PART THREE

THE 1985-1986 FOLLOW UP TO THE 1979-80 SURVEY OF INNER SHEFFIELD

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CHAPTER 12

INTRODUCTION TO 1985-86 SURVEY, THE METHODS USED, AND THE DECLINE OF PRIVATE RENTING, 1979 TO 1985

Introduction: Objectives of 1985-1986 Survey

The publication of the 1981 census results confirmed the scale of the decline in private rented housing that had taken place since 1971 and which had been indicated by the results of the 1979-80 study of private renting in inner Sheffield. Table 12.1 shows that the intercensal decline had been very substantial, the number of households renting from private landlords in the whole of Sheffield falling 60 per cent, the fall being much greater among those renting unfurnished than furnished accommodation. By 1981 private renting housed less than 10 per cent of the City's households, although in the inner city area, containing about half the City's households, it housed twice this proportion.

The first survey of Sheffield's inner city private rented housing stock, households and landlords had confirmed that LHA policy did have an impact on private landlords' decisions, particularly in respect of getting modern amenities installed, of getting HMOs to meet model standards, and in influencing whether or not landlords continued to invest in HMOs. The research had also shown that changes in ownership had been an important factor in getting houses improved, as investors bought up property with sitting tenants, intending to sell for capital gain when they ultimately got vacant possession, meanwhile improving them with the aid of grants - and being prepared to relet if a vacancy arose with five years of improvement - so as not to repay the grant. It was also found that, whilst this speculative investment would assist with the installation of missing basic amenities in a proportion of the remainder of unimproved houses, many outstanding repairs did not seem to be done at the same time as amenities were put in and, and, moreover, that bigger improvement grants would be needed if all unimproved property was to be brought up to standard.

As the previous chapters have indicated (and as Part 4 describes in much greater detail) the Housing Act, 1980 modified the improvement grant system in a number of ways which, on the Sheffield evidence, would assistant private landlords wanting to improve. For discretionary

	Unfurnished	Furnished	Total Private Rented	Percentage of Total Households in Sheffield
1971	36,435*	6,410	42,845	21.1
1981	12,660**	5,242	17,902	8.8
Change (%)	-65	-18	-18	

Source Census 1971 and 1981

Notes * Includes Housing Associations in 1971
** Includes renting with job and with business in 1981 (and in 1971)

Table 12.1 Households renting from private landlords in Sheffield 1971 and 1981

improvement grants a new priority category for allowable costs and the rate of grant was established and this encompassed all dwellings without basic amenities and those in substantial and structural disrepair, not just those in HAAs. Thus all such dwellings got 75 per cent grants. Repairs grants were also extended beyond HAAs to embrace all dwellings built before 1919 in need of substantial and structural repair and payment of a grant became mandatory if LHAs served repairs enforcement notices. Between April 1982 and March 1984 the rate for repairs and intermediate grant was increased from 75 to 90 per cent. The proportion of a discretionary grant which could be devoted to repairs of a substantial and structural nature was increased from 50 to 70 per cent (DoE, 1980)

Between 1979 and 1985 there was a shift in LHA policy about private renting in Sheffield and there was also much greater formalisation of policy in its Housing Investment Programme strategy statements and in other policy documents.

In using its, largely discretionary, powers about private renting it became Sheffield Council's policy to find the best way of improving the housing stock, consistent with its other priorities and available capital and staff resources (Sheffield City Council, 1983, 1985). It recognised that neither it, nor housing associations, had sufficient resources to acquire and improve private rented houses. Council policy was (and still is), therefore, to get landlords to improve to a 'reasonable' standard both by enforcement led action and agreed programming with owners, and to let on regulated tenancies at Fair Rents. 'While the private rented sector remains, strategic intervention is essential to control the rate of decline. If a secure, though inadequate home at a fair rent, with the basic amenities and properly maintained is the only foreseeable prospect for private rented tenants in the short term, local authority action must be directed to achieve these ends'. (Sheffield City Council 1983, Supplement 7).

As far as houses (rather than houses in multiple occupation) are concerned, this action had been mainly directed in the past through the area improvement programme, but there were increasing attempts in the 1980s to coordinate Council responsibilities about aid and advice to tenants on rents, agreements, security and harassment with its

responsibilities for grants and repairs enforcement. Until 1983, however, Council policies about standards and lettings were not always achieved, since standards were lower than in many other authorities and were not always consistently applied when officers used their discretion to be 'flexible' about them - in the hope of securing some improvements instead of none. After 1983 it became Council policy to secure higher and more consistently applied standards when landlords improved and to 'target' its improvement programme to areas of greatest need.

Improvement areas have been designated since the first GIA was declared in 1972. By 1985 there were 18 GIAs and HAAs in existence. As Part 2 of this thesis explained, following a review of houses and areas provisionally scheduled for clearance, the first HAAs were declared in areas 'taken out' of the 'forward' clearance programme. By 1979 4 had been declared. Since then more declarations followed, but by 1985 the intention of declaring HAAs on an annual rolling programme basis had been thwarted by capital programme restrictions, though by 1985 a further 6 HAAs had been designated, including one which incorporated an 'enveloping' scheme (for enveloping, see Thomas, 1986). Sheffield had been deliberately cautious in its declarations, preferring to have 'live' only the number of HAAs it could deal with, given its capital and staff resources. Despite this limitation, Sheffield had been more active than many other authorities in contacting landlords, using compulsory powers and in also agreeing grant funding programmes with larger landlords. Until 1983 however it permitted one of the lowest standards, and did not always insist on rents being registered. By contrast it was vigorous in insisting on grant repayment for the breach of letting conditions on improvement grants (Martin, 1983). By 1985, policy was directed at the twin objectives of securing higher standards of amenity and repair and of securing tenants' rights in respect of rents and security, the latter involving not only aid and advice but ensuring, for example, that "'sham' licence agreements are challenged". (City of Sheffield 1983, Supplement 7).

By 1985, therefore, there had not only been changes to the improvement grant system, but a general 'tightening up' and a greater coordination of LHA policy about private renting. By 1985, too, evidence had emerged that the findings of the original 1979-80 study in Sheffield were by no means unique. Postgraduate research under the author's supervision had been

carried out in 1982 about the policies of a sample of LHAs about their policies towards private renting (Martin, 1983). Interviews were also conducted with landlords of a sample of improved and unimproved properties in four LHAs with contrasting policies (Martin, 1985). This research showed that there had been an upturn in grant aided improvement by private landlords since 1980, that much of this was associated with what LHAs called a 'new breed' of landlords, many associated with the building trade, actively buying up property for capital gain. LHA policy about taking enforcement action was shown to be successful in getting long term landlords to improve. The pursuit of higher standards of repair and improvement was shown not to deter landlords, especially the so-called 'new breed'.

In view of the legislative changes that had taken place (and alsothe policy changes within Sheffield and of the evidence from elsewhere that landlords were continuing to buy up sitting tenant property for improvement, it was decided to undertake a follow up of the original 1979 panel of private rented housing, to monitor the changes that had taken place to the properties, tenants and their owners. The principal objective was to examine the changing pattern of investment, ownership and access to private renting between 1979 and 1985 and, in particular, to study the impact which ownership changes had on the improvement and repair of the stock and on the way it was managed and let, including the availability and terms of letting. The study was designed to find out how much of the stock had changed hands, whether it was being acquired by investors new to landlordism and, if so, whether these were landlords who were investing in improvement and prepared to relet, or were 'dealers' who were making short term speculative investments, buying tenanted property to sell with vacant possession when tenants moved out. More generally, it was designed to compare the policies and opinions of existing and new landlords about investment, improvement and management.

This, and the succeeding two chapters, describe and discuss the findings ofaproject on the changes that took place within Sheffield's private rented sector between 1979 and 1985. The trends were examined by repeating, in 1985/86, the linked sample survey of private rented properties; their tenants and landlords which was carried out in 1979/80. In combination these recall surveys provided data on the condition, occupancy

and ownership of a panel of private rented properties in both 1979 and 1985. Most previous studies of changes in the private rented sector in England have relied on comparing the findings of a series of cross sectional studies. This project provided, therefore, a rare opportunity to undertaken a longitudinal study of a panel of private rented property and thus to examine the pattern of change over the six year period concerned.

An earlier example of a recall survey of private rented housing is the 1963 recall of a 1960 survey of private rented housing in Greater London, commissioned for the Milner Holland Committee on Housing in Greater London. The authors commended such follow up surveys in general (Gray and Todd, 1964).

The chapters also look at the implications of these changes for future supply and at the lessons the changes have for future policy initiatives designed to sustain the private provision of rented housing, examining in particular rates of return on landlords' investment. One of the key findings of the research is that the continuing decline of private renting is accompanied by an active pattern of acquisition by speculative or 'dealing' landlords, and a principle conclusion of the research is that the continuing gap between the sitting tenant and vacant possession value of properties not only encourages their sale by long standing landlords, but further hastens decline as 'dealing' landlords buy up tenanted property to sell as soon as possible for capital gain when they get vacant possession, a process in which the local authority plays an important mediating role.

Survey Methods

The methods are described in more detail in Appendix 3 and the questionnaires used will be found in Appendix 5.

The previous 1979 and 1980 surveys were repeated. Although the questionnaires were enlarged in scope, they were designed to ensure that comparisons could be made on a wide range of issues, including house condition and rents. Thus the surveys included a repetition of the 1979 external house condition survey, an interview with the 1985 occupants of

the 1979 sample of private rented houses, and subsequently with the landlords who owned in 1985 that part of the 1979 sector which was still private rented.

Before briefly describing the methods and responses to these surveys three important qualifications about these recall surveys should be made.

First, the addresses let as HMOs in 1979 (i.e. occupied by more than one household in 1979) were excluded from the follow up. They were not excluded because changes to them were uninteresting phenomena, but for the practical reason that those who funded the follow up study were already funding considerable research on HMOs and wished the author to concentrate on the changes that were taking place to singly occupied privately rented houses. However, since these latter houses included those let furnished to groups of unrelated adults living as a household, the survey did include some HMOs since they are covered by one of the IEHO's definitions, Category B HMOs: shared houses (See Chapter 2.3 of this volume and IEHO, 1985).

Second, the follow up study traces only what happened to a sample of properties that were privately rented in 1979. It does not reveal whether any properties that were in other tenures, (or vacant), in 1979 had been transferred to private renting by 1985, nor does it identify any properties that were newly built for private renting. Conventional wisdom might suggest that these were unlikely to have happened - at least on any large scale, but conventional wisdom has not always proved a reliable guide to all private renting trends. It is important to stress that, whilst the 1979 study was of a representative sample of all privately rented houses, the follow up survey is a study of what happened subsequently to this sample, i.e. it is a study of that panel, it is not (necessarily) a representative sample of private rented properties in 1985.

The third - and related - point to stress is that this panel study is no freer of the problems that beset all such studies. In particular it should be stressed that there has been attrition in the sample. Properties that were vacant and particularly where no contact was made or where

contact was refused in 1979 did not get into the 1985 sample. To the extent that there has been cumulative non response (that is refusals and non-contacts also occurred in 1985), bias may have crept in.

Excluding the properties let in 1979 as flats and bedsitters, a 100 per cent recall survey at all the 1,068 houses let to one single household in 1979 was completed in June 1985 - with a response rate of 86 per cent, allowing for vacant and demolished properties. Interviews were held with the current households, including new owner occupiers and tenants, as well as any continuing tenants first interviewed in the earlier survey. As well as repeating the House Condition Survey done in 1979, the survey collected information about the property, household, tenancy and rents (or purchase price) enabling comparisons over the six years to be made on a wide range of housing, occupancy and tenancy heads. Since different proportions were taken as samples from each of the 1979 sample areas (such as HAAs), a weighted total is incorporated in the results to ensure that the samples are present in the total in their correct proportions.

At the end of 1985, and in early 1986, an interview survey of the 305 current landlords of the sample of 534 addresses still privately rented and with identified owners was carried out and, as in 1980, information was gathered about their specific policies for the sample addresses they owned, as well as their opinions and policies in general. It was not possible however to assemble information from landlords about all these addresses. Some simply owned far too many sample addresses for them to be expected to talk about all of them. Others had agents who responded to the interviews on their behalf, and some of these agents managed so many sample addresses that they could not be expected to talk about all of the sample properties of all of their clients. Landlords were therefore interviewed about a maximum of three sample addresses and agents completed short questionnaires for those they were unable to give full interviews about. In the end, a 75 per cent response from the 305 owners (or their agents) of the 534 addresses was achieved. Information on 273 of the sample addresses was obtained, inevitably biased towards furnished lettings and properties in the ownership of small landlords by the decision to restrict the collection of address-specific information to a maximum of three sample properties. To avoid reporting biased results when the size of landlord is significant to the findings, some of the

results weight the sample according to the size of landlord so as to correct the underrepresentation of properties belonging to large landlords.

Decline in private renting in inner Sheffield 1979 to 1985

Although landlords said in 1979 they would relet 68 per cent of the houses let furnished if they became vacant 'tomorrow', they would relet only 32 per cent of those let unfurnished.

Table 12.1 and Figure 12.1 confirm that landlords carried out their plans to sell houses where vacancies occurred. Table 12.1 shows the proportion of houses which became vacant after 1979 and what happened to them in each sample area and for the sample as a whole. Since different proportions were taken as samples from each sample area, a weighted total is also shown to ensure that the sample areas are present in the total in their correct proportions. Figure 12.1 shows diagramatically the vacancies, sales and relets for this weighted total.

The survey found, not only that 25 per cent of the 1979 stock belonged to owner occupiers in 1985, and 2 per cent either to the City Council or Housing Associations, but that 7 per cent of the stock had been demolished or was in non residential use by 1985. Altogether there had been a fall of 32 per cent by 1985 in the addresses in the panel which were privately rented.

This fall was particularly steep in the case of houses let unfurnished in 1979. Of the total of those still in residential use in 1985, 59 per cent were occupied by the same households who were tenants in 1979 and they were still privately rented. 4 per cent had been bought by the 1979 household as sitting tenants, and 3 per cent belonged to Housing Associations or the Council. Over a third of the 1979 sample had become vacant at some time between the two surveys and had new occupants in 1985.

Out of these vacancies, 59 per cent were sold to owner occupiers, 17 per cent were relet unfurnished and 24 per cent furnished. Sales to owner occupiers were at a lower rate in old HAAs, than elsewhere, reflecting letting conditions on improvement grants. The high rate at which unfurnished houses were relet furnished (with over half the unfurnished

Table 12.1 VACANCIES SALES AND RELETS 1979 to 1985

SAMPLE AREA		PERCENT OF TOTAL STOCK				PERCENT OF VACANCIES WHICH WERE			
	Unfurnished Stock 1979	Sold to Sitting Tenant	Sold to HSG Assoc /L.A.	not vacant between 1980-1985	became vacant between 1980-1985	Relet Unfurn in 1985	Relet Furn in 1985	Sold to Own.Occs by 1985	
Old H.A.A.s *	79	% 6	1	51	42	% 33	39	27	
New H.A.A.s *	129	% 4	5	57	34	% 23	18	59	
G.I.A.	190	% 4	6	62	28	% 15	30	54	
Ex Provisional Clearance[i]	74	% 4	7	53	36	% 41	18	41	
Rest of Inner City	194	% 4	3	59	34	% 15	24	61	
Total (Unwtd)	666	% 4	4	58	34	% 22	26	52	
Total (Weighted)		% 4	3	59	34	% 17	24	59	
	Furnished Stock 1979								
Old H.A.A.	31	% -	-	10	90	% 14	68	18	
New H.A.A.	8	% -	-	-	100	%	62	38	
G.I.A.	24	% -	-	8	92	% 4	77	18	
Ex Provisional Clearance	8	% -	-	12	88	% 14	57	28	
Rest of Inner City	46	% 4	-	-	96	% 4	66	30	
Total (Unwtd)	117	% 2	-	5	93	% 7	68	25	
Total (Weighted)		% 4	-	1	95	% 5	66	29	

Notes: * Old H.A.A.s declared by 1979
* New H.A.A.s declared since 1979
i Ex Prov. Clearance - removed from provisional clearance in 1975

Figure 12.1

STOCK AND FLOW OF VACANCIES, RELETS AND SALES: INNER CITY, WEIGHTED TOTAL

relets being furnished) is significant because it is very much higher than would have been anticipated from the results of the 1980 landlord survey, when hardly any unfurnished properties had owners who said they would relet in this fashion. This change, as the next chapter confirms, is associated with changes in ownership.

Almost all the stock let furnished in 1979 had new occupants by 1985 and the proportion sold to owner occupiers is, at 29 per cent, consistent with the intentions expressed by landlords in 1980.

Figure 12.1 shows each of the categories of sales and transfers from unfurnished to furnished lettings which have contributed to the 34 per cent fall in the number of houses let unfurnished and the slight increase in those let furnished. As a result of all the changes, the furnished sector's share of the total increased from 18 to 26 per cent. It is, of course, quite possible that the total stock had fallen less - and the furnished stock increased more - by virtue of acquisitions by landlords of empty property from outside private renting since 1979. In view of the result reported below: that some of the 'new' furnished property (but none of the relet unfurnished property) in the sample had been acquired vacant by new owners, this is more than mere conjecture as far as furnished lettings are concerned.

CHAPTER 13

CHANGES TO PRIVATE RENTED HOUSES AND THEIR OWNERSHIP 1979 TO 1985

Introduction

Chapter 12 described the scale of the decline in private rented housing in the 1979 panel. This chapter examines some of the changes that occured to that part of the panel of addresses which were still privately rented in 1985. It examines tenants, landlords, improvements and repairs, letting agreements and rents.

1979 to 1985: Old and New Tenants and Access to Private Renting

Within the overall pattern of a falling supply of unfurnished houses and a stable supply of furnished ones, there were significant changes in the types of household occupying them, because the new tenants differed from those that they replaced. This was particularly noticeable in the case of houses that had been sold, where the new owners were predominantly young and in full time employment - the number of retired reflecting sitting tenant sales. The former tenants they replaced were mainly older and retired but also included student heads of houses formerly rented furnished.

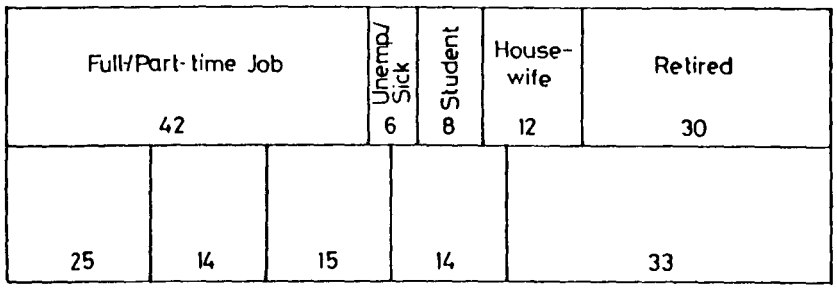
Figure 13.1 compares the economic activity status of the heads of household in 1979 and 1985 of the houses rented in 1979 and still rented in 1985. 68 per cent had 'continuing households', i.e. the houses did not have new tenants. Of the rest, 18 per cent were unfurnished houses relet unfurnished, 28 per cent were formerly unfurnished houses now relet furnished and 53 per cent were houses let furnished both in 1979 and 1985. Some of the houses were rented in 1985 to more than one household. To ease comparisons only the head of the first household has been compared with the 1979 head - though it can be noted that 75 per cent of all the other households were headed by students.

As Figure 13.1 shows, there had been a fall in the proportion of all households heads who were economically active, from 48 to 39 per cent, and a rise in those who were unemployed and students. The proportion who were in work had fallen from 42 to 25 per cent, whilst amongst the economically active the unemployment rate had increased from 9 to 29 per cent, the latter being a figure commensurate with proportions in the areas

FIG. 13.1

ECONOMIC ACTIVITY STATUS OF HEADS OF HOUSEHOLD 1979 AND 1985

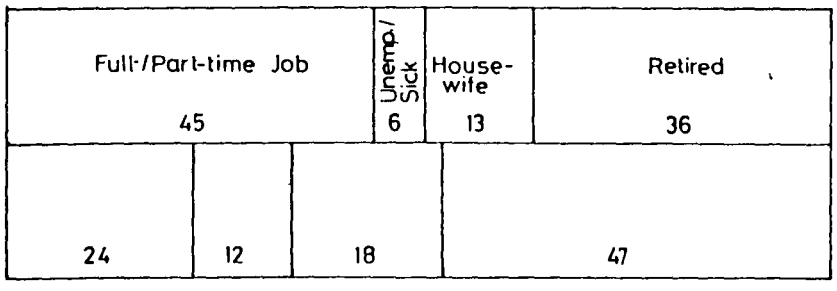
A



A. ALL HOUSEHOLDS, 1985

N = 581

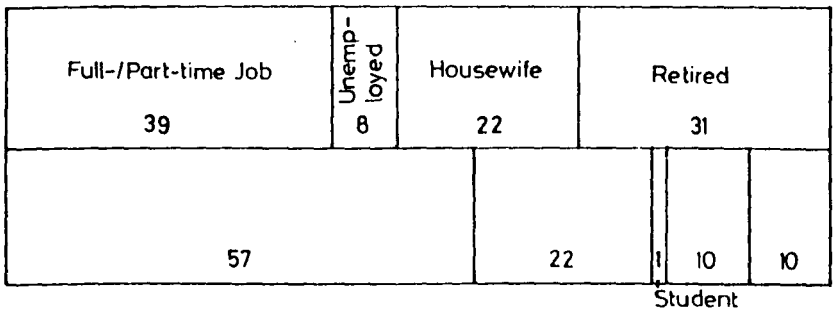
B



B. HOUSEHOLDS IN CONTINUING OCCUPATION SINCE 1979

N = 386

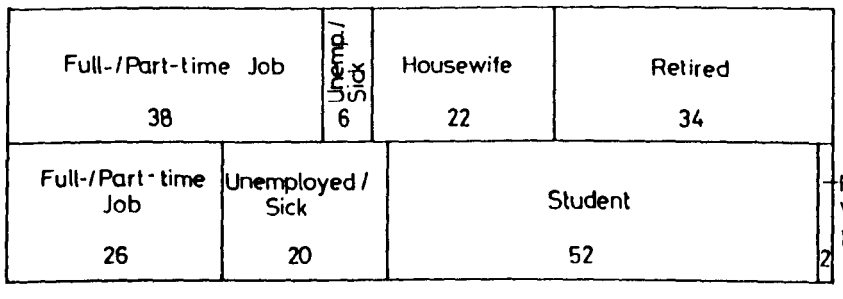
C



C. HOUSEHOLDS IN HOUSES LET UNFURNISHED IN 1979 AND RELET UNFURNISHED IN 1985

N = 51

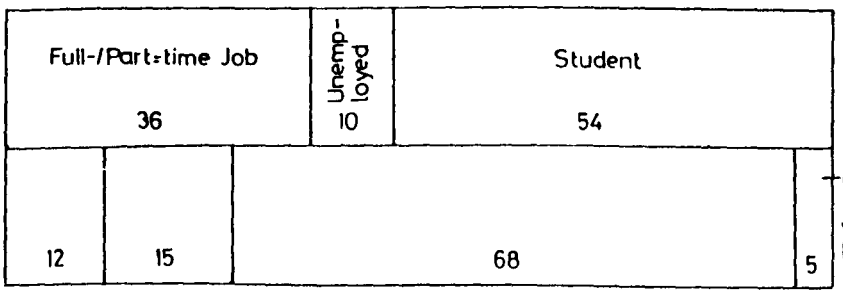
D



D. HOUSEHOLDS IN HOUSES LET UNFURNISHED IN 1979 AND RELET FURNISHED IN 1985

N = 50

E



E. HOUSEHOLDS IN HOUSES LET FURNISHED IN 1979 AND RELET FURNISHED IN 1985

N = 81

Note Numbers in boxes are percentages of total households in each category. Boxes in 1985 are same categories, left to right, as 1979 UNLESS noted otherwise.

of greatest poverty in the inner city. The biggest change had in fact come from the increase in the proportion of heads who were unemployed or students, which had grown from 14 to 29 per cent, with the proportion who were students rising from 8 to 14 per cent. Indeed, students were 45 per cent of all heads in houses relet since 1979 and 62 per cent of all who moved to furnished houses. Such changes meant that private renting increasingly housed the young as well as the very old - 25 per cent were under 30 (21 per cent in 1979) and 28 per cent were over 70 (25 per cent in 1979). This is reflected in the low gross incomes of tenants, 34 per cent of heads having under £40 a week and only 20 per cent having £80 or more.

Figure 13.1 also illustrates each of the components of this change. Not unexpectedly, continuing tenants are predominantly elderly. 68 per cent were over 60 years old, including 41 per cent who were over 70. Not surprisingly, only 36 per cent were economically active in 1985 as retirements had taken place over the intervening six years, whilst unemployment amongst the economically active had increased from 6 to 22 per cent.

Where unfurnished houses had been relet, the changes primarily reflected generational change as a group of younger, economically active tenants replaced the former older, retired tenants. Over half new heads had manual occupations replacing their predecessors' occupations almost exactly, with less than 1 in 5 of the new tenants doing non manual jobs. It is worth noting that over a quarter of the new tenants had children below school leaving age. The unemployment rate amongst the new tenants was 27 per cent.

In the case of unfurnished houses which had been relet unfurnished the same pattern of generational change can be observed but this time a much younger group were the new tenants, 44 per cent being under 21 and 84 per cent under 30. Replacing the former active or retired manual workers were students, the unemployed and non manual workers, the unemployment rate amongst the new tenants being 39 per cent. There were fewer differences between the 1979 and 1985 tenants of furnished houses, but even here

students had increased their share to over two thirds of all household heads whilst only 1 in 10 of the new tenants were in employment, the unemployment rate amongst the economically active being 59 per cent.

Indeed it should be noted that two thirds of all new lettings were to students and the unemployed while in furnished lettings alone they accounted for 78 per cent of tenants in 1985. Only 46 per cent of all new unfurnished and furnished lettings were to people who were economically active and of these 37 per cent were unemployed. Student tenants had increased in absolute numbers and the growth in the number of houses let to them more than compensated for the sale of furnished houses let to students in 1979. Results reported below show that landlords preferred to let to young single people, in general, and to students in particular because of their regular 'turnover'. The growth in unemployment reflected wider structural changes in the local economy and its particular impact on younger workers. Although such tenants were 'marginalised' in the economic sense, they retained housing purchasing power through the Housing Benefit system. It is possible to conjecture therefore that students (and perhaps also the unemployed) 'crowded out' those in work by their greater attractiveness to landlords in regularly moving and a rent paying capacity secured by student grants and Housing Benefit (at least at that time, although there was no evidence from the survey of landlords that they preferred the unemployed to the employed).

The overall decline in unfurnished accommodation thus provided fewer opportunities for those in manual jobs with partners and children to rent privately, but it is equally possible to conjecture that the decline in those in work who rented from private landlords reflected as much a falling off in demand, as access to owner occupation by young singles and partners in work increased. Indeed, it is worth noting that there were no differences in the socio economic distribution of the economically active who bought the formerly unfurnished houses that were sold between 1979 and 1985 and those who rented the ones that were relet. Thus 69 per cent of the buyers (excluding sitting tenants purchasers) were in manual occupations, compared with 73 per cent of those who rented, including 23 and 30 per cent respectively in semi and unskilled occupations. There were, however, important differences between unfurnished renters and buyers. The unemployment rate amongst buyers, at 9 per cent, was lower

and more of these households than renting households had two earners. Moreover, not only did buyers with manual jobs pay less on average for their houses (at £10,400 at 1985 prices) than those in non manual jobs (who paid £12,500), but all semi and unskilled workers paid less than £12,500.

There was no evidence, moreover, to suggest that students and the unemployed found it any easier to find accommodation than other new tenants. Although 39 per cent of all household heads said they had experienced difficulties finding suitable places to rent (particularly women), this was no different from the proportion who experienced difficulties in the 1980/81 follow up. In addition, those in work actually experienced fewer difficulties than students and the unemployed - again repeating a finding of the 1980/81 follow up. While those in furnished and unfurnished accommodation were equally likely to have experienced problems, the former were more to do with landlords' preferences about types of tenant and the latter with the condition of what was on offer. Nonetheless, the problems posed by shortages in general and high prices in particular were shared by all seeking accommodation. In this context personal knowledge of the market and personal contacts with existing tenants become the key information channels in finding somewhere to live. Although half the new tenants had found their present accommoaation by personal contact they were, however, just as likely to say they had difficulties securing somewhere to live as those who had found it through the more formal channels of agency or advertisement. Thus the quantity and character of what is available was as important as the information channels used. The results also confirmed that those in the forms of accommodation subject to the least security have the least difficulty. Thus those with regulated tenancies experienced the greatest difficulty, those with tied accommodation and licences the least and those with protected shorthold tenancies were in between. Yet, despite these difficulties, few, only 29 per cent, would have preferred to have rented a Council house or flat when they last moved - and only a quarter were on the Council's waiting list in 1985.

Table 13.1

CHANGE IN LANDLORD NAME

BETWEEN 1979 & 1985 OF PRIVATE RENTED STOCK IN 1985

NEW LANDLORD?	LET UNFURNISHED IN 1979				LET FURNISHED IN 1979	TOTAL
	Not Relet 1980/85 %	Relet Unfurnished 1980/85 %	Relet Furnished 1980/85 %	Total %	Total %	%
Yes	13	8	62	17	11	16
No *	87	92	38	82	89	84
Total Stock ** (** Unweighted)	385	52	48	485	87	572

Note: *Includes all those cases where no name was given in either 1979 or 1985 and comparison was therefore not possible.

1979 to 1985: Old and New Landlords

Within the pattern of an overall decline in unfurnished accommodation and a stable quantity of furnished accommodation, there had been changes in the ownership of the properties. This section looks at these changes, finds out whether the new owners were also new to landlordism and what reasons owners had for acquiring properties.

Table 13.1 is taken from the results of the 1979 and 1985 surveys of tenants and is based on information about the names of landlords provided by tenants in the two surveys. It confirms that the changes in ownership which occurred in the 1970s continued into the 1980s. It shows that 16 per cent of the addresses had a change of owner by 1985, with a greater turnover of ownership amongst properties let unfurnished in 1979 than let furnished in 1979. Indeed what is most noticeable is that two thirds of the unfurnished property that was relet furnished by 1985 had a change of owner. Changes were less in the case of property remaining unfurnished, although rather less in the case of property that had been relet than property with continuing tenants.

Table 13.2 is taken from the results of the 1985/86 landlord survey and it confirms the pattern shown in Table 13.1, revealing that 17 per cent of the sample had been acquired by its 1985 owners since 1979. Significantly 27 per cent of furnished property had been acquired in this period compared with 13 per cent of unfurnished property. Although inheritance continued to play a role in the changing ownership of unfurnished property, the majority of newly acquired property had been purchased. The results also confirmed that almost all unfurnished property changed hands with sitting tenants. By contrast, 60 per cent of furnished property was acquired with vacant possession before it was let, including 75 per cent of those changing hands in the 1980s. Three quarters of unfurnished and 90 per cent of the furnished sample had owners who were neither companies nor trusts in their capacity as landlords. Addresses owned by these individual landlords were more likely to be owned by older women if let unfurnished and younger men if let furnished. A third of the sample had landlords connected with the building trade, and the more recent acquisitions in the 1970s and 1980s were more likely to have owners

*TABLE 13.2 DATE OF ACQUISITION AND PERCENTAGE OF UNFURNISHED AND FURNISHED HOUSES PURCHASED**

Date Acquired	Unweighted Sample				Total	Weighted Sample	
	Let Unfurnished		Let Furnished			Let Unfurnished	
	Percent of Total %	Percentage Purchased	Percent of Total %	Percentage Purchased	Percent of Total %	Percent of Total %	Percentage Purchased
Before 1970	55	53%	24	76%	46	53	55%
1970 - 1979	32	43%	49	83%	37	34	42%
1980 or later	13	62%	27	100%	17	13	70%
Total Houses	182	51%	71	86%	253	338	53%

Note: * Purchased: properties purchased and not inherited or received as a gift.

TABLE 13.3 SIZE OF TOTAL RESIDENTIAL PROPERTIES OWNED IN ENGLAND AND WALES 1985 BY THE LANDLORDS OWNING THE INNER SHEFFIELD SAMPLE

Size of Total Holding	Unfurnished Houses Owned by Individuals Acquired			Unfurnished Houses Owned by Companies Acquired			Unfurnished Houses Owned by Trusts Acquired	All Unfurnished Houses Acquired			All Furnished Houses
	Before 1970	1970s/80s	All	Before 1970	1970s/80s	All	All	Before 1970	1970s/80s	All	All
	%	%	%	%	%	%	%	%	%	%	%
1	21	12	19	6	4	4	9	20	11	16	42
2 - 5	26	23	24	19	4	13	3	21	21	21	18
6 - 20	38	29	33	47	30	39	51	41	30	36	30
21 - 100	7	37	23	21	9	15	30	14	32	22	-
101 +	-	-	-	7	43	26	6	2	6	4	10
Total Houses in Sample *	109	129	238	23	23	46	33	164	155	319	101

Note: * Weighted Sample

connected with building than property acquired in the 1960s and earlier. One third of the property belonging to corporate bodies was owned by trusts, a half by property companies, and the rest by other companies.

Whilst members of minority ethnic groups owned 10 per cent of the property in the hands of individual landlords, not only did they own twice this proportion of furnished property, they also owned a third of both the unfurnished and furnished properties acquired in the 1980s. They were more likely to be amongst the larger owners of unfurnished property and smaller owners of furnished property, indicating that the latter was based on the small scale purchase of vacant properties for letting to friends and relatives, whilst the former was based on the acquisition of investment property with sitting tenants. Altogether, they owned nearly half the property acquired by landlords who first set up in the 1980s.

Table 13.3 (which is based on the weighted sample to ensure that sample properties are represented in their correct proportion in relation to the size of their owner) shows that the majority of the sample had small landlords, owning fewer than 6 properties throughout England and Wales, especially so for furnished properties where only 40 per cent have owners with 6 or more properties. There is evidence to show that the more recent acquisitions in the 1970s and 1980s had been made by the larger landlords - individuals, and, especially, property companies, owning 21 or more properties, whereas the properties in more long standing ownership tend to have smaller landlords.

It can be seen, therefore, that, despite the overall reduction in supply, there had been a continuing change in ownership, with over half the stock changing hands in the fifteen years before 1985. Did this mean that these acquisitions were being made by new investors, by owners new to landlordism, or were they being made, instead, by more long established landlords adding to their portfolios?

In fact Table 13.4 reveals that there were, indeed, new landlords in the field, because 18 per cent of the sample belonged to landlords who first came into the business in the 1980s, the respective proportions for unfurnished and furnished property being 15 and 24 per cent. Similarly 51 per cent of all property belonged to landlords who first set up sometime

LE 13.4 DATE OWNER FIRST BECAME A LANDLORD BY DATE LANDLORD ACQUIRED SAMPLE PROPERTY

E BECAME DLORD		DATE SAMPLE PROPERTY ACQUIRED					
		Before 1950	1950 to 1959	1960 to 1969	1970 to 1979	1980 to 1985	Total
re 1950	%	77	3	6	13	-	31
O - 1959	%		85	5	5	5	20
O - 1969	%			51	47	2	45
O - 1979	%				97	3	63
O - 1985	%					100	36

after 1969, including 42 and 67 per cent of unfurnished and furnished property respectively. What is particularly interesting is that very few properties have landlords who added to their portfolio after the period when they started up as landlords. Table 13.4 shows that, except for landlords who first set up in the 1960s, all other landlords acquired very little after the decade in which they were established. This pattern is repeated for both unfurnished and furnished properties. Thus almost none of the property which changed hands in the 1980s was acquired by someone who first because a landlord in the 1970s - or indeed in any other period. Landlords who set up in the 1970s, acquired almost nothing in the 1980s and those set up in the 1950s and earlier acquired very little of the existing sample afterwards. The exception to this pattern lies in the 1960s, where landlords established during that decade continued to acquire into the 1970s, but virtually ceased to acquire in the 1980s. Nonetheless, despite this continued acquisition, 70 per cent of property acquired in the 1970s and almost all the 1980s acquisitions belonged to 'new' landlords established in each period. The evidence suggests, therefore, that the 1970s was a particularly attractive period for investment and that, although landlords who set up in that period no longer continued to acquire property, their places as new investors had been taken up by another set of 'new' landlords, making their own contribution to the process of ownership change that seems to accompany the long term pattern of decline. Each period seems, therefore, to produce 'new' landlords who acquire property over a strictly limited period, ceasing buying property soon after becoming landlords.

The new landlords who <u>bought</u> unfurnished property in the 1970s and 1980s were doing so primarily for capital gain. Two thirds of the purchases of unfurnished property in the 1970s and 1980s made by landlords who set up in that period were made as investments for capital growth alone, rather than for the rent income or anything else. Only 40 per cent of all investment purchases in the 1980s were made with the intention of continued letting, rather than of selling as soon as vacant possession was realised. Indeed, only 5 per cent of all unfurnished purchases in the 1970s and 1980s were made for the rent income alone. The new landlords of the 1970s and 1980s bought unfurnished property which had sitting tenants with the deliberate intention of getting capital gain from selling with

vacant possession. They might, therefore, be better described as 'property dealers' rather than as landlords with long term interests in residential letting.

Although capital growth was a less important motive for those who bought unfurnished property before the 1970s which is still private rented today, this does not mean that property dealers were not also active in those earlier periods. It is just that those properties have now been sold and what was left in 1985 from the acquisitions of the earlier eras were the purchases of those who acquired them for a mixture of rent income and long term capital growth, and which were bought for continued letting rather than short term speculation.

Not only were few unfurnished properties acquired for rent income, irrespective of when they were bought, but, surprisingly, this was also the case for furnished properties where only 18 per cent were bought for their rent income alone, despite the much greater rent income, net of operating costs, that can be extracted from furnished lettings. Capital growth (combined with rent income) was also significant therefore as a reason for buying furnished lettings. 50 per cent were bought for these reasons, of which 17 per cent were bought for capital growth alone and 33 per cent for both capital and rent, though principally for rent. The rest bought for a variety of miscellaneous reasons, including the purchase of houses as the original or intended home of the current landlord and his or her family. However, unlike unfurnished properties, most furnished ones were bought for continued letting rather than short term speculation and the state of repair of these properties, allied with their rental income (see below), suggests that many of these properties have been 'milked' by their landlords for the maximum net rental income that can be extracted in order for their rents to give them a competitive return on their investment.

Capital growth had been an important motive therefore for new investment in private rented property, either for continued letting (the case for all furnished purchases and for unfurnished capital growth purchases of the 1960s and earlier which were still let in 1985), or for ultimate sale with vacant possession (as in the unfurnished purchases of 1970s and 1980s). The economic circumstances of the 1970s would suggest that these were

TABLE 13.5 HOW LANDLORD REGARDED PROPERTY IN 1979 AND 1985

HOW LET ?			AS AN INVESTMENT FOR RENT INCOME	CAPITAL GROWTH	BOTH	AS A LIABILITY	IN SOME OTHER WAY	N
Unfurnished	1979	%	25	45	n/a	19	11	271
	1985	%	22	35	11	14	18	120
Furnished	1979	%	25	40	n/a	15	19	67
	1985	%	39	19	11	10	20	71
All	1979	%	25	44	n/a	18	13	338
	1985	%	29	29	11	13	18	191

TABLE 13.6 INSTALLATION OF MISSING BASIC AMENITIES*
IN SAMPLE PROPERTIES 1980 - 1985 : I

SAMPLE AREA		With All Amenities in 1979	Without All Amenities in 1979		Percentage of houses where amenities missing in 1979 were installed by 1985	Number
			All installed by 1985	Not all installed by 1985		
Unfurnished Houses						
Old H.A.A.s (•)	%	89	9	2	83	56
New H.A.A.s (°)	%	47	38	14	72	76
G.I.A.s	%	78	11	11	50	125
Ex Provisional Clearance (/)	%	35	37	27	57	51
Rest of Inner City	%	79	14	7	67	115
All Unfurnished Houses - Weighted Total						
Continuing Household	%	78	15	10	58	1465
New Household	%	61	38	1	98	174
Total	%	76	15	8	65	1639
All Furnished Houses - Weighted Total	%	80	16	2	87	630

Note: * Basic Amenities = Inside WC, Bath or bathroom, wash hand basin, kitchen sink and hot & cold supply to bath, basin and sink.

(•) Old HAAs declared by 1979

(°) New HAAs declared since 1979 - removed from provisional clearance in 1975 but not declared HAA by 1979

(/) Ex Prov. Clearance - removed from provisional clearance in 1975 but not declared HAA by 1985

conducive to such investment in unfurnished property: combining low real growth in rental income from unfurnished property with high inflation, high house price inflation and negative real rates of interest on money borrowed to fund acquisitions, together with a supply of house improvements grants to upgrade new acquisitions. Capital growth can be seen either as 'bonus' on top of the rent income, property investment sheltering the landlords' capital from the effect of inflation, or as a speculation gain from property dealing. The latter seems to be important to active purchasers in the 1970s and 1980s and the former is more important to the long standing owners who had not sold (all) their acquisitions of earlier decades.

It is important, however, not to overstate the significance of capital gain to all landlords, because the discussion so far in this section has not dealt with the intention of those who did not purchase property. A third of all unfurnished houses had owners who first became landlords when they inherited it, and another 20 per cent had landlords who coincidentally acquired residential property as part of a wider commerical transaction. Moreover, half the furnished property had landlords who first became owners for non residential reasons. Thus, whilst the driving force behind active investment in private rented property is financial, changes in ownership also derive from inheritance and a range of miscellaneous reasons tied up with the trading and personal circumstances of companies and individuals.

This is illustrated by Table 13.5 which shows that a significant minority of sample properties were not currently regarded as investments in 1985. It also re-emphasizes, however, that only a minority of properties were regarded in 1985 as investments for their rent income and that despite significant real increases in rental income betweem 1979 and 1985, discussed in a later section, there is very little evidence, comparing the responses of landlords in the 1980 and 1985 surveys that landlords' perceptions of their investments had changed much in the six years.

1979 to 1985: Installing amenities and doing repairs

The follow up survey confirmed the results of the earlier study and showed that between 1980 and 1985 a combination of active purchasing of tenanted property by 'dealing' landlords, improvement grant incentives, improvement

area declarations and the use by the City Council of its statutory enforcement powers was successful in securing the installation of missing basic amenities. Unlike the period before 1980, however, it also showed that this combination was successful in getting repairs done between 1980 and 1985, as well as in getting amenities installed.

As Table 13.6 shows, twice the proportion of properties in the HAAs declared by 1979 had all the basic amenities, compared with the 'control' group of properties removed from the provisional slum clearance programme at the same time as the properties in the older HAAs. In 1985 these 'control' properties were either in the new HAAs declared since 1979 or still in the 'exprovisional clearance' group. This difference in 1979 was due as much to the greater use by the City Council in the HAAs, than in the control group, of its statutory powers to compel landlords to improve as it was to the differential percentage grant payable (at that time) in HAAs. The research also showed that elderly households were worst off of all, as far as amenities were concerned, except in improvement areas where policy had been as successful in getting amenities installed in houses rented to the elderly, as much as in any other houses.

