the sector that you have described? Are there any aspects of the working group's report that you disagree with?

Alison Farrar: There is a need for a regulator. Whether that partly exists already is a different conversation to be had. As I said previously, consistency is incredibly important here. For example, we work with the two redress schemes to make sure that the intelligence they gather is transported over to local trading standards, as well as us taking a national role in this space.

That comes down to other conversations that have been had already this morning about resourcing that and whether there is a consistent approach across every part of the regulatory framework. It would be really difficult for local authorities to try to enforce some of these things without having specialist people, training and the right intelligence.

Taking a step back from whether there needs to be a regulator, the legislation needs to be in place to be able to gather and enforce that legislation, to gather intelligence and to be able to make sure that the right people in the right place have the powers to enforce it.

Rebecca Marsh: I was really taken by the fact that so many supported the idea of a regulator, both from the industry and consumers. I have not seen it in any of the other sectors I have worked in. I have worked as an ombudsman for 20-odd years. That is a powerful indicator that the regulator would be welcomed by all people involved in all of this. Therefore, it needs to move forward.

None of us, including the organisations you have spoken to this morning, has rested on our laurels in trying to drive some of that work. The overarching code that was referred to in the RoPA report has been authored by my colleague, who is a technical author. We and RICS set up the RoPA working group to try to take forward that code. We have set up the housing and property redress group, chaired by Professor Christopher Hodges, to try to drive these things forward.

Without a regulator that owns those codes and mandates that to be a requirement, we cannot do what we would like to do with those codes to

drive that cultural change and to drive that improvement. We get inconsistency. People sign up voluntarily to our codes, but lots of people do not sign up. We just need to get that driven forward. It is crucial that we can have a regulator in the space.

It does not have to be a massive bureaucratic regulator. It is about proportionality. It is about picking those issues that are high risk and high volume, and then allowing the ombudsman to act as the safety net for those lower-level issues, but also then to be the critical friend to gather that data alongside organisations such as LEASE and trading standards, and feed back in to reassess what those risks are. That is a really important ecosystem to drive improvement in the sector.

Martin Boyd: This is where I drop myself into deep trouble. The Secretary of State has, unfortunately, ruled out the potential of introducing a regulator in the current Bill going through Parliament. He has said that he fully accepts it is a very valid objective. Outside of what may or may not happen in this Bill, there is a huge degree of consistency from the sector about wanting change to occur. Consumers have been left with a voluntary system that has not worked particularly well.

It is perhaps worth reminding the committee that all the voluntary systems we currently have arose at a point when the Government thought we had about a million flats and 500,000 leasehold houses. When I first looked at the numbers in 2013, I thought that was rubbish, because it was a lot larger. I worked with the stats team in the Department and we eventually got to a number of 4.1 million in England. That has gradually drifted up. We are now heading up to 5 million in England. If we add in Wales, we are back at 5.3 million. The systems that we have to oversee the sector are designed for something with about a million properties, and we have at least 4 million properties.

We need a lot more rigour than we currently have. Those people who get away with the most are those who choose to be the least regulated, those who do not join the voluntary codes.

Q32 **Lord Cromwell:** I am a bit confused. If the issue is that it is only voluntary to sign up to a code, why not just make it mandatory rather than set up a new regulator?

Martin Boyd: The problem is that there are two options at the moment. You can become TPI-regulated or you can become RICS-regulated. The social sector has its own regulator. We have property managers who currently have to cross two legislative frameworks for England and Wales, and possibly two or three of the different regulatory bodies. It is massively confusing. For consumers, as the Baroness said, you do not generally know where to go to start.

Q33 **Baroness O'Grady of Upper Holloway:** My question is premised on getting a new regulator. We have heard a lot from witnesses about support for that. How would that new landscape work with existing enforcement authorities and existing systems of redress? In particular,

how would that work for the consumer? The working group's report called for a system of flexible co-operation between the new regulator and trading standards teams. I would be keen to hear how you foresee that working, but also whether those trading standards teams should have their powers boosted too.

