

**NEGOTIATING THE IMPOSSIBLE? THE
PURSUIT OF FAIR AND EQUITABLE
RELATIONSHIPS BETWEEN LANDLORDS
AND UNDER 25s IN THE PRIVATE
RENTED SECTOR**

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ABSTRACT

Relationships between landlords and young people, (those under 25), in the private rented sector (PRS) in England and Wales raise a number of important issues for social policy, housing policy and legislation. Firstly, the PRS performs a key role in accommodating young single people who are disproportionately represented in the sector, as access to other tenures is limited. Secondly, successive policy initiatives and legislation have transformed the letting environment in the PRS in conjunction with limiting the resources available to young people to finance accommodation in the sector. Thirdly, relationships in the PRS are at the intersection of a number of legislative provisions and policy regimes resulting in a range of assumptions about each party's respective modes of behaviour in the sector. These aspects of relationships and associated policy and legislative contexts are the key features of exploration in this thesis.

This thesis has two main aims. Firstly, to explore assumptions about the nature of the existing legal framework in the PRS and assess its adequacy in regulating relationships. Secondly, to explore the social and economic contexts of relationships and their importance.

A qualitative approach was adopted to examine these issues and four research methods were used: in-depth qualitative interviews, vignettes, flashcards and an analysis of letting agreements. The research was conducted in York and a total of 35 interviews were carried out, 15 with landlords, 15 with young people in the PRS, and 5 with representatives of local organisations.

This thesis raises implications about the limited role of the law in regulating relationships in the PRS and raises questions about how fair and equitable relationships can be achieved. Regulation and reform of the sector require careful consideration and an awareness of the social and economic contexts of relationships. This thesis provides both a theoretical and empirical basis for the future exploration of these issues.

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LIST OF ABBREVIATIONS

HMOs	Houses in Multiple Occupation
NTQ	Notice to Quit
PRS	Private Rented Sector
SRR	Single Room Rent

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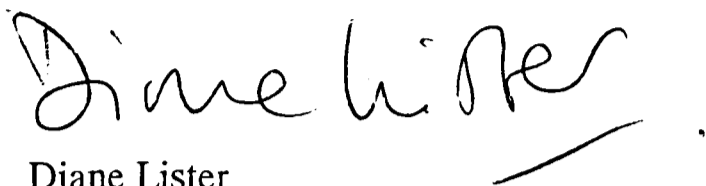
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AUTHOR'S DECLARATION

This thesis represents original work, except where due acknowledgement is made. Some sections of this thesis draw on my unpublished works which have been previously presented elsewhere and are listed within the bibliographical references.



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MATERIALS PUBLISHED

Extracts from the findings and discussions in Chapters Five, Six, and Seven have been reproduced in the following forthcoming publication:

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INTRODUCTION

Relationships between landlords and young people under the age of 25 in the private rented sector (PRS) in England and Wales have received little attention from previous research. Very little is known about the nature and quality of tenancy relationships between landlords and young people, who now form the largest demand group for accommodation in the sector. Management practices, the distribution of rights and responsibilities between the parties, attitudes towards the legal framework and financial issues are all key elements of relationships between landlords and young people, yet these issues remain unexplored. An exploration of these salient features of relationships are important at this point in time as young people are over concentrated in the sector, particularly those who are vulnerable, on low incomes and/or in receipt of welfare benefits. Furthermore, this research contributes towards an understanding of the range of tenancy relationships and practices that can develop given the types of young people living in the PRS and the diversity of landlords letting property in the sector who reflect in their practices differing backgrounds, motivations and concerns.

The aim of this thesis is to address the current absence of knowledge and understanding and provide a coherent picture of the ways in which relationships between landlords and young people in the PRS are constructed, maintained, managed and ended. This introductory chapter sets the research within its legislative and policy contexts, providing a framework for discussions in subsequent chapters. The aims and objectives of the research are discussed below and the research questions which this thesis explores are identified. The contribution this research makes to knowledge and further understanding is also explored and the scope and coverage of the thesis is described chapter by chapter.

THE LEGISLATIVE AND POLICY CONTEXTS OF THIS RESEARCH

Relationships between landlords and young people under the age of 25 in the PRS raise a number of important issues for social policy, housing policy and legislation.

Firstly, relationships between landlords and young people in the PRS are at the intersection of several legislative provisions and policy domains which draw on a range of assumptions about the behaviour of each party in the sector. Secondly, there has been little research that directly addresses how social policies and legislative provisions influence the behaviour of each party, nor have the ‘ordinary relations’ (Englander, 1983: xvii) between landlords and tenants in the PRS in general, or with young people in particular, been addressed. As a result, there is little information available about the typicalities and mundane features of these relationships. Thirdly, as a consequence of a lack of accurate information, successive policies and legislation affecting landlords and young people in the PRS have often stemmed from a range of inadequate or erroneous understandings and assumptions about the motivations and behaviour of each party. These understandings of behaviour have often ignored essential features of relationships between landlords and young people and these may, for example, have disadvantaged one party over the other or given rise to unintended consequences.

Furthermore, it is assumed by policy makers and legislators that the provisions they implement are effective in shaping and regulating behaviour and so even those with limited impact retain legitimacy. This research focuses upon the range of legislation and social policies that impinge upon relationships between landlords and young people and questions commonly held assumptions about the respective parties’ behaviour. This research also examines the nature and diversity of *relationships* between contracting parties and explores the views of landlords and young people together, rather than focusing upon the divergent perspectives of each party.

The processes by which landlords and young people became enmeshed in a range of policy regimes began with the introduction of the 1988 Housing Act which transformed the letting environment in the PRS. The Act weakened rent controls, security of tenure and tenants’ rights, providing an environment where there was ‘greater freedom for the parties to sort out their affairs by negotiation and contractual agreement’ (The Earl of Caithness, Hansard, House of Lords, 21 July 1988, col.

1518). Further deregulation brought about by the 1996 Housing Act, in conjunction with the introduction of the Single Room Rent (SRR), changed the specific nature of relationships in the PRS between landlords and tenants under the age of 25. One of a succession of restrictions on young people's entitlement to welfare benefits, the SRR restricted housing benefit entitlement of young single people, who are predominantly concentrated in shared accommodation, to that of the cost of a single room, placing further emphasis upon them to negotiate a reduced rent with landlords.

A range of implicit assumptions about the motives and behaviour of landlords and young people underpinned the objectives of the 1988 and 1996 Housing Acts. The main policy objective behind the 1988 Housing Act was to revive the private residential lettings market which had declined steadily from the dominant mainstream tenure at the beginning of the twentieth century, to accommodate less than 10 per cent of the population in the late 1980s (see Chapter One for a more detailed discussion). The assumptions behind this objective were that individuals were aware of the changed legislative context surrounding property letting and would respond to these changes by investing in the sector and aid its expansion. Hence, deregulation of the sector was directly aimed at encouraging investment by appealing to individual's rational economic desire to maximise financial returns. Furthermore, as a consequence of deregulation of the sector, negotiations between landlords and prospective tenants became a focal point. Classical liberal conceptions of contractual relations underpinned the return of the PRS to free market conditions, as each party is assumed to be able to negotiate on equal terms and enter into relationships as legal equals, having reached a mutually satisfactory agreement.

One of the major policy objectives of the 1996 Housing Act with respect to the PRS, was to reduce housing benefit expenditure. Underlying this aim were the beliefs that housing benefit entitlement provided an incentive for young people to leave home before they would otherwise do so and that they also chose to live in better quality accommodation which was more expensive than they could afford if they were working (Kemp and Rugg, 1998: 2). The SRR, in targeting young people was based

upon 'the belief that young people can and should live at home' (Baroness Hollis, Hansard, House of Lords, 14 May 1996, col. 438) and that not to do so was perceived as deviant. In essence, this thesis challenges traditional models and the types of assumptions - legal, economic, and social - about behaviour that have been outlined here and explores the effectiveness of legislation and social and economic factors in shaping relationships between landlords and young people.

THE AIMS AND OBJECTIVES OF THIS RESEARCH

This research comes at an opportune time to explore a range of assumptions about current relationships in the PRS between the main providers of accommodation, that is, individuals operating on a small scale for whom landlordism is not their main occupation, and the main consumers of accommodation - young single people under the age of 25. This research was prompted by concerns about the increasing numbers of young people in the PRS, the paucity of information about relationships between contracting parties as young people become increasingly concentrated in the sector, and the impact of successive policy changes affecting young people. These policy changes include, the ending of the majority of 16 and 17 year old's entitlement to Income Support under the 1986 Social Security Act. Subsequent policy changes were set within the broad context of the 1988 Housing Act which dispensed with security of tenure and rent regulation for all tenants in the PRS. The 1988 Social Security Act further eroded young people's benefit entitlement with the introduction of a lower rate of Income Support for under 25s. This was followed by a lower rate of housing benefit for under 25s with the SRR under the 1996 Housing Act. All of these changes have important implications for young people's ability to enter into the sector, live independently, and successfully maintain tenancy relationships.

Furthermore, an important strand of this research focuses upon the legal implications of tenancy relationships in the PRS. Previous research indicated that both landlords and 'experts' were unsure of the legal framework in which they were letting properties, (Crook and Kemp, 1996: 56, 113; Thomas *et al.*, 1995: 63), however, no corresponding empirical evidence about young people's understandings of the law

and associated rights and responsibilities exists. In order to provide an up to date and coherent picture of the nature of relationships between contracting parties in the PRS, this study takes knowledge and understanding forward by undertaking empirical work with organisations, landlords currently letting property in the PRS, and young people currently living in the PRS.

This research examines the nature of legal, social and economic relationships between landlords and young people in the PRS. Its focus is upon the extent to which relationships are governed by current legislation and the nature of relationships which operate outside of strict legal boundaries. The research assesses whether both parties are, 'free to negotiate the tenancy agreement,' (The Earl of Caithness, Hansard, House of Lords, 21 July 1988, col. 1526) by exploring levels of participation in the pre-contractual process, whilst the issues of regulation and accountability are examined to assess the extent to which there exists 'an equitable balance between the respective interests of the landlord and the tenant' (Lord Caithness, Hansard, House of Lords, 24 October 1988, col. 1343). This entails an exploration of the extent to which relationships between the parties are legally determined and socially constructed (Harloe, 1985a: 380). In addition, the circumstances which create 'ground for friction and contest' (Mason, 1991: 103) are explored. This research provides a link between the operation of market mechanisms, expressions of control and power and the interaction between social and legal rights and addresses the following key questions:

1. How does the existing legal framework in the PRS operate and affect youth tenureship?
2. What is the nature of the landlord/young tenant relationship in the PRS?
3. What are the implications of existing relationships and legal and social structures for a fair and 'equitable balance' between both parties?

These research questions provide scope to investigate legal, social and economic relationships between contracting parties and also to assess how the rights and duties

of both parties are ‘interpreted and used’ (Mason, 1991: 103) by exploring knowledge of, and understandings of, legal rights and obligations and the accessibility of information and advice.

THE CONTRIBUTION OF THIS RESEARCH TO KNOWLEDGE AND UNDERSTANDING

As already noted, there has been little research that directly addresses the ‘ordinary relations’ (Englander, 1983: xvii) between landlords and tenants in the PRS, and according to Harloe, undertaking a study in the early 1980s:

‘...one might have expected that it would be possible to draw on a considerable volume of governmental or independent research into the actual nature of landlord/tenant relations and the impact of legal provisions. In fact, less information and research was available concerning this aspect of the private rental sector than any other’ (Harloe, 1985a: 360).

In spite of the lapse in time since this statement was made, there has been little advance in uncovering details of the nature and diversity of ‘the oldest, most common, and perhaps because of it, the most neglected of contractual relations’ (Englander, 1983: 4). Research into relations between landlords and tenants in the PRS has had two types of focus, largely corresponding to the different position each party occupies within the sector. Tenant focused literature has concentrated upon investigating experiences of extreme forms of behaviour, for example, harassment and unlawful eviction, (Burrows and Hunter, 1990; Sharp, 1991; Jew, 1994) rather than more routine and subtle forms of interaction. These studies have been balanced by research into the experiences of landlordism (Allen and McDowell, 1989; McCrone and Elliot, 1989; Thomas *et al.*, 1995; Crook and Kemp, 1996). Only recently has attention turned to the position of young people in the sector (Kemp and Rugg, 1998; Rugg, 1999; Rugg *et al.*, 2000; Kemp and Rugg, 2001; Kenyon and Heath, 2001) and the combined views of contracting parties in relation to their extreme behaviour and interactions (Marsh *et al.*, 2000). Unlike previous research in

this area, this study shifts the focus of attention from divergent analyses of each parties' experiences and concentrates upon an exploration of tenancy relationships *per se*, exploring the perspectives of both parties together.

Previous research has pointed out that an analysis of relationships based solely upon legal criteria is limiting (Nelken, 1983; Harloe, 1985a/b) and does not reveal the true nature or the diversity of relationships between the parties. There has been little empirical research that has considered what is the nature and diversity of these 'other' non-legal relationships for tenants in general and for young people in particular. In order to overcome these shortcomings, an alternative approach is adopted here which explores legal and non-legal relations together. Research in this area is very much in its infancy and consequently, very little is known about these relationships as an acute knowledge gap exists about the nature of landlord/young tenant interactions in the PRS. This knowledge gap exists not only in terms of the effectiveness or ineffectiveness of legislative provisions governing relationships but also with regard to information about the development and maintenance of relationships and the extent of their economic and social components. In this respect an inherent tension exists between the legislative context of relationships, that is, how relationships *ideally* operate and how relationships *actually* operate in the social world with the parties themselves ultimately constructing and determining their own relationships and outcomes. This research seeks to address these gaps in knowledge and understanding and focuses upon the interactions of legal, social and economic relations within the context of free market conditions and analyses how these changing structures affect and impinge upon tenancy relationships.

This research informs wider debates about the complex interactions of young people and landlords, by promoting greater understanding and new insight into the nature and perceptions of landlord/young tenant relationships. It also addresses several areas of knowledge which have previously received little attention, by attending to the absence of a theory of the contractual relationship between landlords and young people in the PRS. By exploring the perceptions of both parties to the contractual

relationship a more complete picture emerges within which the implications for policy and practice, operating within the context of social, welfare and legal frameworks, can be assessed. The research also comes at an opportune time to make an important contribution to current debates about regulation of the PRS such as those in the Housing Green Paper, *Quality and choice: A decent home for all*, (DETR, 2000), and, in particular, to debates about reform of landlord and tenant law as discussed in the Law Commission's *Reform of Housing Law: A Scoping Paper*, 2001.

In addition, given that young people are increasingly concentrated in the PRS, it is important to have an understanding and an awareness of the range of relationships, experiences and actual or potential problems which emerge between contracting parties. In the absence of this information there is a risk that young people will be excluded by the housing market, the legal system and social policies. There is also a risk that any difficulties experienced by private landlords - as a result of successive policy changes affecting young people - will be neglected. Moreover, future decisions about the sector made by the government, landlords, financial institutions and courts may be based upon outdated perceptions of the nature of private renting. It is important that information is obtained about these relationships, particularly in the light of the policy changes enshrined in the 1996 Housing Act - the initial impact of which this research captures - if young people are not to be excluded and disempowered as they make the transition to adulthood.

THE SCOPE OF THIS THESIS

In the light of the above discussion indicating the potential impact of recent legislation and policy changes in the PRS and upon young people and landlords, attention is now turned to providing a synopsis of each of the chapters which explore these relationships and interactions. This thesis is structured around eight chapters. Chapter One, sets the research in its broad context by exploring the current role and character of the PRS, the nature of private landlordism and the centrality of the PRS in providing accommodation for young people. The chapter draws upon contextual

and trend data to provide a profile of the condition of the PRS, the type of private individual landlords operating in the sector and the types of young people living in the sector. Chapter One also explores the current debates about regulation of the sector.

Chapter Two focuses upon the legislative context of the research and provides an appreciation of both the historical development and the current framework of landlord and tenant law. The chapter discusses legal assumptions about the behaviour of contracting parties in detail and explores the limitations of the legislative framework in governing landlord/tenant relationships. Current debates about reform of the legal framework are also discussed.

Chapter Three develops some of the issues raised in Chapters One and Two and explores theoretical assumptions about the behaviour of landlords and young people in the PRS and identifies a range of factors which influence relationships in the absence of an effective legal framework. The chapter explores the extent of legal, social and economic behaviour in tenancy relationships and also describes the potential orientations of landlords to property letting. The erosion of young people's citizenship rights are examined, and their current economic and social positions in the PRS are explored.

Chapter Four details the research design and methodology used to undertake the empirical research for this thesis. It describes how and where the research was undertaken, the range of methods used and their rationale, the main focus of the research, selection strategies and the data analysis process. An analysis of the findings of the research are explored in the following three chapters.

Chapters Five, Six and Seven focus upon an exploration of the empirical material collected for this study and explore the nature of tenancy relationships between landlords and young people as described in their own words. Together these three chapters explore the importance and prominence of legal, social and economic

factors across the whole of the tenancy relationship.

Chapter Five examines the process of negotiating and setting-up the tenancy relationship and describes how young people search for accommodation and how landlords recruit and select prospective tenants. The chapter explores landlords' and young people's attitudes towards seeking legal advice and negotiating and discussing financial and practical arrangements prior to entering into the tenancy relationship. The chapter also reveals that relationships were founded upon the basis of economic exchange, with a lack of importance attributed to legal arrangements at the outset of the tenancy, and an enhanced role for social relations and idiosyncratic practices.

Chapter Six draws upon some of the issues raised in Chapter Five and explores the impact of the informal practices of landlords upon young people once they have moved into accommodation. The bulk of the chapter focuses upon the internal structure of relations between the parties during the tenancy and explores the ways in which landlords influence and structure young people's experiences of tenancy relationships by exerting power and control over their use of the property and the quality of their environment. The chapter goes on to explore how some young people manage to achieve satisfactory relationships and for those unable to do so, the strategies adopted to manage relationships.

Chapter Seven examines the ending of tenancy relationships and looks at how landlords manage and control the leaving process and the extent to which they engage with the legal framework. The chapter also considers the difficulties experienced by both landlords and young people throughout tenancy relationships and when using formal legal proceedings and concludes with a discussion of both parties' recommendations for change in the light of their overall experiences of tenancy relationships.

The concluding discussion in Chapter Eight draws together the empirical and theoretical material presented in this thesis and considers how the key findings can

inform the development of future policies and legislation. The chapter focuses upon how young people's experience of living in the PRS can be improved and also considers the appropriateness of the PRS in its current form to accommodate young people. In addition, the chapter considers current debates about reforming the legal framework in relation to the PRS and regulating the sector. Some suggestions are made about how these aims can be achieved in the light of the findings presented in this thesis and the extent and scope of further empirical research which is required in order to inform future policy and legislative reforms.

The Appendices provide further details of the respondents who took part in the research and the range of issues discussed during qualitative interviews. Topic guides, checklists, and other material used during the research process can also be found in the appendices. Throughout this thesis the term 'landlord' is used to encapsulate both male and female, however, during the discussions of the data in the empirical chapters, Five, Six and Seven, the main quotes indicate whether the respondent was male or female. Appendix Four provides further details of the thirty landlords and young people interviewed.

CHAPTER ONE

THE PRIVATE RENTED SECTOR, LANDLORDS AND YOUNG PEOPLE: THE CONTEXT

INTRODUCTION

The nature and role of the private rented sector has altered considerably over the last century, transforming many aspects of relationships between landlords and tenants. The PRS is characterised by considerable diversity and there has been a marked change in the types of households concentrated in the sector, in addition to the types of landlords supplying accommodation. This chapter sets the research in a broad contextual framework by exploring the nature and role of the setting in which relationships between landlords and tenants take place, that is the PRS itself. Furthermore, this chapter examines the characteristics of the main providers of accommodation, that is, individuals operating on a small scale for whom landlordism is not their main occupation, and the main consumers of accommodation - young people under the age of 25. This chapter outlines the key characteristics and broad trends relating to the current role of the PRS and landlords and young people in the sector and in doing so provides an overview and sets the scene for discussions in subsequent chapters. The role and character of the PRS are explored before moving on to consider the current nature of private landlordism and the position of young people in the sector.

THE ROLE AND CHARACTER OF THE PRS

At the beginning of the twentieth century the PRS catered for generalised housing need with 90 per cent of households renting privately (Kemp, 1990: 110) and using the sector on a long term, if not lifetime, basis. However, the sector has declined considerably, albeit gradually, since then, reaching a low point in 1989 of 1.6 million households, that is, 8.6 per cent of all households (McConaghy *et al.*, 2000: 74). The reasons for the decline of the sector relate to changes on both the demand and supply sides of the housing market and are widely documented elsewhere (see, for example, Hamnett and Randolph, 1988; Kleinman *et al.*, 1996; Kemp, 1997) and it is not

within the scope of this chapter to detail these trends. However, at the risk of over simplifying a complex set of developments, the broad trends associated with the decline of the PRS since the Second World War include the lack of new construction in the sector, the expansion of local authority housing during the 1950s and 1960s, combined with the growth of home ownership as the preferred tenure. Furthermore, during the 1950s and 1960s, the polarised political perceptions between the Labour and Conservative parties towards rent controls and security of tenure, and consequently the distribution of rights between landlord and tenant, contributed to the decline of the PRS as landlords could never be certain of maintaining a stable position in the sector (Kemp, 1993).

By the early 1990s, the PRS, had begun to recover from its long term decline. The beginning of the sector's fragile recovery was not simply as a result of the loss of rent controls and security of tenure brought about by the 1988 Housing Act, but was also as a consequence of a slump in the owner occupier market (Kleinman *et al.*, 1996; Kemp, 1997). Home owners unable to sell, let their property which accounted for half of the increase in private lettings since 1988 (Kemp, 1997). The decline of the sector now appears to have abated and it accommodated approximately 2.0 million households, that is, 10 per cent of all households in 1998/99 (McConaghy *et al.*, 2000: 74) and the current demand for and supply of dwellings seems more buoyant than it has been for some time (Kemp and Keoghan, 2001). However, the sector's role is no longer associated with mainstream, long term, general needs accommodation (see, for example, Wulff and Maher, 1998) and this trend is unlikely to change significantly given the current political climate. Instead, the PRS now performs a specialised role in providing accommodation, often for short periods of time to students (Rugg *et al.*, 2000) and to young and mobile households, particularly vulnerable households and those on low incomes (Kleinman *et al.*, 1996; Rugg, 1999).

Physical conditions in the PRS

In terms of physical conditions in the PRS, it has proved difficult for the sector as a

whole to divest itself of a poor image which has prevailed for some time and is associated with substandard property conditions and poor management standards. Tenants in the PRS experience some of the worst housing conditions in terms of facilities and services, and levels of disrepair and unfitness (Leather and Morrison, 1997). Damp, condensation, overcrowding, and inadequate cooking and heating facilities are widespread in the sector and do not simply cause inconvenience but have an effect upon the health and well-being of tenants. The condition of the sector is partly related to its ageing housing stock, with about half of the stock over 75 years old. However, the age of the stock aside, it cannot be ignored that property standards in the PRS are poorer than those in other tenures and this must reflect, at least to some extent, the failure of landlords to plan financially to undertake major works and maintenance in order to keep dwellings in a reasonable state of repair (see Crook *et al.*, 2000).

According to the *English House Condition Survey 1996*, (DETR, 1998) 90 per cent of PRS dwellings had one or more faults in comparison with 66 per cent of dwellings owned by Registered Social Landlords. Moreover, the number of dwellings failing the 'fitness standard', relating to houses unfit for human habitation, was more in the PRS with 19.3 per cent failing, compared to 6.6 per cent of owner occupied dwellings and 7.3 per cent of local authority dwellings. Furthermore, the costs of repair in the PRS were higher than those in other sectors. The cost to repair the 10 per cent of dwellings across all sectors requiring most work was £42 per square metre, but for PRS properties the figure was £82 per square metre, (DETR, 1998) highlighting the level of deterioration in the sector. Houses in Multiple Occupation, (HMOs) as a distinct subsector of the PRS, are subject to additional regulatory regimes in order to safeguard health and safety (see Chapter Three). However, they have some of the worst standards of accommodation and often lack basic amenities, such as, adequate numbers of WCs and baths or showers, and adequate means of escape from fire. Moreover, poor property conditions were associated with tenant dissatisfaction in the PRS. Tenants reporting poor relationships with landlords were most likely to do so as a result of unsatisfactory property conditions and conflict over

repairs (see Chapter Six). According to the *Survey of English Housing 1998/99*, this was the case with 59 per cent of PRS tenants (McConaghy *et al.*, 2000: 19).

There is currently much concern about the quality of physical standards, management practices, and the levels of service provided by landlords across the whole of the PRS. The Housing Green Paper, *Quality and Choice: A decent home for all*, (DETR, 2000) stated that the promotion of ‘a healthy private rented sector’ was one of its overall objectives, and this was to be brought about by improving ‘poor conditions’ in the sector and ensuring that landlords provide a ‘proper service’ to tenants. The achievement of these aims relies largely upon regulatory controls in the PRS and despite existing regulation, considerable problems persist. There is a general understanding that there is much to be done to improve the quality and image of the sector, with the Green Paper suggesting, for instance, that ‘good and well-intentioned’ landlords in the sector would benefit from voluntary accreditation schemes (see also *Developing a Voluntary Accreditation Scheme for Private Landlords*, DETR, 2001) and the dissemination of information via local landlords’ forums. In contrast, the Green Paper suggests that ‘the worst landlords’ in the PRS require tougher measures to persuade them to improve their property standards, such as, compulsory licensing and in relation to HMOs there is agreement that further specific regulation in the form of licensing is required (DETR, 1999; Shelter, 1999). However, the debate about licensing has not progressed as there is disagreement about the type of property or housing situation which constitutes an HMO (see Chapter Two) and across the whole of the sector there is little clear consensus about how problems might be resolved (Leather 2001; Rugg and Rhodes, 2001).

THE CURRENT NATURE OF PRIVATE LANDLORDISM

The nature of landlordism in the PRS is diverse and still ranges in contemporary society, as it did in 1964, ‘from the old lady who rents an attic, to the large scale business operation’ (Harvey, 1964: 73). Private landlords are a heterogeneous social grouping and reveal a range of actions and behaviours in the ways in which they operate in the housing market, regard their property, and engage with their tenants. A

number of classifications exist which transcend an analysis of landlordism based simply upon portfolio size as an indicator of how different landlords operate in the sector. Instead, these classifications differentiate landlords according to their motivations, behaviour and relations with tenants. For instance, Allen and McDowell (1989) identified six groups of landlords on the basis of their internal relations with tenants and the ways in which the social and economic characteristics of these relationships were structured. These six landlord types are traditional, employer, informal, investor, commercial, and financial - categories which range from landlords with large portfolios and high profile investment activity to private individuals letting only one or two properties (see Chapter Three for further details).

Similarly, Thomas *et al.*, (1995) identified three categories of landlords, that is, sideline, business, and organisational, based upon the ways in which each perceived their role in the PRS, their reasons for letting property, the degree of portfolio expansion they expected to make, and the ways in which they envisaged their future in the PRS (Thomas *et al.*, 1995: 19). Furthermore, Bevan *et al.*, (1995) expanded the categorisation of Thomas *et al.*, by sub-dividing sideline landlords into formal and informal sideline landlords (Bevan *et al.*, 1995: 12) in order to differentiate between different attitudes and behaviour (see Chapter Five). The main strand which runs through these different categorisations and forms of landlordism is the diversity of interests of those who provide accommodation in the PRS demonstrated by the variety of ways in which they operate in the sector, how they regard their tenants, (for instance, as friends/relatives or simply as a source of rental income), and how they regard their rented property, (for example, as a financial asset or still as a home).

Perceptions of landlords in the PRS, particularly of individuals for whom letting property is a business or a sideline activity, like the images associated with the sector, are generally poor. Stereotypical images left over from the Rent Act 1957 and the Rachman scandal, (see Nelken, 1983; Kemp 1997) of landlords routinely harassing and unlawfully evicting tenants still prevail in ideological terms in the sector. However, more positive images are beginning to emerge (Kemp and

Keoghan, 2001: 34), based to a large extent upon the sectors' re-invention and use by relatively affluent young professionals who can afford to occupy high quality accommodation (Oakes and McKee, 1997; Heath and Kenyon, 2001). The extreme images of landlords presented by John Patten when Minister for Housing when he talked of replacing 'people with Alsatian dogs trying to kick down the front door' with 'motherhood and apple pie' (quoted in Kemp, 1993: 66) were unlikely to reflect the true situation then or now. However, captured in these images is a spectrum of *possible* landlord behaviour, reflecting the diverse range of landlords operating in the sector with different motivations, and attitudes towards letting property, and their tenants.

Characteristics of private landlords

Ownership within the sector is dominated for the most part by private individuals rather than property companies. The number of private individuals letting property, (excluding resident and employer landlords), has increased from just over one million (53%) in 1990/91 to almost 1.7 million (75%) in 1998/99 (McConaghy *et al.*, 2000: 228). In addition, for the majority of private individual landlords, letting property is a relatively 'new' occupation (Leather, 2001: 103) and not their main occupation but is a small scale 'sideline' activity (Thomas *et al.*, 1995: 21) or hobby that does not comprise their main source of income. In 1993/94 two out of three properties to let were held by private individuals who were in full or part time employment with 43 per cent of landlords letting only one property and 23 per cent letting between two and four properties (Crook and Kemp, 1996: 22). There is also evidence to suggest that landlords letting only a few properties are less flexible than those with a larger portfolio and tend to let to a preferred tenant 'type', for example, students, and stay loyal to this particular market once they are familiar with its operation, (Rugg *et al.*, 2000: 26) rather than diversifying. Therefore, ownership of the sector is characterised by a large number of suppliers providing only one or two properties each, often to a particular 'niche' market.

The rise in the number of private individuals letting property is partly due to the

transformed letting environment after the 1988 and 1996 Housing Acts which diminished security of tenure and made it easier for landlords to claim possession of property after a minimum period of six months, without recourse to court proceedings. The increase can also be attributed to the economic climate where investment in property, particularly through Buy-to-Let schemes, is an alternative to equity investment. This is combined with the ease with which individuals can begin letting property in an industry which is fragmented and does not have specific professional entry conditions or recognised quality or training standards (however, see, for instance, as discussed below, the Association of Residential Letting Agents and the Royal Institute of Chartered Surveyors). Generally, tenancy relationships can be set up by simply purchasing an ‘off the shelf’ letting agreement and this is sufficient for many landlords to operationalise the relationship and replaces information gathering to gain an accurate knowledge of the legal framework (Thomas *et al.*, 1995: 64; Lister, 2001). This procedure highlights the ‘amateur’ (Kemp and Rhodes, 1997: 130) and uncoordinated nature of many property relationships where management skills, expertise and an adequate grasp of the legal framework are not a pre-requisite to letting.

Management practices and motivations to letting

There is considerable variation in the levels of professionalism adopted by landlords towards property letting, management standards and maintenance. This is particularly significant in relation to the recruitment and selection strategies adopted by landlords, attitudes towards the legal framework, levels of attachment to property, and the manner in which they regard their tenants (Bevan *et al.*, 1995; Thomas *et al.*, 1995; Crook and Kemp, 1996). These issues are explored in detail in the empirical chapters of this thesis. Moreover, in spite of contractual arrangements between the parties and numerous pieces of legislation, the sector currently lacks regulatory standards relating to the monitoring and/or enforcement of, for example, the handling of client money in the form of deposits, service standards, and landlords’ general accountability to tenants. This is not the case in formal business arrangements, highlighting the lack of a professional ethos in the sector which easily lends itself

to the description of having 'black market characteristics' (Stewart, 1996: 97). Recently, attention has been turned to raising management standards in the PRS and both the Association of Residential Letting Agents (ARLA, 2000) and the Royal Institute of Chartered Surveyors 'Rent Only' Residential Management Code (RICS, 1997) have provided guidelines and codes of practice for their members which encourage and promote high professional standards in the sector. In addition, a specific area of concern in the PRS is the handling of deposits by landlords (see, for example, Rugg, 1996; NACAB, 1998) and this issue is currently being addressed with an evaluation of pilot tenancy deposit schemes in the PRS (Rugg *et al.*, forthcoming, 2002).

Given the diverse and fragmented nature of private landlordism, landlords do not usually operate as a formal co-ordinated industry or trade and do not share a common philosophy, (Stewart, 1996: 97) or via self-regulatory mechanisms, an ethos of 'good practice' (Trott, 1998: 29) in the manner of social landlords (however see above re: ARLA and RICS). Instead, many private landlords operate very much as "loners" (Bechhofer and Elliot, 1981: 195) and can be viewed as part of the post-1979 spirit of entrepreneurship, where individualism and self-reliance manifest in participation in markets, yield material and personal success (Scase and Goffee, 1987; Gamble, 1988). There is much about the ways in which landlords have been motivated to let property and operate in the sector which is arbitrary and unplanned (Thomas *et al.*, 1995; Crook and Kemp, 1996) and which does not demonstrate forward financial planning or a considered approach to property letting. Indeed, some landlords are in the sector as "conscripts" rather than "volunteers" (Kemp and Rhodes, 1997: 119) as a result of, for example, inheriting property, and many landlords are in the sector as a result of motivations which are not wholly financial, and as a consequence operate according to idiosyncratic management principles (Allen and McDowell, 1989; Bevan *et al.*, 1995). Thus, although it is *assumed* that private landlords have responded to signals in the market and investment incentives (Kemp and Rhodes, 1997) this is not necessarily the case and a range of factors exist for their operation in the market, and, as a consequence, the *manner* in which they operate in the market.

THE CENTRALITY OF THE PRS FOR YOUNG PEOPLE

Following successive deregulation in the 1988 and 1996 Housing Acts, the PRS has become increasingly regarded as a transitional and residual sector, (Rugg, 1999: 52) particularly in association with its role of housing single young people and vulnerable households, especially those on low incomes (Rhodes and Bevan, 1997; Kemp and Rugg, 1998). Although the sector is small, accommodating only 10 per cent of all households, it nevertheless performs a crucial role in providing accommodation for young single people who are 'the key demand group' (Kemp, 1993: 72). As Table 1.1 below demonstrates, secondary analysis of the *Survey of English Housing 1996/97* showed that 60 per cent of all independent, childless young people aged 16-25 - 628,000 individuals - lived in the PRS (Rugg and Burrows, 1999: 8). These figures highlight the significance of the sector for young people as owner occupation and social housing have become less accessible or desirable (see, for example Ford, 1999; Anderson, 1999) and also shows the sector's centrality for single childless young people in comparison to those with children who are concentrated in social housing.

Table 1.1 Tenorial locations of single young people in England aged 16 to 25 in 1996/97

Household tenure	On own		With children	
	(%)	(000s)	(%)	(000s)
<i>Owner occupation</i>	27	286	10	23
<i>Social housing</i>	12	128	74	167
<i>Private rented</i>	60	628	16	35
<i>Totals</i>	100	1,043	100	225

Source: Rugg and Burrows, 1999: 8.

Characteristics of young people in the PRS

Young, single people and newly forming households are over-represented in the PRS. Secondary analysis of the *Survey of English Housing 1996/97*, showed that the sector accounted for only one in ten of all households, but for four in ten of all *new* households, who were twice as likely to be aged 16 to 24, compared with those who remained in or who left the sector (Kemp and Keoghan, 2001: 24). New entrants aged 16 to 24 during 1996/97, comprised 31 per cent of all households entering the PRS and were likely to be either living on their own or sharing with adults who were not related to them (Kemp and Keoghan, 2001: 26-27). In addition, one in five new households were full time students in higher education (Kemp and Keoghan, 2001: 30). Student numbers are gradually increasing and they rely heavily on the PRS for accommodation, comprising an important demand group (Rhodes, 1999) who have played their part in facilitating the expansion of the sector with the proportion of private tenants who are in higher education trebling since 1988 (Kemp and Keoghan, 2001: 31).

There is considerable diversity amongst the 'types' of young people living in the PRS, and there is evidence to suggest that the sector is becoming segmented with distinct sub-markets developing and little competition or overlap between the different groups. This is likely to vary according to the character and competitiveness of the local housing market and the 'types' of young people typically present in the market. These distinct groups of young people comprise, housing benefit claimants and low income workers, (Rugg, 1996; Kemp and Rugg, 1998) students, (Rhodes, 1999; Rugg *et al.*, 2000) and young professionals (Oakes and McKee, 1997; Heath and Kenyon, 2001). House buying trends indicate that relatively affluent young professionals are postponing home ownership (Holmans, 1995; Rosser, 1997) in favour of remaining in the PRS longer, where they can occupy high quality accommodation, particularly in city centres (see, for example, Oakes and McKee, 1997) and remain mobile in both labour and housing market terms (Heath and Kenyon, 2001). In addition, recent research on student housing markets indicates that, in University towns and cities, the increase in student numbers and the

corresponding housing demand is likely to be met with a ready supply of student lettings from private landlords as opposed to educational institutions (Rugg *et al.*, 2000). These changes within the sector are symptomatic of wider social and economic changes facing young people which affect the nature of their use and involvement in the housing market as they make the transition to independent living.

Young people's use of the PRS

As already noted, young people are disproportionately located in the PRS, yet their use of the sector is not as a long term housing solution. They demonstrate a high degree of mobility, with 75% of householders aged 16-24 years resident in their current tenancy for less than one year (McConaghy *et al.*, 2000: 76). This figure encompasses new households and those moving within the sector, as well as moves triggered by both landlords and tenants. This very high turnover may be associated with the age of the group and the flexibility or choice to move, enshrined within assured shorthold lettings, either in a chaotic fashion or as part of strategic and planned, goal oriented movement. However, the mobility process is complex and multifaceted. High turnover in the PRS is likely to reflect a number of underlying factors which are symptomatic of wider social and economic changes, for example, welfare benefit retrenchment or lack of familial support and the precarious position many young people occupy in the sector in its 'modern form' (Kemp and Keoghan, 2001: 34) which effects their ability to live in the PRS successfully and maintain their tenancies.

Furthermore, the sector is not used in a uniform way by all tenant types. Students use of the PRS may be stable but punctuated by regular movement back into the family home during holidays and at the end of their studies (see Rugg *et al.*, 2000). The sector is also used by some young people in a fragmented and less structured way. This may be in response to changes in personal or financial circumstances, such as, relationship breakdown or a loss in income where moves in and out of the sector are broken up by spells in the family home, time spent sleeping rough, in hostels or sleeping on friend's floors (Jones, 1995; Rugg, 1999). Moreover, young people's use

of the PRS is dependent upon the availability and affordability of accommodation in alternative tenures. This is contingent upon the operation of particular housing markets and demand and supply levels, which inevitably vary from one location to another with considerable regional diversity in evidence. A recent major study of young people's housing circumstances shows, in Table 1.2 below, the regional variation of house prices and differential rent levels in social housing and the PRS across five locations which reflect a diverse range of housing markets. These five locations provide a number of contrasts - regional, urban/rural, demographic, economic and cultural, each presenting a very different set of constraints and opportunities in relation to the kinds of housing markets young people confront.

Table 1.2 Variations in housing costs according to location in 1999

	PRS Bedsit Mean Weekly Rent	PRS 2 Bed Mean Weekly Rent	LA 2 Bed Mean Weekly Rent	2 Bed Flat Mean Price	2 Bed House Mean Price
<i>Birmingham</i>	£44	£72	£39	£50,175	£47,963
<i>Brighton</i>	£62	£115	£45	£67,032	£83,469
<i>Haringay</i>	£72	£150	£56	£99,223	£85,802
<i>Hull</i>	£37	£58	£33	£34,977	£30,625
<i>Waveney</i>	£47	£72	£40	£33,349	£44,679

Source: *Young people, housing and the transition to adult life: understanding the dynamics*, ESRC End of Award Report, 2001, Centre for Housing Policy, University of York.

The PRS and young people's transitions to adulthood

Young people are increasingly faced with a series of wider social and economic changes which can make their experiences of independent living more complex and problematic. Successive policy changes based upon age grading have stopped 16 and 17 year olds entitlement to benefits, including housing benefit, unless they are in exceptional circumstances, and have also eroded entitlement to welfare benefits for those aged 18-24 years. For 18-24 year olds housing benefit has been reduced to that of a Single Room Rent (see Kemp and Rugg, 1998; Rugg, 1999; Kemp and Rugg,

2001) and was estimated to affect 144,000 young people when it was fully implemented at a saving to the Government of £65 million (Department of Social Security, 1995). In addition to young people's changed financial positions, the processes by which they typically reach adulthood have become more complicated and protracted as traditional life course patterns, family ties, household structures, and labour market opportunities have become fraught with uncertainty and risk. Young single people, living independently, represent the 'basic figure of *fully developed* modernity' (Beck, 1992: 122) and occupy a position in a highly individualised 'risk society' (Giddens, 1991; Beck, 1992; Taylor-Gooby *et al.*, 1999) where they are increasingly forced to make choices in circumstances of insecurity and uncertainty. (Furlong and Cartmel, 1997). Contingency and uncertainty are now part of everyday life and these factors have a profound influence upon young people's transitions into adulthood (see, for example, Furlong and Cartmel, 1997).

As a consequence of these wider changes, independent living in the PRS has become a highly individualised process based upon negotiated, private contractual arrangements. Housing benefit (Rugg, 1997; Kemp and Rugg, 1998) and lack of a deposit (Kemp and McLaverty, 1995; Rugg, 1996; NACAB, 1998) often prove to be obstacles to securing accommodation in the PRS and require negotiation, notwithstanding that many young people lack the necessary skills or confidence to negotiate with landlords (Lister, 2001). Furthermore, once access to accommodation has been secured, the diversity of young people's backgrounds and personal circumstances, are reflected in their individual needs and abilities to maintain tenancies. Many young people in the sector are particularly vulnerable and disadvantaged and poorly equipped for independent living, as they are likely to have little or no previous tenure responsibility (Hedges and Clemens, 1994) and may not possess the necessary knowledge or daily living skills to manage a tenancy (Jones and Gilliland, 1993: 18). For example, the PRS accommodates young people who may have been homeless, (Rhodes and Bevan, 1997) in foster care or children's homes, (Quilgars and Pleace, 1999) in Young Offenders Institutions/Prison, or in hospital, in addition to those from the family home. Different levels of advice and

support may be required but may not be readily available, to help young people settle into their accommodation and acquire basic skills (Folkard, 1998: 83).

Lack of support, personal and financial problems, and difficulties associated with sharing, particularly with strangers, can result in young people failing to maintain their tenancies (Folkard, 1998). In addition, as discussed above, substandard accommodation and problematic relationships with landlords may prompt many young people to repeatedly move through the PRS in search of better conditions and satisfactory relationships with landlords (Lister, forthcoming, 2002). Therefore, securing accommodation in the PRS, does not necessarily mean that young people have the ability to live independently or achieve satisfactory housing conditions and reciprocal relationships with landlords, nor does it mean that the search for suitable accommodation is over. It may simply prolong the search for satisfactory accommodation and so influence the high levels of mobility in the sector.

CONCLUSION

This chapter has outlined the current role and character of the PRS, the nature of landlordism in the sector, and the key role the sector plays in accommodating young people in their transition to adulthood. The discussion in this chapter has not only highlighted the diversity of the PRS, but has also drawn attention to this feature in relation to landlords and young people in the sector. The character and role of the PRS has changed considerably over the last century and since successive deregulation under the 1988 and 1996 Housing Acts, letting arrangements between landlord and tenant have been transformed, as the sector has begun to expand slowly after its long term decline and is the predominant tenure for young people. However, there is little evidence to suggest that the PRS is being used as a long term, stable housing solution by young people.

The sector, with regard to its flexible and transitional nature, providing ease of mobility in both the labour and housing markets, has been described as 'very much a modern form of housing provision' (Kemp and Keoghan, 2001: 34) which appeals to young people. However, there is much about the sector in its residual nature that

makes it unsuitable for young people. The PRS embodies and intensifies the insecurities and risks already faced by many vulnerable young people who are in the sector out of necessity, rather than providing them with a safe haven from an uncertain world. Insecurity of tenure, poor quality accommodation, unsuitable sharing arrangements, lack of support services, problems with landlords, and restricted benefits are only a few of the difficulties young people face in the sector. Indeed, the ways in which the sector is used by young people reflects the temporary nature of their tenancy arrangements, however, the meaning and significance attached to complex mobility processes require exploration in order to ascertain how far they indicate positive transitions and flexibility and how far they indicate dissatisfaction and an inability to manage in a residual sector. These issues are explored throughout this thesis.

CHAPTER TWO

THE LEGALLY DETERMINED TENANCY RELATIONSHIP

'It must be said that law's ideals must always appear attainable, yet law must always appear an idealised form of social relations, not a replication of actually existing ones' (Cotterrell, 1992: 172).

INTRODUCTION

The above quote highlights the prominent distinction between the 'ideals' of behaviour as represented in their legal form and existing social relations. The aim of this chapter is to explore the 'idealised form of social relations' in order to set current relationships between landlords and tenants in their legislative context. While this aim may appear simple, the legislative context of these relationships is complex and disparate, making it particularly difficult to provide a succinct account. It is readily acknowledged among legislators, legal academics, members of the legal profession and consumers of the law that the current legal framework governing landlord/tenant relationships, is outdated, cumbersome, and difficult to understand and interpret¹. As a result, it is difficult to separate the different strands of the law into discrete entities without some degree of overlap. This in itself is emblematic of the current problems faced by users of the law, and for the sake of clarity, some degree of repetition is inevitable in this account of landlord and tenant law.

It is not within the scope of this chapter to document the legal framework in detail in either its current form or historical origins, rather the aim is to explore the impact and role of key provisions on landlord/tenant relationships. Therefore, an overview of salient points and selected legislation relevant to this study are provided. This chapter argues that the law is limited in its ability to influence relationships between

¹These points are expressed clearly throughout the Law Commission's *Reform of Housing Law: A Scoping Paper* (2001) which proposes a comprehensive review of the legal framework with the primary objective of simplification of the current system.

landlords and tenants as a result of its complexity, inaccurate assumptions about the behaviour of contracting parties, and the desire not to interfere in private property rights. To locate this argument about current landlord/tenant relationships in their broader legislative context, the chapter begins with a brief description of the origins and historical development of key provisions influencing landlord/tenant law before discussing the current legal framework pertaining to relationships. The contractual relationship between the parties is an important aspect of the legal relationship and the chapter devotes attention to exploring this form of the relationship and questions legal assumptions about the ways in which parties behave towards each other. Finally, the chapter assesses the limitations of the current legislative framework in influencing landlord/tenant relationships. The chapter concludes that in spite of legal assumptions to the contrary, inherent inequalities exist between contracting parties, and that the law is only one factor in a complex relationship.

THE ORIGINS AND DEVELOPMENT OF LANDLORD AND TENANT LAW

Landlord and tenant law in England and Wales has its roots in the feudal system and is a product of common law, case law, and statute which developed in a piecemeal fashion from the substantive areas of contract law, land law, and the law of tort(s). In order to provide a framework to view current relations, the origins of relationships are traced from the feudal system through the industrial revolution, and the dominance of free market conditions, to statutory intervention in tenancy relationships and the development of housing policy. For ease of reference Table 2.1 below provides brief definitions of the legal terms used throughout this chapter and the remainder of this thesis.

Table 2.1 Legal definitions

Common law consists of the laws and customs which have from early times been declared to be law by judges in their decisions in particular cases coming before them. This contrasts with enacted law as laid down in statute, as discussed below. Although common law is important, it has frequently been modified or supplemented by statute. For example, at common law, and in the absence of express provisions in letting agreements, a landlord gives no warranty that (s)he will repair the property. However, this position has been modified by the Landlord and Tenant Act 1985 which provides that certain parts of the premises are the landlord's responsibility to maintain and repair.

Statute or legislation is law derived from an Act of Parliament which has generally passed through both the House of Commons and House of Lords as a Bill before it is enacted. Since 1973 legislation enacted by the institutions of the European Community also require implementation in domestic law, for instance, the Unfair Terms in Consumer Contracts Regulations 1999.

Case law or judicial precedent are decisions made by the superior courts, that is, the Court of Appeal and the House of Lords, which modify, and/or supersede existing legislative provisions, and are binding on inferior courts. For example, *Rogers v London Borough of Islington, 1999* where the Court of Appeal overturned a previous decision in *Barnes v Sheffield City Council 1995*, as to the definition of a House in Multiple Occupation.

Contract law is concerned with the performance of contractual obligations and enforceable remedies for a breach of such performance. Remedies are often to recover a sum of money or to have a service specifically performed. For example, where a landlord sues to recover rent arrears from a tenant, or a tenant sues a landlord for non-performance of repairing obligations.

Law of tort(s) is concerned with the civil (as opposed to criminal) legal duties that one person owes to another in day-to-day situations. Actions in tort include, trespass to land, for example, where a landlord enters a tenant's premises without permission, trespass to the person where, for example, harassment and unlawful eviction are accompanied by violence or threats of violence, and trespass to goods, where a landlord damages a tenant's personal property.

The development of the concepts of freehold and leasehold

The feudal concept of land is worth some brief exploration as several of its facets still have a resonance in contemporary relationships between landlord and tenant. In particular, the basic form of holding property has not changed substantially over time. The basis of the feudal system was that land, which was the only real source of wealth in the absence of a monetary economy, was supplied by lords to tenants in

return for services. The services required were usually military, however, other types of services could be specified by the lord depending upon the type of 'tenure' granted. Hence, the grant of land in return for services was known as 'tenure' and was based upon a *personal* relationship between lord and tenant. Tenure was, therefore, a method of holding land and consisted of two types: free and unfree. As money became more important, lords preferred to receive a payment of money rather than actual services from tenants and the landlord/tenant relationship as we know it today began to develop.

The feudal system lasted until about 1290² when statute intervened to form the basis of the modern concept of land based upon *property* rights rather than personal rights with free and unfree tenures still continuing to exist. The most common form of free tenure, and the only form after 1660³ was 'socage'. With 'socage', any kind of services could be required, however, the usual services were of an agricultural nature and were fixed in both nature and extent. In contrast, 'copyhold' was the only unfree tenure to exist after 1660. With 'copyhold' the services of 'tenure' were not always fixed in nature and extent and were usually more onerous than those of a free tenant, however, they were generally of an agricultural nature. By the end of the fifteenth century, services for both types of 'tenure' were generally commuted to money payments (for further details see, Henry, 1992; Mackenzie and Phillips, 1993). The major property legislation of the 1920s⁴ marked an end to the tenurial system and converted all tenures into freehold, held by the landlord, where estates of leasehold, held by the tenant, could be granted. This is the way in which contemporary landlord/tenant relationships in their legal form are encapsulated with the landlord granting the tenant a legal estate in property via a lease, commonly known as a

²The Statute Quia Emptores 1290.

³The Tenures Abolition Act 1660 abolished all forms of tenure with the exceptions of the free tenure of 'socage' and the unfree tenure of 'copyhold'.

⁴In this case the Law of Property Act 1925 and the Administration of Estates Act 1925.

contract or letting agreement.