On the other hand, this 'success' was also due, in part, to the lower repair standards then set by the City Council (but since upgraded), so that, although a greater rate of improvement (putting in baths and the like), took place in HAAs, these were not in a markedly better state of repair than elsewhere. The research also concluded that up to 33 per cent of unimproved properties would be 'willingly' improved with a 50 per cent grant, but that if grants rose to 75 per cent, or if the local authority used its enforcement powers, a further 40 per cent would be improved and missing amenities installed. In any case many unimproved properties had only just been acquired by their current owner and it was only a matter of time before work began.

Table 13.6 shows that missing amenities had continued to be installed. The weighted total of properties let unfurnished in 1985 shows that a quarter of the properties were without one or more amenities in 1979 but that by 1985 they had been installed in 65 per cent of them. It also shows that 87 per cent of the properties let furnished in 1985 (including those let

TABLE 13.7 INSTALLATION OF MISSING BASIC AMENITIES IN SAMPLE PROPERTIES 1980-1985 II

Changes in Occupancy and Area		With All Amenities in 1979	Without All Amenities in 1979		Percentage of houses where amenities missing in 1979 were installed by 1985	Weighted Number
			All installed	Not all installed by 1985		
(a) Continuing Tenant of House Let Unfurnished in 1979 - all	%	77	14	9	61	1522
- new landlord	%	65	24	11	70	164
(b) New Tenant in 1985 of House Let Unfurnished in 1979 and 1985 - all	%	54	45	1	98	146
- new landlord	%	(80)	(20)	-	(100)	15
(c) New Tenant in 1985 of House Let Unfurnished in 1979 and Furnished in 1985	%	52	43	5	89	207
	%	72	28	-	100	80
(d) New Tenant in 1985 of House Let Furnished in 1979 and 1985 - all	%	99	<1	1	(25)	390
- new landlord	%	100	-	-	-	80

Note Small numbers in brackets.

unfurnished in 1979) which did not have all the amenities in 1979 had got them by 1985. Only 8 per cent of unfurnished houses lacked one or more amenity in 1985.

Table 13.6 also shows that the 'success' story of the older HAAs had been repeated in the new HAAs, so that 72 per cent of houses without amenities in 1979 had them by 1985. What is particularly interesting is that this achievement was not restricted solely to the newer HAAs but also in the remaining 'ex-provisional clearance' addresses, where nearly 60 per cent of houses without amenities had them by 1985. Together with the similarly high percentage in all the sample areas (although with GIAs only just making 50 per cent), this suggests, not only that area policies had continued to 'bite', but also that the availability of preferential grants outside HAAs since 1980 for all dwelling lacking amenities, irrespective of whether they were inside or outside HAAs, together with the temporary 'boost' in the rate for intermediate grants to 90 per cent between 1982 and 1984 had had the widespread effect of inducing improvement, thus bearing out the conclusions of the earlier project.

It is also noticeable from Tables 13.6 and 13.7 that the extent of improvement depended, too, on a change in occupancy. Proportionally fewer of the unfurnished properties that had been relet had all amenities in 1979, compared with those which had not had a change in occupancy. Proportionally more of the missing amenities had however been installed where there had been a change in occupant, than where there had been no change. This difference was due to the fact that houses where there had been a change in occupant were mainly occupied in 1979 by elderly tenants - who were worst off in amenity terms, only 44 per cent of single elderly having all of them then. Since then landlords had installed the missing amenities in almost all the relet properties. The lower rate of 'improvement' amongst 'continuing' tenants was due to the fact that many of the unimproved properties were still occupied by elderly tenants - and the rate of improvement had been much higher in properties occupied by other continuing tenants. This suggests therefore that 'tenant resistance' (a phrase coined by landlords in interviews) amongst the elderly was a factor in explaining the existence of residual rump of unimproved properties after a six year period which had seen a substantial installation of missing amenities elsewhere. Although smaller proportions of the elderly

LE 13.8 CHANGES IN HOUSE CONDITION I

	Percentage of total Houses With Major Defects*		Percentages of the Houses		
	1979	1985	Which had Major Defects in 1979 but did not have them in 1985	Which did not have Major Defects in 1979 but which had them in 1985	Sample Numbers
uses Let furnished d' Housing tion Areas	80	71	27	64	55
ew' Housing tion Areas	81	41	54	20	80
neral provement eas	76	56	44	57	125
Provisional earance	96	72	27	(50)	50
st of ner City	70	41	53	26	115
					Weighted Totals
l Unfurnished	73	44	50	30	1640
l Furnished	87	57	36	14	616
tal	77	48	46	27	2256

te: * Major Defect. More than minor repairs needed to roof or chimney or gutters & rain water pipes or external walls or evidence of rising damp.

TABLE 13.9 CHANGES IN HOUSE CONDITION II

	Percentage of total Houses with Major Defects		Percentages of the Houses		
	1979	1985	Which had Major Defects in 1979 but did not have them in 1985	Which did not have Major Defects in 1979 but which had them in 1985	Sample Numbers
Continuing Household of House Let Unfurnished in 1979 - all	71	45	49	31	Weighted Numbers 1523
with new landlord	89	39	60	(33)	165
'New' Household in 1985 of house let unfurnished in 1979 and 1985 all	73	43	52	31	147
with new landlord	(33)	(6)	(80)	-	17
'New' Household in 1985 of house let unfurnished in 1979 and furnished in 1985 - all	92	52	44	(13)	206
with new landlord	97	72	27	(50)	79
'New' Household in 1985 of house let furnished in 1979 and 1985 all	84	56	35	10	379
with new landlord	96	94	4	(50)	50
All Houses Amenities Installed in 1979	73	54	38	34	1763
Amenities put in since 1979	92	23	76	(10)	352
Not all amenities in 1979	91	5	39	(8)	150

( ) Small sample

lacked amenities by 1985, 20 per cent of the single elderly still did so and they were worst off in addresses in GIAs and 'ex provisional clearance' addresses which had seen a less intensive investment of staff by the City Council than in the new HAAs.

Table 13.7 confirms that improvement was also associated with a change in ownership, especially amongst unfurnished property with continuing tenants where, in the 1980s, new landlords had acquired properties with proportionally fewer amenities than those owned by other landlords and had subsequently improved a greater proportion of those that were without amenities. This corroborates the evidence about the motives of active purchasers in the 1980s, buying tenanted property with the intention of getting grants to subsidize modernising for sale - and presumably overcoming 'tenant resistance' in the process. Indeed, it is relevant to note that in 40 per cent of the cases where amenities had been installed since 1979 for continuing tenants, the tenants said that neither they nor the Council had asked the landlord to get the work done.

To see how the state of repair had changed, the house condition survey carried out in 1979 was repeated in 1985. Fieldworkers were required to categorise each element of a building's external fabric on a range of defects, specific for each element of the fabric. Field work checks confirmed the reliability and consistency of the results which accorded very closely with independent assessment. Tenants were also asked to describe any repair work carried out since 1979 - and any needed in 1985.

In Tables 13.8 and 13.9 addresses have been classified into those with and without major defects to their external fabric in both 1979 and 1985, the latter addresses requiring more than minor repairs to remedy defects to chimneys, or roof covering or gutters and rainwater goods or external walls, or having evidence of rising damp.

Overall there had been a reduction from 77 to 48 per cent in the number of houses with major defects. Just under half the houses with major defects in 1979 did not have them in 1985 though a quarter of the houses without such defects in 1979 had 'slipped' by 1985. As with the installation of amenities these changes were also associated with the type of tenancy, changes in ownership and with Council policy.

First, it can be seen from Table 13.8 that more property let furnished in 1985 had major defects in 1979 than property then let unfurnished and that there had also been less amelioration in their state of repair so that only a third of those with major defects had their disrepair remedied compared with half of the unfurnished properties.

Second, Table 13.9 shows that whilst a change in ownership since 1979 was associated with a greater reduction in major defects, this was not independent of properties' unfurnished or furnished status. Where the property was originally let unfurnished in 1979 and was still let in that way in 1985 there had been an improvement for all properties. Where there was a new landlord, not only were the properties in a worse state in 1979 than others, but proportionally more of them had had major defects removed by 1985, providing further confirmation of the willingness of actively acquiring landlords to improve unfurnished houses - ready for sale in the future. As far as properties let furnished were concerned, not only had there been less of an improvement in their repair state than unfurnished properties but the limited improvement that had occurred had been restricted to properties where there had been continuity of ownership. New landlords of furnished property - whether previously let unfurnished or not - acquired property which was in a similarly poor state in 1979 to that owned by continuing landlords, but had done very little by 1985 to remedy these conditions since acquiring the properties.

Third, there is evidence for the impact of local authority policy in Tables 13.8 and 13.9. There is an association between the installation of missing amenities and the rectification of defects. Although there had been an improvement in the condition of all unfurnished properties, it was most marked in the case of those which had had missing amenities installed - installations which almost invariably involved the use of grants. These properties were in a very poor condition in 1979 but only a quarter had major defects in 1985, compared with half all other unfurnished properties. Grant aided properties were thus twice as likely to experience a reduction in major defects. That this was not the case before 1980 has already been explained. The change is due to the higher standards required of landlords in 1985 by the local authority. Comparison of the

work done on properties by landlords between 1974 and 1979 with that done between 1980 and 1985 confirmed the higher standard carried out with grants in the latter period.

It is apparent, therefore, that by 1985, the payment of grant for the installation of missing basic amenities enabled the simultaneous remedying of repair defects to a higher standard. Area improvement policy was also important as the results in Table 13.8 suggest. The changes in old HAAs reflected the poor standards of earlier eras. The number of properties previously without major defects which slipped into this category reflects the 'patch and mend' approach of earlier years. Since few houses in the old HAAs had had grants since 1979, the new 'regime' on standards had not had an impact. By contrast, there had been marked reduction in major defects in new HAAs but, by way of further contrast, there had been fewer reductions in addresses in the ex-provisional clearance areas which had major defects, despite the installation of amenities with grants in these areas. This suggests that area policy had an independent effect from grant policies and standards, since there had been a bigger improvement in conditions in new HAAs, compared with addresses removed from clearance, both when amenities were installed and when they were not. The concentration of staffing resources and the use of the powers of persuasion and statute in these new HAAs had enabled a deliberate attempt to raise standards to succeed.

This was confirmed by an analysis of the number and types of repairs between 1979 and 1985 reported by continuing tenants. In new HAAs over half the tenants said that more than minor works had been done to two or more specified items of essential repair on a list shown to them during the interview. By contrast, only 28 per cent of all continuing tenants in the sample as a whole reported this scale of activity. Not surprisingly the extent of external repairs reported by those interviewed correlated very closely with the independent assessment of external condition by the fieldworkers in the surveys, the changes revealed by comparing the 1979 and 1985 surveys, and the extent of outstanding repairs reported by the tenants. So that the worse the condition in 1979, the more essential repairs were done; the more repairs were done, the greater the improvement in condition and the lower the likelihood that there would be a slip from any good conditions prevailing in 1979. According to tenants a much

greater number of repairs were done when amenities were installed and when the tenant had asked the local authority to get the work done. Thus the Council tended to get involved with the worst property and secured the biggest improvement.

As far as outstanding repairs reported by tenants are concerned, there was a fair measure of agreement between tenants' and surveyors' perceptions of the need for essential repairs to elements of the external fabric. 4 in 10 tenants said their houses needed repairs compared with 5 in 10 houses according to the independent assessment. In effect, tenants agreed that houses acquired in the 1970s and 1980s needed fewest repairs. What was also noticeable was that, where there was a difference of opinion between tenants' and the fieldworkers' assessment, it was over furnished properties, where 6 in every 10 needed essential repairs in 1985, but only 4 in 10 tenants perceived this as being the case. To the extent that such tenants had neither been in the house for long nor were likely to stay for long, this comparative lack of concern about the need for repairs also probably meant a lack of tenant pressure on landlords to get the work done.

Overall, however, two thirds of tenants had asked for repairs to be done, and as many as a third had first asked over a year before. Although 57 per cent had received positive or vaguely positive replies, they were generally pessimistic about the chances of the work being done - only 21 per cent thought it would be done within 6 months and 28 per cent 'never'. Indeed the greater the need, the lower the expectation that work would be done - or that when it was done, that all the jobs required would be carried out. In other words tenants whose properties had not been significantly improved or repaired in the previous six years were not optimistic about anything being done in the next year - and up to 10 per cent of those who said repairs were needed had also been in touch with the Council.

Nevertheless, two thirds of tenants said they were 'very' of 'fairly' satisified with the way their landlord carried out the repairs for which he or she was responsible, particularly furnished tenants, and those unfurnished tenants whose properties had had amenities installed, been repaired or needed few essential repairs. Where tenants were

dissatisified, it was not so much with the quality of work that was done, but with the time it took them to get landlords to do repairs. Although tenants thought properties acquired in the 1970s or 1980s needed least repairs, there was no evidence, one way or the other, to suggest that tenants of unfurnished properties with new owners since 1979 saw their landlords as providing them with a better or worse delivery of repair services than tenants of other properties, but tenants of furnished properties with new landlords since 1979 were much less satisfied than other furnished tenants about repairs.

To summarise this section: there had been a measurable improvement in conditions between 1979 and 1985. These improvements were closely connected with local authority policy and action, as well as with changes in ownership as 'dealing' landlords interested in capital gains used improvement grants to bring properties up to a better standard prior to sale. Furnished properties were in the worst state of repair and had tenants who perceived disrepair least. While they were more content as a whole than unfurnished tenants with the repair service provided by their landlord, this was not so where the owner was new since 1979.

Thus in supply terms, there had been an improvement in unfurnished lettings which were in decline, but little improvement in furnished property which commanded (see below) bigger rents and which were not in decline, overall. Landlords saw the need for repairs least of everyone and in hardly any of the interviews did landlords say that essential repairs to sample properties were needed. On the other hand, 47 per cent of the sample had landlords who said that all or some of their whole portfolio needed modernising. Only one in five of these had owners who said 'nothing' would persuade them to carry out improvements and repairs, 90 per cent of these being in the ownership of long standing landlords established before the 1970s. The majority of the rest of the long standing owners said that improvement was not worthwhile financially. Landlords' replies suggested that a combination of grant availability (references to restrictions on the availability of non mandatory grants at the time in Sheffield), higher grants (especially for properties recently acquired), tenant willingness, and local authority pressure would encourage modernisation. Many unmodernised properties were held by landlords who had invested for capital gain: they were looking for bigger grants.

Smaller landlords were more likely to say they would respond to a combination of tenant and local authority pressure. On the evidence, few properties would be improved if equity sharing loans were introduced (At the time of the survey this was a Government proposal). Only 20 per cent of the sample whose landlords had not modernised all their properties had owners who said they would do so with such a loan, a proportion which rose to nearly 30 per cent in the case of furnished property and fell to 10 per cent in the case of unfurnished property and property whose owners had invested for capital gain - the latter not surprisingly less likely to modernise with such a loan than with a straight grant, which need not be repaid so long as the landlord lets for the requisite number of years.

1985: Tenancies and Licences

This section examines the kind of agreements landlords had with their tenants and licencees and the basis upon which rents were fixed. It also looks at landlords' opinions about the advantages and disadvantages of different kinds of agreements and methods of rent setting.

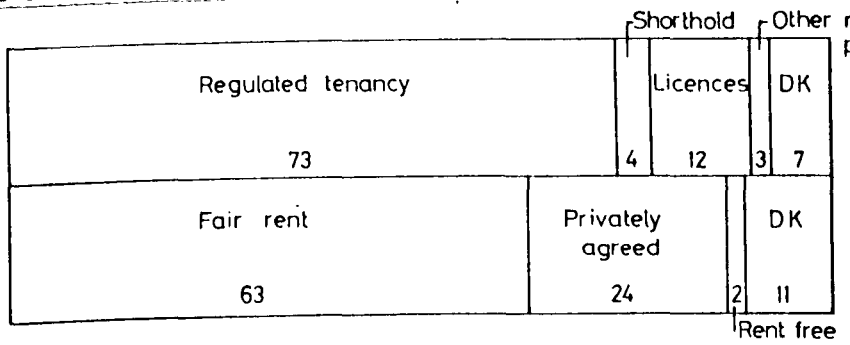
The statistics about agreements illustrated in Figure 13.2 were derived from a series of questions during interviews with tenants, which were designed to allow their types of agreements to be identified as accurately as possible (see Appendix 5). This information was not collected in 1979, so it is not possible to make comparisons between the types of letting then and in 1985, in cases where there were new tenants or licencees.

Figure 13.2A reveals that nearly three quarters of all tenants had regulated tenancies and only a minority had licences or other agreements with less protection, while only 4 per cent had protected shortholds. Nearly two thirds had registered Fair Rents.

The remaining sections of Figure 13.2 illustrate the substantial differences between continuing and new tenants and between unfurnished and furnished tenancies. Figure 13.2B shows that almost all continuing tenants had regulated tenancies (a quarter of these were controlled tenancies at the time of the 1979 survey) and registered Fair Rents. Most had verbal agreements and periodic tenancies. By contrast half those who had taken up new tenancies of houses let unfurnished had written agreements and since 13 per cent had shortholds by no means all had

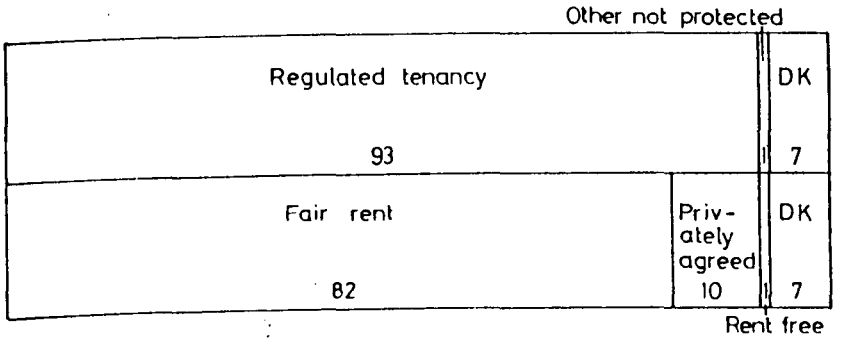
REEMENTS AND METHODS OF FIXING RENT IN 1985

A



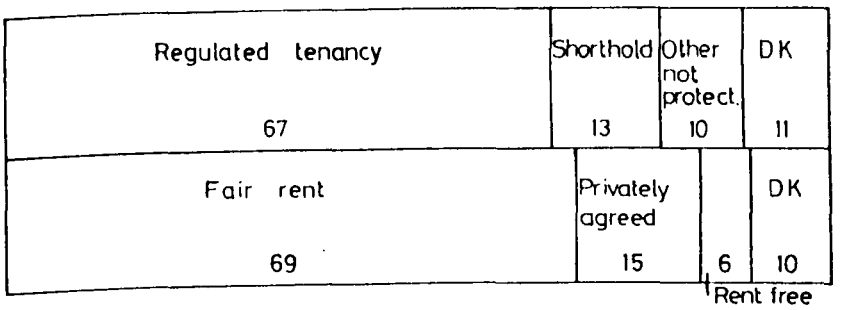
A. ALL HOUSEHOLDS, 1985
N = 586

B



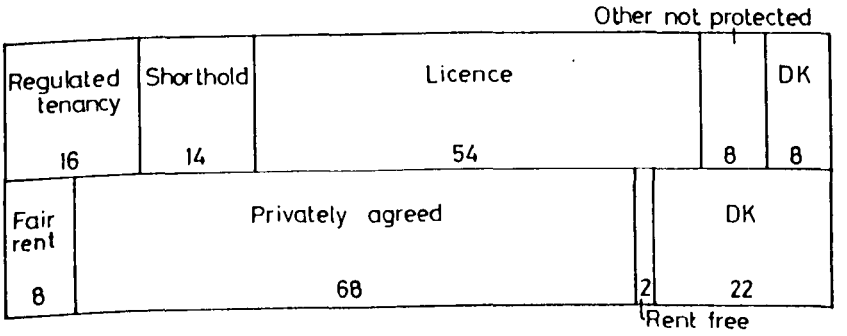
B. HOUSEHOLDS IN CONTINUING OCCUPATION SINCE 1979
N = 387

C



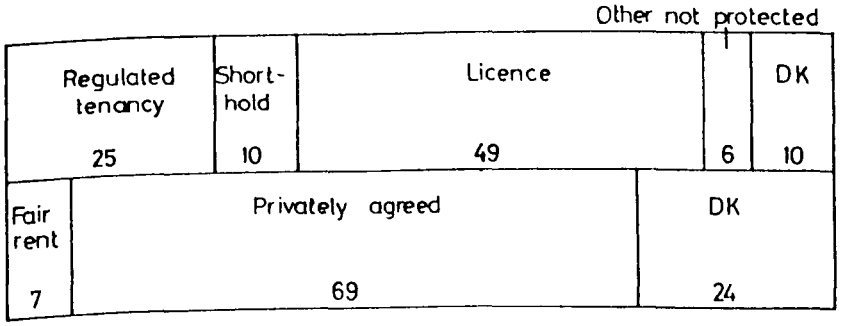
C. HOUSEHOLDS IN HOUSES LET UNFURNISHED IN 1979 AND RELET UNFURNISHED IN 1985
N = 52

D



D. HOUSEHOLDS IN HOUSES LET UNFURNISHED IN 1979 AND RELET FURNISHED IN 1985
N = 50

E



E. HOUSEHOLDS IN HOUSES LET FURNISHED IN 1979 AND RELET FURNISHED IN 1985
N = 81

Note Numbers in boxes are percentages of total households in each category.

periodic tenancies. Nevertheless as many as two-thirds had regulated tenancies so that 80 per cent of the (limited amount) of unfurnished reletting was being provided in the form of protected tenancies.

In contrast the majority of new lettings of furnished houses were not protected, since just over half the occupants of houses let both furnished and unfurnished in 1979 had licences in 1985. Agreements were defined as licences if the occupants had non exclusive occupation agreements, based on details about the occupants' agreement with their landlord, on whether the agreement and liability for rent was an individual or group responsibility, on whether exclusive occupation was given, and on whether the landlord had the right to chose who moved in to replace anybody who left. On this basis (setting aside what a Court might hold following Street v Mountford), half all new furnished agreements were licences. Only a third of furnished lettings were protected, and of these, a third were shorthold tenancies. Unsurprisingly the majority of rents were privately agreed rather than registered Fair Rents.

The survey of landlords confirmed this picture. Most properties had landlords who knew the nature of the letting agreement with their current tenant - (92 and 84 per cent in the respective cases of unfurnished and furnished properties). 87 per cent of 1985 unfurnished tenancies were regulated tenancies. 88 per cent had registered Fair Rents. In the 10 per cent of cases where one of these unfurnished tenancies had been relet at some time since 1979 the previous agreement was very similar to the 1985 agreement. By contrast only 18 per cent of furnished tenancies were regulated, 26 per cent were licence agreements, 28 per cent were shorthold tenancies, and 11 per cent were some other form of less protected agreement. Far more of these lettings had been relet since 1979. In 80 per cent of cases the previous letting was furnished. For the most part the letting agreements of past and then current tenancies were the same although there had been some 'transfer' from regulated tenancies to licence agreements.

What were landlords' views about rents and agreements? First, rent fixing. Landlords, particularly owners of unfurnished properties saw lots of advantages in Fair Rents. Only 22 per cent of the sample had landlords who saw no advantages at all in Fair Rents (but particularly landlords

investing for capital gain), and only 17 per cent had owners with no views at all on the possible advantages. Indeed only 12 per cent of unfurnished property had owners who said there were no advantages to Fair Rents - and this was equally the case for landlords of the '70s and '80s as it was for those who started up in earlier periods. By contrast, only 29 per cent of furnished properties had owners who saw advantages, whenever they had 'started up'. All of the advantages quoted were in respect of the value of an independent assessment of the rent - irrespective of 'continuing' or 'new' landlord. Thus 22 per cent of unfurnished properties had landlords who said it was a fair method of putting up the rent, 23 per cent that there was value in the independent assessment of the rent, 16 per cent had landlords who specifically talked about fairness to both landlords and tenants, whilst 13 per cent were owned by landlords who said it avoided 'aggro' from the tenant.

Not unexpectedly - given the above results - 48 per cent of unfurnished property had owners who saw no disadvantages to Fair Rents, although here it was the more established landlords who were more likely to see no disadvantages, this perhaps reflecting the abolition of rent control and the real rise in the value of Fair Rents since 1979 (see next section). Thus 53 per cent of unfurnished property acquired before the 1970s have owners who see no disadvantages compared with 47 per cent and 33 per cent of property whose owners acquired in the 1970s and 1980s respectively. Furnished properties, however, had owners who were only too ready to pinpoint the disadvantages of Fair Rents - and few of their tenancies were let on such rents - only 14 per cent saying there were no disadvantages.

The most prominent complaint was that rents were fixed too low, were not 'market rents', were below Council Rents, or were not reviewed often enough - the latter was a comment made often by new landlords.

Landlords were also asked their views about the nature of regulated tenancies, licence agreements and shorthold, asking views only of those landlords who said they knew enough about them to give their views.

Landlords of unfurnished property were more likely to understand what a regulated tenancy was than landlords of furnished property - 59 per cent, compared with 24 per cent. It was apparent from their views that the

generally favourable assessment of the Fair Rent system was not also extended to the system of regulated tenancies per se with all the consequences it had for tenants' security (especially those investing for capital gain). 53 per cent of properties had owners who saw no advantages at all in regulated tenancies, and the landlords of 16 per cent said there were none for landlords. Continuing and new landlords held the same views. Insofar as advantages were identified they were that regulation permitted independent assessment of rents and that tenants were afforded a degree of security. A greater proportion of the sample had owners who identified disadvantages in regulated tenancies. Only 26 per cent of properties had landlords who could not identify any disadvantages - and landlords of almost no furnished properties said there weren't any disadvantages. The principal disadvantages were the difficulty of 'getting rid' of a 'bad' tenant or of securing vacant possession, together with the consequences of rents becoming registered, or, in landlords' words, 'controlled'.

Only 9 per cent of the sample had landlords who had used licence agreements, but not only had half the furnished properties had landlords who said they used or had heard of licences, but so too had nearly half of the whole sample. Nevertheless only 29 per cent of furnished properties not currently let on licence, had landlords who said they had considered using them and, moreover, only a quarter of the sample had landlords who said they knew enough about licences to discuss them.

Unsurprisingly the advantage of licences were seen to be in the question of security. Only a quarter of addresses with landlords who had views had owners who said there were no advantages in licences. The advantages were the ability to gain repossession, and some also mentioned that it was safer for capital investment. More simply put, it gave landlords more 'rights'. But licences were not without blemish and only 31 per cent of the sample had owners who saw no disadvantages. Amongst the disadvantages noted were the legal doubts surrounding licences, including some explicit references to the Street v Mountford case (which had been the subject of extensive debate in the local press, featuring local landlords just before the survey), and some references to the lack of licencees' obligations towards the property. Only 21 per cent of properties with landlords who

let on licence had owners who said they would 'definitely' or 'probably' continue to let property, in the event of court rulings that licence arrangements were protected.

Finally, landlords were asked about shorthold. Knowledge of shorthold was quite extensive as 60 per cent of the sample had landlords who used or knew about it. In fact 20 per cent of the sample had landlords who let on shorthold (not necessarily for the sample property), including 13 per cent of unfurnished and 34 per cent of furnished property. However, of those whose landlords had only heard of it, only a minority (16 per cent unfurnished and 32 per cent furnished) had owners who had considered using it. But here knowledge was greater amongst the newest landlords, with 38 per cent of all properties acquired in the 1980s having owners who let on shorthold (including 56 per cent of furnished property). Indeed,only half the unfurnished and 40 per cent of the furnished property acquired before the 1970s had owners who let or had heard of shorthold, compared with 80 per cent of both unfurnished and furnished property acquired in the 1980s. The advantages were seen to lie almost entirely in the ability to get vacant possession, or ensure tenant turnover. 59 per cent of the sample had owners who said there were no disadvantages, especially owners of furnished property. What disadvantages there were, included the risk of getting rents registered.

The contrast in agreements and rents therefore lies between unfurnished and furnished accommodation. Landlords of unfurnished accommodation let it on regulated tenancies, despite reservations about its implications for the long term security of tenants, made relatively little active use of shortholds, and appeared positive about the advantages of Fair Rent registration. By contrast, there was little evident willingness to let furnished accommodation on protected tenancies or to register rents and an indication that accommodation would be withdrawn from the market if it could not be occupied on licence agreements (but see Chapter 14 on their policies about vacancies).

Table 13.10 Annual Net Rents per House,

		1979 Mean (N) Standard Deviation Median £	1985 Mean (N) Standard Deviation Median £	Change in Annual Rent (a) 1979=100 Mean (N) Standard Deviation Median	Change in Annual Rent (b) £ Mean (N) Standard Deviation Median
Continuing Household in Property Let Unfurnished in 1979					
(i) All Amenities installed in 1979	Mean	212 (228)	563 (236)	357 (226)	353 (226)
	SD	104	133	268	141
	Median	221	585	258	364
(ii) Not all Amenities in 1979 - not installed since	Mean	70 (38)	320 (38)	538 (36)	249 (36)
	SD	33	152	331	155
	Median	60	364	536	296
(iii) Not all Amenities in 1979 - installed since	Mean	85 (53)	553 (54)	774 (53)	468 (53)
	SD	43	120	346	114
	Median	76	583	722	482
New Household in 1985 in Property Let Unfurnished in 1979 and 1985					
(i) All amenities installed in 1979	Mean	204 (23)	688 (22)	516 (22)	484 (22)
	SD	80	542	847	573
	Median	221	609	251	360
(ii) Not all amenities installed in 1979 - installed since	Mean	114 (20)	685 (21)	834 (19)	586 (19)
	SD	77	283	493	251
	Median	76	598	767	498
New Household in 1985 in Property Let Unfurnished in 1979 and let Furnished in 1985					
(i) All amenities installed in 1979	Mean	296 (19)	2568 (17)	1200 (16)	2255 (16)
	SD	212	912	877	1089
	Median	252	2686	1088	2316
(ii) Not all amenities installed in 1979 - installed since	Mean	103 (21)	2230 (22)	2862 (20)	2257 (20)
	SD	47	938	1643	893
	Median	104	2352	2220	2352
New Household in 1985 in Property Let Furnished in 1979 and 1985					
(all amenities in 1979)	Mean	1221 (69)	2415 (65)	217 (63)	1206 (63)
	SD	484	1045	117	858
	Median	1204	2319	183	1011
All Unfurnished in 1985	Mean	189 (372)	574 (380)	473 (366)	386 (366)
	SD	190	319	407	255
	Median	174	574	303	377
All Furnished in 1985	Mean	786 (125)	2248 (122)	860 (115)	1477 (115)
	SD	624	1077	1250	1038
	Median	754	2193	220	1282

TABLE 3.11 ANNUAL NET RENT PER HOUSE, (UNFURNISHED)

			ANNUAL RENT					
			Less than £200	£201 - £400	£401 - £600	£601 - £800	£801 or more	N
All property let unfurnished in 1985								
Rent in 1979		%	56	41	1	<1	2	372
Rent in 1985		%	4	13	45	33	4	380
Continuing Tenant of Property Let Unfurnished in 1979								
(i) All Amenities installed in 1979	1979	%	40	57	2	<1	< 1	228
	1985	%	2	10	48	38	2	236
(ii) Not all amenities in 1979 - not installed since	1979	%	100	-	-	-	-	38
	1985	%	22	51	27	-	-	37
(ii) Not all amenities in 1979 - installed since	1979	%	94	6	-	-	-	53
	1985	%	2	9	54	35	-	54
New tenant in 1985 of Property Let Unfurnished in 1979 and 1985								
(i) All amenities installed in 1979	1979	%	35	65	-	-	-	23
	1985	%	4	4	36	41	14	22
(ii) Not all amenities installed in 1979 - installed since	1979	%	85	15	-	-	-	20
	1985	%	5	48	29	9	10	21

Table 13.12 ANNUAL NET RENTS PER HOUSE (FURNISHED)

		Annual net rent								
		Less than £400	£401 to £800	£800 to £1000	£1001 to £1500	£1501 to £2000	£2001 to £2500	£2501 to £3001	£3001 plus	N
All property let furnished in 1985										
Rent in 1979	%	42	10	8	28	7	4	1	-	125
Rent in 1985	%	1	11	2	9	18	23	16	20	122
New Tenant in 1985 of property let Unfurnished in 1979 and let furnished in 1985										
(i) All amenities installed in 1979	1979 %	89	5	-	5	-	-	-	-	19
	1985 %	-	6	-	-	-	18	23	29	17
(ii) Not all Amenities installed in 1979 installed since	1979 %	95	5	-	-	-	-	-	-	21
	1985 %	-	9	-	14	14	27	14	23	22
New Tenant in 1985 of Property let furnished in 1979 and 1985 (All amenities in 1979)	1979 %	6	11	13	48	13	7	1	-	69
	1985 %	-	1	5	11	18	26	18	20	65

Table 13.13 ANNUAL NET RENTS PER HABITABLE ROOM .

		1979 £(N)		1985 £(N)	
(a) Continuing Tenant of Property Let Unfurnished in 1979					
(i) All amenities installed in 1979	Mean	44	(228)	118	(236)
	SD	22		32	
	Median	44		119	
(ii) Not all amenities in 1979 - not installed since	Mean	15	(38)	67	(37)
	SD	8		33	
	Median	12		73	
(iii) Not all amenities in 1979 - installed since	Mean	19	(53)	121	(54)
	SD	10		33	
	Median	16		123	
(b) New tenant in 1985 of property let unfurnished in 1979 and 1985					
(i) All amenities installed in 1979	Mean	39	(23)	129	(22)
	SD	14		91	
	Median	42		111	
(ii) Not all amenities installed in 1979 - installed since	Mean	25	(20)	154	(21)
	SD	18		100	
	Median	16		126	
(c) New tenant in 1985 of property let unfurnished in 1979 and let furnished in 1985					
(i) All amenities installed in 1979	Mean	57	(19)	521	(17)
	SD	34		184	
	Median	53		585	
(ii) Not all amenities installed in 1979 - installed since	Mean	23	(21)	491	(22)
	SD	12		198	
	Median	22		541	
(d) New tenant in 1985 of property let furnished in 1979 and 1985 (all amenities in 1979)	Mean	232	(69)	455	(65)
	SD	84		167	
	Median	239		459	
(e) All Unfurnished in 1985	Mean	39	(372)	120	(380)
	SD	33		60	
	Median	35		117	
(f) All Furnished in 1985	Mean	151	(125)	445	(122)
	SD	115		200	
	Median	160		449	

1979 to 1985: Rents and Rent Increases

The tables in this section show just how much rents had increased over the six years, doubling in real terms in unfurnished property (allowing for quality change) whilst in furnished property increases was slightly ahead of inflation).

Tables 13.10 to 13.13 show annual rents in 1979 and 1985, net of any charges incorporated in the rents for rates, services and water charges. Tables 13.10 to 13.12 show the annual rent per house - where more than one household lived at an address in 1985 the total net rent paid by all households has been calculated. Table 13.3 shows annual rent per habitable room. No allowance for voids has been made in calculating the rent received by landlords annually - nor for any other expenses (but see Chapter 14, on landlords' rates of return).

Table 13.10 shows that the mean and median annual rents for unfurnished and furnished houses were very different. For houses let unfurnished in 1985, the means were £189 and £574 in 1979 and 1985 respectively. In 1979, 96 per cent of unfurnished rents were below £400 but by 1985 only 18 per cent were below this, whilst 37 per cent were more than £600. The 1979 and 1985 mean rent for houses let furnished in 1985 (which includes those which were previously let unfurnished in 1979) were £786 and £2,248 respectively. In 1979 only 12 per cent of furnished rents were more than £1,500. By 1985, 77 per cent were above that, including 36 per cent above £2,500. The average household size in the furnished sector was 3.2 in 1985, so that 3 adults contributed to the average rent - about £14 per week over a 52 week year. In the furnished sector, there were significant differences in the annual rent of houses rented by students, the unemployed and those in full time jobs: £2,593, £2,364 and £1,664 respectively. There are no such differences in relation to the work heads of households do in the unfurnished sector. The reasons for this are discussed at the end of this section.

Table 13.10 also shows the rent increases that occurred to rents since 1979 for various categories of changes to basic amenities and tenancy. First, the rents of unfurnished houses which had seen no change in occupancy, and which had all the basic amenities in 1979, more than doubled over a period when the retail price index and average earnings

Table 13.14 Annual Net Rents for Unfurnished Houses According to Presence/Absence of Amenities in 1985 and State of Repair in 1985 £pa

State of Repair	With all basic amenities			Without all basic amenities		
	Mean	Standard Deviation	No	Mean	Standard Deviation	No
No defects	583	106	37	-	-	-
Only minor defects	589	277	112	386	220	13
Major defects	581	214	177	329	161	29
All*	583	228	329	347	180	42

*Includes those without external condition survey

index of all employees rose by 174 and 167 per cent respectively. With rents rising on average from £212 to £563 over the period, this meant that rents had doubled in real terms. Where houses did not have all amenities in 1979, average rents were less than £100 per annum in 1979, with median rents not being much more than a £1 weekly rent. Many were controlled tenancies. Whether or not the amenities had been subsequently installed, rents rose considerably: to just over £300, on average, for those still without amenities, reflecting the provisions of the 1980 Act which abolished controlled tenancies, and to £553, on average, where all amenities had been installed by 1985. In the latter case rents rose £9 a week, on average, since 1979.

Section (b) of Table 13.10 gives the relevant figures for the limited number of unfurnished properties that had been relet by 1985. It should be noted that the median figures are very similar to the equivalent cases where there has been no change in occupancy, although the means are higher, indicating a small percentage of relets at much higher than average rents. 10 per cent were relet at over £800 p.a. reflecting the more recent date of registrations (see below). In unfurnished lettings, therefore, landlords and tenants had experienced significant increases in rents, both as a consequence of improvement and of a general increase in rent levels in excess of earnings and retail prices in general. Most unfurnished rents were registered Fair Rents and there were few cases of privately agreed rents for comparison. Nevertheless it is worth noting that privately agreed rents were 75 per cent lower than Fair Rents, controlling for amenities and change of occupancy, reflecting in some cases a failure to register Fair Rents where rents were decontrolled in 1980. Where houses were managed by agents rather than their landlords, unfurnished rents were significantly higher, at £648 compared with £500. This seems to be because agents ensure that registered rents are reviewed as regularly as statute permits, thus maximising their clients' rental income - and, since they receive fees as a proportion of rents, their own commission.

Table 13.15 Regression analysis: Dependent variable annual net rents, Unfurnished Houses, 1985

Independent Variables	(a) From Landlord Survey Registered Rents Beta	t	(b) From Tenant Survey All Rents Beta	t
REGDAT	.484	3.905**	-	-
YRMOVE	.325	1.900°	0.097	1.621
LOCATION	-.049	-0.400	0.006	0.119
HSESIZE	-.008	-0.059	0.011	0.215
ROOMS	-.048	-0.308	0.187	3.423**
HSETYPE	-.124	-0.943	-0.059	-1.119
AMEN85	.143	1.089	0.022	0.435
NODEF	-.040	-0.290	0.274	1.539
MEDDEF	-.058	-0.443	0.383	1.427
MAJDEF	-	-	0.309	1.101
HHSIZE	-.257	-1.388	-0.032	-0.525
HOHFTJOB	-.013	-0.090	0.092	1.549
DOLE	-.145	-1.041	0.145	2.649**
HOH INC	-	-	0.035	0.602
HH INC	-	-	0.042	0.734
R2	0.44		R2	0.11
F	2.65*		F	3.04**
DF	52		DF	359

**Significant at <0.01
* Significant at >0.01 <0.05
° Significant at >0.05 <0.1

≠ REGDAT = date Fair Rent last registered; YRMOVE = date of household moved to address. LOCATION = dummy, 1 = East of City; 2 = West of City; HSESIZE = building frontage; ROOMS = no. of habitable rooms; HSETYPE = dummy, 1 = mid terrace, 0 = others; AMEN85 = dummy, 1 = possesed all basic amenities in 1985, 0 = did not; NO, MED and MADEF = dummies for no, medium and major defects to external fabric (see previous text). HHSIZE = total number in household; HOHFTJOB = dummy, 1 = head of household in fulltime employment, 0 = other; DOLE = nos. of adults without work; HOH INC = head of household gross weekly income from all sources; HH INC = total gross weekly income of all household members.

Although the levels of rents shown in Table 13.14 are sensitive to the presence or absence of basic amenities, they do not seem sensitive to disrepair, since there are no significant differences in the rents of unfurnished houses in different states of repair, all other things being equal.

Table 13.15 tabulates the results of a regression analysis which examined the relationship between (a) Unfurnished Fair Rents (with rents data taken from the information given by landlords) and (b) All unfurnished rents (with rent data taken from the tenants' survey), and a range of variables relating to properties and occupants. The results tabulated were the regressions with the greatest explanatory power. Whilst the variables included in neither result explain, however, more than half the variation in unfurnished rents and, in the case of (b), explain very little, they do suggest that the date at which a Fair Rent was registered was the most powerful influence on this variation. It also confirms that the date on which tenants moved into a property was also important, suggesting that this has an independent influence on rents. The regression coefficients of other variables in (a) were small and none of the 't' values were significant. In some cases the signs on the coefficients are counterintuitive. For example, in equation (a) the number of rooms is negatively associated with the rent. Equation (b) explains very little of the variation in rent (even though this was the best of a series of runs), although in this one the sign on the number of rooms is what might be expected. In the case of neither equation did repair variables come out as significant, the coefficients were small, and the signs in relation to the existence of disrepair in (b) were positive. If repair was an influence negative signs would have been expected.

The most dramatic increases in rents of furnished houses were found amongst the properties let unfurnished in 1979 but let furnished by 1985. Continuing landlords received very substantial increases, as rents rose from just under £300 for a house with all the amenities in 1979, to over £2500 in 1985 (with at the same time an increase in the costs of letting - see section in the next chapter on rates of return). This change was associated more with new rather than continuing landlords, including those who had purchased these houses sometime since 1979 on a vacant possession basis. Where houses were let furnished in 1979 and 1985 rents had

increased the least since they have 'merely' doubled on average, rising from just over £1200 to just over £2400 or from £230 to £450 per habitable room. The median increase is only just over the increase in retail prices so that rents in the furnished sector had broadly kept pace with inflation.

It has already been noted that furnished rents were higher where the head of household was a student or unemployed. Given the fact that 55 per cent of student heads and 78 per cent of the unemployed claimed Housing Benefit, it is possible to argue that Housing Benefit had 'driven up' rents and that, as a measure to sustain rent paying ability, it had enabled landlords to extract more rent from properties where tenants were on Housing Benefit - and indeed to favour tenants on benefit above those who were not.

In fact, knowledge of the Housing Benefit System was quite extensive amongst landlords, since 89 per cent of the sample had owners who knew about it. Of those that did, 56 per cent had landlords who thought it had helped them and this was equally true of owners of unfurnished and furnished property. From the property owners' viewpoint, the merits of Housing Benefit were that it made arrears less likely and (potentially - at least if it worked) could guarantee rent via the rent direct system. Although only a minority of all sample properties, 7 per cent, had owners who said it enabled a higher rent to be charged (and this included the houses whose owners referred to what they regarded as abuses of the system by 'other' landlords to extract higher rents), 30 per cent of furnished houses had landlords who said Housing Benefit allowed them to fix higher rents.