Alison Farrar: At the moment, local trading standards would be looking at more local issues. There is a regional and a national structure that is intelligence-led. For example, our team would look at those national priorities and the issues that may cross over many boundaries. We have to remember that there is some legislation in this space for trading standards.

I come back to my earlier point about the variety of different agents that are involved. We also need to remember that we have landlords involved. For example, the Consumer Protection from Unfair Trading Regulations, which are soon to evolve into the Digital Markets and Competition and Consumers Bill, will look at certain levels of protection for consumers if it is a business that is involved.

That brings me to that term that I do not like, accidental landlords, and the conversation earlier this morning about the size of landlords and the size of businesses in this space. Leading on from everything that has been said already, we have a number of different levels. We have some landlords who own one or two properties. We have a range of huge professional landlords, who are sold it as a way of making money. They buy the freehold or a number of properties. It is property investment and it is a whole different world. In the middle of that somewhere, we have the criminal fraternity using the property and the private rented sector for money laundering and running their criminal purposes.

Alongside all that, it is the consumer protection that we need to be very careful about. Quite a lot of the legislation that lives in this space talks about landlords and tenants. It does not talk about businesses, consumers and trading standards. For example, if a one-property landlord is seen as a consumer in this space and not a business, the Consumer Protection from Unfair Trading Regulations do not apply. If that landlord misleads a consumer or a tenant, if they lie to them, or if they do a number of things that, if they were a business, we could enforce against, that will not happen in that space. When I talked earlier on about consistency in this whole arena, that is the kind of thing we are looking at.

It is not about what the regulator could do. It is about making sure that those gaps in legislation are filled, in the right place at the right time, and that there is consistency across enforcement. That comes down to resource, as we spoke about earlier. It also comes down to how much that industry could self-regulate, which comes down to the robustness of the qualification, the training and the ongoing professional development of those agents in that space.

On landlords, you spoke earlier about what happens in Scotland, Wales and other countries. I am one of the people who deliver that one-day training to letting agents and landlords in Wales. I agree that one day is not enough, but it is better than nothing and it gives them somewhere to start. At least you know, from an enforcement point of view, who you are dealing with, you know that they have reached a minimum standard and you know that they exist in the first place.

Enforcement also has to deal in this space with scams. I am not going to call them rogue landlords, because that makes them sound like cheeky chappies who you would have a pint with. That is not what we are looking at. We are looking at the criminals who are using this space to enforce their criminal activities.

Rebecca Marsh: This is a really interesting area. The regulator's function has to be that upstream work of setting and revising the standards on an ongoing basis in response to risk, which is a crucial role. Just mandating the codes is insufficient. You have to have currency and consistency in the codes. There is an element there about the regulators operating in that upstream space and enforcement being effective in relation to individuals who are criminal and who are operating in ways that we do not want.

I remember early lessons, when I was an IPCC commissioner, about how you encourage compliance and good practice. You have 10% of people who are inherently good, 10% of people who are inherently bad and a bunch of people in the middle whose circumstances will drive them in one direction or the other. Our regulators, our codes and our training are all the things we need the regulator to do to drive people in that right direction. That makes enforcement more effective. It means that you are trying to enforce against people who need that enforcement and intervention. That relationship is crucial.

At the moment, we are trying to fill that space, as are others to whom you have spoken this morning. You need somebody who is accountable for filling that space.

Martin Boyd: I do not have much to add on this one. One of the important things that is happening at the moment is the tribunal service, the ombudsman and now LEASE beginning to join up to understand how, collectively, everyone can produce consistent results. The consumer is not really interested in the bureaucracy of how a regulator works, just whether they work.

Q34 **Baroness O'Grady of Upper Holloway:** Do you agree that there should be a statutory basis for consumer representation within that framework?

Martin Boyd: Yes.

Rebecca Marsh: I have a slightly different perspective on that, Martin, if you will forgive me. This sector is so diverse that I would be very worried about whether we were accurately representing all the views with a statutory consumer representative. Absolutely, you need consumer

representation, but there is such a diversity; Alison has talked about the diversity among landlords. We have the vulnerable landlords as well as vulnerable tenants who we have to take account of when we are working. We have so many people involved in this. This is a people business. It is really important. However we frame it, that consumer representation is crucial, but we must be careful that it is effective consumer representation.