Free market conditions and the development of statutory intervention

Further major developments in landlord/tenant relationships came about as a result of the Industrial Revolution and the dominance of the free market. In the nineteenth century 'the British working class experience was pre-eminently one of rented accommodation' (Englander, 1983: 4). During the Industrial Revolution and the transition from feudalism to capitalism, agricultural lettings gradually gave way to the dominance of urban residential lettings where tenancy relationships between landlord and tenant were clearly based upon payment of rent, rather than the provision of services in exchange for property. Free market conditions dominated the relationship between the parties, where individuals were bound to each other via 'only the most essential obligations' (Janoski, 1998: 19). Although tenancy relationships were based upon property rights rather than personal rights, there was much about these relationships that was a private matter, as the parties were left to regulate their own affairs within circumstances of supposed equality. This contrasted with the public sphere of employer/employee relationships which received considerable attention in the struggle for the collective rights of workers (Daunton, 1983: 132). However, the personal sphere of the home and the 'basic human need for "shelter" and "security"' (Bright and Gilbert, 1995: 71) were deemed to be sacred and only of concern to the parties involved with minimum state intervention in the affairs of landlord and tenant:

'When voluntarily and with a clear eye to their own interests, they entered into a contract, they made a piece of private law, binding on each other...The freedom and the sanctity of contract were the necessary instruments of *laissez faire*. and it was the function of the courts to foster the one and to vindicate the other' (Furmston, 1991: 18).

The approach described here fails to acknowledge the limitations of the law in controlling excessive behaviour, nor does it recognise the harsh realities of power

relations in a competitive market. Although classical liberal conceptions of contractual relations assumed equality between the parties, it did not automatically follow that relationships were constructed in circumstances which provided for equality. Furthermore, there was considerable reluctance on the part of successive governments to intervene in relationships between the parties. It was acknowledged that the vast majority of the urban and rural working classes lived in appalling conditions, and had done so for centuries, and also experienced poor relationships with landlords. However, it was not within the remit of a social order based upon the spirit of individualism to intervene in the rights of property owners for the sake of the rights of ordinary people, as Balchin describes:

‘The virtual absence of housing legislation in the first half of the nineteenth century was a reflection of a liberal or laissez-faire approach to most matters - economic and social - and of an adherence to the free market’ (Balchin, 1998: 1).

However, over the course of the nineteenth and twentieth centuries, two broad types of legislation were enacted which interfered with the rights of property owners and it was from these sources that housing policy has developed. Firstly, legislation was introduced which directly related to the governance and control of landlord and tenant contractual relationships. This type of legislation was introduced in reaction to struggles between the parties and sought to restrain and/or penalise behaviour in an attempt to protect the rights of one party over the rights of the other. Secondly, legislation was introduced concerned with the raising of standards in public health and the conditions of the housing of the poor (see, for example, Hughes, 1991). Statutory controls empowered local authorities to regulate and monitor the conditions of working class housing and take action against landlords where necessary. Both of these types of legislation were essential as the social order was threatened by the continuance of non-intervention, given the seriousness of the consequences, that is, public conflict between landlord and tenant, and a diseased and dying population of workers. In addition, these two types of legislation were important as they eroded the spirit of individualism by intervening in, and

restraining, the functioning of the housing market and also by interfering in common law practices and proprietary domination. Statute, therefore, attempted to strike a more equitable balance of rights and responsibilities between landlord and tenant:

‘Statutory interventions...recognise the limitations of relations based on common law. These statutory interventions...have imposed additional obligations on landlords such as duties to keep certain dwellings in structural and external repair...These rights and duties are superimposed on and modify the existing tenancy, adjusting the relationship between the parties’ (Stewart, 1996: 78).

As discussed above, the first of this type of legislative control intervened in landlord/tenant relationships *per se*. In nineteenth century Britain, three areas of conflict between the parties were identified (Kemp, 1987). These were, ‘rent levels, the degree of security of tenure enjoyed by the tenant, and the division of responsibility between them for repairs and maintenance’ (Kemp, 1987: 11). The distribution of rights between the parties was of major concern in the nineteenth century, notwithstanding that the problematic and time consuming proceedings for possession of property was the main cause of conflict:

‘To describe the relation between landlord and tenant as strained at the time of Victoria’s accession would be a gross understatement...in the absence of a summary mode of proceeding, to raise an action for ejectment cost a small fortune and took the best part of a year before execution, it was more like a medieval siege (Englander, 1983: 15).

In 1836 landlords urged the House of Commons to enact a piece of legislation to ease a situation which caused “constant riots and disturbances and assaults” (Englander, 1983: 16). In response to the pleas of landlords, who were, importantly, part of the electorate, the Small Tenements Recovery Act 1838 was introduced and has been described as ‘one of the most Draconian measures ever enacted’, (Englander, 1983: xvii) bestowing formidable powers upon landlords as the legal

procedures for eviction virtually eroded tenants of all security of tenure. The details of the Act aside, this was one of the first examples of the legislature intervening directly in landlord/tenant relations and responding to the cries of the electorate. One parties' rights - the tenants - were negated in the interests of the other and little or no consideration was given to establishing a balanced equilibrium between the rights and responsibilities of both parties. Indeed, such a thought was not likely to have crossed the legislators' minds. Nor did Parliament focus attention upon the need to change inept policies and legislation which allowed such abuses to occur.

It became increasingly recognised that not only the relationships between landlord and tenant required reform, but also the health and living conditions of the poor. The urban population had risen dramatically and low, irregular wages, combined with uncontrolled speculative building and profiteering resulted in the working classes living in cramped, overcrowded and insanitary conditions (Harloe, 1985b: 4-5). In 1842 and 1844 respectively, inquiries into the Sanitary Condition of the Labouring Population of Great Britain and into the Health of Towns took place, resulting in widespread condemnation of the living environments of the poor in urban Britain. Government intervention was required in order to prevent the spread of disease in urban areas, however, it was also acknowledged that intervention would result in interference with property rights. State intervention was justified as 'the lack of adequate sanitation represented a real threat to the health of all classes' (Malpass and Murie, 1990: 26) combined with 'a concern with the slums as breeding grounds of disorder and immorality' (Harloe, 1985b: 18). However, economic and political motives were also prevalent in the desire for state intervention, as Balchin noted:

'In the second half of the nineteenth century, a laissez faire approach to environmental and social problems gradually became discredited. Not only was an improvement in housing demand necessary for health reasons, but it was thought that it would indirectly raise productivity at work and alleviate political

agitation at a time when the majority of the population was disenfranchised’ (Balchin, 1998: 2).

Chadwick’s Report on the Sanitary Condition of the Labouring Population in 1842 noted that illness and early death amongst workers had consequences for the demand for poor relief. As Secretary of the Poor Law Commissioners he argued that preventative measures should be taken to deal with disease and so reduce costs. This resulted in the 1848 Public Health Act, which was the first piece of legislation to deal with the health of the working classes. However, the first legislation concerned specifically with housing was the 1851 Lodging Houses Act. The act allowed public money to be used to provide lodging houses for the poor. The act was a landmark even if the legislation was largely ignored, as ‘the assumption of state responsibility for the housing of the poor became legislatively possible in 1851’ (Gauldie, 1974: 239). The Common Lodging Houses Act of the same year was entirely a public health measure, and provided for control and monitoring of private common lodging houses. However, although legislative provisions were now concerned with housing, by and large, they had little impact. Improvements which took place in housing were via public health regulations, although, there was a raised awareness of working class housing conditions and it was no longer accurate to say that parliament were unconcerned as:

‘...there was hardly a session after 1851 when Parliament did not deal with some form of legislation on housing...The fact remains that even in periods when interest in social reform was weakest, housing was a topic with which Parliament felt, if rather half-heartedly, it ought to deal’ (Gauldie, 1974: 240).

State intervention was now firmly part of the political agenda and housing policy had begun to develop. The details of regulatory controls and legislative provisions from this stage in history to those currently operating are too numerous to describe even in passing. However, from 1851 to 1915, the broad trends in the legislation implemented were to improve the housing conditions of the working classes and

deal with threats to public health. During this period, although attention was paid to social conditions, no attention was paid to the economic aspects of the landlord/tenant relationship which was still very much a private matter between the parties, however, as a consequence of the outbreak of war, from 1915 restrictions were placed on rents. Decontrol of these provisions were implemented gradually with legislation in 1920, 1923 and 1933 extending decontrol on the next change of tenancy. It is this particular feature of relations that are pertinent to this study, as in broad terms, a trend developed from this period which focused upon rent levels and security of tenure. Successive Conservative governments advocated decontrol in the PRS as a way to revive the sector and successive Labour governments advocated security of tenure and 'fair rents' to protect tenants against excesses in the market - the legislative provisions of the PRS changing according to the particular party in power.

The 1957 Rent Act of the Conservative governments is worth a brief mention as its consequences caused considerable debate amongst legislators, politicians, policy makers and the general public. The aim of the Act was to allow landlords greater freedom in rent setting by decontrolling tenancies which fulfilled specific provisions, in particular through vacant possession. The intention, as with the 1988 Housing Act, was to establish decontrol of the sector and facilitate a revival. However, the sector continued to decline and tenants were plagued by the phenomena of 'Rachmanism', that is harassment and unlawful eviction in order to obtain vacant possession and therefore, an increased rental income (see, for example, Harvey, 1964; Nelken, 1983). The response from the Labour government was to control the sector and their 1965 Rent Act introduced 'fair rents' and extended security of tenure to all tenants of unfurnished accommodation as well as creating the criminal offences of unlawful eviction and harassment. The position of tenants was to remain largely unchanged until the Conservatives introduced the 1988 Housing Act which decontrolled the sector in a further attempt to revive it. The consequences of the 1957 Rent Act were debated during the passage of the 1988 Housing Act through the House of Lords and fears were expressed that the 1988 Housing Act would have

similar consequences for tenants (see, for example, Hansard, House of Lords, 21 July 1988).

THE CURRENT LEGAL FRAMEWORK GOVERNING LANDLORD/TENANT RELATIONSHIPS

The current legislative framework governing landlord and tenant relations in the PRS has been described, as a ‘labyrinth of technicality, complexity and difficult concepts’ (Mitchell quoted in Pawlowski, 1998: 241). A coherent unified body of legislation does not exist in English and Welsh law. Instead, landlord and tenant law has developed piecemeal and is a product of common law, case law, and statute drawn from substantive areas of contract law, land law and the law of tort(s). Numerous and disparate strands from these substantive areas are drawn together under the heading of landlord/tenant law, ranging from, for example, legislation to safeguard against unsatisfactory and unsafe housing conditions, protection for tenants against harassment and unlawful eviction, and legislation relating to rent increases and liability for repairs. This complex legislative arrangement is neatly summed up:

‘The rights and duties of each party were scattered through the housing, public health and rent legislation and varied considerably according to the status of the tenant/licensee....its sheer complexity - seen perhaps at its most developed extent...in Britain’ (Harloe, 1985a: 369-370).

In its current form landlord and tenant law is too expansive and disparate to consider in detail (for more extensive discussions see, for example, Arden and Hunter, 1997) and the aim here is to describe the most salient features of the legal framework which currently impinge upon relationships in the sector and are of relevance to this study. The 1988 and 1996 Housing Acts which frame current relationships are discussed before attention is turned to the range of statutes and regulatory controls prevailing in the PRS. Common law provisions and the issues which are currently outside of the scope of regulation are explored and finally issues relating to

enforcement provisions and current debates about reform of the legal framework are addressed. The role of the contract or letting agreement in relationships between the parties is a substantive issue in itself and a detailed later section of this chapter is specifically devoted to this issue.

The 1988 and 1996 Housing Acts

The 1988 and 1996 Housing Acts regulate the broad letting framework of the relationship between landlord and tenant. These acts have successively deregulated the PRS and transformed relationships between contracting parties. The 1988 Act heralded the return of free market conditions to the PRS by weakening rent controls and security of tenure. Rents could now be freely set between the parties and assured shorthold tenancies were introduced which provided limited security of tenure, guaranteed to a minimum of six months, after which time landlords could take possession of property without having to prove a breach of the terms of the contract, provided there was compliance with certain legal requirements as to notice periods. In practice the Act gave legal recognition to previous informal practice (Blandy and Goodchild, 1999) and dispensed with the needs of landlords to use 'sham' (Butt, 1994: 8) licence agreements in order to circumvent security of tenure and rent restrictions under the Rent Act 1977 (Rodgers, 1989: 197; Balchin *et al.*, 1998: 61).

The return of free market conditions in the 1988 Act placed the role of negotiations at the centre of relations between the parties. This feature of relationships reinforced existing classical liberal conceptions of contractual relations, discussed in detail below, which assume that each party is able to negotiate on equal terms and enter into relationships which 'maintain an equitable balance between the[ir] respective interests' (Lord Caithness, Hansard, House of Lords, 24 October 1988, col. 1343). However, in spite of such optimistic assumptions about the ways in which contracting parties deal with each other, under the 1988 Act tenants faced restricted choices and severely reduced rights, as Lord Mackintosh of Haringay described:

'The shorthold tenant will always be afraid to exercise even the rights which are

given to him under the [Act] because of the fear that, at the end of his shorthold tenancy, he will be kicked out under the shorthold provisions' (Hansard, House of Lords, 21 July 1988, col. 1521).

The 1996 Housing Act further reduced the rights of tenants by minimising the responsibility of landlords to comply with legal requirements and dispensed with the necessity to supply tenants with a written agreement. This provision was tempered by the caveat that tenants were entitled to written information regarding the terms of their tenancy on request and if the landlord refused to provide such information was liable to prosecution. However, Lord Mackintosh's description above, of the situation facing tenants renders these rights virtually unenforceable. In addition, the 1996 Act introduced stringent housing benefit regulations which eroded the rights of the 'key demand group' (Kemp, 1993: 72) in the sector - young people under the age of 25 - to receive benefit to cover their contractual rent for self-contained accommodation and restricted their entitlement to that of a Single Room Rent (Kemp and Rugg, 1998). The combined effect of both acts was to increase the power and autonomy of landlords in the absence of a regulatory system to oversee and monitor their activities, whilst depriving tenants of all meaningful rights which could be enforced without adverse consequences.

The distribution of rights and responsibilities between the parties has always been a problem, as discussed above, and has not been a significant feature in debates about the PRS, however this distribution of rights is not fixed or, indeed, 'natural' (Marsh and Riseborough, 1998: 100). The unwillingness of successive Conservative and Labour governments to encourage any redress of the balance between landlords' and tenants' rights has resulted in a widespread acknowledgement amongst pressure groups, campaigners, landlords and even tenants themselves, that tenants, in practice, do not have rights in the PRS. There is also a degree of acceptance that in spite of efforts to change this situation, the impact has been limited.

Statutory intervention and regulatory control

Much of the detail of current relationships between landlords and tenants is governed by regulation and statute. In addition to the complexity of the legal framework, the volume of statutory and regulatory codes is extensive and attention has recently been drawn to this problematic aspect in relation to the scope for reform of the law:

‘The *Encyclopaedia of Housing Law*, which contains all the relevant statutes, regulations and government circulars, comprises six volumes that take up twenty-two inches on the bookshelf and weigh well over 10 kilos’ (Law Commission, Scoping Paper, 2001: 3).

The aim here is to provide a coherent and simplified account of relevant codes and principles which are pertinent to and illuminate this study. To this end the focus is upon the regulation of property standards and repairs and maintenance in the sector as this aspect of relationships is the most prominent cause of friction between the parties (McConaghy *et al.*, 2000: 19) and is a subject of current concern (see, for example, The Housing Green Paper, DETR 2000; Rugg and Rhodes, 2001).

However, attention is also given to the regulation of more personal aspects of relationships to include accounts of the legislative provisions relating to harassment and unlawful eviction, discussed below.

In essence, the key regulatory and statutory provisions pertaining to relationships have their origins in nineteenth century public health legislation, as discussed above, with the focus upon restraining landlords’ autonomy, and protecting tenants from unsafe, insanitary and overcrowded property conditions, and more recently from defective appliances. Statute has intervened to supersede and complement the common law position as regards property conditions and obligations for repairs. The current position of the parties as regards repairs are contained in the 1985 Landlord and Tenant Act and the Housing Act 1988 which together imply into current oral and written lettings, including assured shortholds, the landlord’s obligations to repair and maintain property. The combined effect of these Acts is to impose liability on

landlords to repair and maintain the structure and exterior of premises, common parts, and to keep in proper working order facilities for the supply of water, gas, sanitation, and space and water heating. In cases where landlords are informed of necessary repairs and fail to comply with their obligations the onus is upon tenants to take enforcement action through the courts. In addition, local authorities have powers to take action against landlords under the 1985 Housing Act where property is deemed unfit for human habitation or is overcrowded.

As noted earlier in this thesis, there is considerable diversity in the PRS not only in terms of the types of landlords and tenants in the sector, but also in relation to property types, which range from executive city centre apartments to Houses in Multiple Occupation (HMOs) at the lower end of the sector. Such diversity in terms of relationships between the parties is not overtly recognised in legislation. However, the differences between property types and standards is reflected in the differential legislative treatment of HMOs. It is not within the scope of this chapter to provide a detailed commentary upon the array of regulatory controls which impinge upon the conditions in and management of HMOs, however, some key principles in this sub-sector of the PRS are worthy of consideration as they are emblematic of the complexity of legal structures affecting the PRS as a whole.

HMOs as a distinct sub-sector of the PRS are subject to the same statutory provisions as all other PRS properties. However, *additional* regulations apply to HMOs in order to control standards, as it is widely acknowledged that tenants are potentially at greater risk in this type of accommodation. An HMO was defined in the Housing Act 1985 as ‘a house which is occupied by persons who do not form a single household’. The key question for regulatory purposes is whether the occupants form ‘a single household’. If they do, the dwelling is not subject to HMO regulations (see Hughes *et al.*, 1999). There is currently some dispute about the types of household which may be included within the definition of ‘a single household’, in particular, households consisting of students may fall outside of the scope of regulatory controls. In *Barnes v Sheffield City Council* (1995) 27 HLR 719 the Court

of Appeal considered whether a group of students living in a shared house were a single household. Nine factors were identified and applied to this question. The Court of Appeal upheld the judgement of the County Court that the house was not an HMO because the group of students occupying it were a single household. This was based upon assumptions that students behave differently from other types of private renters.

Of increasing importance in assisting local authorities to make decisions about whether properties occupied by students are HMOs, is whether the students constituted a pre-formed group prior to occupying the property. In *Rogers v London Borough of Islington*, Court of Appeal, 31 July 1999, the County Court decision relied on the factors identified in *Barnes* to establish a definition of a 'single household'. This was overturned by the Court of Appeal as the students in this case did not constitute a pre-formed group as in *Barnes*. There is still considerable debate about the arbitrary nature of a definition of a property type which is based upon the functioning of individuals as a household (see, for example, Smith, 1997).

However, definitional problems aside, in addition to the rights tenants have under the Landlord and Tenant Act 1985 and the Housing Act 1988 discussed above, local authorities have power to take action in relation to the conditions of HMOs under the provisions of the 1985 Housing Act. These provisions broadly relate to overcrowding, the fitness of the property for the number of occupants residing within, maintenance of the common parts of the property, and the provision of 'fire precautions', which includes an adequate means of escape from fire, at least one mains supplied smoke detector on each floor, fire resistant doors and walls facing stairways, and the provision of fire extinguishers. The Act also places a duty of care on managers of HMOs to comply with relevant regulations (see Arden and Hunter, 1997).

Although the 1990s saw a revival of the PRS in quantitative terms, in spite of the legislation and regulatory controls imposed under the major 1980s legislation as

described above, an improvement in the physical quality of the sector did not automatically follow. Where the 1988 Housing Act deregulated the sector and placed the onus upon the parties to achieve a satisfactory private relationship, the 1990s saw an increase in regulatory requirements in order to safeguard the safety of tenants. The sector as a whole was unable to divest itself of its poor image after a number of deaths of young people occurred in the early 1990s as a result of absent or inadequate fire precautions in HMOs (Wright *et al.*, 1998: 8) where it is estimated that the risk of fire is ten times greater than in singly occupied properties (Randall *et al.*, 1993: 11). In addition, faulty gas appliances caused the deaths of a number of young people during the 1990s in the PRS (Smith, 1997: 168). The publicity surrounding these cases prompted a review of safety measures, closely followed by legislation and controls aimed at protecting tenants across the whole of the PRS from the risks of fire and defective gas and electrical equipment⁵. As a further consequence, HMOs became more closely regulated under the provisions of the 1996 Housing Act with the introduction by local authorities of compulsory registration schemes.

The main statutory provisions in the PRS of relevance to this study are concerned with protecting tenants. However, in addition to tenure based legislation, tenants are also protected by statute in more personal ways, for example, by restraints placed upon landlords' autonomy over tenants and the disposal of property. The Protection from Eviction Act 1977 provides tenants with rights to take action against landlords who harass and/or evict them without using the correct legal procedures. Both civil and criminal actions are available to tenants, in addition to actions by local

⁵These safety regulations include, the *Furniture and Furnishings (Fire)(Safety) Regulations as amended 1993*, requiring all furniture provided as part of a letting from 31 December 1996 to meet fire safety standards for ignitability; the *Electrical Equipment (Safety) Regulations 1994*, requiring all electrical appliances provided as part of a letting to be safe when supplied; and the *Gas Safety (Installation and Use) Regulations 1998*, requiring annual servicing of gas appliances to be carried out and evidenced in writing. The landlord cannot discharge this duty onto the tenant.

authorities (for further details see Arden and Hunter, 1997; Hughes *et al.*, 1999). However, there are considerable difficulties associated with using these provisions, not least those discussed by Lord Mackintosh of Haringay above. These difficulties are addressed throughout the empirical chapters of this thesis. Moreover, in spite of statutory provisions which seek to redress extreme behaviour, there is a distinct absence of provisions which relate to the personal relationship between landlords and tenants.

Common law provisions and non-intervention

Common law principles emphasised the sanctity of private property rights, the principle of non-intervention and the freedom to enter into contracts as an equal. Many common law provisions have now been superseded or exist alongside statutory provisions and if not expressly stated in letting agreements, are implied into the tenancy relationship in order to provide a basic framework for relations between the parties. These principles provide tenants with some basic rights in relation to the conditions of use of property and form the basis of tenants' rights of occupancy. An essential, often unacknowledged, ingredient of a tenancy relationship is that the landlord grants the tenant 'exclusive possession' of property. This is the case regardless of whether the parties have a written or verbal agreement, and therefore applies to all assured shorthold lettings even if this provision is not embodied in contractual form. 'Exclusive possession' is the right to use premises to the exclusion of all others, including the landlord himself. As Lord Templeman described in *Street v Mountford* [1985] 2 All ER 289:

'The tenant possessing exclusive possession is able to exercise the rights of an owner of land, which is in the real sense his land albeit temporarily and subject to certain restrictions. A tenant armed with exclusive possession can keep out strangers and keep out the landlord' (quoted in Mackenzie and Phillips: 1993: 92).

In addition, reinforcing the right of 'exclusive possession' are two further often

unacknowledged conditions of tenancy relationships which provide a framework for the basis of the letting. These are the landlord's implied promises to allow tenants 'quiet enjoyment' of property and to 'not derogate from his grant'. There is some overlap between these two covenants, as they both embody the general legal principle that you must not take away with one hand what you have given with the other (*Palmer v Fletcher (1663) 1 Lev 122*, cited in Mackenzie and Phillips, 1993: 121). A breach of 'quiet enjoyment' involves:

'any conduct by a landlord which interferes with the tenant's freedom of action in exercising his rights as tenant' (Arden and Hunter, 1997: 225)

whereas, the landlord's promise not to 'derogate from his grant' can be broken *without* physical interference with the tenants' use of property for the purpose for which it is let (Mackenzie and Phillips, 1993: 121). Where property is let as a dwelling, any action of the landlord which prevents tenants from using the property as a dwelling, for instance, where the landlord has let the property dilapidate into a state of disrepair which renders it unfit for habitation would be tantamount to a derogation of grant.

With the exception of the common law provisions just mentioned and statute relating to extreme behaviour, there is a distinct absence of legislation relating to the regulation of day-to-day interactions between the parties. For example, in spite of tenants reporting difficulties with landlords, which range from unpleasant encounters, the use of threats, difficulty in establishing contact, entering property without permission, (McConaghy *et al.*, 2000: 19) and the return of deposits, there are currently no provisions available to tenants which support their rights or enable them to manage these issues effectively. Such provisions to assist tenants are available in the PRS in other countries, for example, Australia, (see Yates, 1996) and mainland Europe, (see Harloe, 1985b). Their absence in the PRS in Britain is currently being addressed, in part, by the evaluation of a pilot tenancy deposit scheme (Rugg *et al.*, forthcoming, 2002). The lack of an effective consumer

protection element to regulate these kinds of interactions in Britain emphasises the relationship as an essentially 'private matter' (Harvey, 1964: 12) which the parties must regulate between themselves.

Enforcement

It is worth briefly mentioning here that the enforceability of the rights mentioned throughout this section of the chapter can be problematic as, depending upon the nature of the breach, tenants potentially have three routes to enforce their rights, whilst landlords have recourse to common law proprietary rights and contractual remedies. Some of the remedies available for breach of leasehold obligations are peculiar to the landlord and tenant relationship (Bright and Gilbert, 1995: 72) and are not available to other contractual forms. For instance, in cases of rent arrears the landlord may rely on the common law remedy of distress where the defaulting tenant's goods can be taken to the value of the rent owed. This self-help provision is only available in relationships between landlord and tenant and not in other contractual forms, however, in practice it is rarely relied upon and action against tenants for breaches of the terms of the contract are generally taken in the County Court.

In relation to enforcement action available to tenants, breach of contract is most likely to be relied upon, particularly in relation to repairs or for breach of, for example, 'quiet enjoyment'. In some circumstances the tenant and a local authority and/or the police can also take action against a landlord. Action can be taken against a landlord by parties who are not privy to the contractual relationship where it is in the public interest for appropriate action to be taken. For instance, actions under the Protection from Eviction Act 1977 can be brought privately by the tenant but, in the absence of legal aid, are more likely to be brought by a local authority. In conjunction with these actions the police have powers to prosecute the landlord under the Criminal Law Act 1977. As discussed above, in relation to breaches of repairing obligations the tenant can bring a private action against the landlord, however, if the repairs are substantial and render the property unsafe, a local

authority would have a duty to take such action. Thus, powers of enforcement add further complexities to an already complex set of legal provisions and relations. In addition, cost issues and the difficulties associated with enforcing rights, as discussed above, add a further element of complexity.

Reform of the current legal framework

There is widespread recognition that the current legal framework relating to landlord/tenant relationships, (of which only a small part has been described here), with its interaction of numerous provisions, is a source of considerable confusion, not only for consumers of the law, but also for legal 'experts' (Thomas *et al.*, 1995: 63; Law Commission, March 2001). It is also evident that in spite of its volume there are regulatory omissions which fail to foster the improvement of 'poor conditions' in the PRS or compel landlords to provide tenants with a 'proper service' as detailed in the Housing Green Paper, (DETR, 2000). In addition to the issues which have been clearly identified as problematic, there are difficulties associated with current modes of redress through the courts, access to justice, and the costs and time-scales for enforcement action. These factors are also recognised as requiring reform. All of these areas are currently under review by the Law Commission with the aim of simplifying the legal framework and making the court system more accessible and less costly and time consuming. Furthermore, compliance with the Human Rights Act 1998, which came into force in Britain in 2000, provides a further impetus to ensure that all citizens can access the advice and representation services they require (see, Francis, 2000; Stein, 2001). Clearly there is a role here not only for the extension of traditional legal services to encourage use and empower its users, but also a role for advocacy, and alternative methods of delivering legal services through accessible and independent 'Not-for-Profit Providers' (Bull and Seargeant, 1996), such as the Community Legal Service (see, Stein, 2001) in seeking to achieve social justice.

In addition, recently attention has been turned towards the regulation of aspects of the tenancy relationship which have traditionally formed part of the contractual

bargain, for instance, deposits (Rugg *et al.*, 2002 forthcoming) and terms in letting agreements (Office of Fair Trading, November 2001, see below). These issues complement the general rethink and reform of the legal framework to make it more user friendly. Problems in the sector are evident and a number of complex issues have been explored here. Their importance in the relationship between landlord and tenant will become clearer during the chapters devoted to a discussion of empirical findings.

THE CURRENT CONTRACTUAL RELATIONSHIP BETWEEN LANDLORD AND TENANT

The contractual relationship between landlord and tenant is part of the current legislative regime and the significance of the contract in relationships necessitates an extensive discussion. At the outset of tenancy relationships when the parties agree to a letting of property or part of property, a legally binding contract is formed irrespective of whether the parties are aware of this or regard the agreement as an informal arrangement. As a matter of convention the terms lease and tenancy/letting agreement are used to describe individual contractual relationships for the occupation of property or part of property. Since the introduction of the 1996 Housing Act, the terms and conditions of assured shorthold lettings, of which there were 1.22 million in England in 1989 (McConaghy *et al.*, 2000: 72), do not have to be specified in writing. However, although verbal agreements constitute valid contracts, it is still common practice for landlords to use documentation in order to safeguard interests between the parties. The aim here is to explore the prominent features of the contractual relationship which landlords and tenants encounter. Firstly, the assumption of equality between the parties in terms of contractual arrangements is explored, before describing the theoretical and practical difficulties inherent in the contemporary form of the contractual relationship. Finally, the role and purpose of the letting agreement in regulating relationships is examined.

The assumption of equality between contracting parties

As mentioned above, the demands of a free market are a potent force within the

current letting regime. The law assumes that each party is able to negotiate the terms of letting agreements on an equal basis and enter into relationships as legal equals, having successfully reached a private agreement which satisfies their respective interests. These claims receive further support from the provisions of the 1988 Housing Act, as discussed above, which placed the role of negotiations at the centre of relations. However, although it is assumed that individuals freely engage in negotiations, it does not automatically follow that tenancy relationships are constructed in circumstances which provide for equality. The assumption of equality in the contractual relationship is 'a legal fiction that ignores power relations' (Blandy and Goodchild, 1999: 37) and is based upon an idealised conception of behaviour and perfect external conditions where both parties can enter into equally good contracting opportunities.

Evidently, this assumption acts as a smoke screen against inequitable and unfair situations as 'the application of universal standards to unequal parties necessarily produces unequal results' (Nelken, 1983: 23). In addition, this assumption also fails to recognise the existence of external factors and personal circumstances which constrain the weaker parties' abilities to negotiate as well as the negotiations themselves. These include material, economic, and social inequalities which are inherent within landlord/tenant relationships. The issue of bargaining power is, therefore, of crucial importance in the PRS. Given the power differentials which exist between the parties, the ability of tenants to bargain with landlords may be influenced, not only by the tenant's weaker economic position but also by the competitiveness of the local rental market, the personality of landlords and the personal abilities of tenants. As a writer of contract law suggests:

'The critical analysis of freedom of contract has led to the suggestion that contracts should be treated differently where there is inequality of bargaining power...when we talk of inequality of bargaining *power* we are often in fact thinking of inequality of bargaining *skill*' (Furmston, 1991: 21).

In spite of statutory intervention, the relationship between the parties is still very much embedded in *laissez faire* principles and ‘a private matter with which they are expected to deal on their own and as best as they can, no matter what their age or capabilities’ (Harvey, 1964: 12). Therefore, individualism takes no account of social, cultural, economic or personal factors that ‘may remove the possibility of choice from individual actors, or severely limit the choices available to them or determine the way these choices are interpreted’ (Cotterrell, 1992: 119).

Although individualism and the rational pursuit of self-interest are at the heart of contract law and market relations, it is individual responsibility within these relations that the law upholds and not inequitable individualistic behaviour. In order to counter the excesses of individualism and to establish a fairer balance in the contractual terms of letting agreements, in the absence of domestic law, European Union legislation has intervened. The Regulations that implement the EU Directive on Unfair Terms in Consumer Contracts 1994 applies to lettings after 1 July 1995 and provides that ‘any "unfair term" in a contract concluded by a supplier with a consumer will not be binding on the consumer’. The Regulations were re-enacted on 1 October 1999 with greater clarity in their application to standard terms in letting agreements that are drawn up in advance, and not those where the tenant as a ‘consumer’ has had an opportunity to individually negotiate the contents of agreements with the landlord as a ‘supplier’ (Holbrook, 1999: 276). This is likely to apply to the majority of letting arrangements. The ‘unfair term’ relied upon must ‘cause a significant imbalance in the parties’ rights and obligations under the contract, to the detriment of the consumer’.

In addition, the Regulations specify that any written term of a contract ‘must be expressed in plain and intelligible language’ and if there is any doubt about a written term, the interpretation most favourable to the consumer shall prevail. These regulations point towards the possibility of drafting model letting agreements to be used in the PRS (McKibbin, 1999: 8; McKibbin, 2000: 8) which will provide the basis for a more equitable and fair relationship between contracting parties, given

that the presence of this legislation does not change the insecure position of tenants who are in practice unable to enforce their legal rights. The Royal Institute of Chartered Surveyors 'Rent Only' Management Code sets out 'good practice' for its members in managing PRS accommodation. This guide could form a framework for a model or standard letting agreement if one were introduced on a wider scale. The Law Commission in their *Scoping Paper* (2000) also discussed the possibility of introducing model agreements or model terms which would be implied in the absence of a written agreement. In addition, the Office of Fair Trading (November 2001) have highlighted a set of terms in both assured shorthold and assured letting agreements which they believe to be potentially unfair with the aim of raising awareness amongst suppliers, advisers and consumers.

In spite of the practical difficulties involved in enforcing the Unfair Terms in Consumer Contracts Regulations 1999, in conceptual terms it modifies the market position of tenants and takes English and Welsh law into the realms of regarding tenants as consumers of contracts. It is implicit in this Regulation that tenants, as in US law, are the weaker party in the contracting relationship. However, other than this EU Regulation the assumption of equality in contract law still remains, and domestic law is resistant to interpretations which view the letting agreement as a consumer contract where private tenants are given rights over the property and services they consume. Hence, there is an inherent tension within the notion of contractual relations between landlord and tenant, as in other contractual relationships consumers have a significant degree of protection, yet in landlord and tenant law the contractual relationship is not reinforced by domestic consumer rights.

The 'hybrid nature' of the letting agreement

In contemporary society, privatisation has resulted in the development of a highly individualised contracting culture, where individuals enter into contracts on a daily basis that can be rejected if the terms are unsatisfactory as the same services can be obtained elsewhere. Such is the nature of the free market and the ensuing consumer culture. However, these circumstances do not apply to letting arrangements in the

PRS as there is no recognition of a consumer element in relation to the rights of private tenants, (in contrast to the social rented sector), and model letting agreements do not exist to ensure fairness. The situation for private tenants is described aptly:

‘...the consumer movement has lobbied effectively for measures dealing with trade descriptions, trading standards, unfair contractual terms, the regulation of credit terms and the like. These legislative measures are supported by a range of official bodies...By contrast, housing has not formerly been perceived in this way. There are still extraordinary gaps. For example, "there is no law against letting a tumble down house" - a similar proposition in relation to a motor-car or other consumer goods would not be regarded as acceptable’ (Partington, 1993: 132).

A consumer approach for tenants in the PRS would include understandable and enforceable housing rights and an accessible and independent regulatory body, for instance, a wider role for the Independent Housing Ombudsman, to ensure fairness for all tenants. The concept of a consumer and the protection they are afforded against excesses in the market requires an extension of housing rights for tenants in direct opposition to a liberal political philosophy which upholds the sanctity of private property rights and the common law principles of non-interference. The consumerist ideal in relation to the PRS clearly conflicts with legal assumptions of equality between contracting parties and the *lack* of a consumer element in contemporary landlord/tenant contractual relationships still remains bound up in these notions (see, for example, Carr, 1997). The letting agreement is of a ‘hybrid nature’ (Bright and Gilbert, 1995: 69) reflecting the mix of contract with a relationship based upon property rights, and also influenced by statutory regulation, adding a further dimension of complexity as the letting agreement can be, and is, interpreted from differing legal perspectives:

‘The modern tenancy relationship reflects the contractual agreement between landlord and tenant, the proprietary nature of the lease and public regulation of

leases. The fact that a lease is property as well as a contractual relationship has shaped the development of landlord and tenant law' (Bright and Gilbert, 1995: 69).

The main tension embodied in the letting agreement exists in relation to its dual nature. Competing interpretations exist about whether the agreement is a lease simply for property, as it was historically, or whether modern day contractual principles apply in relation to the provision of services throughout the duration of the tenancy relationship. The latter of these interpretations has received some resistance in domestic law as it challenges assumptions associated with the ownership of property. Hence, some confusion exists between the exact nature of the rights of the owner and the rights of the occupier and, in the absence of legal reform in this area, the interpretation of these perspectives is likely to depend upon individual tenancy relationships and the subjective orientations and expectations of the parties involved. The distinctions between the 'proprietary' and 'contractual' perspectives and their development are as follows:

'The proprietary perspective therefore stresses the possession-rent relationship...The tenant covenants to pay rent while the landlord covenants to keep the tenant in quiet enjoyment. In this perspective the landlord is expected to keep away. The dominance of the proprietary approach to the relationship between landlord and tenant developed in relation to agricultural land. The tensions begin to emerge once the lease is used for residential and industrial lettings where "...covenants in the lease form an important part of the bargain and the ongoing obligations of the landlord to supply services and amenities to the tenant and are often as important as the possession of the land"' (Quinn and Phillips 1969 quoted in Bright and Gilbert, 1996: 78).

Tensions between these two interpretations have arisen in case law and there has been some recognition in domestic law that the application of the 'proprietary perspective' to residential dwellings restrains the law by interpreting it narrowly and

does not produce equitable results in line with current expectations of the parties. As a consequence there is a growing tendency to apply ordinary contractual principles to letting agreements (Stewart, 1996), however, domestic law is not as progressive as in the USA or other EU countries in this respect. In contrast to the domestic position, in the USA case law has moved landlord and tenant law to a situation based on contractual principles where tenants do not simply purchase a right to live in property but also purchase shelter and a package of goods and services (Bright and Gilbert, 1995: 103) The package includes:

“not merely walls and ceilings, but also adequate heat, light and ventilation, serviceable plumbing facilities, secure windows and doors, proper sanitation, and proper maintenance” (Judge Skelly Wright quoted in Bright and Gilbert, 1995: 103).

However, the problem still exists for tenants under domestic law that even if consumer principles underpinned contractual rights and, for example, a breach by the landlord for non-repair resulted in the tenant lawfully withholding rent, their lack of security of tenure effectively negates these rights.

The purpose and role of letting agreements

The contractual relationship between landlord and tenant is enshrined in the use of a letting agreement which embodies legal principles and rights and obligations pertaining to individual tenancy relationships. In broad terms, there is an assumption that letting agreements are used to manage uncertainty and risk in relationships between landlords and tenants, whilst also enhancing the predictability of the parties' behaviour in their social and economic exchanges. Thus, in a very basic sense 'contracts are at one extreme of trust' (Baier quoted in Hardin, 1993: 506) and it may be ventured that the purpose of contracts is actually to replace trust in relationships. The significance of the contract in contemporary society has developed in response to the prominent and sophisticated roles played by money and markets and their use is aligned with protection in market situations (see, for example, Culpitt, 1999;

Roach-Anlou, 2000). Impersonal, instrumental, and temporary associative social relations have become the norm in modern society, where individuals, according to Weber, form part of the 'community of strangers' created by the market where relationships, rather than based upon status, are now based upon specific and limited contracts, (Cotterrell, 1992: 119). Therefore, contracts are designed to make life in modern society less uncertain by engendering rational expectations about acceptable behaviour and invoking confidence in the parties that obligations will be fulfilled and so counter mistrust amongst those who do not have knowledge of each other.

In current relationships between landlord and tenant, the letting agreement has a dual function. Firstly, and of practical importance, landlord and tenant law is reduced to the contractual form of the letting agreement which is a formal legal document. In this way complex issues are simplified and routinised often into standardised forms, expressly embodying some of the legal rights and obligations pertaining to the tenancy relationship. As discussed above, certain terms are automatically implied into the relationship via both common law and statute if not expressly stated in writing. These terms apply notwithstanding that the agreement may contain conflicting terms. However, the agreement is generally regarded by both parties as the main or only legal aspect of the relationship with the parties often assuming that all of the legal provisions relevant to their conduct are embodied within the document. This may be the closest either party gets to engaging with the legal framework which they rely upon to uphold their rights. In addition, another significant facet of letting arrangements is that there are no legal requirements which prescribe that specific information must be contained in the agreement, and 'model codes governing landlord/tenant agreements' (Harloe, 1985a: 369) do not exist in English and Welsh law. Therefore, each agreement can be highly individualised as there is an underlying assumption that the contents of agreements are negotiated, implying that through their joint efforts the parties have alleviated some of the risks they face by reaching mutually satisfactory arrangements.

Secondly, the letting agreement is a written source of information for tenants about

the rights and responsibilities pertaining to the relationship. In terms of managing risk and uncertainty in the tenancy relationship, letting agreements imply different levels of trust and mistrust depending upon the type of agreement used, whether negotiated, how onerous the terms are, whether standard or individualised and, in particular, the vagueness or comprehensiveness of their contents. A variety of letting agreements are available, however, their main distinctions hinge upon whether they are 'complete' - covering all possible contingencies - or 'incomplete', and whether they are 'explicit' or 'implicit' with unstated understandings emerging as a feature of relationships (Mackenzie, 2000: 3). These distinctions are important as in many cases the agreements supplied to tenants are likely to be the only source of information they receive about the letting and associated rights and obligations. In this respect, if the contents have not been negotiated, the tenant must simply trust the landlord to be honest and fair (see Chapter Five) in describing the rights and responsibilities of the parties. However, it is acknowledged that there are some elements of the relationship which cannot readily be embodied in a contract and so are based upon trust (see Chapter Three):

'Written contracts in business hit only the highspots of agreements; like the bulk of an iceberg, an enormous portion of such mutual understandings is unseen. It would be extremely expensive to pin down in writing every aspect of an agreement - the *precise* quality of workmanship in every task,...the precise nature of every dimension of performance, the degree of pleasantness that is to prevail in business relationships...and so on' (McKean, 1975: 31).

In spite of assumptions of equality between the parties, in practice, agreements are rarely negotiated and many landlords are likely to have authority over their contents as 'the landlord enters his terms and...the tenant is simply asked to sign' (Harvey, 1964: 58). In this sense the letting agreement embodies the power of the landlord and this does not simply mean that power can be exerted over property, but also readily translates into 'power over other people's lives' (Harvey, 1964: 7) and power over their use and enjoyment of property which forms 'the very basis of capitalist

social relations' (Cotterrell, 1992: 49-50; see also Renner, 1976 and De Sousa Santos, 1985). An inherent tension exists between the assumed equality of the parties, as discussed above, and the individualistic nature of the relationship. Cotterrell points out the inherent inequalities existing within the property relationship which often go unrecognised:

'Through the use of the concept of property...it becomes possible to banish almost entirely from the discourse of private law recognition of one of the most dominant features of life in a society of material inequalities - that of private power'(Cotterrell, 1992: 82).

Furthermore, in spite of the assumptions that letting agreements are used to manage risk and uncertainty between the parties, landlords have power to use a standard letting agreement or a basic document which may be vague and conceal legal obligations (Sproston, 1998) by, for example, omitting responsibilities or using complex language. The letting agreement is ultimately a social construction of the legal relationship and the comprehensiveness, clarity and effectiveness of the agreement is largely dependent upon the perceptions each party has of the legislation governing the relationship and the intentions of the contracting parties. However, as Harvey concludes, the letting agreement is generally concerned with prohibiting and negating the rights of the tenant as 'nearly all the conditions protect the owners, and very few indeed the hirer or, in this case, the tenant' (Harvey, 1964: 58).

Although the letting agreement may provide a common central basis for the relationship between the contracting parties, even if negotiated, *it does not provide the basis of a common or shared understanding of the relationship as a whole*. In many cases the letting agreement is merely a token document which has limited or no formal legal significance and can negate the parties intentions. It cannot be pre-supposed that an agreement provides a blue-print for the effective regulation of the behaviour of the parties. The agreement may only provide a partial picture of the position of the parties and is at both one and the same time of paramount importance

and of little, if any, importance at all. Letting agreements are not devoid of the complexities of the legal framework and may be at the heart of many common misunderstandings between the parties. In spite of the Unfair Terms in Consumer Contracts Regulations 1994, agreements are limited to the extent to which they balance the interests of the parties, as the contents are dependent upon the intentions of the parties with the onus being placed on the landlord to ensure that rights and responsibilities are fairly and equitably distributed.

In addition, with particular reference to standard agreements which are readily available in stationers, landlords give the impression to tenants that these agreements, (and this may also apply to other forms of agreement), accurately reflect the legal situation between them. However, landlords are divorced from the authorship of these documents and may have little or no knowledge of their actual contents but simply use these types of agreements to operationalise the relationship with minimum fuss and cost. This is also likely to be the case with 'home made' agreements. Tenants are likely to accept the terms and conditions presented to them as a true reflection of their legal status reducing them to passive 'subjects' (Foucault, 1977: 192). In this sense for tenants, and to a lesser degree for landlords, entering into a letting agreement is fraught with risks, as the contents of an agreement may not be reliable in the strict legal sense nor, indeed recognisable in law as a valid contract (Crook and Kemp, 1996: 56) adding a further element of complexity to the relationship as rights and responsibilities are rendered unclear.

THE LIMITATIONS OF THE LEGAL FRAMEWORK IN GOVERNING LANDLORD/TENANT RELATIONSHIPS

The law provides a conceptual framework in which, ideally, the relationship between landlord and tenant should operate and also provides remedies for instances where the relationship operates outside of prescribed boundaries. However, the role of the law in ensuring that landlords and tenants behave according to the legal principles it prescribes is limited by a number of factors, some of which, for example, the assumption of equality between the parties, and the essentially private nature of

tenancy relationships, are discussed above. However, a number of factors that are inherent within the law often negate its intended role and purpose. The general role of the law in its application to the behaviour of landlords and tenants is explored below before examining how individual and subjective interpretations of the law play a significant role in influencing relationships between the parties.

The role of the law in influencing behaviour

In attempting to influence and regulate behaviour, the law sets high ideals, prescribing objective conditions and standards of conduct which are universal in their application to individuals. If these prescribed conditions are adhered to it will result in the smooth functioning of society. Legislation is designed to curb instinctual and excessive behaviour by providing sanctions and a right to redress if either party crosses a legally unacceptable boundary. Legislation therefore prescribes the ‘condition of civil association’ (Rousseau, 1968: xxiv) where individuals are forced to override their ‘natural liberty’ in order to gain their ‘civil liberty’:

‘The passage from the state of nature to the civil state produces a very remarkable change in man, by substituting justice for instinct in his conduct and giving his actions the morality they had formerly lacked’ (Rousseau, 1968: 15).

In applying the role of legislation to relationships between landlord and tenant in the PRS, its purposes are twofold. Firstly, legislation defines the limits or sets boundaries within which relationships should function and, secondly, provides each party, in theory, with a set of rights and responsibilities which operate within the context of relationships. The imposition of behavioural boundaries and restrictions is part of the civilising effect of legislation described by Rousseau above. However, the progression ‘from the state of nature to the civil state’ does not happen as a straightforward, automatic process but is reliant upon individual’s access to, and requisite knowledge of, the legal framework and the limits of legal boundaries which apply to their circumstances. If individuals do not possess requisite knowledge, then instinctual behaviour is likely to prevail over justice. Moreover, even if individuals

possess the requisite knowledge, there is no guarantee that they will behave according to the law (see Chapters Five, Six and Seven). Dissemination of information about sanctions and modes of redress for unlawful behaviour, particularly criminal behaviour, is common as this is likely to have a deterrent effect upon individuals' actions. However, relatively little information is available or easily accessible about rights and responsibilities and guidelines in relation to appropriate civil behaviour, highlighting that the law does not perform an informative role and as a result no account is taken of the individuals (lack of) knowledge of the law or its acquisition in relation to this civilising process. Nor is the role or responsibility of the legal system in disseminating information to the parties which it seeks to regulate questioned, notwithstanding that legal knowledge plays a key role for individuals in acquiring and asserting rights, as described:

‘Legal knowledge is a fundamental requisite for citizens in a competitive economic and political system. Only people who know what their rights are and how the legal system works can defend themselves against intrusions on their freedom and use that system to achieve their goals or ameliorate undesired conditions’ (Sarat, 1975: 13).

In order to legitimise the civilising effect of the law on behaviour, the law operates according to an implicit, often unacknowledged, assumption that individuals have perfect knowledge and understanding of the legal framework which affects them and so adjust their behaviour accordingly. Hence, ignorance of the law cannot be used as a legitimate reason for non-compliance. This assumption is mistaken, yet serves to dismiss other factors as having a significant influence on individuals' behaviour and helps sustain the illusion that the law produces the desired effect on social action, as Harloe explained:

‘both civil servants and governments have a vested interest in assuming that the legislation they adopt and operate is effective - at least until either tenants or landlords object publicly enough to force some alteration’ (Harloe, 1985a: 360).

However, in spite of this assumption, legislation often fails to fulfil its purposes as a result of its remoteness from real life situations. In its application, legislation does not fully address the nature of the social relationships it attempts to regulate, nor does it specify the conditions required for the practical attainment of ideal forms of behaviour. In practice, the onus is placed upon individuals to actively seek out information which affects them and it is often not easy to obtain. It is unrealistic to assume that the mere existence of legal provisions equates with their understanding or provides safeguards for those whose interests require protecting. The ability of legislation to alter the relationship between landlord and tenant is, therefore, 'crucially limited' (Harloe, 1985a: 381). The complex nature of the legislative framework negates and limits its ability to regulate the behaviour of the parties which it is designed to achieve and also hinders the development of successful relationships:

'There is no doubt that the present level of complexity is quite self defeating. Neither the intended beneficiaries of the law nor those potentially regulated by it take sufficient notice of the law, because of its complexity' (Partington, 1993: 135).

Complex legal provisions do not assist the parties in their acquisition of knowledge and as a result they often operate in the PRS with imperfect or a complete lack of knowledge (Harvey, 1964: 11; Harloe, 1985a: 369-370; Crook and Kemp, 1996: 56) of their legal rights and responsibilities which leads 'to widespread non-compliance' (Harloe, 1985a: 369-370). Hence, the assumption that individuals understand the law which affects them, combined with its inherent complexity, present major limitations and obstacles to influencing the behaviour of contracting parties. However, complexity aside, at best the role of the law can be viewed as being 'an experiment in controlled social change' (Nelken, 1983: 21) and at worst, that it 'may be best served by the fact that for many people it is a somewhat mysterious and incomprehensible object' (Sarat, 1975: 20-21).

The role of individual interpretations of the law in influencing behaviour

In practice, the operation of legislation is dependent upon the skills and abilities of each party to understand, interpret, and use these provisions for the purposes that they are intended. The law is not simply passively received, rather its application is contingent upon the interpretations of the actors affected by its provisions and the social context in which it is activated. As regards relationships between landlord and tenant, the effectiveness of legislation in controlling their behaviour is dependent upon each party assigning the law a significant role within their relationships, the extent to which they engage with the legal framework, and their perceptions and understandings of it. However, during the process of practically applying the law to relationships, the interpretations placed upon the law by one or both of the parties may be based upon mistaken, outdated or idealised perceptions, as often 'the way people think they [legal systems] function is dramatically out of line with their operating reality' (Sarat, 1975: 5) and so may conflict with the law's intended purpose. In practice, the limits of the legal relationship are not fixed and rigid but fluid as they are dependent upon the levels of knowledge of contracting parties, perceptions of rights and responsibilities, and the risks, if any, which each party is prepared to take within the relationship. The significance of individual and subjective interpretations of the law is aptly described:

'The ordinary citizen has only the vaguest notion of what the law expects of him and what it can do for him. Not only is he largely ignorant of the legal remedies open to him, he is likely to be at a loss to know where to take his legal problem - or even to identify it as a problem with a legal solution...The problem - if it is seen as capable of a solution at all - will not be seen as a legal one' (Berlins, 1990: 9).