Whilst the results of the survey did show a higher increase since 1979 in rent of houses which were let furnished in 1979 and 1985, and which were rented in 1985 to those who claimed Housing Benefit, compared with those who do not, the degree to which tenants received Housing Benefit in 1985 did not statistically explain as much of the differences in furnished rents as did the size of the household. Households headed by students and the unemployed did not live in larger houses than others, but they lived in larger households - 3.6 people for students, 3.1 for unemployed and 2.6 for others. The rent <u>per</u> room was positively related to the number of

Table 13.16 Regression analysis: dependent variable annual net rents, furnished houses, 1985

Independent variables≠	Beta	t
LOCATION	-.069	-0.870
HSESIZE	.083	1.064
ROOMS	-.038	-0.386
HSETYPE	-.008	-0.114
AMEN85	-.135	-1.71 o
NODEF	-.156	-1.050
MEDDEF	-.338	-0.945
MAJDEF	-.406	-1.138
HHSIZE	.258	1.886o
HOHFTJOB	.191	1.936
DOLE	.113	1.305
STUDENTS	.576	4.329**
HOH BEN	.201	2.466*
HOH INC	-	-
HH INC	-	-

R^2 = 0.59

F = 8.83**

DF = 93

** Significant at <0.01

* Significant at >0.01 <0.05

o Significant at >0.05 <0.1

≠ As defined for Table 13.15 except:

STUDENTS = no. of students in household

HOH BEN = Housing Benefit claimed by head of household

students in a household, which suggests that landlords charged on a per household member basis, as much as in relation to the size of the houses and its facilities. This was of course entirely consistent with the use of non exclusive occupation agreements, where each individual had a responsibility for the rent. The rents for houses on licence agreements were £2898 p.a. compared with £2248 for all furnished houses. This was confirmed by analyses of rent per person which found no significant difference in the rents per person between students, the unemployed and other furnished tenants at all household sizes.

Table 13.16 tabulates the results of a regression analysis in respect of rents for furnished houses. The dependent variable was the annual net rent for a whole house and the independent variables related to characteristics of the houses and the occupants. The independent variables explained substantially far more of the variation in furnished than in unfurnished rents. The signs of the regression coefficients are broadly what might be expected in a competitive market. The sign for location is negative however, indicating that rents are higher, ceteris paribus, on the east side of the city than on the west, although since the University and Polytechnic are on the west side it might have been expected that rents would be higher nearer these institutions (although a more explicit distance measure might have given better results). The signs for house size and type suggest that rents are positively related to larger and non terraced houses, although the actual number of rooms has, unexpectedly, a negative size. On the other hand the amenities and disrepair variables come out with negative signs, indicating the rents are discounted for poor conditions, to some extent, in the furnished sector. However the t values are small in relation to the regression coefficients and are not significant (amenities is only weakly significant). It is the personal characteristics of the occupants that are most significant. The regression coefficient for the number of students in a house has a high t value, which is highly significant. Whether or not the head of household claimed housing benefit is less significant, and has a lower regression coefficient and t value than the number of students. Neither variables measuring income entered the equation. The fact that housing benefit statistically explains some of the variation in rent does not mean that it

TABLE 13.17 PROPORTION OF HEADS OF HOUSEHOLD RECEIVING
HOUSING BENEFIT BY ANNUAL RENT AND GROSS INCOME OF HEAD OF HOUSEHOLD

Annual Net Rent	Weekly Income				
	Less than £40 (N)	£40 - £79 (N)	£80 plus (N)	All	(N)
(a) Unfurnished Houses					
Less than £400	37% (24)	63% (27)	17% (6)	47%	(57)
£401 - £600	66% (47)	59% (69)	17% (36)	51%	(152)
£601 - £800	57% (28)	58% (50)	18% (28)	47%	(106)
£801 plus	33% (3)	83% (6)	33% (6)	53%	(15)
Total	56% (102)	60% (152)	18% (76)	49%	(330)
(b) Furnished Houses					
Less than £800	0% (1)	40% (5)	20% (5)	27%	(11)
£801 - £1000	100% (1)	0% (1)	0% (1)	33%	(3)
£1001 - £1500	50% (4)	40% (5)	0% (1)	40%	(10)
£1501 - £2000	15% (13)	40% (5)	33% (3)	24%	(21)
£2001 - £2500	83% (12)	50% (12)	0% (4)	57%	(28)
£2501 - £3000	54% (11)	33% (6)	0% (2)	42%	(19)
£3001 plus	100% (12)	80% (10)	100% (1)	91%	(23)
Total	61% (54)	50% (44)	20% (15)	50%	(116)

'causes' the higher rent. Give the low income of tenants, it would be expected that high rents would be associated with the head of household claiming housing benefit.

Table 13.17 confirms the dependence of low income private tenants on Housing Benefit. The fact that so many claimed Housing Benefit in 1985 is a reflection of the low income of pensioners, students and the unemployed, as much as the increases in rents discussed in this section. Altogether 48 per cent of heads of household received money from Housing Benefit, including both unfurnished and furnished tenants, and including 60 per cent of heads of elderly households, but only 10 per cent of those with full time jobs. Table 13.17 shows that in unfurnished accommodation the proportion of tenants who received Housing Benefit does not vary with the rent, but does vary with the head of household's income, since the proportion falls from 59 per cent of those with less than £80 per week gross to 18 per cent of those with more. In the furnished sector, rents as well as incomes are related to the proportion claiming - claimants falling when head of household income is £80 a week or more and rising to two thirds when annual rents are in excess of £2000 per house - the latter a reflection of the number of student claimants in such properties.

CHAPTER 14

THE FUTURE: DISINVESTMENT, RATES OR RETURN, AND POLICY CHANGES

Introduction

The previous chapter has reviewed the evidence about the changes that occurred between 1979 and 1985. This chapter looks at the evidence from the survey about landlords' plans for their properties, the rates of return they were getting from their property in 1985, and at the sorts of policy changes they wanted. It concludes by discussing what conclusions can be drawn from the survey evidence about investment and disinvestment in the private rented sector. This latter theme is returned to in the final chapter of the thesis, which also examines the policy implications of this evidence.

The Future: Landlords Plans for the Sheffield Panel

Landlords were asked in 1986 what they would expect to do with their property, supposing it "became vacant tomorrow". The results shown in Table 14.1 reveal that there had been almost no change in intentions, compared with the views expressed by landlords in 1979. In 1979 the owners of 68 per cent of furnished houses said that they would relet. In 1985 81 per cent of furnished houses had owners who said they would relet, only 13 per cent would be sold and the rest would be used in other ways, including providing accommodation for relatives. In 1979, the owners of only 32 per cent of unfurnished houses said they would relet if there were a vacancy "tomorrow". In 1985 the proportion was 37 per cent to be relet, 60 per cent to be sold and the remainder to be used in other ways.

There was no difference in terms of the date the property was acquired - and, by implication, when the owners first become landlords. The only noticeable difference was that a higher proportion of unfurnished property acquired in the 1970s and 1980s was to be relet - 49 per cent compared with 27 per cent of property acquired before the 1970s. Examination of the evidence on the use of improvement grants suggested that this was because of reletting conditions attached to the grants of all sizes of

TABLE 14.1 WHAT LANDLORD WOULD DO WITH ADDRESS IF IT BECAME VACANT TOMORROW

		UNWEIGHTED SAMPLE					WEIGHTED SAMPLE			
UNFURNISHED PROPERTY		Relet	Sell	Other	N		Relet	Sell	Other	N
Date Acquired:-										
Before 1970	%	27	72	1	99	%	29	70	1	177
1970-1979	%	56	41	3	59	%	60	38	2	119
1980-1985	%	32	64	4	22	%	33	62	4	42
Total	%	37	60	2	180	%	40	58	1	338
FURNISHED PROPERTY	%	81	13	6	69	%	81	14	4	114
TOTAL SAMPLE	%	49	47	3	249	%	50	47	3	452

landlords, so that these results confirmed the conclusions reached in the 1979 study - that grants get property improved but retained them in the private rented sector only temporarily.

46 per cent of the unfurnished sample had had a grant since 1974. 28 per cent between 1974 and 1979, and 17 per cent since 1979. 37 per cent of unfurnished houses acquired before 1970 had a grant, so too ha' 59 per cent of those acquired in the 1970s and 56 per cent of those acquired in the 1980s. Thus, at the time of the 1986 survey, the greatest proportionate recent use of grants had been amongst property acquired in the 1970s and 1980s, where the greatest proportionate intention to relet was expressed. The landlords of 78 per cent of unfurnished houses improved with grants had accepted reletting conditions. Where no grant had been made since 1974 only 22 per cent of properties were to be relet, the respective percentages for properties improved with grants between 1974 and 1979 and after 1979, being 52 and 65. Once these letting conditions finally expire, there is no reason to suppose that landlords will not sell upon vacant possession. Indeed, the proportion of properties improved with grants that landlords said they would relet if a vacancy occurred in 5 years time was only half of those that they said they would relet if a vacancy occurred "tomorrow". As a consequence, there was no difference in the proportion of properties likely to be relet in the long (5 year) term according to the date of their acquisition - the figure being only 1 in 5 of all unfurnished properties, whether improved with grants or not, and whatever date grants, if used, were awarded. A similar pattern was found for furnished property improved with grants. One third of all furnished addresses had grants since 1974. All of these are to be relet "tomorrow", but in five years time only half of them will be relet.

The general conclusion must be that, by the mid 1980s, there had been no change in landlords' attitudes towards retaining or selling unfurnished property, so that in 1986 continued decline could be anticipated in its supply. Indeed as many properties belonging to landlords who bought them for continued letting were to be sold as any other. Only the small minority of unfurnished property regarded primarily as investment for rent income were likely to be relet on any significant sale. Thus, whilst 53 per cent of these would be relet, only 28 per cent of those regarded as

investments for capital growth, 27 per cent of those regarded for both capital and rent, and 30 per cent of those regarded as liabilities, or in other ways, were to be relet. (Proportions are similar to those found in 1979.) It appeared, therefore, that landlords interested in capital growth intended to realise this growth upon vacant possession, instead of "sheltering" their capital in property. Indeed a number of landlords commented that the difference between the inflationary environment of the 1980s and of the 1970s made investment in private rented property for capital growth less desirable then than in the past. Nor would it seem that the substantial increase in rents between 1979 and 1985 had been sufficient to persuade landlords to retain their investments - only a bare majority of those interested in rent income would do so. The next section shows that most properties had owners who thought the level of rent insufficient, taking everything into account. Yet, only 32 per cent of properties with landlords who thought the current rent sufficient, would relet - the same percentage whose landlords thought the rent was insufficient. Similarly, there was no difference between properties whose landlords had had grants to improve them, according to the degree of satisfaction from both the rental and capital growth return from the net of grant improvement investment.

The explanation for this lies, not only in the low level of returns, notwithstanding the real increases in rent, but also in the "hidden" costs of being a landlord in the context of the old average age of the owners of the majority of the unfurnished rented sector. Thus, whilst the owners of half the unfurnished properties to be sold said this was for financial reasons, the landlords of over a third said it was because of a combination of their age, the degree of commitment involved and the bother and "hassle" of being a landlord - bearing in mind that 35 per cent of unfurnished properties are managed by the owners themselves. The remaining 14 per cent of properties had landlords who had a variety of reasons for selling, and these included a few comments about pressure from the local authority in relation to repairs. As far as the properties being sold for financial reasons, 27 per cent had landlords who wanted to extract their capital, 37 per cent who said their return was poor in relation to non property investments, 17 per cent who said it was poor in relation to other property investments, and only 10 per cent who referred to the high management and maintenance costs involved. This latter,

cost-related reason was referred to much less often in 1985 than in 1979 as a reason for selling property. The fact that "hassle" is an important reason for selling by landlords of unfurnished properties can be related to the fact that 44 per cent of houses being managed by agents were to be relet, compared with 26 per cent of those the owners looked after themselves. This is not to suggest that agents relet property solely in their self interest (retaining a management portfolio) rather than their clients'. It is, rather, to suggest that agents absorb the "hassle" on behalf of their clients, since, on evidence, they alone took all the decisions in respect of fixing and collecting rents, selecting tenants, seeing to minor repairs and serving notices for over three quarters of the sample under their management. But on questions involving reletting vacant property and carrying out major repairs, the decision was taken by the clients, not the agents, for 60 per cent of the properties concerned. To some extent the higher intended reletting of agent managed property can be explained by the greater use of grants by agents' clients in the years recently before 1986. Over half "their" properties had been improved compared with a third of those managed entirely by their owners. Thus properties owned by larger landlords, especially companies and trusts were more likely to be managed by agents, and were more likely to be relet "tomorrow" because they had been recently improved. In the long run, the agents' clients were more susceptible to economic imperatives in deciding to relet, than to the "bother and fuss" of looking after property "at my age". Only 25 per cent of self-managed properties were to be sold because of financial reasons, compared with 58 per cent of those managed by clients, whilst it was to avoid "hassle" that 75 per cent of self-managed properties were to be sold.

Only 44 per cent of unfurnished properties to be relet, were to be relet for the rent income it would bring, although a further 9 per cent were to be relet for the rent plus capital appreciation in relation to the landlord's tax position on capital gains. In addition 16 per cent were to be relet for capital appreciation. 19 per cent were to be relet for improvement related reasons, either because of grant conditions or because it would create building work for the landlords' firms. (It is worth noting that 33 per cent of properties which would be sold in five years time, even if they were to be relet "tomorrow", had landlords who said this was because of reletting conditions.) The remaining properties to be

relet "tomorrow" were to be let for job or charitable reasons (especially by Trusts providing housing for their members). Not surprisingly, 68 per cent of furnished properties were to be relet for the rental income, and 21 per cent for a combination of rent, capital growth and other reasons.

For the future, the limited reletting of unfurnished tenancies "tomorrow" was to be on a similar basis as 1986. Only 10 per cent were to be relet furnished. This is a similar finding to the 1979-80 survey. Clearly owners of unfurnished lettings did not consider transferring them to the apparently more "lucrative" furnished market. The transfers of unfurnished to furnished letting had mainly come about as a consequence of ownership changes. Owners of 82 per cent of the unfurnished property which was to be relet "tomorrow" would be let on regulated tenancies - and only 12 per cent were to be let on shorthold tenancies, although this proportion was greater for properties whose landlords would relet in five years time. The owners of 90 per cent intended to charge registered Fair Rents. The 1986 pattern of agreements, was also to be repeated when furnished tenancies were relet "tomorrow", with an absolute reduction (because of sales) of regulated tenancies and proportionately fewer licences and proportionately more shorthold agreements.

Who did these reletting landlords prefer as tenants? The first point to note is that landlords had definite preferences. The owners of 74 per cent of the furnished houses said they preferred single people, especially young single people, and particularly students. Indeed 57 per cent of furnished houses were owned by landlords who preferred students. Unfurnished houses had landlords with a greater diversity of preferences, but only 10 per cent preferred singles and 46 per cent couples without children. The reasons for the differences are related to tenant turnover, in respect of furnished tenancies, and care of the property, in respect of unfurnished tenancies. Thus the owners of 61 per cent of furnished properties considered the turnover of tenants important, and the landlords of 22 per cent said they considered reliability in paying rent significant. Hence the preference for singles in general and students in particular. Students, of course, are more likely to be able to "form" households of a large enough size to command a high rent for a house on the basis of per person rent. This arises because students are more likely than others to "search" in groups and have extensive knowledge of

potential "sharers". The owners of unfurnished tenancies were much more concerned with the way tenants took care of their property and whether they held "responsible" attitudes towards it, the owners of 53 per cent holding such views. Not surprisingly, therefore, over half the properties which were to be relet, (including 70 per cent of furnished ones) had landlords who preferred not to let to certain types of tenants: owners of unfurnished property preferred not to let to singles and couples with children (even though they did), whilst landlords of furnished property also preferred not to let to couples with children - though some properties were also owned by landlords who preferred not to let to students.

Rates of Return

Two methods of calculating rates of return on landlords' investments have been used. First, nominal rates of return, calculating the percentage return annual rents gave on 1985 vacant possession capital values. Second, the net present value of the rents and capital appreciation earnt by the purchase of unfurnished houses at sitting tenant prices in 1979 and letting them for six years, compared with the alternative investment of the 1979 prices paid for these properties in Building Society deposits and in equities.

Four pieces of information were used to calculate rates of return.

First, for the whole sample, information was collected from landlords on net rents for each sample address, taking care to ensure that any relevant deductions were made from gross rents in respect of rates, heating, lighting and other services. Where Fair Rents were registered and they were still at a stage, rather than the full Fair Rent, the current recoverable staged rent was recorded.

Second, where a full interview was done, landlords were asked whether the net rent was sufficient from their point of view, "taking everything into account." The question came at the end of the section on rents and was preceded by questions on rents, on what rents should cover, on the annual management and maintenance costs for the property, and on whether repair

spending on the property was restricted to an annual predetermined amount. If the current rent was not sufficient, landlords were asked to say what a sufficient would be. (See Appendix 5 for the questionnaire used.)

Third, information was collected on capital values for all sample properties by asking landlords and agents to estimate the vacant possession capital value of each property. Where property was bought after 1974, details of purchase prices were recorded.

Fourth, where a full interview was done and where postal questionnaires were sent out, landlords were asked to state the annual management and maintenance costs of the sample property - both in total and item by item for insurance, management (including agents' fees), repair and maintenance and (if relevant) depreciation on furniture and fittings.

Before examining the results of the rates of return calculations three observations must be made about the reliability of the data on rents, values and costs.

First, the rents data shown in Table 14.3 compares closely with the data from the tenant survey. The respective means for each of the tenant and landlord survey for unfurnished tenancies are £574 p.a. and £604 p.a.; for furnished tenancies they are £2,248 p.a. and £2.205 p.a.

Second, the vacant possession value estimates compare closely with information about purchase prices from the survey data of the 1979 private rented houses which were owner occupied by 1985. The mean vacant possession value estimated by landlords were: unfurnished-mean = £12,921, N = 131; furnished-mean = £16,825, N = 30). The prices paid by owner occupiers for the 1979 sample sold into owner occupation were collected in the 1985 follow up. The mean 1985 prices of those which were bought with vacant possession, which had all amenities in 1979, and when bought, and which had not been bought from a builder were unfurnished = £11 702, N = 54; furnished = £15,913, N = 17).

Third, the management and maintenance costs could not always be estimated neither in the total nor for individual items. Where they were estimated the costs were as follows. The mean annual overall estimated cost (where

the total was given) for unfurnished houses was £244 (N = 68) for the previous year. For furnished houses it was £612 (N = 40). The mean annual cost for individual items was, for unfurnished and furnished houses respectively: insurance: £33 and £68; management costs and fees: £52 and £127; depreciation on fittings etc. for furnished houses was £229; and the mean annual maintenance and minor repair was respectively £138 and £296. In most cases few landlords made allowances for the cost of their own time when they, rather than agents, carried on the management of their property.

As Table 14.2 shows, most properties were owned by landlords who expected rents to cover minor repair and management costs (91 per cent and 88 per cent respectively), and most had owners who said that the rent from the property did cover these costs - 73 per cent and 80 per cent respectively, (though lower in the case of unfurnished than furnished properties). Fewer, but still a large proportion of properties. 71 per cent, had owners who expected rents to give a return on major repair and improvement expenditure, but only 40 per cent of these houses had owners who said the rent actually did give the return they expected - 35 and 55 per cent in the case of unfurnished and furnished properties respectively.

Only 65 per cent of properties had landlords who expected rents to give a return on purchase price (especially larger landlords and those seeking capital growth), 54 per cent of unfurnished and 76 per cent of furnished properties having such owners. The relevant percentages with landlords expecting rents to give returns on current market value with vacant possession were 60 per cent for all - and 51 per cent and 75 per cent for unfurnished and furnished. In each case less than half the properties whose landlords expected such returns on prices had rents which were sufficient to give the return expected. The proportions of houses whose rents give the expected return on vacant possession value are less than 50 per cent for all and 56 per cent in the case of furnished and 28 per cent of unfurnished houses.

TABLE 14.2 WHAT LANDLORDS THOUGHT RENTS SHOULD COVER

	Percentage of Properties			
	Whose Landlords said rent should cover item		Whose landlords said rent did cover item*	
	Unfurnished % (N)	Furnished % (N)	Unfurnished %	Furnished %
Management Costs	93 (114)	88 (66)	68	82
Minor Repairs	85 (113)	92 (66)	76	86
Major Repairs	68 (104)	78 (63)	35	55
Return on acquisition price#	54 (70)	76 (63)	40	64
Return on vacant possession value	51 (104)	75 (60)	28	56

Notes * Percentage of the properties whose landlords had said rent should cover item.

Excluding inherited properties.

Whilst 84 per cent of houses had landlords who said they did not restrict spending on repairs to a predetermined amount, only 32 per cent of unfurnished houses (but 72 per cent of furnished houses) had owners who said that the rent was sufficient from their point of view "taking everything into account", irrespective of when they acquired it.

In Table 14.3 rents are related to landlords' intentions about reletting or selling their property should a vacancy arise "tomorrow". It also shows what level of rents landlords considered to be sufficient.

The mean unfurnished rent of all the sample is £604 p.a. Where owners were asked, only 29 per cent had owners who thought the rent sufficient and in their case the mean rent was £573. Properties whose owners thought the rent insufficient had rents only slightly lower, at £549, but such properties had landlords who wanted a rent of £1,018 p.a. as a sufficient rent. Adding properties with "satisfied" and "unsatisfied" owners together, gives a mean net sufficient rent in 1986 of £858 p.a., or £16.50 per week - compared with the current (1986) mean of £11.61 per week. It should be stressed, however that this average sufficient rent would not be sufficient for those who were dissatisfied in 1986.

Most unfurnished properties had landlords who intended to sell them when they became vacant and, as Table 14.3 shows, current (1986) and sufficient rents were higher where the property was to be relet, compared with where it was to be sold (including properties where the owner intended to do something else apart from reletting). Thus, where properties were to be relet the mean current (1986) rent was £640 p.a. compared with the annual rent of £585 of the properties which were to be sold. Table 14.3 also shows, inter alia, that the mean sufficient rent for properties to be relet would be £945 p.a. compared with £806 for those to be sold, but whereas the difference in 1986 rent between those to be sold and those to be relet is statistically significant, the difference in sufficient rent is not.

Similar differences can be found amongst furnished properties but the scale of the difference between 1986 and sufficient rents is, perhaps unsurprisingly, less marked. Thus 1986 rents were £2,205 p.a. on average

TABLE 14.3 RENTS OF PROPERTIES IN LANDLORD SURVEY

		UNFURNISHED		FURNISHED	
		Net Rent p.a.	N	Net Rent p.a.	N
1985 Rents p.a.	All	£604	170	£2205	63
	Relet	£640	64	£2391	50
	Sell	£585	105	£1384	10
1985 Rent	Was Sufficient	£573	37	£2411	43
	Was Not Sufficient	£549	74	£1663	17
	All	£557	111	£2199	60
SUFFICIENT RENT	All	£858	103	£2472	53
	Relet	£945	37	£2567	44
	Sell	£806	65	£1834	8
1985 Rent	Was Sufficient	£573	37	£2411	43
	Was Not Sufficient	£1018	66	£1649	10

and a sufficient rent in 1986 would have been £2,472 on average - bearing in mind that two thirds of furnished properties have landlords who regard £2,411 on average as a sufficient rent.

Pre tax nominal rates of return have been calculated in four ways. First a gross current rate of return - annual current rents expressed as a percentage of the vacant possession capital value estimated by landlords or agents. Rents are net of rates and service charge, but no allowance has been made for void or bad debts. In the furnished sector the survey evidence on void periods between tenancies suggests that an allowance of 10 per cent per annum for voids would be the maximum allowance appropriate. Second, a gross sufficient rate of return using the rent regarded as sufficient by the landlord. Third and fourth, net rates of return for current and sufficient rents have been calculated. This has been done on the basis of the management and maintenance costs described earlier. Two versions have been used. First, using the actual costs stated. In many cases landlords could not estimate all items and, therefore, the total costs in some of these cases is on the low side, although for 40 per cent of the properties landlords were able to provide full information. In the second version the information on repairs provided by landlords for properties where all costs were known have been used to fill in the missing cases for other properties and insurance and management costs (where relevant) have been calculated on the basis of the vacant possession value and rent income respectively. It should be noted that the estimate of net sufficient rates of return is based on current costs in a context of insufficient rents - so some costs could be expected to rise if rents reached levels regarded as sufficient.

The results of these calculations are shown in Table 14.4 and reveal the not unexpected difference in gross rate of return between unfurnished and furnished property - with gross return on unfurnished property at just over 5 per cent, being about a third of the gross return on furnished property which is 14 per cent. 30 per cent of the gross unfurnished returns were in each of the respective ranges 4-4.9 per cent and 5-5.9 per cent. Only 28 per cent gave returns of 6 per cent or more (and only 11 per cent were 8 per cent or more). Furnished returns were widely spread about the mean, 42 per cent being 17 per cent p.a. or greater. The results also show that where unfurnished properties had landlords who regarded the rent

TABLE 14.4 RATES OF RETURN

	GROSS		NET (ESTIMATED COSTS USED)		GROSS SUFFICIENT		NET SUFFICIENT (ESTIMATED COSTS USED)	
	% p.a.	(N)	% p.a.	(N)	% p.a.	(N)	% p.a.	(N)
FURNISHED	5.22±1.52	(113)	3.37±1.20	(113)	6.70±3.47	(61)	4.78±3.31	(60)
UNFURNISHED	14.08±5.58	(25)	9.45±5.80	(25)	14.92±6.75	(20)	10.71±7.06	(20)
FURNISHED TO BE RELET	5.49	(45)	3.57	(45)	6.43	(20)	4.35	(20)
FURNISHED TO BE SOLD	5.15	(62)	3.29	(62)	7.06	(36)	5.21	(35)
UNFURNISHED TO BE RELET	14.19	(21)	9.31	(21)	14.56	(17)	10.30	(17)
UNFURNISHED	13.49	(4)	10.23	(4)	16.93	(3)	13.00	(3)

as sufficient the return is still only just above 5 per cent. Properties with owners who regarded the rent as insufficient gave returns of just under 5 per cent but their owners regarded (by implication of the sufficient rent they estimated) nearly 8 per cent as a sufficient gross rate of return. Overall therefore 7 per cent seemed to be, on average, the gross rate of return on unfurnished property which was sufficient "taking everything into account" - although owners who were dissatisfied in 1986 were looking for a return somewhat higher than this.

As already noted, most furnished houses had landlords who regarded the current rent as sufficient, but when the sufficient rents of the minority who are "dissatisfied" with the current (1986) rent are taking into account the overall gross sufficient rate of return is increased marginally on the current gross rate of return.

The results also show that rates of return were not substantially different (nor significantly so, statistically) for houses which were to be sold upon vacancy, compared with those that were to be relet - either in terms of gross or gross sufficient rate of return. Both unfurnished properties with "selling" and with "reletting" landlords had owners who regarded 7 per cent, or thereabouts, as the gross sufficient rate of return - although interestingly landlords whose properties are managed by agents said that 6.2 per cent was sufficient - compared with 8.6 per cent estimated by other landlords. Nor were vacant possession values statistically significantly different for houses to be sold from those to be relet. This suggests, in part, that the absolute level of rent is as important a factor in decisions about reletting as is the rate of return earnt on vacant possession value.

Finally Table 14.4 also shows net returns - that is the gross returns less management and repair costs. Net returns for unfurnished houses were just over 3 per cent (4.2 per cent using actual costs rather than estimated ones in the cases where information was missing). For furnished property, they were 9 per cent (10.8 per cent for actual costs). Sufficient net returns are just over 4 per cent - tantalizingly just, in view of the proposals of the Inquiry into British Housing about rents in the private

rented sector (see Chapter 2.7). The figure was 4 per cent for properties managed by agents. They are just over 5 per cent using quoted not estimated costs.

The furnished equivalents were much higher, reflecting the greater returns required from the ownership and management of this sort of accommodation and - probably - the fact that owners underestimated the costs of self management, given the time they put into the management of these properties. Another way of looking at this is to say that net returns of this order seem to be required to reflect the commitment of time involved. Only 6 per cent of furnished properties were managed by agents, 80 per cent had owners who lived within 5 miles of them (25 per cent within a mile) and 37 per cent were visited weekly or fortnightly by their landlord (compared with 13 per cent of unfurnished property). 8 per cent had owners who were full time landlords and 62 per cent of furnished properties had landlords (companies and individuals) who got a half or more of their total gross income from pre tax rent income (compared with 24 per cent of unfurnished properties).

Given these results, it is not surprising, therefore, that six in ten unfurnished properties were to be sold if they became vacant "tomorrow". Investing the vacant possession value in an alternative investment, with less risk, like a Building Society, would give returns significantly greater than the pre tax net return which rents earn them on this value. However, these estimates of nominal rates of return ignore two considerations. First, they ignore the fact that returns on sitting tenant values are much higher, given that sitting tenant values are considerably below vacant possession. Second, they exclude the real capital gains received in addition to rent income - "obtained" by virtue of retaining the ownership of property instead of selling where nominal returns on vacant possession value are comparatively low.

Table 14.5 gives the results of some calculations which attempt to incorporate these two considerations. It was difficult to collect precise estimates of sitting tenant values. In principle, prices paid for properties with sitting tenants will be a function of the rent to be paid and the yield, the latter related to the return required as well as to expectations about future rent increases and the degree of risk. However,

given the fact that much recent investment has been by "dealing" landlords, speculating in property for capital gain, prices paid for sitting tenant acquisition will include an element for future capital appreciation and for the "hope" value of securing vacant possession and being able to sell on the open market at prices owner occupiers are willing to pay. Thus, landlords will pay a premium for hope value on top of the discounted steam of annual net rent income. The sitting tenant value therefore represents the price a landlord will pay to get the rent income and capital growth a property can give. Vacant possession value, on the other hand, represents the price owner occupiers are prepared to pay to live in their own home. The implications of this gap between these two values for rented property have already been explored in Part 2 of the thesis and is further explored later in the concluding section of this chapter and in the last chapter of the thesis. Table 14.5 reveals that, under certain circumstances, landlords achieved returns from sitting tenant values which were comparable with those that they could have earnt in alternative investments.

Table 14.5 compares the net present value in 1979 of the returns landlords got between 1980 and 1985 by buying unfurnished property in 1979 with sitting tenants and with all the basic amenities (and therefore with no "improvement" investment over the period), with the alternative investment of placing the sitting tenant price in a Building Society or in equities. The calculations are based on a sample of 77 properties for which 1985 vacant possession values had been estimated and which met other criteria listed. Sitting tenant prices are based on a comparison of survey figures of prices for sample properties purchased after 1974 with vacant possession. This showed that sitting tenant values in 1979 were one sixth of vacant possession prices, rising to one third by 1985. Accordingly the sitting tenant price of the sample used in the calculations of Table 14.5 have been calculated as 17 per cent of their 1979 vacant possession value, adjusting the 1985 data for regional house price movements in older housing to give 1979 prices. The average for the sample was £1,401. The 1979 net present value of the pre-tax net rents has been calculated from the survey data on 1979 and 1985 rents and 1985 costs, extrapolating the rent data to give rents for the intervening years 1980 to 1984 and adjusting the costs by repair and maintenance price indices to give costs for the years 1980 to 1984. The net rents thus calculated for each of the

(a) Average Net Present Value of Income Earnt Between 1980 and 1985 from Investing the 1979 Sitting Tenant Price of a Sample of Unfurnished Houses.

	DISCOUNT RATE		
	5%	10%	15%
Invested in the sample of unfurnished properties with sitting tenants	£	£	£
Pre tax rent	1,131	943	802
Pre tax net rent plus capital appreciation of sitting tenant value	3,183	2,497	1,992
Invested in alternatives			
Pre tax interest from Building Society	908	783	688
Annual yield plus capital gain from equities	2,003	1,559	1,233

(b) Percent of cases when net present value of investment in unfurnished houses was greater than alternative investment of same sum

Pre tax net rent compared with			
Building Society	53	52	50
Equities	6	8	9
Pre tax net rent plus capital appreciation compared with			
Building Society	100	99	99
Equities	97	97	96

Table 14.5 Net Present Value of Alternative Investments

years 1980 to 1985 have been discounted by 5, 10 and 15 per cent to yield the net present value of the rent income gained from investing the sitting tenant price in the sample of properties. In addition allowance has been made for the discounted capital growth in the sitting tenant value comparing 1985 with 1979 sitting tenant values thus taking into account the increase in sitting tenant value as a proportion of vacant possession value. Sitting tenant values were fixed at one third of 1985 vacant possession valuation.

Two alternative investments of the sample's sitting tenant prices were used. Discounted annual interest from investing in Building Societies has been calculated using deposit rates for each of the years grossed up by the standard rate of tax (to be equivalent with the rent calculations). Discounted annual interest from investment in equities plus the capital gain in equity investment has also been calculated.

The period 1979 to 1985 was a period when the rents for the sample properties doubled in real terms, and Table 14.5 shows that in half the cases investment in sitting tenant property gave a better return - at all three rates of discount considered - than the comparable investment in Building Societies. Moreover other calculations suggested that over the period considered, average nominal gross rates of return on sitting tenant value, were 14 per cent in both 1979 and 1985, treble the gross return in vacant possession value shown for 1985 in Table 14.4. The reason why returns on sitting tenant value did not increase over a period when rents doubled in real terms is that the sitting tenant prices increased by doubling in response. Vacant possession values increased much less - by 50 per cent in nominal terms on average. As a consequence gross returns on vacant possession value rose from 2 to 5 per cent over the six year period.

The evidence suggests, therefore, that many landlords who invested in property in 1979 were correct to do so - at least given the assumptions built into these calculations. However the alternative investment in Building Societies may not be the appropriate comparison. Building Society investors do not share in the capital appreciation of the properties on which their money is lent. Table 14.5 also shows, therefore, that if capital appreciation on the sample property is also

taken into account the investment in property gave a greater return in almost all cases. On the other hand, if investors, instead of buying property (with all the risks involved) put the alternative into equities (with the possibility of capital gain but with the greater risk involved in comparison with Building Societies), they would have achieved a greater return in almost all cases, unless the capital appreciation of the property investment is taken into account.

The calculations suggest, therefore, that whilst nominal rates of return on vacant possession values are lower than in comparable investments, the returns on sitting tenant values have been comparable with alternative investments in most cases, provided that appreciation in the capital value is taken into account. Similar calculations to those made for the sample of unfurnished property were also made for a sample of furnished property, though this time using vacant possession values as the basis for the investment. Similar conclusions were reached. Nominal returns on current vacant possession are comparable to other investments but unless capital appreciation is taken into account the net present value of rents does not make property investment as attractive an alternative as investment in Building Societies or equities in about half the sample cases.

These calculations confirm, therefore, that landlords were "correct" to look on their investments for the capital growth they would give rather than on the rental income they could get. Property inflation has been an important factor in shaping recent investment in the private rented sector, an experience which has been shared elsewhere. (See for example the experience of the United States described in Downs, 1983.) However, this investment is inevitably risky, not only because estimates of future property prices are speculative, but because it requires a pool of willing investors to buy at sitting tenant prices, to enable earlier investors to realise their capital gain. If that is not the case, the investment must be regarded as inherently less liquid than investment in Building Societies and equities which, for a given level of risk and liquidity requirement, might be better investments. The evidence presented in the last Chapter suggests, however, that the main focus of current investment is notsomuch to earn the appreciation in sitting tenant values as to buy at sitting tenant value in the expectation, (given the

age of unfurnished tenants and the mobility of furnished tenants), of selling at vacant possession value. Such investment would appear to meet risk and liquidity requirements more than investment in sitting tenant prices. Calculations on the sample showed, for example, that at 15 per cent discount rate the investment of sitting tenant values in 1979 would have brought in by 1985, on average a net income of £688 from a Building Society, £1,233 from equities and £12,651 from net rents of property investment and disposal of the property at vacant possession price - the latter "gain" providing a substantial cushion for any net of grant improvement expenditure to be incurred during the life of the investment. There was, of course, a risk for dealers buying just one or two properties that tenants did not vacate their property within the expected time horizon. Such risk can be minimised by buying a lot of such property in the expectation that they will generate vacancies for sale on a regular basis.

It is in the light of findings like these, that alternative methods of fixing rents have been proposed to ensure that longer term investment in private rented housing gives returns comparable to those that can be obtained from alternatives, but taking into account capital appreciation. The concluding part of this section looks at what would have happened to rents in Sheffield in 1985 were two of these proposals to have been implemented then.

Firstly, an estimate has been made of the likely level of rents for the sample addresses if the proposals of the Inquiry with British Housing were implemented. Briefly, the proposals are to index-link rents with vacant possession capital values to give landlords a 4 per cent annual return onto which would be added the costs of management and maintenance. (Inquiry into British Housing, 1985.) The calculations illustrated in Table 14.6 have used annual costs estimated for the sample addresses in the landlord survey.

In 1985 the mean annual rent of the unfurnished addresses where landlords estimated vacant possession values was £660; for the furnished addresses it was £2,044. The Inquiry proposals would have led to rents of £761 and

TABLE 14.6 RENTS FOR UNFURNISHED ADDRESSES IN 1985 BY RENTS FIXED ACCORDING TO PROPOSALS OF THE INQUIRY INTO BRITISH HOUSING

1985 Rents* £ (pa)		Inquiry Rents £(pa)#						
		<500	500-599	600-699	700-799	800-899	900+	Total %
<500	%	7	33	27	13	7	13	13
500-599	%	6	12	41	29	6	6	15
600-699	%	-	12	31	36	14	7	37
700-799	%	-	6	19	29	35	9	28
800+	%	-	-	-	42	28	28	6
Total %	%	-	12	27	30	19	10	(112)

Notes * Rents information from landlords answering questions on rents and vacant possession values.

Rents = Vacant possession value x 0.04 + Current (1985) Annual Management and Repair Costs

£1,355 respectively. Unfurnished rents would have risen by £2 a week on average whilst furnished rents would have fallen by £13 a week per house. Not all unfurnished rents would have risen, since 15 per cent would have gone down, and 23 per cent would stay roughly the same. Indeed, the impact of the proposals, as Table 14.6 shows, would have been to spread the distribution as well as to increase rents, on average. As a consequence the increase would have fallen unevenly on existing tenants, particularly elderly tenants, who would have experienced increases of £3 per week. By contrast the rents of all furnished tenants would have fallen.

Secondly, an estimate has been made of the likely level of rents in 1985 for the sample if the proposals of the British property Federation (already referred to) had been implemented. Briefly it will be recalled, that the Federation suggested to the House of Commons Select Committee on the Environment that rents which provided a 9 per cent gross return on vacant possession values would be appropriate, given that capital appreciation would be earnt in addition to the gross return. The gross return would provide for operating costs as well as an investment yield (HCEC, 1982, Vol. 2). These proposals are illustrated in Table 14.7. They would have to lead average unfurnished rents of £1,165 per annum - an increase of nearly £10 a week. Almost all rents would have risen as Table 14.7 shows, but once again the elderly would have experienced the biggest increases since the rents for the houses they occupied in 1985 would have risen £12 a week. Meanwhile all furnished rents would have fallen to £1,527 a year on average. The fact that furnished rents would have fallen so considerably under both proposals reflects the fact that neither of the calculations adequately incorporates the return on time invested that landlords expected in 1985 from furnished lettings.

Policy Changes Landlords Wanted

Before examining the policy changes landlords wanted to see in 1986 if it is worth finding out if they had noticed any changes since 1979 - or since they started letting, where that was later. More (52 per cent) unfurnished properties had landlords who thought there had been changes than did furnished properties (33 per cent), and the more longstanding landlords thought so, too. A wide range of changes were noted, the higher level of rents being mentioned most often, with 42 per cent of

1985 Rents* £ (p.a.)	Rents £ (p.a.)					
	<800	800-999	1000-1199	1200-1399	1400+	Total %
<500 %	13	40	14	20	13	13
500-599 %	12	30	36	18	6	15
600-699 %	9	21	36	19	14	37
700-799 %	6	26	16	29	23	28
800+ %	-	-	28	42	28	6
Total %	9	25	27	33	16	(112)

Notes * Rents information from landlords answering questions on rents and vacant possession value.

Rents = Vacant possession value x 0.09

Table 14.7 Rents for Unfurnished Addresses in 1985 by Rents Fixed According to Proposals of the British Property Federation.

properties having owners who singled this out. But not all changes noted were regarded as positive. The reduced availability of improvement grants, in particular, together with a more "aggressive" attitude by the local authority towards repairs was also noted. Surprisingly, in view of the number of times it was mentioned in 1979 as a desirable change, the changes to the system of grant made in 1980 was mentioned by only a few landlords.

On balance however landlords who thought there had been changes considered they had been for the better - 55 per cent of properties having owners who thought things were much, or a little, better (including the owners of 62 and 36 per cent respectively of unfurnished and furnished property) and only 31 per cent had owners who thought things were a little or much worse. Agents were more likely to have noticed changes and to have thought things had got better.

What changes then did landlords want to see? They were asked what changes would most help them. Higher rents were selected by the owners of over half the unfurnished properties, so that despite the real increases in rents, between 1979 and 1985, further increases were still regarded by landlords as a major desirable change, though of somewhat less importance to owners of furnished property. Indeed whilst it was the single most important change for the owners of 36 per cent of unfurnished property this was so for the owners of only 21 per cent of furnished property. Getting rent increases on a more regular basis was also selected by the owners of 38 per cent of unfurnished property (especially those acquired in the 1970s and 1980s) and 14 per cent of furnished property, but it was the single most helpful change for the owners of very few furnished properties. Bigger rents and more regular rent increases were the single most helpful changes wanted by the owners the owners of over half the unfurnished sample. They were less important to owners of furnished property, for whom paying less tax on rent income was of greater significance. Over half furnished property had owners who selected this as a helpful change and 30 per cent had landlords who regarded it as the single most important change. The fact is, that most furnished properties were held by landlords who "trade" as individuals and have not formed companies for tax purposes.

LE 14.8 CHANGES TO POLICY THAT WOULD MOST HELP LANDLORDS
(Percentage of Properties Whose Landlords Said Change Would Help)

	Percentage Selecting Each Change As Helpful			Percentage Selecting Change As The Most Helpful		
	Unfurnished	Furnished	All	Unfurnished	Furnished	All
Higher Rents	59	42	53	36	21	29
More Regular Rent Increases	38	14	29	18	2	11
Less Tax on Rent Income	38	53	43	13	30	19
Easier Repossession For Tenant Abuse	39	25	34	12	14	12
Easier Repossession For New Tenancies	8	14	10	0	6	2
Easier Repossession Of all for all tenancies	12	22	16	7	6	6
Less delay and expense in Going to Court to get Repossession	26	10	20	0	5	2
Abolition of Fair Rents	11	10	11	4	5	4
Bigger Improvement Grants	39	29	36	11	11	10
1	127	71	198	127	71	198

Getting easier repossession of tenancies was, with two exceptions, of secondary importance to rents and tax. Only a minority of both unfurnished and furnished property had landlords who wanted easier repossession of either new tenancies or all tenancies, and few had landlords who also rated either of these as the most helpful changes. This is equally the case for new as well as more longstanding landlords. Indeed, with the single exception of improvements grants noted below, there are no significant differences in the views of old and new landlords. Although landlords of few properties wanted to have the easier repossession of their tenancies, they did want it in cases of tenant abuse and, significantly, more owners of unfurnished than furnished property had landlords who wanted less delay and expense in going to Court. (Unfurnished properties were involved in the few cases of experience of Court action for possession picked up in this sample.) Finally it should be noted that, despite the desire for higher rents and more regular rent increases, only 10 per cent of the sample had landlords who wanted the Fair Rent system abolished and the owners of only 4 per cent rated its abolition as the most helpful change. Bigger improvement grants were selected as a helpful change by the owners of 39 per cent of unfurnished property and, in the case of both unfurnished and furnished property, it was properties with new and bigger owners whose landlords were more likely to want this change. Overall however grants rated as the single most important change for the only 10 per cent of the sample.