Alison Farrar: I agree. I have been a trading standards lead officer for consumer education for a number of years. As part of all the campaigning work that we do at the Chartered Trading Standards Institute, it is crucial to make sure that the right message reaches the right person. The national scams team will talk about the average reading age of an adult in England being 12. Therefore, we have to make sure that people understand at the right level.

This is very complex, and when you talk about the leasehold world it gets even more complicated. A study a few years ago highlighted how few people understood what their leasehold property meant. A lot of consumer education needs to be done. We call it pre-shopping. We have to remember in this space that all the professionals involved here are employed by other professionals. The agents work for the vendor of the property; they work for the landlord; they work for the businesses involved. The victims of any crime and the people who need the most help, the people who are the most vulnerable in this space, are the tenants, the buyers and the people who have no control. They want the property. The property might be the only one that suits them, the only one they can afford, the one they have fallen in love with or the one they can picture growing old in. They do not have any choice at all as to which agent they end up with. Therefore, they cannot just walk away and say, "I'm not getting this service from you".

Somebody in our team mentioned to me yesterday that his son works and lives in an area where he has a leasehold property. He is trying to find out what service charges he is paying, what the money goes to, where it goes, how much work will be done and how much extra he will have to pay, because he is in a high-rise, high-risk building. He goes down to that office this week to knock on their door, because they are not answering their calls. That is not an uncommon horror story, and it gets worse. Those consumers are extremely vulnerable. When they are trying to help themselves and not getting anywhere, it is very difficult. If there is no voice speaking for them and nobody bringing all this together, it will be a lot worse.

Q35 **Lord Best:** My questions are about the redress scheme, the ombudsman scheme, so they are really for Rebecca. I confess to chairing the Property Ombudsman for eight years. There are a lot of frustrations about being an ombudsman and having those responsibilities. There are lots of people who do not sign up to the code. You cannot enforce it. You cannot handle complaints other than from the consumers themselves. You cannot pick up complaints that come from some story in the press, from some

whistleblower in a firm or from other agents who see people misbehaving. These are frustrations.

One of those frustrations is that there are two ombudsman schemes. It is confusing for people to know which to go to. It also has the danger of a race to the bottom. We were always trying to guard against that in my time. People can always leave you if you are too tough or charge too much and can go to the other lot. We thought at the time that having two in competition for the customer, the customer being the agent, was not awfully clever. How has that worked out? Do you feel that having a single agency or ombudsman service would be preferable from the consumer's perspective?

Rebecca Marsh: Just as a general principle and declaring an interest here, I am on the board of the Ombudsman Association. Our principle is that you have one ombudsman in a sector, because you do not need to be bringing in confusion and complication for individuals. You want consistency in decisions and redress. I have experienced agents who have said to me, "I don't like your decision, so I'm going to go to the other party".

The other complication for us in the sector is that we operate an ombudsman scheme, which operates at this level with this inquisitorial process. We are asking the questions; we are interrogating the evidence so that the individual bringing the complaint does not have to. The other scheme is a basic redress scheme. Alongside its redress services, it offers eviction services and other services. That is really difficult for us, because that damages trust and confidence in the whole of the redress process, because you are not getting consistency or a level of playing field, equality, for the consumer, because they are getting a different type of service. You are getting a situation where agents can walk if they are not happy with your decisions.

Having been a public sector ombudsman for many years, you would be hard-pressed to persuade me to change my decision just because you were going to leave me. I bring a lot of public sector ethos to what at the moment is a commercial environment, in effect. It is a really important consideration. Also, if the agents are choosing the redress provider, how can you as a consumer have trust and confidence that they are choosing the best redress provider? That has to be an issue, and that is true across all areas of redress, not just in this sector. You are back to consumer choice. We have talked about it in other environments. It is equally important in this.

You need to have a single ombudsman or an ombudsman who is driven by consumers' preferences and not those in remit, those being complained about.