It is recognised that individuals do not always perceive or interpret the difficulties they are confronted with as legal difficulties given that for most people their experience of the law is remote, acting only as a backdrop to social relations. Indeed,

two broad orientations to individual interpretations of legal problems have been identified. These two types of approaches to legal problems are 'relational oriented' and 'rule oriented' (Conley and O'Barr, 1990: pix). The 'relational orientation' to legal problems is likely to be the dominant approach, where individuals interpret, 'analyze and describe legal problems in terms of social relations' (Conley and O'Barr, 1990: 61) and adopt informal methods to deal with them according to their own principles and ideas of justice, ruling out legal institutions as a mode of redress. This approach emphasises the importance of social networks and the desire to correct personal wrongs 'to the exclusion of the contractual, financial and property issues that are typically of greater interest' (Conley and O'Barr, 1990: 58). Lay people are unlikely to possess the skills or abilities to interpret disputes and problems according to a 'rule oriented' (Conley and O'Barr, 1990: 58) approach where rules are applied to problems in order to assess responsibility. This view of the law lies in direct opposition to the 'relational orientation' and dismisses the role of social relationships, emphasising that society is a network of contractual opportunities that each individual has the capacity to accept or reject (Conley and O'Barr, 1990: 58).

These two approaches are significant as they highlight the weaknesses of a system which fails to understand and respond to real life social relations and instead imposes rigid rules and structures on relationships in order to minimise the interference of personal values and emotional involvement. In addition, the scope of the legal framework for (mis)interpretation reveals that an analysis of landlord/tenant relationships based solely upon legal criteria is limiting as it does not provide a true reflection of the way in which relationships work in real life and instead, the law should be seen as playing a part, alongside other economic and social factors within landlord/tenant relationships.

CONCLUSION

This chapter has placed relationships between private landlords and tenants in their legislative context, both historically and currently, and has shown how the law does

not respond to or address the subtleties of human behaviour but applies universal standards to unequal parties. The legislative provisions described in this chapter reveal the inherent inequalities in relationships between landlord and tenant, evidenced via the assumption of equality between contracting parties and the lack of meaningful rights available to tenants. Furthermore, the legal constraints placed upon the interpretations of contractual relationships in the PRS favour non-intervention rather than a progressive, consumer approach. In spite of statutory intervention in some areas of the relationship, there is still much about it that is a personal matter which the two parties must regulate between themselves, highlighting its historical roots in individualistic *laissez faire* principles.

This chapter has also revealed the limited extent to which the current legislative framework encapsulates relationships and influences conduct between the parties. Although the law prescribes the nature of relationships between contracting parties, it fails to adequately provide for the realistic attainment of such ideal exchanges. Hence, the law's limitations in influencing behaviour are inherent within its own structures. By focusing upon current legal structures to provide an insight into relations in the PRS, crucial aspects of the operation of landlord/tenant relationships are missed as tensions between the parties, and, for example, their attitudes, capabilities and skills are overlooked. In this respect a disparity exists between what is known about relationships, that is, the legislative context, and how they actually operate in the social world with the parties themselves ultimately constructing and determining their own relationship. The law is only one factor in the relationship, and in order to gain a deeper understanding of the ways relationships actually operate, an exploration of legal structures alongside economic and social factors is required. The following chapter, therefore, locates the landlord/tenant relationship in its social and economic contexts and explores assumptions about the behaviour of each party, and factors which are likely to impinge upon and have a significant effect upon relationships in the sector.

CHAPTER THREE

THEORISING TENANCY RELATIONSHIPS BETWEEN LANDLORDS AND YOUNG PEOPLE

'Inasmuch as property is conditional upon the existence of certain types of social relations between people, it is essentially a social phenomenon' (Hollowell, 1982: 1-2).

INTRODUCTION

This chapter argues, as the above quote suggests, that the relationship between landlord and tenant, based as it is upon property, is essentially a social relationship, despite its perceived status as a formal legal relationship. As the previous chapter highlighted, the ideals of legal behaviour often fall short when interpreted and translated into social action. This has implications for the law which are twofold - firstly, the law is limited in its ability to influence behaviour between the parties, and, secondly, the law is not the only factor in relationships and it may not be the most important one. This leaves tenancy relationships open to other influences, primarily social, but also economic, and it is the development of these aspects of relationships that are explored in this chapter. This chapter addresses an area of knowledge which has previously received little attention, that is, the theoretical context of relationships between landlords and young people. In addition, this chapter, together with the previous one, makes a contribution towards an analysis of landlord/tenant relationships from legal, social and economic perspectives, whereas previous research has tended to focus upon either a legal perspective or social and economic perspectives.

The main focus of this chapter is to set social and economic behaviour between landlords and young people in a theoretical context and explore how subjective perceptions and orientations of the parties play a significant role in the formation and construction of relationships, irrespective of the legal framework. Firstly, the chapter

questions the validity of traditional behavioural assumptions in providing an accurate indicator of the conduct of each of the parties in the PRS. It argues that neither party demonstrate the rational expectations of policy makers or legislators, as the realities of the parties' respective situations are not taken into account, nor are factors which modify behaviour. In the light of the limitations of the legal framework, the status of tenancy relationships is explored, revealing the extent to which social, legal and economic factors are present.

Attention is then turned to the respective positions of landlords and young people in tenancy relationships and the factors which assist in modifying market and legal principles. With regard to landlords, their attitudes and orientations to tenancy relationships are explored and a range of behaviours are identified as examples of social relationships. In addition, the role of trust in tenancy relationships is examined. Finally, the relationships between wider social and economic changes and the position of young people in the tenancy relationship are explored. The chapter concludes that the tenancy relationship is founded upon the basis of economic exchange, a minimal role for the legal framework, and an enhanced role for social relations. It also highlights that the diverse range of experiences and attitudes young people and landlords bring to relationships, as well as the structural constraints placed upon young people, have a much greater influence upon the internal structure of relationships and their outcomes than the legal framework.

THEORETICAL APPROACHES TO ECONOMIC AND SOCIAL BEHAVIOUR

As mentioned above, the relationship between landlords and young people in the PRS is at the centre of a number of legislative and policy domains. Consequently, a number of assumptions and expectations are made about the parties respective modes of behaviour in relation to their positions in the sector. The assumptions about behaviour associated with the legal framework were discussed in the previous chapter, however, some of the factors which limit the impact of the law are reiterated here as they are similar to those which modify social and economic behaviour. In

addition, there are conceptual difficulties in pinpointing and isolating fine distinctions between some aspects of legal, social and economic behaviour and this is likely to give rise to a degree of repetition.

Traditionally, both policy makers and legislators have attributed various types of motivations to human behaviour in order to provide a framework of rational action to support their policy regimes. Social policies, housing policies and legislation are based upon assumptions and understandings about individuals motivations and behaviour in particular circumstances. Based upon these understandings, policies and legislation are implemented in order to restrain or promote specific purposive actions. Distinctions are made between motivations and, hence, policies are tailored to particular individuals or groups depending upon how they are perceived in social, political and economic terms. For example, currently, the motivations assumed to be characteristic of landlords' behaviour have resulted in policies which *encourage* certain conduct in the PRS. In contrast, the motivations associated with young people living in the PRS have resulted in policies which *curtail* and *penalise* their conduct. In housing policy terms, successive deregulation of the PRS since 1988, has been designed to encourage landlords to invest in the sector and halt its decline, as the process of letting property has been made less legalistic and potentially more lucrative. In addition, private landlords perform a valuable function by letting property, and initiatives such as the Business Expansion Scheme, (see, for example, Kemp, 1992) although not a major success, were developed to appeal to landlords desires to maximise their economic potential. Thus, according to Kemp and Rhodes:

'although policy makers may not have gone so far as to assume that private landlords are fully economically rational and profit maximizing investors armed with perfect information, [they have] implicitly assumed that they are at least reasonably rational economic agents who will respond to market signals and investment incentives' (Kemp and Rhodes, 1997: 118).

Young people in the PRS, like landlords, are also assumed to be economically

rational. In particular, young people in receipt of welfare benefits are the subject of policies designed to discourage independent living in the sector and financial penalties are applied to promote behaviour modification, for instance, as with the Single Room Rent. Young people living in the PRS are assumed to be choosing to do so rather than staying in the family home, if indeed they have one, which is in line with the Government's ideas of expected behaviour for someone of their age. As a result, they face financial penalties as their entitlement to housing benefit in the PRS is based upon that for a single room only, rather than a shared house with the welfare state now functioning as 'an experimental apparatus for conditioning ego-related lifestyles' (Beck and Beck-Gernsheim, 1996: 27).

As the success of policies and legislation are dependent upon the relationships between the assumptions and the realities of human motivations, (Le Grand, 1997: 154) their effect is limited if essential features of human relations are ignored. It has become increasingly acknowledged that human motivations are varied and complex and that policies and legislation have often been based upon incorrect or insufficient understandings of behaviour with little or no evidence to support the assumptions upon which they are based (Le Grand, 1997: 149). Furthermore, it is recognised that individuals do not always adhere to strict legal provisions or the rules of the market for a variety of reasons, resulting in behaviour which is unexpected or unanticipated. Although some time has passed since Hirschman's original analysis of markets and lapses in expected behaviour, his argument still applies equally to contemporary legal and economic processes:

'Under any economic, social, or political system, individuals, business firms, and organisations in general are subject to lapses from efficient, functional behaviour. No matter how well a society's basic institutions are devised, failures of some actors to live up to the behaviour which is expected of them are bound to occur, if only for all kinds of accidental reasons' (Hirschman, 1970: 1).

Rational accounts and models of behaviour may not reflect the reality of individuals'

situations or take account of the influence of personal factors, for example, emotions (Thoits, 1989), or capabilities (Lupton, 1999) in shaping motivations. Moreover, although 'risk' theorists have argued that through the process of 'reflexivity' (Giddens, 1991; Beck, 1992) individuals in late modernity have become adept at dealing with uncertainty in everyday life by adopting rational behaviour and making informed decisions based upon perfect knowledge, many people do not behave, or are unable to behave, in an instrumental fashion as they lack the cultural and material resources to compile knowledge and make informed choices (Portes, 1998; Lupton, 1999). Young people in particular are unlikely to behave in a way that is predictable as they are at the forefront of the processes of individualisation (Giddens, 1991; Beck, 1992) where traditional life course patterns have broken down and conventional assumptions about 'youth' behaviour no longer reflect the uncertainties which young people currently face (see Kemp and Rugg, 2001). Therefore, it is increasingly recognised in policy regimes that:

'The rational choice account of market behaviour encounters difficulties. This directs attention to alternative accounts, and particularly to accounts of how social factors may influence people's behaviour in markets' (Taylor-Gooby, 1999: 102).

It cannot be automatically assumed that landlords and young people in the PRS behave according to the traditional theoretical approaches described above, that is, in an economically rational manner. In reality, modes of behaviour may be based upon personal and less easily calculable, non-instrumental social motives. Given that relationships in the PRS hinge upon the interaction of legal, social and economic behaviour with each having different principles of operation, the prominence of social factors over both market and legal behaviour reveals, at least, conceptual clashes in the basis of the operation of relationships in the sector. The conceptual difficulties between social and economic factors, reinforce discussions in the previous chapter relating to differing interpretations of the nature of the contractual relationship. For example, drawing on theories of social exchange, (Blau, 1964;

Molm, 1997) in a (predominantly) social relationship, unlike that based principally upon economic transactions, or indeed strict legal principles, an exact price for benefits are not stated and are incalculable, as social exchange entails unspecified obligations:

‘one person does another a favor, and while there is a general expectation of some future return, its exact nature is definitely *not* stipulated in advance....the nature of the return cannot be bargained about but must be left to the discretion of the one who makes it’ (Blau, 1964: 94; emphasis in original).

The nature of reciprocity in social exchange takes more or less for granted the ongoing nature of the relationship and the ability of the parties to trust each other to continually fulfil unspecified obligations. This type of reciprocal arrangement deviates from that which is typically contracted for in economic transactions, where the absence of a long term relationship, and the discrete nature of each exchange is assumed, as obligations are specified in writing. In conceptual terms, the social form of the tenancy relationship as the modifying factor will dominate the ‘style’ or the operating principles of the relationship, in spite of the relationships economic basis. These conceptual difficulties are inevitably revealed in the behaviour of the parties and the internal structures of relationships and are discussed in detail throughout Chapters Five, Six and Seven.

THE STATUS OF TENANCY RELATIONSHIPS

The tenancy relationship is a legally binding reciprocal agreement based upon the assumption that contracting parties enter into relationships as equals and freely negotiate the terms of arrangements to their mutual satisfaction. The previous chapter provided a detailed description of the legal framework and how it influences landlord and tenant relationships, in principle, by objectively prescribing conditions of association between the parties. Uniform standards and conditions are applied to unequal parties and no account is taken of the circumstances of individuals or their (lack of) knowledge of the law. However, as indicated above, there are a number of

problems with assuming that the legal status of the relationship is the dominant factor between the parties.

The law's influence upon behaviour between the parties is limited, providing only an 'atmosphere' rather than a 'regime' in which to conduct relationships, and does not fully encapsulate the range of potential relations between parties. Neither landlords or tenants are part of an homogenous social or economic grouping and they represent a wide range of interests and embody a variety of experiences. As a consequence of the diversity of the parties and the limitations of the legal framework, landlords letting under the same legal principles and who possess the same number of tenancies, do not necessarily adopt a similar orientation to the market (Allen, 1983) as a range of factors differentiate the circumstances under which they operate and the relationships they have with tenants. Because individuals often do not act in accordance with legal principles there is the scope for different types of behaviour to emerge which are not necessarily predictable, calculable or in accordance with purposive rational actions. Hence, although contractual relationships have their legal status emphasised, in its application, the law has a limited impact on behaviour, and as has been suggested earlier in this chapter, other influences stand in its place and modify the status of the relationship. In practice, there are three dimensions to the status of the relationship which is not only subject to legislative controls, but is also subject to forces of a social and of an economic nature, although each dimension is not equally present.

The social and economic status of tenancy relationships

According to Stewart 'the residential property relationship represented in the lease embodies both economic and social relations' (Stewart, 1996: 77). A closer examination of tenancy relationships reveals that they are not simply confined within a legal document or bound by immovable and inflexible legal barriers, nor are they passively accepted but, in practice the rights and duties of the parties are 'interpreted and used' (Mason, 1991: 103) in the social and economic contexts of a competitive private rental market. In the absence of a highly regulated legislative framework

which clarifies the distribution of rights and responsibilities between the parties, there is scope for a space or 'gap' to develop between the intentions of the law and the private interpretations and uses of legal provisions by contracting parties. Harloe describes this situation:

'there is a considerable gap between the law and actual practice...the relationship between the landlord and tenant in practice is socially constructed rather than legally determined. This does not mean that the law has no relevance; it does provide some protection...But the law is only one factor in the relationship, and it may not be the most important one' (Harloe, 1985a: 380).

The importance of 'socially constructed' relationships between the parties, notwithstanding that they develop contrary to legal principles, is evident. The range of 'socially constructed' or social relationships which develop are dependent upon, for example, both parties' knowledge of the law, landlords' motivations, and the resources available to tenants to enforce legal rights, in addition to a range of informal principles which may give rise to potentially inequitable behaviour. Relationships are not static but can be constantly re-articulated and, consequently, their status is dependent upon the meanings attached to them by the parties and how they interpret and use their rights and duties. The importance of social exchanges and interactions between the parties are highlighted as the traditional legal relationship is modified and its significance minimised. In these circumstances the importance of the use of letting agreements which, in theory, embody the rights and obligations between the parties may be rendered obsolete by the emergence of social relationships. Hence, the efforts to enhance trust and predictability and minimise risks at the outset of relationships via letting agreements becomes largely unimportant given the ways in which the legal aspects of relationships can be varied, modified or completely diminished by the conduct of the parties.

The law is not only restrained by the development of social relationships, but is also contingent upon the economics of the private rental market. In the PRS, economic

concerns are likely to underlie the majority of transactions between landlord and tenant, if not as a motivating factor, at least as a basis of the relationship. The functioning of the free market may interfere with the effectiveness of legislation to influence and modify the behaviour of the parties and the pursuit of self-interest in the market place may, in fact, go untouched by legislative provisions. However, like legal relationships, economic relationships can be modified. The extent to which economic relationships are embedded in social relations (Granovetter, 1985; Shapiro, 1987) is recognised as a factor which modifies basic economic exchanges between parties, and it cannot automatically be assumed that landlords act according to rational expectations. The social relationship, therefore, develops contrary to both purposive legal and rational economic principles and largely dominates tenancy relationships, by minimising their legal status and reducing economic transactions to a basic requirement. Harloe defines the legal, economic and social dimensions of tenancy relationships:

‘The principal feature of landlord/tenant relations...was their individualistic and informal nature or, more accurately, the extent to which they operated in a framework which was wholly or substantially untouched by legal provisions. Despite legal innovations, the relationship between landlords and tenants was mainly governed by their relative strengths in the market place or, in cases where "rational" economic motives did not appear to underlie landlords' decisions to let, a variety of more personal, non-instrumental factors’ (Harloe, 1985b: 288).

Internal relations between the parties are ultimately of more importance in structuring and influencing tenancy relationships than the legislative framework or assumptions about behaviour. However, recognising that relationships are of a social nature and that they modify, and can disregard the influences of legal and/or economic principles also requires that the power and significance of social relationships is acknowledged. In addition, pre-ordained social formulas for relationships do not exist and their character depends very much upon the orientations of individual landlords towards their property and their tenants. This in

itself creates uncertainty about both the range and types of social relationships that are possible given the indeterminacy of social interaction at both an intentional and unintentional level. These issues also raise questions about the fairness and lawfulness of social relationships as norms of behaviour may develop which would not be contemplated or endured if the relationship remained within the boundaries of a strict legal or business arrangement.

LANDLORDS' ORIENTATIONS TO TENANCY RELATIONSHIPS

Landlords' attitudes, expectations and overall orientations towards tenancy relationships, tenants and property have an overriding impact on relationship outcomes and the overall experiences of tenants in the PRS. The range of factors which are likely to influence the behaviour of landlords in the PRS are numerous. However, an important factor to consider is that different types of landlords reflect different approaches in their letting activities and are oriented towards economic concerns and social arrangements in a variety of ways (Allen and McDowell, 1989: 53). For example, commercial and business landlords for whom letting property is their sole occupation and main source of income, focus upon profit as a driving force in their relationships with tenants (Allen and McDowell, 1989: 53; Thomas *et al.*, 1995: 25-28) as opposed to personal or informal factors. In contrast, for private individuals letting property as a 'sideline' (Thomas *et al.*, 1995: 19) activity and not as their main source of income, and who are a subject of exploration in this thesis, profit is unlikely to be a central focus of the relationship (see, for example, McCrone and Elliot, 1989; Allen and McDowell, 1989; Bevan *et al.*, 1995) with personal preferences, as opposed to formal arrangements, playing a significant part in their motivations and overall management practices.

The social and economic forms of tenancy relationships

According to Allen and McDowell, social and economic factors are both present in landlord/tenant relationships and are not mutually exclusive, with economic arrangements forming a basis of relationships if not present as a motivating factor. The approaches of different landlord types to letting can be represented as a

continuum with the social form and the economic form as the two extremities of the relationship:

‘Diagrammatically, the two forms of the rent relation, the social and the economic, may be represented as two ends of a rental spectrum. At one end, the social relation between the landlord and tenant is signified by the opposing claims to possession and control over residential space...At the other end of the spectrum, the economic relation between landlord and tenant is signified by conflicting interpretations of the landlord’s right to benefit from and dispose of their assets for financial gain’ (Allen and McDowell, 1989: 47).

Although Allen and McDowell describe the social and economic forms of the ‘rent relation’ as present in every landlord and tenant relationship, this in itself does not provide an adequate explanation of the specific causal factors which determine the differing extent of each in relationships. The diversity within landlord and tenant groupings, which often goes unrecognised, will give rise to particular combinations of economic and social concerns and differing expectations about relationships and is evidenced by the terms of letting agreements, verbal agreements or by conduct. In practice, the positioning of relationships on the ‘rental spectrum’ will depend upon expectations and individual relations between the parties and how they ‘negotiate the social and economic forms of the rent relation’ (Allen and McDowell, 1989: 47) if they do so at all.

The characteristics of social relationships

The characteristics of social relationships develop and are constructed from the outset of the tenancy relationship, prior to entering into a legal arrangement. However, this formative stage is rarely regarded as a constituent part of the social relationship. The discussions which take place between the parties form part of the contractual bargain and are considered to be part of the legal process. However, these negotiations between the parties are part of the pre-contractual phase and are of a social, rather than a legal nature, notwithstanding that their goal is a legal

arrangement. To illustrate the dominance of the social relationship at this stage, during face-to-face contact between the parties, landlords can, for example, adopt a range of selection criteria, (see Chapter Five) based upon, for example, personal appearance, or the likelihood of applicants being 'respectable' and/or 'clean and tidy', to decide whether to select or reject prospective tenants (for details see, for example, McCrone and Elliot, 1989; Bevan *et al.*, 1995; Kemp and Rhodes, 1997). Furthermore, the social encounters of the parties during this early stage of the relationship are important, as they are likely to set the scene for the way in which the relationship is constructed throughout the tenancy.

The importance of social relationships are elaborated by Allen and McDowell who describe 'two distinctive *social aspects*' (Allen and McDowell, 1989: 45-46) of tenancy relationships which are relevant to the orientations of private individual landlords with whom this thesis is concerned. The first 'social aspect' arises from the sale of residential property over time which essentially reduces the relationship to one based upon hire, with each party representing conflicting claims to possession, one based on ownership and the other based upon hire of a commodity. This 'uneasiness' over property rights 'allows the intrusion of a personal relation into the ostensibly legal and economic relationship between landlord and tenant' (Allen and McDowell, 1989: 46). The second 'social aspect' of the relationship stems from the idea that letting residential space 'possesses its own intrinsic ideological markings' as 'residential landlords do not sell any number of different commodities, they sell..."homes"' (Allen and McDowell, 1989: 46) and "homes" are associated with deep seated emotions of security and enjoyment.

In order to illuminate these two broad 'social aspects' of relationships and extend the conceptual framework provided by Allen and McDowell, a range of examples of possible behaviours have been identified in relation to each of these two 'social aspects'. The range of behaviours identified are not exhaustive, nor are they mutually exclusive, rather they highlight the diversity which may be found in landlords' orientations to tenancy relationships and how their conduct has a direct impact upon

tenants' experiences of tenancy relationships and enjoyment of property. In addition, in order to provide a deeper and more comprehensive picture of social relationships, a number of theoretical explanations of behaviour which have not previously been attributed to landlords in this context are discussed.

The first type of relationship described by Allen and McDowell, where conflicting claims between landlord and tenant are evident, can be used to highlight the limitations of the law in regulating instinctual behaviour where landlords continue to possess and control property in opposition to tenants' rights (see Chapter Six). Ownership of property may be perceived by landlords as conveying specific rights over property which give rise to the potential for exploitation given the inherent imbalance of power in the relationship. Such behaviour, for example, may constitute unpleasantness towards tenants, over-visiting or a lack of responsiveness to requests. At its worst the landlords' continuing authority over tenants could constitute harassment or unlawful eviction of the tenant, with or without knowledge of the unlawful nature of such conduct. Such behaviour is clearly unacceptable, representing a lapse 'from efficient, functional behaviour' (Hirschman, 1970: 1). The coercive aspects of social exchange (Molm, 1997) characterise this relationship, with unreciprocated exchanges between the parties leading to differentiated power (Blau, 1964). Landlords, in this instance, derive power over tenants by supplying a service in demand in a competitive market, that is, accommodation, combined with the unlikelihood of tenants seeking redress. The characteristics of this type of social relationship emerge:

'where tenants were loathe to exercise legal rights for fear of the consequences following a possible adverse reaction from their landlords. This was particularly evident where lower income households, with very restricted possibilities of access to alternative accommodation, were concerned' (Harloe, 1985a: 371).

The imbalance of power is significant within this type of relationship as there is little scope for bargaining or negotiation on the part of the tenant. The choices available to

tenants are constrained by their position in the market, preventing them from asserting rights if they wish to remain in the sector. Tenants may be trapped in unsatisfactory lettings and may be unable to exercise either the 'voice' or the 'exit' (Hirschman, 1970: 4) options, that is, complaining or leaving, if demand for PRS accommodation is high. This problem is likely to be exacerbated for tenants in receipt of housing benefit as they face particularly limited choices in the PRS. These problems are likely to be evident in situations where tenants reside in the PRS as a 'residual tenure' (Rugg, 1999: 73) through lack of choice. As Harloe states those in a weak position in the rental market:

'were likely to find themselves involved in contracts and relations with landlords which were less satisfactory than those encountered by the better off who had greater freedom to choose alternative accommodation' (Harloe, 1985b: 288).

In contrast the second 'social aspect' of relationships described by Allen and McDowell can be used to highlight some of the difficulties associated with theoretical assumptions about landlords' expected behaviour, as described above. This type of social relationship is likely to emerge in instances where legislation is misunderstood or ignored and although this relationship may operate outside of strict legal parameters, 'the outcome of these socially determined arrangements [may] not always [be] unfavourable to the tenant' (Harloe, 1985a: 371) but do not exclude detrimental consequences. Even where a problem occurs between the parties, the landlord may wish 'to avoid the possibility of disturbing a settled and satisfactory relationship with a tenant' (Harloe, 1985a: 371) and so behaviour is modified in opposition to insistence on strict legal rights in order to preserve the continuance of a relationship or to prevent an adequate arrangement from deteriorating. This type of relationship develops from the landlords personal letting ideology where:

'some landlords are constituted in such a way that...they practice a service relationship with their tenants and consider their property as an extension of their personal possessions' (Allen and McDowell, 1989: 48).

This ideology of 'service' often involved a much closer relationship or emotional involvement with both the property and tenants (see, for example, McCrone and Elliot, 1989). Landlords oriented in this way tended to view their property as their home and adopted an informal attitude towards letting, often regarding their tenants either as friends or part of their family (Bevan *et al.*, 1995: 12). However, landlords' orientations to 'service' may, in fact, be used as a superficial mask to cover up exploitative relations (McCrone and Elliot, 1989) where not only property but tenants are viewed as personal possessions. The subjective and emotional aspects of property ownership are prominent in this type of social relationship and are difficult to eradicate given that 'housing touches a raw social nerve in the way that a 700 foot crane does not' (Allen and McDowell, 1989: 46-47) and it is precisely for this reason that resistance is encountered towards adopting a consumer approach to tenancy relationships. The consumer movement has lobbied for measures dealing with, for instance, trading standards, unfair contractual terms, and the regulation of credit terms, providing consumers with rights of redress and formal rights to complain when goods and services are unsatisfactory. In contrast, the provision of housing services in the PRS have rarely been perceived in terms of a consumerist perspective where tenants are guaranteed proper standards and the provision of proper services. The consumer perspective is uneasy in relation to the PRS with its subjective and emotive associations, in contrast to its acceptability in the social rented sector.

However, as Harloe suggests, tenants in the PRS may receive favourable treatment from landlords as a result of the way in which rational approaches to letting property and income maximisation are modified. Favourable arrangements for tenants emerge where landlords rely on personal factors such as "judgement" or "instinct"...to differentiate between potentially "good" and "bad" tenants' (Thomas *et al.*, 1995: 31) and allow personal preferences to form the basis of the relationship. Daunton describes how such flexible policies towards tenants operated last century:

'What was unacceptable in a bad tenant might be excused in a good tenant....A good tenant who was careful of the property and regular in payments was an

asset to be protected. The landlord had to differentiate between acceptable and unacceptable arrears, between deserving and undeserving defaulters...' (Daunton, 1983: 144).

In this situation, the landlord is prepared to forego immediate economic concerns and is able to tolerate "*repairable lapses*" (Hirschman, 1970: 2) in a valued tenant and allow the relationship to continue, rather than disturb it, but would take action (which could include acting outside of the legal framework and resorting to unacceptable behaviour) if the tenant was perceived as 'bad'. The type of behaviour adopted by the landlord is not in accordance with strict legislative provisions or market factors, but exceeds rational expectations by stabilising the relationship via goodwill. The emphasis in the relationship is upon individual behaviour and responsibility. The 'good tenant' has shown the landlord that she/he is responsible, engendering positive sentiments and the belief that the tenant will rectify the problem of rent arrears when in a position to do so. In this respect the 'good' tenant is able to exercise the 'voice option' (Hirschman, 1970: 4) and negotiate an acceptable solution with the landlord. The landlord's willingness to forego strict legal and economic rights is based upon the tenants previous 'good behaviour in the [housing] market' (Mead quoted in Lister, 1992: 9). In this situation, economic reasoning is discredited as it can not be automatically assumed that 'the rational pursuit of self-interest replaces trust and altruism' (Taylor-Gooby, 1999: 98) in a market situation as:

'...individuals often display a level of trust in market interactions that is hard to explain on the basis of simple rationality, but such trust is fragile and easily undermined by egoistic action' (Taylor-Gooby, 1999: 97).

The discussion in relation to these two 'social aspects' of tenancy relationships highlight the complexity of the situations in which landlords and tenants become involved. In addition, the flexibility of power differentials between the parties is evident and can be used to change the nature of the relationship, depending upon the

motivations of individual landlords. The former relationship is likely to lead to detrimental consequences for the tenant as the social practices of the landlord reinforce the existing imbalance of power. The outcome of the latter relationship may be beneficial or detrimental for the tenant depending on the attitudes and perceptions of the landlord and the behaviour of individual tenants and so social relationships can be used to compensate for existing inequalities between the parties. However, it is evident from these descriptions of landlord behaviour that a central facet of relationships has not been addressed in previous accounts of their orientations and attitudes to letting property, that is, the role of trust, and by implication the role of risk, in social relationships as both an integral feature and as a modifying factor.

The roles of trust and risk in social relationships

Trust is a phenomenon generally associated with social interactions, as written rules to prescribe appropriate behaviour do not exist in the same way as they do in legal relationships. Therefore, the indeterminacy of social interactions require that trust is an essential component of all social relationships (McKean, 1975; Fukuyama, 1995; Seligman, 1997) in order to maintain stability. Furthermore, trust is distinguishable from altruism which is a *concern* for others without reference to an agreement governing specific behaviour (McKean, 1975: 29) whilst the main thrust of the definition of trust is that it is:

‘an action taken in a risky situation but in which there is a reason to believe in the reliability of the person being trusted. The sources of this belief are varied (actual knowledge, institutional sanctions, faith in one’s judgement, etc.)...’
(Levi, 1996: 47).

Despite the formal status of the legal arrangement between landlord and tenant, where the use of contracts/letting agreements are perceived as being ‘at one extreme of trust’, (Baier quoted in Hardin, 1993: 506) the presence of trust is an important and integral feature of tenancy relationships given the social character of relations.

Where strangers, lacking knowledge of each other enter into a contract - even if it is drafted for the majority of eventualities - it does not mean that risks are eradicated, as parties must simply trust each other to *comply* with the terms of the contract. In addition, the often incomplete nature of letting agreements, (or indeed the absence of them), necessitate at least a minimal level of trust between the parties for relationships to function effectively. In rational terms, contracts/letting agreements imply different levels of trust by their comprehensiveness or vagueness and the levels of discretion or leeway they bestow upon each party for the performance of obligations.

Low levels of trust on the part of landlords, in rational terms, accord with low levels of discretion and, consequently, the presence of a letting agreement which is drafted to include the majority of eventualities (see, for example, Fox, 1974). The reverse is true of high levels of trust and so a trusting individual is one who makes a low personal investment in monitoring and enforcing the compliance of others (Levi, 1996: 47). However, as discussed above, all eventualities in relationships cannot be contractualised, and a proportion of mutual understanding is inevitably unwritten and/or unspecified, such as the manner in which services are performed, and the degree of pleasantness in face-to-face interactions and exchanges (McKean, 1975). Any discussion of trust inevitably requires recognition of the presence of risk. Risk can be defined as:

‘the perceived probability of harmful event or condition or adverse consequence (hazard) of some kind to an identifiable individual or group’ (Perri 6, 1998: 348).

The notion of risk as a key feature of day-to-day relations in late modernity was discussed with reference to young people in Chapter One, and this subject has been previously explored in social policy literature (see, for example, Furlong and Cartmel, 1997). However, with reference to private landlords, their position in late modernity has not been discussed with reference to trust and risk, either in conceptual terms, or in relation to their experiences, although it has been

acknowledged in passing that letting property can be a 'risky business' (Kemp and Rhodes, 1997: 130). Trust and risk are useful conceptual devices and can be used to illuminate landlords' modes of operation, experiences and their relationships with tenants.

Trust and risk are bound together in tenancy relationships. Risk is inevitable in market interactions and its perception gives rise to a sense of insecurity for the individual concerned, whilst the opposite is true of trust. However, trust in any kind of relationship needs time to develop and it is likely that in the landlord/tenant arena, trust will not be an automatic feature of relationships but may develop over a period of time if circumstances foster its development. Risk and uncertainty are likely to dominate relations initially, for example, landlords may feel that they need to visit the property and check tenants' activities. In this sense trust and risk, like the social and economic extremities described by Allen and McDowell, may crudely constitute the extremities of a continuum with the development of trust over time and/or via demonstrating trustworthy and trusting behaviour, ultimately modifying the feelings of uncertainty and insecurity associated with risk, as Giddens observes:

'in circumstances of uncertainty and multiple choice, the notions of trust and risk have particular application...trust is directly linked to achieving an early sense of ontological security' (Giddens, 1991: 3).

Furthermore, the development of mutual trust may provide each party, but especially tenants, with a greater opportunity, in theory, to exercise choice and some degree of control in the relationship. This is likely to benefit both parties who may feel that they are able to take risks previously unavailable to them. The presence of trust in tenancy relationships enables the parties, in theory, to negotiate and make acceptable compromises in order to sustain relationships and also makes 'lapses' (Hirschman, 1970: 1) in behaviour possible without undermining the security of the relationship. Taylor-Gooby emphasises the positive aspects of relationships which are based upon these principles:

‘Individuals who trust each other are better equipped to reduce the transaction costs involved in the detailed and continual checking of contract compliance and can invest in the future with greater confidence that obligations will be honoured...Governments cannot legislate for trust directly, but they may be able to encourage its growth and penalise self-interested deflections from trust’ (Taylor-Gooby, 1999: 103).

The development of trust within market and legal relationships can be encouraged and developed. However, it is important to recognise that trust may not be based upon perfect information and knowledge but also may be based upon misguided perceptions and/or a complete lack of knowledge and understanding of the true facts. Although both types of trust may have the same outcomes, misguided trust may in fact be tantamount to risk without the associated feelings of uncertainty and insecurity. However, there is little doubt that the presence of trust plays a significant part in influencing and modifying tenancy relationships.

THE POSITION OF YOUNG PEOPLE IN TENANCY RELATIONSHIPS

The position of young people in tenancy relationships is subject not only to personal factors, but to a range of wider economic and social influences. Since the mid-1980s, young people have been subject to a number of statutory provisions and policy regimes that have eroded their civil and social citizenship rights, (Marshall, 1963) transformed their social and economic circumstances, and diminished their status in society by virtue of age grading. In these ways and others, young people, in late modernity, individually ‘have to negotiate a set of risks which were largely unknown to their parents’ (Furlong and Cartmel, 1997: 1). Furthermore, the diverse personal circumstances of young people, for example, social class, financial circumstances, and family backgrounds, in addition to individual characteristics, such as, shyness, have a profound influence upon the ways in which young people respond to landlords and manage tenancy relationships. By locating young people within both these broader structural developments and also paying attention to their individual

circumstances and personal characteristics, the implications these issues have for their experiences of the PRS and relationships with landlords can be fruitfully explored.

The social status of young people

As mentioned above, young people's entitlement to social security benefits have gradually been withdrawn since the mid-1980s. This began with the 1986 Social Security Act which ended the entitlement of under 18 year olds to Income Support (see, for example, Coles, 1995; Jones, 1995; Furlong and Cartmel, 1997). This was followed by the 1988 Social Security Act which introduced a lower rate of Income Support (now Job Seekers Allowance) for under 25s. These benefit restrictions culminated in the introduction of the SRR, which reduced the housing benefit entitlement of Under 25s to that of a single room only, leaving young people to make up the shortfall, which may be substantial and has been shown to result in severe hardship (Rugg and Kemp, 1998; Manchester City Council, 1999; Bedsit Briefing, 1999). These policies emphasise wider political changes which have shifted away from collectivity and universal entitlement to benefits - moving beyond ideas of striking 'an acceptable balance between the freedom of the market and the security of welfare' (Marshall, 1981: 102) - to focus upon the individual responsibility of benefit recipients to make some contribution towards their own maintenance.

In addition, several policies although not directly targeted at young, single people under the age of 25, mainly affect this group. For instance, the phasing out of student grants since 1990, now replaced completely by the loan system, and compounded with the requirement to pay tuition fees since 1999, affects a high proportion of young people with student numbers continuing to increase (Rhodes, 1999; Rugg *et al.*, 2000). The emphasis upon financial responsibility, necessitates many students to work, sometimes substantial hours, during both term time and holidays (Lucas and Lammont, 1998). Moreover, the choices available to young people in the labour market, particularly for those who have not been in Higher Education, have become increasingly restricted. Traditional forms of employment for young people, such as

apprenticeships, have almost disappeared as have the industries where young people were pre-dominantly employed (Coffield *et al.*, 1986). The choices available are poorly paid, often short-term and insecure service sector work, training schemes or workfare (Coles, 1995; Furlong and Cartmel, 1997).

Furthermore, the lack of certainty in young people's lives as regards their financial, employment, housing and personal circumstances places them at the forefront of the process of individualisation (Beck, 1992; Giddens 1991). Young people are a heterogenous group, lacking democratic representation (Jones and Wallace, 1992: 143) and bound only by their age and position in contemporary society. As a consequence of their insecure positions in society and often problematic and protracted transitions into adulthood, young people tend to regard the social world as a risky environment where individual responsibility is paramount, Furlong and Cartmel explain this:

'life in late modernity revolves around an epistemological fallacy: although social structures, such as class, continue to shape life chances, these structures tend to become increasingly obscure as collectivist traditions weaken and individualist values intensify. As a consequence of these changes, people come to regard the social world as unpredictable and filled with risks which can only be negotiated on an individual level...' (Furlong and Cartmel, 1997: 2).

The three types of young people identified here - housing benefit claimants, full-time students and those in work - are subjects of exploration throughout this thesis. The provisions described above highlight the extent to which young people are differentiated from older people and how their choices are constrained by the loss of rights, opportunities, and benefits previously afforded to this age group. Age grading has effectively replaced means testing and the status of young people has been diminished, particularly by welfare state conceptions that true adult status is not reached until the age of 25.

Considerable problems are encountered with situating young people in an age vacuum. Assumptions are made about them as a broad social grouping which blatantly ignore social factors. Universalising their position in society by age-grading creates assumptions of equality about their ability to participate and compete with each other as equals when it is evident by simply drawing on the three types of young people mentioned above, and as discussed in Chapter One, that these groups of young people display considerable variation. In addition, a tension is exhibited between, on the one hand, loss of rights and on the other, the individual responsibility placed upon young people to operate successfully in markets in areas which have previously been within the realms of universal welfare entitlement. In this way, age, status, social class and financial differentiation must somehow translate into equality in markets. Thus, young people's entitlement to the social rights of citizenship have been reduced compared to other social groups and older people. This has implications for their ability to enter into the PRS and maintain tenancy relationships.

The erosion of citizenship rights and their impact upon tenancy relationships

A central feature of this research is to examine the nature of young people's rights in tenancy relationships. This research, therefore, links with current debates about citizenship rights and although it is not within the scope of this thesis to engage with these issues in detail, as this has been done extensively elsewhere, (see, for example, Furlong and Cartmel, 1997), an outline of these key issues concerning young people is necessary. Rights of citizenship are not embodied in a constitution or bill of rights in Britain and are not presented to all individuals collectively, nor are they available universally. As a consequence rights for specific groups can be changed and eroded with ease. The overall picture for young people since the mid-1980s has been characterised by reduced economic, social and legal protection, and the erosion of social and civil citizenship rights imposing modifications on behaviour, as opposed to the expansion of these rights which 'imposed modifications on class' (Marshall, 1963: 115). The 1988 Housing Act (see Chapter Two) began the process of diminishing all PRS tenants' civil rights with a return to free market conditions and

eroding security of tenure with the introduction of assured shorthold tenancies. Assured shorthold provisions provide tenants with a minimum secure period of six months, negotiable and extendable only with the approval of the landlord. The 1996 Housing Act further eroded all PRS tenants' civil rights by reducing the legal requirements of landlords to set up an assured shorthold tenancy. This was coupled with the specific targeting of young people with the SRR, discussed above, reducing their housing benefit entitlement and placing them in a particularly vulnerable position in the sector. These tensions between civil and social rights can be exemplified: aged 18, a young person can legally and freely enter into a contractual agreement yet key social rights are denied. Not until they reach the age of 25 will they be provided with adequate, although not full, welfare entitlement to maintain the most important implied covenant under common law, that is to pay the rent.

Civil and social citizenship rights are enmeshed within relationships between landlords and young people in the PRS and have implications for the claims of citizenship. Marshall's analysis of the three strands of citizenship (civil, political and social) are limited in their application to young people in contemporary society, given the structural changes which have occurred since the inception of the welfare state and the ideal of universal rights. However, his ideas are useful to the extent that the interaction and the erosion of rights over time can be assessed in relation to social groups. Young people experience difficulties in achieving citizenship status as social rights and corresponding access to welfare benefits no longer support civil and political rights, but are contingent upon a number of factors. According to Marshall:

'The civil element is composed of the rights necessary for individual freedom - liberty of the person, freedom of speech, the right to own property and to conclude valid contracts, and the right to justice. The last is of a different order from the others, because it is the right to defend and assert all one's rights on terms of equality with others and by due process of the law...By the social element I mean the whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to

live the life of a civilized being according to the standards prevailing in the society' (Marshall, 1963: 74).

The concept of citizenship defined here is limited as individual equality before the law is assumed and power differentials, individual characteristics (for example, age, social class, gender) and the impact of market forces are ignored. Landlord/tenant relations are, 'primarily a matter of civil not social rights' (Dean, 1996: 163) and although civil rights underpin relations, the ability and/or the skills of young and vulnerable tenants to express and assert these rights of citizenship may be replaced by pragmatic concerns about the loss of social rights and, consequently, housing rights. This is clear when the power differentials created by the loss of civil and social rights are translated into the practicalities of the situation, highlighting the restricted choices faced by all tenants but, in particular young people. For instance, the practicalities include, insecurity of tenure, the competitiveness of the market, the practical and financial costs involved in securing alternative accommodation, and tenants' financial and personal abilities to gain redress. This involves a dilemma for young people in difficult tenancy relationships who may accept the *status quo*, irrespective of how bad the situation is, in order to avoid being 'kicked out under the shorthold provisions' (Earl of Caithness, Hansard, House of Lords, 21 July 1988, col. 1521) and so in common with tenants last century:

'The claims of citizenship [become] of secondary importance: the struggle to keep a roof over their heads remained the higher priority. The reception of notice to quit held sufficient terror' (Englander, 1983: 89).

The difficulties for young people are that they experience limited control and restricted choices in their tenancy circumstances, and may encounter difficulties with both the 'voice' and 'exit' options, notwithstanding that rates of mobility suggest that 'exit' is a frequent outcome. Where universal rights now fail to protect young people adequately, choice and control can be acquired on an individual basis by contractual arrangements. Late modernity has become a contracting culture where

'the social rights of citizenship have been replaced by the civil rights of contract' (Twine, 1994: 42) and 'participation in markets' (Gamble, 1988: 16). This places the burden of negotiation upon individuals to derive rights from private contractual arrangements. Negotiation and bargaining do not replace universal rights of citizenship and provide an inadequate basis for relationships as inequalities remain unacknowledged and produce inequitable outcomes as 'private contracts...cannot be traded against citizenship rights' (Dahrendorf quoted in Lister, 1992: 10).

Independent living in the PRS has, therefore, become a highly individualised process for young people, based upon private contracts. However, rather than providing them with greater equality derived from negotiated rights, young people may also be denied an individual 'voice' both in the bargaining process and during the tenancy relationship. In addition, for many young people it is their first experience of independent living and they have limited skills and abilities to negotiate and deal with landlords given the power imbalance. In addition, returning to the parental/family home may not be an option (Kemp and Rugg, 1998; Jones and Gilliland, 1993) if problems are encountered. In this situation young people in the PRS face considerable risks. They 'are increasingly left to fend for themselves in a deregulated market place' (Jew, 1994: 5-6) and the opportunity to minimise or manage situations which are fraught with risk cannot be utilised if family support is unavailable (Pickvance and Pickvance, 1995: 140) while they are not fully recognised members of society due to their inability to assert their legal rights effectively and without detrimental consequences. Therefore, an important consequence of the problems young people have in expressing and asserting their rights, is that landlords are able to behave towards them in ways that are unavailable in relationships with older tenants, producing a number of responses from young people.

The development of social and economic strategies

As discussed above, the development of social relationships, where landlords do not behave according to strict legal principles or rational expectations, provides them

with the freedom to behave in unpredictable ways and display a variety of patterns of behaviour. The strong position of landlords in tenancy relationships enables them to shape their relations with young people. This translates into social relationships which may, for instance, bestow benefits upon young people, produce inequitable outcomes, or bestow benefits in ways which deny the possibility of constructing reciprocal relationships. Social relationships, therefore, may create opportunities for a more fortuitous apportionment of power in favour of young people, but can also work in opposition to this aim. In addition, the ways in which young people perceive and experience tenancy relationships, encounter landlords and respond to situations, are influenced by their financial circumstances, the rights and choices they have, and the skills, experiences, and problems, they bring to relationships. Young people's lack of a 'voice' and meaningful rights to obtain redress through formal channels, combined with insecurity and a lack of reciprocity in tenancy relationships leads them to develop strategies, which may counter some of the effects of the experiences of coercion, power differentiation and inequitable behaviour.

The term 'strategy' has been the subject of much sociological debate and has been defined in a number of ways. Strategies are a fundamental aspect of social relations and the term has been used 'to imply the presence of conscious and rational decisions involving a long-term perspective' (Crow, 1989: 19). Strategies are also associated with power dynamics and the range of choices that are available to individuals in particular settings, and its theoretical basis has been expanded from that provided by Crow, to consider the key role played by resources and constraints, as explained:

'The term "strategy"...can be quite explicitly a sociological tool...based upon a careful assessment of outcomes and the resources and constraints available to social actors at any one particular period. Theoretically, its merit lies in the way in which it recognises the presence of powerful constraints' (Morgan, 1989: 26).

Furthermore, Crow's definition is also expanded by recognising that strategies are

not limited to conscious decision making but that they may also be 'unconscious' (Pickvance and Pickvance, 1994: 661). The term 'strategy' is useful in its application to the behaviour of young people in the PRS, as it provides a theoretical basis to examine the ways in which they respond to constrained circumstances and the inability to effectively assert their rights. The adoption of a strategy or strategies depends upon the resources available to that particular young person or household, for instance, confidence, skills, and, knowledge, and are a major aspect of the power dimension between the parties.

Young people may adopt economic or social strategies to deal with difficult situations in the PRS depending upon their available resources and the choices available to them. Economic strategies, for example, withholding rent to prompt landlords to carry out repairs, are, as this example suggests, direct, specific and potentially confrontational. Rent is withheld for a specific purpose, to gain recognition and a response from landlords in order to achieve a desired outcome. However, in contrast to economic strategies, there is no obvious social strategy which recommends itself for use. As a consequence, social strategies are more complex, subtle and less goal oriented, often not seeking to achieve a specific outcome in line with legal rights or a response from landlords. Instead, they are adopted to achieve a sense of satisfaction and fairness in relationships and as they can be non-confrontational, they are adopted when young people wish to maintain the relationship, but, nevertheless wish to make a point. On the other hand, when resources are exhausted, mobility may be used by young people as a strategy to deal with problematic tenancy relationships given that it is non-confrontational by virtue of its acceptability. In this sense, young people adopt strategies as a replacement for, or an alternative to, rights notwithstanding that they are not an adequate replacement or alternative. Instead, they are useful in situations of constraint, where individuals and/or situations cannot be managed directly. The way in which young people use strategies in tenancy relationships is emblematic of the ongoing 'silent struggle' (Englander, 1983: 21) between the parties.

In addition, a final important aspect of the use of strategies is that they can develop as a tactical device. Because the use of strategies is at odds with conventional ways of addressing specific situations and is contingent upon the social aspects of relationships, there is much about the patterns of strategic behaviour which rest upon the 'game-like aspects of...social interaction' (Goffman, 1972; 235). In this respect, a sense of the dynamic structures of interaction between the parties is captured, as the impact of the actions of young people may limit or control the strategies of landlords, and vice versa.

CONCLUSION

This chapter has placed relationships between landlords and young people in their social and economic contexts and has shown that a range of factors influence the behaviour of the parties. The theoretical nature of relationships between landlords and young people have been described and it is evident that the status of the relationship is social despite its definition as a legally binding arrangement. The legal relationship between the parties has become almost unrecognisable as the tenancy relationship as a whole is socially constructed upon the basis of economic transactions. An overriding feature in the construction of tenancy relationships is the landlord's dominant role or guiding force and the lack of mutual participation in this process. Therefore, the internal structures of relationships between contracting parties are more significant than external legal controls or the extent of economic safeguards adopted. The chapter has also questioned long-standing assumptions about modes of behaviour in relation to social and economic action and has argued that these assumptions are inaccurate and can be potentially discredited.

The chapter's focus upon the development of social relationships highlights that this aspect gives rise to a range of potentially diverse behaviours. The complexity of landlords' behaviour in social relationships should not be underestimated, as a range of often contradictory personal, practical and idiosyncratic factors, influence interactions with young people. This chapter has highlighted that social relationships can operate as an antidote to power structures and market inequalities and can also

create further power structures and deny opportunities for the achievement of a satisfactory and fair relationship. The chapter has also sought to place young people in a theoretical context and has shown how, in the absence of rights, they respond to social relationships by adopting strategies which result in some measure of satisfaction or achievement. A number of new theoretical propositions have been raised here about young people and landlords in the PRS. In order to gain a deeper understanding of the dynamics of relationships between landlords and young people, their experiences are illuminated and explored further throughout the empirical chapters of this thesis.

CHAPTER FOUR

RESEARCH DESIGN, METHODOLOGY, AND DATA SOURCES

INTRODUCTION

This chapter locates the empirical study within its methodological context and describes the research design, the methods adopted to carry out the research, the data collection techniques employed, and the ethical and practical considerations involved in undertaking the research. The aims and objectives of the research are described and the appropriate methods of investigation adopted to pursue these aims are considered and explored. The ways in which this research makes an original contribution to knowledge and understanding are also outlined. The selection strategies adopted and the fieldwork process are then discussed and the characteristics of the respondents interviewed are outlined. The process of data analysis is considered and the contribution the data makes to understanding behaviour between the parties in the private rented sector is also explored.