The changes landlords wanted to see therefore were primary to do with rents and incomes and, although some modification of legal and procedural matters in respect of tenant abuse and court hearing would be desirable, partial or wholesale deregulation did not seem high on the agenda for the owners of the majority of the private rented sector in inner Sheffield in 1986. Whilst this was the case in respect of owners who were selling as well as those reletting, it should be noted that "sellers" of unfurnished property rated policy changes in respect of regularity of rent increases, paying less tax and getting easier possession for tenant abuse as more important than "reletters", who were more concerned than "sellers" with the availability of improvement grants, reflecting the plans of acquiring landlords to improve what they had already acquired as well as their plans to acquire more.

Conclusions: Investment and Disinvestment

The follow up study has shown that decline in private unfurnished renting will continue, because returns are inadequate for investors in relation to alternative investments and to the non-financial costs of management. The gap between sitting tenant values and vacant possession values continued to exist, (even though it appeared to have been closing in the six years) and landlords intended to realise the higher vacant possession value by selling when their then current tenants left. Rents gave landlords a pre tax return on vacant possession value of about 3 per cent, after deducting management and maintenance expenses. Higher, less risky, returns could be earnt from the "trouble free" and more liquid investment of the vacant possession value in Building Societies and equities. The capital gains that could be earnt, in addition to rents, from continued letting did not seem sufficient to compensate for the lower return from rents - even though taxation was paid only on the real, not the nominal, capital gains (at least provided the landlord was not a "dealing" landlord).

The gap between sitting tenant and vacant possession value arises because owner occupiers are prepared to pay more for the housing in question than investors would pay for a tenanted property i.e. the discounted stream of annual net rents, given the yield required and risk involved, is less than potential home owners would pay to buy the houses to live in themselves. In part this is a reflection of the extent to which registered Fair Rents are set "artificially" below market rents, but it is also a reflection of the way the market values houses for home ownership, of the subsidy home owners receive, and of the low level of incomes of private tenants. It remains open to doubt whether rents paid by low income tenants would rise sufficiently in a deregulated market for the gap between sitting tenant and vacant possession values to close - at least not without an injection of subsidy for tenants, that would enable rents to rise to the level required to narrow the gap.

So long as this gap exists, landlords want to sell - but to realise the higher vacant possession value they have to hold onto their properties until they become vacant - being prepared to sell only at sitting tenant

value in the light of circumstances surrounding their age, capital requirements, and their assessment of the risk of holding properties as tenanted investments before they became vacant.

Yet the existence of gaps between sitting tenant and vacant possession value not only explains why existing landlords want to sell, it also explains why new landlords want to buy. There is little evidence that current purchasers of unfurnished property are seeking long term property investments as income yielding inflation-proofed assets. Rather they seek to exploit the gap between sitting tenant and vacant possession value by acquiring property with sitting tenants. They make capital gains by selling at vacant possession value when the current tenants quit. Meanwhile they increase their potential profit by carrying out improvements which will increase the value of property but ensuring that they do not get caught in a valuation gap (i.e. the increase in value of older improved property is less than the total expenditure on improvement) by using improvement grants to subsidise the work - and being prepared to accept reletting conditions on grants, by letting for the requisite number of years before selling, to ensure that the grants do not have to be repaid. Since they are exploiting this gap, they are prepared to pay more than sitting tenant value because of their expectation of capital gain on top of rents. The prices they are prepared to pay are greater than investors looking at the property as a rent yielding investment would pay. This both discourage such investors and increases the probability of existing landlords selling to dealers exploiting the gap.

Thus the gap between sitting tenant and vacant possession value creates conditions where property dealers find investment in private renting attractive, especially private individual investors and small specialist private companies who can afford the comparatively modest investment required, compared with the requirement for investing in commercial property (Darlow 1983). A combination of low initial investment, subsidised improvement and financial gearing enables these dealing landlords to acquire and add to their portfolios relatively quickly - which are then sold off equally quickly over a similar period. It is not surprising to find therefore that it was the size of improvement grants that would be the most helpful policy change to new investors.

As a consequence, the recent investment made in private renting by "dealing" landlords actually hastens the decline and - on the evidence to hand - should not be read as a sign of long term reinvestment in private rented property. Decline is hastened because these landlords are actively acquiring property from other long-standing "investing" landlords (some of whom might be prepared to relet) and their reasons for doing so are to exploit the gap between sitting tenant and vacant possession value by selling as soon as possible.

The local authority passively mediates in this decline, because the availability of improvement grants is crucial to the operation of dealing landlords, given the manner in which it makes subsidised improvement of the houses possible, thereby also subsidising an improvement in the saleability of the property. In like manner, the local authority's willingness to use its repairs enforcement powers is also important to "dealing" landlords' strategy. Notices served on more long standing "investing" landlords, not only result in these landlords complying with the terms of the notices, but also (and more likely) result in their sale to actively acquiring "dealing landlords" - whose willingness to buy them is enhanced by the availability of mandatory grants on properties with statutory notices on them. Similarly the designation of improvement areas, and the involvement of Building Societies in "adopting" HAAs and supporting home owners buying into these areas, sustains the speculative activity of dealing landlords.

In describing those who have been actively buying unfurnished property as "dealing" landlords this thesis has, perhaps, portrayed a provincial equivalent to the London "flat break up" investors (Hamnett and Randolph, 1988). The equivalence is not exact. The commodity is a house not a mansion block. Moreover, the London investors actively created the mortgage market for the sale of the flats they had acquired. In Sheffield the "dealers" have been dependent more on local authority action and initiative to create the circumstances for improving and selling what they had acquired. But what is equivalent is the exploitation of the value gap between sitting tenant and with vacant possession. "Dealing", or "trading", landlords are to be distinguished from "investing" landlords who seek returns on their investment from rent - and capital growth - not just speculation on the value gap.

Thus the decline of unfurnished private renting arises from the actions of both the more long standing "investing" landlords who sell up, because rents neither give adequate returns nor compensate for the "hassle" of being a landlord, and "dealing" or "trading" landlords who actively buy into privately renting to exploit value gaps for the speculative purpose of making capital gains on sale. This is not to say that landlords are either "dealing" or "investing" landlords. Some may be both. What is more certain is that "dealers" depend for their activities on "investors'" willingness to sell their low yield and troublesome investments.

The analysis above does not explain the trends in furnished property, where supply had been much more resilient. Here too there have been substantial changes in ownership, particularly as unfurnished property has become let furnished in parallel with a change in landlord. To a limited extent, this arises from the activities of "dealing" landlords letting formerly unfurnished property as furnished lettings. When a vacancy occurs, while letting conditions on grants are still operative, the landlord lets on terms which virtually guarantee vacant possession when the letting conditions are no longer operative - i.e. furnished lettings, including licence agreements, to young singles. This is not the usual approach, however, for dealing landlords, no less than investing landlords of unfurnished property, do not relet unfurnished property as furnished property - partly because of the higher management costs involved and partly because many dealing landlords' properties are managed by professionally qualified agents who do not want to get into the management of furnished lettings, not the least because of the need to operate on the margins of the legal framework, in a way which would compromise professional codes of conduct.

Thus, most furnished property belongs, not to dealing landlords, but to investing landlords actively putting capital into rent yielding assets, including those purchased with vacant possession. Capital growth <u>is</u> an element in the calculation, but the continued willingness of investing landlords to relet suggests that real capital gains are seen as an addition to the stream of rent income secured by these investments, not the sole rationale of the investment. The returns were regarded as satisfactory and were made possible by the substantially higher rents per

house paid by groups of young single people for non exclusive occupation agreements, whose ability to pay whilst unemployed or on student grants was sustained by Housing Benefit. But it is also evident that to make these competitive returns from renting out property bought with vacant possession as furnished housing in 1985, landlords had to adopt a strategy which, perhaps, best describes them as "property milkers". To start with, they bought property which was badly repaired. To make competitive returns (i.e. ones which compared with alternatives in respect of financial terms as well as with risk and liquidity) they had to let in ways which put their agreements beyond the scope of the Rent Acts. In other words only by operating outside or on the margins of, the legal framework, and by letting on licence agreements could they get the rental income they needed and also maintain the liquidity of their investment by minimising their tenants security. They also had to minimise operating costs and this could be done by neglecting property repairs. All of this was not without risk - the risk that agreements might be challenged, and the risk that the local authority would enforce repairs. Such risk requires a premium on the return required, which has to be reflected in higher rents and/or lower operating costs, if the landlord is to make money out of a risky business.

In other words, to supply furnished private rented housing profitably, landlords had to buy disrepaired housing, neglect repairs and let outside the Rent Acts. It simply would not have been profitable to let well maintained property bought with vacant possession within the Rent Acts to low income tenants. If landlords were to make competitive returns and social objectives (like security and habitable housing) were to be achieved, some form of additional subsidy was required.

At the conclusion of the 1985-86 follow up study, however, the supply of property for furnished letting seemed to be assured, <u>provided</u> there was an adequate supply of "down market" property to buy, <u>provided</u> the local authority did not enforce repair standards, nor helped tenants challenge "sham" licences (thereby simultaneously raising landlords' costs and reducing their incomes, as rents got registered in the process), and <u>provided</u> that low income, young consumers continued to have the ability, through rent support schemes, to pay the level of rents needed to sustain landlords rates of return. It did not, however, look as if the property

would be let in a way which provided young single people with secure, well repaired and low rent housing.

This then was the evidence that was available in 1986 about the nature of private rented investment in Sheffield in the early 1980s, and about the way it was shaped by policy.

It was evident from both the 1979-80 and 1985-86 studies that local authority policy and practice in Sheffield had been of significance in shaping landlords' decisions, both in respect of investment and of repairs and improvement.

By 1986 it seemed important to widen the horizon, to see what other local authorities' policies and practices about private were, and to consider ways in which these could be made more effective in raising standards for low income tenants, in the context of overall Government policy.

By 1986 it seemed, too, that overall Government policy would change - both in respect of the regulatory framework about rents and security and of the framework for grants and the enforcement of standards. It seemed important to examine the emerging proposals in the light of the research evidence. It is to these issues that Parts 4 and 5 of the thesis now turn.

PART 4

LOCAL AUTHORITY POLICIES ABOUT PRIVATE RENTED HOUSING

CHAPTER 15

LOCAL AUTHORITY POLICIES ABOUT PRIVATE RENTED HOUSING: INTRODUCTION TO 1987 SURVEY

Objectives

Parts 2 and 3 of this thesis have reported on the results of a detailed survey in Sheffield. The main objectives were to examine the impact of two phenomena on physical conditions in the private rented housing stock. First, the impact which the LHA's policies had on the investment decisions of private landlords. Second, the impact which changes in the ownership of private rented housing had on improvements and repairs to the stock.

The research reported in this part of the thesis are the results of the author's 1987 survey of other LHAs which put the Sheffield findings in a wider context. In part this enables a judgement to be made as to how far the Sheffield results 'travel'.

Apart from the above specific objective there were two main aims. First, to identify the policies towards private rented housing with respect to repairs and improvements pursued by LHAs. Almost all LHA powers in this area are discretionary. There is a potentially wide range, therefore, in the policies and practices that LHAs can follow, given their relatively unfettered freedom to decide whether to use these powers, and if so, how to implement them. The first main aim of this study was, therefore, to enumerate the way LHAs used their powers and to relate this use to the different circumstances LHAs found themselves in. As well as describing and analysing this use of discretionary power, it was also the intention of this part of the research to make proposals for any changes to these powers which would make them more effective.

The second main aim was to find out if there was any evidence elsewhere of the kind of changes in ownership that had been discovered in Sheffield. For example, was the phenomenon of property dealing unique to Sheffield or was it occurring in other LHAs and, if so, of what type and under what circumstances?

In making proposals for reforms and/or extensions to LHAs powers to enforce and grant aid repairs and improvements, particular attention has been paid to three pieces of evidence. First, the experience of the sample of LHAs chosen and their own opinions about such changes. Second proposals made by independent commentators, professional institutions and the local authority associations. There has been considerable discussion about the effectiveness of the enforcement and grant aid systems in general, and in particular in relation to HMOs, and these are fully discussed. Third, the Government's recent alterations to LHAs' enforcement powers and their further proposals to amend the house improvement grant system. The Housing Act 1988 incorporated amendments to LHAs' repairs enforcement powers. The 1985 Green Paper and 1987 Consultation Paper on improvement grants led the way to proposed changes now in the Local Government and Housing Bill. (This Bill was tabled in February 1989, just after the cut-off date for including new material into the final draft the thesis and therefore, the amendments referred to in the thesis were those in the Consultation Paper). Finally, in respect of Government proposals, account has been taken of the 1988 Consultation Paper on LHA powers about HMOs. Each of the substantive chapters in this part of the thesis evaluates the likely impact of the Government's proposals.

The results of this research are reported in the four following chapters. Chapters 16 to 18 deal with the way LHAs use their powers to improve standards in unfurnished houses, or the long term sector, as it has been called. It also reports on the experience of property dealing in other LHAs. Chapter 19 looks at HMOs and examines in particular how LHAs use their discretionary powers to deal with standards in shared houses and to improve conditions for tenants in the 'rapid turnover sector', as Chapter 23 described it.

Each chapter contains an enumeration of LHAs' powers in the respective area; a review of previous studies of the use of these powers; the evidence on their use derived from the 1987 survey; and a review and evaluation of proposals for alterations to these powers.

The evidence on the use LHAs make of their powers in 1987 is derived from the author's survey of 41 urban English LHAs in the Northern and Midlands standard regions. The next section describes the survey methodology.

Survey Methodology

The sample LHAs were drawn from a stratified sampling frame of all "urban" local authorities in the five standards regions, of the North, North West, Yorkshire and Humberside, East Midlands and West Midlands. The survey was restricted to these authorities because the aim of the study of LHA policy about private renting and its impact was to put the detailed study of the sector in Sheffield in a wider context. Thus the survey was confined to urban LHAs and did not include any in Greater London, the rest of the South East, East Anglia or the South West (nor Wales nor Scotland) because these areas were subject to different market pressures, compared with LHAs in the North and Midlands, whereas the sampled urban LHAs in these regions were thought more likely to reflect Sheffield's experience.

The intention in carrying out the survey was first to collect information about urban LHAs' policies affecting private renting and to examine how their, largely, discretionary powers in this area are used; second to collect evidence about the impact of these policies; and third to identify whether there were any differences between LHAs. These objectives are also related to work originally undertaken by Martin who initially collected information from 28 urban LHAs about their policies towards the improvement of private rented houses (Martin, 1983). He followed this up with a detailed study of the use made of improvement grants by private landlords in four LHAs with contrasting policies about private renting (Martin, 1985). A further objective, therefore of the current survey was to see whether the principal findings of both Martin's, as well as the author's work, particularly with respect to the activities of "new breed" or property dealing landlords, in the early 1980s were still relevant in the later 1980s.

To do this, all the LHAs in Martin's sample were included in the current study but the sample size was increased by 17 to a total of 45. Within the constraint of including all Martin's sample the aim was to draw a sample representative of different types of urban LHAs and of the three Northern and two Midlands standard regions.

The sample frame included all 'urban' local authorities in the five standard regions and was stratified using the OPCS socio-economic classification of health and local authorities (Craig, 1985). All the local authorities in the following classifications were included: commuting areas; suburban areas; less remote areas; resort and retirement areas; towns with some surrounding countryside; major industrial areas; The Black Country; Pennine towns and similar; cities and more industrial service centres; less industrial service centres.

As Table 15.1 shows, LHAs in the sample frame had 77 per cent of all the households who rented from private landlords in the North and Midlands, and 88 per cent of those who rented furnished accommodation. Table 15. 2 provides a more detailed breakdown of the private rented sector between the different types of urban LHAs in these regions, the distribution of sampled authorities between the urban LHAs and the size of the private rented sector in the sampled LHAs in each type.

The 45 LHAs were drawn from the sample frame by a four stage procedure. First, the number to be drawn from each classification was approximately proportional to its share of the North and Midlands total of private rented households. Second the number to be drawn from the North and from the Midlands, within each classification, was proportional to each region's share of private rented housing in the classification. Having thus calculated the number of LHAs needed from each classification, the authorities in Martin's sample were automatically drawn from the sample frame. The remaining numbers were then drawn at random from an alphabetical list of LHAs for every classification divided separately into northern and Midlands authorities.

The final distribution of LHAs is shown in Table 15.2. As Table 15.1 indicates, the 45 sampled LHAs had 50 per cent of all private households in the North and Midlands in 1981. They had 61 per cent of those renting

Table 15.1: THE PRIVATE RENTED SECTOR IN THE NORTH AND MIDLANDS[1]

Local Authorities	Rented with business or job		Rented unfurnished		Rented furnished		Total Private Rented		Total Households	
	'000	%	'000	%	'000	%	'000	%	'000	%
'Urban'[2] Authorities:										
sampled	46	32	240	52	94	61	380	50	4287	52
(of which responding LHAs)	(43)		(226)		(89)		(358)		(4066)	
not sampled	41	29	122	26	42	27	206	27	2322	28
'Urban' Total	87	61	362	78	136	88	586	77	6609	80
Non 'urban' authorities	57	39	102	22	20	12	178	23	1695	20
Total	144		464		156		764		8304	

Notes

(1) Standard Regions as defined in text
(2) Local authorities as defined in text

Errors in addition are due to rounding.

Source: 1981 Census County Reports

Table 15.2: THE PRIVATE RENTED SECTOR IN 'URBAN' LOCAL AUTHORITIES IN THE NORTH AND MIDLANDS

Type of Local Authority	Total Households	Private Renting Households		Ratio of private renting households in North to Midlands	No of LHAs in Martin sample	Number of LAs sampled in current study				Private Renting Households on sampled LAs		
		No.	%			North	Midlands	Total	%	No	% in North	% in Tota
Community Areas	123,858	12,517	2	29:71	1	1	0	1	2	4,725	100	1
Surburban Areas	554,320	49,641	8	58:42	2	2	2	4	9	20,241	77	5
Less remote, mainly rural areas	253,634	37,713	6	52:48	1	1	0	1	2	5,181	100	1
Resort and retirement areas	202,555	23,997	4	100:0	1	1	0	1	2	5,329	100	1
Towns with some surrounding country	652,851	50,593	9	72:28	2	2	2	4	9	23,535	79	6
More industrial areas	1,477,353	113,003	19	63:37	6	6	3	9	20	55,271	84	14
The Black Country	654,743	53,696	9	0:100	3	0	4	4	9	53,696	0	14
Pennine towns & similar	1,026,764	74,995	13	79:21	6	6	2	8	18	60,731	74	16
Cities and more industrial service centres	1,624,883	165,714	28	92:8	5	11	1	12	27	147,501	93	39
Less industrial service centres	37,693	3,887	1	100:0	1	1	0	1	2	3,887	100	1
Total	6.608,654	585,756	100	68:32	28	29	16	45	100	380,097	73	100

furnished, but only 32 per cent of those renting with a business or job, reflecting the urban bias of furnished lettings and the rural bias of job related lettings. It also indicates that they had 65 per cent and 69 per cent respectively of the total and of the furnished sector in the urban LHAs. Table 15.2 shows the share sample LHAs in each classification have of the all private rented households in the sample. It indicates that there is an over-representation of larger LHAs, that is, LHAs in the sample from the Black Country, Pennine Towns and Cities and More Industrial Service Centres have a greater share of the total private renting households in the sample than their classification has of the private renting population. This arises because of the sampling method used, and the fact that the process of combining random and pre-selection of LHAs resulted in LHAs with a larger than average private rented sector for the classification being incorporated.

The LHAs were invited in late 1986 to take part in the survey. 41 agreed to do so. Interviews about LHA policy and its impact were held with senior officers in the first half of 1987. All of the interviews were conducted with a semi-structured questionnaire, taping the interview, of which a transcript was typed up after the interview. Where replies could be coded up to give categorised data, they were transferred to a coding schedule for subsequent statistical analysis. The officers interviewed were responsible for both policy formulation and implementation and were usually drawn from one or more of Environmental Health, Housing and Planning Departments. Prior to and after interviews, three kinds of background information were collected: relevant official documents (committee reports, minutes, and published reports); statistical data from the LHA about enforcement and grant aid; and statistical data from official and unofficial series i.e. Census of Population, 1981; DoE's Local Housing Statistics; and CIPFA.

41 LHAs agreed to take part and all were interviewed. Not all however were able to furnish complete background statistical data on enforcement and grants. In terms of inner area designations, the 41 LHAs contained 21 partnership and programme authorities and 20 other designated and non-designated districts. 28 were in the three northern standard regions and 13 from the two Midlands regions. The average number of households in each of these authorities is shown in Table 15.3. Appendix 6 contains the

Table 15.3: SIZE OF PRIVATE RENTED SECTOR IN 1981 IN SAMPLED LHAs BY INNER AREA STATUS

	Total Households ('000)	Average size of Private Rented in LHAs	
		Unfurnished ('000)	Furnished ('000)
Partnership	173.9	11.4	5.6
Programme	115.0	6.1	2.5
Other Designated Districts	95.7	5.5	0.9
Other	61.4	3.1	1.0
	99.4	5.5	2.2

interview questionnaire used to collect statistical data from the LHA, the semi-structured questionnaire used in the interviews and a list of the 45 sample LHAs.

CHAPTER 16

PROPERTY DEALERS, LOCAL AUTHORITY POLICY AND THE REPAIR AND IMPROVEMENT OF UNFURNISHED PRIVATE RENTED HOUSING: A REVIEW OF PREVIOUS RESEARCH

Introduction

This and the two succeeding chapters examine the policies of urban local authorities in the five standard regions of northern and midlands England in respect of the repair and improvement of unfurnished private rented housing. They are companions to Chapter 19 which deals with the application of these same authorities' discretionary powers to regulate standards in multi-occupied and shared housing. Whereas the latter chapter is concerned with conditions in the rapid turnover furnished subsector of private renting, Chapters 16 to 18 deal with conditions in the unfurnished long term subsector, comprising the majority of privately rented dwellings and subject to continuing decline as landlords sell, typically terraced housing, to owner occupiers when they get vacant possession.

This chapter describes LHA enforcement and grant aid powers and examines previous evidence about the impact that local housing authorities (henceforth LHAs) have had on the repair and improvement of unfurnished private rented houses. Chapter 17 examines the results of the author's survey of the contemporary policies of 41 urban LHAs in the "North" and "Midlands" and their impact. Chapter 18 looks at policy recommendations, in the light of both these results and of other proposals by government, professional bodies and previous researchers in this field.

Enforcement and Grant Aid Powers

Changes in Conditions in Private Rented Housing and the Development of LHA powers

The conventional wisdom is that private landlords rarely carry out repairs and improvements. The 1977 Housing Policy Review suggested at least two reasons for this low level of activity. First, the number of potential tenants seeking accommodation exceed supply and in a sellers' market landlords can let even poorly maintained property, provided it is not so

bad that it attracts action by LHAs to enforce standards. Second, many LHA powers to regulate conditions depend, in practice, on tenants initiating action. If they feel insecure, and know they would have great difficulty finding somewhere else to live, they will be unlikely to use the procedures open to them if the result is either harassment by their landlord or increased rent which they cannot afford after the works have been completed. (DoE, 1977a; See also Shelter's evidence on this to House of Commons Environment Committee (HCEC, 1982 p.87)).

At the heart of the problem of poor conditions is the age of the stock and the impact which rent control and regulation, together with the low incomes of tenants, have had on landlords' ability and willingness to maintain the old fabric, let alone install modern amenities. Table 2.17 in Chapter 2 showed that unfitness, disrepair and the lack of amenities were not phenomena confined to private rented houses. 63 per cent of all homes private rented in 1981 were built before 1919. Other houses built before 1919 which were owner occupied by 1981 were almost as equally disrepaired, and although double the proportion of the former compared with the latter were unfit or lacked amenities, the problem of substandard housing was obviously not confined to private rented housing. A similar picture emerges from the proportion of dwellings shown to be in poor condition (defined as unfit or lacking basic amenities or needing urgent repairs costing more than £1,000) in the 1986 House Condition Survey. Again, Table 2.19 showed that, whilst a greater proportion of private rented dwellings were in poor condition than owner occupied dwellings at all ages, the difference was least amongst the nineteenth and early twentieth century stock (built before 1919, comprising 69 per cent of all private rented houses). The age of the stock and the manner of its original construction dictates the need for modernisation in both sectors. Almost all of it was originally owned by private landlords. As it has progressively been sold off it has been bought, typically, by low income owner occupiers who face considerable difficulties in maintaining it, despite a wide range of central and local government programmes designed to combat conditions (see for example Karn et al 1986).

Landlords, too, face considerable financial constraints. In part this is the result of rent regulations which limits rents, but it is also due to the low level of their tenants' income. These imply that even market

rents in a deregulated sector would not rise to give landlords the competitive returns they would require to make regular investment in maintenance and modernisation a worthwhile project (see, for example, HCEC, 1982). Britain is not alone. Rent restrictions and "anti-landlord" legislation are not the only - or even the main - reason for bad conditions. Low levels of demand and inadequate subsidies are just as important (See for example, Harloe, 1985, for international comparisons.) So far as rent restriction is a factor, however, limiting what landlords can change for accommodation, the reduction of maintenance is one way of maintaining profitability (see Frankena, 1975 for a theoretical discussion of this).

LHAs' powers to secure better conditions in the private rented sector have to be seen therefore in the wider context, not just of rent restrictions, but also of tenants' incomes, knowledge, security, and the way the tax and subsidy system discriminates against private renting. LHAs' powers to enforce standards exist therefore in recognition that landlords do not have many, if any, financial incentives to carry out repairs and improvements. Gradually it has come to be recognised that enforcement cannot be effective unless accompanied by 'inducements' in the form of grants and permissible rent increases to defray the costs of improvement or of major repair. The grants available to private landlords have evolved in post war years so that more of the costs of enforceable repairs and improvements are grant aided now than in earlier decades. Similarly the systems of rent control, rent regulation and rent allowances have been gradually restructured to give landlords more adequate compensation for the costs of maintenance and modernisation at the same time as protecting tenants' abilities to pay.

The following paragraphs provide only an outline of the contemporary system of an enforcement and grant aid (for detailed discussion of the legislation on enforcement see Arden, 1985, 1986; Ormandy and Burridge 1988; for the principal government circular on the current grant system see DoE, 1980 - the modifications to this can be followed up in the relevant volume of the Encyclopaedia of Housing Law; for the latest Government priorities, see DoE, 1988b). More detail about the system is

also provided in the section on the results of the research. It is important at this stage to stress that much of LHAs' powers in this area are discretionary.

Enforcement and Grant Aid: The current (February 1989) position

As for enforcement, LHAs can use Public Health Act powers to get statutory nuisances abated - this means making landlords deal with individual items of disrepair which are prejudicial to health e.g dampness caused by a leaking roof. Landlords can be prosecuted for non-compliance and LHAs can do work in default. Under the Housing Acts they have long had duties to serve notices to get unfit houses made fit where this can be done at reasonable expense. (Currently S.189 of Housing Act, 1985.) Since 1969 they have also had powers to require landlords to remedy disrepair to fit houses, the intention being to prevent landlords allowing houses to become so disrepaired that they fall into unfitness, incapable of repair at reasonable expense, so that tenants have to vacate and landlords get vacant possession. This power can be exercised on a LHA's own initiative (currently S.190 of Housing Act 1985). LHAs have also had powers to require repairs to a fit house if its tenant complains that its conditions interferes with his or her material comfort. These Housing Act repair powers enable LHAs to get much more substantial work done than under Public Health legislation and their use has grown as improvement has replaced redevelopment as the appropriate way of dealing with older housing. It was not until 1980 however that landlords could get repairs grants as of right when served with repair notices under the Housing Acts. LHAs can also do work in default and recover costs. LHAs were first given powers to insist on missing standard amenities (bath, inside WC etc) being installed in improvement areas in 1964, but these were not much used. In 1974 the powers of compulsory improvement were modified. LHAs were enabled to serve notices on their own initiative in statutory improvement areas (on any dwelling lacking amenities whether or not disrepaired) but had to await tenants' written representations elsewhere. The work must be capable of being done at reasonable expense. Mandatory intermediate grant is payable where such notice is served. LHAs can require property to be improved to either a full standard - all amenities, fit, in good repair and meeting insulation standards - or a reduced standard. Where landlords do not comply with notices LHAs can do work in default and recover their costs. Landlords also have the right to require LHAs to buy the property.

The Housing Act 1988 amended some of these repair enforcement powers, thereby fulfilling the Government's promise, made during the Bill's passage through Parliament, that it would give LHAs stronger powers to enforce repair notices. The main changes enable LHAs to initiate all types of notice, allow them to get landlords to execute repair notices sooner by making it a requirement to specify in notices a date by which works must start, make it an offence for landlords to intentionally fail to comply with notices, give LHAs tougher powers to do work in default, make repair notices registerable land charges (and thus the responsibility of any linked company to which a landlord transfers property as a way of evading liability), and gives LHAs the power to recover the costs of any work done in default from the person having control at the time the demand for expenses is made (similarly frustrating evasive tactics by landlords with shell companies)(See DoE, 1989a).

As for grants, the current position is that landlords have a right to a repair grant where they are served with a repairs notice and to an intermediate grant where they are served with a provisional or full improvement notice. Intermediate grant is in any case mandatory where a house lacks any of the standard amenities and applications are duly made. Repairs grants on the other hand are discretionary in cases where notices have not been served and are designed in all cases to remedy substantial and structural repairs to old dwellings, defined as pre-1919, which have all the standard amenities. The dwelling must be in reasonable repair after the work, having regard to its age, character and locality. So far as intermediate grants are concerned, grant aid is for the installation of missing amenities but dwellings must also be fit for human habitation after the works and intermediate grant can also cover some of the additional works of repair needed to achieve fitness (unless the LHA dispenses with this requirement). As well as being a term used colloquially to describe all grants in a generic sense, LHAs also have discretion to award an "improvement grant" for works beyond those covered by the intermediate grant, i.e. alteration, enlargement, rewiring, central heating may all qualify. No more than 50 per cent of the grant may be

attributable to repair except if the dwelling is in substantial and structural disrepair - when up to 70 per cent can be devoted to repairs. After works the dwelling must have all standard amenities, be in reasonable repair (given its age, character and locality) meet construction, condition, service and amenity standards (i.e. the 10 point standard) similar to those specified for fitness but with the inclusion of insulation, and provide satisfactory housing for 30 years. The LHA can reduce all these conditions, save only for the fact that the future "life" must be at least 10 years. There are also special grants for houses in multiple occupation. (See this volume, Chapter 19).

For each grant there are eligible cost limits based on a complex formula depending on the type of grant. The current limits were introduced in September 1988, updating ones previously fixed in 1984. If it is an improvement grant the cost limit depends upon whether the dwelling is a priority category (until September 1988, properties that are unfit, or lack amenities, or in need of substantial and structural repair or in a housing action area (HAA) or for adaptation for a disabled person); whether it is a listed building; whether it is in London or elsewhere and whether it is for conversion. If it is an intermediate grant there is a tariff for each amenity and a full or reduced repairs element. If it is a repair grant, whether it is a listed or unlisted building. As an example, the limit for non priority improvement grant on an unlisted building outside London at the time of this survey was (the new limits are in brackets) £6,600 (£9,400); for a priority case it is £10,200 (£14,500). Normally grant aid of 50 per cent of the limit is given, but for improvement grants up to September 1988 it was 75 per cent in a HAA, for unfit dwellings, where works involved installing amenities or remedying substantial and structural disrepair or making adaptations for the disabled. In GIAs it is 65 per cent. In cases of undue hardship percentages can be increased by 15 per cent from 50 and 75 per cent. All of these are maximum percentages and LHAs have powers to pay discretionary grants at less than the appropriate percentages. Intermediate and mandatory repairs grants must however be paid at the appropriate percentage, i.e. 75 per cent (except in cases of hardship, where 90 per cent applies). For a temporary period, between March 1982 and April 1984 the percentage for all intermediate and repairs grants approved within that period was 90 per cent. When the grant limits were revised in

September 1988 the priority category for eligible expense and the 75 per cent grant rate was withdrawn from dwellings lacking basic amenities for the purposes of discretionary improvement grants. Subsequently (see below) the rate of grant on intermediate and mandatory repairs grants has been limited to 20 per cent.

This basic framework was erected in the Housing Act 1980 which modified the then existing one in respect of grant percentage and grant aid for repairs. In particular, it enabled repairs grants to be awarded to any qualifying dwelling, not just those in HAAs with owners in hardship. It extended the priority categories for discretionary grants to those listed above, irrespective of the location, not just dwellings in HAA as was the case between 1974 and 1980. It also increased from 50 to 70 per cent the proportion of discretionary grant that can cover substantial and structural disrepair. These changes and their significance for the enforcement of standards in the private rented sector are dealt with in the next chapter. However it is also relevant at this stage to note that LHAs were given greater discretion in 1980 to relax the standards expected to be achieved with grant aid. Moreover the standards specified by statute are in themselves less stringent than in the past. Thus a "reasonable" standard of repair is now expected of dwellings benefiting from improvement grants (as well as reaching the fitness standard) rather than a "good" standard under the 1974 Act. This change implemented a policy to improve a larger number of dwellings to an adequate standard than a smaller number to a high standard. On completion of an intermediate grant a dwelling is required only to be fit for human habitation (and even this requirement can be waived) whilst applicants need not install all missing amenities. There is thus no repair standard as such for an intermediate grant and the 15 year life requirement was removed, although if the repairs element of the grant is used the dwellings should meet the "reasonable" standard. Repairs grants for works to remedy substantial and structural disrepair (roofs, external walls, foundations, floors, internal walls, ceilings and staircases) should assist dwellings reach the "reasonable" repair standards. Reasonable is taken to mean having regard to age, character and locality and, so far as intermediate grants are concerned, the likely future life of a dwelling.

However, where grants are being used to comply with the requirements of repair or improvement notices, the requirements of the notices must be met and LHAs will not use their powers in respect of grants to dispense with usual standards. Thus where a repairs notice is served in respect of a house that is unfit (S.189 of Housing Act 1987), it must be made fit for human habitation in the terms defined by the Housing Act, 1985. Where however a repairs notice is served in respect of a house that is fit but needs substantial repairs to bring it up to a "reasonable standard" (S.190 (1) (a)) the notice will specify the works required to achieve such a standard having regard to age, character and locality; where a repair notice is served in respect of a fit house where a tenant has complained that its conditions interferes materially with his or her personal comfort (S.190(1)(b)) the notice will specify what is needed to eliminate this interference. S.190(1)(b) was introduced because of difficulties of enforcing disrepair under the Public Health Act in respect of nuisances which were not 'statutory'. Both "reasonable standard" and "material comfort" are not defined and some latitude therefore is provided for interpretation by LHAs. In the case of S.189 notices, the house must be capable of being made fit at reasonable expense - a calculation involving the value of the unrepaired house, the cost of works (less any grant and increased rent), and the value the house will have when fit. If the house cannot be made fit at reasonable expense the LHA must convene a "time and place" meeting to consider its future; which may lead to an undertaking by the owner to do the necessary work or to its closure or demolition or alternatively to its purchase by the LHA. Whilst matters of reasonable expense do not expressly apply to S.190 notices, it is one which LHAs "may properly have regard to when reaching their own decision or whether or not to exercise discretion" (Arden 1986, p.238). Indeed the courts on an appeal may take a wider social view of reasonable expense under this section (Arden 1985, p.208). Finally in the case where a LHA serves a compulsory improvement notice, it can pursue the full or reduced standard. The former means that the dwelling must have exclusive use of all amenities, be in good repair, having regard to age, character and locality, meet insulation standards, and be fit, with a future life of 15 years. LHAs can waive any (in part or total) of these - hence the reduced standard. However these standards must be capable of being achieved at reasonable expense.

All grants are paid subject to a number of conditions. Of particular note is that private rented houses must be available for letting for five years (7 in HAAs). LHAs may request landlords to let on regulated tenancies. From 1989 they can impose conditions related to letting on an assured tenancy (for assured tenancies, see Chapter 20). They may require a Fair Rent to be registered - and must do so in GIAs and HAAs - unless it is, after 1988, an assured tenancy. Letting conditions cannot be imposed when a grant is paid following a compulsory improvement or repair notice, but LHAs can impose other conditions. In future Exchequer contribution to LHA grant expenditure will depend on LHAs applying these conditions in certain cases (see DoE 1988c, 1989a).

In essence, therefore, LHAs have a lot of effective discretion in determining detailed standards. In choosing they can, within reason, decide whether or not to take action on substandard housing and if so what instrument to use. This is crucial when capital allocations are insufficient to fund mandatory grant applications.

The Impact of Enforcement and Grant Aid: Statistical Evidence and Previous Research

Statistical evidence

The conventional wisdom that landlords rarely carry out repairs or improvements is belied, to some extent, by statistical evidence. For example there was an increase between 1967 and 1971 of 230,000 in the number of privately rented dwellings that were fit and had all amenities. There was an increase of 120,000 on the same measure between 1971 and 1976 (Todd et al 1982, Table 13).

Moreover, as Table 16.1 reveals, a considerable number of grants have been paid to the "other" category of private owners since 1973. They were running at a very much higher level in 1973 than in subsequent years up to 1980. This reduction reflects the impact of the 1974 Housing Act, i.e. the loss of the 75 per cent rate on all grants available in Development and Intermediate Areas under the terms of the Housing Act, 1971, and its restriction in 1974 to HAAs; the reintroduction of restrictive conditions to prevent grant "abuse" by landlords (see below); and the failure of eligible cost limits to keep pace with inflation. Over this period the

Table 16.1 GRANTS PAID TO OWNER OCCUPIERS OF PRE 1919 DWELLINGS AND ALL PRIVATE LANDLORDS* IN ENGLAND

YEAR	OWNER OCCUPIERS GRANTS[a] (No.)	OWNER OCCUPIERS DWELLINGS ('000)	OWNER OCCUPIERS RATE (per '00)	PRIVATE LANDLORDS GRANTS[a] (No.)	PRIVATE LANDLORDS DWELLINGS[b] ('000)	PRIVATE LANDLORDS RATE (per '000)	GRANTS TO PRIVATE LANDLORDS AS % OF ALL GRANTS
1973	148,092	2844[g]	5.21	66245	2744	2.41	31
1974	96,013	2900[g]	3.31	41335	2622	1.58	30
1975	57,166	2964[g]	1.93	19014	2495	0.76	25
1976	50,055	3076[e]	1.63	15728	2342	0.67	24
1977	48,484	3132[f]	1.55	13588	2236	0.61	22
1978	45,698	3188[f]	1.43	10683	2139	0.50	19
1979	49,623	3244[f]	1.53	8967	2042	0.44	15
1980	. .	3300[c]	. .	. .	1952	. .	
1981	57,365	3356[d]	1.71	10821	1876	0.58	16
1982	86,603	3421[d]	2.53	16093	1799	0.89	16
1983	189,598	3485[d]	5.44	26329	1725	1.53	12
1984	190,033	3548[d]	5.36	32815	1655	1.98	15
1985	104,218	3612[d]	2.88	27427	1586	1.73	21
1986	86,536	3679[d]	2.35	20649	1516	1.36	19
1987	83,903	3739[a]	2.24	15903	1453	1.09	16

Sources (a) DoE Housing and Construction Statistics. London, HMSO (various issues).
(b) DoE Housing and Construction Statistics, London, HMSO, (various issues). NB Up to 1975 published data includes housing associations. An estimate of the numbers of latter dwellings for each year has been deducted.
(c) DoE House Condition Surveys , London, HMSO.
(d) 1981 figure plus (for each year) the decline in private renting shown in Column 5 adjusted for clearance and demolition.and sales to local authorities/housing associations.
(e) DoE House Condition Survey 1976, London, HMSO.
(f) By interpolation
(g) 1976 figure less, annual decline in private renting, adjusted for slum clearance etc.

Note * Includes grants to housing associations under private owner legislation.

rate of grant take up fell from 2.41 in 1973 to 0.44 per cent in 1979, a fall experienced in parallel by the rate at which owner occupiers of pre 1919 properties took up grants. Since then it has risen again in both tenures, reflecting the availability of 75 per cent and repairs grants on qualifying properties irrespective of their location (and not just in HAAs) and the two year 'boost' given by the 90 per cent rate for intermediate and repairs grants in the 1982 budget, since when it has fallen back again in both tenures.

Desirable though this level of activity is, it is well below what is needed. The rate is less than half that in comparable owner occupied housing. If allowance is made for the fact that a third of the private rented total was built after 1919 (and therefore less likely to be in need of grant aid) private landlords' rates are still well below owner occupiers' i.e. private rented rates in 1979 and 1984 adjusted for age before 1919 would be 0.66 and 2.97 respectively i.e. only about a half owner occupiers' despite the greater proportionate need for investment to combat unfitness and the lack of amenities.

It is also important to recognise the extent to which work is carried out by tenants themselves. The social survey follow up to the 1981 House Condition Survey reckoned that £0.4 billion of the £0.7 billion spent on home improvements and remedial work in the private rented sector in 1981 (including a notional cost for unpaid labour) had been spent by tenants themselves (DoE, 1983). In particular it showed that whilst most tenants spent very little, some spent quite substantial amounts. It also showed that where landlords had carried out works before a new tenant moved in, the tenant subsequently carried out a similar amount of work. Nevertheless the survey also confirmed how much less was done in pre 1919 private rented houses than similarly aged owner occupied ones. Only 15 per cent of the former had experienced work of modernisation, modernisation and repair or rehabilitation, compared with 35 per cent of the latter between 1976 and 1981, broadly confirming the evidence about the comparable grant take up rates between the two tenures.

A somewhat similar picture emerges from the result of the 1986 English House Condition Survey (DoE 1988a). This shows that a significant number of private rented tenants carried out work. Indeed even though 40 per

cent did not regard the house as their responsibility, as many as 21 per cent did prompt maintenance and 28 per cent did essential maintenance to their homes. As Table 16.2 reveals, tenants did little by way of major work. Although landlords did work on only 44 per cent of all their dwellings they did it on 50 per cent of dwellings built before 1919 compared with 75 per cent of owner occupiers of similarly aged dwellings. It was estimated that £1 billion was spent on private rented dwellings in 1986, 30 per cent by tenants, 60 per cent by landlords and 10 per cent in the form of grant aid. On average £758 was spent on each dwelling, of which landlords spent £500, but this average reflects significant expenditure on a few dwellings, whilst most dwellings benefited from much smaller amounts. Where major work (more than £400) was done, landlords spent £1,616 compared with £3,315 by owner occupiers. Amongst pre 1919 dwellings the respective figures for all work are £2,312 and £4,562. Landlords are thus spending about half that of owner occupiers on similarly aged property.