Q36 **Lord Best:** In the legislation that is passing through Parliament at the moment, there is the Renters (Reform) Bill as well as the Leasehold and Freehold Reform Bill. If it all goes through, that will lead to the creation of an ombudsman service for private tenants' complaints about the landlord

rather than about the agent. Do you see some sense in that new ombudsman service for private sector tenants being incorporated into the role of the current Property Ombudsman service, or possibly the Housing Ombudsman that looks after the social housing sector at the moment? Do we need another ombudsman service freestanding, or might that be part of one of the ombudsman services we already have?

Rebecca Marsh: My board is an independent set of non-executives. They feel very passionately about the service to consumers. Our collective view is that the best service to consumers is to provide a single ombudsman service.

Half of our 57,000 people came to us from a lettings point of view. We are already operating in the private rented sector. We deal with lots of queries about tenants and we look at landlord issues, although we cannot do much about them unless they are voluntarily registered with us. We already have that experience and that capability to deliver that part of the service. Fundamentally, there is a real difference between the social housing world and the private property sector. There is much more movement of tenure in the private property sector. People can be landlords and tenants simultaneously. They can move in and out of rented accommodation, ultimately ending up in leasehold accommodation.

A service that understands all of that, understands their needs and the fact that they might be challenged on things like no DSS and no kids, and understands the vulnerability of some of the landlords in the process, as well as some of the tenants, can come with outcomes that are relevant for that sector and for developing and enhancing that sector, rather than necessarily trying to treat it as a single unified environment, because it is not. Alison has talked about how enforcement is different in different aspects. So, too, is redress. We feel that we could quite professionally and effectively offer that extended service to landlords. We do on a voluntary basis at the moment.

Q37 **Baroness Armstrong of Hill Top:** It is clear that some regulatory functions are already the responsibility of trading standards officers. Could you say a little about the advantages and disadvantages of that? Also, is one of the problems that the resources for local authorities, and therefore for trading standards officers, have been so squeezed in recent years that some of that regulatory function is suffering and pushes us towards thinking of a new regulator altogether?

Alison Farrar: The Tenant Fees Act was the first thing that really brought trading standards into the world of the private rented sector in a meaningful way. Even that legislation could, in theory, be enforced by trading standards or housing or environmental health, depending on the structure of the council.

One of the things my team has been doing recently is working on the sharing of intelligence and the collaborative working across those three teams, because, as I said, trading standards has this intelligence-led

model where we look at regional and wider issues. Housing and environmental health teams do not have that structure in place, although at the moment I am heading up a project that I hope will help to enhance that.

It is a very difficult space to be trying to enforce in, because quite a lot of the issues will cross over into things like disrepair and other things that have been traditionally housing issues in the past. We are seeing a lot of illegal evictions, for example. Illegal evictions happen because a tenant makes a complaint. They happen for a number of reasons. That could equally be enforced under the Consumer Protection from Unfair Trading Regulations as harassment by trading standards officers. It could be enforced and supported by the police in different ways. I talked earlier about consistency and collaborative working, and that is the only way to go.

You are right that local authority trading standards departments have been decimated in some areas. I spoke to the Committee about the Tenant Fees Act, about using penalty notices to fund some of this enforcement work. We are starting to see that, no matter how many penalties notices you issue, you will not get all that money in. There needs to be a lot of upfront work, business advice and business guidance, and a lot of what we call enforcement work but that does not get as far as issuing a penalty or prosecuting somebody. That costs local authority a lot of money.

Yes, we need collaboration across the disciplines in local authorities, and collaboration and sharing specialisms across local authority borders is the way, if the legislation could allow for things like the sharing of intelligence and the sharing of cases. You are right that there is not enough funding for all this work to be done in trading standards or local authorities at this present time.

Rebecca Marsh: I would just add that the advent of a regulator to try to drive better behaviour will help the enforcement burden on local authorities, because greater clarity in standards and expectations and greater understanding of the landscape for agents will allow trading standards to focus on the things that it needs to be focused on in driving out the worst offenders.

Martin referred to the way we are working with the First-tier Tribunal, and we will be working with LEASE on this. It is about trying to make sure that all the component parts of the system work together and understand each other to the extent that people's journeys and the activity is handled most effectively, whether it be enforcement or complaint.