AIMS AND OBJECTIVES OF THE RESEARCH

The research was prompted by concerns about the increasing numbers of young people concentrated in the PRS, the impact of the Single Room Rent, and the paucity of information about relationships between private landlords and young people. This study seeks to take knowledge and understanding forward by undertaking empirical work with organisations, landlords, and young people in order to provide a coherent picture of the nature of relations between contracting parties in the PRS.

This research examines the nature of legal, social and economic relationships between landlords and young people in the PRS and explores the extent to which their relationships are governed by current legislation and/or which operate outside of strict legal boundaries. This entails an exploration of the extent to which relationships between the parties are legally determined and socially constructed (Harloe, 1985a: 380). In addition, the circumstances which create 'ground for

friction and contest' (Mason, 1991: 103) are also explored. The research offers to provide a link between the operation of market mechanisms, expressions of control and power and the interaction between social and civil rights and addresses the following key questions:

1. How does the existing legal framework in the PRS operate and affect youth tenureship?
2. What is the nature of the landlord/young tenant relationship in the PRS?
3. What are the implications of existing relationships and legal and social structures for a fair and 'equitable balance' between both parties?

These research questions provide scope to investigate legal, social and economic relationships between contracting parties and also to assess how the rights and duties of both parties are 'interpreted and used' (Mason, 1991: 103) by exploring knowledge of and understandings of legal rights and obligations and the accessibility of information and advice.

THE CONTRIBUTION OF THE RESEARCH

As noted in the introduction, there has been little research that directly addresses the 'ordinary relations' (Englander, 1983: xvii) between landlords and tenants in the PRS and there is little information available about the typicalities and mundane features of these relationships. Research into relations between landlords and tenants in the PRS have had two types of focus - firstly, experiences of extreme forms of behaviour between the parties, (Burrows and Hunter, 1990; Sharp, 1991; Jew, 1994) and, secondly, the nature of landlordism (Allen and McDowell, 1989; McCrone and Elliot, 1989; Thomas *et al.*, 1995; Crook and Kemp, 1996). Only recently has attention turned to the position of young people in the sector (Kemp and Rugg, 1998; Rugg, 1999; Rugg *et al.*, 2000; Heath and Kenyon, 2001) and the combined views of contracting parties in relation to their behaviour and interactions (Marsh *et al.*, 2000). The aim of this study is to shift the focus of attention from divergent analyses of each parties' experiences and perspectives, and concentrate upon aspects of the

tenancy relationship *per se*.

Furthermore, previous research focusing upon relationships between landlords and tenants (Nelken, 1983; Harloe, 1985a/b) has shown that an analysis of relationships based solely upon strict, formal legal criteria is limiting and does not reflect the true nature of relationships or the parties respective positions within relationships. An alternative approach has been adopted here which places an emphasis upon both legal and non-legal relations in the sector. By using this approach this research illuminates the inherent tension between the legislative context of the relationship, that is, how the relationship *ideally* operates and how the relationship *actually* operates in the social world with the parties themselves ultimately constructing and determining their own relationships.

METHODS OF INVESTIGATION

In order to meet the research objectives and promote a discussion around legal, economic and social issues as they influenced landlord/tenant relationships, it was necessary to adopt a number of complementary methods. First, the subject matter under research - legal, social and economic relations between landlords and young people - required a range of different methods, and, second, for any one aspect of the research, approaching it in a number of ways is beneficial in order to verify and cross-check responses. The rationale for using a number of methods stems from the idea that each method has its own strengths and weaknesses, as

‘[E]ach method implies a different line of action toward reality - and hence each will reveal aspects of it, much as a kaleidoscope, depending on the angle at which it is held, will reveal different colors and configurations of objects of the viewer. Methods are like the kaleidoscope: depending on how they are approached, held, and acted toward, different observations will be revealed’ (Denzin, 1978: 292-293).

Following this approach and taking into consideration a number of practical and

ethical issues, four qualitative techniques were used: in-depth interviews, vignettes, flashcards and, where available, an examination of documents, in this case, letting agreements. (For further details, the topic guides, vignettes and flashcards used for both parties are located in the appendices to this thesis). In-depth interviews enabled respondents to talk about their experiences, often at length, and voice their own understandings and perceptions of relationships. The topic guides, (one for landlords and one for tenants), were developed for use in interviews in order to ascertain details about the legal, economic and social arrangements pertaining to each relationship. In addition, they were used to explore the effectiveness of the legal framework in governing relationships, and to ascertain both parties' perceptions of their rights and responsibilities and the extent to which each party engaged with and negotiated the terms of letting agreements. The topic guides were also used to explore whether each party sought information or advice about lettings and, if so, the nature of the advice sought. Furthermore, the circumstances in which conflict arose between each party and how these situations were managed were explored.

The interviews with landlords and young people involved discussions of a number of sensitive, complex and technical legal issues. In some instances direct questioning was likely to be difficult, for example, when ascertaining how well landlords and young people understood their rights and responsibilities and also when clarifying how far each parties' perceptions of their own letting agreements reflected the actual contents. It was also necessary to consider the impact which certain types of questions may have upon respondents and adopt strategies to minimise the potential unease or distress which direct questioning might cause. For example, questions relating to gas safety issues were likely to alarm tenants, particularly if they did not know they should have a safety certificate and/or did not have one. In order to elicit potentially sensitive information in an indirect manner, vignettes, flashcards and an examination of letting agreements were used in the context of in-depth interviews. A different set of vignettes and flashcards were used for each party in order to explore issues pertinent to their respective roles in the relationship. The flashcards in both instances contained a list of issues relating to the tenancy and the condition of the

property, for example, 'Bills', 'Rent' and 'General repairs'. Respondents were asked to look through the list and comment upon these issues if they were of relevance to their experiences. This technique was also used to prompt respondents to discuss issues which they had forgotten or felt were unimportant, whilst also minimising direct questioning.

Vignettes were used during interviews as they were particularly suited to some of the more complex areas of investigation in the research (Finch, 1987: 107). They provide respondents 'with concrete and detailed situations' (Lee, 1993: 79) that 'can help unpackage individuals' perceptions, beliefs and attitudes' (Hughes, 1998: 384). In addition, the use of hypothetical situations, (as opposed to direct questioning), allowed potentially sensitive issues to be discussed in a less personal and non-threatening way and therefore, facilitated a more open discussion. For example, by asking landlords and young people 'what they would do or advise others to do' in a particular situation revealed the extent to which they were aware of how the legal framework affected them and their associated rights and responsibilities. Importantly, use of this technique avoided asking the parties directly if they knew precisely what their rights and responsibilities were. This was particularly useful when eliciting responses to see how the parties would deal with situations involving potential conflict and whether their stated strategies were in accordance with the legal framework or with idiosyncratic practices. In addition, this approach facilitated discussion in instances where respondents had direct experience of a particular situation covered by the vignette and enabled them to introduce their experiences at their own discretion, in order to illuminate their abstract responses (Barter and Renold, 1999: 1).

Vignettes were used with all of the young people interviewed and depicted mundane but real life situations closely associated with those likely to be experienced (Rahmann, 1996: 46) so that the imaginative situation was closely aligned with reality. The issues raised included what young people would do if they had difficulty paying rent, and also addressed areas of potential conflict, for example, if landlords

asked them to leave the property unexpectedly and what they would do if they had their deposit withheld. The vignettes used with landlords addressed, for example, what they would do if a tenant was causing a nuisance or was refusing to leave the property or pay rent. In order to avoid repetition vignettes were not used where it was obvious that respondents were aware of the legal framework or where a particular issue had already been discussed during the course of the interview. This was the case with two of the interviews with landlords. In addition, vignettes were not used in one interview with a landlord as it was a particularly problematic encounter and would have made the interview even more uncomfortable.

In addition to vignettes, letting agreements from both landlords and young people were examined, where available, in order to establish the variety of agreements used, the balance of rights and responsibilities between contracting parties, the common terms in use as well as the key terms that were omitted. In addition, the absence of agreements, frequency and reasons for absence were also pertinent to this research, given the meanings which can be attributed to absences and silences (Foucault, 1991). The role of letting agreements in relationships between landlords and tenants in the PRS has not been addressed in previous research in spite of the significance of these documents within tenancy relationships and their relative importance in the overall construction of relationships. This research examines both legal and social processes, meanings, understandings and perceptions, therefore, an analysis of letting agreements was important in order to understand the context in which these documents were produced (Scott, 1990) and how their contents were interpreted by each party. It was also necessary to assess how agreements were 'used and exchanged as part of social interaction' (Atkinson and Coffey, 1997: 48). Letting agreements are potentially powerful documents, yet knowledge of the contents may not be shared by the parties as, in the majority of cases, landlords purchase agreements, therefore, they are not the product of negotiation between the parties, but are 'texts without authors' (Prior, 1997: 65). An examination of agreements contributed to the overall understanding of relations between parties in the PRS as they act as a pivot between the legal world and the social world and constitute a

social construction of legal phenomena.

In order to establish some systematic criteria with which to evaluate a wide range of letting agreements a checklist was devised (see Appendix Six). This made the analysis of agreements uniform and coherent and sought to establish, for example, the legal validity of agreements, the legal status of both landlord and tenant, and how extensively rights and responsibilities were defined. By examining letting agreements a more comprehensive picture of disparities and inconsistencies emerged between the parties' *perceptions* of rights and responsibilities and their *actual* rights and responsibilities as data was obtained from more than one source about the same issues. This use of methodological 'triangulation' (Denzin, 1970: 472; Macdonald and Tipton, 1993: 199) enabled individual responses to be verified and cross-checked, satisfying the demand for rigour and illuminating individual respondent's understandings and perceptions of their relationships.

There were a number of limitations involved in using this technique, however, these should not detract from the significance of the use of agreements to cross-check, compare and verify the statements made by the parties. A detailed clause-by-clause analysis of agreements was not possible given that they were often unavailable for examination. Ten of the young people and four of the landlords were willing to have their agreements inspected - three young people did not have copies although they had signed agreements and two could not find them. The landlords usually agreed to forward copies of agreements but after following up these promises only four were forthcoming.

Vignettes, a flashcard and analysis of letting agreements were all used during the piloting process with young people and landlords. As a result of the two pilot interviews with young people, the vignettes were modified to minimise the risk of unsettling respondents and the number of vignettes was reduced in order to limit 'problems of fatigue and boredom' (Lee, 1993: 80). In addition, the flashcard was modified after the first pilot interview with a tenant in order to include issues which

were brought to my attention by the respondent and which were likely to be of significance during further interviews with young people. Inspecting letting agreements did not appear to cause uneasiness with respondents during the piloting process and this procedure was continued throughout the research process. Respondents were asked prior to the interview if they had a letting agreement and if so would they be willing to disclose it at the end of the interview. During the piloting stage it became evident that examining letting agreements was important and illuminating as they revealed the disparities between perceptions of rights and responsibilities and the actual situation.

SELECTION STRATEGIES AND FIELDWORK

The decisions made about the research process, location, respondents, the manner in which the research was conducted and the difficulties encountered are all part of the overall research design and require discussion. Similarly, the likelihood that the results, while not generalisable in any statistical sense, might nevertheless address widespread issues and concerns has to be considered.

Choice of location

The research was carried out in York which has a competitive and diverse PRS, ranging from Houses in Multiple Occupation, to executive lettings. There are also a large number of young people (students, working tenants, and housing benefit claimants) living in the PRS together with a wide range of landlords and letting agents. York is a compact tourist city with a population of approximately 177,400 in mid 1998 (ONS, 2001) and there is a tendency for outsiders to view its 'picturesque streets and buildings and its apparent affluence' (Huby *et al.*, 1999: 1) as emblems of a city without unemployment or social problems. Indeed, this was unlikely ever to be the case, but the attractiveness of the city tends to mask the effects of hardship and deprivation. In part this study attempts to reveal the day to day problems faced by young people living in the city, some of whom are confronted with a combination of personal and financial problems as well as having to negotiate difficult and competitive housing market circumstances.

The choice of York as a setting for the research was based upon a number of considerations, some because of the constraints placed upon the research, for example, time and limited finances, and some because of its suitability *not* as a location *per se*, but as a competitive housing market which was likely to yield a range of experiences and responses and likely to reflect interactions between contracting parties in other similar housing markets. Although detailed, in-depth qualitative research does not require the strict representativeness which is a prerequisite of quantitative research, nevertheless, it was recognised that research limited to a single geographical location would not indicate whether behaviour was universally typical, as the particularities of local conditions and practices require some consideration in order to provide a context for the research. Therefore, a clear and detailed description of the setting and the groups studied are necessary, as

‘without such information, it is impossible to make an informed judgement about whether the conclusions drawn from the study of any particular site are useful in understanding other sites’ (Ward Schofield, 1993: 206).

The context of the research, therefore, requires consideration in order to provide a picture of the possibilities, for example, of practices and behaviour which may exist *beyond* the qualitative material in question.

Characteristics of the PRS in York

The legal framework governing the relationship between landlord and tenant is the same throughout England and Wales, and *in this respect* location is deemed to be irrelevant. However, this study is not confined to the operation of the legal framework and considers the extent to which the non-legal dimension of the relationship can be, and is, activated. This dimension, which may include both social and economic factors, is likely to vary across locations depending upon the *competitiveness* of the private rental market and the motivations and orientations of landlords towards property letting. In this study, a competitive rental market has been used for the purposes of investigating a set of legal, social and economic

practices where the characteristics of the market and established local practices have an influence upon the types of relationships that develop and are possible, given each parties relative economic and social positions.

Little information is available, either locally or nationally, regarding the size and characteristics of the PRS in York. Nor is there available up to date information which provides a picture of the broad trends in the local housing market. Clearly there is a need for such information in order to understand local housing markets and address the issue of local housing need (Bone and Walker, 1994; Blackaby, 2000). Under current Department of Transport, Local Government and the Regions (DTLR) guidance and government legislation, all local authorities are to compile housing market strategies which require detailed information. York is currently engaged in this process, but no data is yet available. The most recently available data regarding the size of the sector in York is based upon the 1991 Census indicating that 7 per cent of households in 1991 were renting privately (Huby *et al.*, 1999: 19). This was below the national average at that time when the sector comprised around 9.8 per cent of the total housing stock (Kemp, 1997: 79). The size and role of the sector has changed considerably over the last decade on a national level, with 10 per cent of all households living in the PRS in 1998/99 (McConaghy *et al.*, 2000: 74). On a local level it is likely that the sector has also expanded given the increase in student numbers in the city and the corresponding housing demand which has been met with a ready supply of student lettings from private landlords as opposed to educational institutions (Rugg *et al.*, 2000: 27).

The housing market is currently extremely buoyant in York and there is a significant expansion in the market in newly built properties targeted at young professionals in the city centre (see Rugg *et al.*, 2000: 26) which reflects the national picture (see, for example, Oakes and McKee, 1997). Average weekly rents in the PRS show that those in York are higher than those in neighbouring cities (Rhodes *et al.*, 2001) and that York rents fall within a middle range in comparison to other locations across Britain. For example, the average rent in York (covering all transactions in the PRS)

during the last quarter of 2000 was £125 per week, similar to those charged in Canterbury at £128, but significantly more than neighbouring Sheffield at £82 and also just slightly more than the national average for Britain, excluding Greater London, at £119 per week (Rhodes *et al.*, 2001: 28).

As mentioned in Chapter One, there is also evidence to suggest that both nationally and locally the PRS is becoming segmented between ‘types’ of young people, that is, housing benefit claimants and low income workers (Rugg, 1996; Kemp and Rugg, 1998), students (Rhodes, 1999; Rugg *et al.*, 2000) and young professionals (Oakes and McKee, 1997; Heath and Kenyon, 2001), with little overlap or competition in the PRS between different tenant ‘types’. According to a recent study of the impact of students on housing markets which used York as a case study area, a student ‘niche market’ (Rugg *et al.*, 2000: 3) is well developed in the city. In addition the study also confirmed that housing benefit claimants experience particular difficulties accessing accommodation in the city, with the sector neatly characterised in the study by a ‘York respondent’:

“The biggest demand groups are young professionals or couples, students and housing benefit claimants but there are clearly defined submarkets with little or no cross-over, therefore no direct competition between the three groups. The property types suitable for one group are not suitable for others, the areas they want to live in are different, there are geographical as well as property niches” (Rugg *et al.*, 2000: 26).

In addition, an interesting aspect of the PRS in York which is worthy of mention is that it is currently overshadowed by a ‘ghost of Rachman’ image (Kemp, 1992). After an investigation lasting almost one year, a well known local private landlord was sentenced to two and a half years imprisonment in February 2001 for fraudulent housing benefit claims amounting to £37,000, made ‘on behalf of tenants who had died, had moved away or simply did not exist’ (City of York Council website. 2001). Such activities bear testament to the diversity of the sector and its landlords, and

highlight that the attractiveness and size of a location, along with the socio-economic characteristics of its general population have little impact on the modes of operation of landlords in the sector. Hence, the availability of the PRS for ‘black market’ (Stewart, 1996: 97) activities of this nature can arise in any location where there are vulnerable tenants and landlords are motivated in such a way.

Selecting respondents and the fieldwork process

The fieldwork comprised two stages. Firstly, qualitative semi-structured interviews with representatives from key organisations dealing with landlords, tenants and young people were carried out in order to gain preliminary information and an insight into prevalent landlord/tenant issues and the range of actual and/or potential problems which each party faces. A series of letters and telephone calls established contact with key members of organisations. Information gained at this stage was used to inform the bulk of the empirical research and provide essential background material and a coherent picture of the private rental market in York. The focus was on the PRS as a whole, probing for the extent to which issues were/were not particularly problematic for landlords and young people, for example, the SRR and indications of its initial impact. Five interviews with representatives from organisations were carried out. The organisations ranged from those dealing with young people facing specific difficulties, for example, homelessness and/or obtaining a deposit to secure accommodation, organisations supporting young people with more general enquiries, such as student support, and organisations dealing with queries and providing information to both landlords and tenants. A general topic guide was developed and adapted in order to address the specific issues pertaining to each organisation, in addition to ascertaining general information across the organisational spectrum. The general topic guide was developed to explore issues regarding, for example, perceptions of how well informed landlords/tenants were of their rights and responsibilities and how information and advice was accessed by each party.

This preliminary stage also assisted in establishing the range of information, advice,

initiatives and resources which were available to guide landlords and young people through the letting process and during the course of a tenancy. A further important aspect of this stage in the research was to explore and clarify the potential areas of contention between contracting parties and the reported incidence of issues which might not be revealed in interviews with landlords and tenants, for example, harassment or abuse of property. Finally, this stage of the research was important as it allowed contacts to be made with key 'gatekeepers' who were influential in facilitating access to the main subjects of the research.

The principal stage of the fieldwork comprised qualitative in-depth interviews using topic guides with landlords and young people. Individual interviews, as opposed to group interviews, were used in order to elicit current and past experiences. In addition, given the technical and complex nature of some of the issues discussed it would prove difficult in group interviews, to ascertain the level of detail and the precise information which was needed. In total, thirty interviews were planned, fifteen with landlords and fifteen with young people. The initial selection strategy was designed to 'encapsulate a relevant range of units' (Mason, 1996: 92) and aimed to recruit a range of private landlords who were currently letting and managing property and a range of young people who were currently living in the PRS. However, random sampling of landlords and tenants was not possible in the absence of an obvious sampling frame. Given this constraint, sufficient time was built into the research design in order to overcome access problems should they occur. The aim of the selection criteria was to

'provide a close-up, detailed or meticulous view of particular units which may constitute...cases which are relevant to or appear within the wider universe'
(Mason, 1996: 92)

and, therefore, capture the diversity and variation of young people and landlords in the sector.

Three key groups of young people are concentrated in the PRS, housing benefit claimants, (Kemp and Rugg, 1998) students, (Kemp and Willington, 1995; Rhodes, 1999; Rugg *et al.*, 2000) and those working full-time (Rugg, 1999) including 'young professionals' (Heath and Kenyon, 2001) - although this research is not directly concerned with 'young professionals'. A 'quota' element was built into the selection of young people with the intention of capturing the experiences of these three groups and five each of students in Higher Education, housing benefit claimants, and working tenants were sought in order to ascertain if there were differences in, for example, experiences and ability to maintain tenancies and also to illuminate the reasons for any differences. Students and housing benefit claimants were included in the sample to ascertain whether differential status between groups had an impact on experiences in the PRS and whether some groups had more control, choice and power than others in their relations with landlords. The age of young people and the number of tenancies they had experienced were also considered to be factors which were likely to influence relationships between the parties and different age groups and those with a range of tenancy experiences were sought.

There is also a diverse range of landlords in the PRS (see, for example, Allen and McDowell, 1989; Thomas *et al.*, 1995; Crook and Kemp, 1996) and a 'quota' element was built into the selection to reflect the range of landlord 'types' in the market and in order

'to look closely at the actions and motives of different kinds of landlords and at the meanings that their property has...for them' (McCrone and Elliot, 1989: 124).

Landlords letting to housing benefit claimants, tenants working full time, and students were included in the sample as were HMO landlords, those with a larger portfolio and those with only one or two properties. The selection was confined to private individuals for whom letting property was not their main occupation, rather than organisational or business landlords. This approach was adopted in order to shift the focus away from

‘the assumption that quantitative distinctions [in landlords’ [portfolio size] reflect real differences in the way in which landlords act and operate within the rented market’ (Allen and McDowell, 1989: 47).

and, instead, to reveal any diversity in motivations to letting and practices, in addition to obtaining a wide range of views and experiences and, hence, maximise ‘the generation of a good cumulative body of knowledge about property relations’ (McCrone and Elliot, 1989: 105).

Previous research has noted that there are considerable difficulty in constructing adequate sampling frames of landlords (McCrone and Elliot, 1989: 105) and this did prove to be difficult during the research process and is perhaps one of the reasons why there has been so little research about private landlords (Kemp and Rhodes, 1997: 119). Although landlords could have been accessed via the young people interviewed and, the perspectives sought from both parties to an existing contractual relationship, this would have created a number of practical and ethical difficulties. For instance, if landlords and tenants had been matched, obtaining a selection would have proved difficult where one party refused to take part in the research. In addition, given the sensitive nature of some of the issues raised during interviews, ethical and confidentiality issues were likely to emerge as potential problems and so it was decided not to match the parties but to maximise variation and find a variety of respondents.

A number of strategies were adopted to facilitate access to young people. During the piloting stage of the research, access was gained via informal contacts. The starting point of the main research was to make initial contact with organisations providing a range of services to young people and tenants. These included, the probation service, young people’s projects, student accommodation offices and social services. A wide range of organisations were asked to assist in facilitating access to young people and to maximise potential responses. Although the research generated interest, in only

three instances was assistance actually forthcoming and only two interviews carried out as a result of these contacts. It was evident that the extent to which the research would take up time and resources was a significant factor in any organisations' willingness to assist. Where organisations were unwilling to help this was due to the existing pressures facing staff.

As the desired selection was to be composed of tenant types with specific characteristics, a wide range of simultaneous targeting strategies were required. Students were easier to gain access to than either working tenants or those claiming housing benefit and were accessed via adverts at relevant institutions. In order to target both working tenants and housing benefit claimants, adverts were distributed around local companies employing young people and sent to voluntary organisations. In addition, leaflets were delivered to known PRS addresses as obtained from the local authorities HMO register and from knowledge of the local area combined with follow up visits. Some respondents were obtained by these means, but it was also necessary to use snowballing techniques, (Berg, 1998; Atkinson and Flint, 2001) where respondents provided a referral to another landlord or tenant. Care was taken to ensure that none of the young people interviewed knew each other. Contact was made with young people via a series of letters and telephone calls, the nature and purpose of the research was explained and informed consent obtained. Interviews were arranged to take place as soon as possible and usually within one week of initial contact and a letter of confirmation detailing the date, time and location of the interview was sent. Interviews were conducted in tenants' homes. Organisations were approached again towards the end of the fieldwork process, approximately six months after initial contact, in order to facilitate access to tenants claiming housing benefit - a group which proved most difficult to access.

In order to facilitate initial access to landlords a copy of the City of York Council's compulsory register of HMOs was obtained, containing details of over 400 properties. This document was used as a starting point for selecting private landlords, as well as addresses from which to seek access to tenants. Initially, a

number of landlords were contacted by letter and follow up telephone calls made, combined with telephoning landlords advertising property in local newspapers. Representatives from local organisations, for example, student accommodation officers, and members of the local Landlord Forum, were contacted to ask if they could assist and five interviews were achieved via these contacts. Access to the remaining respondents was achieved via snowballing and using accommodation lists and by responding to adverts. As with tenants, contact was made with landlords via a series of phone calls and letters, the nature and purpose of the research was explained and informed consent to participate in the research was obtained. Interviews were arranged to take place as soon as possible and a letter of confirmation of the date, time and location of the interview was sent. The interviews were all undertaken in either landlords' homes or at their place of work.

THE SELECTION OF RESPONDENTS ACHIEVED

Considerable problems were experienced in accessing both landlords and young people to take part in the research. The reluctance of landlords to participate in the research was likely because of the sensitive nature of the topic under investigation and, for young people, forgetfulness combined with erratic lifestyles lead to a number of missed appointments. However, by the continuation of approaches discussed above and extending the time devoted to data collection, thirty interviews were achieved, fifteen with landlords and fifteen with young people.

Young people

Of the young people, five were students in Higher Education at various institutions in the city, five worked full time and five claimed Housing Benefit. Seven males and eight females were interviewed with an age range of 20-24 years. It proved particularly difficult to access the 'youngest' young people, however, this difficulty partly reflects the age distribution of young people across the PRS with private renting becoming much more significant for those aged 20 or more (McConaghy *et al.*, 2000: 112). All of those interviewed shared accommodation with the exception of two tenants - one male and one female, who were both working full-time. This

was also in keeping with national findings which suggest that young people are likely to be sharing with unrelated adults rather than living alone. Research carried out by the Centre for Housing Policy, University of York into young people in the housing market indicated that 85.5 per cent of young people living independently in the PRS shared with unrelated adults (Young people, housing and the transition to adult life: understanding the dynamics, ESRC, 2001, own analysis). Experience of living in the PRS varied from first tenancy to fourth tenancy with some tenants exhibiting high levels of mobility over relatively short periods of time. Once again, this was in keeping with national findings which show that 75 per cent of young people under 25 had been resident in their current PRS accommodation for less than 12 months (McConaghy *et al.*, 2000: 76).

Landlords

The selection of landlords comprised seven males, seven females and one couple. The numbers of properties owned and let out ranged from one to six, with ten of the fifteen landlords owning and letting only one or two properties. The number of tenants let to ranged from two, to in excess of thirty five. These figures are in keeping with the national profile of landlords which indicate that 43 per cent of landlords let only one property and 23 per cent let between two and four properties (Crook and Kemp, 1996: 22). The landlords interviewed let to a range of students, young people in work, and housing benefit claimants. Shared terraced houses were the most commonly let properties with eight landlords letting this type of accommodation, however, flats and HMOs were also let by the landlords interviewed. The least common property type was semi-detached houses with only two landlords letting these. Interestingly, these figures confirm young people's experiences of the property types most commonly available to them in that they are least likely to rent semi-detached properties and are more likely to live in terraced houses, flats or non-self contained accommodation in HMOs (McConaghy *et al.*, 2000, 113). All of the landlords interviewed had let property for at least one year, with the majority having let for in excess of five years and a third for ten years or more. As a result of having recently retired, letting property had now become the

main occupation of two landlords, however, for the remaining thirteen landlords, property letting was not their main source of income.

THE DATA ANALYSIS PROCESS

All of the interviews, including pilot interviews, were tape recorded for the purposes of transcribing and were coded manually. Transcribing the tapes allowed familiarisation of the data as did reading the transcripts. Throughout the analytical process the data was treated as describing 'the "gritty" reality of peoples' lives' (Silverman, 2000: 122) and, where possible, the accuracy of the interpretation placed upon respondents' experiences and encounters was cross-checked and verified by using other observations, as discussed above, such as letting agreements. As part of an overall methodological approach, preliminary coding, analysis and writing up of the findings took place throughout the fieldwork process (Coffey and Atkinson, 1996: 2) and prior theoretical knowledge was combined with the inductive generation of new concepts and theories from the data (Glaser and Strauss, 1967; Strauss, 1987; Strauss and Corbin, 1990). Categories and themes were constructed from statements and comparisons of the data were made between and within the parties. Once the field work process was completed the transcripts were re-read and systematically coded according to emergent themes. At this stage of the research the material from different sources, that is, letting agreements and transcripts, were linked together in terms of conceptual themes and topics.

Recently, it has become more widely recognised in research into housing issues that the use of language is a powerful tool (see, for example, Hunter and Nixon, 1999; Jacobs and Manzi, 2000) that can be used as a rhetorical and alienative device during the policy process and also to exert control between parties across social networks to 'increase confusion rather than clarifying meaning' (Jacobs and Manzi, 1996: 547). Although this study has readily available to it the 'two main types of data which can be explored through discourse analysis - texts and talk' (Hastings, 2000: 133) it was decided *not* to adopt such an approach to analyse the data. Implicitly, this research recognises the relevance and use of such analytical devices to address the subjects of

exploration in this thesis - the legal framework and social relations between unequal parties. However, the main concern of this thesis is not that of language use *per se* but that of individuals and their differing levels of engagement with, and orientations to, the legal framework and social interactions between contracting parties. Hence the analytical process adopted throughout this research focused upon uncovering the day-to-day experiences and practices of the parties.

In order to obtain a detailed picture of day-to-day relations between contracting parties, two approaches to analysis and presentation of the data were adopted. The data was analysed to highlight the nature of relationships through a series of processes and experiences from pre-tenancy arrangements to post-tenancy arrangements where tenant and landlord experiences and perceptions are treated together. Analytically it has been possible to divide the tenancy process into three key stages, first, the formative, setting up phase of the tenancy, second, the tenancy relationship itself and, finally, the process of leaving the tenancy relationship. The following three chapters are devoted to each of these key stages drawing on the words of respondents as transcribed. By analysing the data in this way it is possible to provide an overview of relationships between contracting parties in a competitive rental market, whilst also highlighting key processes, themes and 'patterns of interrelated factors' (Bullock *et al.*, 1992: 86) throughout each stage of the relationship and throughout the relationship as a whole. It is also possible to compare and contrast the different experiences within respondent categories and sub-categories as well as those between contracting parties. In addition, the development of relations between the parties can be traced in order to assess tentatively whether particular processes and types of interactions between them, for example, those experiences during the early stages have an influence upon relationship outcomes.

Although the limitations of the data have been considered above in terms of the setting and the particularities of the local housing market, these limitations also point to areas where future research may be focused, for example, to encompass a range of diverse housing markets. However, conclusions can be drawn from the data which

not only relate to York. A number of features of the data, do have a wider resonance or 'fittingness' (Guba and Lincoln, 1982 quoted in Ward Schofield, 1993: 206) and relate to issues beyond the material at hand (Mason, 1996: 6; Alasuutari, 1995: 156-7), including situations, attitudes and behaviour, which are likely to reflect a picture of relations across similar housing markets. In addition to being able to draw out local conclusions from the data, it is also possible to draw out more general conclusions relating to the relevance of the legal framework in governing relationships between the parties and, for example, extrapolate to a more general scale. Although the data collected may only provide a partial picture of relationships and interactions between the parties, nevertheless this is an important dimension of the *possibilities* of behaviour within relationships. In this sense the data relates to what *can* be done by the parties.

CONCLUSION

This chapter has outlined the research design and methodological approaches adopted and has also discussed the fieldwork experiences and the process of analysing the data. In addition the chapter has outlined the difficulties encountered during the fieldwork process and how these were overcome, and also describes the process of analysis and presentation of the data collected. The following three chapters focus upon relationships between contracting parties by drawing upon the experiences of the thirty landlords and young people interviewed. Chapter Five examines the processes experienced by landlords and young people when entering into a tenancy relationship. Chapter Six explores interactions during the actual tenancy, and Chapter Seven examines both parties experiences of ending and leaving tenancy relationships. The data has been analysed in order to highlight the range of possible relationships between landlords and young people and to reflect both the positive and negative aspects of letting property and renting property, enabling conclusions to be drawn about the prospects of improving relations between the parties.

CHAPTER FIVE

NEGOTIATING TENANCY RELATIONSHIPS

'...they know where they are well off, don't they? They're getting their bloody bums wiped so they're not going to negotiate anything' (Landlord 5, female).

'...because of the kind of situation I was in, I was not really going to negotiate and make myself difficult' (Tenant 5, female, 23 year old housing benefit claimant).

INTRODUCTION

The pre-contractual or setting up phase of the tenancy is arguably the most important stage in the relationship for both parties. Every landlord and tenant experiences this part of the tenancy relationship and engages with, to varying degrees, legal, social and economic arrangements which are, in theory, as *per* the 1988 Housing Act and classical liberal assumptions of equality, the subject of negotiation and discussion. However, as indicated in the quotes above, this may not be the case in practice. These discussions and negotiations relate to, for example, the terms of letting agreements, rent levels, and arrangements for repair services. The outcomes of these discussions provide the basis for, and set the general tone of, the evolving relationship, as attitudes towards the legal framework emerge and modes of economic and social behaviour are established. Interactions and exchanges between the parties during this informal, unregulated phase are, nevertheless, underpinned by a number of key legal assumptions. Classical liberal conceptions of contractual relations assume that both parties are able to negotiate on equal terms and enter into relationships as equals, having successfully reached an agreement which satisfies the interests of each party. In addition, the 1988 Housing Act reinforces this assumption by placing the role of discussions and negotiations at the centre of relationships.

This chapter focuses upon this formative stage of relationships and explores the

development and construction of pre-tenancy relations with reference to the role of information and advice, attitudes towards minimising risk via legal and economic protection and the effectiveness of discussions and negotiations between the parties. The chapter highlights how verbal, written and visual information, in conjunction with economic, legal and social controls, have a significant influence upon the initial stages of the tenancy relationship and impact upon young people's settling in phase and the subsequent success of the relationship. This chapter also explores the extent to which each party is engaged in legal, economic and social processes, how the pre-tenancy relationship is socially constructed by landlords and young people, highlighting the significance of power differentials at the pre-contract stage of the relationship. As landlord and tenant relationships stand at the interface of legal, economic and social behaviour, assumptions about the parties' respective modes of conduct are questioned and the diversity of relationships are highlighted.

This phase of the tenancy relationship is often complex and protracted as a series of decisions are made about financial, practical and legal issues. The empirical material in this chapter is presented in order to capture these dynamic processes and interactions between the parties prior to entering into a legal arrangement. By analysing and presenting the data via a series of stages and events leading to the formation of a legal relationship, it is possible to derive a 'model' of pre-tenancy processes and interactions in a competitive rental market in a particular locality. In addition, by breaking down this formative phase into its three constituent parts, (legal, social and economic), key processes and details of relationships are revealed which have not been addressed in previous accounts or studies of tenancy relationships. In practice, the sequencing of events when setting up the tenancy may vary across markets and locations and according to each landlord/tenant relationship. For example, obtaining information or advice, may occur at different times for respective parties or may not occur at all. However, for the sake of clarity the 'ideal' or 'normative' letting process is examined in the following sequence as set out in Table 5.1 below.

Table 5.1. Setting up the tenancy

<p>Landlord seeks advice/acquires letting agreement</p>
<p>Landlord recruitment phase/tenant search phase</p>
<p>Tenant makes informal enquiries/landlord vets tenant</p>
<p>Tenant views property/landlord vets tenant/discussions, explanations and negotiations take place</p>
<p>Landlord selects or rejects tenant based on suitable characteristics/further discussions, negotiations and explanations take place/financial requirements discussed</p>
<p>Landlord provides tenant with legal documentation</p>
<p>Tenant seeks information and/or advice</p>
<p>Tenant signs legal documentation and fulfils landlord's financial requirements</p>
<p>Legal arrangement reached and tenancy begins</p>

In order to explore the balance of legal, social and economic issues throughout the setting up process of the tenancy, the chapter begins with a brief description of the motivations and orientations of the fifteen landlords in the study to property letting, before exploring the attitudes these landlords have to acquiring information and advice. Landlords' recruitment strategies and selection procedures are then described before addressing young people's diverse search strategies. The economic element of the relationship is addressed by exploring the ways in which financial issues are managed between the parties. In addition, the role of discussions, negotiations and

explanations are explored throughout the setting up phase. The significance of letting agreements for each party is explored, in addition to the extent to which they are negotiated, before finally looking at the importance young people attach to obtaining information and advice once they have received legal documentation and/or have agreed to move into the property.

LANDLORDS' MOTIVATIONS AND ORIENTATIONS TO PROPERTY LETTING

Landlords' motivations and orientations are, as discussed in Chapter Three, instructive in the ways in which the tenancy relationship is set up, and influence the development of the overall relationship and, as will be shown later, the ways in which relationships end. All of the landlords interviewed appeared to be willing 'volunteers' (Kemp and Rhodes, 1997: 119) to property letting and had decided to let for a range of often complex reasons, both personal and financial. The majority of landlords had been motivated by 'purely financial reasons' either as a response to an unexpected change in personal circumstances, for instance, a reduction of income or loss of employment, or, commonly, as part of their 'pension planning'. Those who viewed their property as synonymous with their pension often described the property as an 'asset' and as 'security for the future'. These views were based upon fears that the state pension would either be unavailable to them as a result of policy changes, or would be inadequate for their needs. Furthermore, they felt that with negative images of private pension schemes, it was preferable to let property as they 'were never going to lose money and it was always there if we hit hard times'. Therefore, these landlords provided examples of those who were planning, on an individual basis, for the risks they were likely to face in later life (Skinner and Ford, 2000).

Several landlords who were not letting property primarily for financial reasons, expressed similar ideas about the usefulness of property for the future. Landlords who had previously lived in the property as their own home tended to view it not simply as a financial asset but as a potential future home for them or their families, 'so someone's got a roof over their head' if their current personal and housing

circumstances ‘went horribly wrong’. In this respect long term planning was a key feature of the attitudes expressed by all fifteen landlords.

Landlords’ orientations towards property letting and their relationships with tenants are discussed at length throughout this chapter and Chapters Six and Seven.

However, a number of broad features of their attitudes and behaviour are worthy of discussion at this point as they provide an indication of differing types of orientations to property letting. Different forms of landlordism are evident (see Chapter Three) and a number of classifications based upon landlords’ motivations, orientations and behaviour already exist. For example, Thomas *et al.*, (1995) developed a category of ‘sideline’ landlords which are close to the landlords discussed throughout this thesis, that is, private individuals for whom letting property is not their main occupation or main source of income. Bevan *et al.*, (1995) divided ‘sideline’ landlords into two types, which are closest and most relevant to this research. These are ‘formal sideline landlords’ and ‘informal sideline landlords’. The former were described as having an ‘organised approach to letting,’ using either assured shortholds or letting agents, viewing their property as an investment and aware of some of the features of the legal framework. The latter let in a ‘casual manner’ without formalised agreements, often viewed their tenants as either friends or part of their family, saw the property they were letting primarily as their ‘home’ and were generally unaware of their rights as a landlord (Bevan *et al.*, 1995: 12). These distinctions are important, yet are still too broad to apply to some of the landlords in this study.

The specific focus of this research is upon the range of *practices and behaviours* of individual landlords. In their attitudes, the landlords interviewed often expressed a wide range of orientations to property letting, which included the social, legal and economic to differing degrees, yet the accounts they gave of their actual behaviour indicated that their dominant *modus operandi* was social. These accounts revealed a disparity between how landlords presented themselves and the ways in which they behave. The imposition of pre-existing landlord categories onto the data was inappropriate given the diversity of the individual landlords interviewed who often

displayed extreme or contradictory behaviour, and did not fit neatly into a pre-given set of characteristics or within an 'ideal type'. Given that any categorisation of the practices and behaviours of the landlords interviewed posed a problem as it would stifle some of the important aspects of their unconventional behaviour, an approach has been adopted which resists imposing classifications onto the landlords interviewed. Details of the characteristics of each individual landlord can be found in Appendix Four, towards the end of this thesis.

INFORMATION, ADVICE AND KNOWLEDGE OF THE LEGAL FRAMEWORK

Landlords

This section addresses the beginning of the process of setting up the tenancy as identified in Table 5.1 above, and explores landlords' attitudes towards legal protection and the steps, if any, they take to minimise risks by seeking information and/or advice prior to letting property.

Only four landlords out of fifteen sought formal legal advice from a solicitor prior to letting property. For these four landlords seeking advice was not tantamount to an educative process, nor was it regarded as a distinct knowledge acquisition phase prior to letting property. The main purpose of seeking formal advice was to acquire 'proper tenancy agreements done by a solicitor' so that lettings begin on a 'professional' footing. The procedure had a further practical purpose as it provided landlords with reassurance that they had taken the necessary steps to safeguard their interests and minimise the potential risks of letting property. However, three out of these four landlords demonstrated no understanding of the specific ways in which they were protected by legal provisions, and their interpretations of the extent to which the law afforded them protection was out of touch with the reality of the situation (see Sarat, 1975). Therefore, taking legal advice and acquiring legal knowledge were two separate and, often, unrelated processes. One landlord's experiences exemplifies this:

‘[I]t didn’t really mean a thing. He did [explain the law] but it was like in one ear and out the other. I thought "I’ve been to see a solicitor and I’m OK”’
(Landlord 11, male).

York has several generalist services available to landlords to obtain information and advice about tenancy related issues, for example, the Citizens Advice Bureau and York City Council’s Customer Advice Centre. However, there was little evidence to suggest that any of the fifteen landlords regularly used these official channels as an alternative to formal legal advice. In a few isolated instances, ‘Environmental Services’ and ‘accommodation officers’ were cited as ‘useful’ sources of information, however, awareness of local services and sources of information was poor, and hence, the extent to which they were actively used was minimal. Membership of the local Landlord Forum was also poor with only two landlords stating that they had been members. Membership had proved ‘useful’ on a professional level as they had received, amongst other things, ‘updates on new legislation’. However, internal politics had often led to meetings ‘falling apart’ and the attitudes of other landlords had made membership intolerable. Negative perceptions about organisations representing private landlords’ interests were also expressed by some of those who had never been members. Membership was described as being ‘sad’ and ‘a pain in the neck’. It was also tacitly acknowledged that membership was likely to be associated with improving management standards and this would stifle existing idiosyncratic practices. This serves to highlight the resistance of some, if not all, of the landlords interviewed to collectivity or uniformity, with independence being an important feature of their mindset and letting regimes.

The eleven landlords who had not sought formal legal advice from solicitors cited very different reasons for this. Two landlords were fully aware of legal procedures and the consequences of non-compliance as they dealt with these issues during the course of their employment. The remaining nine landlords acquired information and

advice, if at all, via non-rational and non-strategic channels during the course of successive lettings. These landlords did not consider taking legal advice or acquiring legal knowledge to be a necessary pre-requisite to letting and did not actively seek out information at this stage. Nor did they consider letting property without requisite legal knowledge to be disadvantageous in any way. Family members and other informal contacts, such as, 'mum's boyfriend' or 'my fireman friend' were perceived as useful sources of information and in most cases were the only sources consulted, notwithstanding that the quality or accuracy of the information was questionable and was sometimes the source of subsequent misunderstandings and confusion (see below and Chapters Six and Seven).

The lack of importance attributed to conducting tenancy relationships in accordance with legal principles and the desire to minimise costs were further reasons cited for not seeking advice or information. For some landlords, legal advice was regarded as a 'waste of money' and was not a guarantee against a 'bad tenant' or problems arising during the tenancy. Landlords commonly adopted a pragmatic 'wait and see' approach where 'you let them take up residence and then you find out if you've got a problem' with advice sought at that stage, if necessary. The practical nature of the tenancy relationship and the internal structure of relations, as opposed to the external influence of legislation, was stressed by a number of landlords, particularly those with a limited knowledge of the legal framework and/or those not using letting agreements. These attitudes were neatly expressed by one landlord:

'I don't need to go to a solicitor...I don't like spending money and in any case I think it's a question of common sense, you know, having brought up a family, I'm a family man and I like young people so I meet them halfway. No I don't really know how the law affects me, no, not really. I sort of try and run it on a personal basis and I deal with the problems as they come up. It's my own business and I prefer to run it the way I think it should be run and I'm not being big headed or anything but I never ask advice' (Landlord 1. male).

The importance of personal letting ideologies and subjective perceptions about how relationships should be conducted and managed, as described here, override objective prescriptions of the legal framework. All of the landlords interviewed attached importance, to varying degrees, to their own perceived power and internal control of the structure of tenancy relationships from the outset. This was apparent to the extent that entrenched personal views about how relationships should be conducted not only led to a reluctance to actively seek advice, but also led to resistance, in a number of cases, to taking note of, and utilising unsolicited advice from either friends/colleagues or from more formal channels. This type of attitude is important, as it reinforces a point made above, that there is a resistance to conform to standards which landlords think are inappropriate or conflict with their own personal letting practices. These attitudes, at this early stage, place the focus upon the overriding importance of social relationships. One landlord highlights this approach:

‘They [accommodation officers] all send you advice...but at the end of the day it’s still up to your own, yourself to set the, now what’s the word? parameters? parameters’ (Landlord 5, female).

An area of interest in the research was to establish the extent of landlords’ knowledge of the law, irrespective of whether or not they had consulted solicitors prior to letting. With the exception of two landlords, awareness of the legal framework was poor. Safety issues were commonly perceived to be the most prominent, or the only legal element in the relationship and landlords who displayed very little knowledge of other aspects of the law often mentioned ‘gas safety requirements’, ‘fire regulations’ and ‘electrical certificates’ as necessary legal requirements and pre-requisites to letting property. The meaning of ‘the law’ tended to be equated with and confined to these regulatory aspects, likely as a result of media attention and the consequences of non-compliance. Misunderstandings and ignorance of their legal position were evident. Confusion was apparent particularly in relation to notice periods, where landlords commonly thought that only one months notice was required to gain possession of property. Personal issues relating to

preferences about tenants' conduct and/or use of the property, although important in the overall relationship, were not generally regarded as integral features of the legal framework and were assigned little legal significance. These more personal issues were dealt with in several non-legal ways as discussed throughout this chapter.

From the evidence presented here, it is clear that the extent to which these landlords behaved rationally and undertook a purposive knowledge acquisition phase prior to letting property was negligible. Overall, there was little evidence to suggest that forward thinking and putting in place provisions to avoid problems were important; instead reactive approaches to letting property were favoured. Imperfect and incomplete knowledge of the legal framework was commonplace and this was not simply as a result of the complexity of the law, as many landlords did not attempt to engage with relevant legal provisions. Of crucial importance to landlords was not actual knowledge of the legal framework, as the law was generally assigned an unimportant role, but the immediate internal control they could exercise over relationships, property and tenants. These orientations provided early indications of the development and importance of social relationships as described in Chapter Three.

RECRUITMENT STRATEGIES AND SELECTION CRITERIA

Landlords

In theory, a distinction exists between recruitment and selection; however, in practice, recruitment and selection were blurred in thirteen cases, with, for instance, advertisements excluding particular tenant types also serving as a filtering and selection mechanism. Only two out of fifteen landlords sustained the distinction between recruitment and selection as they were not wholly involved in this process and instead used letting agents to recruit prospective tenants as this simplified the initial stages of the letting process for them. Nevertheless, both of these landlords were involved in the selection phase, meeting their prospective tenants and discussing their references with their letting agents to establish the suitability of tenants.

For the thirteen landlords who took responsibility for recruitment and selection, both formal methods, such as, ‘adverts,’ and informal methods, such as, ‘word-of-mouth’ were used. Formal advertising mediums differed between landlords letting to students and non-students. Those letting to non-students used personal contacts, for example, ‘I ask around "Is anybody looking for a room?"’ in addition to advertising in local newspapers. In contrast, the most common method adopted by landlords seeking students was to advertise at the particular institution, for example, at ‘the accommodation office’ or ‘on the SU notice board’. However, once established in the market, it often became unnecessary to advertise, as the competitiveness of the student rental market prompted ‘organised’ students to search pro-actively, and so accommodation ‘let itself’. A landlord described his experience of this cycle of events:

‘If I tell you that at the end of January I had my first enquiry, in February I was being hassled by one group who had been to one of my houses and knew the existing tenants...so that by Easter I’d got the tenants tied up’ (Landlord 9, male).

Informal letting practices were more prominent in the student market than with non-student lettings. This was as a result of the informal nature of student networking, where information about available accommodation was passed freely from those leaving the market or knowing of vacancies, to those searching. In addition, landlords who let to students, routinely recruit during a specific time-scale and, broadly, within a predictable set of social, financial and tenurial circumstances. The competitiveness of the market in York, combined with the gradual increase in student numbers enabled landlords to adopt a relaxed and informal approach to property letting, relying on prospective tenants to search pro-actively, thus dispensing with the need to recruit widely.

Finding tenants via ‘existing good tenants’ or the approaches of students were

perceived as advantageous by landlords as 'it takes all of the leg work out of it'. Some landlords expressed a preference for recruiting through 'word-of-mouth' as they were able to 'get a wider picture' of prospective tenants from the source of the referral (see Moore, 1982). Nevertheless, some scepticism was expressed about whether recruiting via personal contacts ultimately had advantages, other than minimising recruitment difficulties and advertising costs as it was not a foolproof safeguard against a 'bad tenant' as experience revealed 'they can change once they are ensconced'. The responses indicated that in a competitive market, the recruitment methods adopted were largely unimportant, but tenant selection was critical (Kemp and Rhodes, 1997; Trott, 1998) in terms of risk management and protecting property, where landlords had few qualms about making judgements about prospective tenants.

During the selection process, landlords typically sought to avoid tenants who they perceived as likely to experience financial difficulties, cause 'a nuisance', misuse or damage property, or who were thought 'to have problems' (see, Thomas *et al.*, 1995). Preferred tenants were those you could 'trust', were 'quiet', 'pay their rent on time,' keep the property 'clean and tidy,' and 'get on with the other people in the house and the neighbours' (see, for instance, McCrone and Elliot, 1989; Bevan *et al.*, 1995). In addition, landlords letting to non-students expressed preferences for 'young professional working couples who have had experience of living away from home' as opposed to 'young lads' and those 'on the DSS,' confirming that prejudices in relation to class and status distinctions play a part in the difficulties young, single claimants experience in securing accommodation (Bevan *et al.*, 1995; Rugg, 1997). Landlords were also concerned 'to have as quiet a life as possible' and, in order to minimise management time and financial losses, rejected people they were unsure about. Landlords exercised a considerable degree of direct control over access to accommodation where equality of opportunity does not exist. In order to select 'good tenants', four methods were identified, which were neither sequential nor mutually exclusive. The four possible methods of selection were: exclusion prior to enquiry based upon tenant type; exclusion at the initial enquiry stage; selection/rejection

based upon impressions formed at the first meeting; and selection/rejection based upon references. As gatekeepers to accommodation, landlords used as many or as few of these components as they thought necessary to select prospective tenants.

Exclusion prior to enquiry based upon tenant types

From the data a distinction emerged between landlords' public selection techniques and those they adopted in practice. None of the landlords interviewed said they excluded particular types of tenants in their advertisements. However, in practice, housing benefit claimants were mentioned by six landlords as a type they would definitely not let to. The main reasons for refusal were negative perceptions and judgements about claimants' 'low' social status rather than direct experience of letting to claimants. Assumptions were made about the lifestyles of claimants and predictions were made about their behaviour as a group of people who 'just couldn't give a flying hoot'. One landlord described his beliefs, notwithstanding that he did not have experience of letting to claimants:

'DSS people I wouldn't take...I think they are people at the lower end of life if you like and that's no disrespect to them, but they probably don't care as much, they're down there. They are more likely to be on drugs, dare I say, but that's the sort of thing I think' (Landlord 11, male).