Where landlords did work it tended to be essential work to dwellings. 65 per cent was necessary in the sense of expenditure on fabric repairs, services or external decoration. Owner occupiers and landlords of pre 1919 dwellings did similar sorts of essential work (like roofs and gutters) but owner occupiers also carried out works to increase comfort and appearance. Where tenants did do work, it tended to be done by younger and better off tenants on items which increased the comfort and appearance of their homes (like bathrooms and kitchen units). Indeed 70 per cent of all jobs by tenants were done for this reason. Only those of recent residence length did work to remedy defects to fabric.

It appeared that 42 per cent of the jobs done by landlords had been initiated by their tenants. Most landlords appear to have carried out the work when asked. In only 16 per cent of cases did tenants report difficulty getting work done (compared with 52 per cent of local authority tenants).

Factors behind improvement

Three factors are of importance in explaining the extent to which LHAs have been successful in achieving the modest amount of improvement shown in Table 16.1.

Table 16.2 **PERCENTAGE OF DWELLINGS WHERE WORK DONE IN 1986**

Date of Construction	By Owner Occupiers		By Tenants		By Landlords[1]	
	Major[2]	All	Major	All	Major	All
Before 1919	25	75	4	37	17	50
1919-1944	22	81	3	27	11	32
1945-1964	18	75	9	33	24	54
After 1964	17	16	-	5	16	19
All	21	77	4	31	17	44

(1) Note Reported by tenants. (2) Note Costing > £400 (or would have done if carried out by contractor).

Source DoE (1988) English House Condition Survey 1986. London, HMSO.

First, the application of statutory enforcement powers and second, and probably more significant, the availability of financial assistance to back up enforcement. As Cullingworth emphasised in his note of reservation to the Denington Committee on older housing standards, compulsion is an ineffective instrument if landlords are unable to get a return on the investments they are being compelled to make (MoHLG, 1966a). The existence of historical rent controls and contemporary rent regulation means that grant aid is essential to give landlords competitive returns when improving their property - though it is widely accepted that grant aid will not make it anymore worthwhile retaining rather than selling vacant property than otherwise. It is important therefore for enforcement to work hand in hand with ways of assisting landlords to bear the cost. Grant aid is not the only way. Harloe and colleagues reported, for example, how in the early 1970s a London Borough permanently rehoused landlords' tenants, provided grants for improving the vacant property, and nominated tenants for the post improvement dwellings - thereby enabling the landlords to receive the full rather than phased increase in rent straight away (Harloe et al, 1974. See also Manchester City Council, in HCEC, 1982).

Third, success in getting desirable standards is not independent of the type of landlord. The manner in which the property is regarded as an investment, and relative access to capital is particularly important. Success is also probably not independent of tenants' attitudes. Up until 1972 tenants could obstruct improvement if they could not afford a consequent rent increase. Upon the introduction of rent allowances this ground for preventing improvement was repealed, but tenants may still hold up improvement on the grounds of undue disturbance. Nor can the social relations between landlord and tenant be left out of the account. Elderly, individual landlords owning a few properties with few liquid assets and their elderly tenants may have a common interest in deferring repairs and improvement, the former in avoiding financial and organisational costs, the latter in avoiding disturbance and rent increases. In his study of Lancaster, in the early 1960s, Cullingworth commented that it was quite common for such bargains to be struck. Landlords did not extract the full rent increases that they were entitled to if tenants did not insist on repairs. This had been happening for many

years with tenants often doing repair work themselves (Cullingworth 1963). He emphasises the extent to which tenants were satisfied with their lot because of the low rent and the absence of 'rules'. As a consequence scope for large scale improvement was severely restricted by an inability or unwillingness to pay singificantly higher rents, since the economic cost of maintaining old rented property was far in excess of the price tenants were prepared to pay. There was, in his words, a "socially acceptable rent limit for old housing" (Cullingworth, 1963 p.155). In contrast, where tenants find that their home has been acquired by a new landlord who does not do repairs and appears to be anxious to get them to quit, they may not complain to their LHA about enforcing repairs for fear of further intimidation and harassment.

Some statistical evidence on tenants' satisfaction with the state of repair of their homes can be found in the English House Condition Surveys (DoE, 1983, 1988a). In 1981, for example, 29 per cent of private tenants (but 54 per cent of owner occupiers) in dwellings that were fit but seriously disrepaired thought their homes were either almost perfect or better than would be expected. Whilst this shows that private tenants gave the poorest stock a lower rating than owner occupiers, there was a consistent tendency for occupants to underestimate defects in comparison with professional surveyors. They differed largely because occupants believed nothing was wrong or they were, quite simply, not bothered about it. As many as 49 per cent of private tenants intended to do nothing about the defects <u>they</u> had identified. These were long term elderly occupants, and the fear of disruption, general inertia or even choice were behind their failure to initiate action.

A similar pattern emerged from the results of the 1986 survey. 29 per cent of private tenants saw their houses to be in a poor state of repair whereas the surveyors found 38 per cent to be in this state. The difference was much less than amongst owner occupiers only 4 per cent of whom thought their houses were in a poor state whereas the surveyors thought 12 per cent were.

Studies of the use of enforcement powers

Most studies of the use of Public Health and Housing Act power have concluded that they are arduous, time consuming, and do not necessarily achieve what is required. Hadden studied the use of these powers in 1977 in five case study LHAs and pointed out how little analysis had been made up to then of the way these formal powers were used (Hadden, 1978). He also concluded that enforcement was as essential as grant aid and that all LHAs used statutory powers widely. Public Health Act powers were found to work well and could be quickly pressed to satisfactory conclusions. There was evidence that landlords respected them and that LHAs were prepared to use default powers to get what were, of course, minor works done. Whilst Housing Act powers were also widely used, they were rarely pursued to completion either by landlords or by LHAs. Only a third of notices were complied with, some of the balance being completed by LHAs (or by Housing Associations) upon transfer of the property, whilst the rest dragged on with work undone. Hadden found that compulsory improvement was ineffective because it was procedurally complex, providing great scope for owners to delay, whilst LHAs waited to see if owners used rights to serve purchase notices before taking default action, which was itself difficult to organise. LHAs were also critical of the standard which could be achieved through the enforcement of improvement and repair notices in relation to what they could do in default, in relation to the inadequate financial provision for repairs within the grant scheme, the (then) restriction of repair grants to HAA, and because of problems arising with the criteria for defining reasonable expense. LHAs were much happier when properties were transferred to their own, or housing associations' ownership, because they could then achieve better standards. Indeed in serving both improvement and repair notices LHAs were often trying to achieve other ends i.e. with improvement notices to secure a transfer of ownership and with repair notices to secure applications for grants to the higher improvement grant standard (at that time there was no mandatory right to repairs grants).

In other words LHAs were not necessarily trying to achieve the standards indicated in enforcement notices. Hadden concluded that LHAs often only achieved the standards they wanted when properties were acquired by themselves or housing associations. The enforcement system had a number of problems: confusing and overlapping standards (themselves considered

inadequate by LHAs), complex procedures, reluctance on LHAs' part to do work in default, and pervasive delays. Because of this, standards were best achieved by social ownership. However Hadden proposed a series of procedural and structural changes to enforcement which could make rehabilitation by landlords more effective and make it possible to get decent work done by regulating private renting rather than buying it out. These proposals are reviewed in Chapter 18.

Not all LHAs, however, found compulsory improvement as unsuccessful as this. With commitment and determination it could work, particularly if landlords expected LHAs to follow up notices rigorously. Indeed one London Borough showed that it was possible to get work done within two years of the service of a provisional notice (National Building Agency, 1979). Although most other available statistical evidence about the experience of operating the 1974 Act powers bears out Hadden's case study evidence (see Thomas, 1986, p.84), several local authorities did use them successfully. Moreover a study of a sample of HAAs, five years after declaration, found that half the improvement notices had been complied with by landlords and that only 16 per cent had not had any action taken on them, the balance being transferred to LHAs or housing associations (Forrest and Niner, 1982). The authors commented on how procedures had worked for the benefit of tenants and that, in particular, "time and place" meetings pursuant to provisional notices had been effective means for consultation and provision of information, especially about rehousing arrangements. Few tenants subsequently complained about anything except the workmanship of the builders and about redecoration, whilst arrangements for rehousing during the time work was done appeared to have gone well. That is not to suggest, however, that tenants are always keen to start proceedings, for the study also showed that only 25 per cent of tenants in houses where no work was done had gone to their LHA to request action. Nor is it to suggest that dwellings improved by landlords under compulsory improvement powers stay privately rented for long. For example, whereas 79 per cent of dwellings subject to compulsory renovation, on which work was completed between 1976 and 1981, had the work done on them by private landlords, only 32 per cent were still privately rented by 1981 (DoE, 1983 Table 67).

Another study specifically examining LHAs use of enforcement powers emphasised their discretionary nature and how the development of grant aid has relegated their importance (Burridge, 1987). The discretionary nature of these powers is reinforced by the ambiguity of definitions of "fitness", "nuisance", "major disrepair" and "personal comfort" and by the fact that LHAs need not initiate action, except in the limited circumstances of proven unfitness and in statutory improvement areas. As a result, financial influences can structure the way enforcement is used. It can also be shaped to fit in with elected members' and officers' chosen strategies but, more fundamentally, it is the financial and economic climate which is paramount.

From a study of 32 LHAs in England, Burridge concluded that the enforcement of broad discretionary standards had declined in recent years. The availability of grant has led to environmental health officers spending much more time negotiating over grant aid (and appropriate standards) to eliminate poor conditions than enforcing a particular standard. He specifically argues that challenges to unfitness determinations have fallen as repairs grants have become more widely available. Officers now serve notices to justify grants and engage in a good deal of non-coercive negotiation and bargaining with landlords. So long as grants are available, negotiation rather than enforcement will be used to sustain discretionary standards. Burridge hints, however, that this is not universal practice since he found greater reliance on enforcement in "inner city" LHAs with high proportions of private rented housing.

He also observes how fluctuations in capital funds determine strategies. That is, when funds are short, enforcement can fall as LHAs try to limit their commitment to mandatory grant. Discretionary standards enable them to do this and thus they can effectively ignore the existence of unfitness. Meanwhile current government proposals to redefine unfitness, to render all grants to landlords discretionary and subject to a test of resources will effectively reduce LHAs financial commitment to private renting. Burridge also drew attention to the effect that regional differences in house prices had on the effectiveness of enforcement, through the criterion of reasonable expense. Houses with similar disrepair, and with similar costs of rectifying these, command very different

open market prices in different regions of the country, making it more likely that repairs could be enforced in some areas but not in others. This is particularly crucial where grants cover only a small proportion of the cost. In drawing these conclusions Burridge echoed earlier findings about reasonable expense, not the least about procedural uncertainty as to whether the open market valuation of a post improvement house should be the vacant possession or sitting tenant value. Currently opinion favours the concept of willing buyers and sellers, taking all relevant factors into account, including the age of tenants, their security and likelihood of remaining in occupation (see also Arden, 1986; Hadden, 1978). Ironically if the unfitness standard is reduced fewer houses will be eligible, costs will be less and more will be repairable at reasonable expense (Burridge, 1987).

Statistical evidence from the Institution of Environmental Health Officers confirms the importance of informal approaches (IEHO, 1985b). In 1983 action was taken on 50,000 properties to get them made fit or to remedy disrepair or nuisances. 42 per cent were dealt with informally, 36 per cent under the Public Health Act and only 21 per cent by Housing Act Repair Notices. (This means that repair notices were served at a rate of 7 per cent of unfurnished privately rented houses, 2 per cent via what is now S.189 and 5 per cent via S.190.)

One further study of enforcement in 20 LHAs in England, "weighted in favour of urban areas", came to similar conclusions (Hawke and Taylor, 1984). It found that use of Public Health Act powers was very popular, especially in rural areas. Procedures were simple and straightforward (by comparison with disrepair under the Housing Act). Reasonable expense was not a criterion. The courts upheld LHAs' notices. The whole matter could be pressed to a speedy conclusion. But these powers were not used as much in inner area LHAs undertaking urban renewal strategies. These LHAs favoured what are now S.189 powers (in respect of unfit houses) but found them complex and time consuming to use, especially in relation to reasonable expense. LHAs were reluctant either to do work in default (because of the scale of the work involved) or to see closure or demolition as the alternative outcome. On the other hand these LHAs did find that (what are now) S.190 powers in respect of major disrepair to fit houses could be used in the early stages of implementing statutory

improvement areas to encourage a more far reaching process of upgrading, by getting landlords to apply for discretionary improvement grants. They were popular because reasonable expense did not have to be taken into account (or at least, if it did, wider social issues could be drawn into the account) whilst "substantial disrepair" is a flexible term. Whilst these powers were popular, Hawke and Taylor also found their use on decline with the contraction of capital funds for grants. Thus enforcement was an essential part of a strategy to get landlords to achieve higher standards, but where this failed LHAs were faced with the administrative problems of doing work in default and reclaiming costs, as well as having to settle for lower standards than they wanted.

Statistical evidence about the impact of enforcement was also found in the first round of the study of the Sheffield panel of private rented properties in 1979 (This volume). Twice the number of properties in HAAs had been improved compared with a matched "control group" of similar properties not subject to HAA status. This difference was shown to be due as much to the greater use of enforcement in HAAs as it was to the higher rate of grant (75 per cent) available only (at that time) in HAAs. The successful use of enforcement was, however, itself due to the higher grant landlords got when doing the required work. The "success" of these policies was also due to the low standards (then) set by the LHA and to the deliberate acquisition of tenanted properties by builder landlords for improvement. Enforcement was particularly important in getting more long standing landlords to improve.

This was later confirmed in a study of enforcement in 31 LHAs by Martin (Martin, 1983). He found that "builder landlords" were actively acquiring and improving tenanted property but that enforcement of standards (including high standards) was also successful, either in getting long standing landlords to improve, or to sell up to "new breed" landlords or housing associations.

Studies of landlords' use of improvement grants

Many studies have suggested that landlords have few incentives to carry out improvements or major repairs and that enforcement is essential to get things done. Enforcement however cannot be entirely effective where what is required is unprofitable to landlords, if LHAs have to do work in default, and recover costs from rent or charges on properties.

The 1969 and 1974 Housing Acts are significant watersheds in the development of grant aid. The growing reliance on improvement rather than redevelopment strategies has also meant a growing dependence on the willingness and on the financial and organisational ability of owners, including landlords, to repair and improve their properties.

Before the 1969 Act, incentives to get landlords to carry out repairs and grant aided improvements had been progressively increased in the context of the Rent Act. Thus in 1949, landlords were entitled to raise controlled rents by 6 per cent of net-of-grant improvement expenditure, but had to let for 20 years. This was raised to 8 per cent in 1954 and to 12.5 per cent in 1961, with the letting condition reduced to 10 years. By 1964 limited powers of compulsory improvement were brought in and the letting obligation fell to 3 years. As far as repairs were concerned (for which there was no grant aid of any kind until 1969) landlords were broadly entitled to raise controlled rents in relation to expenditure and multiples of rateable value.

The fact that so little was achieved was a matter examined in depth in the mid 1960s (see, for example, Committee on Housing in Greater London (Milner Holland), 1965; Nevitt, 1966). The Milner Holland Committee concluded, inter alia, that "the grant system is working very slowly and has so far done little to improve the dwellings and areas of greatest need" (Ibid p.112). It put forward four reasons for this. First, the tax system discriminated against private landlords since they could not set depreciation, or sinking funds, against taxable income. This was particularly problematic where the future life of property was as little as 15 to 20 years. Nevitt calculated that the 'net' return on capital was not 12.5 per cent but was in fact 6 per cent (if tax was paid at 7s 9d in the £). "As money cannot at present be borrowed at less than 6 per cent interest, it is clear that landlords who are borrowing money from outside

sources cannot 'afford' to improve their property unless it has a life of about 30 years" (Nevitt, 1966, p.42). The second reason was the existence of rent control which led to properties falling onto disrepair. To improve property by putting in the standard amenities, landlords had to make properties fit, but grants did not cover repairs and so landlords had to fund all the repair costs. Third many landlords had no access to loan funds and fourthly many lacked the ability to organise improvements.

The Milner Holland Committee was, in conclusion, pessimistic of either coercion or encouragement getting landlords to improve, a view shared by a Government commissioned study of the potential for area improvement in a north west town. The Deeplish study concluded that "if this low potential (of landlords) for improvement is related to the great necessity for improvement in this sector, where on average only 14 per cent have the five standard amenities, the outlook for improvement by landlords is not hopeful" (MoHLG, 1966b, p.37).

The 1969 Housing Act was founded on the principal of voluntary persuasion and many of the conditions for using grants (e.g. on resale) were relaxed. As well as modifying the grant system (so that for the first time repairs became eligible for grant aid, but only within the confines of the discretionary improvement grant), it also built on the Rent Act 1965 to create further incentives for private landlords. The 1965 Act had introduced the Fair Rent system for regulating rents in the decontrolled sector. Under the 1969 Act landlords of controlled tenancies whose properties met a qualifying standard (fit and with all amenities) could get their tenancies decontrolled and eligible for Fair Rents, with the consequent increases for tenants phased in. Tenants could object on the grounds that they could not afford the rent or did not want to be disturbed. The former right was removed in 1972 when the Housing Finance Act introduced rent allowances for tenants. This Act also provided for the automatic block decontrol of controlled tenancies (by rateable value bands) unless they were unfit, without the necessity for qualifying in other respects. This process was halted in 1975 although finally all remaining properties were decontrolled in 1980. Nevertheless the Fair Rent system in principle provides incentives for landlords to improve regulated tenancies since they can apply at any time for a rent to be reregistered if conditions in a property change.

The design and experience of the 1969 Act and associated legislation such as the Housing Act 1971 (which temporarily raised the rate of grant to 75 per cent in Development and Intermediate Areas) in operation has been well documented (e.g. Gibson and Langstaff, 1982; Thomas, 1986). One of the main concerns about take up by private landlords was the abuse of grants in Inner London in areas of bad housing, but high demand, where speculators evicted furnished tenants who had limited security and "winkled" out unfurnished tenants, by cash inducement or harassment, in order to convert houses into flats for sale to owner occupiers at the time of the house price "boom" in the early 1970s. Much evidence on this was presented to a House of Commons Expenditure Committee (House of Commons Expenditure Committee, 1973). There was much less activity as far as the improvement of the long term unfurnished sector was concerned, especially, but not only in areas of low demand. In a study of Bristol the point was made that policies had failed to consider explicitly the demand for improvement amongst low income private landlords (and low income owner occupiers too). Demand had been grossly overestimated and facilities for borrowing the balance of grants were insufficient to induce expenditure (Kirwan and Martin, 1972). Similar conclusions were reached about NE Lancashire where it was found that tenants had little desire to pay more or to put pressure on their landlords. The study thought few landlords would take advantage of the "decontrol by improvement" provisions (Robert Matthew, Johnson Marshall and Partners, 1971). The Francis Committee concurred. Improvements were too costly and returns were too low. Landlords would not opt to decontrol (Committee on the Rent Acts, 1971).

The evidence to the 1973 Commons Committee validated these predictions. It took the view that, in areas of low demand and poor housing, landlords preferred to sell rather than relet when they got vacant possession and that, in the meantime, they were unlikely to improve unless pressure was brought to bear (House of Commons Expenditure Committee, 1973, p.18). The Committee had been given evidence that the 1964 Act compulsory improvement procedures were cumbersome, that only the five point (amenity) standard could be achieved, whilst repairs were essential as well, and that tenants were reluctant to initiate action. The Committee argued that the proposed new compulsory powers (incorporated in the 1974 Act) were a step forward and that there should be a substantial increase in improvement in GIAs and

HAAs, provided LHAs exercised their powers to initiate action. Outside these, the proposed reintroduction of resale restrictions should not be a disincentive to voluntary improvement. Evidence presented to the Committee suggested that grant rates of 75 per cent - even 100 - were needed to entice landlords to improve. In other words the grant of 75 per cent then available in Development and Intermediate Areas should be extended everywhere for private landlords and not (except for HAAs and GIAs) be dropped to 50 per cent as intended (and implemented in 1974). Many who gave evidence argued for 10 year resale conditions, together with LHA nominations of tenants to any vacancies before the 10 years was up.

The Housing Act 1974 once more remodelled the grant system and its design and implementation have also been extensively studied (see, for example, Gibson and Langstaff, 1982; Thomas, 1986). Of particular relevance to the private rented sector were the powers to declare HAAs where the highest rate of grant and repairs grants were only available; the policy background favouring the social ownership of private rented housing, using housing associations with their new financial regime to buyout landlords; the switch to compulsory rather than voluntary modes of improvement and the reintroduction of resale (or letting) conditions.

Subsequent research revealed that improvement <u>by</u> private landlords was patchy. A review of the official monitoring of a sample of HAAs commented that a combination of property condition, inadequate incentives, and the inefficiency of compulsory powers had meant that private renting was the "bug bear" of most HAAs. Even with a grant, improvement was beyond the means of most <u>small</u> landlords" (emphasis added) (Monck & Lomas, 1980). This was indeed the case in the Beeches Road HAA in Sandwell (Thomas, 1979). The LHA did not use compulsory improvement powers because it wanted to see a higher standard and did not want to do work on default. No landlord had improved in the first three years (most had only a few properties).

Meanwhile public expenditure cuts had seriously undermined LHAs municipalisation programmes and "buy out" strategies for the improvement of the private rented sector became almost exclusively dependent on housing associations, whose programmes, having expanded in real terms in 1974, reached a plateau in the late 1970s with further expansion cut back.

But there were also "successes" in getting landlords to improve. In South Tyneside there was substantial improvement as builder landlords bought up unfurnished tenanted property for investment purposes (Bradley, 1980). Their interest was principally in capital gain, since they incurred losses in the short term because rents alone did not give a competitive return on acquisition and net of grant costs - unless they were able to switch to furnished letting. These new landlords were speculating on getting a capital gain when existing tenants moved on (and when resale conditions expired). This is what made it profitable. The scale of this voluntary take up by new landlords meant that the LHA made very little use of its statutory powers. 30 per cent of grants went to absentee landlords. This experience was shared by Newcastle and Gateshead where Bradley found half HAA grants had gone to landlords and concluded that improvement by these new landlords was profitable. They had access to capital and were prepared to wait for their returns. A study of Newcastle's HAAs confirmed Bradley's findings (Cameron 1978). New builder landlords were able to take a long term view of investment, they had organisational resources, could do work using "in house" labour, had access to capital and by remortgaging property could use gearing to build up large portfolios. When faced with repair notices landlords responded by applying for discretionary grants to improve to high standards.

Although these circumstances were not confirmed to the North East (see below), other evidence showed how difficult it was to get <u>all</u> landlords to improve. Research by the Birmingham Inner Area Study Team had shown that even with a 75 per cent grant, only 30 per cent of landlords would be willing to improve, compared with 16 per cent on 50 per cent grants. Waiting until they got vacant possession and selling was a better investment. Lack of capital was a major constraint, but even where they had funds and where the future of an area was secured by statutory designations, landlords would still not improve because alternative investments were better. The research recommended a faster phasing in of post improvement rent increases, allowing landlords to sell within five years, providing 100 per cent grant aid for the first £400 of work, the rest at 75 per cent (Birmingham Inner Area Study Team, 1977a, 1977b). Clearly a major problem for some investors was the perception of a valuation gap i.e. any increase in value after improvement did not cover

costs. This "gap" was covered by grants, but if grants had to be repaid the gap was not covered. Landlords wanting to sell within 5 years were therefore deterred from applying since they got a better return (or less risk) by investing elsewhere. In these circumstances the Team considered that a substantial degree of compulsion and compulsory acquisition would be needed to get investment. They also considered that the removal of resale conditions (at the discretion of LHAs) could encourage more investment at a time when there was not an acute shortage of rented accommodation and where landlords were not in the same position as London speculators to make a substantial capital gain.

The Sheffield study has not, by contrast, shown that the letting conditions have any deterrant effect. The first survey (already referred to above in respect of enforcement studies) has shown how the higher rate of grant in HAAs, together with the greater application of enforcement powers had resulted in a higher rate of improvement than elsewhere. It also showed that improvement was being carried out by new owners who deliberately sought to acquire unimproved property. Their aims were to make capital gains from property dealing by purchasing unimproved property at tenanted value, using improvement grants to subsidise the cost of upgrading property, realising the capital gain from the increased exchange value of the property when vacant possession arose - and being prepared to relet if this happened within five years of improvement so as not to repay the grant. (See Chapter 4, this volume).

Half the unimproved properties had owners who wanted to, and would improve: they had bought recently. The rent had owners who foresaw financial difficulties. Nevertheless a further third had owners who would improve with a combination of 75 per cent grants and compulsion. Only 20 per cent would not be improved under any circumstances.

The Housing Act 1980 brought up many of the changes the Sheffield landlords wanted to see - especially the wider availability of 75 per cent and repairs grants; and the greater proportion of the discretionary improvement grant that can now be devoted to repairs. Not surprisingly therefore, the later follow up to the panel found that improvement activity had been sustained into the 1980s. There was continued acquisition of tenanted property by new landlords prepared to improve, and doing

so to higher standards than older landlords. Many of these new landlords were in the building trade. Not only were improvements being carried out in HAAs, but elsewhere too, given the wider availability of the highest grant rates. Moreover higher standards were being achieved than in the 1970s as the greater grant aid for repairs enabled the LHA to press successfully for better standards. Not that area policy no longer had any effect - far from it, because the highest standards were to be found in these areas as a result of a combination of new investment and LHA action (This volume, Chapter 13).

Martin had shown in an earlier piece of work in his study of 31 LHAs that these findings were not unique to Tyneside or South Yorkshire Investment by "new breed" landlords, with connections in the building industry was significant in three quarters of them, whilst the 1980 Act - both in terms of improvement grants, rent phasing and shorthold - had created a positive framework for upgrading, provided LHAs took action to persuade and cajole landlords to respond (Martin 1983, 1985).

This is not meant to imply, of course, that this investment by property dealers heralds a revival of private renting. Far from it, if anything, it hastens its decline. Dealers are speculating in the gap between tenanted and vacant possession values, improving with subsidies to sustain the latter and taking their profit in capital gain upon vacancy.

The House of Commons Select Committee on the Environment emphasised in 1982 that the current policy and legislative framework did not provide landlords with competitive returns to improve and let accommodation. The dilemma was that rents would have to rise considerably (perhaps above market level) to give such returns, which could only happen with great hardship to tenants or greater subsidies from the State. Moreover it doubted if "the present extensive system of improvement grants can achieve the improvement in the quality of the private rented sector necessary to bring it up to acceptable standards" (HCEC, 1982, para 97). Certainly this is so if the property is to be improved for long term letting. "Only if rents rise substantially and are expected to remain at higher levels in the future is it likely that in the long term significant quantities of improved stock will be retained in the sector" (Ibid, para 98). Whilst some of the evidence to the Committee (drawn up in 1981 or amended in

1982) noted increased improvement activity consequent upon the 1980 Act (e.g. evidence by Manchester City Council, Ibid, Vol. II), the main thrust of the evidence was that landlords, because of a combination of inadequate rents, inadequate rent increases and tax burdens did not get competitive returns on improvement expenditure (see also SHAC, 1981). Indeed a later Commons Committee, examining the conditions in Welsh private sector housing also drew attention to the continuing inadequacy of incentives and to the difficulties of applying enforcement (House of Commons, 1987). Some Welsh LHAs reported successful use of enforcement powers. Cardiff for example found they had to do work in default on only 10 per cent of repair notices. Most, however, commented on the difficulties of enforcement, not the least because of inadequate staff numbers.

Improvement Propensity and Landlord Type

Nonetheless it is important to end this review of the existing evidence by reinforcing the message from the results of research in the North East and South Yorkshire: landlords responses are not homogeneous. Some are willing to improve, albeit for short term speculative gain, and others can be persuaded to do so. The activities of property dealers are not of course a new phenomenon as Chapter 2.6 has shown. Dealers have been buying portfolios of tenanted housing to "break up" and sell on to owner occupiers for many years. In his Lancaster study Cullingworth referred to "death speculators", investors who bought blocks of rented property with the intention of selling at greatly enhanced vacant possession prices when the sitting tenant died. (Cullingworth 1963, p.110). This was not without risk, especially if the Council tried to force the speculator to do repairs. But it was also profitable and the older the sitting teannt the greater the chance of capital gain if there were no relatives with succession rights. Evidence for property dealing in Birmingham showed that where Building Societies were reluctant to lend, speculators organized loans through links with secondary and merchant banks and insurance companies. In other words they created the conditions for their own capital gain and provided loans to purchasers at a much higher rate than they were getting from rent as a rate of return on capital value before disinvesting. (Stewart, 1980; see also for further evidence from Birmingham and Newcastle: Benwell CDP, 1978). What appears to be new, compared with this evidence, however, is the willingness of contemporary property dealers to invest in the fabric as well.

Landlords cannot, therefore, be considered homogeneous and much past research has shown how they respond in different ways to enforcement and grant incentives. In addition to the studies already reviewed above, a number of others have emphasised this diversity of response. Indeed one study in Cheltenham argued that "landlords are such a diverse group of individuals or institutions that any uniform response to legislation cannot be assumed" (Forrest and Murie, 1978). Nonetheless it concluded that lack of finance was one of the main reasons for their inability to carry out improvements. A companion study in Dudley argued that rising costs, relative to rents, meant that it was impossible to keep properties well repaired, especially for those who inherited property or were retired (Centre for Urban and Regional Studies, 1980).

Indeed, as Chapter 2.6 illustrated, many studies from the very earliest have emphasised the distinction between individual and company ownership (and their access to capital) and distinguished between individuals in terms of their age and portfolio size (e.g. Cullingworth, 1963; Greve, 1965). They showed that most property was owned by landlords who were elderly, traded as individuals and who owned only a handful of houses. This is still the case (Paley, 1978). There is little evidence today to show that these small individual landlords have either the resources or inclination to improve (e.g. Short 1979). This was also the case in the 1960s when Greve found that a third of medium and large landlords had used grants compared with 6 per cent of small ones, whilst companies were twice as likely as all individuals to have taken them up (Greve, 1965). Greve pointed out, of course, that these well organised, business like companies, with extensive contacts with their LHAs, owned only a small share of the stock, albeit in better condition. Small individual landlords owning the majority of the stock were likely to be unresponsive to incentives and exhortation. Indeed Cullingworth showed that landlords only spent money on repairs when it was absolutely necessary - although some thought decoration was worthwhile if they expected to get vacant possession soon. They viewed rent as part of their personal income and the ideas of depreciation or replacement played no part in their thinking. Rents were not gross receipts from which maintenance was deducted. This was hardly surprising since few took the view that rented housing was a long term investment that should be maintained. There were exceptions of

course, including larger (often builder) landlords who could pool their rent income to repair their older, smaller properties with the rents of their younger, larger ones (Cullingworth, 1963).

This analysis was broadly substantiated by later evidence. Paley found that half the lettings in densely rented areas were owned by individuals, most of whom owned less than five houses. Only a quarter were owned by companies, less than half by those with a hundred or more lettings. Properties owned by companies were, however, much more likely to have all amenities and such landlords were more likely to have done grant aided improvement, although landlords of all types considered their rent insufficient to give adequate returns and allow them to do repairs. Indeed half the lettings had landlords who limited what they spent on repairs. Although a third and a half of lettings had landlords who said they would do more if grants or rents, were increased, nearly half had owners who said neither increased rents nor grants would persuade them to do more (Paley, 1978).

In view of this it is not surprising, therefore, to find that the most recent research has found that it is large companies, especially property dealers in the building industry, with access to capital and with the organisational skills to undertake improvements, who seem, above all, to have responded to the interconnected pattern of enforcement and inducement established by legislation and LHA practice. There are few, if any, signs, however, that this investment is anything other than property speculation. True it has got property improved to a high standard, but it does not represent any turning of the tide in the decline of private renting.

Conclusion

It is evident from previous research that repair and improvement is dependent on all three areas reviewed above: enforcement, grant aid, and type of landlord. The next Chapter turns to examine contemporary LHA practice in respect of the former two areas and examines how far the success of these depends upon the existence of the type of property dealing identified in recent research.

CHAPTER 17
LOCAL AUTHORITY POLICY AND PRACTICE IN THE REPAIR AND IMPROVEMENT OF UNFURNISHED PRIVATELY RENTED HOUSES

Problems in the Private Rented Sector

Introduction

Although this Chapter is principally concerned with LHAs' policies about the improvement and repair of private rented houses, this section of it briefly identifies all the problems about private renting in the sample LHAs which officers identified as important to their LHAs: that is, it includes the issues related to houses in multiple occupation (HMOs) and furnished rents examined in Chapter 19. It then moves on to look at policies, practices and experience about the repair and improvement of unfurnished private rented houses.

Information about Private Rented Housing

It is relevant to note that 80 per cent of LHAs thought their data base about private renting was inadequate for making, implementing and monitoring policy. As Table 17.1 shows, up to date knowledge about the condition of the housing stock generally, including private renting, was the one deficiency identified by the great majority of LHAs. Not knowing the location of private rented houses, especially HMOs, was seen as a problem for just over a third of them. Insufficient data about rent levels, harassment and other indicators of tenancy relations (like the service of notices to quit) were noted by rather fewer LHAs, particularly in partnership and programme LHAs.

LHAs often distinguished between the knowledge they had about statutory improvement areas and elsewhere. Most LHAs had some data about tenure and physical conditions within these areas, albeit in many cases dating back to declaration, backed up by limited monitoring from casework records, with only a few, rare, LHAs carrying out surveys on a cyclical basis. Outside these areas LHAs had very little, if any, data about the private rented sector beyond census enumeration district data. Up until now this contrast between (relative) data richness within and without improvement areas reflects LHAs' recent priorities, with most resources being targetted at GIAs and HAAs. Outside such areas their policy has largely

Table 17.1 PROPORTION OF LHAs WHO SAID THEY HAD INADEQUATE INFORMATION ABOUT PRIVATE RENTED HOUSING

Type of LHA	Location of PRS generally	Location of HMOs	Stock Conditions	Other (eg Rents)	Mentioning at least one item of information
Part & Prog	24	38	52	14	76
ODD & Other	45	40	75	30	85
All LHAs	34	39	63	22	80

been one of reacting to complaints. Resources have permitted neither seeking out the private rented sector beyond improvement areas nor the declaration of additional statutory areas. In this sense, therefore, LHAs regard their data as adequate for implementing the job they have in hand at the moment, but insufficient for policy development. The one exception concerns the location of HMOs, most being located outside statutory improvement areas. The number of LHAs noting the paucity of their knowledge about HMOs reflects the growing concern about HMOs and the consequent development of more active enforcement policies.

Evidently this impoverishment of knowledge of private renting threatens the strategic planning capability of LHAs to isolate problems and identity priorities both for further statutory area declarations and, crucially, for undertaking a co-ordinated attack on the poor standards of amenity, repair and management in HMOs. Indeed the more that LHAs' responsibilities for private rented housing were exercised comprehensively by one department, reporting to one committee, the more likely it was that data was thought to be inadequate for the task. Whilst this was true of both categories of LHAs, it was particularly the case in respect of partnership and programme LHAs which had developed a corporate strategy to deal with HMOs. Many of these had only the most cursory statistics on tenure and stock condition.

Staff shortages were the crucial problem. There were simply not enough people to go around to carry out statutory obligations in responding to complaints, service current strategies and to collect and assess information so as to plan ahead. A number of LHAs took on additional, usually temporary, staff to cope with peaks in casework (such as the boom in demand led grant work in 1982/83 and 1983/84) but these staff were soon lost when the workload turned down and did not become available for survey and analytical work. As a result, LHAs were not only limited in their capacity to do surveys, but also in their capacity to examine the information they already held about private renting. It was apparent that very little monitoring or analysis of casework records was done, except to some extent in statutory improvement areas. As a result, and to quote two officers - in different LHAs - "we can't even part the water to see through it" and "we don't even know what we know". The pressures of casework dominated many LHAs. The two LHAs who carried out zonal house

condition surveys on a regular basis were exceptional, despite the fact that the great majority of LHAs acknowledged that the need to have up-to-date information, so as to ensure that investment is adequately targetted, is even more important at times of severe resource stringency. It is worth noting, therefore, that where surveys are planned, most involve sample house condition surveys to identify priorities for area renewal programmes and surveys of HMOs in areas acknowledged from census and other sources to contain a preponderance of a LHA's HMOs.

Issues of importance to LHAs

These data priorities are reflected in the private renting issues which the LHAs' officers said were important for their authority. Without any doubt the most important issue for LHAs is the physical condition of the housing stock. Many did not distinguish private rented houses from the rest of the private stock. Indeed half said they did not consider that the state of disrepair and need for improvement in private rented houses was a separate issue from the condition in the rest of the private sector. This was particularly so outside partnership and programme authorities. LHAs considered the problems in the older part of the housing stock were confronted equally severely by tenants, landlords and owner occupiers, that conditions were bad across all tenures, and posed the same issues in all tenures of the private cost of substandard housing to occupants and the wider social and neighbourhood costs of the negative externalities of rundown housing. By implication, no policies were addressed to substandard conditions in the private rented sector as such. Moreover, a number of LHAs did not give the private sector as a whole as high a priority in capital spending as modernisation of the public sector. Insofar as this put severe restraints on the availability of grants from limited allocations, this directly affected repairs enforcement practices in the private rented sector (see below).

Where physical conditions in private renting were an issue, it was more likely to be a concern for conditions in HMOs rather than in single occupancy, terraced and other unfurnished housing. Where the latter was a matter of importance, LHAs remarked on the problems bad conditions posed for elderly tenants and the way in which neglected repairs undermined the potential success of their statutory improvement areas. Apart from (but also often, including) HMOs, officers commented that LHAs did not get many

Table 17. 2 PROPORTION OF LHAs WHO SAID PHYSICAL CONDITIONS WERE AN ISSUE

Type of LA	Conditions mentioned as an issue	Specific Comments on Conditions: Stock per se (no ref prs)	PRS houses	PRS houses + HMOs	HMOs per se
Part & Prog	100	43	29	38	33
ODD & Other	90	60	10	25	15
All LHAs	95	51	20	32	24

Table 17.3 PROPORTION OF LHAs WHO SAID THE SUPPLY OF PRIVATE RENTED HOUSING WAS AN ISSUE

Type of LHA	Supply mentioned as an issue	Specific Comments on Supply: Young Singles	Couples	Divorced/ Separated	Keyworkers	Unemployed	Large Families	All
Part & Prog	29	24	5	-	-	-	5	
ODD & Other	30	15	10	10	5	10	-	5
All LHAs	29	20	7	5	2	5	2	2

Table 17.4 PROPORTION OF LHAs WHO SAID THE MANAGEMENT OF PRIVATE RENTED HOUSING WAS AN ISSUE

	Management mentioned as an issue	Rents or Housing Benefit	HMO Management	Harassment	Other
Part & Prog	57	43	43	33	14
ODD & Other	55	30	20	15	16
All LHAs	56	37	32	40	15

complaints from tenants about physical conditions. Insofar as (see below) programmes of declaring statutory improvement areas (with their detailed pre-declaration surveys) are on the wane, LHAs' capacity to seek out substandard private rented housing has been commensurately hindered. (See Table 17.2).

Whereas stock condition is a major issue, the quantity of private rented housing is, by contrast, as Table 17.3 shows, only of minor importance. This was so irrespective of type and location of LHA. Insofar as it was an issue, it was related to the shortage of rented housing for "young singles". Indeed many LHAs said that the supply of local authority rented housing for other groups was such that waiting times were short and demand for private rented was low.

Much more important were issues related to the standards of management in the private rented sector, which were mentioned by just over half of all LHAs. (See Table 17.4) Indeed in many respects it is the 'management' side of private renting which is the distinctive tenure related policy question for LHAs, rather than physical conditions and supply. Three specific points were raised, especially in inner areas. First, the level of rents in the furnished sector and its impact on the level of Housing Benefit payments, including the potential for abuse of the benefit system by landlords and the forseeable loss, after April 1988, of subsidy to the LHA where benefit was paid out on high rents. Second, the standards of HMO management. Third, the harassment of tenants by landlords, especially where this was as a consequence of LHA enforcing standards or restricting benefit payment. Other issues raised included the growing evidence of rental purchase, the problem of voids, and the disturbance and worry endured by elderly longstanding tenants when improvements were carried out and rents raised after their landlords had sold up to a new landlord.

Differences in the importance attached to issues were mainly related to the status of the LHAs, as between partnership and programme authorities on the one hand, and all other authorities on the other. Differences in party political control were not a factor as such. Thus whilst fewer Conservative controlled, than other councils, identified issues in the private rented sector as important to them, this is largely because Conservatives were more likely to be in control of LHAs which were not

partnership nor programme districts. In these other districts, all LHAs, including those controlled by Labour and (the then) Alliance majorities, as well as the Conservatives, were less likely to identify private renting as posing significant issues for the authority. There were two exceptions to this - one relates to physical conditions in private renting per se where proportionally fewer Conservative and Alliance than Labour controlled authorities of all types identified this as an issue; the other relates to rented housing for young singles, an issue which no Conservative controlled authority identified. As far as HMOs and management questions are concerned, there were no party political differences in the apparent importance attached to the issues.

The issues about private renting which are important to LHAs are less to do with the physical condition of the unfurnished sector, which contains most private rented houses, than with the condition and management of the furnished sector, including HMOs. Nonetheless over half of them regarded work which dealt with all of these problems as having a high priority compared with the other activity of the authority. This was particularly the case in partnership and programme LHAs, two-thirds of whom gave the work a high priority, including 40 per cent who were giving a higher priority compared with 1980. Only 30 per cent, however, of other LHAs gave work in the private rented sector a high priority, although in all the cases the priority was greater than in 1980. The issues which were being given a continuing high priority were connected with the physical state of private rented housing, including that of HMOs, whilst it was the issues related to management, including rents, and harassment which were receiving greater attention in the 1980s, especially in the inner areas.

Policies about Private Rented Housing

Formally adopted policy

Despite this, the councils of only half the LHAs had formally adopted a policy, or a set of policies, to deal with the problems of private renting in their areas. There were, however, differences between partnership and programme authorities and other LHAs with roughly twice the proportion of the former having formally adopted policies, compared with the latter. None of the Conservative controlled LHAs, wherever located, had formally adopted policies, compared with over half Labour, Alliance and 'hung' LHAs. In all LHAs, most of the adopted policies were about remedying

Table 17 5 PROPORTION OF LHAs WITH FORMALLY ADOPTED POLICIES ABOUT PRIVATE RENTING

Type of Policy	Partnership & Programme	Other LHA	All LHAs
	%	%	%
Related to unfurnished houses	24	5	15
Related to HMO standards	52	30	41
Related to 'management' issues	33	5	19
At least one policy*	62	35	48
No formally adopted policies	38	65	52

* Percentages above do not add up to this row because some LHAs had more than one policy.

substandard physical conditions. In 'other' LHAs this was almost exclusively a concern for standards in HMOs, whereas nearly a quarter of partnership and programme LHAs had formal policies related to the improvement and repair of unfurnished single occupancy property. Moreover not only had half these latter LHAs got formal resolutions on HMO physical standards, but a third had policies related to 'management' issues, including rents and harassment. In these LHAs therefore the issues about private renting confronting them were being tacked on a more comprehensive and co-ordinated basis. (see Table 17.5).