Therefore, on the things that people need to do their roles effectively, whether it be enforcement, the First-tier Tribunal or us, because of the way we work together we have demonstrated the impact of that in the court service and First-tier Tribunal work that we have done. We do a lot of work with trading standards at the moment on enforcement,

intelligence and providing that environment so that they have clear cases that they can take forward. Those are important components. They allow for a level of efficiency that we do not have at the moment.

Q38 Lord Altrincham: If a new regulator was to be established, what should its main objectives be? Are there any particular indicators that you want a new regulator to try to meet?

Rebecca Marsh: I have been involved in the set-up of one or two regulators in my time. In setting up a new regulator, one of the crucial things is being really clear about what we want from it. In this particular environment, we want it to set standards. We want it to be really clear about what cultural change it will drive initially. What are the key things that are most important to consumers that it wants to drive? That will come from the intelligence from us and your other witnesses. We want to measure its impact against the early-stage outcomes that we are reaching for.

I would like to see that shift of responsibility from individuals, particularly vulnerable individuals, to the regulator, to see that systemic change so that people can experience it. As a regulator, they are not going to get engaged with it on an individual case-by-case basis. The regulator needs to be that point of intervention. We need to make sure that people feel it. That is the key thing: to set some very straightforward key objectives in the early days and see what the levers are. It is interesting, because it goes back to what I was saying before. The levers for change in the private property sector will be very different. They will be different in lots of ways to the levers for change that you would operate in the social housing sector, for example. Working that out as well will be key.

Martin Boyd: Initially, consumers might be disappointed with what comes out of the system, because the standard that it needs to get to first is to drive the rogue operators out of the sector. There are several large managing agents whom lots of consumers think do not do a good enough job but who are not at the rogue level. It will take some time to get to where we need to be.

The problem with the whole leasehold sector is that the incentives in the system have been wrong for a very long time. Most third-party landlords are freeholders to make a profit out of a building, not to make sure that the building works effectively. Until we get to the position where the people who actually own the flats in the building are the ones who want to drive up the standards and have the ability to drive up the standards, we will not get to good property management in the sector.

Alison Farrar: At National Trading Standards, our strapline is that we are protecting consumers and safeguarding businesses. That is exactly what this is about. That is what a regulator should be doing. We are here to protect consumers, because in almost every piece of consumer legislation the consumer is seen as not being an expert. There have been lots of studies about situational vulnerability and how much more vulnerable a consumer will be directly because of the complexity and

frequency of the transaction. We always compare it to buying a pint of milk, which you do every day, and buying a property, which you might only do once in your lifetime.

We talked earlier about landlords not always recognising themselves as a business. What scares me most when I give advice to landlords and small agents in this world is that they do not have back-up. A lot of them join the trade associations. We have spoken to a few of them this morning, but quite a lot of them are self-managing landlords. They go it alone and do not have that back-up. They do not have a legal team behind them, and because they do not see themselves as a business they do not obtain business advice. They often get conned in quite a lot of places, such as with rent to rent or guaranteed rent arrangements, and often it is the landlord and property owner who ends up having to repair a damaged property because it has been taken over as a cannabis farm. We see the ones who are victims of property sourcers. That happens in the rental space as well as sales.

For us, it is about protection for all the people involved. Yes, we know that the tenants and house buyers are vulnerable, but there is a whole level of businesses that are vulnerable in this space because they do not have that back-up. They are up against big business, the people buying up the freeholds and the people who are in this as property investors and making huge amounts of money out of this. When we talk to landlords, they are saying, "I'm getting out of the property business, because I can't afford to be in it anymore". Taking into account any additional costs or anything that any regulator might involve, some of the bigger players and the people you might want to view as abusing the system at the moment could be dealt with in an appropriate and priority-led way. That would open out the housing market to all the people who were in it for the right reasons.

The police come to us quite a lot and tell us, "This house is a cannabis farm. This house is being used for this". If all those could be reclaimed and used as they were intended in the housing market in those areas, that would make a huge impact. It is about making sure that the right people are protected at the right time. That is the most important thing for a regulator in this space.