Further problems with housing benefit were cited relating to the complex bureaucratic procedures involved with the processing of claims. Landlords commonly cited administrative problems, shortfalls, and long delays as reasons for refusing to let to claimants. The problems experienced by a number of landlords are summed up here:

'I've had so many terrible experiences just with my existing tenants. The benefit changes, or they have to re-apply every six months and then you get all these different letters, being bombarded with all this information, it's just the system, it's just crap. I wouldn't turn anybody out if they came to me and

then had to go on housing benefit, but I wouldn't take them on housing benefit' (Landlord 5, female).

The remaining landlords stated that although there were no tenants they would definitely not have, there were tenants that they were 'wary of' and would prefer not to let to if possible. Based upon negative experiences, several landlords had become increasingly careful about letting to single people, as opposed to couples, in their 'late teens, early twenties'. Amongst this age group 'young lads', including groups of male students, were perceived as 'the biggest problem' because they lacked the necessary independent living skills and experience to manage a tenancy and were likely to 'make more mess than possibly a group of females or a mixed group'. One landlord described his reasons for no longer letting to groups of young males:

'You find in most cases none of them have lived in private accommodation so they don't know how to conduct themselves... You've got a young person who's not mature enough to get the plot and they're also in a situation where you're picking up [the consequences of] their bad habits if you like and you're trying to sort that out and that's the problem' (Landlord 2, male).

Exclusion at the initial enquiry stage

Landlords often vetted 'applicants' at the initial enquiry stage, using telephone conversations as a convenient medium to 'screen' tenants, offering only suitable enquirers a viewing. Telephone screening tended to be adopted when landlords were trying to 'match' prospective tenants with specific criteria which had not been previously specified, (for example, to establish whether the tenant was working or not), and were able to introduce the topic into the conversation and so minimise viewings with unsuitable enquirers. This practice was prevalent amongst landlords letting property that was formerly their own home, where tenants were often expected to perform a specific duty, usually gardening, or where an individual tenant was sought to fill a spare room and the preferences of existing 'good tenants' had to be considered (see Bevan *et al.*, 1995) in order to maintain the *status quo* of the

household. This 'matching' posed difficulties for 'applicants' who not only had to be judged as potentially 'good tenants', but also had to possess particular attributes. An example of this is where a landlady described the procedure she adopted in order to find someone to fit in with her longest standing tenant:

'I do sort of vet them on the phone...I'm quite careful when people phone up that I do get somebody who is a bit younger actually and people that I feel will get on with [name of original tenant] because she's sort of the main person....Well I ask them if you know, they're working and if so what kind of hours do they work...I usually end up having a bit of a chat...I think you can usually get a good feel for somebody even on the telephone' (Landlord 6, female).

Selection/rejection based upon initial impressions

Initial impressions at the viewing stage were also important. Landlords routinely, and often unconsciously, adopted a technique of 'listen', 'look' and 'decide' with visual information assuming a heightened importance for the basis of selection. Landlords commonly made predictions about the intrinsic qualities of young people and their behaviour based upon appearance and conduct. Young people who 'look responsible' and who 'dress reasonable, speak reasonable, conduct themselves in a reasonable manner' were preferred and were more likely than those who were 'really scruffy' or who had, for instance, 'tattoos' and 'piercing,' to be offered accommodation. However, as Goffman, (1984) and Hinton, (1993) point out, superficial judgements based upon limited information, under uncertain conditions and within time constraints are not always accurate indicators of the character of an individual. To enable distinctions to be made between a potentially 'good' or 'bad' tenant, attempts were made by a number of landlords to look beyond appearance and acquire further information during an 'informal interview' at the viewing stage. One landlord described his open minded approach to selection:

'You learn very quickly that just because they've got long hair, earrings and

tattoos that [doesn't mean that] they're not going to be a nice person, because you realise you've got to talk to them and then you make the judgement' (Landlord 9, male).

Landlords' selection practices also revealed the importance of 'instinct' and 'gut feelings' based upon both positive and negative initial impressions. Landlords frequently described experiences where they had met a prospective tenant and thought 'as soon as I met him I knew he was a wrong 'un'. In contrast, several landlords described how they felt when they found 'exceptional' tenants, on initial impressions, and 'were highly delighted' to let them have the property, and were prepared to make concessions relating to financial requirements because they 'liked them so much' (see below).

Landlords letting to students approached selection in a relaxed manner with little evidence of the rigour used by those selecting non-students. Those letting to students were able to select using a more restricted set of characteristics in order to make judgements about tenants, reflecting the relative 'safety' of letting in this particular niche market. Both the University and the Law College were marked out by the landlords interviewed as only attracting the 'well healed' and as a consequence 'you get a good set of students' with landlords tending to base their selection criteria on a 'first come, first served basis'. This reflects the predictable nature of letting to students and acceptance that 'you'll always get your rent, they won't wreck the place, but they're not very clean'. Nevertheless, although landlords letting to students were more tolerant of unconventional clothes and appearance, the conduct and manners of young people remained very important and high standards were required.

Selection/rejection based upon references

Only four of the fifteen landlords used additional checks via formal referencing procedures after meeting prospective tenants. However, these formal procedures were used in an informal way. Referencing procedures can be used to gather further information from third parties, confirm details about prospective tenants, improve

the decision making process, and minimise the potential risk of letting to someone who is unsuitable (see, for example, Dale, 1995). However, the majority of landlords relied heavily on appearance and instinct (in addition to financial requirements, described below), to select tenants and rejected more rational approaches towards protecting their interests. Where references were sought these included, 'character,' 'previous landlord' and 'employer'. Bank references were not used as they 'aren't really worth the paper they are written on and it costs'. However, none of the four landlords exercised rigour in following up references, as the process of obtaining referees' names and addresses was considered to be sufficient in itself as it indicated 'trustworthiness'. Moreover, some landlords were happy to take an employer's or previous landlord's letter from tenants, on trust, without confirming its authenticity or the accuracy of the contents. One landlord's procedure sums up this general feeling:

'We have a two page application form which is very stringent and is used to deter unsuitable applicants. The form requires an employer's address, bank details and current landlord. It would take too much time [to check them] and the bank references don't really mean anything. I think it's just the fact that you ask for all that information and they put it down, it shows they are willing to have these people contacted' (Landlord 8, male).

In contrast to the lack of importance attributed to the legal framework, the recruitment and selection of tenants was much more important for landlords, who were actively involved in this process. Landlords' assessments of prospective tenants' character and moral probity were considerably more important to them than obtaining or understanding legal advice, highlighting the importance of social practices over legal principles. Both formal and informal methods of recruitment have equal prominence, however, the particular method of recruitment employed did not have a significant influence upon the selection methods adopted. The selection process is of overriding importance, as landlords have direct and complete control over entry to their property. Prospective tenants can be legitimately de-selected at

various stages without rejection appearing to be a discriminatory practice, highlighting the freedom of landlords and the imbalance of power between parties at this early stage. Furthermore, few landlords crosschecked the suitability of particular tenants. In the absence of an explicit set of allocation principles, each landlord adopted a subconscious 'person specification' to use as the basis for selecting preferred tenants. Landlords' judgements of tenants were often based upon feelings, and a range of arbitrary social criteria, rather than upon knowledge or experience of particular groups, and accommodation was allocated accordingly. In addition, the rigour of the selection techniques adopted by landlords were likely to reflect both their perceptions of risk *and* their perceptions of how easily tenants could be evicted. This is discussed further in Chapter Seven.

SEARCH STRATEGIES

Young people

The first step in the process of finding accommodation for young people is identifying the sources of information which will be useful for them and aid the search process. The search strategies adopted by particular types of young people were inevitably influenced by the available sources of supply side information. In response to landlords' recruitment methods, non-students used local newspapers to find accommodation with no evidence from the data that personal contacts were important for this group. In contrast, students relied heavily upon information sources from their own institutions, such as, 'accommodation office lists' 'small-ads on the web' and 'signs on the SU notice board'. Informal contacts, such as friends already living in the PRS were also particularly important to students.

The three tenant types, that is, students, working tenants, and housing benefit claimants, encountered very different experiences during their respective search processes. It was common amongst students to identify a set of priorities and preferences in relation to the accommodation sought, with location being of major importance. However, cost, condition, property type, and amenities, such as whether there was a living room or a washing machine, were also factors which influenced

decisions to seek a particular property. In this respect, students *initially* made conscious and rational decisions about their accommodation goals and acknowledged the resources and constraints involved in line with a strategic approach to search (Crow, 1989; Pickvance and Pickvance, 1994). There was also evidence from the five students interviewed that once they had spent a year in the PRS they used this experience as a benchmark and sought to improve upon their current circumstances, especially if they were entering their final year. The main aspirations cited were to 'find somewhere a bit nicer', 'live nearer campus' or to 'find somewhere a bit cheaper'.

However, although students had pre-formulated ideas about the type of accommodation sought, only two of those interviewed used the 'accommodation lists' supplied by their particular institutions to plan rational search strategies and only one student described the search process as 'easy'. A particular characteristic of student search patterns was the lack of purposive or co-ordinated approaches to achieve their accommodation objectives. Instead, opportunistic and unconventional methods often resulted in students finding suitable accommodation prior to commencing 'formal' search strategies. An example of how 'easy' it was to find accommodation in such a way, was described by a now working tenant who found her current accommodation when she was a student:

'...by chance I happened to meet this guy in one of the clubs in town and we just got talking and he said how he lived on [name of street] and I was saying about how I wanted to live on [same name of street] and basically he said "Come back round and have a look" so I went. I thought "Yeah, it's a really nice house" and then got in touch with the landlady and then we all came and had a look round and that's how we got the house. A real fluke' (Tenant 2, female, 21 year old, working full-time).

The data indicated that, for students, effectiveness in securing accommodation was much greater when the information came from personal contacts. It was more

common for individuals, as opposed to groups, to find accommodation in this way. Two of the five students described how they found their present accommodation without searching, where existing groups had a spare place and 'needed a fifth person, so I just kind of joined them'. The experiences of existing students and ex-students interviewed confirmed that recruitment to fill a single vacancy was a relatively common occurrence and tended to take place late in the peak search period when the majority of students were 'all sorted out for houses'. Single students were often looking for accommodation at this stage as a result of an unexpected change in circumstances, for example, where they had not succeeded in obtaining a place in Halls of Residence (see Maclennan and Wood, 1982). All available information flows were exploited at this point, with 'asking around' being the most favoured option in addition to 'putting a note on small-ads' and 'advertising at the accommodation office and in the library'.

Although two of the five students interviewed did adopt more rational search strategies, students more so than non-students, were able to exploit a variety of unconventional methods to find accommodation. Such behaviour is contrary to rational goal directed activity and runs counter to traditional concepts of search behaviour, (see, for example, Clark and Flowerdew, 1982) where information gathering in conditions of uncertainty and constraint, and the decision to stop searching are of prime importance. Instead, for students 'who you know appears more important than how you search' (McCarthy, 1982: 51).

In contrast, the methods adopted by non-students to find accommodation were rational and purposive, in line with strategic behaviour. Unlike students, non-students were more often constrained by the immediacy of securing accommodation, often with limited resources, particularly claimants, but also those who were working and had low incomes. These limitations meant they remained 'open-minded' about the desired outcome of their search, with none of these young people identifying a set of criteria prior to looking for accommodation. Non-students were less likely to associate with contacts who knew of available and suitable accommodation and so

gathered information about vacancies from local newspapers and accommodation lists from the local authority. In addition, students and non-students differ in that non-students conduct their searches irrespective of market conditions, rather than during a specific fixed period of time and search patterns were characterised by their urgency with short time-scales between searching and moving.

Two working tenants, (in contrast to none of the claimants and only one student), stated that it was 'not hard at all' to find accommodation as they were not limited by financial constraints and also because they were looking singly and so fitted into a vacancy in a pre-existing household. These points indicate that lack of financial resources and searching as a group were likely to pose the main sources of constraint upon finding accommodation, hence the tendency of claimants to search individually and the extended search and viewing periods of groups (see below).

It is acknowledged that housing benefit claimants face particular difficulties in accessing accommodation, (see, for example, Bevan *et al.*, 1995; Kemp and Rugg, 1998; Manchester City Council, 1999) and this was true of those interviewed. Claimants experienced constraints and restricted choices during the search process and in relation to their final choice of accommodation as a result of limited finances and discrimination. All of the claimants interviewed found their search for accommodation 'very difficult' and 'stressful', having 'to spend night and day really, really going for it'. The experiences of claimants confirmed landlords' practices of exclusion prior to enquiry, resulting in fewer available options and a scarcity of property, as a male claimant described:

'...the places in the paper weren't so good because they are all "No social"...but the list of landlords [from the local authority] they usually said whether or not they took housing benefit. Nearly all of them said 'No, we've got nothing' and I phoned up every single one of them from the phone box and I eventually came across this place which was the only place which was actually available at the time to me in my price range and everything' (Tenant

6, male, 21 year old housing benefit claimant).

Vetting prospective tenants at the initial enquiry stage, was also in evidence, as a female claimant explained, 'as soon as I mentioned that I was on Housing Benefit they really didn't want to know'. The difficulty in finding 'somebody sympathetic' to offer claimants a viewing prolonged the search process, which in some cases took up to six weeks of intensive searching before an offer of a viewing was made.

Compared with students and working tenants, claimants viewed fewer properties, either one or two, usually taking the first one they saw. In addition, none of the claimants interviewed had requested a pre-tenancy determination to establish their housing benefit entitlement. Three of them had 'never heard of it' in spite of having obtained accommodation lists from the local authority, and the other two because of the speed with which they needed to respond to an offer of accommodation.

Group moves were made by three of the five students and were also in evidence to a lesser degree with working tenants, however, claimants tended to move individually. Problems were cited by those involved in group moves as the preferences of group members placed constraints on the search, influencing the duration of the search period, the number of properties viewed and the ultimate choice of accommodation. Group moves involved (where opportunism was not a factor) extensive search and extensive viewing, with ten or more properties viewed, as 'it's difficult to find something suitable, that's the right rent and suits all the other housemates and is in the right place'. The ultimate constraint of time, the likelihood of finding more suitable accommodation and the speed with which searchers need to respond to secure accommodation, inevitably influenced the decision about whether to take a particular property. However, as a result of the differing circumstances of the three tenant types, certain factors were more significant than others in deciding to end the search. For students, the nearness of exams and the ending of the peak search period combined with the uncertainty of the benefits of prolonged search prompted 'the question of "Are we going to find anything better?"' and acceptance of accommodation irrespective of the mode of search. More immediate implicit or

explicit competition from other searchers and the potential threat of losing accommodation influenced the speed with which decisions were reached by all tenant types. The exhaustive efforts made by claimants during the search process simply to secure a viewing, resulted in acceptance at the viewing stage by all five claimants interviewed, as continued search was likely to prove costly in terms of time and the effort expended.

It is evident that local market conditions and the circumstances of tenants have a significant influence upon search behaviour, the choices of accommodation available and decisions about whether to take particular accommodation. The conditions in which young people undertake the search for accommodation are complex and a range of factors, both implicit and explicit, result in rational and non-rational approaches to secure accommodation. Search behaviour amongst students is the most variable with chance meetings and, as discussed in the previous section, pro-active approaches made to landlords, all in evidence. Non-students adopted formal rational strategies to secure accommodation with housing benefit claimants facing the greatest difficulties with protracted search periods and limited viewing opportunities. The data also revealed that having clear ideas about the type of accommodation sought did not automatically result in goal oriented search behaviour to secure such accommodation.

FINANCIAL REQUIREMENTS

Landlords and young people

Once the process of setting up the tenancy is underway and landlords have selected suitable young people, both parties have to address several practical issues. The financial aspects at this stage in the relationship relate to the *organisation* of payments of rent, rent in advance, and deposits. The extent to which landlords used financial safeguards to protect their interests varied, with a range of levels of economic stringency in evidence. It was standard practice for landlords to require groups of tenants to set up direct debits/standing orders from a 'joint household account' or pay the whole households' rent in 'one cheque' with payment usually

required 'on the first of the month'. Similarly, where tenants paid individually, landlords preferred payments into their bank account either by standing order/direct debit or by using a 'paying in book'. In a few cases landlords asked tenants to send cheques to them on an agreed date. Impersonal methods of payment were preferred by ten of the fifteen landlords as it was less time consuming than collecting payments, less administratively onerous, as payments could be monitored easily, and it avoided the embarrassment and awkwardness of asking for the rent each month. Furthermore, where payment was via a household account, the responsibility was placed on the household to internally manage any individual financial difficulties that occurred. This was advantageous for landlords as it distanced them from these difficulties. In contrast, five landlords considered the preferences of young people and were prepared to inconvenience themselves in order to accommodate their preferred methods of payment, as a landlady described:

'I ask them when they move in whether they want to pay by standing order into the bank or if they want to pay by cheque and generally most people prefer just to write out a cheque. I actually go round and get it, yeah. They leave cheques out on the side and I just go in. I mean one is on the 3rd, one's on the 11th and one's on the 22nd, so I actually go round three times in a month to collect the rent' (Landlord 6, female).

It was routine and standard practice for landlords to require one month's rent in advance, and a deposit usually of 'the equivalent of a month's rent' at the outset of the tenancy. These requirements constituted a basic level of economic protection, although it was recognised by a number of landlords that the sum of money required in one instalment was high:

'It's a very difficult situation because a month's bond and a month's rent is quite a chunk and I often feel almost guilty that you take that much money off them. But when you look at the practicalities of it you do need that month's bond as cover or leverage because if you run into problems with somebody

and they won't pay their rent, it could be three or four months before you get them out, so you're going to be having problems' (Landlord 8, male).

Although a month's rent in advance and a deposit of one month's rent were the norm, not all landlords took these practical safeguards against potential problems and to compensate for any losses. Economic motivations were not always the main concern of landlords and low levels of economic protection, for example, stipulating a low deposit or no deposit, were in evidence. Of the landlords interviewed, one did not take a deposit and five took a deposit of less than one month's rent. Similarly, of the tenants interviewed five had paid a deposit of less than one month's rent and one did not pay a deposit. Landlords relying on informal recruitment methods, such as personal referrals or existing tenants, were more likely than landlords using formal advertisements to require low deposits or no deposit at all. This practice was evident across all three tenant types. Some landlords were more lax than others in terms of financial arrangements, basing their decisions about the amounts charged for deposits upon the perceived difficulties of tenants. One landlord explained this practice in relation to students:

'I charge £75 which is half a month's rent. It seems that when they first come they are at the end of the term and they are struggling...' (Landlord 10, male).

In addition, where landlords selected their tenants because they felt they were exceptional or 'really liked' them, as discussed above, they were prepared to, for instance, offer discounts and have the deposit paid in instalments. Clearly, the two accounts provided here indicate that some landlords are not protecting themselves adequately against the risks of rent arrears and/or damage to property and their behaviour is not in accordance with the expectations of rational economic theory, as discussed in Chapter Three. In both of these instances social factors modify behaviour in markets (Taylor-Gooby, 1999). In the first example, the landlord discounts deposits as a standard practice, while in the second example, the response is in relation to a particular case and can be seen as a 'lapse' (Hirschman, 1970) from

rational behaviour, although not accidental.

In contrast, stringent levels of economic protection were evident where landlords' demands exceeded the standard payment of one month's rent and a deposit in advance. Landlords simply assumed that tenants would comply with these requirements and did not expect tenants to negotiate. Some tenants inevitably experienced difficulties in complying with these requests, however, they invariably managed these demands without question or negotiation, regarding these payments as a necessary and compulsory aspect of securing accommodation.

'Parents,' 'friends,' 'a big overdraft' and 'working a couple of extra shifts' were frequently used to meet the initial payments of rent and a deposit, irrespective of whether the sums were standard, low or high; however, these resources were primarily available to those who were working or students. Tenants in receipt of housing benefit faced particular difficulties meeting these initial payments regardless of the amount required and also faced the problem of waiting for claims to be processed as well as payment in arrears. One housing benefit claimant was supported by a local Bond Guarantee Scheme, while the other four borrowed money from friends or relatives and in one case used 'some savings'. In addition, a 20 year old student and her household had to meet exceptionally high initial payments because the landlord required the rent to be paid 'quarterly in advance'. Although the rent was felt to be 'reasonable' the payment of 'such a big chunk of money' caused some difficulties.

The form of additional security most often required, although not routinely, involved third parties, usually parents, acting as guarantors to protect landlords against a young person 'doing a runner'. However, landlords' intrusive requirements were possibly based upon outdated assumptions that tenants *can* approach and *will* approach their parents for financial assistance. These ideas also stem from assumptions that parents will be agreeable, and financially able, to take on the responsibility of guaranteeing rent for a legally independent adult. Many young

people seeking accommodation in the PRS do not have conventional family backgrounds (see Chapter One), and have a range of life experiences. For these reasons, and others, young people may not have parents, may be estranged from them or would be unlikely to receive support from them, while others may be unable to approach parents for assistance, whether financial or otherwise. A female claimant described the problems arising as a result of such requirements:

‘...he was happy to take me as long as I had guarantees from my parents, he also wanted my parents’ addresses and that if I got into rent arrears that they would pay it for me. With my dad yes, [it was a problem] which I’m not speaking to at the moment because of it, and with my mum no, except for her husband, he doesn’t know that my mother’s got anything to do with giving me help, so that caused vague problems in that it has been done without my step-dad’s knowledge’ (Tenant 5, female, 23 year old housing benefit claimant).

Three landlords used less direct methods of involving third parties by asking tenants for ‘contact numbers’ of relatives and/or friends in case of an emergency. This provided landlords with a potential means of tracing defaulting tenants and was the underlying reason for their requests. A method adopted by one landlord, relied upon assumptions that tenants would behave rationally and also that they would be deterred by the threat of parental control from ‘running off without paying bills,’ as he described:

‘...you would psychologically make them believe that in the event that they ran off, although you had a £100 bond you’ve got the parents’ address....They had to show a gas bill, an electric bill and some other form of bill of the mum and dad’s house. It stopped them because they thought "Well hold on, they’ve got our parents’ address". It’s telling them that they’ve got a responsibility and if they break that obligation or that responsibility you’ve got an address where you can actually go back to, you know’ (Landlord 2, male).

Overall, landlords' approaches to financial protection varied considerably. A number of approaches involving additional economic control were adopted to underpin and co-exist with selection techniques. The empirical evidence suggests that it is misleading to rely on microeconomic theory as an indicator of economic behaviour, as this can lead to naive assessments of how landlords will behave. Landlords' behaviour is unpredictable and in some instances deviates from rational market models as trust and altruism replace profit maximisation and self-interest. Tenants simply accepted the financial requirements of landlords as an inevitable feature of securing accommodation. Across the three types of tenant there was, inevitably, variation in ability to pay both rent in advance and deposit, however, these difficulties were managed in a variety of ways.

THE ROLE OF LETTING AGREEMENTS

Landlords

As discussed in Chapter Two, the contractual relationship between landlord and tenant is enshrined in the use of a letting agreement, which embodies legal principles and rights and obligations. Contractual arrangements have been described as being at an 'extreme of trust' (Baier quoted in Hardin, 1993: 506) and are conventionally used to minimise risk and uncertainty in relationships by enhancing predictability and engendering expectations in each party. However, since the 1996 Housing Act, there are no legal requirements that an assured shorthold letting should be in writing. Therefore, those relationships where a letting agreement is absent are potentially open to more flexible interpretations about the nature of individual relationships. Nevertheless, although this situation could be highly advantageous to landlords, twelve out of the fifteen interviewed stated that they used letting agreements with fixed terms usually for a period of between six to ten months.

Of the twelve landlords using letting agreements all stated they used assured shortholds, although one said they used a 'protected shorthold' - a legal status which does not exist - and is likely to be an assured shorthold. In addition, a variety of

agreements were used (see Appendix Four). The majority were standard ‘off the shelf’ agreements, some modified by landlords. Several were more comprehensive agreements, for example, those of the Law Society or the Royal Institute of Chartered Surveyors. Three landlords did not use agreements. One of these landlords never used agreements and instead used a self-devised list of ‘House Rules’, another landlord no longer used agreements because they were ‘pointless’ and finally, a landlady never used agreements, but incorrectly used rent books for non-weekly tenants but did not keep them updated as she ‘just didn’t fancy writing them up’.

As discussed above, the acquisition of legal knowledge is not considered to be a pre-requisite to letting property. The ease of purchasing letting agreements as a way of setting up the tenancy relationship, does not encourage or motivate landlords to seek advice. Instead, the use of ‘off the shelf’ agreements provides them with an ‘easy’ and inexpensive, yet acceptable route into the rented property market, without having to engage in detail with the legal framework. In this respect purchasing an agreement replaces information gathering to gain an accurate knowledge of the legal framework (Thomas *et al.*, 1995; Lister 2001). The twelve landlords who used letting agreements commonly referred to them as ‘straightforward’ and one landlord sums up the common sentiments expressed:

‘It’s a very simple procedure...it’s a simple form to fill in, just fill in the gaps really and cross out the odd paragraph’ (Landlord 3, male).

This procedure highlights the ‘amateur’ (Kemp and Rhodes, 1997: 130) and unregulated nature of the private letting industry where management skills, expertise and an adequate grasp of the legal framework are not a pre-requisite to property letting. As landlords were able to use letting agreements without obtaining guidance or understanding the implications of their contents, they were often justifiably deluded into thinking that letting property within a legally valid framework was ‘simple’. Such a straightforward procedure makes entering into a legal relationship appear to be a routine formality leaving the essence of the legal framework

unexplored, as merely using an agreement is not tantamount to an acquisition of legal knowledge.

Ten of the twelve landlords using agreements regarded them as 'essential'. The prevailing attitude was that agreements provided a 'starting block' for the relationship and defined its 'parameters'. They were necessary precisely because they were 'in writing' and formally written, as 'any documentation with a person who's intelligent tells them that you're serious'. Therefore, letting agreements served to operationalise relationships and define limits without landlords having to engage in detail with their contents. In this respect the use of an agreement is symbolic as it provides the relationship with a formal basis, regardless of the rights it bestows or the limitations it prescribes.

However, using letting agreements was not considered important by all of the landlords interviewed. Two landlords expressed similar sentiments that letting agreements stood in opposition to trust (see Baier quoted in Hardin, 1993: 506). One stated that they would prefer to 'rent to someone and not even have a contract, you know, trust them, be friendly' and a landlord letting to students and claimants, using only 'House Rules' expressed the opinion that he had 'always just taken people's words as being good enough'. These reasonings indicate a 'relational' approach to the legal framework, where legal formalities are interpreted in terms of social relations (Conley and O'Barr, 1990: 61). These strong relational attitudes stem from the notion that specific rights are derived from a close affiliation with property (McCrone and Elliot, 1989) and that these rights are translated into social relations with tenants and their mode of occupation in the property (see Chapter Six). The law is perceived as interfering with rights of property ownership. Relational approaches to property, therefore, reflect the difficulties some landlords have in recognising and acknowledging legal issues (see, for example, Berlins, 1990: 9) and instead they perceive the law as a remote backdrop to relationships, as opposed to an integral feature of day-to-day activities.

Personal letting ideologies, attitudes towards young people, and the landlords' desire for control of the internal structures of the relationship were important factors in decisions about whether to provide tenants with information about tenancy arrangements. For a number of landlords, providing tenants with documentation was tantamount to introducing irrelevant external legal controls into the relationship which conflicted with their rights over property and rights over tenants. Four landlords (three who did not use agreements and the landlord below) felt that letting agreements bestowed legal rights upon tenants but not upon themselves, therefore it was in the landlord's interests to minimise these rights and conduct the tenancy along informal principles. A landlady compares the rights she has now with those she believed she had prior to using documentation:

'I don't think it's important to have an agreement. But I suppose it is important for the tenant because it means they can live somewhere for whatever period is on there, but I don't think it means anything to me does it? I've not really gone into what it means. If I didn't like them, they went and I didn't have any problems, right, month's notice, gone. Now, I've had to give them bloody shorthold tenancies and now I've got to give them two months' notice and I have to wait all this time to get rid of them, without saying "You can go next month, I need the room" or something like that' (Landlord 5, female).

In addition, although using agreements operationalised relationships, their contents may be 'vague' and impart only a limited amount of information to tenants. The extent to which agreements constitute informative documents, clarifying rights and responsibilities and providing tenants with relevant and adequate information to aid the smooth running of relationships was minimal. It was common practice to supplement or modify the contents of agreements with *verbal* information, as opposed to written amendments or modifications to the actual document (see below). This practice introduced a two tier system of rights and obligations and also led to confusion as verbal information was more likely to be remembered than written

information, given its immediacy, notwithstanding that speech may obscure or conceal basic rights with inaccurate information, as a landlady revealed:

‘It doesn’t say anything about notice to vacate or anything like that in the tenancy agreement, so I do say, you know, it’s got to be a month on either side’ (Landlord 4, female).

The extent to which landlords made written amendments or modifications to the contents of letting agreements in accordance with their own personal requirements and preferences was limited. In the absence of taking legal advice or acquiring information about the letting process, landlords were largely unaware that they could modify agreements, as they often considered the contents to be ‘fixed’, with written amendments invalidating legal arrangements. Furthermore, as modifications were generally of a personal nature, landlords were likely to consider that they fell outside of the scope of legal documentation and instead, as discussed above, modified the agreement verbally.

Only three landlords attempted to minimise potential risks on an individual basis by modifying letting agreements. All three of these landlords let to students. These three landlords did not passively accept agreements as a way to operationalise relationships or as a way of formalising arrangements, but were interested in, and actively engaged with their contents. Experience of letting property and awareness of the role agreements play in structuring behaviour may have influenced decisions to modify them. Two of these landlords had let property for in excess of five years and the third used letting agreements during the course of her employment. The modifications ranged from simply adding clauses taken from other agreements or ‘on the recommendation of past students or the SU’, which included basic restrictions, for example, ‘No candles’, to constructing a letting agreement from a number of others. Although, landlords added clauses to agreements for their own ‘peace of mind’ and to protect their property, for example, requiring tenants to leave heating on over the Christmas period, surprisingly, the overriding impulse was to simplify

and/or modify the terms of agreements so as not to adversely affect or restrict tenants' enjoyment of their homes. Clauses which 'asked too much,' such as, dry cleaning curtains at the end of the tenancy, were removed and letting agreements were simplified to 'avoid ambiguity' or re-drafted to remove clauses such as 'Thou shalt not wilfully and unlawfully stick drawing pins in the wall'.

In spite of optimistic legal assumptions of equality between the parties, young people rarely had an active role in individually negotiating the contents of letting agreements. They were rarely a product of agreement between the parties with landlords typically expressing inflexible 'take it or leave it' attitudes and assuming tenants would simply accept the terms and 'if they're not happy they don't sign it'. Landlords, therefore, exercised considerable authority over young people by preventing the negotiation of agreements (Harvey, 1964) whilst leaving themselves open to action under the auspices of the Unfair Terms in Consumer Contract Regulations 1999 as a direct result of not individually negotiating agreements with tenants. In addition, where tenants were charged less than a market rent and/or a low deposit or had bills or services, for example, cleaning, included in the rent, negotiation of agreements was considered to be out of the question as landlords considered that they were doing tenants 'a favour'. This attitude falls neatly into the realms of social exchange theory, as described in Chapter Three, and highlights the role of social relationships as a contributory factor in negating equality and the basic legal rights of tenants.

Furthermore, landlords very rarely explained the contents of agreements to young people in order to clarify expectations and obligations. Only one landlord, letting to working tenants recognised a feature that may be common to young people, in that even if they read the agreement, they may not necessarily understand it. As he explained:

'I normally sit down here and I say, "This is what I'm going to do and this is what you've got to do". Otherwise they wouldn't read it and they wouldn't

understand it. Most of them would just sign anything you gave them, they just want to move in and they don't really care what they sign' (Landlord 8, male).

This landlord was familiar with the legal framework and so was *able* to explain the contents to young people. However, landlords were often unable to explain agreements to tenants as they did not possess a thorough understanding of the contents or the legal framework, as they used agreements simply to formalise the relationship. The majority of landlords regarded the legal framework as external to their relationships, rather than as a basis for it, therefore, explaining the contents of letting agreements was unimportant and unnecessary. However, explanations can constitute an important stage in the formation of relationships as landlords can re-assert the positions of the parties, clarify expectations so that disappointment is minimised when the tenancy begins, and safeguard against risks by reiterating and making explicit rights and responsibilities. The potential for utilising this stage was evidently eroded by lack of knowledge. Instead, exchange of information between the parties was limited rather than maximised. The prevailing attitude amongst landlords was that once tenants had been given a copy of their letting agreement, further explanations were unnecessary:

'Well I mean, all the things that they expect to ask me about are laid out, [in the agreement] you know like what they'll have to pay for and what the rent includes all those sort of things. So really it's all explained to them...'
(Landlord 14, female).

The responsibility for reading and understanding agreements was placed upon young people, as they entered into the relationship, in theory, as a legal equal with the landlord. However, all of the landlords letting property to students advised them to have the agreement checked 'at the SU' or 'by the welfare adviser'. A further reason cited by landlords for not explaining agreements to tenants was that they would not appreciate it as it would appear patronising and as if they were being treated like

‘kids’.

Letting agreements are a social construction of legal phenomena and the ways in which they are used by landlords provides an insight into the level of importance landlords attach to the legal framework. Lack of industry standards make it procedurally easy for landlords to access and use letting agreements without obtaining knowledge of the legal framework. Generally, landlords regarded the presence of a letting agreement in the relationship as important; however, the contents were rarely regarded as significant as they were hardly engaged with in detail. Negotiation of the contents of agreements was not evident and landlords simply assumed that young people would accept the agreement as it stood.

The extent to which letting agreements were used to minimise risks and clarify rights and responsibilities, providing tenants with adequate information was minimised by the actions and attitudes of landlords who rarely engaged with agreements or explained their contents. The onus was placed upon young people to understand agreements themselves and in this respect they were treated as legal equals by the landlord. However, in relation to other arrangements during this phase, young people were evidently in an unequal position and this refutes the fundamental liberal assumption of equality between contracting parties. Therefore, the extent to which letting agreements are a product of shared agreement and reflect an ‘equitable balance’ between the respective interests of the parties is negligible.

NEGOTIATIONS, DISCUSSIONS AND EXPLANATIONS

Landlords and young people

As discussed above, the extent to which the contents of letting agreements are used to specifically provide young people with relevant and easily understandable information is negligible, as agreements are not viewed as performing this specific function in the relationship. Instead, verbal information is a prominent and more important aspect of the setting up phase of relationships and is likely to prove more memorable, forming part of the ‘psychological contract’ (Dale, 1995: 97) during this

critical setting up phase. In the light of assumptions of equality between the parties, the extent to which negotiations were undertaken in relation to financial issues is discussed, in addition to the context in which negotiations take place. The role and adequacy of general discussions and explanations about practical issues relating to the property and the tenancy is then explored.

Negotiations

In terms of financial arrangements, as discussed above, both landlords and young people regarded the initial payment of a deposit and one month's rent in advance as an inevitable feature of setting up the tenancy. Landlords simply assumed that young people would comply with financial requirements and did not expect them to negotiate. Negotiating the amount or the method of payment was not common amongst tenants and even where financial hardship was evident, landlords' requirements were generally accepted without question. The most common reason expressed by tenants for not negotiating was that the rent and the deposit were 'reasonable'. However, it was relatively common for young people not to contemplate negotiating because the landlord did not appear amenable to discussions and that 'it was pretty much set in stone, the rent so there was no room to manoeuvre on that really'.

The views of landlords supported the perceptions of young people in that they were loath to negotiate on rent and deposits because 'you'll let it anyway' and they expressed the attitude that having already *told* prospective tenants what the rent was 'there's no need to go into further discussions about it because it's already been sorted out'. The approach adopted by the majority of landlords was to effectively atrophy the 'voice option' (Hirschman, 1970: 4) available to tenants, prevent them from entering into negotiations and negate their right to an equitable relationship from the initial stages of the tenancy. Where tenants attempted to negotiate with landlords, it was perceived as denoting financial insecurity and a potential risk, as one landlord stated:

‘I’d be gravely suspicious if they hadn’t got that amount of free money, they probably couldn’t afford it anyway’ (Landlord 8, male).

However, several landlords exercised discretion and agreed to requests that did not require foregoing or reducing the required amount of economic protection, but where postponement of, or a variation in the method of payment was sought. One landlady explains:

‘...she was going on holiday and she said "I’m really desperately skint, would it be OK if I didn’t pay you, if you took it out of my bond and then I gave it back when I come back?" and I said "Yes, that’s OK". So we kind of didn’t have a bond for about a month and then she paid me it back’ (Landlord 6, female).

Young people rarely found themselves in such favourable circumstances and were often hesitant to negotiate during this initial sensitive stage because they were unsure of their landlord’s response. In addition, they may have little choice but to accept their landlord’s requirements, even if they are onerous, as a 21 year old student explains when asked if anything was negotiated at the beginning of the tenancy:

‘No actually, nothing at all. I think they took advantage of the fact that it was very late notice and we didn’t have a choice. We either took this or nothing so they, I think they exploited that quite well...’ (Tenant 8, male, 21 year old student).

Discussions

Both landlords and young people were asked about the issues they discussed and whether landlords explained how appliances worked and gave tenants information about the general running of the property. The information exchanged during these face-to-face interactions creates an image in the tenant’s mind that is likely to be more prominent than the image gained from documentation, given that agreements

may not be read or understood properly. A student highlighted the tension between the written and the spoken word, attributing what he is (not) told to be of greater significance than the provisions in his letting agreement:

‘I mean there’s no rules, like you know, some houses kind of like they don’t like smokers or something like that. There’s nothing like that. Nothing was ever specified about it. We were never told’ (Tenant 8, male, 21 year old student).

Discussions between the parties were of a practical nature, for instance, relating to the amount of rent, and council tax. The condition of the property and repairs were also discussed, especially where tenants were concerned about the extent of disrepair. Tenants were also keen to establish the range of facilities available, for example, ‘whether there was a washing machine and kitchen appliances and that kind of thing and where we could park’ and clarify ‘what he was willing to let me do to the room, could I paint it?’ and whether the landlord would provide ‘a few other things, like shelvings’. Some tenants stated that they did not discuss or ask for anything because there ‘wasn’t an awful lot that I needed’ or that they were ‘just relieved to have finally found somewhere’.

The subject matter under discussion was non-contentious and potentially easier to discuss than legal or financial issues, yet young people evidently felt uneasy, or that it was inappropriate to initiate discussions at a crucial stage in setting up the tenancy. A number of tenants stated that they did not initiate discussions as landlords pre-empted them by making promises to repair and/or improve the property. Young people also recognised a number of factors affecting discussions. External factors included the length of time spent looking around the property, the personality of the landlord, and the circumstances in which the viewing took place. A range of personal factors, such as, shyness, embarrassment, and lack of confidence also hampered discussions. A particular difficulty was the inability of tenants to articulate their queries effectively during face-to-face meetings, notwithstanding that they had

planned what they were going to ask. This was evident with both individuals and groups of tenants, including students, where communication skills and social capital were not necessarily transferable from one sphere of relations to another. This also reflects the vulnerable position of all of the three types of young people in the market as much as a lack of awareness about what to ask. A student explained the difficulties of the whole group during their first experience of viewing property, where group solidarity did not facilitate confident or skilled discussions:

‘We didn’t know what to ask. We wrote a list of what we were going to ask the landlady and on the evening I don’t think we asked any of them...it’s not good practice ... we were all nervous, there were five of us and we were all trying to talk to her at the same time and we didn’t really make much sense of any of it’ (Tenant 9, male, 20 year old student).

Furthermore, assumptions made by both landlords and tenants about specific issues often prevented the initiation of discussions about these topics. This was particularly evident in relation to deposits and furniture inventories. Discussions about deposits were typically confined to the amount payable as opposed to the grounds on which the deposit could be forfeited. Of the fourteen landlords who required a deposit, none of them had discussed or explained the circumstances in which the whole or part of the deposit would be withheld. The main reason cited for this was that they simply ‘assumed’ tenants would know what the deposit was for, as ‘most of the people that you see all seem to have been into the details of it’. Landlords acknowledged that it was in their own interests to be ‘vague’ about or omit to cite the circumstances in which deposits, or part of, would be withheld and so limited the amount of information imparted to tenants. One landlord explained the practice he adopted:

‘I put on the receipt that I send to them that it’s a deposit against damage etc. If I was too specific people can get a bit pedantic and say you can’t stop it for that, so really it’s ambiguous on my part’ (Landlord 9, male).

Tenants' experiences confirmed this approach and none of the fourteen tenants who paid a deposit could recall being told about the circumstances in which they would forfeit it, nor had they sought clarification about this point. Instead, young people simply filled in the information gap with predictions and assumptions about the grounds of forfeiture. One young person describes the assumptions of the majority interviewed:

'I don't know if they specifically said but I always assumed it was if we wreck anything, you know, then we'll get less back when we finish or if we don't pay our rent or something. That's just what I assumed' (Tenant 12, female, 22 year old housing benefit claimant).

Moreover, there was also little connection made by the parties between the payment of a deposit and the use of a furniture inventory to clarify and record the condition of the property and its contents. Only eight landlords used furniture inventories, whilst amongst the young people interviewed, six had a copy of a furniture inventory, five did not, three were unsure about whether they had one or not, and one tenant had a furniture inventory taken as part of the Bond Guarantee Scheme, but was not given a copy. Eight of these nine tenants who were unsure about or without inventories had paid a deposit.

The landlords using inventories regarded them as providing a point of agreement about 'everything on it that I'm claiming that there is' in the property and this 'prevents arguments about minor damage caused and whether it was there before they moved in or not'. However, of the seven landlords who 'never bothered' to provide tenants with inventories, the main reasons cited was that they had 'never had any trouble', 'there's nothing really in there that's particularly worth pinching anyway' and they 'trusted' their tenants not to take anything.

Landlords perceived inventories as protection against tenants' actions and *not* as providing tenants with a record of the condition of the property and its contents, and

by implication, a means to safeguard the loss of their deposit. In addition, young people rarely equated the presence of an inventory with the deposit as they lacked the necessary foresight and experience to recognise that these exchanges should occur in conjunction with each other. In this respect young people were in a vulnerable position as they were not adequately protected against the risk of losing their deposits. Problems associated with the existence, or lack of, inventories and deposits were generally deferred to the end of the tenancy and were not clarified at this initial stage, notwithstanding that the presence of an inventory is not by itself sufficient to prevent disputes (NACAB, 1998). This is discussed in Chapter Seven. However, it was evident from the data that in the majority of cases a shared understanding between the parties was not reached about the role of, and intended purpose of, the deposit and the furniture inventory.

Explanations

In terms of the explanations provided by landlords, the majority of tenants stated that they were shown 'the basic stuff, the main things you need' for example, 'where the stop cock is and how the gas works' and were then 'left to get on with it', in some cases with the aid of 'manuals' for the appliances. A number of tenants reported that they 'didn't get shown how anything worked' and 'just kind of figured it out' without asking the landlord. Only one tenant stated that they did not 'think there was anything that I really needed to be shown' and one other tenant stated that 'I'd much rather sort of be left to myself to sort things out and I'll ask if I need anything'.

Of the landlords interviewed those letting to students were less likely than those letting to non-students to explain how things worked in the property. This was also the case where landlords knew students were first time renters. Landlords were confident in their expectations that students would be able to manage the property as 'they are supposed to be the brightest and finest, aren't they?'. This attitude was based upon previous experiences of the group; however, there was an underlying suggestion that omitting to explain allowed students to make mistakes and learn for themselves. In several instances landlords did not provide tenants with explanations

about the property as they themselves were unfamiliar with the basic functioning of systems and appliances, leaving young people feeling bewildered when faced with, for example, heating systems ‘that rocket scientists couldn’t have worked out how to use’. A female tenant described this unhelpful situation:

‘She [landlady] came in and said, you know, "Yes, I’m the landlady but I don’t actually spend much time here at all so I don’t know anything". And I was like "Oh, right, OK that’s very helpful"’ (Tenant 2, 21 year old female, working full-time).

Only four landlords were described by tenants as being ‘very efficient’ and as recognising that young people may need to be given special attention, training and instructions in order to manage the property effectively and also to minimise management time once they have moved in. These landlords adopted a practical approach and ‘have a standard sort of "Spiel"’ for young people to safeguard against their lack of experience. One landlord described how he provided young people with general information and drew their attention to specific issues:

‘I think it’s important particularly with young people, they don’t know how things work, they’ve got no practical knowledge, I show them how everything works...one of the properties has overnight storage heaters and I tell them they have to charge them up over night but I think sometimes they think they can have heat instantly, but how would they know unless you tell them?’
(Landlord 8, male).

The data suggests that young people experience difficulties when faced with initiating discussions and negotiations and asking for explanations. The extent to which verbal exchanges of information provided tenants with an induction or adequate training about the tenancy and their particular accommodation varied depending upon the circumstances of discussions, the awareness of the landlord to tenants’ particular information needs and the competencies of tenants. Tenants were

frequently left with gaps in their knowledge after discussions, as the flow of information between the parties was limited and this was likely to be translated into difficulties when young people moved into their new accommodation. This was particularly evident in relation to deposits and furniture inventories. Overall, the data highlights the imbalance of power between the parties and the key role of the landlord as information provider (or suppresser), given that tenants may have limited knowledge and skills or lack confidence to ask for explanations.

THE ROLE OF LETTING AGREEMENTS

Young people

As indicated in Table 5.1 at the beginning of this chapter, young people receive letting agreements once the majority of issues pertaining to the tenancy have been finalised. All of the tenants interviewed stated they had signed letting agreements, (or documentation purporting to be a letting agreement) prior to, or at the point of moving into accommodation, with the exception of one who signed an agreement after moving into accommodation. Three of the fifteen tenants were not given copies of the agreements they had signed.

The data from the perspectives of tenants is in keeping with that of landlords, in that none of the fifteen tenants said they negotiated or discussed the contents of their letting agreements. The main reason cited for not doing so were that they were not given the opportunity as the agreement was 'fixed', or the landlord 'presented it' and 'we just took what he'd laid down'. Further reasons cited were that tenants concluded that 'it was a pretty standard agreement' and 'it seemed reasonable'. Financial circumstances were also cited as a constraining factor on negotiations as well as 'desperation' to move in quickly. These factors particularly affected housing benefit claimants who often had little choice but to accept the landlords' terms, despite being given accommodation lists from the local authority which urged them to 'always negotiate' (City of York Council website, 2001). It is acknowledged that there must be limits to the negotiation process (Seligman, 1997: 168) for contractual arrangements to be finalised, however, it is clear that financial constraints and the

balance of power in relationships *prevents* negotiations from taking place, rather than limiting them.

Young people appear to engage, at least to some extent, with the contents of letting agreements; however, the extent of this engagement is generally superficial.

Fourteen of the fifteen tenants stated that they had read their agreements. This figure may be misleading as young people may be reluctant to admit that they had entered into a legal arrangement without reading it. The circumstances in which the tenant received the agreement inevitably had an impact upon whether the agreement was read, how it was read, how well it was understood and whether information and/or advice was sought about its contents. All of the fourteen tenants were given the opportunity to read through the agreement prior to signing, however, the time available to read and digest the contents varied from a number of weeks to circumstances where 'he [landlord] wandered off for a while and we read through it and yeah, we signed it in his presence'. The experience of one young person highlights some of the difficulties encountered by the presence of landlords:

'I wasn't really given the opportunity to read it. They were sitting there kind of "Oh you know if you just kind of like initial" and when I started to read through it then he'd start talking to me so I couldn't actually read it' (Tenant 8, male, 21 year old student).

The overall impression from the data is that tenants read 'some of it, not all of it' and these 'bits' are 'skimmed over briefly' with little attention given to details or 'the small print'. Some young people expressed a confident and trusting attitude stating that, 'you don't imagine that there will be anything in there but you always want to check' and therefore superficial readings were satisfactory because 'it's a standard form so there's not going to be anything in there which is going to catch you out'. However, more cautious approaches were evident because 'you should read what you're signing otherwise you don't know what rights you have' and also to check for 'anything out of the ordinary, just anything completely unreasonable' to safeguard

against ‘attempts to sort of trip us up or ram us in some horrible contract’. However, although tenants exercised at least a degree of caution by reading through agreements and having them checked by a third party, this does not safeguard them against the occurrence of last minute problems. A student described his experiences when the agreement was about to be signed:

‘...the contract we went back in to sign was different to the contract we already had checked. It just got little things sneaking into it like the fact that on the copy we’d got, water rates were included in the rent. That clause had managed to drop out, a couple of onerous clauses to ourselves had managed to drop in’ (Tenant 9, male 20 year old student).

Although this is an isolated case, it highlights the importance of reading through agreements even if only to clarify and cross-check specific issues. However, this level of engagement with legal documentation does not necessarily translate into understanding the contents. Although the legal terminology used is described by young people as being ‘a bit weird’ the responses indicated that the fourteen tenants who said they had read their agreements at least, ‘get the gist’ of the main points. Levels of understanding inevitably vary depending upon the contents and the knowledge and experience each individual brings to the document. In addition, lack of understanding is likely to be under-reported by young people for similar reasons to failing to read the agreement.

Two tenants admitted that they ‘didn’t understand everything’, however, they did not approach their respective landlords to clarify these particular terms. It was also evident from the data that young people accepted the terms of agreements in good faith as being a true and accurate reflection of the law and did not question the legal validity of the document. In this respect young people’s trust and acceptance reduces them to objects of information rather than active subjects of communication (Foucault, 1977: 200) and they must interpret this information as best as they can. According to tenants, their ability to understand the agreement was based upon how

‘law-like and technical’ it was. Inevitably, the less ‘high faluted’ and ‘jargony’ the easier the agreement was to understand as legal complexities were minimised.

For the majority of tenants the landlord simply handed the agreement over without any explanation about the contents. Tenants’ recall of explanations focused upon specific restrictions and responsibilities, such as, ‘we’re not allowed to use the garage’ and ‘we have to mow the lawn’. Although tenants’ understandings of the contents of their agreements and their legal rights were vague, interestingly, they adopt a similar attitude to landlords when asked whether it was important to have a letting agreement. All fifteen tenants think it is ‘important to sign something’ so ‘you know where you stand’ and ‘if nothing else, to formalise the fact that you’re living here’. Tenants’ main concerns about agreements is that rights are defined so ‘you know actually what they are expected to do and what you are not expected to do’.

Although tenants regard agreements as fundamental, the way in which agreements can be used by landlords is illustrative of the lack of regard that is felt towards the law and formal procedures. One tenant describes the predicament he faced after he had already signed an agreement to move into a particular property:

‘The original house, that fell through and this obviously must be legal but the original contract still stood for a different house and all they did was literally just scribbled out the address, hand wrote the new address and changed the other details on it. So I signed for a house that I didn’t end up living in. The original house was going to cost either £40 or £42 a month and when they showed us the [changed] documents it was £45 [for the new property] and there was no washing machine or anything that had been kind of promised’ (Tenant 8, male, 21 year old student).