Committee and Departmental Responsibility

Some LHAs have interdepartmental working parties on the private rented sector, reporting to a private sector sub-committee of the Housing Committee. Although such arrangements are rare outside those few LHAs with a corporate comprehensive approach to private renting problems, most, 85 per cent, of LHAs, (including those without formally adopted policies) do have only one committee responsible for matters to do with private renting, usually the Housing Committee. In just over a third of LHAs all the LHAs' responsibilities were carried out by one department and this was much more likely to be the case in 'other' LHAs than in partnership and programme authorities, nearly 60 per cent of whom exercised their responsibilities through more than one department. In the latter areas this usually involved the Housing Department being responsible for improvement areas and improvement grants and (sometimes) benefit administration, whilst Environmental Health departments bore responsibility for enforcement action under the Housing and Public Health Act, as well as improvement grant inspection. In the limited cases, (usually the biggest LHAs), where only one department is involved, this was typically a department combining housing and environmental health functions in partnership and programme districts or technical services departments in other districts, and, in the latter, reporting as often to an Environmental Health as to a Housing Committee.

The more co-ordinated and comprehensive the policy was, the more likely an authority was to have a single committee, plus single or (at most) two department structure, with delegated powers to Chief Officers to serve enforcement notices, carry out default action and pay grants. There was significantly less delegation outside partnership and programme

Table 17.6 COMMITTEE AND DEPARTMENTAL STRUCTURE AND DELEGATION ARRANGEMENTS

Arrangement	Percentage of LHAs		Mean Size of LHAs*		Percentage of LHAs where all powers delegated	
	Part & Prog %	Other %	Part & Prog ('000)	Other ('000)	Part & Prog %	Other %
1 Committee + 1 Dept	29	45	187	63	50	22
1 Committee + >1 Dept	57	40	109	62	67	37
Other	14	15	90	100	35	31

*Total private households 1981 Census

authorities, regardless of the way committee and departmental responsibilities were structured. Only 30 per cent of other LHAs had all powers in respect of enforcement action delegated to officers, compared with 52 per cent of partnership and programme authorities. In all LHAs, however, delegation was at its greatest in the "one committee and two reporting departments" structure, there being somewhat less delegation where only one department was involved.

The relevant statistics are summarised in Table 17.6.

Policy content

Where LHAs had no formal policies about private renting, officers observed that de facto policy was to meet their statutory obligations, in particular to use negotiation and enforcement action under the Housing and Public Health Acts to deal with complaints from private rented tenants or to use these powers to achieve objectives related to area improvement policy. It is interesting to note that officer delegation to serve notices and enforce them is just as great in LHAs with no formal policies as in those with adopted policies.

Moreover most of the formally adopted policies are about HMOs and about rents and harassment in furnished lettings generally. Few are directly concerned with the quantity, quality and management of unfurnished houses and in this respect there are few differences in the objectives of authorities, whether or not these are formally adopted. A programme authority in Yorkshire and Humberside and a non-designated district in the North West provide illustrations of de facto policies. In the former officers observed, in answering the question about whether the council had formally adopted policies to deal with problems of private rented housing, that "no, we react to complaints, though I personally feel we should be doing it different (sic), our involvement in priority areas is curtailed by political thinking . . . we mop up (by enforcement action) the private rented sector that does not voluntarily take up grants". In the latter officers answered "no, we try to ensure as quick a take up of improvement grants as possible through talking to landlords and starting the statutory powers as soon as possible because of the time an improvement notice can take to get through . . . a multi-disciplinary programme group with principal officers from various departments formulates the line we should

take . . .". Clearly then these LHAs are not without policies relevant to resolving private renting issues, since, by implication, priority improvement area policies inherently address poor physical conditions in this sector. Indeed, officers tended to suggest that the worst private renting was concentrated in these areas. The stance for tackling physical conditions, however, was a matter left to officer judgement. Indeed time and time again in interviews officers argued that policy was about physical conditions per se, irrespective of tenure.

Even in LHAs with de jure policies, few of these were related to unfurnished housing. For example, the programme authority in the North West whose written policy it was to extinguish private rented housing through clearance and transfer to housing associations was rare. So too was the programme authority in Yorkshire and Humberside, whose annual housing policy statement incorporates issues in the private rented sector related to unfurnished houses and sets out a co-ordinated approach to the problems, drawing on as wide a range of departments as possible to deal comprehensively with the sector. This LHA recognised that a social rented 'buy out' of private renting was unfeasible and that, as a consequence, it was necessary for the LHA to make the maximum use of its powers to ensure that "if landlords wish to have a major role in private renting, then they have to understand that the quality of accommodation offered must be good standards, secure for tenants, with rent books etcetera." Rare too, were the two authorities whose councils were opposed in principle to giving landlords improvement grants, and who therefore had resolutions requiring officers not to serve enforcement notices carrying mandatory grant entitlement, unless the health, welfare or safety of tenants was endangered.

Whatever the degree of formality of the policy, it is evident that conditions in the unfurnished rented sector are not a key policy issue in terms of that tenure per se. Nonetheless all LHAs regarded it as important to attain the highest possible standards for tenants, consistent with the legal and financial framework for cajoling and persuading landlords. By complete contrast there is a greater articulation and formality in policy making for HMOs and furnished lettings. The remainder of this paper however now turns to look at the more "low key" policies for the repair and improvement of unfurnished housing.

Proactive and reactive policy

LHAs were asked if, when dealing with unsatisfactory private rented hoses, it was their practice to take the initiative, seek out unsatisfactory conditions and deal with them comprehensively (or selectively) or to respond only to evidence of unsatisfactory conditions when tenants complained and/or they received grant applications from landlords and their agents. Outside statutory improvement areas almost all, 87 per cent of LHAs were reactive. Even though many LHAs had urban renewal policies about priority areas drawn up on the basis of borough wide evidence, this was not at a fine enough geographical scale to allow them to seek out individual properties for inspection (even if they had the staff and capital to carry through such a policy).

A few LHAs did have the information base to be proactive. But it is very rare to have a borough-wide survey team, like one north west programme LHA, regularly seeking out dangerous structures, voids and public health nuisances. It was also rare to use existing data bases to seek out unsatisfactory conditions. One Yorkshire and Humberside non-designated district, however, sent letters to all occupants of houses below the rateable value level which earlier survey evidence had suggested contained most houses without basic amenities. Occupants, including private tenants were asked to contact the LHA if they lacked amenities. A programme LHA in the northern region used its waiting list for council houses to identify substandard private rented properties. The records contained information on the state of repair of applicants' houses which was used to "point up" the application. Tenants in private rented properties with high repair points were visited. (Points were not lost if the property was subsequently repaired.) Two Midlands LHAs flagged the register of land charges so that they visited any inner area property with a rateable value of under £175 which had been subject to a search on the register. This normally meant visiting new owner occupiers but also identified changes in ownership of private rented houses.

These examples were isolated ones. Indeed many LHAs commented that it was their inadequate HIP allocation as much as their impoverished data base which prevented them taking initiatives.

Table 17.7 PROPORTION OF LHAs WHICH TAKE INITIATIVE IN DEALING WITH UNSATISFACTORY CONDITIONS IN PRIVATE RENTED HOUSES IN STATUTORY IMPROVEMENT AREAS

	Partnership & Programme	Other LHAs	All LHAs
	%	%	%
Take initiative			
- deal comprehensively	67	35	52
- deal selectively	14	25	19
React to complaints/demand	19	40	29

But in renewal areas (statutory GIAs and HAAs and non statutory priority areas), 71 per cent of LHAs were proactive, taking the initiative to seek out poor private rented houses and dealing with them - in 52 per cent cases doing so comprehensively. As Table 17.7 shows, partnership and programme LHAs were not only more 'proactive' than other LHAs they were also more likely to deal with substandard conditions on a more comprehensive basis. There were no regional differences in their policy stances. Being a proactive LHA does not necessarily mean, however, that policies were explicitly proactive with respect to private renting per se. It was just that within urban renewal areas most LHAs sought to get all properties up to scratch - and in 1981, for example 24 per cent of dwellings in declared HAAs were privately rented (DoE, 1983). Unless private rented houses were in a particularly bad shape they did not get priority treatment. In many LHAs a combined house condition and occupancy survey will have preceded, or followed, declaration and owners informed by letter and other publicity about the renewal area declaration and the availability of grants. "Carrots" precede "sticks" because most LHAs want to wait and see if landlords come forward with grant applications before taking enforcement action (although tenants will also be informed in publicity that LHAs will take enforcement if their landlords don't voluntarily apply). The time lag between declaration and using enforcement procedures to "mop up" (a favourite phrase used by interviewees) the unimproved remnant varies and some LHAs wait 3 to 4 years before targetting unimproved houses with notices - unless enveloping is being done. In practice LHAs will be trying to "mop up" all of the unimproved remnants, not just private rented houses.

Area Renewal Programmes

LHAs policies about declaring statutory improvement and other forms of priority renewal areas are closely connected to the repair and improvement of the private rented sector because these are the areas where LHAs take the initiative rather than engage in complaint-based action and they are also the bases of much of the rationing of house improvement grants in the light of resource constraints. Consequently the scale of activity is important because, if the rate of declaration is curtailed, LHAs are neither dealing with nor even identifying substandard private rented housing. For example in 1981 only 6 per cent of privately rented dwellings were in declared GIAs and HAAs. A further 2 per cent were in

Table 17.8 STATUTORY IMPROVEMENT AREA DECLARATIONS

Declaration Programme	Partnership & Programme	Other	Northern	Midlands	All
	%	%	%	%	%
Priority Programme - Continues	33	33	26	50	33
Priority Programme - Curtailed	52	28	48	25	41
Other - Continues	5	22	15	8	13
Other - Curtailed	9	17	11	17	13
Number	21	18	27	12	39+
Mean number of areas	30	14	24	21	23
Mean number of dwellings in* areas in LHA in 1984/85	9,356	4,036	7,673	4,849	7,009

Note * Source: Department of the Environment Local Housing Statistics, London, HMSO
Other sources: Survey

\+ Two LHAs had no delcaration.

proposed areas, but as many as 21 per cent were in potential areas (DoE, 1983). By 1986 14 per cent of the (by then much smaller) private rented sector was in GIAs or HAAs in existence between 1981 and 1986 (DoE 1988a).

Table 17.8 shows that in only under half of all the LHAs were declarations continuing and that it was in northern and in partnership and programme authorities that declarations were least likely to be occurring. In these cases LHAs had curtailed or suspended priority rolling programmes of GIA and HAA declarations. It was partnership and programme authorities who were most likely to have drawn these programmes up on the basis of survey data, combined with priority ranking based upon census deprivation indices, and to have been progressively working their way through these lists. Other districts were more likely to have made some of their declarations on an 'ad hoc' basis and these, together with priority ranking declarations, continued.

The cessation in area declarations has occurred since 1979. Whilst implementation in existing areas continues, the cut in HIP allocations was the primary reason for the fall in declarations, because LHAs have insufficient capital to fund grants and environmental improvements in existing and new areas, given other claims upon resources. Most area programmes are based upon statutory GIAs and HAAs, but a number of LHAs have other non-statutory areas defined in order to ration limited urban renewal capital into priority areas. There are two approaches to this. First the large area approach, used to define areas for preferential treatment in capital programmes and proactive enforcement activity which can incorporate GIAs and HAAs as well as other, non statutory areas within them (for examples see Leeds City Council, 1985; Rochdale Metropolitan Borough Council, 1986). Second the small area approach, often used outside partnership and programme authorities to identify small blocks, say of a dozen dwellings, to be treated together and receive favoured status for promoting grants and taking enforcement activity. Where area declarations continued it was often at the cost of severely limiting activity elsewhere (for example see Leicester City Council, 1987). Where area declarations were curtailed, LHAs acknowledged the long term consequences of their inability to act now. One LHA argued that "our inability to act now means that many of these (10,000 dwellings in their

Table 17.9 USE OF COMPULSORY PURCHASE AND CLOSING AND DEMOLITION ORDERS

Type of LHA		CPOs					COs and DOs		
		Clearance Prog	Unfit	Unfit plus voids	Rare/ Never		Unfit	Other	Rare/ No
Part & Prog	%	19	24	48	20	%	62	29	9
Other	%	20	40	15	25	%	80	10	10
All	%	19	32	32	17	%	71	19	10

forward programme) will have deteriorated to such an extent that improvement will be no longer practical and economic" (Bolton Metropolitan Borough Council, 1987). Another observed that "the success of these must now be in doubt because of the restrictions on funds for renovation grants" (Manchester City Council, 1986). Yet others were concerned that the fall off in declaration would undermine its policy to buy out private renting since it would inhibit investment by housing associations, in the light of the Housing Corporation's caution about sanctioning purchases outside declared areas.

Enforcing Standards: the use of Statutory Repair and Improvement Powers

Compulsory Purchase, Demolition and Closing Orders

LHAs were asked about the circumstances under which they used a number of statutory procedures to deal with unsatisfactory physical conditions in private rented property.

As Table 17.9 reveals, only in one in five used compulsory purchase orders in a continuing clearance programme, albeit at a low and declining level. Few had a planned programme of continuing clearance and most were finishing off. On the other hand, only 15 per cent did not use 'cpos' at all. Clearly it is not widely used for acquiring fit properties because Secretaries of State have made it clear that they will not sanction municipalisation strategies by LHAs. Nevertheless two-thirds use cpo's to deal with isolated (or small groups of) unfit properties and one-third to deal with long term voids as well, especially in northern partnership and programme authorities in statutory improvement areas, in order to eradicate the "bad apples" threatening successful strategies and to get long term "empties" back into use where no one accepts responsibility. The voids are almost always sold on to Housing Associations or to private developers. CPOs are also served by some LHAs in preference to closing or demolition orders in cases where, because unfit houses cannot be retained at reasonable expense, use can not be made of repair notices.

Again closing (and on occasions demolition) orders are used by nearly all LHAs but on a very limited scale. Demolition orders are only used in cases of end-of-terraced or detached houses. In other circumstances, closing orders are used by 70 per cent of LHAs, especially in the north, to deal with unfit houses where S.189 repair notices cannot be served,

where bad houses are found in 'good' areas and as a way of breaking up poor landlord/tenant relationships. It was evident that the use of demolition and closing orders was seen as a "last resort" after negotiation has failed and where the reasonable expense criterion attached to S.189 repair notices on unfit houses does not allow the LHA to compel and effectively enforce repairs. This is a particular problem in northern LHAs because of the high cost of repairs in relation to the low valuation of post-improvement works. As a result many LHAs will try to get an unfit house fully repaired or improved by negotiation before resorting to repairs notices and falling back on closing/demolition orders as a result of the application of the reasonable expense criterion. Compulsory (or negotiated) purchase is not widely used as an alternative except, as shown above, in renewal areas.

There appeared to be little political resistance to the use of closing orders that rehoused tenants at the cost of the LHA and left private landlords with vacant possession. Very few LHAs will offer a grant on a property with a closing order - even to new owners - and will only lift the order when work has been done to eliminate unfitness. LHAs regretted that this meant work was done to only a minimum standard compared to that which could be achieved with full grant aid after negotiation.

Thus closing orders are used when unfit houses can not be repaired at reasonable expense and negotiation fails, and LHAs' willingness to negotiate is itself likely to be less where there is evidence of poor landlord-tenant relationships (and thus closing orders effectively prevent landlords reletting) and where previous negotiation with the same landlords over different properties has been unfruitful. There was no clear evidence about who bought up closing order property, but LHAs suggested it was mostly builders doing them up speculatively for sale.

Table 17.10 provides some comparative data for different LHAs and years. Allowing for caution (since not all LHAs were able to furnish relevant data - but there is no bias in the LHAs returning and not returning data) the Table shows that the number of orders is quite small; that cpo activity increased from 1975 to 1980 and has fallen since (reflecting the pace of activity in HAAs in the mid to late 1970s and the fall-off since);

Table 17.10 COMPULSORY PURCHASE (CPO), DEMOLITION (DO) AND CLOSING ORDERS (CO) (a) NUMBERS (b) PER THOUSAND UNFURNISHED PRIVATE RENTED HOUSES*

Type of LHA	AVERAGE PER LHA (SAMPLE NOS IN BRACKETS)								
	CPO			(a) DO			CO		
	1975	1980	1985	1975	1980	1985	1975	1980	1985
Part & Prog	39 (9)	119 (9)	72 (8)	36 (14)	7 (15)	2 (15)	15 (14)	15 (15)	11 (15)
Other	26 (6)	43 (6)	6 (6)	11 (9)	4 (8)	2 (8)	12 (9)	9 (10)	6 (10)
All	34 (15)	88 (15)	44 (14)	26 (23)	9 (23)	2 (23)	14 (25)	13 (25)	9 (25)
				(b)					
Part & Prog	1.9	6.5	5.8	5.1	1.2	0.6	1.6	2.1	2.2
Other	4.9	10.4	1.3	3.1	3.1	1.3	2.9	2.6	5.6
All	3.1	8.1	3.9	4.3	1.9	0.9	2.1	2.3	3.6

* Note Base (a) 1980: 1981 Census Number of Private Households Renting Unfurnished houses privately
(b) 1975 = 1980 x 1.3
(c) 1985 = 1980 x 0.7

NB 1975 and 1985 Adjustment made to allow for decline in base over decade.

the fall in demolition orders (especially in partnership and programme authorities) and the commensurate proportionate increase in closing orders.

Compulsory Improvement and Repair Notices

Whereas the previous section dealt with procedures which effectively deal with substandard conditions by removing them from private renting, compulsory improvement and repair procedures enable LHAs to get dwellings up to standard, but still leave them let to private tenants.

The use of compulsory improvement procedures under Part VIII of the 1985 Housing Act has fallen off over the last ten years from a relatively low level of use. To use this procedure, a house has to lack amenities and be capable of improvement at reasonable expense to the full (or failing that the reduced) standard. A LHA can take the initiative in GIAs and HAAs in serving a notice, but elsewhere may do so following the written representation of tenants.

LHAs noted four reasons for the low and declining use of compulsory improvement. First, the number of eligible properties was falling. Second, a growing proportion of tenants in the few eligible properties were elderly and were reluctant to confront the disturbance surrounding improvements, if not actually disinterested in change. Third, LHAs faced a financial disincentive insofar as they are obliged to provide intermediate grants where applications are duly made following the service of notices. They are also required to offer loans to assist landlords to meet costs. Moreover landlords do not have to certify that they will let such properties for a period of five years (seven in HAAs) as a condition of receiving grant. As a consequence they are not obliged to repay the grant if they are able to sell with vacant possession within five (or seven) years. Many LHAs regard this as obliging them to subsidise capital gains - particularly in view of the age of tenants and the probability that property will become vacant in the time period. Fourth, landlords can serve a counter purchase notice requiring the LHA to acquire the property.

Table 17.11 USE OF HOUSING AND PUBLIC HEALTH ACT NOTICES

Type of LHA		Compulsory Improvement Notice			Repair* Notice			Abatement Notice		Negotiate+		
		(a) LHA Initiative in SIAs + (b)	(b) On Complaint (only	Rare/ No	(a) LHA Initiative in SIAs + (b)	(b) On Complaint (only)	Rare/ No	Yes	Rare/ No	Rare/ No	Yes but will enforce	A Lot
Part & Prog	%	29	19	52	43	33	24	48	52	43	38	19
Other	%	35	20	45	10	60	30	40	60	10	20	70
All	%	32	19	49	27	46	27	46	56	27	29	44

* Chi Square 5.8 DF2 Sig 0.05

+ Chi Square 11.3 DF2 Sig 0.003

As a consequence the use of compulsory improvement is now rare. Indeed as Table 17.11 reveals, only a third of LHAs take the initiative and serve them in statutory improvement areas (SIAs), and only a further fifth who do not take the initiative find they get requests via complaints from tenants on anything other than a rare and irregular basis. As the Table shows, half the LHA hardly ever or never serve notices and Table 17.12 also shows: first, the significant fall in activity since 1980 (after a higher level in 1975 and 1980 as HAAs were ushered in); second, the very low level of activity outside partnership and programme authorities, and third, the apparent paradox that complaint based policies led to more enforcement in 1975 and 1985. This paradox is explained by the fact that LHAs only take the initiative and serve notices towards the end of the 'life' of an improvement area when persuasion and negotiation has proved abortive. LHAs positively prefer to negotiate because statutory procedures are regarded as cumbersome, with lots of scope for delay, in order to avoid a compulsory counter purchase notice, and in order to avoid awarding mandatory grants that do not carry repayment conditions where letting certificates are breached. Some LHAs will use notices as threats, and expect a provisional notice to be 'converted', through negotiation, to a full standard discretionary improvement (i.e. not just intermediate) grant, or to sale to a housing association or to another landlord (who will take up a full grant). Others however fear that too many notices will "blow our HIP programme".

LHAs make much greater use of repair than improvement notices under the Housing Acts and, allowing for the fall in the numbers of unfurnished rented houses, the numbers served have remained steady at around 60 per thousand even though the absolute number of notices has fallen as Table 7.13 shows. Much the greatest use in relation to the size of private renting is made by partnership and programme LHAs, especially in the three northern regions, with enforcement notices of 9 per cent of the stock compared with 2 per cent in other LHAs.

LHAs make less use of notices under S.189 of the Housing Act 1985 (where they have a duty to serve notices where properties are unfit and repairable at reasonable expenses) than under S.190 where their power is discretionary. S.189s are procedurally complex with uncertain outcomes.

Table 17.12 COMPULSORY IMPROVEMENT NOTICES (a) NUMBERS (b) PER THOUSAND UNFURNISHED PRIVATE RENTED HOUSES WITHOUT EXCLUSIVE USE OF A BATH*

	1975	1980	1985
	(a) Numbers (Sample Nos)+		
Type of LHA			
Part & Prog	30 (12)	40 (16)	4 (16)
Other	7 (6)	2 (8)	1 (10)
All	22 (18)	27 (24)	3 (26)
	(b) per thousand		
Part & Prog	22.2	63.5	15.1
Other	4.9	4.3	6.6
All	16.5	43.8	11.9
't'	.85	2.71	.99
Significance (1 tail)	.37	.11	.33
Policy Stance			
On initiative SIAs≠	27.3 (8)	78.5 (9)	14.0 (9)
On complaint only	35.8 (2)	49.2 (3)	22.4 (4)
Rarely/no	0.8 (8)	16.4 (12)	7.1 (13)
≠ t (combining initiative & complaints)	1.68	1.61	1.14
Significance	0.05	0.06	0.13

Notes

* 1980 = Number of private rented households in 1981 census without exclusive use of bath.
1975 = 1980 * 2.25
1985 = 1980 * 0.45

+ The results are not significantly for 1980 and 1985 different if data from LHAs that did not report in earlier years is excluded.

≠ SIA = statutory improvement areas

If the notice is successfully challenged on the grounds that the expense is not reasonable (a particular problem on northern authorities where the full cost (net of grant) of remedying unfitness may not be "recouped" in an increase in value) the outcome may be a purchase by the LHA or a closing/demolition order. Even if the notice goes unchallenged, the landlord may neglect to comply whilst the LHA may be reluctant to do the works in default. If the LHA does not serve a S.189 notice it must serve a "time and place notice" to determine the future of the unfit property - which may lead to equally unsatisfactory results of, inter alia, closing or demolition orders.

As a result LHAs prefer to use S.190(1)(a) and S.190(1)(b) notices. They have discretion to act themselves under 190(1)(a) where they are satisfied that a house, whilst not unfit, is disrepaired and that substantial repairs are needed to bring it up to reasonable standard in relation to its age, character and locality. They can also act upon complaint by tenants under S.190(1)(b) if the state of repair materially interferes with their comfort. The intention of section 190 is to enable LHAs to take action to prevent disrepaired houses becoming unfit and remove any incentive landlords might have to neglect repairs so that their properties become unfit and, ultimately enable them to secure vacant possession. Whilst the requirement to use S.189 rather than S.190 on unfit houses is absolute, the question of unfitness is a matter of judgement, and the wide interpretation of unfitness enables LHAs to choose which instrument to use. S.190s are popular because the criterion of reasonable expense does not expressly have to be considered at the outset, although courts may well consider it on appeal (Arden, 1985), and because of the flexibility of the term "substantial disrepair".

Only a quarter of the LHAs made little or no use of repair notices whilst another quarter serve them on their own initiative in statutory improvement areas, including 40 per cent of partnership and programme authorities. Half, however, serve them on complaint only and this is particularly the case outside partnership and programme LHAs. The greatest use is made in the northern, Labour controlled, inner cities. Indeed there is some evidence that they have, to some extent, replaced S.93 notices to abate nuisances served under the Public Health Act 1936, (see also Hawke and Taylor, 1984).

Repair notices are therefore widely used and there was not, at least so far as the ten year statistics can show, any diminution in their use in relation to the size of the private rented sector. They are used to deal with a wide range of disrepair and often, especially in the context of statutory improvement areas, they are employed to encourage landlords to take up full improvement grants and thus to repair to a much higher standard than specified in a notice. They are therefore very much the stick, as much in front of, as behind, the carrot of grant aid.

Nonetheless, S.190s are not unproblematic. Not the least because they carry the mandatory right to a repairs grant for the works specified where applications are duly made. There are indications, therefore, that capital restrictions may lead to deliberate limitations in some LHAs in the number of S.190s notices that can be served. Indeed this had already happened as a blanket ban in two LHAs (save for disrepair threatening the health or safety of tenants) and in others annual capital availability determined the (fluctuating) number of notices which LHAs served on their own initiative. Moreover, if LHAs are unsuccessful in using the threat of S.190s to persuade landlords to improve with a full discretionary improvement grant to a higher standard than specified in the notice (and aided by way of mandatory grant), then the LHA may have to put up, either with a lower level of repair than it set out to achieve, or having to carry out work in default. Moreover, holders of mandatory grants are exempt from certificates of letting and do not have to repay grants if they sell within the five (or seven) years statutory period.

Strategies to restrict grants by limiting the service of notices were not always successful. Officers in a number of LHAs observed that some landlords were encouraging tenants to complain as a way of "provoking" a repairs notice - and a mandatory grant. Indeed some LHas remarked that one risk of the system was that it "encouraged" landlords to neglect repairs in the expectation that this would ultimately lead to enforcement and subsidised repairs. The two LHAs which had blanket bans on notices shared this view.

The fact that the financial climate effectively determines whether or not LHAs take action to secure a reduction in disrepair and unfitness arises because LHAs have discretion about serving S.190 notices, whilst the standards about unfitness and disrepair are not unambiguously defined. They are both open to interpretation both in their compass and in their application to individual properties. Hence there is effective discretion in serving S.189 as well as S.190 notices. This degree of discretion can result in financial led use of enforcement, as is clearly the case in a number of LHAs.

The growing "popularity" of S.190s is reflected in the fact that only 46 per cent of LHAs now make regular use of nuisance abatement notices under the 1936 Public Health Act. Because of the inadequacy of standards, many LHAs preferred to use repair notices, subject to political attitudes to grant and financial limitations. Abatement notices were not without their champions however and were used to deal with dampness, instability and risks of accidents. They were regarded, by contrast with Housing Act notices, as simple, straightforward and could be pressed to a conclusion fairly quickly. Officers tended to reckon that magistrates courts found more in LHAs' favour in cases of disputed abatement notices than County Courts did in cases of disputed repair notices. Moreover, the possibility of quasi criminal penalties for landlords who fail to comply increased the likelihood of work being carried out.

Conclusion on enforcement policies

It is evident that there are significant variations in LHAs' practices of using statutory enforcement powers and that many prefer to concentrate on informal persuasion and negotiation right from the outset, using statutory procedures as a threat to aid negotiation or as a last resort when this fails. Indeed as Table 17.11 confirms, only a quarter of LHAs rarely or never used informal methods whilst 44 per cent relied on them a lot. However, there are significant differences between authorities, with only 19 per cent of partnership and programme authorities using informal methods a lot, compared with 70 per cent of all others. This pattern holds good in the northern as well as the midlands regions and in Labour controlled as well as in other LHAs. In other words partnership and programme LHAs pursue interventionist approaches to a great extent and others use negotiation to a high degree. For example, where the

Table 17.13 REPAIR NOTICES (a) NUMBERS (b) PER THOUSAND UNFURNISHED PRIVATE RENTED HOUSES

Type of LHA	1975	1980	1985
	(a) Numbers (Sample Nos)		
Part & Prog	930 (12)	623 (15)	449 (16)
Other	3 (5)	65 (7)	76 (9)
All	657 (17)	445 (22)	315 (25)
	(b) Per '000		
Part & Prog	81.1	70.0	93.0
Other	0.4	9.2	20.5
All	57.3	56.6	67.4
'L'	1.66	1.31	1.44
Significance (1 tail)	0.12	0.20	0.16
Policy Stance			
On initiative in SIAs	84.7 (6)	86.1 (8)	109.2 (8)
On complaint only	65.7 (7)	68.6 (8)	70.3 (10)
Rarely/no	1.6 (4)	1.4 (6)	15.6 (7)
r ('L' combining initiative and complaint)	0.93 (1.36)	0.94 (1.37)	1.06 (1.31)
Significance	0.42 (0.09)	0.41 (0.09)	0.36 (0.10)

Table 17.14 COMPULSORY IMPROVEMENT AND REPAIR NOTICES SERVED PER THOUSAND UNFURNISHED PRIVATE RENTED HOUSES BY ENFORCEMENT PRACTICE

All Authorities	1975 (N)	1980 (N)	1985 (N)
1 Negotiate a lot	61.6 (4)	50.4 (6)	39.8 (7)
2 Negotiate and enforce	24.2 (7)	36.6 (9)	52.1 (11)
3 Enforce	103.1 (6)	104.2 (7)	122.7 (7)
All	60.8 (17)	61.9 (22)	68.4 (25)
'L' (combining categs 1+2)	1.34	1.13	1.37
Significance	0.10	0.14	0.09

declaration of statutory improvement areas has been curtailed and grant availability is restricted (see below), greater use is made of informal approaches in all types of authority, whereas in LHAs where declarations continue partnership and programme LHAs act in an interventionist manner, but others follow negotiatory approaches

As one officer in a programme authority in the northern region put it, "messing around with letters, is just, it's a waste of time and its more work". Another in a Yorkshire and Humberside programme authority explained "too much (negotiation) - quite a lot of that in the past and we've now tightened up . . . I dislike informal action. It adds two to three months to the process." Not all partnership and programme LHAs take a hard line, however, and for some their stance depends on previous experience in dealing with particular landlords. Where landlords are prepared to comply, negotiation tied to grants will be pursued successfully. If not, LHAs do not waste time risking abortive negotiations and get on with statutory procedures straight away. Moreover there are also indications that well informed landlords often wait until statutory notices are served because they know they carry mandatory grants without conditions as to future letting attached to them. Table 17.14 summarises the statistical evidence about the relationship between policy about negotiation and the number of notices actually served.

In conclusion therefore there is an important distinction between two types of LHAs. Partnership and programme LHAs with numerically large numbers of unfurnished houses make much greater use of enforcement procedures - and their delegation arrangements are so arranged to enable officers to act in this way. Other LHAs follow a negotiatory rather than enforcement model relying more heavily on grants to persuade landlords to carry out repairs and improvements. The findings here echo other recent work which has also emphasised the role that grant availability and the effective discretion LHAs have to define standards of unfitness and repair both play in reducing enforcement or coercive practices and strengthening negotiatory or informal practices. This work has also emphasised the fluid nature of practices and how coercive modes can switch to negotiatory ones in the same LHA, depending on grant availability (Burridge, 1987).

Effectiveness of Enforcement

Local authorities considered enforcement was effective if they were able, either to negotiate with landlords and get them to carry out works to a high specification with a discretionary improvement grant to full standard, or to persuade them to sell to other landlords, including housing associations, who would do work to this requirement. In other words enforcement and negotiation was designed to get work done, to a higher standard than can be specified in a statutory notice. Local authorities considered enforcement unsuccessful where work was done either by landlords to the standard specified by notices (using a mandatory intermediate or repair grant), or carried out by local authorities in default (and therefore again doing only the work specified in the notice). Thus whilst statute restricts what can be specified in notices to works which will eliminate unfitness or substantial disrepair, the local authorities will attempt to persuade landlords to go beyond this minimum.

The availability of grants and the interaction of the enforcement and grants system in influencing outcomes must, once more, be emphasised both in broad terms i.e. negotiation or enforcement is seen as a necessary precursor or threat enlisting applications for grant to assist landlords to do work required, as well as in detailed terms. For example, notices carry entitlement to grants. Where mandatory grants are awarded following service of notices, landlords do not have to provide certificates of availability for letting, provided grants are paid only for works to comply with the requirements of the notice. If the local authority is successful in persuading landlords to exceed the standard laid down in a notice and awards a grant for this work, then conditions attached to certificates of letting apply and grant can be reclaimed if landlords subsequently sell properties within five years (seven in HAAs). But where work is done with grant aid only for the standard prescribed in the notice there is no obligation to repay grants. There is thus an incentive in terms of costs and of fewer restrictions on use of assets for landlords to restrict work to those specified in notices, whilst local authorities seek, subject to capital restrictions, to persuade landlords to exceed this.

Table 17.15 EFFECTIVENESS OF ENFORCEMENT DUTIES

	Enforcement Practice			Type of LHA		All
	Negotiate a Lot	Negotiate & Enforce	Enforce	Inner City	Other	
Effective: work done	72	50	36	38	70	53
Ineffective (to some extent)	28	50	64	62	30	47

Generally speaking, however, most local authorities considered that the 1980 Housing Act had made it easier, both for negotiating authorities to persuade landlords to carry out improvement without the need for enforcement, and for enforcing authorities to get notices complied with without resorting to default action. This was because the legislation and accompanying orders had increased cost limits, extended the highest (75 per cent) percentage of grant aid beyond HAAs to all unfit properties, those without amenities or in substantial and structural disrepair, increased to 70 per cent the proportion of a discretionary grant which could be devoted for repair work of a substantial and structural kind, enabled repair grants to be given on discretion outside as well as within HAAs and on a mandatory basis whenever statutory enforcement action was taken. LHAs considered that these measures increased effective demand by reducing landlords costs and made it easier to take enforcement without having to work in default. Mandatory grants were an essential part, LHAs argued, of a successful enforcement strategy and enforcement would appear to be more successful now in getting landlords to do work than in the mid 1970s. In the latter period Hadden reckoned only a third of notices were complied with (Hadden 1978). LHAs in this sample thought they got work done in 80 to 90 per cent of cases, albeit on occasions with difficulty, to low standards and on default.

Generally speaking, as Table 17.15 shows, just over half LHAs consider their enforcement action to be effective in getting work done to the standard they want. Effectiveness is particularly marked amongst those pursuing a negotiatory model and therefore amongst most, except inner city partnership and programme areas. These former authorities rarely resort to the full use of statutory procedures and find that their threatened - or limited actual use - is successful. Given the limited use they make of statutory enforcement they do not often confront procedural and other difficulties.

Thus the negotiating LHAs are those who concentrate their efforts on persuading landlords to improve with discretionary grants to a full standard, rarely experiencing the problems that enforcing LHAs face when they use statutory enforcement procedures. These latter, usually inner city authorities, use full statutory powers much more often hoping, however, to turn the consequent right to mandatory grants into

applications for discretionary grants or to see the notice result in sales to other landlords, which many actively encouraged, using notices as a means of securing such sales. For these authorities, ineffective enforcement includes paying a mandatory grant attached to a notice because of the low standard achieved, having to do work in default (or accept a counter purchase notice) to the same low standard, and difficulties over reasonable expense or the amount of work specified in relation to the character and location of the dwelling on appeals against notices. It should be noted that 45 per cent of LHAs who served compulsory improvement or repair notices on their own initiative encountered the need to do work in default and less than a third found them totally effective procedures. The evidence from LHAs shows that the more they are enforcing rather than negotiating authorities the greater the proportion of grants awarded are mandatory.

Whilst enforcing LHAs find statutory powers least effective, all types of authorities experience some procedural difficulties with enforcement, although it should be emphasised that only half identified problems with enforcement.

The most important problem was that of delay in getting work carried out. 59 per cent considered this a problem, especially the active enforcers with proactive policies in HAAs and partnership and programme LHAs. LHAs were particularly concerned about the time taken up by each of the stages of statutory procedures, especially if in the end work has to be done in default. Nevertheless, there was a recognition that landlords had been given right to appeal and, in complaining about delay, LHAs were not suggesting rescinding such rights, rather speeding up procedures (not least because of continuing hardship to tenants). They also recognised that, when landlords had applied for grants, the grant approval and implementation timetable often meant long delays in doing the work through no fault of the landlords, since LHAs could not press for work to be done to the statutory timetable in these circumstances. However there were occasions when landlords deliberately used this to delay things, with no intention of doing the work, with or without grants. Delay was also a problem when properties were sold on to other landlords. There were positive and negative aspects to this. On the positive side the properties were sometimes bought by property dealers actively acquiring for

improvement and capital gain (see below); delays in applying for grants and organising work were acceptable in these situations. On the negative side company owners sometimes hid behind their "corporate" veil, switching the ownership of properties between constituent companies to avoid responsibility.

The second major source of complaint about enforcement was standards, especially where LHAs were actively serving improvement and repair notices on their own initiative and where there was little active purchasing by property dealers, who were builders looking to improve their acquisitions. LHAs were concerned that they could not specify the higher standard they wanted in statutory notices, and that too low a standard was achieved where they could not persuade landlords to apply for discretionary grants and comply with higher standards. Connected with this is the problem of the effective lowering of standards on appeal, on the grounds of reasonable expense and of the way the criteria of age, character and location of the property also affected this on appeal. LHAs found this a hindrance in the worst areas where they wanted to see increased standards yet were thwarted because of a combination of high costs, low post improvement values and a surrounding area of poor standard houses and environmental quality. Ironically this meant they could press for less to be done on appeal cases in such areas than in other areas of better standards and higher house prices. Thus standards are influenced as much by the determination of house prices and environmental character in the local housing market as by desirable environmental health criteria.

Whilst few LHAs were regularly doing work in default (most hoping to persuade recalcitrant and reluctant landlords to sell to property dealers or housing associations) active enforcers reckoned they potentially had to consider doing so for between 10 and 20 per cent of cases. Organising the practical side of default work is a major problem for these LHAs. Two specific problems were mentioned most. First the internal administrative procedures to authorise and carry out the work were cumbersome and this in itself was a disincentive to embark on enforcement. Second, the difficulty of recovering the expenditure upon completion, not the least the low rate of recovery when it is taken from low rents. Consequently many LHAs rely on putting a charge on property, so that they recover upon sale. Because of these difficulties, LHAs want to be able to prosecute

for failure to comply with statutory Housing Act notices as well as to do work in default. In other words, the advantages of operating under Public Health Act procedures is that defaulting landlords can be prosecuted but with the attendant disadvantage of remedying only immediate nuisances. The advantage of Housing Act procedures is that higher standards (though not high enough) can be specified and work done in default, but defaulters cannot be fined for failure to comply. Many LHAs would like to be able to prosecute, taking the view that mandatory grants overcome the reluctance of most landlords and that the threat of high scale fines would persuade all but the most reluctant of the rest to do the work, particularly if they also have to pay for default work without the benefit of grant. It should be noted that a number of LHas commented on the effectiveness of the threat of default. If sufficient publicity ("word getting about") is given to cases of default costs being recovered, with bills being sent out without the benefit of grant, many landlords will carry out works.

Enforcement: Reforming Powers and Procedures

Only 22 per cent of all LHAs wanted no changes. Not surprisingly most of these were the LHAs who made little active use of procedures, relying instead on threat and the enticement of grants. Nonetheless 70 per cent of LHAs who used negotiations extensively wanted some changes.

The two changes mentioned most often (by one-third of all LHAs) were about standards and about compulsory procedures. As for the former, local authorities referred generally to the need to reach something higher than the current fitness standard, a number explicitly referring to the AMA's proposed habitation standard (AMA, 1986). Many compared this with what they saw as a reduced standard proposed by DoE in the 1985 Green Paper (DoE, 1985). They also referred to explicit items which they wanted incorporating, such as safe electrical installation. Finally they also wanted the power to specify this higher standard in statutory notices. Nearly half the LHAs who served repair notices on their own initiative in improvement areas wanted these reforms.

The other most popularly expressed reform concerned compulsory improvement and repair powers, especially those serving notices on their own initiative in statutory areas. Many were concerned about delays inherent in

each system and, subject to preserving landlords' rights to appeal, wanted to speed up the process, particularly if, in the end, the LHA were going to have to do work in default. Two particular changes were identified. First to remove the power of landlords to serve counter purchase notices in cases where dwellings, subject to improvement notices, were capable of renovation at reasonable expense. In many ways this was as much a reflection of the impact financial restrictions had on the willingness of LHAs to serve notices as on anything else. Not all LHAs would go along with this, and a few explicitly endorsed the AMA's proposals that owners should retain the right of requiring LHAs to buy dwellings below standard (with options for tenants to do so) including those where dwellings were not capable of renovation at reasonable expense. The other change noted included the elimination of provisional notices and the speeding up (often unspecified) or eliminating the "time and place" meeting procedures for compulsory improvement notices. All these were designed to reduce the amount of time landlords could potentially delay enforcement.

By contrast a number of LHAs agreed with the AMA's proposals to introduce time and place meetings to consider proposals for improving and repairing all houses below the habitation standard not just houses subject to provisional improvement notices and unfit houses incapable of repair at reasonable expense i.e. any house defective on the element of the standard. If the habitation standard could be achieved at reasonable expense the LHA would seek the views of owner and tenant and either take no further action if the tenants so wished, serve a compulsory order, if the tenants asked, accept voluntary undertakings to do the work, or agree to a sale to the local authority or housing association, if the tenants consent.

A number of other changes were identified by 15 per cent of LHAs. First the need to increase staffing. Whilst not about procedural reform the LHAs who mentioned this insisted that the procedures were adequate: what they needed were the staff to carry them out. Not surprisingly it was the authorities making the least use of enforcement who were most likely to mention this. Other authorities wanted to "toughen up" procedures. These included: a duty to carry out work in default upon non-compliance, the ability to fine landlords for non-compliance as well as doing work in default, and the right to compulsorily acquire as an alternative to

default and/or fines. Other changes were designed to clarify procedures, particularly when determining reasonable expense in relation to improvement and repair notices, especially in respect of valuation on the open market as to vacant possession or sitting tenant valuation.

Policies about Improvement Grants

Many of these enforcement procedures depend on the grant system for their effectiveness. It is important therefore to review LHAs policies and experiences in this area, as well as to consider their proposals for the reform of this system, too.