Q39 Lord Clement-Jones: I need to declare an interest, which I did not earlier. I am the chair of the Trust Alliance Group, which used to be called the Ombudsman Service. We used to be one of the three ombudsmen in this field. I entirely understand what was said about single ombudsman earlier.

You have already answered my question, but I will just check beyond peradventure. The working group suggested that the new regulator should operate codes of practice that agents would have to sign up to as a condition of their licence to practise. Would you support this? If so, what would you like to see in such codes of practice?

The working group suggested that property agents should be mandated

to be properly qualified. Do you agree? What are the particularly important considerations for agents to be trained in? You have said yes to the codes of practice and to being properly qualified, but you might like to expand on where you think the emphasis should be in the code of practice and in the training aspects.

Martin Boyd: One of the biggest issues that has cropped up comes post Grenfell. Property managers have been through a rather difficult period. They never entered the industry believing that they would become developers, but that is what has had to happen when some of these sites have been through major refurbishment as a result of external cladding issues. The Secretary of State has said that there needs to be someone with the relevant qualification to look after a high-rise building in the social sector that is equivalent to what we have in the private sector, and that managing agents have staff that can deal with the relevant types of properties. We have some small agents out there who will basically take a “no job too big, no job too small” type of an approach. There needs to be more rigour in the sector. You should not be allowed to look after a high-rise building unless you have a specific set of skills.

Rebecca Marsh: I agree with Martin on the piece about being qualified for the role that you are trying to fulfil.

There is something else for me in all this. One of the most difficult things we see is on the behavioural side of things. The codes need to cover expectations of behaviour. We have a lot of legislation, either already on the books or going through, that deals with a lot of structural components of our world, but there is something about behaviour. There is something about setting expectations and standards, and teaching agents how to listen, communicate and respond. That is appallingly bad in a number of areas.

We see it constantly through complaints. People say, “You haven’t dealt with this”. There might be a legitimate reason for it, but nobody has told anybody what that is. It is about poor communication and the inability to hear, understand and deal with the things that relate to people’s needs. Not understanding people’s needs is a real issue for us on the behavioural side.

Another thing I would like to see in the codes is agents recognising that, although the landlords and the sellers might be paying their bills, buyers, leaseholders and tenants can expect equality in the service they are getting. They have to be their customers in exactly the same way. That understanding, that drive to say, “You must treat everybody equally, fairly and honestly”, is a real shift. I see agents getting stuck between a rock and a hard place at times when they want to do that, because they have nothing to enable them to say to people, “I have to do this”. They cannot push back against their paying customer about the customer in front of them to say, “I need to give this person the right service”. That equality of treatment is important and I would like to see it in the codes.

Alison Farrar: I agree with everything that has been said. It is really important to recognise who is paying the bill but also who might need that information the most. Our team has been working with property agents on material information and how it is provided in property adverts and on making sure that consumer protection element is dealt with right from the beginning. I would like to see subject-specific modules in any kind of qualification and, as I said, standards and consistency across the piece, so that, no matter where you obtain that qualification, it still says the same thing.

Overarching all that is customer service and the other pieces of legislation that are not subject-specific, even down to things like general product safety rules about kinds of plug sockets, using counterfeit products and what instructions people have. We tried to address that when putting the codes together—all the things that will not be subject-specific for housing in any way but should overarch anything that a consumer and a business come across. The material information is crucial here, because, as Rebecca just said, sometimes the agent and the prospective buyer or tenant will be asking different questions and will want different things from this.

We talk a lot about how an agent deals with a stigmatised property, for example, if there has been a murder or some kind of unfortunate event in a property. The seller of that property or the landlord does not want the buyer or the tenant to know about this, because it will affect the property value. It all comes down to the money. If you are going to be the prospective buyer or tenant, some of that is material information that you really need to know. We could go on about things like flood risks and EWS1 forms.

There are a million crucial pieces of information that the person who is not paying the bill needs to know but that the person who is paying the bill possibly does not want to disclose. It then gets really difficult. Consistency across that piece is really important for us.

The Chair: Thank you, all three of you, for the information you have given us. We have had a very useful morning. If there is anything you want to write in and add to what you have told us this morning, please do so.