Once again, an isolated case, yet it is particularly noteworthy as signing an agreement is not a safeguard against last minute problems occurring. This example also highlights the problems faced by tenants when unexpected difficulties occur in a

competitive market and the lack of scope for negotiations. It is evident from the data that although tenants do not negotiate the terms of agreements, they regard the presence of an agreement in the relationship as important, relying upon the contents as an accurate reflection of the law. The onus is placed upon the tenant to interpret and understand agreements as landlords rarely explain them and the data suggests that tenants' readings are often superficial and that they rarely have a clear understanding of their position in relation to the legal framework. In this respect, for young people, entering into a legal arrangement is fraught with risk, as they have little opportunity to negotiate, engage with, or attempt to understand, the contents effectively in order to establish their position in the relationship. This is tantamount to entering into a legal arrangement without knowledge of the key terms of the contract and is legitimised by the commonplace and routine nature of tenancy arrangements.

INFORMATION AND ADVICE

Young people

This final part of the chapter explores young people's attitudes towards seeking information and advice prior to entering into a legal arrangement and the extent to which they were able to safeguard against risks by having letting agreements checked. York has several generalist services available to young people to obtain information and advice about tenancy related issues; for example, the Citizens Advice Bureau, and York City Council's Customer Advice Centre. In addition, there are sources of advice specifically for young people; for instance, the Youth Enquiry Service, and students have access either to welfare advisers or sources of information from their respective Student Unions. However, the level of information and advice provided across different educational institutions varied from services to check agreements for onerous clauses to simply providing students with lists of points to consider when viewing a property.

Where young people seek information or advice at this stage of the relationship, it is in conjunction with the documentation provided by the landlord. Only three of the

fifteen tenants stated that they had sought formal information or advice about their current tenancy. This constituted having agreements 'checked at the SU' as these tenants were all full-time students. The reasons cited by tenants for having agreements checked were to establish 'Is this normal? Is it good? Is it bad?' and to obtain a 'professional opinion' especially where tenants had little understanding of the contents. In addition, young people stated that it was easier and preferable to place the responsibility for reading the agreement onto 'somebody who was a bit more knowledgeable' who would be able to identify potential problems. One tenant highlights this position:

'we didn't read through it that thoroughly and even if we had we wouldn't have known if there was something that we were being ripped off for. It was quite good to get her [adviser] to read through it' (Tenant 10, female, 20 year old student).

However, one tenant stated that although it was 'reassuring' it was not actually helpful to place the responsibility for checking the agreement solely onto a third party without discussing the contents or having the agreement explained. Simply having the agreement checked did not provide the tenant with a learning experience or knowledge which would prove useful in the future. This process was therefore satisfactory in the short term but not in the long term, as this tenant explains:

'It's all right saying to someone "Could you look at this?" and them saying "Yeah, that's OK" but it kind of doesn't help you the next time in a way, you're still a bit in the dark' (Tenant 4, 21 year old male, working full-time).

In terms of third party involvement other than formal sources, 'advice from friends and previous experiences and parents' were important to tenants, however, it was recognised that 'there's only so much they can help you with'. Nevertheless, where tenants had limited or no access to 'official' advice, informal sources were important. This was in keeping with an analysis of nationwide statistical data, collected by the

University of York, where the source of advice most commonly used by young people in the PRS was parents or relatives, with 40 per cent drawing on these sources compared with 6 percent using local authorities, and 7 per cent using advice agencies (Young people, housing and the transition to adult life: understanding the dynamics, ESRC, Centre for Housing Policy, University of York, 2001, own analysis). In a number of cases, friends and parents were involved in looking at the agreement, although, none of the parties involved in this activity were legal professionals and their role was confined to searching for onerous clauses rather than explaining the terms of the agreement. One tenant describes the nature of her father's involvement:

‘I got my dad to look over it. He said basically it was all right and that it was a standard contract that you would get. He checked it over not like professionally but just someone to cast an eye over it...I just wanted to make sure there wasn't any sort of clauses that were going to get us, you know, to suddenly pipe up at the end of the term and say "Right, you're not going to get your deposit back because you've got to clean the curtains"‘ (Tenant 2, 21 year old female, working full-time).

A number of reasons were cited by tenants for not seeking information or advice or having the agreement checked. Notably, housing benefit claimants were the least likely to have agreements checked or benefit from the experiences of friends or family. Amongst the reasons cited for not accessing information or advice was that the agreement ‘was fairly clear cut’, ‘we were in a rush really to get it all sorted’ and ‘I don't think we thought about it to be honest’. In addition, experienced renters and those who had had agreements checked in the past were less likely to seek advice as they ‘didn't sort of feel the need to do it again’.

The two student tenants who had not had their agreements checked said they would have liked to do so, but they were restricted from doing so as they had to read and sign the agreement in the presence of the landlord. Other factors preventing tenants from seeking information/advice were time constraints and not knowing where they

could access information or advice. This was particularly the case with non-students who do not have immediate access to a source of advice, like those found in Student Unions, nor do they necessarily have a social network of people who have been through this process recently. One tenant describes how he thought about seeking advice 'very briefly' but was hampered by a number of constraining factors:

'...it was kind of like where to start, who do we go and see, would it be expensive to do that and other various things and we were just fairly keen just to get everything settled really, well, you know sensibly' (Tenant 7, male, 24 year old housing benefit claimant).

The data suggests that the main form of advice young people receive is in relation to letting agreements. However, this is not an educative process for tenants where they acquire knowledge about the contents of agreements and the legal framework. Instead, the agreement is checked by a third party without the tenant becoming involved. Thus, as with the experiences of landlords, seeking advice and acquiring legal knowledge are two separate and distinct processes. The informal involvement of friends and relatives is also important for tenants; however, a number of tenants are unable to access information or advice from either formal or informal sources as a result of their circumstances or lack of information about where to access these services.

CONCLUSION

The discussion in this chapter has described and explored some of the routine experiences of landlords and young people during the formative stages of the tenancy relationship. The focus has been upon the extent to which both landlords and young people are engaged in the legal process, how the pre-tenancy relationship is socially constructed and the significance of power differentials during the pre-contract stage of the relationship. In addition the roles of verbal, written and visual information have been explored in order to highlight the imperfect nature of understandings between the parties.

In spite of optimistic legal assumptions that parties are free to negotiate on an equal basis, however confident and skilled young people are, they are evidently not free to negotiate, discuss or interact with landlords on egalitarian terms. Instead, legal, social and financial arrangements were rarely negotiated or discussed. This was hardly surprising considering that for the most part landlords and young people rarely sought information or advice prior to entering into a legally binding arrangement. As a consequence, they entered into relationships with an incomplete knowledge of the legal framework and a lack of awareness of their basic rights and responsibilities and so failed to realise that the terms of the tenancy relationship itself, including rent levels and the contents of letting agreements, were open to negotiation rather than being 'fixed'. Therefore, the extent of the risks faced by both parties were often unrecognised, refuting the claims of risk theorists that individuals deal with risks and uncertainty by arming themselves with perfect knowledge. Furthermore, this stage of the tenancy relationship is front end loaded with parties facing numerous decisions to make and difficulties to encounter which often, unbeknownst to the parties, resulted in the deferment of risks and difficulties to a later stage in the tenancy relationship (see Chapters Six and Seven).

The bargaining process fails to take into account the personal, social or economic circumstances of individuals and severely limits the choices available to young people by reducing relationships to a private arrangement. A prominent feature of this stage of the relationship was the non-negotiability of the terms of lettings. Shared understandings were reached between the parties only in relation to financial aspects as a result of landlords' assumptions and young people's acceptance that this aspect of relationships was non-negotiable, reflecting young people's weak position in the market. However, with regard to the legal aspects of the relationship, a shared understanding was often not reached and landlords tended to minimise the role of the law and there was some evidence of individualistic principles, motivated by sentiments of ownership, creeping into the relationship. In this sense the setting up phase of the relationship is founded upon the basis of economic exchange, with a

minimal role for the legal framework and an enhanced role for social relations. Instead of relationships based upon mutual exchanges, landlords closely regulated and controlled entry to the PRS for young people, highlighting the importance of social practices over legal codes. Ultimately, the experiences young people have of living in the PRS and the success of their relationships are shaped by landlords' attitudes and behaviour. This issue is discussed in the following two chapters.

CHAPTER SIX

THE SOCIAL CONSTRUCTION OF TENANCY RELATIONSHIPS

'I don't know, it comes down to that sort of lack of trust thing, but then when it comes to it, you don't know the landlord in many cases so they have no reason to trust you...it's almost like they look upon you as someone who is going to try and do them out of their money or trash the place' (Tenant 3, 23 year old, female, working full-time).

INTRODUCTION

As discussed in the previous chapter, the law is not the only factor influencing relationships between landlords and young people and a number of social factors impinge upon relationships in the absence of clearly discernable legal arrangements. The prominence of social practices over legal codes becomes more pronounced as the tenancy relationship progresses. This chapter extends the argument presented in Chapter Five by exploring in detail how ongoing relationships between the parties are socially constructed. Following on from the setting up stage, landlords continued to exercise control over tenancy relationships through the frequency and quality of their interactions with young people in addition to controlling the circumstances in which interactions take place. Given both parties' lack of knowledge of the legislative framework, landlords were able to adopt a number of idiosyncratic management practices to ensure that tenants conformed to perceptions of 'good behaviour' and used property 'appropriately'.

Relationships are explored here within the context of the inherent inequalities between the parties, in spite of legal assumptions to the contrary, and highlight the mismatch of expectations between the parties about the manner in which relationships should be conducted. The chapter demonstrates that young people have difficulty in achieving a satisfactory and reciprocal relationship because of the ways

in which landlords use social practices rather than legal principles to conduct relationships.

This chapter examines how the limited rights that tenants have legally, and via the payment of rent, are undermined and often ignored by landlords, allowing them to exert considerable influence over relationships as they transform their rights over property into rights over tenants and their use of property. This chapter begins by describing both landlords' and young people's attitudes towards tenancy relationships which reveal fundamental tensions between the parties about personal aspects of relationships, such as, the quality and nature of interactions and exchanges with each other. The chapter then describes the strategies landlords use to manage relationships and explores the nature of the power and control they exercise over young people. Finally, the chapter explores how young people respond to the practices of landlords and examines the strategies they adopt to manage tenancy relationships.

ATTITUDES EXPRESSED TOWARDS TENANCY RELATIONSHIPS

Landlords and young people

An exploration of attitudes and associated expectations is important in order to provide insights into the factors that *are* significant for each party in the construction of tenancy relationships. For example, attitudes expressed towards property, in addition to the experiences and expectations each party brings to relationships are of fundamental importance as they set expectations and define future (dis)satisfactions as well as affecting the ways in which relationships are constructed and maintained. Low expectations are likely to foster dispositions of greater satisfaction, notwithstanding that these standards would not necessarily satisfy objective criteria of, for example, 'good practice'. If a mismatch of expectations arises at the outset of the relationship, which as described in the previous chapter, was common, difficulties and dissatisfaction are likely to be experienced during the tenancy, particularly by young people. The expectations, attitudes and orientations to tenancy relationships discussed here provide a framework to inform discussions in

subsequent sections of this chapter. Both landlords and young people were asked about their expectations of tenancy relationships, the extent to which their expectations were met, and what would compose an ideal relationship. The attitudes expressed by the parties were emblematic of the existing tensions that emerged during the setting up phase of the relationship. However, during this second stage of the relationship, the disparities between the respective parties' expectations and attitudes were intensified as the conceptual difficulties associated with the 'hybrid nature' of relationships (Bright and Gilbert, 1995: 69) became apparent in the mindset and actions of the parties, as relationships were interpreted differently by the respective parties.

The data indicates that the attitudes expressed by landlords and young people towards tenancy relationships coincided in only one aspect, that is, each party expected the other to meet their obligations and 'keep their word' when they made promises. However, there was little evidence of shared agreement between the parties about the precise nature of the obligations which were perceived to be part of the contractual bargain, irrespective of whether they were specified in a letting agreement or not. A fundamental disagreement existed between the parties about who was initially obliged to whom, as each party considered that the other party had a responsibility to perform obligations and services before they returned the 'favour'. These attitudes indicate that expectations are not derived from contractual agreements, instead the nature of the bargain is unspecified in advance, and is at the parties discretion (see Chapter Three). The complex nature of tenancy relationships becomes evident as misunderstandings and a mismatch of expectations arise as a result of the limited, rather than enhanced role of information exchanged during the setting up phase of the relationship.

A number of landlords expressed views that tenants should recognise, but often do not, that they have obligations to perform in return for the services that are provided, notwithstanding that these services are often basic statutory requirements, for example annual gas safety inspections, and/or basic legal precepts, such as 'quiet

enjoyment'. One landlord stressed the importance of this approach where young people were left in 'quiet enjoyment' of the property provided they performed their obligations:

'I would like them to move in and the place is theirs for the time they're here and providing they look after it, because I've got responsibilities as well. I've got to be on the ball and make sure, you know, they've got to have smoke alarms fitted and they've got to have the gas fires and boilers serviced once a year, which is fine, I accept all that, but you expect your rent to be paid on time as well' (Landlord 11, male).

This view reflects the tensions within the 'hybrid nature' of tenancy relationships with the focus placed upon the economic aspects of the relationship and little importance attached to the provision of services during the ongoing relationship. This view contrasts with those expressed by the majority of young people who stressed their role as consumers and expected that landlords would 'take some care and some pride in the house' and provide services throughout the course of the tenancy, including proper maintenance and attention to the property, to which tenants felt entitled by virtue of paying rent. In addition, consumer perspectives support this principle suggesting that tenants' obligations to pay rent and look after the property are, in fact, dependent upon the landlords' compliance with obligations as regards maintenance and repairs (Bright and Gilbert, 1995: 106). This perspective was adopted by some young people in expectation of a reciprocal relationship where basic services are provided, engendered by economic exchange:

'I'd much rather feel that it wasn't just a money making exercise and that I wasn't just seen as someone with a bag of money round my neck. I think the ideal landlord would be offering somewhere nice to live as well as some way for them to make a quick pound [and] who's prepared to do the things that you would expect someone who you're paying that much money to. You know, in a

way we do them a favour by being here so, they should do us some favours back' (Tenant 4, 21 year old working male).

These two contrasting perspectives highlight the problematic nature of the tenancy relationship in that the basis of economic transactions rest on 'incomplete' contractual arrangements (Mackintosh, 2000: 3) where the precise nature of the services to be performed, the time-scales involved and remedies available for breach of contract are not specified or detailed and do not cover all possible contingencies.

However, although the tenancy relationship involves economic exchange in relation to a commodity - property - it also involves supplying services in relation to the commodity. This type of economic transaction involving the supply of services is closer to social exchange than economic exchange (Blau, 1964: 93) and rests on the idea that each party provides the other with 'favours' which it is assumed will be returned at some future date (see Blau 1964, as discussed in Chapter Three).

Therefore, in as much as tenancy relationships are based upon social relations, social expectations about the reciprocal nature of these relationships arise. The concept of reciprocity assumes that relationships are entered into voluntarily and that there is a balance between the parties, however, it is evident that relationships are not entered into voluntarily and an imbalance of power exists between the parties. Landlords do not reciprocate for benefits or favours received, as they do not consider payment of rent to be a benefit, instead it is a legitimate legal expectation which is part of the contractual bargain.

Furthermore, property differs from other commodities as it is not removed from the emotional or sentimental realms attached to it by either party (see, for example, Allen and McDowell, 1989). Although tenants have possession of property, landlords retain ownership and control which become manifest in relation to the supply of services provided and the interpretations of each parties' role in relationships. The tenancy relationship therefore constitutes a distinct form of contractual arrangement which differs from a formal business arrangement. The

exact details of the bargain are not stipulated in advance and the nature of social exchange between the parties is based upon trust to discharge obligations (Blau, 1964: 94). However, a number of young people expressed the view that rather than leaving the observance of rights and obligations to chance or luck, a formal and professional relationship based upon mutually beneficial exchanges and reciprocity would make relations more effective and efficient. Ideally, in order to clarify expectations and achieve reciprocity the relationship should be treated as:

‘...a normal business and industry where you get a lot more feedback rather than just doing jobs because they’ve gone wrong. More of a preventative thing and come round and make sure everything is OK and ask if there’s anything needs doing and anything that [we] might potentially think needs doing’ (Tenant 1, male, 24 year old student).

However, conducting the relationship as a ‘normal business’ implies equality between the parties which is not evident contractually as terms have not been negotiated freely, specified or agreed. Nor have a fair and equitable distribution of rights and responsibilities been achieved between the parties. In addition, the subjective nature of the property relationship removes it from the neutral realms of a strictly business framework. The relationship is characterised by a lack of contractual control which, as will be explored later, is replaced by the subjective and personal control of landlords based upon specific rights of ownership. This was evident to the extent that almost every landlord expressed emotional aspects of ownership (Hollowell, 1982: 12) through their views that they expected tenants to treat the property ‘with a bit of respect’ and

‘...to be sensible enough and old enough to appreciate that it’s somebody else’s house and what you wouldn’t do in your own, you’re not expected to do in somebody else’s’ (Landlord 4, female).

The view expressed here highlights the conflict between the legal rights of tenants to

exclusive possession of property and the landlord's continuing control of the property, representing the 'social form of the residential property relation' (Allen and McDowell, 1989: 46). Although legally the tenant has exclusive possession of the property, and therefore has use rights over it, landlords' rights of ownership provide an important unilateral dimension of control. As discussed above, the social context of tenancy relationships distinguishes them from formal contractual arrangements and gives rise to further complications of an emotional nature, removing tenancy relationships from the realms of a consumer relationship as property is perceived, by landlords, as simply on loan to tenants. Landlords' implicit expectation that tenants will 'respect' the property does not form part of the bargain between the parties but instead is part of the landlords' 'psychological contract' (Dale, 1995: 97) with the tenant and plays a significant role in shaping relationships.

For young people, in the absence of security of tenure, the overall quality of social relationships with landlords was particularly important in order to establish reciprocity and security in the tenancy relationship. A number of young people stated that landlords' informal involvement with them and property management, akin to a 'an ideology of service' (McCrone and Elliot, 1989: 143), would indicate a degree of interest in, and commitment to the relationship, as opposed to merely viewing tenants as a source of income. One young person described this attitude and also her desired relationship:

'...it would be nice that they showed more of an interest to make sure that we were all right and didn't just sit there and wait for us to go to her with a problem...but just for her to call and say, you know, "I'm just checking to see if everything is all right. Do you want a chat?". Just you know to show that she is interested in us and not just that we're in her house giving her money' (Tenant 2, 21 year old female, working full-time).

Young people's search for reciprocity via social exchange conflicted with some of the opinions expressed by landlords which firmly placed the relationship on an

economic basis, where ‘all you are interested in at the end of the day is that they pay their rent on time’. However, young people acknowledged that they were not legally entitled to ‘polite’ or courteous relationships with landlords, nor were they entitled to them via consumer principles or economic exchange, although, nevertheless, they did ‘expect’ to be able ‘to talk to landlords’ and to be treated in an agreeable manner and not to be ‘afraid’ of them. The dominant attitude expressed by young people was for a relationship where they were able to exercise some choice and control over their environment and therefore, it was important that the landlord was ‘OK’ and that the relationship was conducted on a ‘friendly’ ‘honest’ and ‘open’ basis. The views of a full-time student highlight that reciprocity is the key to young people’s expectations about relationships:

‘I’d want someone that I, well not necessarily liked maybe but, you know, *could* like. I certainly think it’s important to have a rapport or fairly good relationship with your landlord/landlady because ultimately it works both ways, doesn’t it, and then you know, if you don’t like them you’re not going to ring them up for things and vice versa’ (Tenant 9, male, 20 year old student).

The data highlights the differing and often complex and conflicting attitudes expressed by the parties towards tenancy relationships. The differing perspectives indicate the problems associated with the indistinct unspecified nature of social expectations which are often ill matched from the outset of tenancy relationships. The attitudes expressed provide a reference point for expectations and experiences during the course of the tenancy and they influence the nature of interactions during this period. It was evident from the data that the ways in which relationships were constructed reflected the choices landlords made which provided them with a number of different mechanisms of power and control during the course of the relationship, given that young people are reliant upon landlords for services. Attitudes towards the social relationship reveal its significance for young people. However the unspecified nature of social reciprocation and the reliance upon trust causes additional problems, disappointment and dissatisfaction. Of overriding

importance for young people is a friendly reciprocal relationship and the efficient provision of basic services which contribute towards the maintenance of the ongoing relationship, setting high social standards for landlords.

LANDLORDS' STRATEGIES TO MANAGE TENANCY RELATIONSHIPS

During the course of tenancy relationships landlords developed a number of social strategies to exert authority, both legitimate and otherwise, over the rights and enjoyment of young people in relation to their use of property, the quality and standards of property and the overall nature of tenancy relationships. The term 'strategy', discussed in detail in Chapter Three, is used here in relation to landlords to provide a theoretical basis to examine the ways in which they consciously and unconsciously implement authority over young people and their use of property (Crow, 1989; Pickvance and Pickvance, 1994).

The different strategies landlords use to exert power and control over young people during the tenancy relationship are explored here in order to demonstrate how young people's experiences of tenancy relationships are constructed and shaped. The difficulties young people have in pursuing and achieving a reciprocal relationship with landlords are also highlighted. The practices and strategies adopted by landlords are revealed from their own accounts and, in order to illuminate the impact of these strategies, are also explored from the experiences and accounts of young people.

Evidence that landlords could adopt different approaches is shown by the quotation below, which reflects views expressed by both parties throughout the interviews:

'Some landlords you just can't sort of have a conversation with them if you see what I mean, because all they want is your money and "Don't break anything and leave it as you found it and don't cause me any hassle". But others are willing to help...they involve themselves a lot more in the house and turn up on Saturday mornings' (Tenant 3, 23 year old female working full-time).

Two approaches are clearly described here. First, an approach encapsulating ‘power’ and second, an approach characterised by ‘control’. The power and control of landlords have already been identified in previous research, but have not yet been elaborated here. These two broad approaches to tenancy relationships, although not mutually exclusive, are used throughout this chapter to describe and explore the different ways in which landlords conduct relationships. These two concepts are used to structure the analysis of the data in order to highlight key issues and to establish how relationships are constructed and maintained. First, ‘control’ is defined and explored in order to highlight landlords’ active interest in property - where ‘they involve themselves a lot more’ - and their interpretation of rights of ownership as rights to possess and control the property and tenants’ use of it (Ryan, 1982: 57; Nelken, 1983: 19; Allen and McDowell, 1989: 52; Marsh *et al.*, 2000: 56). In contrast, the ‘power’ (Cotterrell, 1992: 82; Harvey, 1964: 58; McCrone and Elliot, 1989: 26) landlords exert over tenants and property is described and explored in order to demonstrate that it is not simply derived from ownership of property but from young people’s greater dependence upon landlords which manifests itself, consciously and unconsciously, via unilateral exchange (Blau, 1964; Molm, 1997) between the parties as well as through landlords’ non-delivery of services. However, irrespective of the motivations of landlords, both of these forms of authority have a negative influence on young people’s experiences of tenancy relationships as their rights are continually interfered with and negated.

Control v possession

Throughout the duration of tenancy relationships, landlords were able to adopt a number of overt and covert strategies to control and regulate young people and their use of property. These strategies often conflicted with the few basic legal rights tenants possessed. As discussed in Chapter Two, a central, often unacknowledged, legal precept of all tenancy relationships, (regardless of whether the parties have a written or verbal agreement), is that landlords’ grant all tenants the right to ‘exclusive possession’ (Mackenzie and Phillips, 1993: 92) of property. This provides tenants with the legal right to use property to the exclusion of all others, including

the landlord. Reinforcing the right of 'exclusive possession' are two additional conditions of tenancy relationships. These are the implied promises of landlords to leave tenants in 'quiet enjoyment' (Arden and Hunter, 1997: 225) of the property and, 'not derogate from his [or her] grant'. These two overlapping conditions relate to landlords' physical and non-physical interference with tenants' use of property. In spite of the legal situation, tensions often existed between young people's *possession* and landlords' *control* of property. Although tenants hire possession of property (Allen and McDowell, 1989: 46), landlords nevertheless retain rights of ownership and can assert rights of control over the property and its use. The tensions exhibited between young people's possession and landlords' control were symptomatic of landlords' unwillingness or inability to fully relinquish their property to tenants, often still regarding it as a 'personal possession' (Allen and McDowell, 1989: 52) to be dealt with according to their wishes and without regard for the rights or well being of tenants.

A key issue to emerge from the data was that 'control rather than use is the essence of ownership' (Ryan, 1982: 57) notwithstanding that landlords' control of property conflicted with the rights of tenants. In this sense the basic rights tenants acquired legally and by virtue of economic transactions were merely rights on paper as, in practice, they were overridden by landlords and could not be exercised or enforced easily. A relatively common feature of relationships was landlords' 'close surveillance of property' (Allen and McDowell, 1989: 46) which took a number of forms, both overt and covert. Both forms interfere with young people's use and enjoyment of property and proved equally problematic for young people to deal with successfully.

Overt strategies of control took the form of landlords' direct and active interference with tenants' 'exclusive possession' and rights of 'quiet enjoyment' via repeated and uninvited visits to property without advance warning. These visits tended to be combined with complaints and attempts to control and regulate the ways in which young people used property, for example, by leaving notes and instructing young

people to clean the property. On their own, such actions may be innocuous but where this behaviour is repeated, its accumulation is likely to be tantamount to harassment (Marsh *et al.*, 2000) and cause considerable distress, as one young person described:

‘He’s pretty good about coming round, he was getting quite irritating in that it was a little bit of a mess. Washing up was waiting for the third person, it was his turn, so it was just sitting there for a while you know and the landlord was being quite finicky about stuff, for instance, having magazines in the bathroom which I think is fairly normal and bottle tops on the floor, this kind of stuff, nagging really’ (Tenant 5, female, 23 year old housing benefit claimant).

The boundaries between landlords’ and tenants’ rights are unclear, given that landlords loan their property to tenants and do not relinquish their rights of control. This enables landlords to act as if property ownership conveys upon them ‘specific rights and liberties’ (McCrone and Elliot, 1989: 179) to ‘check up’ on the property. Such vigilance may denote landlords’ own personal insecurities and anxieties as well as a lack of trust (see Chapter Three), where legal and economic safeguards taken during the setting up phase are perceived either as inadequate protection or unimportant in comparison with the protection afforded by direct interference and control. However, irrespective of landlords’ motives for paying frequent visits to property, this is likely to pose considerable problems for young people. The behaviour of landlords can be exploitative as tenancy relationships are not guided by ‘rules’ as in a strict business agreement, but are based upon social interactions. These interactions are characterised by inequalities as landlords are able to disregard ordinary manners, customs and respect for tenants by virtue of their position as property owners. A female tenant described the extreme nature of her landlords’ activities which crossed the boundaries of ‘acceptable behaviour’:

‘He’s a pain because he’ll come round like two or three times a week, just knocking on the door. in fact at the beginning he even used to let himself in, you know and one time he came in...and my housemate was upstairs in bed asleep

and he actually went into her room when she was in bed, which was quite worrying...I don't know, it's an awkward situation. I know it shouldn't feel like that and [we] should say something, but I don't really know' (Tenant 10, female, 20 year old student).

This 'awkward situation' highlights the extent of landlords' overt and direct control over young people's peace and enjoyment of their homes and the difficulties for tenants in dealing with sensitive issues and landlords' 'inappropriate' behaviour. However, previous discussions (Allen and McDowell, 1989) while useful as a starting point, do not fully encapsulate the sensitive and unpredictable nature of this type of social situation. The situation described here highlights landlords' volatile and idiosyncratic behaviour and the vulnerability and insecurity of young people who may not be able to deal confidently or effectively with unpredictable social situations.

Furthermore, landlords often perceived and described their young tenants as 'children' or 'boys and girls', and they also acted in *loco parentis* towards them, regarding them in a similar manner to their own children. Eight out of the fifteen landlords interviewed adopted this approach and attempted to control and structure tenants' behaviour by visiting the property frequently. These practices, in essence, corresponded loosely to the sentiments expressed above by a number of young people who wanted landlords to visit the property, show an 'interest' and have 'a chat' with them in the context of reciprocal exchange. However, landlords' attitudes to young people as 'kids' reflected a latent imbalance in tenancy relationships, creating difficulties for young people to achieve *satisfactory* reciprocal relationships. This was particularly striking where two out of these eight landlords provided extra services to tenants, for example, cleaning. A landlady described how she created a role for herself by providing her male tenants, described as 'boys', with services and goods which reduced their financial outgoings - a characteristic of a parental relationship rather than a landlord/tenant relationship (Pickvance and Pickvance, 1995: 135):

‘You know I pay all the bills, buy all the cleaning stuff. It really is mothering them in some respects but maybe that is a need of mine that I’ve had to deal with in recent times. I do mollycoddle them a little bit so I’m told’ (Landlord 7, female).

In contrast to the financial needs of landlords, their emotional needs have not been recognised or discussed in previous research. It was evident from the data that emotional factors played an important part in landlords’ letting strategies and in the ways they managed relationships with young people. Emotional factors were signified by landlords’ attachment to their tenants, to the point where they ‘missed’ them when they left and, in some instances, kept in touch with them. Attachment to tenants often resulted in landlords practicing a ‘service relationship’ (Allen and McDowell, 1989; McCrone and Elliot, 1989: 143) where they felt ‘needed’ by tenants, however these practices did not translate into reciprocal and fair relationships and were not always appreciated by young people. In some cases landlords’ friendliness and involvement masked their main concern which was to exert control over their property and tenants’ activities and so fulfil their own needs, rather than providing a service. Some young people interpreted their landlord’s concern in this way and recognised this feature of relationships as ‘an excuse to keep round the property’ rather than a genuine desire to make sure ‘everything was OK’.

Accordingly, where young people were regarded as ‘children’, landlords had scope for a level of control which was unavailable in relationships with older tenants. Landlords were able to adopt a disciplinarian attitude and/or a supervisory role in their relationships with young people which was often based upon how landlords treat(ed) their own children, with the focus upon correcting tenants’ conduct. Perceptions of young people were often distorted as a result of landlords fulfilling their own personal needs and in some cases resulted in a lack of respect for tenants and an excessive degree of vigilance throughout the tenancy relationship. One landlord, described the nature of his disciplinarian management practices:

‘I don’t believe in a distant landlord. I like to be involved. I like getting involved and I’m not frightened to get involved, it’s just all part and parcel. If they do something wrong I play bloody hell’ (Landlord 1, male).

This ‘hands-on’ approach, shared by only one other landlord out of the eight, highlights the delicate balance between ‘informal’ and ‘friendly’ encounters with tenants and interference and control. Similarly, a number of landlords stated that they felt their ‘role’ was to ‘train’ and correct young people’s behaviour so they would ‘learn the social skills that they’ll need later in life’. These attitudes highlighted the coercive aspects of social exchanges between the parties (Molm, 1997: 2) which are an attribute of the tenancy relationship and its inherent power differentials. However, according to the accounts of the young people interviewed, where they had a landlord predisposed to control, such excessive levels of interference with their lifestyles did not contribute to their overall well being and instead caused considerable distress and resentment. In addition, the conflicting priorities of the parties and their lack of shared understandings were evident, highlighting the difficulties faced by young people in achieving a relationship that ‘works both ways’ when landlords were able to misuse their authority in such a way that threatens the basic rights of tenants.

However, landlords’ disrespect for tenants’ rights and feelings were not simply confined to relationships where their emotional needs were fulfilled, but also where landlords had intense feelings towards property, particularly when they had lived there previously and continued to regard it as their ‘home’. The five landlords who were in this position all expressed intense feelings towards their property and found it difficult to ‘detach’ themselves from the way in which the property was currently being used or to view letting that particular property as a business concern. In essence the property was still regarded as a ‘personal possession’ (Allen and McDowell, 1989: 52) and even where landlords did not intrude into tenants’ private space they still expressed emotional aspects of ownership (Hollowell, 1982) where

they were unable to fully relinquish rights of control over the property and trust their tenants. One landlord described these feelings:

‘because it was my home for quite a long period of time, I suppose it is different. It’s not just a shell of a building, it’s home as well for me and I don’t want people in there who are going to abuse it’ (Landlord 6, female).

Covert strategies to control young people’s use of property were also adopted by landlords. A key feature of covert strategies was close monitoring and patrolling of the property combined with the exercise of direct control over tenants’ activities, if necessary. A surprising feature of tenancy relationships was that a number of landlords chose to live near their tenanted properties or had friends living close by, in addition to being on good terms with neighbours adjacent to tenanted properties, with *twelve* of the fifteen landlords interviewed fulfilling at least one of these criteria. A common practice was to make sure ‘neighbours [of tenanted property] have my phone number’ so that surveillance of property was anonymous and landlords were informed of any problems, such as noise or nuisance, caused by their tenants. It was apparent from the interviews with landlords that careful consideration had been given to the advantages of living in close proximity to their tenants and in three cases landlords had purposely purchased or built property to let in the same street or opposite their own home. Landlords felt that tenants behaviour was likely to be inhibited by their close presence and the threat of intervention. As a consequence, tenants were unlikely to assert their full use rights over property, given that their actions were visible and audible (see, for example, Foucault, 1977). Furthermore, if tenants’ behaviour was not compromised, by the close proximity of landlords, they were able to exert direct control and create a regime of surveillance, as one described:

‘I go around every night between 11 and 12 and if there’s anything happening anywhere, like somebody playing music so loud that it’s going to keep people awake, I go and tell them to turn it down’ (Landlord 8, male).

These interactions revealed the difficulties young people experienced in achieving satisfactory relationships which allowed them to enjoy their rights of 'exclusive possession' and 'quiet enjoyment'. Although young people have legal possession of property, their rights to control the property were contested by the activities of landlords who were pre-occupied with the use of property and not with legal rights and entitlements, highlighting the differentiated citizenship experienced by young people in the PRS (see, for instance, Furlong and Cartmel, 1997; Kennett, 1998; Kemp and Rugg, 2001). The social context of relationships distinguishes them from formal contractual arrangements and gives rise to a number of difficulties with control remaining an integral feature of landlords' relationships with young people.

The data also highlighted the differing priorities of the parties. Landlords regarded their social relationships with tenants as a way to exert control, (often using 'informality' and 'friendliness' to mask the true nature of their interest), rather than as a pre-requisite to developing reciprocal relationships. Ultimately, although motives may differ between landlords, the close monitoring of property equates with regulation and restriction of young people's activities and interferes with their rights to feel comfortable in their own homes. In addition, landlords' unpredictable and idiosyncratic behaviour highlights the vulnerability and insecurity of young people who found it difficult to deal with the unpredictable social situations they encountered.

'Private power'

Power as described above, is derived from one party's greater dependence upon another and manifests itself consciously or unconsciously via unilateral exchange (Blau, 1964; Molm, 1997). The concept of 'private power' (Cotterrell, 1992: 82) is used here to extend the notion of power in order to more readily encapsulate the range of activities and exchanges which emerge 'behind the scenes' (Harvey, 1964: 9) within tenancy relationships where there is an assumption of equality between the parties. 'Private power' is used here to refer to the conscious and unconscious

‘distancing’ of landlords from tenants and property and to highlight how young people’s rights are either overridden by landlords *actively* withholding or *passively* failing to provide services and perform contractual obligations. Regardless of whether failure to provide services is active or passive, conscious or unconscious, interference with young people’s continuing use and enjoyment of property is evident. A number of different manifestations of ‘private power’ are identified here and include: physical distancing; unwillingness to take responsibility at a local level; indifference to external processes and structures, and deliberately withholding services. These are explored below.

As discussed above, the frequency and quality of personal contact with landlords was important for young people, with ‘friendly’ relationships preferred, combined with an appreciation of tenants’ right to ‘quiet enjoyment’ of the property. Concern was expressed by young people about the lack of personal interest shown by some landlords and the anonymity of relationships where ‘if I saw her [landlady] in the street I don’t think she’d know me and I don’t think she’d probably know us by name’. Some of the reasons expressed by landlords for not taking ‘much of a role’ in tenancy relationships revealed sentimental attachments towards property, rather than a lack of interest in tenants or a desire to exert power over tenants occupation of property. Nevertheless, whatever landlords’ intentions were, the effect such ‘distancing’ has upon tenants is real. Two of the five landlords letting property that was previously their ‘home’ maintained a physical distance in order to detach themselves emotionally. One landlord explained this:

‘I try not to go round very often at all because it upsets me when I see it in such a mess. So I’ve decided that the best policy is just let them get on with it, as long as it’s OK when they leave it, what they do with it in between times I’ve got to detach myself from and let them get on with it’ (Landlord 4, female).

However, although sensitive issues influenced landlords’ attitudes and behaviour towards young people, the ‘private power’ landlords choose to exert over the quality

of relationships with young people was evident and often highlighted the indifference landlords felt towards young people and their environments. The data highlighted the precarious role of tenants where they evidently did not experience closely regulated housing services, but were forced to endure problems as a consequence of their landlord's unwillingness to take responsibility for situations which were clearly within their remit. A number of instances described by young people illustrated these points. For example, two out of the fifteen tenants interviewed experienced problems moving into their accommodation, notwithstanding that letting agreements had already been signed and the respective tenancies had begun. These problems occurred as a result of landlords creating overlapping tenancies with the outgoing and incoming tenants, combined with a reluctance or inability to intervene and take responsibility of the situation, as one of these tenants describes:

'She [existing tenant] was buying a house and so she kept having to put it off month to month...I just hung on and on because I didn't really have any choice, even though I'd signed the tenancy agreement. I was living at my parents, I told them I'd probably come back for a week or two after giving up my flat, but it rolled into a month. He [the landlord] kept saying over and over again that she'd been living in this flat for God knows how many years and so he wasn't going to shove her out'.

These difficulties highlight the unprofessional nature of informal landlordism and the absence of industry standards and a 'proper service' (Housing Green Paper, 2000) in the PRS. The powerless position of prospective tenants, left 'in limbo' by landlords is also revealed, given the absence of consumer principles to enable tenants to seek redress in these situations.

Landlords exercise of 'private power' via indifferent behaviour also influences young people's initial experiences of their new environments. For example, some young people were not given an adequate induction into the running of their new

home and, in some instances, were effectively abandoned. Landlords are not legally obliged to provide tenants with information about, for example, the running of heating systems and cannot contract for every eventuality, (see Chapter Five) however, they proved problematic for a number of both experienced and inexperienced renters. These initial problems lead to tenants adopting a tentative 'trial and error' approach when they moved into property where 'you flick a switch and if something happens it happens and if it doesn't you move onto the next one', which inevitably interfered with their comfort and enjoyment, creating a bad impression and setting the relationship off to a bad start. Although these issues may appear trivial, the lack of care shown towards tenants, whether as a result of forgetfulness or inadvertence, nevertheless, indicated landlords' 'disinterest' which was interpreted by young people as being symptomatic of them 'just wanting our money'.

The difficulties experienced by young people as a result of landlords' indifference were not always localised, but also included the involvement of third parties. A number of tenants were adversely affected by landlords' failures to take responsibility for complex situations which often began prior to their tenancy, but which concerned the property and/or previous tenants. A male student described a particularly complex situation where he inherited a set of problems from both the landlord and the tenants in an adjoining flat and takes on responsibility for resolving them in order to protect himself:

'Even though the house is split into two flats the electricity bill is just for the house and the other difficult thing is the people upstairs did a runner. Because they'd put everything in the house name and bailiffs would be coming to see us because they'd [tenants upstairs] actually registered the electricity bill in someone else's name, completely different, also the water board didn't know that he'd [landlord] split the house [into two flats], he hadn't told a lot of companies. We got to the point where the companies needed extra information, so in the end I went to him and said "Well look, if you give me the information I will then

write the letter and send it off" because he'd kind of lost interest a bit and I actually did all that and I think he feels I've trodden on his toes a bit because I've told all these companies that he's split the house into two' (Tenant 1, male, 24 year old student).

This situation highlights the problematic positions in which tenants are placed through no fault of their own and the power landlords exert over these situations by relinquishing responsibility. This inevitably has a continuing negative influence on the tenant's ability to feel comfortable in their home, given the seriousness of the situation. By continuing to withhold information and making it difficult for the tenant to resolve the situation, the landlord continues to retain power over him. Hence, landlords establish power over young people by both supplying services and information (Blau, 1964: 118) and withholding them which has a recurrent and continuous impact upon young people.

Routinely withholding, for instance, repairs services has a profound effect upon young people's experiences of living in the PRS, and although tenants have basic legal rights to these services, they often experience considerable difficulty asserting their rights as they are expected to deal with these issues on their own, irrespective of their bargaining position, capabilities or skills. Landlords readily adopted the strategy of withholding services, in order to convey their disapproval to tenants, particularly when tenants had caused problems or failed to fulfil contractual obligations. This was occasionally done directly, by explaining to tenants why services were not being delivered, but more commonly by simple non-performance without explanations. A tenant described his landlord's response when he asked for some non-urgent repairs to be carried out:

'...the units were all falling apart and grotty, he hasn't done anything about that. I was kind of really nagging him about it and then he brought up the subject of how much rent I owed him so I shut up about that for a bit' (Tenant 6, male, 21 year old housing benefit claimant).

This situation highlights the differing priorities of each party and the ease with which landlords can attribute non-repair to tenants' failure to pay rent. Hence, the tenant has lost rights to repair as soon as rent arrears accrue. The landlord's perceived discretion rather than obligation to supply services reflects the social relationship where favours are performed in the expectation that they will be returned at some future date. Therefore, lack of reciprocation is legitimised via the tenant's failure to pay rent which is tantamount to failure to return a favour. In contrast, landlords often failed to specify reasons for withholding services. This was a problematic technique to employ as it relied on young people understanding why landlords were behaving in a particular way and it potentially created bad feeling between the parties. In some circumstances it gave rise to a destructive 'no win situation' especially when tenants adopted similar 'stubborn' tactics, reflecting the game-like aspects of social interactions (Goffman, 1972), rather than those associated with a contractual relationship. These 'tit-for-tat' situations were also extremely difficult to resolve, given that both parties feel that they are owed 'a favour' by the other and do not want to 'give in', highlighting the power differentials between the parties and the ferocious and silent struggle between the parties (Englander, 1983), as a landlady explained:

'They wanted a shower fitting which I said verbally I'd agree to and to date I haven't. I think this is a bit of standing my ground. I also asked them to provide me with council tax exemption forms and that took two months, one of them I still didn't get and I had to get myself. She kept telling me it was in the post and she'd actually never requested it and I think that was because I hadn't supplied the shower and I wasn't supplying the shower because she wasn't doing the things that I'd requested so it was a bit of a stalemate' (Landlord 4, female).

Another area of the tenancy relationship where landlords exert considerable power is in the quality and safety of the physical condition of the property they provide. In addition to the range of services they provide to maintain the property throughout the

tenancy. Although a substantial amount of legislation exists in relation to repairs, maintenance and safety standards of property, (see Chapter Two), extraordinary gaps are evident (Partington, 1993), most notably in relation to the precise nature of the landlords' obligations and the discretion they have over, for instance, the level of service tenants can reasonably expect, how this service will be delivered, planned response times for repairs, and how the property will be maintained during the course of the tenancy. In the absence of landlords' accountability to tenants for the terms and conditions of services and expenditure on maintaining property, tenants have no powers to compel landlords to maintain and repair the property without resorting to legal action. Therefore, landlords have the power to withhold services and fail to adequately maintain property conditions without a real or meaningful threat of sanctions. Furthermore, any exercise of discretion is likely to be influenced by the pattern of social exchange established in each relationship.

Tenants frequently complained about 'sub-standard' and 'fairly run down' property conditions. The most common complaints were of 'mould' and/or 'damp' with eleven out of fifteen tenants experiencing these problems, but none of their landlords responding to complaints. Young people also complained about the constraints imposed on their environment by long delays with repairs, where 'it's sort of finally done after as much time has been elapsed as possible' or non-existent repairs services. The data suggests that although landlords possess a vested interest in their property, there was only evidence from four of the young people interviewed that they felt their landlords were interested in providing them with 'somewhere nice to live'. As discussed above, landlords expected that young people should 'respect' the property *per se*, regardless of its 'grotty' or 'run down' condition. However, poor property conditions and inadequate maintenance denoted landlords' lack of interest in property. There was also a general feeling amongst the young people interviewed that respect for tenants was associated with the general condition of the property and the quality of services provided, hence poor quality accommodation and inadequate maintenance was associated with lack of respect for tenants. In addition, young people's overall levels of satisfaction with tenancy relationships appeared to be

closely linked with the standard of services landlords provided (see below).

Age and status were also mentioned by tenants as factors contributing to requests not being taken 'seriously' as landlords' assumed 'they can wait a bit longer' because they aren't 'older or someone with a family'. Landlords' attitudes and lack of responsiveness towards young people inevitably affected the quality of their environment and their ability 'to be able to feel happy and comfortable in your own home'. Young people often described landlords as 'unapproachable' and this effectively atrophied their ability to 'voice' their concerns (Hirschman, 1970: 14), preventing them from reporting repairs because they were 'afraid to phone up' or were 'worried about having arguments'. This left young people feeling powerless and anxious, as landlords not only exerted power over the quality of their accommodation but also over the quality of personal contact as a result of a social rather than a business interface between the parties. A female tenant described the nature of the 'private power' exerted by her landlord which ruined her overall experience of living independently for the first time:

'...it could have been a really fabulous house but it was just totally marred by the attitude of the landlord, you know. There's nothing more miserable than not having any heating and not being able to sort out the situation because you're being ignored and fobbed off and just feeling like you're constantly battling, you know, and you are constantly reminded of that because you're living there, aren't you? You can't ever forget about that' (Tenant 10, female, 20 year old, student).

It was evident from the data that the decisions landlords made about the property and its maintenance and the ways in which landlords behaved towards, and in response to tenants, had a profound impact upon the circumstances in which tenants lived. A worrying part of the research was the extent to which young people lived in poor or potentially unsafe conditions, often with a risk to health. The main areas of concern were electrical and gas appliances and the risk of fire, notwithstanding that statutory requirements relating to these specific issues have been in place for some time to

protect tenants (see chapter two). A student describes the risks of having electricity sockets that were ‘way over thirty years old’ and although there was only one other similar case throughout the fifteen tenant interviews, this one is noteworthy because the landlord *literally* exerts ‘power over other peoples’ lives’ given the potentially serious consequences:

‘All our electricity sockets are very out of date and don’t look like they’ve been rewired or checked for a few years in the kitchen here and that’s obviously very dangerous...In fact, the washing machine is hired and when the bloke came to fit it he said they were death traps and really he shouldn’t let us have the washing machine’ (Tenant 1, male, 24 year old student).

This situation reflects the ‘amateur’ nature of property management (Kemp and Rhodes, 1997: 130) and the ease of non-compliance with statutory regulations in the absence of enforcement or monitoring activities to uphold tenants’ rights to a safe environment. In addition, the data suggests that young people simply accept these sub-standard and unsafe conditions as ‘normal for rented property’ and appear to be unaware of the potential risks they face, particularly in relation to gas and electrical safety, unless it is brought to their attention. It is evident that some landlords fail to operate at safe or acceptable standards, nevertheless these standards are endured by tenants. However, such standards in relation to other consumer goods would not be tolerated or regarded as acceptable (Partington, 1993).

Tenants’ experiences also revealed that some landlords were reluctant to provide, repair or replace, for example, smoke alarms, defective appliances or wiring, if there was no likelihood of danger. It was only once the appliance became dangerous or the regulatory authorities were involved that landlords considered it to be a safety issue and were forced to comply. This inevitably raises serious concerns about the effectiveness of self-regulation and highlights the need for landlords’ activities to be closely monitored. A further cause for concern was the extent to which young people were prepared to accept risks in their accommodation as a result of

inadequate safety measures. There was a strong sense amongst the young people interviewed that there was very little *they* could do to force landlords to take responsibility for safety issues and minimise risks, although they did attempt to discuss these issues with landlords. This was particularly significant in accommodation falling outside of statutory requirements to provide safeguards, for example, property that was not classified as an HMO but had similar features. Young peoples' perceptions of how responsive landlords would be influenced whether they approached them or not. As a tenant, living in a second floor bedsit with one exit, (but falling outside of HMO regulations) explained:

'Fire, yeah, no fire escape, bit of a shame. We either break our legs or burn to death. I honestly don't think he would do anything and it's more hassle than it's worth. I probably should do something about it, but I don't know' (Tenant 3, 23 year old female, working full-time).

Where tenants felt that landlords would not respond to requests for safety or security measures, or felt uncomfortable asking, they sometimes took steps which created additional risks and compromised their own safety. These steps included, make-shift measures, such as, dismantling heating systems, placing furniture in front of the only available fire exit to prevent burglaries, and attempting to re-wire fused electrical equipment supplied by the landlord.

The ongoing obligations to provide a package of services and amenities in relation to the commodity consumed by tenants did not feature prominently amongst landlords' priorities. Instead, enduring 'poor conditions' and the absence of a 'proper service' (Housing Green Paper, 2000) were a feature of tenancy relationships for young people. Neither expressions of control or power over relationships provided a basis for the development of mutual trust and satisfactory social exchanges between the parties. The data reveals that landlords' 'private power' is incompatible with the performance of ongoing contractual obligations to the tenant to supply and maintain a safe and secure environment, in spite of statutory provisions which compel

landlords to do so.

Inadequate maintenance of property and the approachability and accessibility of landlords when problems arise inevitably influence tenants' ability to enjoy the property. These circumstances reflect the power the owner has over the renters' home in a relationship which is socially constructed in the absence of strict regulatory control. It is evident from the data that the parties are left to regulate their own affairs and imbalances exist in the inter-personal relationships with tenants having little power over the services they receive or the quality of their environment. In addition, given the risks that young people are forced to accept in the situations described above, there is little evidence to suggest that they participate in a fair and equitable relationship, or that they are protected as consumers against an unsafe and unhealthy environment.

YOUNG PEOPLE'S STRATEGIES TO MANAGE TENANCY RELATIONSHIPS

Young people attempt to respond to the control and power landlords exercise over them in a number of ways. The term 'strategy', discussed in detail in Chapter Three and mentioned above, is used here to highlight the variety of ways in which young people consciously and unconsciously respond to the constraints and circumstances they encounter in their tenancy relationships (see, for example, Morgan, 1989; Pickvance and Pickvance, 1994). The strategies adopted by young people are contingent upon the resources available to them, for instance, their particular skills and knowledge, in addition to the constraints placed upon them and the specific outcome(s) they wish to achieve. For example, the data indicated that the strategies adopted by young people differed according to whether they had long or short term perspectives about their tenancy relationships and correspondingly wanted to remain in or leave their current accommodation. The data also reveals that, in the absence of formal rights, young people draw on a number of resources, often in the context of difficult personal circumstances and without economic security or support from social networks. In this respect, young people use strategies in the absence of

enforceable formal rights.

Restructuring tenancy relationships

This part of the chapter explores the ways in which young people respond to the control and ‘private power’ landlords exert over them and examines how young people attempt to articulate their rights by restructuring relationships in their favour in order to achieve what in some cases they are legally entitled to, but often denied. In the absence of direct mechanisms, such as, consumer or legal principles to enforce their rights, young people are forced to adopt a variety of strategies to maintain and manage relationships. However it was striking that the strategies adopted were generally of a cautious nature and were not formal attempts to exercise their rights to exclusive possession, quiet enjoyment or the provision of services. This inevitably reflected the precarious position of tenants in the PRS with lack of security of tenure, economic insecurity and the competitive nature of the rental market. Young people used social strategies in an attempt to articulate their rights as this was a less contentious mechanism to use than, for example, asserting legal rights or withholding rent, which may result in unintended consequences, such as being asked to leave the property.