Number of grants

Tables 17.16 and 17.17, which show the increase in the number of grants paid to private landlords over the ten year period, do not fully reflect the impact of the most recent restrictions LHAs have placed on the award of grants as a result of reduced HIP allocations. What they do show is the significant impact that both the 1980 Housing Act and the 1982/83 budget measures have had on increasing grants to private landlords. The former increased eligible expense limits for discretionary, intermediate and repairs grants, increased to 75 per cent the rate of grant for all priority cases (dwellings in HAAs, without all amenities, in substantial and structure disrepair, for the disabled, or pursuant to a mandatory repairs notice), increased to 70 per cent the proportion of the discretionary grant which could be used for repairs of a substantial and structural nature, extended repairs grants on a discretionary basis to all qualifying dwellings (not just in HAAs) and made their award mandatory when repair notices were served. The 1982/83 budget increased the grant rate to 90 per cent for intermediate and repair grants where applications were duly made within two years.

The combined impact of these measures led to grants increasing from under 1 per cent of the private rented stock in 1975 and 1980 to 3 per cent in 1985. This increase occurred in all types of authority, and whilst it occurred in both mandatory grants (those paid where amenities were lacking or repairs notices served) and discretionary grants, the biggest proportionate increase was in mandatory awards especially in partnership and programme LHAs, although throughout the period the majority of grants were discretionary (either discretionary improvement or repairs grants).

Table 17.16 ALL IMPROVEMENT GRANTS (a) AVERAGE NUMBERS (b) AVERAGE PER THOUSAND UNFURNISHED PRIVATE RENTED HOUSES

	1975	1980	[1980]≠	1985	[1985]≠
		(a)			
Part & Prog	151 (6)	66 (9)	71 (8)	215 (12)	213 (8)
Other	42 (5)	27 (10)	27 (10)	53 (12)	39 (10)
All LHAs	102 (11)	46 (19)	46 (18)	134 (24)	116 (18)
		(b)			
Part & Prog	8.9 (6)	8.5 (9)	8.9	37.0 (12)	33.7*
Other	8.7 (5)	8.0 (10)	8.0	30.8 (12)	21.0
All LHAs	8.8 (11)	8.3 (19)	8.4	33.9 (24)	26.6

Notes

≠ Bracketed data: LHAs providing data for 1980 and 1985

* Significant difference between type of LHAs at 0.07 level

Table 17.17 MANDATORY AND DISCRETIONARY IMPROVEMENT GRANTS
(a) NUMBERS (b) PER THOUSAND UNFURNISHED
PRIVATE RENTED HOUSES

	1975	1980	1985
Mandatory			
		(a)	
Part & Prog	14 (6)	7 (9)	79 (12)
Other	11 (6)	9 (10)	20 (12)
All LHAs	13 (12)	8 (19)	50 (24)
		(b)	
Part & Prog	1.6	1.2	15.8
Other	2.3	2.3	10.0
All LHAs	1.9	1.8	12.9
Discretionary			
		(a)	
Part & Prog	118 (7)	58 (9)	156 (13)
Other	29 (6)	19 (10)	32 (12)
All LHAs	77 (13)	37 (19)	96 (25)
		(b)	
Part & Prog	6.3	7.3	26.4
Other	6.8	5.7	20.8
All LHAs	6.6	6.5	23.7

If comparisons between the years are made only for LHAs which were able to provide data for all years the same pattern of change emerges, although there is a bigger proportionate increase in grants in partnership and programme than in other LHAs between 1980 and 1985 in absolute and ratio terms.

Grant Rationing Policies

It is clear however from the evidence collected in this survey that LHAs have had to impose substantial restrictions on grants in recent years because of reduced HIP allocations. This has affected all of them since 1983/84 and almost all are using various rationing devices to steer limited funds to priority areas and properties and, with the limited exceptions of two LHAs, no distinctions were made between tenures in drawing up and applying these restrictions.

Until 1980 it was evident that grants were freely available (where applications were duly made) and a "first come, first served" policy determined who got grants, with discretionary grants being widely available within and without statutory improvement areas, subject to statutory requirements.

Between 1980 and 1983/84, however, rationing devices were gradually introduced in response to the increasingly severe HIP restrictions. Many LHAs restricted discretionary grants to statutory improvement areas but these policies were "blown apart" by the 1982/83 budget measures when for two years many felt they were being asked to adopt an "open cheque book" approach to grants. They were swamped with applications and inspections throughout their areas and demand-led pepperpotting overtook attempts to prioritise the most important work, not the least to persuade and cajole reluctant landlords to apply for grants, in order to ensure that applications stimulated by the budget incentives were serviced.

Since then increasingly severe restrictions have been introduced involving a mixture, in most cases, of area rationing with some applicant and/or property rationing. There are three types of main policy. First, as Table 17.18 reveals, the main policy in half the LHAs is that discretionary grants are available only in statutory improvement areas (and

Table 17.18 GRANT RATIONING POLICIES (a) CLASSIFICATION OF MAIN POLICY
(b) NUMBER OF RESTRICTIONS

(a)

		No restrictions	Discretionary Grants in Improvement Areas Only	Only Mandatory Grants Everywhere	Other
Part & Prog	%	-	62	9	28
Other	%	5	45	20	30
All LHAs	%	2	54	15	29

(b)

		0-1	2	3 or more
Part & Prog	%	38	52	10
Other	%	30	60	10
All LHAs	%	34	56	9

sometimes only within defined blocks within these or only in support of enveloping schemes). Outside these areas grants are only available for adaptations for the disabled, as well as mandatory intermediate and repair grants. Because the latter are mandatory upon notices, the private rented sector gets some priority outside improvement areas.

The second main policy, in 15 per cent of LHAs, is that only mandatory grants were available throughout the authority's area. In many authorities, moreover, (not just these 15 per cent) it was evident that enforcement action was being restricted, if not actually suspended, to reduce the demand for mandatory grants, given financial limitations. Although it was rare for LHAs to explicitly restrict grants to private landlords there were two who considered property dealers were distorting priorities by activating Housing Act enforcement procedures through tenant complaints following deliberate failure to carry out repairs in circumstances where they had adequate funds to carry out the works. In these cases no discretionary grants were given to private landlords and enforcement action was confined to cases where dwellings were structurally dangerous or presented dangers to health and safety i.e. action under Public Health and Building Acts which do not carry entitlement to grant.

The third main policy, in 29 per cent of LHAs, is to be more selective about discretionary grants both inside and outside statutory improvement areas. A few examples will clarify this. A non designated authority in Yorkshire and Humberside was using rateable value limits to ration discretionary grants outside improvement areas on the basis of survey evidence about the correlation between rateable value and physical condition. The limits were adjusted according to the severity of financial constraints on a yearly basis, including the exclusion of private rented properties from any restrictions. A programme authority in the north west opened up discretionary grants outside improvement areas when cash was available and pushed through the backlog of applications from the 1982/83 boom. Another in the north west used a points system based jointly on condition and applicant need to determine priorities, whilst a partnership/programme authority in the Midlands restricted grants to certain kinds of work. Yet other authorities used variations in percentage grants to ration cash, varying the percentage on an annual basis to clear the budget, sometimes incorporating minimum spending limits

before discretionary repair grants would be approved - on occasions varying this according to the financial status of applicant (including individual landlords) - e.g. full grant at 90 per cent if receiving SB or FIS.

Evidently the growing financial restrictions create problems for the enforcement of standards in the private rented sector. Some local authorities are confining enforcement activity to limit the number of mandatory awards they must make whilst others are restricting what will be funded in discretionary grants, if not restricting them entirely to improvement areas, thereby hindering the use of enforcement as a step to persuading landlords to apply for discretionary grants. Increasingly as a result grants are confined to improvement areas, whose declaration is itself being restricted. The greater the number of restrictions on grants the more likely it is that repair notices are only served upon the complaint of a tenant and the greater the reliance on negotiation than on enforcement action.

Grant standards and conditions

Each LHA was asked about the standards it required when a private rented house had an improvement grant. This was done by finding out what was acquired for six elements of the building fabric: roofs, window frames, damp proofing, internal plasterwork, staircases and external doors. Local authorities were also asked whether they were prepared to negotiate with private landlords or their agents about standards and whether, and in what way, standards had changed since 1980. To simplify comparisons between authorities,the cost of achieving the six elements of each authorities' standard was estimated from tendered prices for carrying out such work to a two storey, 4 room mid terraced nineteenth century house, with attic, in Sheffield in 1987. In this way it was possible to compare the total cost of achieving each LHA's standard, although no allowance has been made for regional variations in building costs.

Nevertheless Table 17.19 shows that, with the exception of internal plasterwork and the resiting/rebuilding of steep staircases, at least half of LHAs are requiring landlords to renew crucial elements of the building fabric. Whilst the differences between partnership and programme and all other authorities are not statistically significant it should be noted

Table 17.19 IMPROVEMENT GRANT STANDARDS

		Renew Roof	Renew Windows	Full DPC	New Plaster	Resite Steep Stairs	Renew External Doors	Average Cost	Standard Deviation
Part & Prog	%	67	57	48	43	24	57	£4,472	£2,371
Other LHAs	%	65	65	60	35	50	65	£4,784	£2,438
All LHAs	%	66	61	54	39	37	61	£4,624	£2,378

that there is a tendency for more of the latter to have higher standards, especially in relation to dealing with rising dampness and steep internal staircases. This is reflected in the slightly higher cost of rectifying problems.

Standards have risen in many LHAs since 1980, especially in inner city (i.e. partnership and programme) LHAs, over half of whom have raised them compared with just less than a third of other authorities, over half of whom had the same, or lower standards. In most cases the improvement in standards arises from the requirement to replace rather than repair. This is particularly so in the case of roofs. In 1980 half inner city authorities were prepared to allow roofs to be patched and repaired when awarding grants. Now two-thirds of LHAs insist on the existing roof covering being replaced with felt covering, new battens and new slates. Similarly a quarter of them now require new windows whereas in the past splicing in new wood to replace rotted members would have been accepted. Indeed some authorities specify upvc windows and condensation channels.

The fact that standards have risen in inner areas does not mean standards are lower in other LHAs - far from it, standards were higher, on average, in 1980 in these areas, and it is inner city authorities who have raised standards to match them. In all types of area, those who have raised standards require landlords to spend on average 40 per cent more (assuming that <u>all</u> the elements need attention) than those who have maintained 1980 standards. Because more inner city partnership and programme authorities than others have raised standards they have faced landlords with bigger increases in the costs of improvement, than LHAs elsewhere because those of the latter who raised standards already had higher than average standards.

Having said that standards have risen, it is also true that some LHAs are prepared to negotiate about standards and to make concessions to ensure that at least some work is carried out in circumstances where landlords would be deterred by the high costs of fulfilling all the LHAs standards. However, LHAs who took the initiative to enforce standards did not pursue lower ones than others. Nevertheless over half LHAs were prepared to waive some standards if this got essential work done. Paradoxically it is those who set out to achieve the lowest standards who are most prepared to

Table 17.20 PROPORTION OF LHAs PREPARED TO NEGOTIATE ABOUT STANDARDS BY PRACTICE IN SERVING REPAIR NOTICES

Inner City LHAs	Percentage of LHAs who negotiate on standards	N	Average Costs (£) All	No negotiation	Negotiation
On initiative in SIAs	67	9	4658	5250	4363
On complaint only	57	7	5507	6016	5126
Rarely	50	4	3356	4037	2675
Other LHAs					
On initiative in SIAs	100	2	4775		4775
On complaint only	50	12	3968	5862	2075
Rarely	33	6	6416	7237	4775

waive them, although this is much less the case amongst active users of statutory enforcement. Thus inner city LHAs who take statutory initiatives to get repairs and improvements done do not do so at the cost of standards. Indeed they were the ones who have raised them in recent years. In other LHAs there is a somewhat opposite tendency - far fewer take the initiative but many more who do so waive standards while the standards they are prepared to sacrifice are much lower, few having changed in recent years. (See Table 17.20).

Conditions on Grants

As well as having effective discretion in determining standards, LHAs also have some discretion in imposing conditions on grants. Some conditions are however mandatory. Landlords must provide a certificate of availability for letting for five years (unless the application is for an intermediate grant following a compulsory improvement notice or a repairs grant following a repairs notice). In addition, LHAs may require landlords to let on regulated tenancies at registered Fair Rents for five years (though see current advice in DoE, 1988b). In HAAs and GIAs they are obliged to make these conditions where they run for seven years. If any of these conditions are breached, the LHA can reclaim the grant with interest.

Once again partnership and programme LHAs stand out as "tough" LHAs, more of them requiring Fair Rents to be registered than other authorities, carrying out surveys to identify breaches of all conditions (including certificates of letting) and reclaiming grant with interest upon establishing breaches. Nevertheless it should be noted that these inner city authorities were not only the "toughest" as far as conditions were concerned, but also the "laxest" as far as monitoring potential breaches. As might be expected, LHAs using statutory enforcement to achieve standards were the same authorities making greatest proportionate use of Fair Rent and other conditions - although it should also be noted how few LHAs imposed any other conditions at all. (See Table 17.21).

Enforcement, Costs and Grants

Not unexpectedly, LHAs award more grants per thousand private rented properties where they are actively using statutory enforcement powers. As Table 17.22 shows, the number of grants in proportion to the number of

Table 17.21 CONDITIONS ON GRANTS

Type of LHA	(a) Imposing Fair Rents	(b) Imposing Other Conditions	(c) Means of Identifying Breaches				(d) Reclaiming with interest
			Surveys	Searches	Other	None	
	Percent of LHAs						
Part & Prog	80%	10%	% 29	5	24	43	80%
Other LHAs	55%	15%	% 15	50	10	25	65%
All LHAs	67%	12%	% 22	27	17	34	72%

Table 17.22 IMPROVEMENT GRANTS PER 1000 UNFURNISHED PRIVATE RENTED HOUSES BY (a) POLICY IN SERVING REPAIR NOTICES (b) ENFORCEMENT PRACTICE (c) NUMBER OF NOTICES SERVED

		1975	1980	1985
(a)	On LHA initiative on SIAs	7	11	42
	On complaint	9	8	32
	Rare/Never	10	6	26
(b)	Negotiate a lot	6	7	34
	Negotiate and enforcement	7	9	29
	Enforce	12	11	42
(c)	Notices at/below median	6 (6)	6* (10)	23** (11)
	Notices above median	10 (3)	12 (5)	44 (8)

Notes

* Difference significant at 0.06 level
** Difference significant at 0.07 level

unfurnished properties is greater where LHAs serve repair notices on their own initiative in statutory improvement areas, where they rarely negotiate, and where more notices are served than in other LHAs. These differences were particularly marked, in partnership and programme LHAs in both 1980 and 1985, but not in other LHAs. In other words the higher rate of enforcement activity in partnership and programme authorities is translated into the higher levels of improvements found in these than in other areas.

Nevertheless improvement grants have increased markedly in all types of authority, even though the scale of enforcement activity has not. Table 17.23 sheds more light on the factors behind activity and lists the correlation coefficient of notices and grant costs, on the one hand, with grants on the other hand. It shows that in both 1980 and 1985, but especially in 1980, the number of grants was closely correlated with the number of notices and only weakly or inversely correlated with the cost of improving. In both 1980 and 1985 the number of grants in partnership and programme areas was correlated with the number of notices and inversely but not significantly with total (not net of grants) costs, indicating the "tough" enforcement strategies pursued in these (comparatively low cost) LHAs bore fruit, overcoming any residual resistance interposed by the costs of compliance, especially in 1980. In other LHAs however grants in 1980 were not only positively correlated with enforcement activity but, crucially, negatively correlated with costs - at a time when these authorities costs were much higher than partnership and programme authorities' costs and when the grant percentage outside improvement areas was 50 per cent. At the same time, enforcement activity in these other LHAs was itself inversely correlated with costs. Thus in 1980 these low cost authorities were able to pursue improvement both by negotiation and enforcement. In 1985 however the scale of activity in these other authorities was correlated with neither enforcement nor costs, indicating the extent to which the higher grant percentage paid after 1980 on works carried out on all priority cases had enabled LHAs to successfully implement the strategy of negotiation and persuasion with which they have been identified, at the same time as maintaining the high standards they require owners to meet. Nevertheless, given the negotiating stance of these LHAs, it was not surprising to find that enforcement activity itself was still correlated with costs in 1985.

Table 17.23 PEARSON CORRELATION COEFFICIENTS: GRANTS WITH ENFORCEMENT: NOTICES AND COSTS

	(a) ALL LHAS		(b) Partnership & Programme LHAs		(c) Other LHAs	
	LAGNT80[a]	LAGNT85[a]	LAGNT80	LAGNT85	LAGNT80	LAGNT85
LANOT80[b]	.72**	-	.79**		.65*	
LANOT85[b]	-	.48**		.52**		-.35
COST 80[c]	-.38*		-.22		-.93**	
COST 85[c]		-.03		-.26		.13

Notes

(a) Discretionary and mandatory grants in 1980 and 1985 per thousand unfurnished properties.
(b) Compulsory improvement and repair notices in 1980 and 1985 per thousand unfurnished properties.
(c) Costs of achieving 1985 and 1980 standard (at 1987 prices)
** Significant at ≤ 0.05
* Significant at $> 0.05 \leq 0.1$

The data also confirms other findings about enforcement strategy. First, in partnership and programme authorities notices were positively correlated with the number of discretionary grants in 1980 ··t in 1985 they were related with mandatory and not discretionary grants, reflecting the growth in mandatory grants over the periods and the success in 1980 of getting recipients of enforcement notices to apply for discretionary grants by negotiating about standards. In 1980, in other LHAs, both mandatory and discretionary grants were correlated with the number of notices but by 1985 notices were inversely correlated with discretionary grants, suggesting· that the LHAs adopting very negotiative modes of achieving repair and improvement were succeeding to getting improvement without an enforcement approach, as a result of changes to improvement grants which reduced landlords' net of grant costs.

The evidence suggests therefore that negotiation succeeds outside partnership and programme areas in getting repairs and improvements done but only if the costs are bearable. In partnership and programme areas costs are less important in determining the amount of work, because of LHAs willingness to undertake enforcement action, but the success of this is dependent on grants covering costs to an extent adequate to get landlords to do the work (particularly important as costs rose in these areas) and, as the next section shows, a supply of speculative investors prepared to buy up property subject to enforcement for short term capital gain. Indeed in all areas the increase in grants between 1980 and 1985 was correlated not only with an increase in the number of enforcement notices served but also with the cost of complying with standards, the latter because it was in these high cost areas that the changes to the grant system had the biggest proportionate impact on reducing landlords' costs.

Property Speculation, Enforcement and Grants

Property Speculators

The extent to which private rented houses are brought up to contemporary standards depends, not only on a LHA's enforcement strategy and its interaction with the improvement grant system, but also on the extent to which property dealers are actively buying up tenanted property and improving for ultimate sale with vacant possession.

Table 17.24 PROPORTION OF UNFURNISHED PRIVATE RENTED SECTOR WITH SITTING TENANTS ACQUIRED BY NEW LANDLORDS

Unweighted Data

Proportion	North*	Midlands≠	Partnership & Programme	Other	All
	%	%	%	%	%
⩾ 5 per cent	32	15	38	15	27
< 5 per cent	29	62	33	45	39
None	39	23	28	40	34
Numbers	28	13	21	20	41

Weighted Data

	%	%	%	%	%
⩾ 5 per cent	35	41	47	13	36
< 5 per cent	25	44	23	45	30
None	39	15	30	41	33
Numbers	171,934	54,376	155,144	71,166	226,310

Note

* North = standard regions of North, North West and Yorkshire and Humberside
≠ Midlands = standard regions of East and West Midlands

This has been shown to be the case in Sheffield where nearly 40 per cent of the 1985 unfurnished private rented stock had changed hands in the previous decade, much of it acquired tenanted by large companies and builders (many of whom were new to landlordism), with the intention of improving it with grant aid from the city council and ultimately selling with vacant possession. This speculative activity in combination with an active enforcement policy by the LHA had led to significant improvement and repair in the private rented stock. Martin found that this Sheffield experience was not an isolated phenomenon but was replicated in other authorities, especially those with active enforcement strategies, where a "new breed" of landlords was acquiring run down tenanted property with a view to getting improvement grants to bring them up to standard (Martin 1983, 1985

able 17.24 is based on the evidence available to the LHA officers interviewed - including improvement grant and housing benefit records -and further confirms that the Sheffield experience is, indeed, replicated elsewhere. There was evidence of landlords buying up tenanted property in two-thirds of LHAs. In a quarter, this was regarded as a significant feature, with at least 5 per cent (and often up to 20 per cent) of the unfurnished stock having changed hands in this way since 1980 in these authorities. When the data is weighted by the size of the unfurnished private rented sector in 1981, one-third of the private rented sector lives in LHAs where buying has been significant. Whilst there is significant buying in a greater proportion of northern than Midlands LHAs, a greater proportion of the private rented sector in the Midlands is in LHAs with significant buying. Finally it is in partnership and programme LHAs where buying by property dealers is at its most active, with nearly half the unfurnished rented sector living in LHAs where tenanted property was being brought up on a significant scale.

The evidence LHAs in the sample had about the types of landlords who were buying, and their motives, also confirmed previous research. First, some illustrative evidence from five of the LHAs:

In a partnership and programme authority in Yorkshire and Humberside buyers from within the LHA and from outside were actively buying up houses in HAAs and other grant priority areas. Although they were prepared to

buy throughout the LHA, they concentrated on these restricted areas because discretionary grants were available to them. The LHA noted that they picked up property on which notices had been served, including improvement notices. Indeed officers observed that, if existing landlords did not want to improve, they would be better off financially selling to another landlord because they would get a better price than selling to the LHA through a purchase notice. The buyers were new to landlordism, were large builders keeping work going during the recession, minimising bad debts by doing 'grant work' for themselves and had each acquired several hundred properties very quickly, often advertising for properties in the local press. Some 10 to 20 per cent of the unfurnished stock had changed hands since 1980.

Another partnership and programme LHA, this time in the north west, had found builders "homing in on particular areas" looking for properties without bathrooms and with sitting tenants: "the ones with double sash windows and net curtains, in disrepair. They stand out a mile." The builders made contacts with owners through a network of estate agents who act as brokers between old and new landlords. These new landlords rely heavily on the grant system, buying properties now let to pensioners to sell with vacant possession when they die or move elsewhere, meanwhile some using them as collateral to raise loans for their businesses. Significantly, housing associations found themselves unable to compete with the prices these new landlords were prepared to pay. About 15 per cent of the stock had been brought up by new landlords since 1980.

The experience of yet another north west authority (this time a non-designated metropolitan district) confirmed that it was primarily the small, local landlords who were selling out to property development companies and pension funds. The small owners cannot afford to improve and when the local authority takes enforcement action, they sell up and the new landlords get the benefit of the grant. About 10 per cent had changed ownership in this way.

The experience of a partnership and programme authority in the northern region is similar, where as much as 30 per cent was reckoned to have changed hands, with new landlords buying vacant as well as tenanted property. They were being very "choosy", buying only those properties

which were eligible for grant aid. Prices of tenanted property had gone up in these areas and zoned housing associations were finding it difficult to buy. Again the new landlords intention is to sell with vacant possession but reletting if a vacancy occurred before reletting conditions on grants expired, offering furnished tenancies to young singles, including those unemployed on (at that time) certificated housing benefit. It was also noted that the recent imposition of restrictions on grant availability appeared to have dampened down buying activity.

These experiences were also shared by Midlands authorities and officers of one partnership and programme LHA thought that up to 10 per cent had changed hands, based on the evidence of grant casework and the auction market. New landlords were buying smaller terraced houses with pensioner tenants, preference being given to houses in improvement areas. The motives were much the same: to secure capital gain when vacant possession occurred, improving in the meantime, although with some evidence of harassment to get tenants to move on. This LHA's experience also confirmed that these investors were new to landlordism. In particular it was noted that these "builder landlords" were actively committed to improving as part of their strategy - it provided them with building work, grant aid subsidised a large part of it and, in upgrading houses in improvement areas, they were acquiring saleable (and mortgageable) properties. The investment strategy of these contemporary investors was contrasted with that of investors in the 1960s and early 1970s: investment companies who had also bought up property for speculative gain but who had put no money into the fabric. The new investors were concentrating on inner city improvement areas, not only because grants were available but because area schemes, in transforming the houses and environment regenerated potential home owners' (and financial institutions') confidence in their long term future. Meanwhile, landlords who invest in property for rental income rather than simply capital gain are buying up vacant houses outside the inner area. As the LHA explained, "the people landlords want to let to (young singles) don't want to live in the inner city, whilst people who want to live there, want to buy."

These case studies, therefore support the findings of earlier research. There is evidence of significant reinvestment in private rented housing as new landlords in the property business, especially builders, buy up

tenanted property for capital gain selling with vacant possession when existing tenants quit. Meanwhile the property provides building work and by buying houses in need of improvement and repair, new landlords can get their work subsidised by improvement grants. Not only does this give their building firms a supply of work, it brings the property up to a saleable standard. Since the costs of doing this are considerable, grants are essential to the strategy and early repayment undermines the landlords investment. If therefore vacancies arise before the letting conditions or grants expire, landlords relet on a short term basis.

This investment is not of course risk free. The risks that vacant possession will not be secured are minimised however by buying tenanted property with pensioners (especially single pensioners, avoiding succession rights) and by buying on a large scale to guarantee a regular turnover of properties. Where it is necessary to find short term tenants to replace elderly tenants before grant conditions have expired, investment is less at a risk in partnership and programme authorities than elsewhere, because of the demand for furnished accommodation from young singles.

The policies of LHAs are also crucial to this investment strategy. Firstly landlords depend on a ready supply of improvement grants and on the environmental upgrading associated with statutory improvement areas. Secondly landlords require a ready supply of tenanted property. Policies about area declaration and grant restrictions relate to the first requirement. Policies about the enforcement of repairs and improvement relates to both requirements. Thus statutory notices both "flush out" property belonging to older, long established landlords unwilling to shoulder the burden of landlordism any longer and also carry the right to mandatory grants, in itself particularly important at times of restrictions on grants.

Indeed there was evidence from a number of LHAs that new landlords were deliberately running property down to attract notices or "winding up" their tenants to complain, so that LHAs would serve notices in response. Two LHAs had decided to restrict the issue of notices (so as to limit the supply of capital to these landlords) by using legislation that did not carry the right of landlords to get grants to do the work required of

Table 17.25 WHAT LHAs SAID LANDLORDS WERE BUYING (AND MOTIVES) BY SCALE OF ACTIVITY (PER CENT OF LHAs MENTIONING EACH CATEGORY)

Scale of buying since 1980	No of LHA	Terrace houses cf other types	Improvement Areas cf other areas	Properties with Enforcement Notices cf not	Bought for Capital Gain cf other	Bought and Improved cf not	Improved with Grant
≥ 5 per cent	11	82%	36%	82%	64%	82%	91%
< 5 per cent	16	37%	0%	15%	75%	62%	62%
Chi Square		5.64	7.60	10.69	0.04	1.86	2.98
Degrees of Freedom		3	2	2	1	2	2
Significance		0.13	0.02	0.005	0.83	0.39	0.22

Table 17.26 WHO WAS BUYING TENANTED PROPERTY (PER CENT OF LHAs MENTIONING EACH CATEGORY)

Scale of buying since 1980	Number of LHAs	Individuals not Companies	Large Landlords (20 props in all)	Builders or Builders & Others	New or New and Existing	Dominant Builders Company	Dominant Builder Individual
≥ 5 per cent	11	18%	90%	82%	100%	54%	18%
< 5 per cent	16	50%	31%	40%	77%	13%	53%
Chi Square		3.61	8.11	4.88	3.43	9.2	
Degrees of Freedom		2	2	2	2	4	
Significance		0.16	0.02	0.09	0.33	0.05	

them. Tables 17.25 and 17.26 build on these representative case studies and show the evidence LHAs had of what these property dealers bought and who they were. First, Table 17.25 confirms the case study evidence for all the LHAs, in particular the significance of acquisition for capital gain assisted by grant aid in all LHAs where there was property dealing on any scale. It also shows the significance, in the areas of greatest activity, of improvement areas and of the practice of buying properties with enforcement notices. Table 17.26 confirms the importance of new, large builder companies in all LHAs where there is evidence of speculative buying up of tenanted property on a significant scale.

Property Speculation and Local Authority Policy

It is also possible to examine the association between the scale of buying and the policies being applied by LHAs. Table 17.27 lists seven policies and shows the proportion of local authorities where there was significant buying according to the type of authority and whether or not the policy was being applied in those authorities. As can be anticipated from the preceding analysis buying is more significant in partnership and programme authorities than in all other authorities <u>but</u> it also shows that buying is most significant amongst those of the former LHAs still declaring statutory improvement areas, with fewest grant restrictions, with "tough" enforcement policies and high standards.

More detailed analysis of this data taking region as well as type of authority into account reveals that in the three northern regions significant speculative buying can be found in all types of authority though it is at its greatest in partnership and programme authorities carrying through the policies and practice listed in Table 17.27. In the two Midlands regions speculative buying is restricted to the partnership and programme authorities including those where "tough" policies are not being pursued, and there is no active buying outside these authorities.

The evidence suggests, therefore, that speculative buying and improvement of tenanted property is happening in many LHAs but is at its most significant in the main inner city LHAs especially those that pursue active policies of enforcing repair and improvement standards. In other words a "proactive" high standards approach is closely associated, not only with a higher level of improvement activity (judged by grants

Table 17.27 PERCENTAGE OF LHAs WHO ESTIMATED THAT BUYING OF TENANTED PROPERTY WAS SIGNIFICANT,* BY TYPE OF POLICY

Type of LHA/Did policy apply in the authorities		Continued Area Declarations	Discretionary Grants Available	No grant restriction except confining disc. grants to SIAs	Proactive Policy in HAAs	Repair Notices served in SIAs on initiative of LHAs & on complaint	LHA does not rely on negotiation to enforce standards	Standards Cost £4,000 +
Policy applies	P & P+	62% (8)≠	38% (13)	62% (8)	43% (14)	44% (16)	41% (17)	58% (12)
	Other	10% (10)	10% (10)	17% (6)	28% (7)	21% (14)	17% (6)	0% (12)
Policy DNA	P & P	23% (13)	37% (8)	23% (13)	28% (7)	20% (5)	25% (4)	11% (9)
	Other	25% (8)	20% (101)	14% (14)	8% (12)	0% (6)	14% (14)	37% (8)

Notes

* i.e. More than 5 per cent estimated to have changed hands since 1980
+ P & P = partnerhsip and programme LHAs
≠ ( ) = Number of LHAs in category

awarded), but also by a thriving market in tenanted properties as property dealers buy them up for improvement. This confirms what Martin argued from his earlier evidence: that an enforcement led high standards policy can succeed, both by encouraging some existing landlords to take up grants, but also by encouraging other existing landlords to sell up to new investors whose whole strategy involves dealing in cheap tenanted property, subsidised improvement, and subsequent capital gain upon vacant possession (Martin, 1983).

Table 17.28 shows the relevant statistics on enforcement notices and grants according to the scale of speculative buying. It will be seen that there is greater enforcement and grant activity in areas where there is significant buying and detailed analysis revealed that these relationships were strongest amongst "northern" partnership and programme LHAs. That is not to say that high levels of enforcement are the cause of property speculation, nor vice versa, but that inner city areas of private rented housing offer conditions that are conducive to minimising the risks of property dealing and that active property dealing enables tough enforcement policies to be successfully implemented at high standards. Not surprising therefore that 70 per cent of LHAs considered that these 'new' landlords were more willing that existing ones to carry out repairs and improvements.

Table 17.29, showing the correlation coefficients of the scale of speculative buying with policy inputs and outputs, confirms these relationships, particularly in inner city partnership and programme areas and especially in the northern regions, whereas for other LHAs the evidence suggests that (what little buying there is) is more associated with low than high standard LHAs and with high levels of improvement activity in 1980 than in 1985. The evidence in the table is confirmed by the partial correlation coefficients between grants activity and buying activity holding the number of notices constant. For all LHAs the coefficient is 0.01 in 1980 but 0.51 in 1985 reinforcing the impression that property dealing has become an increasing factor in improvement.

Finally it should be noted that no statistical relationship was found between levels of buying or variations in improvement activity and rents, capital values, nor returns on investment. The latter was calculated with

Table 17.28 IMPROVEMENT AND REPAIRS NOTICES AND GRANTS PER '000 UNFURNISHED PRIVATE RENTED HOUSES

	1975	1980	1985
		Notices Served	
Significant Buying	123**	135**	134**
Not Significant	27	29	32
		Grants Awarded	
Significant Buying	8	13**	48*
Not Significant	9	6	27

Notes ** Different significant at 0.05 level (2 tail 't' test)
* Different significant at 0.1 level

Table 17.29 PEARSON CORRELATION COEFFICIENTS BETWEEN PROPORTION OF 1985 UNFURNISHED STOCK CHANGING HANDS≠ AND LHA POLICY

	COST85(a)	GRNT80(b)	GRNT85(b)	NOT80(c)	NOT85(c)	ENFORCE-MENT(d)	NEGOTIA-TION
Partnership & Programme LHAs - North	.24	.61*	.57**	.50*	.46*	.41*	.18
Partnership & Programme LHAs - All	.36**	.52*	.61**	.39*	.37*	.21	.13
Other	.44**	.56**	.02	-	-.06	.27	.03
All	.01	.52**	.35**	.47**	.40**	.24*	.20

Notes
(a) Cost of LHAs standards
(b) Grant per 'ooo stock
(c) Repair + Improvement Notices per 'ooo stock
(d) Dummy 1 = Notices served on Initiative/Complaint 0 = Rarely served
(e) Dummy 1 = Negotiation Rare/Combined with enforcement 0 = Lots of negotiation

* Significant at 0.1 0.05
** Significant at ⩽0.05
≠ Dummy from LHA estimates: ⩾ 5% = 1 Others = 0

Table 17.30 FAIR RENTS, CAPITAL VALUES, GROSS RENTAL RETURNS, AND RATES OF RETURN ON PROPERTY DEALING IN THE LHAs BY REGION

Beacons Data	Region: North	Yorkshire & Humberside	North West	East Midlands	West Midlands	All
Rent £ pa						
Unimproved 1981	300	292	240	297	327	280
Unimproved 1986	455	444	373	440	473	425
Improved 1981	617	617	527	563	630	579
Improved 1986	924	949	804	907	972	896
Vacant Possession Capital Value £						
Unimproved 1981	3450	3845	4184	5725	5280	4456
Unimproved 1986	10000	7114	5781	9170	7750	7451
Improved 1981	9525	11563	12046	14562	12300	12193
Improved 1986	15375	16023	15602	18640	14400	16139
Gross Returns*						
Unimproved 1981	8.92	8.22	5.72	5.78	6.33	6.78
Unimproved 1986	4.83	6.76	6.48	5.68	6.91	6.29
Improved 1981	6.49	5.49	4.46	4.10	5.22	4.96
Improved 1986	6.08	6.12	5.17	5.01	6.80	5.68
Return on Property Dealing≠	307	456	411	316	393	392

Notes
* Annual Rent as a percentage of vacant possession capital value
≠ Discounted rent and capital gain as a percentage of acquisition and improvement costs

Table 17.31 REGRESSION ANALYSIS: DEPENDENT VARIABLE GRANT PER '000 UNFURNISHED PRIVATE RENTED HOUSES

	All LHAs	Partnership & Programme	Other LHAs
	Beta (t)	Beta (t)	Beta (t)
1. Grants in 1980			
LANOT80	.72 (6.12)**	.78 (6.00)**	.15 (3.70)**
BUY+	.05 (0.46)	.17 (1.32)	--
COST80	-.18 (-1.90)*	-.01 (-0.03)	--89 (-22.7)**
R^2 (adjusted)	.63	.74	.98
F	25.08**	22.57**	543
2. Grants in 1985			
LANOT 85	.26 (1.89)*	.32 (1.50)	-.56 (-2.16)
BUY+	.53 (4.04)**	.48 (2.51)**	.29 (1.31)
COST 85	.09 (0.73)	-.01 (0.14)	-.25 (-0.95)
R^2 (adjusted)	.41	.38	.38
F	10.35**	5.16**	3.24**

Notes

** Significant at 0.05
* Significant at 0.05 0.1
+ Dummy: 1 = ≥ 5% of unfurnished property changed since 1980; 0 = < 5% of unfurnished property changed

data from the 1981 and 1986 DoE Beacon's exercise where Rent Officers estimated Fair Rents and Capital Values of unimproved and improved property whose size, condition and location was specified. Statistics on rents and capital values, for each LHA were taken from the Beacon data for the rent registration area within which the LHA was located. Returns were calculated on the basis that a Beacon property was acquired in 1981, improved during 1983 and sold in 1986. The net present value of the gross returns was estimated using a 10 per cent discount rate on the annual rent stream and the 1986 capital value. The rate of return was calculated as a percentage that the gross returns were of the 1981 capital value and the discounted cost of improving to the LHA's standards in 1983. The averages for each region are listed in Table 17.30.

To summarise this section, Table 17.31 lists the results of a regression analysis designed to identify the extent to which enforcement, property dealing and standards explained the amount of improvement, measured by the number of grants in relation to the size of the sector in each LHA. It confirms the conclusions reached earlier about the importance in 1980 of "tough" enforcement policies in partnership and programme areas and of standards in other areas. It also shows how speculative dealing had become more important in partnership and programme areas by 1985 compared with 1980. In other words where LHAs adopt a negotiatory stance their success will be a function of the costs landlords incur. Where grants reduce significant proportions of these costs, as happened after 1980, negotiations can work. Where LHAs are prepared to enforce standards they can be successful, but this success is partly associated with, if not dependent on new investors buying up property 'flushed out' from longstanding owners by the statutory enforcement of standards.

Improvement Grants: Reforms to the System

Only 5 per cent of LHAs did not want any changes to the improvement grant system. The overwhelming impression given by the officers interviewed was that they wanted a reduction in complexity, an increase in capital allocations, and a greater sensitivity of the system of eligible cost limits to house size and regional variations in costs. Interviewees were asked quite explicitly about the change which would be of most help to them in dealing with unsatisfactory physical conditions in private rented houses (i.e. not houses in multiple occupation). The replies suggested

that what was to be welcomed in relation to encouraging private landlords to improve was also to be welcomed in relation to owner occupiers and vice versa. With some limited exceptions the changes LHAs wanted involved "fine tuning" of the existing system rather than radical restructuring. There was for example almost universal disapproval of the Government's 1985 proposal to introduce equity sharing loans, most LHAs arguing that since this would involve landlords sharing their capital gains with the LHA, it would undermine much of their investment strategy and, therefore, the success of the LHA policy to get disrepaired private rented houses improved. The great majority of LHAs wanted therefore to retain the system of grants that had developed since the war, whilst reducing its complexity - the latter considered to be particularly important in relation to persuading longstanding landlords with one or two properties to carry through grant aided work.

The single most often mentioned reform was to increase but more particularly to index, eligible cost limits. This was identified by half the LHAs, and was raised more by partnership and programme authorities, that is those taking active steps to enforce high standards and with experience of property dealers engaged in reinvestment. Included in such a reform would be costs related to size and location of dwellings i.e. regionally indexed cost limits, and many LHAs considered that this would remove barriers preventing longer established landlords responding to notices on larger properties at times of building cost inflation.

The second most often mentioned change was to scrap the different categories of grant, introducing a unitary grant in place of the existing improvement, intermediate and repairs grants. Whilst this was raised by at least a third every category of authority it was particularly mentioned by LHAs actively enforcing standards. LHAs observed that the system was unnecessarily complex and was especially confusing for small landlords to understand. Large landlords, especially property dealers, understood the system and indeed well advised ones knew how to exploit it. Officers gave examples of this, such as property dealers submitting applications in the names of low paid labourers on Family Income Supplement to enable them to get 90 per cent hardship grants.

Unitary grants, as conceived by many of the LHAs, would not confine expenditure on the repairs element of a grant to predetermined limits. A number of LHAs observed that the introduction of unitary grants might be detrimental to effective targetting at times when grants had to be rationed. To obviate this problem it was suggested that a unitary grant be available to aid work up to a standard higher than that at present specified for a (discretionary) improvement grant, but that payment of grant to install defined amenities for the first time and to remedy serious and structural disrepair would be mandatory. Payment for other work to achieve the full standard would be at the discretion of the LHA. Whilst not all LHAs were explicit about this, many suggested that LHAs would pay a higher percentage in grant for work to comply with the mandatory elements of the standard than they would pay on the discretionary elements. If this higher percentage were determined by the LHA it would enable the authority to pitch grant aid at whatever level was needed to get landlords (especially the more long standing ones with only a few properties and inadequate liquid capital) to improve to standards beyond the mandatory level. Some 15 per cent of LHAs explicitly endorsed the AMA proposals here - for 50 per cent (75 per cent in improvement areas) grant entitlement towards all elements of a revised standard with discretion for a LHA to increase this. (AMA, 1986).

An essential ingredient of a unitary grant system must be to couple it to enforcement procedures. Most LHAs suggested that since a revised standard (a number explicitly endorsing the AMA's proposed Habitation Standard) would have mandatory and discretionary elements, mandatory grant would be available for work to comply with improvement and repair notices. However a number of LHAs, almost all partnership and programme authorities, suggested that grant be mandatory whenever the conditions of a house fell short of the elements specified as mandatory in the standard for a unitary grant, not solely when amenities were missing or enforcement notices served. By contrast a third of LHAs wanted mandatory grant removed, particularly those who considered it 'encouraged' landlords to neglect property in the anticipation of enforcement action and a mandatory grant.

Behind all these proposals lies the need for more resources, including unlocking capital receipts. Indeed for some authorities this was the crucial change needed, given the manner in which grants - and therefore

discretionary enforcement action - had had to be rationed, especially since 1983/84. Nonetheless the introduction of higher standards and the right to grant aid whenever properties fell short of standards would increase demand and greater expenditure was needed.

Most LHAs focussed their comments on indexing, unitary grants, mandatory elements of this and resources and took the view that assistance should take the form of grants. Only five LHAs wanted assistance to take the form of either subsidised loans or annuity grants, again endorsing the AMA's recommendations about the latter. It was also suggested that payment of loans to top up grants should be mandatory whenever grant aid was paid to cover the mandatory elements of a revised standard. All who mentioned these reforms actively pursued the enforcement of high standards. One LHA wanted to scrap all "one-off" grants, confining financial assistance to block repair and enveloping schemes on grounds of value for money.

Very few (only 3 in all) wanted to remove the conditions which currently apply to grants given to private landlords. Those that did thought they reduced incentives to carry out work and in particular made it more difficult for LHAs to get landlords to do work to a higher standard with a discretionary grant than that which could be specified in notices with a mandatory grant. These views were outweighed by those who wanted conditions "tightened up", including those who wanted the imposition of conditions about terms of tenancies and rents to be made mandatory everywhere. Indeed a number offered the observation that removing conditions would be a 'speculators' charter'.

A quarter of LHAs, especially those who were not partnership and programme authorities were keen to see clarification in the law about approved lists of builders and to include specific items of work in a revised standard, especially electrical wiring and central heating (in their own right). What is noticeable is that none of these authorities had experience of significant property dealing and curiously themselves (or rather their members) set low standards. This was much less of an issue in areas where property companies and builders were active, confirming the willingness of these "new landlords" to do work to a high standard.