There are inherent problems in trying to obtain redress via social interactions as difficult and complex situations may arise. The social relationship is also a potentially less effective medium to achieve desirable outcomes, given that young people’s actions may be subtle rather than direct and there are no guarantees that landlords will respond in an appropriate way. The types of strategies adopted by young people differed depending on the difficulties they faced, with, the exercise of ‘private power’ (for example, non-provision of services) often provoking complaints or reminders, and the exercise of control (for example, the landlord repeatedly visiting the property) prompting more subtle strategies. Moreover, different strategies were often adopted at different points in the relationship, with more cautious strategies adopted in the initial stages. These cautious strategies were particularly notable in relation to difficulties caused by landlords’ intrusive

behaviour and visiting the property for no obvious reason. A student's experience captures the 'awkwardness' of these situations and how she learns to 'push' the landlord out of the property using oblique and indirect methods, rather than asking him to leave:

'I was really kind of polite and nice to him at first with cups of tea and I realised that was just encouraging him to come round more...I think he's getting the message now because he'll come in, I don't offer him a cup of tea anymore, he'll just like say his piece and then wander out again' (Tenant 10, female, 20 year old student).

Strategies adopted relating to problems with repairs were generally of a less subtle nature than that described above, and were directed at securing the repairs required by reminding landlords about the problems and complaining when there was an inadequate response. Where young people rented in groups, there was little evidence to suggest that they used collective action to assert their rights or gain redress. Instead a typical approach involved appointing a spokesperson to repeatedly contact the landlord to maintain consistency so as not to be 'fobbed off', often combined with seeking advice from an experienced and older third party:

'We usually got the same person as well to do it and say you know "I phoned you last week" rather than someone else saying "Oh my housemate phoned" yeah, you know, we didn't get anyone from outside, although I did ask. I was talking about it to like my parents and stuff saying, you know, "Is what they're doing fair?" as well. We always do that if something crops up then we always speak to our parents about it' (Tenant 2, 21 year old female, working full-time).

As discussed in Chapter Five, obtaining advice from family or friends was common, however the active involvement of a third party was viewed by young people as a last resort when alternatives such as changing the complainant and sending written complaints were exhausted. This indicated the extent to which young people were

self-reliant and prepared to take risks to restructure relationships even though they did so in the context of unequal bargaining power and as the economically weaker party - involving others only when they had exhausted their available resources. In only one relationship did a third party become actively involved after considerable effort and persistence on the part of the tenants:

‘Yes basically we just had to keep harassing them until they sorted it out and it took [name of co-tenant] dad and us to take a visit to them and say "Look here’s a problem and we’ve tried to sort it out and nothing’s happened”‘ (Tenant 9, male, 20 year old student).

The data indicated that young people’s willingness to manage difficulties with landlords was reduced if they felt that they would receive an inappropriate or unpleasant response or if nothing would be done about a particular issue. Hence, the particular approach tenants adopted when contacting landlords was important. Even where tenants were legally entitled to services and had made repeated attempts to secure them, it was still important to adopt a pleasant and persuasive approach when contacting landlords, rather than ‘getting nasty’. One tenant described a situation at the beginning of the tenancy where the landlord ‘unreasonably delayed’ a serious repair resulting in further legitimate and direct complaints with the tenant’s overall strategy failing and almost leading to a conflict:

‘...we kept phoning up and saying "You said you were going to come and sort it out and you haven’t" and he said "If you’re going to get rude like that then I won’t be doing anything”‘ (Tenant 2, 21 year old female, working full-time).

Even in situations where tenants repeatedly and legitimately use ‘complaints as voice’, (Cowan, 1999: 184) landlords’ ‘private power’ remained in evidence and was not diminished even in situations where respondents rent with groups of friends and could potentially protest *en masse*. The situation described above highlights the tenants’ frustration and distress as the landlord projects the source of the problem

away from himself and onto the tenant's inappropriate attitude. The difficulties of using social exchange as a way to re-assert rights is evident with tenants forced to adopt complex strategies and confront landlords in ways which rely on a confident approach and a range of skills, coupled with landlords' willingness rather than duty to respond.

The use of subtle strategies was symptomatic of the power imbalance in relationships, lack of security of tenure and the lack of clarity about the precise nature of the boundaries between landlords' rights and young people's rights. A subtle approach was adopted by a tenant who received no response to persistent complaints about repairs. In order to redress the power imbalance and exercise some authority, the tenant abandoned his pursuit of repairs and attempted to gain satisfaction on a more personal level with the landlord by informalising the relationship, as he explained:

'I've started calling him [landlords Christian name] as opposed to [title and surname] but I made a conscious effort, I decided to do that because he was pissing me off a bit and I was like "Well sorry, Mr. [name], all right Mr. [name] I'll do that Mr. [name]" and he just started to get on my nerves so much because he was so slow' (Tenant 6, male, 21 year old, housing benefit claimant).

This young person rejected the impersonal regime of formalities and casualised the relationship by reducing the status of the landlord. This study highlights the complex nuances of social interactions between the parties and suggests they are more idiosyncratic and individualistic than Allen and McDowell's conceptualisation as discussed in Chapter Three.

Once tenants encountered negative experiences, their cumulative effect often resulted in the adoption of avoidance tactics, as avoiding contact with the landlord was perceived as preventing further conflict. The willingness to avoid contact with landlords lead to a reluctance to directly use 'voice' (Hirschman, 1970: 4) as a right

to complain as it was viewed as a 'messy concept' (Hirschman, 1970: 16) by young people and it was common to simply 'stop phoning, just sit and, you know, had the problem and didn't do anything about it'. Timing was particularly important in these circumstances as young people were prepared to abandon contact with the landlord as the tenancy progressed or when they had decided to leave, especially where complaints were persistent or if they felt they would receive an inappropriate response. One student describes the cumulative effect and her ultimate response to negative interactions with her landlord:

'By this point [almost at end of tenancy] we were all just like "I can't be bothered" you know, they wear you down so much just trying to get through, so we just put up with it' (Tenant 10, 20 year old female student).

The data revealed how young people are placed in a position where they are forced to secure their rights via strategic action in their social exchanges with landlords rather than through formal complaints procedures or legal or consumer channels. Young people challenge landlords' practices not simply through repeated demands for the performance of services but through subtle, non-confrontational approaches which tentatively adjust social boundaries to prevent deterioration of the overall relationship. In addition, approaching landlords was not always appropriate or possible in some situations, especially if the tenant was afraid of, or unsure of the consequences. Young people's responses to landlords 'private power' and control are restricted given the fears of disturbing already problematic relationships and it is readily accepted by tenants that although they have rights on paper, they cannot in practice safely exercise them.

Mobility

The encounters described above, such as repeated visits to the property, absence of service provision, and unsatisfactory responses from landlords, demonstrate how landlords' behaviour and management practices can have a profoundly negative impact upon young people, the circumstances in which they live and their

experiences of independent living. The enduring impact of landlords' actions, as well as the *lack* of power and control young people perceived they had over their environments and interactions with landlords, precipitated decisions to seek alternative accommodation as soon as the fixed term expired. Eight out of fifteen young people stated that they wanted to leave or would leave their current tenancies at the earliest opportunity. Two of these tenants were moving voluntarily as a result of personal circumstances rather than negative experiences. The decision to leave amongst those remaining were based upon 'frustration' after having exhausted their available resources to secure a satisfactory relationship or successfully restructure relationships using social strategies, rather than them being prompted to move by positive 'pull' factors. These six tenants felt strongly that they had simply 'had enough' of poor property management and unsatisfactory responses from their landlords. A student evaluated her experience of living in the PRS and described her landlords 'neglect' throughout the entire relationship, prompting her to leave:

'They were just so disinterested, like obviously they didn't need to do anything...because they'd been getting away with it for years and taking people's money and ignoring them and just laughing their heads off really and it annoys me you know, because we're all first time renters and we don't have the experience' (Tenant 10, 20 year old, female student).

The data indicates, once again, the difficulties associated with the 'hybrid nature' of tenancy relationships (Bright and Gilbert, 1995: 69; see also Chapter Two) and the disparity between the parties' perspectives, where tenants expect ongoing services to be provided which are incompatible with some landlords' perspectives of non-service provision. The conflicts associated with long term and short term use of the sector underlie these disparities between the parties, with young people moving through the sector and into other sectors in search of greater satisfaction, while landlords continually and easily replace tenants. The ongoing relationship is, nevertheless, important to young people as the different qualitative components of the relationship, such as, maintenance, services and personal contact all influence the

nature of the overall experience young people have during the tenancy. Once young people had repeatedly exercised the 'voice' (Hirschman, 1970: 4) option to no avail, and were unable to assert their legal rights and/or maintain their tenancy relationship, they invariably decided to seek alternative accommodation as a last resort in order 'to escape from an objectionable state of affairs' (Hirschman, 1970: 30).

However, the natural 'exit' (Hirschman, 1970: 4) built into the relationship by virtue of the expiry of the fixed term, reduces the value of exit as an effective mechanism of protest and does not prompt landlords to contemplate the reasons why tenants leave or to assess whether the overall quality of the relationship and services provided are satisfactory. This is underpinned by the absence of a formal complaints procedure or mechanism to provide landlords with feedback. In addition, landlords may have little incentive to maintain relationships and take the performance of obligations seriously given the short term focus of assured shorthold lettings in their conventional form of six months, coupled with the precarious position of young people in a competitive market where a pool of renters will always be available. These reasons often lead young people to perceive landlords as 'milking it' and 'taking advantage' of the structure of the private rented market. Therefore, although the ending of a tenancy may signify little to landlords, it is important for young people as they were able to 'escape' to 'find somewhere nicer'. A student described how he felt 'driven out' of a 'perfectly nice house' due to the lack of responsiveness of his landlord:

'They [landlord] just grind you down till you just give up and we thought "We're leaving now and we'll never deal with him again and we've learnt from the experience" but you do kind of give up' (Tenant 9, 20 year old male student).

Although finding alternative accommodation was a rational response to difficulties perceived as too onerous to resolve by young people, the true miseries of the situations they endured were not conveyed to landlords as unresolved difficulties were left behind rather than voiced effectively. This was partly as a result of simply

'giving up' and also because of landlords' continuing 'private power' and control over young people and a reluctance to allow a problematic relationship to deteriorate any further and run the risk of retaliatory actions, such as, deposits being withheld. Furthermore, young people generally remained hopeful that they would find a 'better landlord' or 'somewhere nicer to live' and achieve a more satisfactory relationship. Mobility, therefore, when it was not prompted by personal circumstances was used as a 'last resort'.

Disproportionately high rates of mobility in the PRS amongst young people under the age of 25 may be explained, to some extent, by the unsatisfactory nature of their relationships with landlords and the difficulties they experience in achieving a satisfactory relationship. Evidence from the data questions more optimistic assumptions and interpretations offered by some studies that choice and aspirations are the major or only factors in young people's short term use of the sector in its modern form (Kemp and Keoghan, 2001). The disappointments experienced by young people in their tenancy relationships are, therefore, rationalised and managed by regarding each tenancy relationship as a temporary housing solution rather than a permanent one, until such time as a fortuitous tenancy relationship is encountered. This suggestion is supported by quantitative data from a recent nationwide project of young people's housing circumstances which indicated that 59 per cent of young people regarded their current PRS accommodation to be temporary rather than permanent, and that in a proportion of cases mobility was the result of 'push' factors, such as poor conditions or deteriorating relationships with landlords, as well as clearly being a choice for some. (Young people, housing and the transition to adult life: understanding the dynamics, ESRC, 2001, Centre for Housing Policy, University of York, own analysis).

Maintaining tenancy relationships

In contrast to 'push' mobility, the factors which lead young people to renew or continue with their tenancy relationships are illuminating as they highlight some of the positive experiences of living in the PRS. Of the fifteen tenants interviewed, six

wanted to stay in their current tenancy relationships and one was unsure. As discussed above, young people's experiences were shaped by the expectations brought to relationships, in addition to the benefits and services received during the tenancy. A few of the reasons expressed by this group of young people about staying in their current tenancy were overshadowed by a lack of choice and/or anticipated problems associated with financial constraints, especially where tenants were in receipt of housing benefit. In these cases negative reasons were expressed about moving, for example, 'other places are more expensive', rather than there being positive reasons for staying.

The positive reasons expressed by some young people for continuing with their current tenancy relationship were based upon their experiences with their landlord and the fulfillment of their expectations. These views were expressed in uncontentious, although not completely unproblematic relationships. However, in contrast to the unsatisfactory relationships discussed above, a significant factor influencing young people's wishes to maintain tenancy relationships, related to the level of control they perceived they had over the outcomes of social interactions with landlords, whilst also recognising what was to be reasonably expected from the relationship. Where young people felt they had some control, the tenancy relationship was viewed more as a *shared experience* between the parties where landlords would respond to tenants, as opposed to relationships where landlords constructed a framework of experience which young people simply endured. A working tenant described the nature of his relationship with his 'approachable' landlord where he had had his tenancy renewed:

'I feel I can actually talk to them and I'm not intimidated by them. I'm more likely to bring up, resolve any problems. It's a reasonable relationship' (Tenant 4, male, 21 year old working full-time).

Another contributory factor in young people's perceptions of relationships as satisfactory was associated with financial arrangements. Where young people had

not made large financial sacrifices in the form of high deposits and/or high rents this appeared to modify or lower their expectations about standards in the property and the levels of service provided by the landlord. In addition, young people's previous unsatisfactory experiences of tenancy relationships also shaped their expectations in subsequent relationships and were likely to lead to less disappointing outcomes as a result of diminished expectations. A female tenant compares her previous negative experiences with her current experiences and reasons for maintaining her tenancy:

'I'm not sure how they could be better actually, this is about as good as it gets I reckon. It could be a lot worse just going by our experience of the past house we were in, so I think we're all quite happy' (Tenant 12, female, 22 year old, housing benefit claimant).

The relationships which appeared to be most satisfactory were based upon reciprocity and mutual trust between the parties. Although the contractual relationship between the parties is designed to counter the need for trust, as discussed in Chapter Three, the presence of trust is nevertheless important as relationships are conducted substantially through social exchange. Although there were only three young people who experienced relationships with very little, if anything to be dissatisfied about, they were notable, as they were significantly less mobile than the other twelve young people interviewed. At the time of the interviews these three tenants had lived at their respective properties for over one year and had had their respective tenancies renewed - one tenant having had it renewed twice. The stability and security which renewals of letting agreements appear to provide young people, may be a significant factor in their tenancy relationships' relative success. For instance, where mutual trust is present, young people may feel that they are able to deal with landlords more effectively and 'voice' (Hirschman, 1970: 4) their discontent about aspects of the relationship or the tenancy based upon a sense of security which transcends the limited security which they have in the PRS under an assured shorthold tenancy. A female tenant explained how she is confident in receiving an appropriate response when approaching her landlord as trust between

the parties has developed over time:

‘I think though it’s more of a kind of trust thing because having been in his house for two years now, you know, we’re people he knows he can trust and we know if we’ve got a problem we know we can just ring him up or go round and tell him and there won’t be a problem so that’s kind of good’ (Tenant 11, female, 21 year old student).

This situation highlights the benefits to the parties of developing a relationship based upon mutual trust and the positive signals that renewal of the tenancy conveys to the tenant, confirming the importance of the long term, continuing relationship.

Signaling a willingness for continuity is particularly significant in a context where tenancy relationships are assumed to be short term as with assured shortholds. In this sense the short term nature of lettings may hamper the development of trust between the parties, but where the parties view the letting as a long term arrangement, stronger efforts may be made to resolve potential difficulties and maintain relationships.

However, tenancy renewal was unusual among the parties interviewed and as a consequence was regarded as significant by young people as it denoted the landlord’s approval of their ‘good behaviour in the [housing] market’ (Mead quoted in Lister, 1990: 9) and this enhanced their positive perceptions of the relationship, as a male working tenant stated, ‘we thought the fact that they renewed our tenancy was a good sign that we’d been doing all right for a year’. Young people also experienced further positive benefits when a tenancy was renewed. The stability associated with the success of their tenancy relationship enabled them to develop confidence to negotiate with landlords as a sense of security in a non-threatening relationship replaced lack of security of tenure. A working tenant describes this process:

‘We’ve just signed the lease for another year, so we’ll be staying here for a third year and for that one we’ve negotiated prices because he was saying if we moved

out he would put the prices up quite considerably and so we asked him if he would keep the prices the same if we stayed and he said he'd put it up by just a few pounds but not half as much as he would otherwise' (Tenant 4, male, 21 year old working full-time).

It was not only young people who perceived the benefits of longer term stable relationships as there was evidence from the data that some landlords also made efforts to maintain their relationships. This was done either by providing adequate services and being pleasant and amenable to young people or by taking risks to enable tenants to remain in their tenancies. In addition, where landlords were willing to maintain relationships with existing tenants, this reassured young people of the landlords' commitment to, and interest in them and the tenancy relationship. This was highlighted by two landlords who adopted a flexible approach towards housing benefit claimants and were prepared to take a risk to reduce claimants' shortfalls under the Single Room Rent and prevent rent arrears accumulating by manipulating 'the system'. A landlady described the practical strategy she adopted:

'I fiddle it [housing benefit]. So what I do, I charge an amount and then when they fill in their housing benefit form I say that the amount is for rent, but what they pay is for everything, it includes council tax, all the bills ... and they get the common areas cleaned and that actually represents at least £5 a week. So what I do I say they are paying that only as rent and then we might get a bit near it, but it never comes near it, never the full amount' (Landlord 5, female).

In addition, altruistic approaches were adopted when landlords were prepared to forego economic incentives in order to keep a valued tenant. A landlady provides an account of her practices, which interestingly exemplifies those adopted in the nineteenth century, as discussed in chapter three, where a 'good tenant...was an asset to be protected' (Daunton, 1983: 144). The landlady acts to her own detriment financially and tolerates "repairable lapses" (Hirschman, 1970: 2) in a valued tenant but combines this with a strategy which is ultimately self-interested, aimed at

keeping a 'good tenant' and maintaining the *status quo* in the property. She describes these events:

'...with [name of tenant] who's in there and she was out of work for a while and when she got housing benefit through it wasn't as much as she'd hoped. It wasn't going to cover the full rent and I just, because I knew how beneficial it was to me to have somebody like her in there I was happy to reduce the rent and I did by £5 a week and that was for about eight months until she got another job' (Landlord 6, female, informal).

The data suggests that secure and reciprocal relationships can be achieved between the parties, although, these relationships were only possible where landlords adopted flexible approaches towards young people and, in some cases their difficulties. However, the achievement of a satisfactory and reciprocal relationship appeared to be arbitrary, based upon a fortuitous apportionment of power and control combined with a successful match of expectations, shared understandings and mutual trust between the parties rather than young people being able to actively manage and change a tenancy relationship to their own complete satisfaction.

CONCLUSION

It is evident from the data that the presence of a letting agreement does not provide either party with a definitive set of rights, obligations and expectations which aid the smooth running of tenancy relationships. A vast part of the relationship is regulated personally between the parties where landlords control and construct a framework of experience for young people, in the absence of regulation and minimum guaranteed standards. The landlords' power and control over the tenants' environment, their use of property and the overall quality of social exchanges and interactions is evident throughout the data and is an inevitable and accepted feature for young people, although evidently causing disappointment and, in many cases, distress. In addition, the lack of security of tenure in the PRS underpins and legitimises landlords' basic assumptions about rights of ownership as of paramount importance over tenants'

rights of possession.

The data suggests that each relationship exhibits a specific internal structure of activities and a diversity of experiences, giving rise to a different set of consequences for young people, revealing that the real (often miserable) outcomes for tenants are concealed 'in a quiet way behind the scenes' (Harvey, 1964: 9), often falling outside of the statutory definition of harassment, but ultimately preventing the development of a reciprocal relationship. Although some young people are adept at re-asserting their rights in order to achieve what they are entitled to, the context in which they are forced to take such action is inevitably problematic as it highlights not only their weak position in the relationship and the housing market, but also within the legal system which provides them with little support. Where satisfactory relationships are attained, this is not as a result of young people consciously and purposefully pursuing such relationships, rather it is as a result of an arbitrary matching of expectations between the parties. In addition, the data has highlighted the multiple and complex problems encountered by young people, the strategies adopted to address them and the difficulties associated with achieving an equitable and fair relationship when regulatory mechanisms are inevitably unable to regulate the conflicts associated with 'private power' and possession and control.

CHAPTER SEVEN

ENDING TENANCY RELATIONSHIPS AND SUGGESTIONS FOR CHANGE

'...it's unfair they can move out when they want, if they want to move out after three months, they can do, if I want to boot them out after three months, I can't do it. It's a bit one sided is the law' (Landlord 11, male).

INTRODUCTION

Notwithstanding that some young people in response to landlords' 'private power' and/or control develop social strategies to manage their tenancy relationships, (see Chapter Six), this chapter shows that the prominence of landlords' social practices over legal codes is intensified at the final stage of relationships. Landlords can exercise considerable influence over the ways in which young people are asked to leave property and unlawful evictions are evident. Given young people's reliance upon landlords' actions as a true reflection of the law, idiosyncratic ways of taking possession of property are rarely questioned.

This chapter highlights the ultimate control landlords have over tenancy relationships by ending them regardless of young people's tenancy rights. The ways in which landlords use social relationships to end tenancies is examined here, in addition to exploring further some of the issues raised in Chapter Five about whether the ways in which landlords set up tenancies have an influence upon how they end. Landlords' use of the economic aspect of relationships as a controlling factor is also addressed in conjunction with the post-exit difficulties this creates for young people. Finally, the diverse nature of tenancy experiences are examined and the chapter considers the suggestions for change, both personal and structural, made by the respective parties as a result of their experiences. The views and suggestions for change expressed by the respective parties, as the above quotation indicates, illuminate their priorities, nevertheless these views provide only a partial picture of the true nature and extent of the problems experienced.

CONTROLLING THE LEAVING PROCESS

Landlords

The circumstances in which young people were asked to leave their tenancy relationships were closely regulated by landlords who used a range of methods to regain possession of property. In contrast to the procedural simplicity of setting up tenancy relationships, ending them is complex, requiring compliance with specific and detailed legal procedures which provide tenants with a minimum of two months notice to quit, (see below for further details). However, given the lack of knowledge of the legal framework displayed by landlords throughout the tenancy relationship, as detailed in previous chapters, social practices dominated the way in which they managed the leaving process. Landlords' assumptions that ownership of property bestowed upon them certain rights to manage tenancy relationships as they saw fit was a continuing feature of relationships and was often intensified at this stage in the relationship. Nine out of the fifteen landlords interviewed had asked tenants to leave property in the past or were in the process of doing so. Only two of these landlords had ever taken legal action against tenants. The data also revealed that amongst these nine landlords, only one of them had ever asked a student to leave. Housing benefit claimants and working tenants were asked to leave by landlords in equal proportions.

The main reasons cited by landlords for typically asking tenants to leave and/or atypically taking legal action against them was rent arrears, however tenants were also asked to leave for causing 'a lot of problems in the house' and for noise and nuisance. During the initial stages of problems with tenants, the landlords interviewed adopted a number of approaches to attempt to resolve these difficulties, with the aim of maintaining the relationship. These approaches typically involved warning tenants, both verbally and in writing, of the consequences of their continued behaviour and occasionally using threats, for example, 'if there's any trouble with the police, you're out'. Softer approaches were sometimes adopted particularly in rent arrears cases where landlords were willing to 'negotiate and come to some sort of arrangement' for payment in instalments and occasionally provided tenants with 'advice about budgeting'. In spite of landlords' interventions to maintain tenancy

relationships, problems often intensified leaving them feeling that tenants were ‘taking advantage’ of their efforts to help them.

Once landlords felt their efforts were exhausted and the situation with tenants remained unresolved and/or uncontrollable, stringent methods were adopted in order to regain possession of the property and/or recover rent arrears. The procedure required to gain possession of property in the PRS depends upon whether possession is sought during the fixed term of the tenancy or after the fixed term has expired. Where possession is sought during the fixed term, specific grounds for possession, for example, for rent arrears or noise and nuisance, must be contained in the letting agreement and a court order is also required. Where possession is sought after the fixed term has expired, a notice to quit (NTQ) is sufficient to terminate the tenancy, provided at least two months notice is given, (not one month as commonly thought), which must expire on a rent day. Unlawful eviction, as laid down in the Protection from Eviction Act 1977, occurs where a landlord has sought possession of property without following the correct procedure for terminating a tenant’s right of occupation. This does not necessarily involve ‘heavy-handedness’ on the part of the landlord, as stereotypical images often suggest, but simply the use of incorrect procedures.

The data strongly suggested that landlords commonly misinterpreted and rarely adhered to the precise requirements for possession. Four possible approaches were adopted by the landlords interviewed. Firstly, there were landlords who were unaware of the correct legal procedures and simply asked tenants to leave when and as they pleased. Secondly, there were those who *thought* they were adhering to the law but were not. Thirdly, there were landlords who adhered to the legal framework and finally, there were landlords who, although fully aware of the relevant procedures required, took the law into their own hands to achieve their required outcomes.

Lack of awareness of the legal framework

Two of the nine landlords interviewed were unaware of the relevant legal provisions to terminate tenancies and did not attempt to comply with the law in any way. The practices of these two landlords were illuminating as they operated in a legal vacuum and were completely unaware of their legal position or that of their tenants and, hence, were unaware that they were unlawfully evicting their tenants. This contrasts with the landlords who were aware of the correct legal procedures to follow to regain possession of property, yet consciously avoided using them, as discussed below.

Neither of these two landlords regarded the difficulties they experienced with their tenants as legal issues, but instead described legal problems in terms of social relations (Conley and O'Barr, 1990: 61). Problems with young people were not perceived as a conflict about rights over property, but as a personal and private matter where the law, and the presence of a letting agreement, were inapplicable. As a consequence, difficulties with tenants were dealt with according to the landlords' own principles and ideas of justice. The approaches adopted to end tenancies were based upon personal preferences and reinforced the dichotomy existing between external legal controls, and the more immediate control which can be exercised over relationships, as discussed in Chapter Six.

Both of these landlords explained the simplicity of ending tenancies by 'just asking that this person didn't come back' or by 'throwing them out'. Although tenants' rights were infringed by these landlords failing to use the correct legal procedures, it was practically possible to end tenancies in this way as young people were often unaware of their legal rights - this was certainly the case with the fifteen interviewed, where knowledge of rights was an exception rather than the norm. Furthermore, young people generally assumed that landlords' practices were a true reflection of the law and were unlikely to challenge requests to leave, particularly when they felt they were 'in the wrong', if they had, for example, accumulated some rent arrears.

The lack of a formal legal approach towards tenancy relationships also extended to

the landlords' actions against tenants. Neither of these landlords considered taking legal action against tenants even where they had accrued substantial rent arrears and redress would normally be confined to legal channels. Instead, stringent management practices were used where 'telling them [tenants] to keep their rents up to scratch' was considered to be an appropriate way to avoid problems. When these methods failed, one landlord occasionally involved third parties to secure payment of debts:

'I have one person now who owes me about £750, but I don't suppose I'll ever get it. I haven't gone for him, I've rung his mother and father up, but you know it's a bit of a problem' (Landlord 1, male).

These approaches were rational responses where landlords conducted tenancy relationships in a legal vacuum and it was not within their mindset to consider taking formal legal proceedings when a problem occurred. However, as the above quote suggests, the approaches adopted towards their relationships with tenants could lead, inadvertently, to constraints being placed upon their own freedom to enforce rights through legal channels, yet they remained unaware of this or the possibility of taking legal action.

In addition, the nature of landlords' involvement with tenants was not always characterised by a normative landlord/tenant relationship, and as discussed in Chapter Six, landlords' motivations to let property were not always of a strict business nature. Instead, landlords' needs were sometimes met through their emotional attachment to tenants and property, leading to diverse practices and responses, where a universal application of legal principles was inappropriate as it was unable to flexibly accommodate unconventional management practices. One of these two landlords revealed that problems with tenants do not simply affect her as a property owner, but also on a deeply personal level, revealing the extent to which she is emotionally involved with her tenants. She described her 'informal' relationship with her tenants who do not have letting agreements but she provides them with more than two months notice to quit:

‘I’ve mentioned to some people that I’ve asked them [tenants] to leave and you know one or two people have said "Oh, will they go all right, will you have a problem?" Well I don’t envisage one, touch wood, I could be speaking out of turn here and I might have a problem with them if they don’t go, you know, I assume they’re looking for somewhere now, but they might not be. If there is [a problem] I’ll be very, very hurt by it and very upset’ (Landlord 7, female).

Attempts to comply with the legal framework

Two of the nine landlords who had asked tenants to leave attempted to comply with legal requirements, but in spite of their efforts they failed to give the required notice period. One landlord discussed his attempts to comply with the law, however, he makes a common error of providing a day less than the prescribed legal requirement, (which would nevertheless result in technical problems if legal action was subsequently taken), although he is unaware of his error:

‘you’ve got to give them two months notice in writing, so if they were due out on July 31, you have to serve a notice on June 1’ (Landlord 13, male of a couple).

Adherence to the legal framework

Three of the nine landlords interviewed did adhere to the law, serving NTQs on the appropriate dates after the fixed term had expired. Correct procedures for serving NTQs are a necessary pre-requisite to legal action, and two of these three landlords then took proceedings against tenants - one through the County Court to gain possession of the property and another used Small Claims procedures to recover rent arrears after the tenant had given up possession of the property.

However, where landlords adhered to the legal framework and took legal proceedings against tenants either to recover rent arrears owed or to recover possession of their property, the process was described as ‘problematic’. Only one

landlord had taken possession proceedings through the County Court and he provided graphic descriptions of the delays involved where possession took approximately 'three or four months minimum' and was costly in terms of legal fees and lost rental income. In spite of taking a deposit, it was insufficient to cover a large proportion of the costs. This landlord, letting property for the first time, described his negative experiences of the possession process and the bias he perceives it has in favour of tenants:

'They [tenants] seem to be protected all down the line, even to the point that you get a County Court order against them, they've got to get out in 28 days, the 28 days arrives, you still can't get them out. You've got to apply for a bailiff which is even more time, and all the time they are living rent free and you think, "This is my house, you know, living in my house for nothing and I'm paying a mortgage on it" and they sail off into the sunset and you can't even find where they've gone. It seems so unfair...' (Landlord 11, male).

This landlord identifies the constraints placed upon his ability to control his own property once he has become involved with the legal process. The law overrides subjective and sacred notions of property, removing the locus of control from the landlord, leaving him at the mercy of the timing and due process of the law. This landlord's frustration with the possession process and the ease with which he feels tenants can take advantage of the lengthy process and remain financially unaccountable provides him with little confidence in the legal system as a fair means of redress. The disadvantages involved in 'doing everything the right way' lead this landlord to the conclusion that he 'wouldn't go through a solicitor again' and, instead, would adopt informal procedures, perceived as worth the risk of prosecution, in order to accelerate this process. These views are central to considerations about the effectiveness of the law in dealing with problems between the parties.

Conscious avoidance of the legal framework

Some landlords' negative perceptions and experiences of the legal system and the

unlikelihood of being challenged when using unlawful strategies influenced the approaches they adopted towards possession procedures. The data indicated that two of the nine landlords adopted unlawful or at least 'dubious' strategies to intentionally regain possession of property, in spite of extensive knowledge and awareness of the procedures they should follow. Knowledge of the legal framework and its disadvantages provided both of these landlords with the confidence and ability to skilfully misuse tenants' rights. Both landlords provided descriptions of a number of situations in which they used unlawful practices indicating that these occurrences were not isolated incidents or confined to extreme circumstances. Both of these landlords had become adept at assessing particular situations in order to choose when to use and when to avoid the law:

'If you need to invoke the law then you've got problems because of the time in getting people out...I use the law when it suits me and I override the law when it suits me' (Landlord 2, male).

The ease with which informal procedures can be adopted given the unlikelihood of prosecution for unlawful eviction inevitably contributed to the misuse of the law in order to accelerate possession. Faced with a legal system which is inefficient and unresponsive to the predicaments of the majority of small scale landlords who require regular rental payments to cover mortgages and, therefore, swift possession procedures, landlords have no incentive other than moral probity, to adopt formal legal procedures. Lawful behaviour was not considered to be rewarded, rather from the experiences discussed above, the reverse is the case, whilst unlawful behaviour is rarely penalised. Hence, inappropriate behaviour 'in a quiet way behind the scenes' (Harvey, 1964: 9) achieves desired outcomes without the frustration, delays and costs.

Both of these landlords adopted a patriarchal approach towards young people, using their own age, status and authority, to persuade and advise tenants about the best course of action for them, given their circumstances. By adopting such subtle

approaches landlords were able to mask the use of unlawful methods and unequal power to gain possession of property and legitimised these interventions as a means to prevent the situation worsening for tenants. One landlord explains his methods:

‘I got them over here and spoke to them [about rent arrears] and point them in the direction of alternatives. I didn’t actually [end up with rent arrears] because I stopped it soon enough and asked them to leave [during the fixed term]’ (Landlord 8, male).

Where more complex and extreme situations arose persuasive measures were combined with coercion to exert pressure on young people to leave. One example of this occurred where the presence of a police officer was used to assist the landlord in an unlawful eviction, (apparently a relatively common occurrence, see Jew, 1994) after complaints from his tenants’ neighbours about noise and nuisance:

‘By this time we were coming towards the end of the first month I suppose, so their months rent was about due for being paid...I went to see the local friendly police constable and said "Look, despite the fact that these people have got an assured shorthold tenancy, I’m going to kick them out. I’m just warning you now in case, you know there’s a sort of breach of the peace because I’ve probably created it". So the local policeman offered to come down and stand there while I suggested to these people that they might like to make alternative arrangements’ (Landlord 8, male).

However, occasionally, the risks taken by landlords to rid their properties of unsuitable tenants resulted in greater costs, both financial and psychological, being incurred than if they had adopted lawful methods. A landlord described a situation where, although the precise details remain unclear, the tenant involved - a housing benefit claimant - challenged the legality of the landlord’s possession procedures:

‘He [tenant] was kicking doors off, terrifying the other tenants, so we needed

to get rid of him. So then we decided to ask him to leave...He then went to the council and said basically that we'd come heavy handed with him right. So he then went to a solicitor because he was on DSS he got Legal Aid...I then attacked his Legal Aid certificate and he had it revoked, but it cost us £3000. So we got a lot of headache, no revenue and a spoilt Christmas...it's so easy for them to screw a landlord up because it's geared up for massive abuse' (Landlord 2, male).

This landlord draws attention to the bias he perceives in the legal system which favours tenants, (particularly housing benefit claimants who can access Legal Aid), and enables them to take proceedings against landlords. However, in contrast, the data throughout this section has highlighted the ease with which landlords can consciously and unconsciously misuse legal processes and continue to maintain control over tenants until the end of the tenancy by denying them their legal right to notice. In addition, where landlords took formal legal action against tenants rather than adopting 'informal' procedures, this was not a positive experience and appeared to contribute to landlords' preferences to avoid legal action in favour of 'personal' ways to end tenancy relationships.

The overall picture from the data is the lack of importance attributed to the law by landlords. The data highlights the continuing tensions between the legal framework, the freedom of landlords to control their property and the limited ability of young people to assert their rights. These points are illustrated by landlords' deep rooted beliefs that they still retain control over property regardless of tenants' rights and that they can circumvent the law in order to maintain control over the outcomes of relationships, and avoid incurring delays and excessive costs. Although lack of knowledge of the law remains a problem, the landlords interviewed were not motivated to acquire knowledge about legal requirements and preferred to manage lettings according to their own principles. In addition, the data also revealed the unregulated nature of management practices, where a variety of illicit practices can be adopted and go unnoticed making it difficult for young people to maintain

relationships given landlords' unfettered claims over property. It was also evident from the data that young people are being unlawfully evicted by landlords, however, they generally remain unaware of this, as in some cases, do the landlords.

POST-EXIT DIFFICULTIES

Landlords and young people

During the setting up phase of the tenancy, as discussed in Chapter Five, certain issues, for example, reasons for forfeiture of deposits, rather than being clarified, remained vague. As a result, a number of risks were not perceived by young people and problems in relation to these issues were postponed to, and became obvious at, the end of the tenancy. As discussed in Chapter Five, assumptions were made by landlords that young people 'know what deposits are for', providing them with only vague ideas about grounds of forfeiture but no precise details. In addition, there was often little connection made by either party between the payment of a deposit and the use of a furniture inventory to record the condition of the property, leaving the reasons for forfeiture of the deposit unclarified and open to misuse.

As a result of these difficulties, a source of worry for the young people interviewed, as they approached the end of their tenancies, was whether landlords would return their deposits. A number of young people interviewed either intended to or were in the process of seeking some clarification about their position as regards their deposits. However, this was not sought from their landlords. One young person stated that he was 'going to contact the Citizens Advice Bureau' prior to leaving his tenancy to establish his position, in addition, another tenant stated that 'occasionally I get it [letting agreement] out because I'm not quite sure whether we are going to get that [the deposit] back or not'. Moreover, some concerns were expressed by young people about the subjective criteria landlords used to assess whether the property had been maintained in a satisfactory condition to merit repaying the deposit in full. Some tenants felt that whatever measures they took to clean the property, there would still be an 'excuse' to keep the deposit. One tenant described her experiences:

‘She said if she wasn’t happy with the standard then therefore our bond was going and she was having it to clean the carpets, clean the curtains, generally just to tidy up. In theory you could say her standard may not be anyone else’s, it might be more picky’ (Tenant 2, female, 21 year old working full-time).

The lack of clear definitions about standards in relation to the condition of property at the end of the tenancy and the use of deposits creates loopholes which can be easily exploited by landlords. This reflects the legal vacuum surrounding deposits, where there are no regulations concerning how much can be charged, the terms of the deposit’s use, how it can be forfeited and how it should be held by the landlord during the course of the tenancy, including the interest accrued (see, for example, Yates, 1996; NACAB, 1998; Rugg *et al.*, forthcoming, 2002). A number of young people, particularly the students interviewed, *expected* to have their deposits unreasonably withheld, given the ease with which landlords can do so and the limited options available to them to secure its return. Young people dealt with this by either resigning themselves to financial loss from the day they paid the deposit, as one student explained, ‘When I paid it [deposit] over I just thought "I bet I’m never going to see that again"’, or rationalising the loss against outgoings which they managed to avoid:

‘We’ve sort of taken the view that we did get an 11 month let and a lot of people had to take 12, so if we do lose it, we lose it’ (Tenant 9, male, 20 year old student).

Students were particularly vociferous about this issue as they felt that once the deposit was handed over they had no control over this money and that landlords were more likely to withhold their deposits than those from working tenants or housing benefit claimants, because ‘students are really lazy’ and were unlikely to take action to recover the amount lost. However, students’ perceptions of the extent of the problem were not confirmed by advisers dealing with student issues who did not ‘have the impression that it is more common with students than anybody else’. A number of tenants - both students and non-students - rather than resigning themselves

to losing their deposits were prepared to take pre-emptive action to avoid the risk by withholding their last months rent. One tenant explained his rationale for this approach:

‘...because it was like a £200 deposit and monthly it was £195 there was talk of not paying the last month to kind of get it back, because we can guarantee they’ll be really funny about it...I don’t think they’re going to be very forthcoming about paying the money back’ (Tenant 8, male, 21 year old student).

In contrast, only five out of the fifteen landlords interviewed stated that they had ever withheld money from deposits and none of them had ever withheld a whole deposit. In addition to withholding amounts from the deposit to settle bills, amounts between £10-£20 had been withheld for ‘damage to some carpet’ and where the tenant had ‘given a bit of trouble throughout the year’. Where landlords deducted money for minor damage this was usually in conjunction with the tenant having also caused the landlord unnecessary ‘hassle’. Where these type of situations occurred, landlords were keen to ‘teach them a lesson’ by withholding parts of deposits in order to convey a message to young people about their behaviour. One landlord described the approach he adopted which coincided with the views expressed by others in Chapter Five about the merits of being ‘ambiguous’ about the intended use of the deposit:

‘I did charge her in the end because I got so frustrated with her, I charged her £10 for each letter that I wrote to her [about rent arrears]. It seems a bit harsh but the reason I did that was that when she left her room she didn’t bother to clean it...and she’d used drawing pins to put pictures onto the side of the wardrobe, so I wasn’t very pleased about that. It was getting across to her really that it was two sided. I was trying to make sure she had a nice house to live in and nice furniture and she hadn’t acted responsibly’ (Landlord 9, male).

The data indicated that young people did not dispute the reasons for part of the

deposit being withheld, given the relatively small amounts of money involved, as they felt that 'at the end of the day there's not a lot really you can do about it, if they're not going to give it back'. Similarly, landlords who were owed rent after tenants vacated property felt frustrated because of the costs involved in going to court in order to obtain judgement for the debt. Disputes arose between the parties where substantial amounts of money were withheld or owed. Only one landlord used small claims procedures to obtain judgement for rent arrears and experienced similar problems to those described above in relation to possession proceedings, with unnecessary delays and 'hidden costs', for example, when enforcing a judgement when payments were not forthcoming. One young person pursued a claim for a deposit unreasonably withheld by her landlord. The tenant described an unusual set of circumstances which are worth detailing as they highlight a number of pitfalls that young people may encounter, notwithstanding that she ensured she had an amended inventory at the beginning of the tenancy. She described the problems which led her to take action against the landlord:

'The person who went round with us [at the beginning of the tenancy] said "You're right it's not clean". Signed. So I wasn't worrying too much about that...They were four hours late coming round to do the inventory [at the end of the tenancy] and turned up without an inventory of their own. They said "Could we just go through it with yours" so my housemate, who was the only person there, kind of quite naively gave them our inventory and they went off with it at the end and basically two of us had our deposits taken off us and all the others were returned because they said our rooms weren't clean. In the end I went to the court and read what you had to do for Small Claims and just filled in a writ thing and paid the money...in the end I got the full amount back after the second letter was sent. It was six months later after a load of hassle and total upheaval (Tenant 10, female, 20 year old student).

The situation described here shows that even when young people decide to leave a problematic tenancy relationship, this does not signify the immediate end of the

difficulties they encounter, but may precipitate the start of further problems. The ease with which landlords can manipulate and control the outcome of relationships by unreasonably withholding deposits is evident and in a number of cases had an enduring impact upon young people up to 'six months' after the tenancy ended. Overall the data suggests that landlords prefer to 'manage' problems during the tenancy in a way which avoids litigation and use the deposit to off-set a number of problems. Although young people are concerned about losing their deposits, they do not always take precautions at the outset of tenancies, (for example, obtaining receipts and furniture inventories), to safeguard themselves against loss. However, the data also indicates that even where young people have been vigilant at the outset of the tenancy, landlords are still able to retain deposits unreasonably, placing the onus upon the tenant to seek redress through the courts. This inevitably raises a number of questions about the regulation of deposits (see Rugg *et al.*, forthcoming 2002) and the adequacy of small claims procedures for both parties whilst pursuing the debts they are owed.

REFLECTING ON EXPERIENCES AND SUGGESTIONS FOR CHANGE

Landlords and young people

Both landlords and young people were asked to reflect upon their experiences of their tenancy relationships and to suggest both personal and structural changes to improve them. Although the majority of respondents felt they had 'learned from their mistakes' and gathered 'bits and pieces [of information] you read here and there', in most instances experiences of tenancy relationships did not constitute educative processes where respondents became equipped with requisite legal information or skills. Respondents, therefore, reflected upon their experiences and made suggestions for change from positions where they were not fully aware of the legal framework or of their own rights and responsibilities within relationships. This concentrated the responses upon practical issues with legal issues and structural changes commented upon primarily by those who had negative experiences of using court procedures.

The comments expressed by both parties about their experiences focused primarily

upon their information needs. Both parties expressed similar key points that they would like more basic information prior to letting/renting property. Four landlords stated that they were adequately informed and did not need any further information relating to their legal position or letting practices. Two of these four landlords were likely to be well informed as they were familiar with the relevant legislative framework from their employment. The remaining eleven landlords recognised that there were gaps in their knowledge and that ‘as much advice as you can get, can’t really harm’. These eleven landlords’ responses focused upon their information needs primarily during the setting-up phase of the tenancy relationship, highlighting, as discussed in Chapter Five, the importance of this stage for the subsequent success and quality of the ongoing relationship. Interestingly, landlords’ responses focussed upon the provision of information on an individual basis rather than through collective involvement in, for instance, local landlord forums, which was encouraged in the government’s *Housing Green Paper*, (DETR, 2000), highlighting the desire of landlords to maintain their independence and autonomy.

Landlords complained that they did not have ‘a good route of information into the law’ and that it was difficult to find out where information and advice could be obtained, particularly when legislation and regulations changed. One landlord highlighted the predicaments faced by those landlords who were unwilling to pay for professional advice and ‘had to go along to WH Smiths and pick things up [letting agreement] shows that it is quite difficult [to obtain information]’. As discussed in Chapter Five, it was common for landlords to rely on letting agreements as their main source of information during the letting process and paradoxically, the ease with which letting agreements were used, masked the actual difficulties landlords faced in accessing information about letting procedures.

As a result of experiencing these difficulties, a number of landlords made comments and recommendations about how the situation could be improved. These comments focused upon the provision of a more immediate and accessible local support service dealing specifically with issues pertaining to letting property and the landlord/tenant

relationship. One landlord described the need for a specific service, rather than having to obtain information from a number of organisations or from more general sources:

‘I should have gone to the CAB, but I think if there was somewhere within York City Council or whatever, where people can go if they’re thinking of renting property out, "What is the best thing you do, you know"? I mean I think it’s fairly simple to do it, it’s just when you get complications’
(Landlord 12, female).

In addition, both landlords and young people agreed that ‘a checklist’ or ‘information packs, like an "Idiots guide to being a Landlord/Tenant”‘ would be useful as they would provide a convenient source of information as a reminder about ‘what we should be looking for or what the pitfalls are, what you should do and when you should do it’. Although a number of young people stated that they would ‘struggle to think where to go for advice’, their comments about how their experiences of renting could be improved focused upon the value of improved practical information, rather than advice. Young people stated they would like more involvement from the landlord during the setting-up phase of the tenancy, particularly about the running of the property and, for instance about ‘paying bills’. This was discussed in detail in Chapter Five and it was striking that young people commented upon how the problems they experienced during the initial stages of relationships could have been avoided, revealing the extent to which their settling in phase was adversely affected by a lack of information, and in some cases, a lack of friendliness. One young person described the sort of assistance which could have helped her settle in:

‘Just someone that would say, you know, straightforward things like yeah. "This is your heating system, this is how it works, this is this" and just little things like say rubbish days. You know, if you have a milkman or something, just little tiny things, little details, so you don’t have to go off like say on your first day and find out and you don’t have to spend three hours shivering in

your house because you don't have any heating or anything' (Tenant 2, female, 21 year old working full-time).

Although only two landlords and one young person had taken court proceedings, strong views were expressed, by a number of landlords about the failures of the court system and it was acknowledged that

'the system for obtaining an eviction order is a bit too long winded and I suppose that is going to encourage probably an unscrupulous landlord to cut corners' (Landlord 9, male).

As a consequence the emphasis was upon avoiding litigation and using informal methods to resolve disputes, however, these activities were not confined to stereotypically 'unscrupulous' landlords but also to landlords who used idiosyncratic methods to manage difficulties, which in some instances were relatively mild but nevertheless unlawful. Where landlords had negative perceptions or experiences of the legal system, disappointment was expressed about the courts' lack of responsiveness to their position. One landlord puts forward his strong views and suggests his reforms:

'Well, I'm quite right wing in my views, if they play ball that's fine, but if they're not going to play ball I think the law should be that you give them notice and if they're not out in time the police should come and boot them out' (Landlord 11, male).

Numerous problems are encountered by the parties throughout tenancy relationships, as discussed in this chapter and in Chapters Five and Six. Yet the views discussed here reflect the ways in which tenancy relationships currently operate in the PRS, revealing that basic legal, social and economic requirements are often not recognised or observed. Moreover, the levels of expectation for reform and change made by the parties reflect the often limited understandings each party has of their role within a tenancy relationship, revealing their conflicting interests and, in some cases, entrenched views. A number of these recommendations were unsurprising, given the

considerable problems experienced as a result of, for example, young people not having appropriate or adequate information about how to operate installations in the property. Such measures are simple and would ease the anxiety felt at the outset of the tenancy. The majority of recommendations made are straightforward, for example, the provision of 'checklists' for each party and although funding would be required to take some of these issues forward, the scale of such initiatives is not onerous. However, the provision of a more sophisticated and comprehensive local information service, although desirable from the point of view of users, would require an allocation of resources which may render the feasibility of such a project untenable. In addition, the lack of responsiveness of the legal system to the position of users is evident and a re-think of the current system to ensure that both parties can access and enforce their rights is essential.

CONCLUSION

The discussion in this chapter has described and explored the ways in which landlords maintain control of tenancy relationships to the point of exercising authority over the ways in which they end. The focus of this chapter has been upon the variety of ways in which relationships are ended by landlords, reflecting the extent to which the law is limited in structuring behaviour between the parties, with many landlords having little regard for tenants' rights or the consequences of non-compliance with the legal framework. Once again, the data has highlighted the limited degree of engagement landlords have with the legal framework, the overriding significance of inequalities and power differentials and the importance of social exchanges and interactions for landlords in achieving their desired outcomes. The views of landlords have also shown that they perceive the legal framework as one sided, favouring tenants, and, hence this perceived imbalance underlies the ways in which they manage relationships. As a consequence, the lack of control young people have over the circumstances in which tenancy relationships end, in addition to the problems they experience with the return of their deposits, highlights the idiosyncratic nature of relationships as well as young people's acceptance of the authority of landlords. Furthermore, during the ending of relationships, landlords are

able to complement their use of social relationships with economic strategies and withhold deposits. It is evident that relationships are not drawn to a close in a fair and equitable way by landlords, rather landlords' evaluations of relationships focus upon the unfairness of the system that they are subjected to, in contrast to the dissatisfactions of young people which focus upon the overall quality of relationships, particularly how they are set-up and (mis)managed.

CHAPTER EIGHT

CONCLUDING DISCUSSION

INTRODUCTION

The primary aim of this thesis has been to explore and understand the nature of relationships between landlords and young people in the PRS. In order to fulfil this aim, the focus of this thesis has been upon the typicalities of the day-to-day experiences of landlords and young people over the course of tenancy relationships, with particular attention given to the interplay of legal, social and economic aspects of relationships. The encounters and exchanges discussed throughout this thesis do not, on the whole, reveal extreme behaviour, but nevertheless highlight a range of uncomfortable and awkward situations faced by young people which can be distressing and intrude upon their enjoyment of independent living. The nature of these situations have not been addressed by previous research and would very likely be glossed over in more extensive quantitative modes of research. Moreover, because this research has focused upon the construction of tenancy relationships *per se*, it has explored a range of situations in which the parties are in agreement, in addition to the development of disagreements, disputes and conflicts. The approach adopted by this study allows more realistic conclusions to be drawn about the nature of contracting parties' interactions and exchanges from which future policies and legislation may be developed to appropriately encompass the concerns of both parties.

Throughout this thesis, three main arguments have been articulated. Firstly, it has been argued that the existing legal framework in the PRS is ineffective in regulating tenancy relationships between landlords and young people. Secondly, social relationships between landlords and young people have been shown to be more important than the legal framework in influencing the ways in which tenancy relationships are conducted. Thirdly, existing legal and social structures between landlords and young people in the PRS do not result in a fair and equitable balance of rights and responsibilities between the parties, as assumed in law and policy. In relation to these three arguments, this thesis has revealed the range and types of

behaviour and relationships that are possible in an unregulated, competitive rental market given the limitations of the legal framework. Furthermore, given the lack of accountability of landlords to young people, this research has shown that current modes of redress and the enforcement of rights through the legal system are both inappropriate and inadequate. In considering these findings, and exploring their significance, it has to be borne in mind that although this research was confined to one specific location, and therefore, a particular type of housing market, there is no reason to believe that these findings are not a good guide to the nature and character of tenancy relationships that are *possible* in the PRS.

This concluding chapter considers the implications of the findings arising from this thesis. For the sake of clarity, the first part of this chapter summarises the major findings of the research, before moving on to explore the theoretical implications arising from this study and the ways in which knowledge and understanding about the nature of relationships between landlords and young people have been furthered. The chapter then explores the implications of the empirical material presented throughout this thesis and raises a number of points about the future direction of social policies and the reform of landlord and tenant law. The chapter then discusses the need for further understanding of the issues raised by this thesis and identifies areas of research which need to be addressed in order to explore relations between contracting parties more fully. The final part of this chapter concludes the thesis as a whole and summarises what the research has achieved.

THE KEY FINDINGS

In seeking to understand the nature of relationships between landlords and young people in the PRS, this study has provided evidence of a range of legal, social, and economic factors which influence the day-to-day exchanges between the parties and have a profound impact upon young people's experiences of tenancy relationships. The research has shown that the interplay of both structural and personal factors creates an environment within which tenancy relationships are constructed in a variety of forms.

In terms of existing legal structures, this study offers continued support to arguments presented by previous research that the adequacy of the legal framework in governing landlord/tenant relationships and its role as a useful safeguard against unfair or unlawful practices is severely limited (see, for example, Harloe, 1985a/b).

Furthermore, the research indicates that landlord/tenant law provides an idealised version of relations to be aspired to by contracting parties and, consequently, is rarely understood completely, adhered to or attained (see Chapter Two). In addition, the respective parties lack of knowledge of their legal rights and responsibilities is one component of a complex set of factors which influence the diverse nature of tenancy relationships and the extent to which the individuals involved have or do not have control over relationships and their outcomes. In this respect, the law as it currently stands is out of touch with the reality of the situation it seeks to regulate, remaining unresponsive to the needs of its users, failing to evenly distribute rights and responsibilities between the parties, or provide a pragmatic solution and system of redress for those who are wronged.

A number of features concerning the interactions of legal structures, social practices and economic behaviour between contracting parties emerged from the data. It is clear that young people are socially, legally, and economically the weaker party in relationships, resulting in the non-negotiability of a number of issues commonly considered, in legal terms, to be part of the bargaining process and the product of agreement. As a consequence, the PRS provides a context for the development of inequitable relationships, with their development dependent upon the inadequacies of the legal framework, the ambiguous nature of relationships, and the orientations of individual landlords. This is evident where landlords exercise control and power over young people's experiences of tenancy relationships which conflict with legal rights. These practices highlight the difficulties young people have in enforcing their rights about day-to-day issues and reflects the personal and private nature of relationships which are often difficult for young people to manage.

Furthermore, the data has shown clearly that young people have differential scope to

manage and respond to the diverse behaviour of landlords given their lack of security of tenure and enforceable rights, in addition to their personal capabilities. The strategies adopted by the young people interviewed to manage relationships are a poor replacement for effective legal rights and the use of these strategies exposes the PRS, in its current form, as an unrealistic long term housing solution for young people. These findings contrast with the experiences of affluent young people in the higher end of the PRS who, to a great extent, are able to use the sector to their own satisfaction (Kenyon and Heath, 2001) and with assumptions based upon quantitative data that mobility in the sector arises out of choice (Kemp and Keoghan, 2001). The contributions these findings make to theoretical debates and those concerning the future directions of social policies and reform of landlord and tenant law are discussed in detail below.

THE THEORETICAL IMPLICATIONS

This research has focused upon typical interactions between landlords and young people and has attended to the absence of a theoretical understanding of tenancy relationships by conceptualising day-to-day exchanges between contracting parties. In doing so, this study has questioned existing theoretical perspectives about the motivations and behaviour of landlords and young people and has drawn upon and expanded existing theories, in addition to generating theory about the nature of tenancy relationships.

This thesis has questioned the value of existing assumptions about the social, legal and economic behaviour of landlords and young people. These assumptions, upon which legislation and policies are implicitly based, have traditionally focused upon the equality of contracting parties, calculable and economically rational behaviour in markets, and self-interest. This study lends support to existing arguments which recognise the importance of alternative theoretical approaches to viewing motivations and behaviour, but which have not been explicitly applied to landlords and young people in previous debates. These particular arguments recognise the lack of equality between contracting parties in the PRS, (Marsh and Riseborough, 1998:

Blandy and Goodchild, 1999), lapses in market behaviour, (Hirschman, 1970), the problem of relying upon rational expectations as an indicator of behaviour, (Le Grand, 1997), and the role of personal, non-instrumental social motives upon behaviour in markets (Taylor-Gooby, 1999). In applying these arguments to the behaviour of landlords and young people, this thesis has highlighted that policy makers' and legislators' assumptions about individual's motivations and behaviour are poorly supported by empirical evidence.

Furthermore, previous conceptualisations of motivations and behaviour have been confined to those of different landlord types (for example, Allen and McDowell, 1989; Thomas *et al.*, 1995; Bevan *et al.*, 1995) and have paid little attention to the behaviour of tenants or the *interactions* of contracting parties. In addition, where previous conceptualisations of private landlords' behaviour tended to focus upon either a legal perspective (Nelken, 1983) or social and economic perspectives, (Allen and McDowell, 1989) this thesis has contributed towards a theoretical analysis of landlord/tenant relationships through a synthesis of legal, social and economic perspectives. By using the social, legal and economic as analytical constructs, it has been possible to examine how each of these components is interpreted from the subjective perspectives of contracting parties and to assess the importance of each component within relationships. By looking at the components of relationships and their interactions, the research has exposed the often complex, confusing and ambiguous nature of tenancy relationships and has highlighted the conceptual clashes between strict legal principles, social exchange, and economic transactions. This lack of conceptual clarity about the precise nature of tenancy relationships gives way to practical difficulties, as the scope for social practices to dominate both market and legal behaviour is created.

Given the centrality of social relationships revealed by this research, a further contribution made by this thesis in conceptualising landlord/tenant relationships has been to place the interactions between landlords and young people within a framework of trust (McKean, 1975; Giddens 1991) and risk (Beck, 1992; Giddens

1991) and, hence, explicitly refute the assumption of equality between contracting parties. Although it has been recognised recently that young people face risks in terms of their housing benefit entitlement in the PRS (Kemp and Rugg, 2001), previous debates have not considered tenancy relationships in this way. Instead they have been viewed in terms of the extent to which each parties' behaviour was lawful or unlawful. By placing the interactions between landlords and young people in a framework of individual risk and trust, the extent to which the legal framework and letting agreements fail to counter risk or provide a basis for trust in relationships is highlighted, in addition to the uncertainty inherent in relationships and the lack of reciprocity between the parties. Furthermore, by using the concepts of risk and trust in analysing and rethinking the current role of regulation in the PRS, this has implications for the operationalisation of further empirical research which would explore, for instance, how clarity in contractual terms and an equal distribution of fair and meaningful rights between the parties can be achieved. This is discussed in more detail below.

THE POLICY AND LEGISLATIVE IMPLICATIONS

The findings of this research link with a number of wider and ongoing debates in social policy and the legislative arena. The remit of some of these debates has changed since this study began, however, the implications and consequences of this research still retain their specific utility for the reform of landlord and tenant law and also for the future direction of social and housing policies. For example, this research makes a contribution to debates about the regulation and licensing of the PRS, young people's benefit entitlements, citizenship rights, the future of private landlordism, and the appropriateness of the PRS to accommodate young, and often vulnerable households.

Current debates about the future role of the PRS and the reform of landlord/tenant law reflect a continued interest in the promotion of a vibrant and efficient PRS, not yet achieved by successive governments (see, for example, the *Housing Green Paper*, 2000). These debates have a renewed vigour and address the need for a

simplified legal framework, (Law Commission's *Scoping Paper*, 2001), the protection of tenants against unfair contractual terms, (OFTA, 2001), wider recognition of the nature of harassment and unlawful eviction, (Marsh *et al.*, 2000), regulation across the sector, (Rugg and Rhodes, 2001), recognition of the difficulties caused by the SRR and risks faced by young people, (Kemp and Rugg, 1998; 2001), the piloting of schemes to protect deposits, (Rugg *et al.*, forthcoming, 2002), and a wider definition for the SRR (Bedsit Briefing 82, 2001). Furthermore, at the point of submission of this thesis, the Law Commission has published their *Consultation Paper: Renting Homes - Status and Security* (2002), detailing proposed reforms to the legal framework governing all rented property. The proposals outlined in the *Consultation Paper* go some way to simplify the complex legal framework governing landlord/tenant relationships in the PRS with the emphasis upon a consumer approach to housing contracts and the requirement that landlords provide tenants with a letting agreement. In addition, approved standard letting agreements are proposed and where a letting agreement is not provided, standard default terms would apply. Financial penalties for landlords who fail to provide tenants with letting agreements are also proposed. However, although much of this sounds positive for PRS tenants, the Law Commission propose to abandon the current minimum six months fixed term for assured shortholds, further eroding tenants' security of tenure rather than safeguarding their interests.

In considering the policy implications of this research and their contribution to continuing debates, a number of issues need to be explicitly addressed. Firstly, it is evident from this thesis that neither legal or social structures enable the attainment of a fair and equitable balance of rights and responsibilities between landlords and young people in the PRS. Secondly, overall control of the tenancy relationship does not come from the legal framework, or letting agreements, but comes from the social relationships landlords have with young people. Therefore, any debate about altering legal structures and reforming the law must also consider the centrality of the role of individual agency (see, for example, Deacon and Mann, 1999). In addition, the structures which need to be in place to ensure that fair and equitable relationships are

possible must also take account of, and be able to regulate landlords' 'private power' and control, as well as, enabling young people, and indeed all PRS tenants, to exercise and enforce their rights without fear of harassment or losing their home. This inevitably raises questions about the ways in which rights and responsibilities are apportioned between the parties and how useful these rights are in practical terms given the lack of security of tenure in the PRS and the way in which this undermines tenants' abilities to enforce their rights. Thirdly, in recognising these problems and putting forward some ideas to ameliorate these difficulties, the implications this research has for the future role of the PRS in accommodating young people is also an important consideration.

One of the major implications arising from this thesis is that although conventional reforms, such as simplification of the legal framework, the provision of free information and advice, and less costly, onerous and time consuming legal procedures, are necessary, (and as discussed in Chapter Seven, are supported), they are insufficient without more fundamental changes to the ways in which individual relationships between landlords and young people are monitored and regulated. Moreover, by confining responses to reforms of the legal framework, this is an inadequate way to adjust the internal structures of tenancy relationships and will do little to change the entrenched views of some of the parties. Therefore, although legal reforms are necessary they need to be in conjunction with measures which recognise the overriding importance of social practices.

A further key implication arising from this thesis is that there is a need for acceptance that tenants in the PRS and, in particular, young people, are the weaker party in relationships. There is an obvious need to regulate the 'private power' and control of landlords, whilst, also addressing the current problems experienced by young people in the PRS, particularly, a lack of a 'proper service' and fear of exercising rights. In order to achieve these changes a fundamental shift away from idealised conceptions of behaviour as presented by the current legal framework is required, coupled with a move towards policies and legislation which take into

account and recognise the predicaments of its users, respond to real life situations and consider the role of individual agency. Therefore, in order to dispel outdated, albeit convenient assumptions about the behaviour of contracting parties, current social practices need to be placed at the centre of reforms.

By recognising social practices as a key to change and reform, a range of potential ways to restructure tenancy relationships can be explored which challenge the usefulness of the existing legal framework and current modes of regulation. Some speculative recommendations are made here which attempt to ameliorate the difficulties caused by 'private power' and control and also contribute towards providing a safer, more stable environment for young people, and make independent living in the PRS a less disappointing experience. The ideas described here accord with both the current and former government's objectives to promote a healthy PRS and achieve a fair and equitable balance of rights and responsibilities between the parties. Moreover, given that security of tenure is unlikely to be restored by future reforms, the approach to tenancy relationships adopted here focuses upon their continuing, rather than short term, nature and attempts to establish security in the relationship - a feature the majority of young people interviewed found missing.

This thesis has developed some different ways of thinking about ongoing problems which attempt to escape old fetters and overcome entrenched views in order to establish if relationships in the PRS can be regulated more fruitfully by 'non conventional' methods. For instance, there is considerable scope for a rethink of the current role of regulation in the PRS in order to encompass the routine, day-to-day activities of the parties and the quality and standards not only of property, but of services and the manner in which they are provided and delivered by landlords. In this way issues which have previously formed part of the contractual bargain and have caused much dissatisfaction between the parties, such as, repairs services, would become regulated with timescales and sanctions for non-compliance stipulated in letting agreements. This requires a shift in thinking about tenancy relationships from one where obligations are imposed on landlords with the onus upon tenants to

seek redress via legal mechanisms, to one which formally enhances landlord's responsibilities towards their tenants. Such an approach recognises the tenant as the weaker party and focuses upon the promotion of greater awareness and understanding of rights and responsibilities via, for example, clear contractual obligations, and a more central role for letting agreements in 'controlling' relationships.

The use of model letting agreements, or at least standard key terms, (see Harloe, 1985a/b) would introduce an element of uniformity into relationships, correct the imbalance of power between the parties and introduce a consumer approach to tenancy relationships, currently missing in the PRS (for further details, see the Law Commission *Consultation Paper*, 2002). The provision of standard agreements would also remove the current uncertainty and risk many young people face, as they can expect to receive a particular level of service and can be certain of the measures available to seek redress if these services are not supplied, as discussed below. In addition, where letting agreements are not used, default provisions could apply where key terms are automatically implied so as not to deny tenants their legal rights. A common sense approach to information sharing could be combined with these provisions with the incorporation of a Code of Conduct or, at least, an outline of minimum requirements that clear instructions should be provided for appliances in order to address some of the difficulties experienced by the young people interviewed.

However, even with an enhanced awareness of rights and responsibilities in tenancy relationships, appropriate structures designed to assist, protect and enforce rights in the event of non-compliance and disputes are necessary. The introduction of independent non-legal institutions, such as, Residential Tenancies Tribunals (see Yates, 1996) to be used by either party in the event of disputes would at least provide a mechanism for redress, currently lacking in the PRS. In addition, by placing the emphasis upon the ongoing nature of tenancy relationships and the resolution of problems through Tribunals, this may enhance the possibility of landlords and young

people maintaining their relationships and reduce 'forced' mobility in the sector. However, there are no plans in the Law Commission's *Consultation Paper* (2002) to provide institutional support for contracting parties in the form of Tribunals.

Inevitably the implications of this research and the recommendations made here, point to some gaps in knowledge and there is much to be learned from further empirical research in order to establish the feasibility and appropriateness of reforms in the sector. Attention is now turned to taking some of these ideas for legislative and policy reform forward by discussing the possible direction of further research.

THE SCOPE OF FURTHER RESEARCH

The implications of this research, as discussed above, point to a range of issues which require rethinking and reforming and provide the impetus for new research agendas, notwithstanding that there is much that is positive about the current direction of research. Perhaps one of the greatest difficulties posed for any new research agendas in this area is that isolated changes in one legislative or policy domain are unlikely to produce significant changes in the ways in which tenancy relationships are constructed and maintained. As a consequence, new research programmes require more effective recognition of the role of individual agency in tenancy relationships and to investigate not only how legal structures can be changed but also how behaviour and entrenched views can *inhibit* the impact of both social and legal changes. Moreover, future research agendas should also provide stronger links between new and different modes of regulation, the operation of the legal framework in market relationships, and social practices.

The clear need to change the way in which tenancy relationships operate in the PRS offers considerable scope for research which both deepens the understanding of the internal structure of tenancy relationships, and research which develops, implements and evaluates the success of policy initiatives. Further areas of empirical exploration include, for example, understanding the deeper meaning and significance of mobility for young people and how this strategy is used across different types of housing

markets. In turn, further research could explore the factors which impact upon landlords' desires to maintain tenancy relationships with young people. From this, the ways in which tenancies could be maintained more effectively could be identified, as well as recognising the needs of young people as tenants and exploring how the PRS could provide both long and short term sustainable housing solutions for young people.

There is also considerable scope to devise, implement and evaluate new policy initiatives which attempt to regulate tenancy relationships *per se*. Exploratory initiatives, such as the introduction of standard letting agreements and Residential Tenancies Tribunals as discussed above, whilst complementing ongoing research by the Law Commission and that involving the piloting of tenancy deposit schemes (Rugg *et al.*, forthcoming 2002), require some further empirical research. As part of a coherent approach to the regulation of tenancy relationships, further research would build upon that initiated in this study and include an extensive evaluation of current letting agreements and their key terms. In addition, data could be collected from landlords and young people about their use, attitudes towards and satisfaction with letting agreements and terms. This could then lead to the piloting of standard letting agreements across different areas chosen to reflect different housing market characteristics. This process would then be used to ascertain both parties experiences and levels of satisfaction with the use of standard term agreements and how this differs from experiences without such agreements, as well as collecting data from those who are unwilling to use such agreements.

In conjunction with the piloting of standard letting agreements, the piloting of local Residential Tenancies Tribunal schemes to clarify issues and/or mediate in the event of disputes is also necessary. Data could then be collected to ascertain both landlords' and young people's involvement and satisfaction with schemes and their administration. Furthermore, details of dispute history and experiences of resolution processes could be obtained from both parties' perspectives in order to ascertain the scale of use and the relative success of the schemes across different housing markets.

Consideration would then need to be given to how the use of standard letting agreements and Residential Tenancies Tribunals could be set up and implemented, if at all, on a wider scale.

CONCLUSION

This chapter has drawn together and summarised the main arguments articulated throughout this thesis and has considered the findings of this study and their implications for the future direction of social policies and legal reform. Furthermore, this chapter has also considered how this research has contributed to conceptualising and understanding tenancy relationships between landlords and young people, and has indicated which areas require further empirical research to enhance understanding and inform future policies and legislation. The central features of tenancy relationships between landlords and young people have been highlighted here and the key messages revealed by this study have also been reiterated.

Overall, this thesis has provided an insight into the problems experienced by landlords and young people in the PRS when faced with a complex and ineffective legislative framework. By exploring the diversity within relationships this study has revealed the incongruity between the law and those it affects and has shown the dominance of social practices over legal codes. However, although landlord and tenant relationships are ‘the oldest, most common...of contractual relations’ (Englander, 1983: 4) there is still much to be learned about the complex relationships between landlords and young people in their current and common forms, given the range of overlapping policies and legislative regimes involved in these particular interactions. In addition, relationships in the PRS in the twenty first century are still based upon outdated assumptions which contribute to their ambiguous and unclear nature. It is time to respond to, and disengage with, the baggage of the past which relies upon assumptions about behaviour based upon honour and equality and unravel and reform the numerous legal complexities which are accepted without question. There is much that is positive about current debates and research into the PRS and facets of tenancy relationships, yet there is much work to be done to ensure

that fair and equitable relationships between landlords and young people can be achieved and maintained.

APPENDIX ONE

TOPIC GUIDE FOR LANDLORDS

Explain nature and purpose of research, informed consent, confidentiality etc.

1. Background Information

Can I just check that you are:

- the owner and landlord of the property?
- a managing agent?

Ask all:

- How long have you been letting property?
- Why did you first decide to let property?
- How many of your lettings are in shared accommodation?
- How many are let furnished/unfurnished?
- Where is your property located?
- Are you a member of a landlord/agent organisation?

Ask landlord:

- Is letting property your main occupation?
- How many lettings do you have altogether?

Ask all:

Do you or someone else undertake the following:

- collect the rent?
- set rent levels?
- select tenants?
- decide on minor repairs and maintenance?
- decide on major repairs and improvements?

2. Finding and selecting tenants and property details

I'd just like to ask you about how you find tenants and about the property you let.

What sort of property do you let?
IF NEC: HMOs, flats, bedsits etc.

Can I just check that you let to tenants under 25 years?

How do you usually find tenants for your property?
What are the advantages and disadvantages of looking for tenants in this way?

Do you take up references when choosing tenants?

What makes you decide whether or not to let to a particular tenant?

What sort of tenants do you prefer?

Are there any tenants you would definitely not take? Why?

Approximately how many tenants do you have at the moment?

3. Setting up the tenancy and the letting agreement

I'd like to ask you a few questions about what you do when you let to new tenants.

Do you seek advice before letting to new tenants?

if yes: What about? From whom? Was/is this helpful?

Do new tenants ever try to negotiate with you? What about?

[IF NEC: **rent, repairs, rent in advance, security, decor, deposit, hb**]

Have you ever agreed to a lower rent than the one you originally asked for?

If yes: Under what circumstances have you lowered the rent?

Do you explain to new tenants when they move in, for example, what to do about repairs or if anything goes wrong? How the appliances work?

If no: Is there any reason for that?

Do you give new tenants any documentation?

If none: Is there any particular reason for that?

NOW GO TO FURNITURE INVENTORY QUESTION

If letting agreement: What sort do you normally use?

[IF NEC: assured, assured shorthold, license, other]

If shorthold: How long is the fixed term which you normally specify?

Do you normally renew these?

What are the advantages and disadvantages of a shorthold?

If non-shorthold: What are the advantages and disadvantages of using this type of agreement?

Do new tenants ever try to negotiate the contents of agreements with you?

If yes: In what circumstances do you negotiate with tenants?

Do you usually explain to new tenants what is in the letting agreement?

Who drafts the letting agreement for you?
IF NEC: legal adviser, self, family, bought off the shelf etc.

If not legal adviser: Does anyone check through the letting agreement prior to you giving it to tenants?
If yes: Why is that?

How important do you think it is to have a letting agreement?

IF NOT OFFERED ASK IF THEY KEEP A COPY OF THE AGREEMENTS AND COULD I HAVE A LOOK AT END OF INTERVIEW

Do you normally complete a **furniture inventory** with the tenant to record the condition of the property, furniture and equipment at the time they move in?

If no: Is there any particular reason why not?

4. Rent, deposit and housing benefit

I'd now like to ask you some questions about rent, housing benefit and deposits.

Generally, how do you decide how much rent to charge?

On average how much rent do you charge? Monthly? Weekly?
What does it include? eg. Council tax/water rates/sewerage charges/bills?
How is payment of rent organised?

Do you require new tenants to pay rent in advance?

If no: Is there any particular reason why?

If yes: How many weeks rent do you usually ask for?
Have tenants ever negotiated with you about the rent in advance?

If yes: In what circumstances was this? What happened?

Have you experienced problems with rent arrears? What happened? How did you manage this? What did you do?

Do you let to people on housing benefit?

If no: Are there any particular reasons why not?

If yes: Are there any particular reasons why? Do you arrange for HB to be paid direct to yourself? What are the advantages/disadvantages of having HB paid direct/to the tenant?

Have you experienced any problems with tenants under 25 and their housing benefit claims? IF NEC: processing of claims, shortfalls, contact with HB

office, shortfalls etc.

Do you require a returnable **deposit** or bond from new tenants at the start of the tenancy?

If no: Are there any particular reasons why? GO TO SECTION 5

If yes: How much do you usually ask for?

Have you ever been willing to accept a lower amount or waive a deposit?

If yes: In what circumstances?

What does the deposit/bond cover?

IF NEC rent arrears, damage, theft, rent in lieu of notice

Do you explain to tenants what the deposit/bond is for?

Is that in the letting agreement?

Have there been circumstances when you have withheld a deposit at the end of a tenancy?

If yes: Can you tell me what happened?

5. Rights, responsibilities and restrictions

I'd now like to ask about any issues which may have arisen about your property let to your tenants under 25.

What kinds of issues tend to be raised by tenants about their tenancy?

Were these discussed at the beginning of the tenancy?

Do you explain to your tenants what they are allowed and not allowed to do in the property? Is this in the letting agreement?

IF NEC: smoke, have pets

Have you ever had any problems with tenants about these sort of issues?

What did you do? Did you seek advice?

Have you had any other problems with tenants? Can you tell me about these?

How did you deal with these issues? Was this explained/was it in the letting agreement? Did you seek advice?

Ask all: Have you ever asked a tenant to leave a property? Why was that?

Have you ever served a tenant with an NTQ?

Have you ever taken legal action against a tenant? Under what circumstances? What happened?

Ask all Has anything ever prevented you from taking action against a tenant?

IF NEC: cost, fear of damage to property ETC.

Ask all: Show **card** and ask if any issues have arisen. **Discuss issues if arisen.**

Ask all: Now I'd just like to ask you what you would do if a number of situations occurred. **Do not ask scenario if already discussed.**

If a tenant was having problems **paying the rent** what would you do? Has this ever happened?

If you wanted to live in the property yourself, but the **tenant was refusing to leave** what would you do? Has this ever happened?

If a tenant was **causing a nuisance** what would you do? Has this ever happened?

If a tenant told you about problems with an **appliance** what would you do? Has this ever happened?

6. Relations with tenants and tenant support

Now I'd like to ask some questions specifically about your tenants under 25.

How often do you contact or visit your tenants under 25? What about?
IF NEC: Do you ever contact/visit them to see how they are getting on?

If so: Have you ever given them any sort of help/advice to settle into the property? What was this?
IF NEC: helped contacting utilities, show how to use appliances, central heating etc.

How important is it to you what your tenants are like? Do you think the relationship with your tenants changes during the tenancy? Better or worse? Why?

Generally, do you think you have a formal or informal relationship with your tenants?
What could be better/what could be worse?

What makes a good tenant/bad tenant?

Do you find letting to under 25s any better or worse than letting to other age groups?

7. Accessing information and advice and landlord support.

I'd now like to ask about sources of information and advice which are available to you.

Generally, is it easy or difficult to find out how the law affects you as a landlord?

How do you find out how the law affects you?

Have you ever sought information/advice about being a landlord or about specific issues relating to a tenancy? Could you tell me about that?

If yes: Who/where did you seek advice from?

Was it easy or difficult to get?

Was it helpful/understandable?

If no: Has anything stopped you from getting advice/information when you needed it? Can you tell me about this?

IF NEC: not knowing where to go, cost, fear etc.

Have you ever felt that you would like some advice or support to do with letting your property?

IF NEC advice on safety issues, the law, HB, advice as issues arise etc.

Generally, what sort of advice or support would you like to have?

IF NEC: landlord forum, understandable info, local authority support

What are the main problems you have experienced whilst letting property? How long do you think you'll carry on letting property? Why?

8. Property conditions, safety and regulations

I'd like to ask you some questions about the property you let.

In terms of the condition of the property you let, what sort of factors do you think are important?

[IF NEC: safety issues re: gas, electric, fire, general conditions]

If not mentioned: Do you think safety issues, like gas, electric and fire are important?

Ask all: Do you do any checks on your property before a new tenant moves in or during a tenancy?

Have your tenants asked about these issues?

Have you ever had any problems with gas/electric/fire safety issues?

If yes: Can you tell me what happened?

9. General/Summing Up

Is there anything else you would like to tell me about or anything you would like to add?

Thank you etc.

BILLS

FIRE/GAS

RENT

HOUSING BENEFIT

FURNITURE

DAMAGE TO PROPERTY

HOW LONG THE PROPERTY IS LET FOR

GAS/ELECTRICAL APPLIANCES

SECURITY

GENERAL REPAIRS

NOISE/NUISANCE

SUBLETTING

APPENDIX TWO

TOPIC GUIDE FOR YOUNG PEOPLE

Explain nature and purpose of research, informed consent, confidentiality etc.

1. Demographic information, household structure and housing history

How old were you when you first left family home/care and where did you move to?

If PRS mentioned clarify type eg. HMO, lodging, alone, sharing, flat etc.

Why did you move there?

How long did you live there?

Why did you leave?

And then where did you live?

Move 1

Move 2 etc to present day.

[IF NEC: Did you sleep rough/on other peoples floors/hostel/go back home?]

Clarify and check that living in PRS now.

At your present address are you sharing with anyone? Who are they? How many?

[IF NEC: friends/living alone/living with partner?]

If sharing: Did you all move in at the same time?

Are you working at the moment/receiving benefits?
working full/pt?/receiving a grant?

Are you under 25?

What are your household circumstances?

[IF NEC Do you have dependent children?/Do they live with you?]

2. Finding present PRS accommodation

I'd like to ask you now about your present accommodation and what that accommodation is like.

How did you find your present accommodation?

Was it easy or difficult to find?

if difficult: why? Clarify problems.

[IF NECESSARY probe main problems if due to **age, unemployment/HB, rent costs, locality etc, bond/rent in advance problems, landlords attitudes to young people etc.**]

How long did it take to find?

Did you look at many other places?

Did you get any help in finding accommodation and who from?

If lived in PRS previously: Was it more or less difficult to find your present place than finding private rented accommodation in the past?
Why was that?

What sort of accommodation do you live in at present?
[IF NECESSARY: Is it a bedsit, a shared house, a flat?]

Is it furnished or unfurnished?

How long have you lived here?

Do you rent from a landlord/lady/agent?
Private individual? Small business? Company?

3. Setting up the Tenancy and the letting agreement

I'd like to ask you some questions about what happened when you decided you would move into your present accommodation.

What sort of things did you discuss or negotiate with the landlord when you decided to move into your present address?

[IF NECESSARY: **rent, repairs, rent in advance, security, decor, deposit, hb**]

If yes: Did you succeed in getting a lower rent/repairs carried out etc....?

Was the landlord/lady/agent more or less difficult to negotiate with than previous landlords?

If no: Was that because you didn't feel you could discuss or negotiate things with your landlord? Can you tell me about this?

Ask all: Did anyone else try and discuss things with the landlord on your behalf?

If yes: Who and what happened? Was this helpful?

If no: Do you think it have been helpful for someone to have discussed things with the landlord for you?

Ask all: Did you seek any advice from anyone before moving in?

If yes: What about? From whom? Was it helpful?

If no: Were there any particular reasons why you didn't seek advice?
IF NEC: Did you feel that everything was OK?

Ask all: When you moved in did the landlord/agent explain general things about the running of the place?

Did the landlord give you anything to sign before/when you moved in? What was it?

Clarify and check if letting agreement

IF NO LETTING AGREEMENT ASK

Did the landlord give you anything in writing about the property? What was that? Did the landlord give/show you anything about the appliances? Have you ever asked the landlord for anything in writing?
What was the response?

ASK ALL

Did you negotiate the contents of the agreement/document with the landlord? Did you get a copy to keep? Have you ever had to refer to it? Could you tell me about that?

Did you read the agreement before signing it? Why was that? Do you know what kind of letting agreement/tenancy you have? Do you have a joint or sole tenancy?

Did the landlord explain what was in the letting agreement/ the papers/document?

If yes, was this helpful?

If no: did you have problems understanding the agreement/document? Did you show it to anyone or did anyone explain it to you? Was this helpful? **If**

no, would it have been helpful?

IF NOT OFFERED ASK IF CAN LOOK AT LETTING AGREEMENT. LOOK AT IT AT END OF INTERVIEW.

4. Rent, rights, responsibilities and restrictions

I'd like to ask you about what you expected when you moved into the property and about what has happened since you moved into the property.

Have you asked your landlord for things which you needed? Did you get them?

What sort of things can and cant you do in the property?

IF NECESSARY: eg, can you smoke/have pets?

Is that in the letting agreement? Or did the landlord say this?

How long can you carry on living at your present address? Is that in the letting agreement?

Would you like to stay there longer? Has the landlord talked about letting you stay there longer or asking you to move?

If stay has the tenancy been renewed? **If yes**, did the landlord charge for this? How much?

If move: has the landlord told you to move? **If yes**: Has the landlord given you anything in writing about wanting you to move? **If yes**: What was it? Have you shown it to anyone?

Ask all: How is payment of rent organised? Weekly/monthly? How much rent do you pay? What does it include? eg. bills, meals, council tax, cleaning etc.

Approximately, how much is your income?

Do you pay the rent in full or does hb pay some of it?

If hb: On full hb or part hb? Shortfall? How much? Is hb paid direct to landlord?

Did you know how much HB you were entitled to before you moved in? Did you have a pre tenancy determination?

When you moved in were you on hb?

If yes: Was this a problem with the landlord? can you tell me about that?

Ask all: Did you pay rent in advance or a deposit when you moved in? How much? Did you have any difficulties paying them? Did the landlord explain what the deposit was for? Did you get a receipt or was that in the letting agreement? Did you get a furniture inventory?

5 Difficulties with the property/tenancy and legal rights

I'd now like to ask you some questions about any difficulties you may have had with the property or your tenancy since you moved in.

Have you had any problems with the property since you moved in? Could you tell me about them?

If yes, clarify: What were the problems? What did you do? Why? Was that in the letting agreement? What was the landlords response? Did you seek advice?

Ask all: Show **card** *and ask if any of these issues on the list have arisen*
Discuss issues and problems if any have arisen

Ask all: Now I'd like to ask you what you would do if a number of situations occurred. **Do not ask scenario if this has already been discussed.**

If you had a problem or thought there was a problem with a **gas appliance** what would you do? Who is responsible for putting it right? Has this ever happened? What happened?

If there was a week/month when you thought it would be difficult to pay the **rent** what would you do? Has that happened?

If the landlord asked you to **leave the property suddenly** what would you do? has that happened? Did you seek advice? **Has this happened with a landlord in the past?**

If your landlord was **abusive/violent** to you what would you do? Has this happened? How often? Did you seek advice?

If you had a problem with **the heating or the water** what would you do? Has that happened? Who is responsible for fixing it?

If the landlord started to **charge you more rent**, what would you do? Has this happened? Did you seek advice?

At the end of the tenancy if the landlord **refused to give you the deposit back** even though you hadn't damaged the property, what would you do?

Has this ever happened with another landlord? Did you seek advice?

6. Relations with landlord/agent

Now I'd like to ask a few questions about your landlord.

How often does your landlord contact you or visit the property? What about?

How important is it to you what the landlord is like? Has the relationship with your landlord changed since you moved into the property? Can you tell me about that? Has it got better or worse? Why?

When you moved into the property was there anything you expected your landlord to do, that he didn't do or did he do things which you didn't expect him to do?

IF NECESSARY: do/give something you didn't expect, promise to do something which wasn't done.

If yes: Could you tell me about that? Was that in your letting agreement? Or did the landlord tell you this?

Ask all: Generally, do you think you have a good or bad relationship with your landlord?

What could be better/what could be worse?

Is this landlord any better or worse than other landlords that you have had?

Generally, are you happy or unhappy with your landlord? Why?

NEED TO BE CAREFUL HERE RE: ISSUES OF HARRASMENT ETC

What would you say made a good landlord? What makes a bad landlord?

7. Accessing information and advice

I'd now like to ask about information and advice you have sought about the tenancy.

Did you seek any information or advice before entering into the tenancy/moving into the property? Can you tell me about that?

Ask all: During the tenancy have you ever sought information or advice about your landlord/the property/agreement? Can you tell me about that?

If yes: Who/where did seek advice from? Was it difficult or easy to get advice/information? Was it helpful/understandable?

If no: Has anything stopped you from getting information or advice when you needed it? Can you tell me about this?

IF NECESSARY: not knowing where to go, cost, fear, inability to express self, no one to accompany them etc.

Ask all: How easy is it to get advice/information? Is the available information/advice easy to understand?

8 Tenant Support

I'd like to ask about any help you received when you moved to your present address and about help which may have been useful.

Did you get any help to settle into this place?

IF NECESSARY: sort out bills, electric, housing benefit, budgeting etc

If yes, from whom? Was that useful?

If no, would it have been useful?

Ask all: Would any other sort of help have been useful?

IF NECESSARY: knowing more about your rights/budgeting/paying bills/council tax etc.

9. General/Summing Up

Is there anything else you would like to tell me about which I haven't asked you?

Thanks etc.

BILLS

FIRE/GAS

RENT

HOUSING BENEFIT

DAMP

SANITATION

VERMIN

GENERAL REPAIRS

HEATING

LEAKING WATER

FURNITURE

INTERNAL AND EXTERNAL CONDITION OF THE
PROPERTY

HOW LONG YOU CAN LIVE AT THE PROPERTY

GAS/ELECTRICAL APPLIANCES

SECURITY

APPENDIX THREE

SAMPLE TOPIC GUIDE FOR ORGANISATIONS

Explain nature and purpose of research, informed consent, confidentiality etc.

1. Background Information about Organisation

I'd like to ask a few questions about the organisation and your role within it.

What is your role/job title within the organisation and what does that entail?

What kind of services do you provide for young people?
IF NEC: provision of advice, information, representation, support etc.

In terms of housing what are the types of circumstances in which you are contacted by young people?

Age range of young people?

male/female numbers?

Check: Voluntary or statutory organisation?

2. Profile of landlords and/or tenants using the service and reasons for contact

I'd now like to ask you some questions about the sort of young people using your services and their reasons for contacting the organisation.

On average how many **young people** contact you/seek advice/info every month/year about housing?

What sort of housing **issues** are most common?

Are housing enquiries increasing? Why?

What are the age range of the tenants contacting you?

What are the types of circumstances in which you are contacted by **tenants**?

Have there been any changes in the types of issues you have been

contacted about since the introduction of the Housing Act 1996?

If yes: What sort of consequences has the Housing Act 1996 had for landlords/tenants?

Are there any other services which you provide to **private tenants**?

3. Types of information/advice given

I'd like to ask some questions about the sort of information/advice you provide to clients.

What are the range of issues which you provide information/advice about to private **landlords** and/or **tenants**?

IF NEC: Housing Benefit/court proceedings/deposits/rent problems/letting agreements/safety issues/repairs/security of tenure/rights/responsibilities

What sort of action can you take on behalf of private landlords/tenants?

IF NEC: refer clients to other services/representation/advocacy/negotiate

In what circumstances would you take further action on behalf of a landlord/tenant?

4. Accessing information and advice

I'd now like to ask you some questions about the issues faced by landlords/tenants and how they access information and advice.

Generally, how well informed do you think young people are about their rights and responsibilities?

If not well informed: What do you think the reasons are for landlords/tenants not being informed?

If well informed: What do you think the reasons are for them being well informed?

Do you think it is easy or difficult for young people to obtain advice/information about the issues discussed above?

How do young people find out about the services you provide?

What do you think are the main problems faced by young people in the private rented sector? Why?

Do you think the law adequately protects young people?

if no Why not? What consequences does this have?

if yes Why do you think that is?

5. Summing up.

Is there anything else you would like to tell me that I haven't asked you about?

Thanks etc.

APPENDIX FOUR

SUMMARY PROFILES OF LANDLORDS

Landlord 1: Male, became a landlord in order to replace a loss in income and views property letting as a way to supplement pension income on retirement. He has been letting property for 10 years and currently has five properties, 32 tenants and works full-time. He prefers letting to students but will let to housing benefit claimants. He takes a deposit of less than one months rent and does not use a furniture inventory. He does not use a formal letting agreement, but has devised a set of rules for tenants. He is totally unfamiliar with the legal framework.

Landlord 2: Male, became a landlord on the advice of his financial adviser. He has been letting property for 8 years and currently has 6 HMOs with 35 tenants and works full-time. It is not his main source of income. He lets to housing benefit claimants only. He plans to buy more properties once the mortgages have been paid on his most recently purchased properties and live off the income rather than continuing to work. Although the most 'business' oriented of the landlords interviewed, he no longer uses letting agreements or furniture inventories, but still takes a deposit and is familiar with the legal framework from his years of experience of letting property.

Landlord 3: Male, became a landlord in order to raise extra income and views his property as an investment to generate pension income on retirement. He had been letting property for 12 years and has 2 properties with 5 tenants. He works full-time. He lets to students and working tenants and has no plans to expand his current portfolio. He uses standard letting agreements that are more comprehensive than those purchased 'off the shelf'. He also uses a furniture inventory and takes a deposit, and is familiar with the legal framework from his employment.

Landlord 4: Female, became a landlord in order to have an asset to draw on during retirement as she does not have a pension plan. She has been letting property for 3 years and has 2 properties which she lets to 8 students. She works full time and has no plans to expand her current portfolio. She uses standard 'off the shelf' agreements, in addition to a furniture inventory and a deposit. She is familiar with some areas of the legal framework but misunderstandings were evident.

Landlord 5: Female, became a landlord in order to have an asset to draw on during retirement as she does not have a pension plan. She was initially a resident landlord and had a lodger in order to help to pay her mortgage. She subsequently moved out of the property to live with her partner and has been letting it for 5 years, and has subsequently acquired another property. She has 2 properties which she lets to 5 tenants, a mixture of working tenants and housing benefit claimants. She works full time and property letting is not her

main source of income. She has only recently started using standard 'off the shelf' agreements but would prefer not to use them. She does not use a furniture inventory or take a deposit. She has a little knowledge of the legal framework.

Landlord 6: Female, became a landlord after having a lodger in order to help pay her mortgage and has since moved in with her partner. She has one property and has been letting to housing benefit claimants and tenants working full time for 3 years. She has 4 tenants in total. She works full time and views the property as somewhere to return to if her relationship breaks down, as well as an asset to draw on during retirement. She uses standard 'off the shelf' agreements, but does not use a furniture inventory. She takes a deposit of less than one months rent and has a vague knowledge of some aspects of the legal framework.

Landlord 7: Female, became a landlord after having a number of lodgers and now has one property which she has been letting for 15 years. She has 2 tenants, one in full time employment and one in receipt of housing benefit. She works full-time and was considering selling the property to release some capital and purchase a smaller property to let. She does not use letting agreements or furniture inventories, although she takes a deposit of less than a months rent. She has very little knowledge of the legal framework.

Landlord 8: Male, in full time employment, became a landlord in order to have an asset to draw on in retirement. He has been a landlord for 10 years and has 4 properties with 7 tenants and plans to purchase more property over the next few years. All of his current tenants are working, however, he has let to housing benefit claimants in the past, but would not do so in the future. He uses standard agreements that are more comprehensive than those purchased 'off the shelf,' he does not use a furniture inventory but takes a deposit. He is familiar with the legal framework from his employment.

Landlord 9: Male, became a landlord 6 years ago as part of a portfolio of investment after having to take early retirement. Property letting is now his main occupation since retiring, but not his main source of income. He has 4 properties with 16 tenants, letting primarily to students, but occasionally to housing benefit claimants. He uses standard agreements, with some of his own modifications, that are more comprehensive than simple 'off the shelf' agreements. He uses a furniture inventory and takes a deposit. He is familiar with the legal framework from taking formal advice and also from his involvement with local landlord organisations.

Landlord 10: Male, became a landlord 12 years ago because of the financial potential it offered. He retired recently and letting property is now his main occupation and main source of income. He has 2 properties and 8 tenants letting to students and occasionally housing benefit claimants. He uses standard agreements with some of his own modifications. He takes a deposit of less than one months rent and uses a furniture inventory. He has some knowledge of the legal framework from his years of experience.

Landlord 11: Male, with one property and 2 working tenants, although he has let to housing benefit claimants in the past. Began letting property 7 years ago when he moved out of his home to live with his partner. He works full time and views the property as somewhere to return to if his relationship breaks down and also for members of his family if they need somewhere to live. He also considers it to be an asset to generate a lump sum in retirement. He uses Law Society letting agreements, takes a deposit and a furniture inventory and has a vague knowledge of the legal framework.

Landlord 12: Female, with 3 properties and 5 tenants. Became a landlord 4 years ago when she inherited some capital which she used to purchase a property which she subsequently moved into and then let her home. Letting property is not her main occupation. She lets to working tenants, but has recently let one property to a student. Although she currently works full time, she plans to retire soon and use the income generated from the rental payments to supplement her retirement income. She uses agreements supplied by a letting agent (who recruit tenants for her) that are more comprehensive than 'off the shelf' agreements. She takes a deposit and uses a furniture inventory. She has some knowledge of the legal framework.

Landlord 13: A couple with one property and 3 student tenants. Began letting property 2 years ago after paying off their mortgage. They regard letting as an investment for the future and to generate retirement income as neither of them have pensions. Both of them work full time and letting property is not their main occupation. They use standard 'off the shelf' agreements with some modifications from their familiarity with agreements from employment. They use furniture inventories and take a deposit of less than a months rent. They demonstrate only a little knowledge of the legal framework.

Landlord 14: Female with one property and 2 tenants who work full time. Began letting property 4 years ago when living in tied accommodation and wanted to have a property of her own to move into in later life. Currently works full time and uses agreements supplied by letting agents (who recruit tenants for her) that are more comprehensive than 'off the shelf' agreements. She uses a furniture inventory and takes a deposit. She has some knowledge of the legal framework.

Landlord 15: Female with one property and 3 housing benefit tenants. Began letting property 7 years ago after having a number of lodgers. She views her property as an asset for later life. She works full time and letting property is not her main occupation. She uses 'off the shelf' agreements, takes a deposit and uses a furniture inventory. She has very little knowledge of the legal framework.

APPENDIX FIVE

SUMMARY PROFILES OF YOUNG PEOPLE

Tenant 1: Male, full time student aged 24, sharing with one other student friend. He is currently living in his third PRS tenancy and has been there for 7 months of a 9 month fixed term assured shorthold. He has a copy of his standard 'off the shelf' letting agreement, paid a deposit of less than a months rent, but does not have a furniture inventory. He has a vague knowledge of his rights and wishes to leave the property once the fixed term has expired.

Tenant 2: Female, works full time aged 21, she shares with 6 other friends, all of whom were previously students together. She is currently in her second PRS tenancy and has been there for 10 months of an 11 month assured shorthold. She has a copy of a comprehensive letting agreement, has paid a deposit and has a furniture inventory. She has some knowledge of her rights and has found alternative accommodation to move to once the fixed term expires.

Tenant 3: Female, aged 23. She works full time and shares with 3 other unrelated adults, all of them having moved in at different times. She has currently lived in her fourth PRS tenancy for five months of a six months assured shorthold. She signed a letting agreement after she moved into the property but does not have a copy. She did not pay a deposit, nor does she have a furniture inventory. She has very little knowledge of her rights was unsure about how long she would like to continue living in the property.

Tenant 4: Male, aged 21, works full time. Shares with 2 other unrelated adults. This is his second PRS tenancy. He has lived at his present accommodation for 15 months and has had the tenancy renewed once, with fixed periods of one year assured shortholds each time. He has signed his letting agreement and thinks he has a copy. He paid a deposit of less than a months rent and is not sure if he has a furniture inventory. He has very little knowledge of his rights.

Tenant 5: Female, aged 23 in receipt of housing benefit. She has currently lived in her first PRS tenancy for 3 months of a 6 months assured shorthold, sharing with 3 other unrelated adults, all having moved in at different times. She has a copy of her agreement and deposit arrangements were covered by a local Bond Guarantee Scheme. She is unsure whether she will remain at the property past the fixed term period. She has some knowledge of her rights.

Tenant 6: Male, aged 21 in receipt of housing benefit. He lives alone in a bedsit in an HMO. He has a 6 months assured shorthold, which has expired and has lived in his present accommodation for 14 months without having his agreement renewed. This is his second PRS tenancy. He has a copy of his agreement and paid a deposit of less than a months rent, but does not have a

furniture inventory. He will stay in this accommodation for the time being as he cannot afford to move. He has very little knowledge of his rights.

Tenant 7: Male, aged 24 in receipt of housing benefit and sharing with one other friend. He has lived in this second PRS tenancy for 5 months of a 12 months assured shorthold and has a letting agreement, paid a deposit and has a furniture inventory. He plans to move to a local authority flat to live on his own as soon as one is available. As stipulated in his contract, a move during the fixed term will result in the loss of the whole of his deposit. He has a vague knowledge of some rights but misunderstandings were evident.

Tenant 8: Male, full time student aged 21, sharing with 4 student friends. He has lived in his first PRS tenancy for 4 months of a 10 months assured shorthold. He signed a letting agreement but was not given a copy to keep, he also paid a deposit and does not have a furniture inventory. He plans to move as soon as the fixed term has expired. He has very little knowledge of his rights.

Tenant 9: Male, full time student, aged 20, sharing with 4 other students. He has lived in his first PRS tenancy for 6 months of an 11 months assured shorthold. He has a letting agreement, paid a deposit and has a furniture inventory. He wants to move when the fixed term has expired. He demonstrated some knowledge of the legal framework, which was in places detailed and accurate, although he was not a law student.

Tenant 10: Female, full time student, aged 20, sharing with 3 other students. She has lived in her second PRS property for 6 months of an 11 months assured shorthold. She has a letting agreement, paid a deposit, but does not have a furniture inventory. She wants to move as soon as the fixed term has expired. She has some knowledge of the legal framework.

Tenant 11: Female, full time student aged 21, sharing with 2 others, one working and one student. She has lived in her first PRS property for 18 months and had the tenancy renewed after the first 11 months assured shorthold and has signed for its renewal a second time, six months in advance. She has a letting agreement and paid a deposit of less than a months rent, but is unsure whether she has a furniture inventory. She has very little knowledge of the legal framework.

Tenant 12: Female, housing benefit claimant, aged 22. She shares with 2 other unrelated adults. She has lived in her first PRS property for 20 months and had the tenancy renewed after 12 months of an assured shorthold. She has a letting agreement, paid a deposit of less than one months rent and has a furniture inventory. She plans to leave once the fixed term expires. She has a vague knowledge of some aspects of the legal framework.

Tenant 13: Female, working full time, aged 23. She shares her fourth PRS tenancy with one other unrelated adult and has lived there for 6 weeks of a 6 months assured shorthold. She has a letting agreement, paid a deposit and has

a furniture inventory. She currently has no plans about whether she will leave or stay after the fixed term expires. She demonstrated some knowledge of the legal framework.

Tenant 14: Female, working full time, aged 24. She lives alone in her first PRS tenancy, where she has lived for 3 months of a 6 months assured shorthold. She has a letting agreement, paid a deposit and has a furniture inventory. She currently has no plans about whether she will stay beyond the fixed term. She has some knowledge of the legal framework.

Tenant 15: Male, housing benefit claimant, aged 20. He shares with 3 other unrelated adults in his first PRS tenancy where he has lived for 2 months of a 6 months assured shorthold. He signed an agreement after he moved in, paid a deposit and is unsure if he has a furniture inventory. He does not know if he will stay after the fixed term expires. He has a little knowledge of the legal framework.

APPENDIX SIX

LETTING AGREEMENT CHECKLIST

1. Standard agreement or individualised? Check for amendments

2. Tenancy start date? Moving in date? When is rent payable from?

3. Is minimum period 6 months?

4. What happens on non-payment of rent?

5. Is interest payable on rent arrears?

6. Does l state that they are liable for structure and exterior and spatial and water heating and sanitation?

7. Are any remedies cited if anything goes wrong/dispute between the 2 parties?

8. Is section 48 L and T 1987 cited re: service of notice of court proceedings and payment of rent?

9. Formalities for increase of rent cited?

10. What is deposit to be used for?

11. Whose decision is binding if a dispute arises between l and t?

12. If joint tenants, are they jointly and severally liable?

13. Are grounds or forfeiture and re-entry during fixed term mentioned? (arrears, damage to furniture, mortgagee exercising power of sale). nb. If not listed then no repossession during fixed term.

14. Any recommendations where to seek advice? eg CAB, housing advice centre etc.

15. Does it state that a court order is needed to repossess?

16. Have both landlord and tenant signed the agreement?

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