CHAPTER 18

REFORMING THE SYSTEM OF ENFORCEMENT AND GRANT AID

Introduction

This chapter describes various proposals for the reform of the system of enforcement and grant aid. It begins with a summary of the sample LHA's proposals. It then enumerates the current government's proposals, as well as the proposals of independent commentators, professional bodies and the local authority associations. It concludes with an evaluation of the Government's proposals.

Summary of sample LHAs proposals

The evidence from the 41 LHAs shows that, in the face of landlords' reluctance to invest because of rent regulation and the low incomes of their tenants, improvement and repair can be stimulated by enforcement and grant aid. Moreover new builder landlords are bringing significant proportions ofthe stock up to standard for speculative gain. However enforcement has an independent effect in its own right in getting landlords to improve. The correlation between enforcement and grant rates is high, even in LHAs without the experience of builder landlords. LHAs' ability to take action depends, however on the adequacy of their capital and staffing. In recent years, grants and the declaration of new statutory improvement areas have had to be rationed, thereby undermining the success of enforcement strategies. There is, for example, a high correlation between the number of notices served, the number of statutory improvement areas, and the number of dwellings within them, especially in LHAs taking the initiative in enforcement. However there is also some evidence that LHAs are restricting the enforcement of standards to prevent demands for mandatory grants they cannot meet. Meanwhile, the curtailment of improvement area declarations cuts out the one important means all LHAs have for identifying substandard private rented houses. The 1981 English house condition survey noted, for example, that 21 per cent of private rented houses were in potential GIAs or HAAs that had been neither declared nor programmed, compared with 6 and 2 per cent respectively in declared and proposed areas (DoE, 1983, Table 74).

Whilst LHAs did not advocate major structural changes to the interrelated system of enforcement and grant aid, they did want to see significant amendments of the current framework. On enforcement they wanted an increase in the fitness standard, speedier procedures, duties to do work in default and fine non-complying landlords, powers to make notices mandatory on current owners (as a remedy for multi-company landlords switching ownership of their holdings to evade responsibility), clarification of the definition of reasonable expense and more powers to recover default costs. On grant aid they wanted a system of unitary grants with indexed eligible expense limits (related to region and to property type), and with mandatory and discretionary elements, LHA discretion to determine appropriate percentages (within limits) and tighter conditions.

The level of activity revealed by official statistics and by this survey is inadequate in relation to the scale of the problem of substandard housing, albeit stimulated by the 1980 Act and by the speculative investment of builder landlords. What reforms therefore can achieve increased activity in the unfurnished long term subsector? Any proposals for reform must realistically recognise, first, that available resources will be limited and, second, that "buyout" (municipalisation or social ownership) strategies are unfeasible both in political as well as in resource terms (Maclennan, 1986).

Current Government Proposals

The Government have legislated for a partial deregulation of private renting (DoE, 1987a). The deregulation proposals and their likely impact are discussed in detail in Chapter 20. In general terms, deregulation, as such, will not affect the unfurnished long term subsector insofar as existing tenants will remain protected and stronger powers are being introduced to prevent their harassment. The Government are right to do this. Private renting does not have a permanent role to play in housing these long term tenants. Landlords who bought at sitting tenant value are earning good returns on this and deregulation in the interest of giving them competitive returns through increased market rents is not justified. Nonetheless, with the exception of those who are property dealers few landlords are prepared voluntarily to maintain, let alone improve their holdings.

Proposals for reform need to be evaluated in the light of the efficiency, and effectiveness with which they get conditions improved for existing tenants, whilst at the same time expecting that the sector will continue to decline.

The Government's 1985 Green Paper had six proposals of direct relevance to this question (DoE, 1985). First, public investment was to be better targetted and used only to remedy substandard housing where government intervention was justified. Second, the fitness standard was to be revised (e.g. revising the criteria about repair and dampness, and incorporating an internal wc and fixed bath, but omitting internal arrangement as criteria) and applied on the lines of the Scottish tolerable standard so that dwellings failing to comply with any one criterion fail to meet the standard. A new "target" standard for discretionary assistance was to be defined. Third, LHAs would be required to deal with unfitness within twelve months of its determination. Fourth, the criterion of reasonable expenses was to be dispensed with. In its place LHAs would have to consider all the options open to them in improving or demolishing an unfit dwelling and owners would have rights to appeal. Fifth, there was to be no compulsory power other than in relation to unfitness. All existing enforcement powers would be combined on the lines of repair notice procedures and owners would be unable to serve purchased notices. Sixth, grant aid for landlords letting on regulated tenancies at Fair Rents would be mandatory for all dwellings which were below the fitness standard. Help to attain the higher target standard would be discretionary and in the form of equity sharing loans. Subsidy therefore was to be limited to cases where landlords owned dwellings below the fitness standard. These proposals came in for considerable criticism, particularly in respect of equity sharing loans and the perceived reduction in the fitness standard. There was, however, support for the principles of simplification and targetting of assistance.

Revised proposals about standards and grant aid were issued in 1987 (DoE 1987b). They contain further modification of the new fitness and target standards. (See Figure comparing standards.) The new fitness standard will be applied so that houses or flats falling below any one of the criterion will be unfit. The long standing principle that unfitness could

Current Fitness Standard
(S.604 Housing Act 1985)

In determining for any of the purposes of this Act whether premises are unfit for human habitation regard shall be had to their condition in respect of the following matters -

repair
stability
freedom from damp
internal arrangement
natural lighting
ventilation
water supply
drainage and sanitary conveniences, facilities for the preparation and cooking of food and for the disposal of waste water.

and the premises shall be deemed to be unfit if, and only if, they are so far defective in one or more of these matters that they are not reasonably suitable for occupation in that condition.

Current "10 point standard" for improvement grants
(S468 Housing Act 1985 and Circular 21/80)

. . . A dwelling attains the required standard if -

(a) it is provided with all the standard amenities for the exclusive use of its occupants;

(b) it is in reasonable repair;

(c) conforms with requirements with respect to construction and physical conditions and the provision of services and amenities as may for the time being be specified by the Secretary of State. (These are that the dwelling must)

(1) be substantially free from damp;
(2) have adequate natural lighting and ventilation in each habitable room;
(3) have adequate and safe provision throughout for artificial lighting, and have sufficient electric socket outlets for the safe and proper functioning of domestic appliances;
(4) be provided with adequate drainage facilities;
(5) be in a stable structural condition;
(6) have satisfactory internal arrangement
(7) have satisfactory facilities for preparing and cooking food;
(8) be provided with adequate facilities for heating;
(9) have proper provision for the storage of fuel (where necessary) and for the storage of refuse;
(10) fulfil defined requirements for thermal insulation in a roof space .

(d) it is likely to provide satisfactory housing accommodation for a period of 30 years.

Green Paper 1985
(Cmnd 9513)

A Fitness for Human Habitation

A dwelling shall be regarded as fit for human habitation if, in the opinion of the local authority, it:-

i. is free from dangerous structural disrepair or instability;

ii. is free from dampness so pervasive as to be a threat to the health of the occupant;

iii. has adequate natural lighting and ventilation in all main rooms;

iv. has an adequate piped supply of wholesome water available within the dwelling;

v. has within the dwelling satisfactory facilities for the preparation and cooking of food including a sink with a supply of hot and cold water;

vi. has a WC, for the exclusive use of the occupant, suitably located within the dwelling;

vii. has a fixed bath or shower provided with a satisfactory supply of hot and cold water;

viii. has an effective system for the drainage and disposal of foul, waste and surface water.

Target Standard

A dwelling shall be held to meet the six point standard if it

i. is fit for human habitation;

ii. is in reasonable repair;

iii. has a wash hand basin with an adequate supply of hot and cold water;

iv. has satisfactory electric wiring and artificial lighting;

v. has adequate facilities for heating; and

vi. is likely to have a useful life of at least 30 years

Consultation Paper 1987

A Revised Fitness Standard

A house or flat shall be regarded as fit for human habitation if in the opinion of the local authority, it:

(i) is structurally stable;

(ii) is free from serious disrepair;

(iii) is free from dampness prejudicial to the health of the occupant;

(iv) has adequate natural lighting and ventilation;

(v) has an adequate piped survey of wholesome water available;

(vi) has satisfactory facilities within it for the preparation of food, including a sink with a satisfactory supply of hot and cold water;

(vii) has a suitably located WC for the exclusive use of the occupant;

(viii) has a suitably located fixed bath or shower and wash hand basin provided with a satisfactory supply of hot and cold water;

(ix) has an effective system for the drainage of foul and waste water.

B Target Standard

A house or flat shall be held to meet the target standard if it:

(i) meets the fitness standard;

(ii) is in reasonable repair;

(iii) has satisfactory electric wiring and artificial lighting;

(iv) has adequate facilities for heating;

(v) has adequate thermal insulation;

(vi) is likely to have a useful life of at least 30 years.

Habitation Standard (AMA 1986)

* 1. Free from substantial or significant disrepair (including electrical, gas and water supply facilities);

* 2. is substantially free from damp and not prone to condensation;

* 3. has adequate natural and artificial lighting and ventilation in all rooms and circulation areas;

4. has adequate space heating;

* 5. has an adequate piped supply of wholesome water within the house;

* 6. has within the house satisfactory facilities for the preparation and cooking of food, including a sink with a supply of hot and cold water;

* 7. has a WC for the use of the occupant, suitably located in their dwelling;

* 8. has a suitably located fixed bath or shower, provided with a satisfactory supply of hot and cold water;

* 9. has a suitably located wash hand basin with an adequate supply of hot and cold water;

*10. has an effective system for the drainage and disposal of foul waste and surface water;

*11. is so arranged internally as toensure the safety of the occupant;

*12. has satisfactory thermal insulation and an adequate overall energy performance;

13. has satisfactory sound insulation;

*14. is free from progressive instability;

*15. shall, whenever practicable, have a safe electrical supply and installation;

16. is so located that the immediate environmental factors are tolerable;

17. the habitable rooms shall comprise a minimum size as specified by the Department of the Environment;

18. is free from noxious or hazardous substances.

* mandatory grant entitlement

be due to a combination of several deficiencies, each minor in themselves, has been abandoned, in preference to an approach whereby unfitness depends on significant shortcomings on any one criterion. In effect the standard in respect of some elements has been lowered, although in respect of amenities, the effect is to significantly strengthen the standard.

It is evident that the aim of the proposals is to concentrate public expenditure on work where public intervention is justified and for which private finance is unavailable. A single unified grant (making no distinctions between repairs and improvement) will be available to bring houses up to the fitness standard. There will be no eligible expense limit for work to this standard. This will be a mandatory grant for owner occupiers but it will only be available to landlords on a discretionary basis, provided they let on regulated or on new style assured or shorthold tenancies. To ensure work is subsidised only where justified, detailed specification will be built into grants about the work needed to remedy unfitness. Grant aid will also be available for the higher target standard (including repair work, insulation, heating and rewiring). Grant aid will probably be subject to eligible expense limits only in the case of discretionary grants, whilst the amount of grant will be subject to a test of the resources available to landlords to do the work themselves. The intention is to assess how much of the cost can be recovered from increased rental income (ie in supporting a loan), the balance being given in grant. Grant will be repaid if dwellings are sold within five years.

The 1987 proposals suggested that either the Rent Officer or LHA would determine how much rent is available for this. It was unclear whether the test was to be related only to the dwelling in question or to a wider test of the wider resources available to a landlord from other dwellings (if any) or assets. A further consultation paper on the test of resources was issued early in 1989 (DoE, 1989b). It is proposed that LHAs should have power to assess how far higher rents enable landlords to recoup repair and improvement costs. They will assess the shortfall and decide how much grant is needed. They will be able to consult Rent Officers about prevailing rents and the extent to which these give satisfactory returns on investments. They will also be able to take landlords' other income from property and other assets into account.

These proposals, amended or otherwise, are to be incorporated in the Bill on Local Government and Housing to be introduced in 1989. In the meantime, the Government have issued a circular emphasising to LHAs the importance of targetting current grant aid so that scarce public funds are used in a justified way (DoE, 1988b). Although eligible expenditure limits have been increased, the priority category for eligible expense limits andthe percentage of 75 per cent for discretionary grants has been withdrawn from houses without all amenities. The Government believes that scarce expenditure is being used to carry out "less essential" discretionary works on these dwellings to which higher cost limits and grant rates apply. Intermediate grant at the higher rate will continue to be available for this essential work. Alternatively landlords can do all the work including the "less essential items" at the non priority rate.

Finally, it should be remembered that the Government has already modified LHAs powers to enforce repairs as a consequence of sustained pressure during the Committee stage of the 1988 Housing Bill from Commons members of all parties who wanted to ensure that LHAs could effectively "police" standards, not the least those in the new deregulated sector. The Government announced that it would introduce new clauses to: make it an offence not to comply with a repair notice; allow LHAs to initiate all types of enforcement notice; provide that the costs of work done in default is the responsibility of whoever owned the dwelling at the time work was done; to enable LHAs to carry out default sooner after commencing enforcement than is now possible; and to target grants at regulated rather than deregulated tenancies (House of Commons Parliamentary Debates, 1988). These were incorporated in the 1988 Act (see Chapter 16 for details). Once the proposed new grant framework becomes law there will be no mandatory grants consequent upon enforcement action.

As an interim measure the Government have limited grant aid on mandatory grants under the current regime to 20 per cent of eligible expense, extending a principle established earlier in the same year for mandatory special grants. The government want landlords of new style assured tenancies to be able to apply for grants so that empty and disrepaired/unimproved dwellings will be brought into use. Because rents will be higher, it will be inappropriate to give assured tenancy landlords the current level of grant aid. Since it will be difficult to decide when

approving a grant whether the letting will subsequently be regulated or assured, the Government intend to limit all mandatory grants to the same 20 per cent. LHAs will still be able to pay 90 per cent in cases of hardship where landlords of regulated tenancies are unable to finance the work. (DoE, 1988c)

Other proposals: independent commentators on enforcement

In concluding his assessment of the effectiveness of enforcement in the late 1970s Hadden looked for ways of making it easier for LHAs to achieve the standards they wanted without having to buy up private rented houses (Hadden, 1978). In his view a number of minor amendments would help to do this. Enforcement of improvement could be speeded up by abolishing provisional notices, replacing time and place meetings by a duty to hear representations, and by reducing the time limit for a purchase notice to be served. It would also be easier to achieve desirable repair standards if the distinction between repairs and improvements in discretionary improvement grants was removed. He also recommended amending the criterion for reasonable expense, replacing it with a current income test to establish if increased income would service a loan for net of grant costs. He also thought LHAs should examine their internal procedures (especially delegated powers) for commissioning default works and that they should be permitted to reclaim the cost of work done in respect of improvement notices from rents.

These modifications would leave untouched, however, the problems Hadden had identified of overlapping procedures and standards. In recommending structural changes he suggested that there should be three standards with clearly defined aims. First a closing standard at which dwellings were no longer suited for occupation because they were prejudicial to health. LHAs would acquire any that could not be dealt with at reasonable expense. If alternatively they were closed and landlords brought them above the closing standard LHAs would nominate tenants. In this way landlords would be unable to neglect their properties as a deliberate means of securing vacant possession. Second, there would be a standard at which regular repair and maintenance would be enforced involving a simple procedure based upon the Public Health Act for either tenants or LHAs to secure any repairs needed to maintain dwellings at a standard of "reasonable tenanted repairs" (less restrictive than statutory nuisance but less wide ranging

than that included in the rehabilitation standards). Thirdly, there would be a standard reasonable for longer term rehabilitation pitched at the level LHAs would want to do if they had to do it in default. Grants must, therefore, enable this to be achieved. Reasonable expense would apply and would be determined by calculating if additional rents following improvements would service the loan needed after taking grant into account. If the expense proved not to be reasonable the grant could be raised (and the property charged) or the standard dropped (or alternatively the LHA could acquire the property).

When Hawke and Taylor came to review enforcement six years later, hardly any of Hadden's recommendations had been taken on board. They emphasised, however, that changes in LHA practice rather than in the statutory framework were needed e.g. to ensure default work was done effectively and speedily. In their view the Housing Act 1980 had brought about major improvements in grant aid thereby relegating enforcement in importance. Nevertheless they recommended repealing the reasonable expense criteria on (what are now) S.189 notices and making (what, again, are now) S.190s mandatory upon LHAs (Hawke and Taylor, 1984).

Other proposals: professional institutes

The Institution of Environmental Health Officers has recommended that the fitness standard be modified to incorporate the standard amenities and that the 10 point standard (for discretionary grants) should be the basis for compulsory improvement in statutory improvement areas (IEHO, 1981). It favours a single house renovation grant with index-linked cost limits related to size and local building costs. If landlords' rights to serve 'counter purchase notices' are preserved, either LHAs should have the right to improve for sale (whilst rehousing tenants) or tenants the right to buy. The Institution has suggested, as an alternative to grant aid, providing landlords with annual deficit grants, offsetting any loss of increased rental income over approved revenue expenditure on repair and improvement. In its response to the 1985 Green Paper the Institution emphasised an underlying concern about paying mandatory grants on notices because this was tantamount to subsidising the worst landlords who deliberately neglected their property. LHAs, they felt, were becoming

increasingly reluctant to take action because of mandatory grant aid. In any case grants to landlords should be the subject of some form of means tests and conditional on letting at Fair Rents (IEHO, 1985b).

The Royal Town Planning Institute argue that complex enforcement procedures create a pervasive delay in getting work done (RTPI, 1981). Whilst the fitness standard should be retained for statutory action to clear property, enforcement of standards should be to the 10 point standard, widening (what are now) S.189 and S.190 procedures to incorporate standard amenities, and allowing landlords to serve purchase notices on LHAs. LHAs would be obliged to do default work within a defined period if landlords did not comply. The RTPI favours a single "unitary grant", mandatory only where notices are served, with LHAs empowered to fix appropriate percentages within a range of 30 to 100 per cent. Cost limits would be index linked and related to property type and region.

Other proposals: the local authority associations

In its 1981 proposals the Association of Metropolitan Authorities also recommended including amenities within the fitness standards, using repair notice procedures to enforce this standard at the intermediate grant "reasonable" repair standard, allowing landlords to serve purchase notices and tenants to be represented at time and place meetings (AMA, 1981). It also asked for vacant possession value to be explicitly built into the reasonable expense criteria, landlords fined for non compliance, and unitary grants to be the basis for grant aid.

In its 1986 proposals it commends an 18 point Habitation Standard, 13 of which would give mandatory entitlement to grant aid. It is unashamed in its endorsement of this high standard, saying that it is the duty of Government to help people achieve their aspirations, not simply avoid unhealthy and hazardous conditions (AMA, 1986). The current and various proposed fitness standards are listed in the Figure.

Whenever dwellings fell short of this standard, revised enforcement procedures would come into play. A time and place meeting would be held, notices served to enforce the standard (or less if agreed), mandatory

grant and loan would be paid (mandatory even if notices not served), LHAs would do any work in default and landlords would be fined where failing to respond to notices.

Whenever dwellings were so far short of the standard that they were not suitable for continued occupation, and were incapable of repair at reasonable expense, they would be acquired. If they were capable of repair the landlord would have the option of serving a purchase notice as an alternative of doing the necessary works to remedy the problems. In both cases tenants would have the right to buy.

The AMA continued to endorse the concept of a unitary grant, which did not distinguish repair from improvement work and was based upon regionally indexed cases for properties of different sizes. There would be a basic entitlement to a 50 per cent grant (raised at the LHA's discretion) on mandatory items of the Habitation Standard, whatever the applicants means or the property value, provided it was let at a registered rent. However, as an alternative to "one off cash grants", the AMA has proposed Annuity Grants for landlords paid after regular monitoring by LHAs. "It may well attract responsible long term investment back into private renting." (AMA, 1986, p.19) By implication it would prevent landlords capitalising upon publicly subsidised improvements when selling after five or seven years are up.

By contrast, the Association of District Councils has supported the concept of capital value rents, alongside tax allowances channelled to landlords who adhere to standards which are subject to regular LHA monitoring (ADC, 1987). It too proposes raising the fitness standard but not to the Habitation Standard of the AMA. It recommends mandatory grant for this baseline fitness standard with discretionary grants for standards in excess of this, together with low interest rate loans. SHAC - the London Housing Aid Centre - also argued in favour of a unitary grant, but against making them mandatory, preferring instead an (unspecified) means test for grants paid to private landlords. (SHAC, 1981)

The Government's objectives

The Government's proposals reject the long held view that the country as a whole has an interest in ensuring the housing stock is kept in good condition (e.g. to the ten point standard). Conventionally it has been argued that individuals take too short term a view and place too little value on improvements that will benefit future as well as current occupants and generations. It has also been argued that decisions about investment depend on the conditions of neighbouring dwellings and that such externalities can prevent improvements taking place which bring both private and social benefits. These both make dwelling subsidies appropriate. As Whitehead argues, in a critique of these proposals, the Government appears to have rejected this view (Whitehead, 1985). Public funds are to be used only to assist those who cannot find the means to fund a minimum tolerable standard from their own purse (or rental income).

What, then, is likely to be the impact of the government's proposals on the state of the long term unfurnished subsector of private rented housing? The three subsections which follow compare the Governments proposals with others, evaluate the government's plans and put forward an alternative means of improving and repairing this stock.

The Governments proposals compared with others

There is a measure of agreement about the need to simplify the mechanisms of grant aid. Unitary grant, removing the distinction between repairs and improvement will be welcomed and, because eligible expensive limits are effectively abolish, the failure to adopt index linking related to regional variations in costs for different property types will be an irrelevance. Whilst many outside Governments would prefer to maintain the current system of one-off cash grants, there is a recognition, not only that better targetting is required, but also that some landlords may receive unnecessarily large subsidies in relation to their returns and that others are subsidised, having deliberately run down their property. Insofar as this prevents enforcement action being taken, it is proper to consider limiting mandatory grants and distributing subsidy in relation to landlords' income. Thus the Government's proposed method of relating grant to rental income has affinities to the IEHO and AMA proposals for annual deficit and annuity grants. Indeed, whilst the Government's proposal resembles the pre 1989 basis for paying grant on Housing

Associations' capital schemes (without recouping any future rent surpluses) the IEHO and AMA schemes resemble Housing Associations' revenue deficit grants.

There is also a measure of agreement about enforcement procedures taking into account the modifications the Government has already made in the Housing Act, 1988. In particular LHAs, will welcome the introduction of fines, the extension of their duty to deal with substandard housing, to do work in default, to combat the practices of those corporate landlords who switch properties between companies, and the proposed replacement of reasonable expense with a new code. Some will welcome the repeal of purchase notice procedures and mandatory grants, since they remove financial risk when taking action in cases where LHAs do not have the back-up of adequate capital resources. However, these latter two changes will not be wholly without flaws. In particular LHAs may be forced into more default work, with all its organisational and other costs.

There will be widespread disagreement with the proposed new fitness standards. Whilst many will welcome the inclusion of standard amenities they will argue that the standard in other respects is too restrictive. Many would want to be able to enforce to the target standard with a less restricted definition of disrepair. The difference here is a clash of philosophy since the proposed standard represents a judgement by Government about the level at which public intervention and public expenditure is justified. Problems may arise if LHAs prove reluctant to do work in default to what they will regard as an inadequate standard. Neither will all LHAs support the removal of mandatory grants. The reasoning for this proposal is unclear, unless it can be shown that LHAs are reluctant to take enforcement action where they believe subsidising repairs of a 'bad' landlord to the tune of 75 per cent is an unjustified use of public funds. In removing mandatory grants the Government will create greater uncertainty about grant availability amongst potential investors.

Equity, Efficiency and Effectiveness

How well do the proposals fare under the above criteria?

On equity grounds the proposed system has some flaws. There is no guarantee that tenants of landlords in different LHAs will receive the same benefits. The discretionary basis for grants means that they could be distributed in an arbitrary and capricious manner, according to political as well as other priorities, some LHAs exercising discretion to award them, but others not. The system is also inequitable as between tenants and owner occupiers of below fitness houses, since the latter have rights to grant aid but the landlords of the former do not. This is not to say, of course, that the existing system is wholly equitable in these respects. The proposal to determine grant aid in relation to the extent to which rent income will pay for the work rather than, as now, a fixed cash sum is attractive on equity ground since it should not, in principle, prevent landlords from improving on the grounds that increased rent cannot cover landlords' net of grant costs. Thus tenants in the worst houses needing the greatest investment should benefit (no limit on eligible costs to eliminate unfitness is proposed) and if they are eligible, Housing Benefit will defray their increased rent, all other things being equal. Equity also depends on whether the "test of resources" is applied only in relation to individual dwellings or to a landlords' other assets (if any) and on how these tests are applied.

On efficiency grounds, the new system has something to commend it compared with the existing one. In the latter, grant aid is not subject (except in cases of hardship) to a means test to determine how far work can be funded from private funds or loans paid for out of rental income. LHAs can use their ability to pay below the maximum for discretionary grants, but not on mandatory grant. There has always been the possibility therefore that public expenditure has been used to do work that could be done privately, and therefore less has been achieved overall for a given level of expenditure. The proposed system will remove this possibility. It will also be more efficient if the Government's view that "non essential" work is currently being subsidised is correct. It is unlikely however that grants will be less under the new than the old system because of the test of resources. Prior to September 1988, a priority case for discretionary grant would get 75 per cent of £10,200 ie £7,650. On the assumption that the same costs were incurred rents might rise in net terms by £300 p.a.

(see Table 17.30). On a ten-year purchase this might service a £3,000 loan from a LHA over 20 years thus requiring £7,200 in grant. Any savings must arise therefore from lowering costs through the redrafted fitness standard, administrative codes to ensure that grant aid is paid out only on specification items to eliminate unfitness, and bigger post improvement rent increases. It is assumed, in any case, that there will always be a budget constraint so rationing devices will continue to be needed (e.g. see DoE, 1988b).

On effectiveness grounds, there must be doubts about the new system and a real risk that investment in eliminating bad conditions in private rented housing will fall rather than increase. Grant aid should be simple, easily understood, cheap and easy to administer, predictable to investors and provide an adequate incentive (given the risks and uncertainties of being a landlord) to get things done. It is evident from the research on LHAs reported in this paper that the current system does provide builder landlords or property dealers with incentives and that, combined with enforcement, more long standing landlords can be persuaded to improve. The current system meets many of the effectiveness criteria set out above. The new system meets fewer, but in providing a front end capital subsidy (with no obligation to repay except under reasonably predictable circumstances) it does at least provide greater incentives than a system of revenue subsidies whose continued existence cannot be guaranteed.

It is simpler, with respect to combining all existing grants into one and effectively abolishing the distinction between repairs and improvement spending within eligible expense limits. It is however, less simple with respect to the amount of grant, the calculation of which will not be easily understood and will be harder to administer. Small, elderly landlords will find it less easy to comprehend. Already they lack access to capital and organisational skills. LHAs will require much more information (e.g. about rent) upon which to base decisions and a code of guidance to calculate grants. Different systems will be needed for individual, company and multi ownership landlords - unless the test of resources is applied only to the case in question.

It will also be less predictable in the sense that landlords can currently find out with relative ease what they are entitled to. This is especially relevant where property dealers are investigating potential purchases and appraising investments. It will be less predictable because grant aid will be discretionary and, because the amount of grant will be dependent on the test of resources, not on known appropriate percentages. This will create greater uncertainty. On the other hand the new system will also remove some of the risk, insofar as on the eligible costs of removing defined unfitness that cannot be funded from rent increases will be carried by local and central government.

Much of the most recent reinvestment has been made by property dealers for speculative gain. Grant has shielded them from any residual valuation gaps between unimproved sitting tenant and improved vacant possession value. They appear to have gained good returns and LHAs reckon they are prepared to improve to higher standards than traditional landlords. Ultimately this stock will be transferred to owner occupation. In the meantime it is important, both for elderly tenants and for inner city neighbourhoods, that this investment dynamic is sustained. Whether the test of resources will do so depends in part on how allowance is made for risk (e.g. rent arrears, voids), management and maintenance costs, and uncertainty in calculating how much private finance can be raised for a given rent increase. It also depends upon whether any allowance is made for real rent increases and capital appreciation in determining this and at what rate of interest and terms landlords are able to borrow. The less is allowed for risk, management and uncertainty and the more account is taken of capital appreciation the lower will be the grant and the less the incentive to invest.

Conclusions: A partnership for improvement

The following nine point plan is suggested as one alternative means of enlisting private sector finance to improve this long term subsector whilst it remains in the private rented sector, whilst accepting that it will continue to decline as landlords sell vacant units to owner occupiers.

1. The proposed fitness standard should be revised to incorporate less restrictive definitions of repairs, incorporate internal arrangements and thermal insulation.

2. The code of guidance on renewal options proposed in the 1985 Green Paper should replace the reasonable expense criterion in determining how unfit housing should be dealt with. (DoE, 1985) This code should incorporate consideration of neighbourhood benefits.

3. If current owners are prepared to meet the fitness standard, mandatory grant will be paid to cover the net cost of meeting the standard that cannot be serviced by loan taking increased rent and due allowance for risk, uncertainty, management and maintenance costs and capital appreciation into account. LHAs to advance the balance by way of interest only loan with principal as a charge on property where owners cannot raise the funds.

4. Where owners cannot (or fail to) meet the fitness standard within twelve months, the tenant will have the right to buy (and mandatory grant) or failing that, the LHA will, have the power to compulsorily acquire the property at sitting tenant value and sell it on at the same price either to a locally approved independent landlord or to a housing association, recouping its legal and other costs in the process. Where the latter are unwilling to take on any of this property it will pass into the LHAs own housing stock. Tenants should be consulted at all stages (also in (3) above).

5. LHAs will have a power to establish a register of independent private landlords for the purpose of transfers under (4) above. The intention is that these landlords will carry out a strategy of "buying out" existing landlords whose properties fall below the fitness standards and who are unable to improve them. Approval will be dependent, inter alia, on willingness to comply with a code of conduct about management, maintenance and letting policies. Regulation will be by LHA monitoring paid by licence fees. Approval will depend upon agreements about the temporary or permanent rehousing of existing tenants and about modernising the transferred stock.

6. Only approved landlords will be eligible for mandatory grants on tenanted dwellings, newly acquired after the relevant legislation is passed. Mandatory grant will be calculated as the cost of complying with the fitness standard net of loans which can be serviced by rent taking into account factors listed similarly at (3) above. LHAs will agree annual capital programmes with approved landlords and will be able to recycle 100 per cent of annual capital receipts into these programmes. Approved landlords will be able to claim tax allowances on loans raised for improving to the fitness standard. Any assistance paid by the LHA on improvement in excess of that needed to meet the fitness standard by the LHA will take the form of any equity sharing loan. This assistance by the LHA will not be eligible for Exchequer subsidy. Preferential grant rates and tax allowances could be made available in statutory improvement areas.

7. Approved landlords will also acquire property with sitting tenant voluntarily from existing landlords and these dwellings will also be eligible for assistance outlined in (5) and (6) above. When any property improved with mandatory grant becomes vacant approved landlords will be under no obligation to relet unless this occurs within 7 years of grant. In those circumstances they will be obliged to relet it either as a new assured tenancy with tenants nominated by the LHA in accordance with agreements under (5) above.

8. LHAs should counsel continuing landlords about their taxation position. Legislation should allow improvements as well as repairs to be tax deductable and any losses incurred in a year through major repairs to be spread over 5 years.

9. For continuing regulated tenancies formulae for Fair Rents should ensure rents reflect maintenance and thus provide incentives for regular repair work to be done. Consideration should also be given to providing tenants with rights to repair, deducting costs from rent where landlords fail to carry out necessary repairs within a defined period.

10. This plan requires that LHAs have adequate resources for the capital programme of grants involved.

The intention of these proposals is to harness the potential that property dealers provide their LHAs for improving the residual of the long term private rented sector. They do so by making front loaded producer subsidies available to enable approved property dealers to ensure that the stock is improved for the benefit of its, largely elderly, tenants, their neighbourhoods and future generations. Such subsidies are entirely appropriate when encouraging investment in the long term future of older housing in blighted inner city neighbourhoods. Without them the future is bleak not only for retired citizens in the remains of the private rented sector, but particularly for the future of inner areas where so many of these houses can be found. In other words the arguments for this rest less on the interests of existing tenants (many of whom have been shown to be comparatively satisfied with their standards (and rents) than on the need to maintain the quality of the housing stock in the long run.

CHAPTER 19

HMO STANDARDS:

THE APPLICATION OF DISCRETIONARY POWERS BY LOCAL AUTHORITIES

Introduction

There has been increased concern in the 1980s about the use and effectiveness LHAs' powers to inspect and improve conditions in HMOs. This concern dates back at least to the 1960s and has grown with a recognition of the importance of relatively low cost, immediate access, rented housing for young single people, including students. The conversion of older, often inner city dwellings, into shared houses can meet this need effectively. However, LHA casework and statistical evidence from sample surveys shows the conditions of repair, amenity, means of escape from fire and management in HMOs falling well short of basic standards, not the least in respect of fire safety.

As a result, attention has been focused on the use LHAs make of their largely discretionary powers to inspect HMOs and enforce standards. It has been argued that these inadequate and, indeed, unsafe conditions arise in part because LHAs make very little use of these powers (see for example HMO Group, no date). Accordingly campaigns have been mounted by voluntary and professional bodies, including support for private members Bills in the House of Lords and the House of Commons to secure legislation to translate discretionary powers into mandatory duties. The campaign has broadened from an initial preoccupation by voluntary housing pressure groups about the standards of hostels for the single homless to a much wider focus for all shared housing and has drawn into the campaign not only professional bodies, especially the Institution of Environmental Health Officers (IEHO), but also the local authority associations. As a result the campaign incorporates LHAs who have been asking Parliament to give them extra and mandatory duties.

This Chapter has four aims. First, to review evidence about the growing acceptance that HMOs have a valid place in housing provision. Second, to examine the debate between the proponents and opponents of mandatory duties. Third, to look at recent evidence on the increasing and planned use of HMO powers by LHAs in the North and Midlands. Fourth, to discuss

the call for mandatory duties in the light of the evidence that discretionary powers are being more widely used and the academic debate about fettering administrative discretion.

Attitudes to HMOs: Their Place in the Housing Market

Evidence about the number of HMOs and their standards was reviewed in Chapter 2 and the specific case study evidence from Sheffield has been discussed in Parts 2 and 3 of this thesis. From all this it is easy to understand why some of the earliest attitudes to HMOs and official advice to LHAs called for their elimination. In the early 1960s they were social evils to be eradicated at a time when severe housing shortages forced families as well as single people to share facilities in overcrowded rooms and flatlets (Committee on Housing in Greater London, 1965). Offical advice exhorted LHAs to make 'a determined attack on squalor' - and to aim at 'thoroughgoing' conversions to self-contained flats. They were to eliminate HMOs, curbing the worst excesses of inadequate amenities and poor and unscrupulous management through new regulatory powers where elimination was impractical. (See MoHLG 1962, 1964, and Hadden, 1978). This was at a time when there were grants for conversions to self contained flats, but not to improve shared facilities in HMOs. By the end of the 1960s however, LHAs had been given discretion to provide 'special grants' for amenities, but not for repair or fire escapes, and could require registration of HMOs as a pre-condition of setting them up (MoHLG 1969a, 1969b).

In the mid- and late-1970s, however, official attitudes changed. It was argued that HMOs could provide adequate - and cheap - accommodation for young single people whose needs were not catered for elsewhere. Although HMOs were totally unsuited for family life, they could provide some social advantages for young singles (Hole and Taylor, 1978). Whilst the number of multiperson households sharing has fallen, the number of single person households has risen and will continue to do so up to the 1990s (Holmans, 1986). A study of HMOs in Manchester showed how slum clearance programmes in inner wards had removed much of the multi occupied housing occupied by families and rehoused many of their occupants and that, whilst new HMOs had developed in other areas, their occupants were almost exclusively single people (Elliott, 1978). Although not all are young singles,

those that are, including students and others who are transient and mobile at an early stage in the life cycle, require ready access accommodation with low transactions costs. This is also needed by those who have experienced crises or misfortunes in their personal life - for example separation from their partner - and require accommodation urgently. These households are unlikely to have - or want - their own furniture, and are looking for cheap housing. Characteristically they have low incomes because of their stage in the life cycle - for example as students dependent on grants and parental contributions - or because of unemployment or personal crisis. The emphasis for all of them will be on readily available, centrally located, furnished and cheap housing. HMOs, involving as they do, sharing of facilities, meet this need for cheap accommodation more effectively than self-contained flats.

By the late 1970s and into the 1980s, this had been recognised. Indeed, 'most of those directly concerned now accept that HMOs meet a housing need which is not met adequately, or in some cases at all, by the public sector, and that for the foreseeable future there will continue to be a need for special policies and powers to control abuses in HMOs and to help ensure that reasonable standards in the provision of facilities are maintained' (Hadden, 1978).

Changed attitudes were reflected in advice to LHAs about renewal strategies following the Housing Act 1974. 'Though the objective of providing wherever needed, decent self-contained accommodation (especially for families with children) must never be lost from sight... other neighbourhoods where multiple occupation is prevalent often perform a different function, that of providing a pool of cheap rented accommodation for single people of all ages. An action programme for such an area must recognise this function and ensure the continuance of a supply of accommodation suitable for single people. Most single people want self-contained accommodation but there is also a considerable demand for 'digs'... for 'bedsitters' or flats in which facilities are also shared; and for hostel accommodation. Multi-occupied properties can lend themselves very well to all these purposes', (DoE, 1975). Changed attitudes were also reflected in advice given to LHAs about making better use of the existing housing stock:

> "Multiple occupation is to be discouraged, if not eliminated where the households concerned are families with children. However, for other groups, particularly in areas where there are large numbers of small households, the sharing of dwellings can be a valuable means of improving the match between demand and the available stock as long as adequate amenities are provided and the property is properly managed. Local authorities should not, therefore, insist that dwellings should never be shared by persons who are not members of the same household. Whilst it is important that standards imposed are adequate to ensure health and safety, they should not be unreasonably high." (DoE 1977b)

Changes in attitudes were also shaped by the way housing policy in the 1970s was first given direction and then thrown off course by the public expenditure cuts which stemmed from the economic crises of the mid-1970s and which have continued throughout the last decade and a half. Three related responses to the crises and to the cuts were relevant to HMOs. First, the switch in housing renewal policy from redevelopment to rehabilitation, with Housing Action Areas being used to ration limited resources. Although HMOs would not be eliminated by clearance, it was expected that Housing Action Areas would concentrate improvement resources on the very housing stress areas where HMOs were disproportionately to be found (DoE, 1975). Second, these areas were to be the focus of municipalisation programmes bringing private rented houses into the ownership of local authorities and housing associations. Steps were also taken in 1974 to give furnished tenants of non-resident landlords the same degree of Rent Act protection afforded to unfurnished tenants in respect of security and rent regulation.

Third, the subsequent public expenditure cuts meant that municipalisation programmes, which would have brought many HMOs into social renting, were virtually abandoned upon inception, at the same time as new building for rent steadily declined throughout the 1970s and into the 1980s. The extension of Rent Act protection to furnished tenants meant that few landlords were prepared to let furnished accommodation within the legal framework and adopted a range of devices for letting outside the Rent Act, particularly non-exclusive occupation licences for sharers, and minimised their risks of being locked into long term investments by restricting lettings to 'mobile' singles. Offsetting this, the Homeless Persons Act of 1977, and the adaptation of social renting agencies' allocation

policies, giving access to vulnerable non family households, effectively reduced some of the pressure of demand of family and other non single households on the HMO sector.

Nevertheless the cuts in public expenditure were combined with a continuing decline in private rented accommodation. Even in areas of pressure, where landlords used devices to avoid Rent Acts, de facto deregulated rents were insufficient to provide competitive returns. At the same time the numbers of households whose head was aged under 30 were increasing. But by no means all of the non family households in this group looked to private renting for their accommodation and throughout the 1970s more and more married couples and never married singles in this age group with access to credit bought their own homes. Aided by tax relief on mortgage interest payments, the inflationary climate of the 1970s meant that they were paying negative real rates of interest to acquire an appreciating asset. For those who could buy, renting was just not a competitive option. As Chapter 2 has shown, subsidies favoured buying and discriminated against private renting in both subsidy and taxation terms.

The net result of these changes in the 1970s was that households entering the market without access to owner occupation or social rented housing were increasingly dependent on HMO accommodation. The demand for lettings was restricted to low income groups since the demand from those with high rent paying ability (which would, potentially, have made the letting of self contained furnished flats a profitable business) had been drawn off into owner occupation. Potential landlords were faced with a demand from groups with only low rent paying capacity. Profits were made therefore only by letting poorly managed, badly repaired and overcrowded HMOs on insecure terms outside the Rent Acts and at unregulated rents which took large proportions of tenants' and licencees' incomes (see Greater London Council, 1986; House of Commons Select Committee on the Environment, 1982). The fact that landlords needed to exploit tenants in order to make profits contributed to the poor reputation and unsavoury image of landlordism.

The development of HMOs in the 1970s was an economic response, therefore, to the needs of low income tenants in the context of a wider restructuring of the housing market and a period of fiscal austerity. Attempts to secure

better standards by municipalisation were thwarted by programme cuts and successful ameliorative measures depended on a mixture of enforcement and grant led action which did not eliminate the homes of those for whom the action was designed. Unfortunately the grant structure undermined action to improve HMOs whilst maintaining their presence. Special grants did not cover fire escapes and repairs, and owners could both lose rent if numbers were reduced to combat overoccupancy and incur substantial costs, mostly unaided by grant (Monck and Lomas,1980). Discretionary grants provided more help - but only for conversions to self-contained flats or single dwellings.

The grant system has now changed. The change was in part due to the emphasis placed on private housing and the private rented sector in particular by the 1979 to 1983 Conservative Government for the housing of the 'mobile' (House of Commons Select Committee on the Environment, 1982). It was also partly because of evidence about the risk from fire of living in HMOs. Special grants for HMOs now cover the provision of means of escape from fire and also repairs, when either amenities or means of fire escape are being installed. The Government stressed that 'HMOs can provide a useful service for single people, particularly those who are young and mobile...(the Secretary of State) hopes that local authorities will make full use of the grant, allied where necessary with their regulatory powers to help improve the standards of accommodation and safety...' (DoE, 1980).

It is important that this concern by Government about the needs of young singles should hide neither the diversity amongst occupants in HMOs which Chapter 2 has shown, nor their aspiration for greater privacy, in the form of self-contained housing. Indeed, although 80 per cent are single person households, only 66 per cent of the households in the 1985 survey were headed by someone under 35 (Thomas, with Hedges, 1986). It is evident that HMOs play a particular role in housing those who have experienced personal crises and need somewhere to live in a hurry. However, this role does not extend to the housing of children - virtually none of whom were in the sampled households. Their unifying characteristic was that 'most tended to be hard up' (Thomas, with Hedges 1986) and only 40 per cent had full-time jobs. They were dependent on student grants, welfare benefits or low paid jobs. Thus HMOs house those whose vulnerability (through personal

crises) and low income deny them effective choice in the housing markets. A combination of transience, mobility, vulnerability and poverty leads to sharing. Sharing however, can have problems in the form of the lack of privacy, noisy neighbours, security, the cleanliness of common parts, the hygiene of shared WCs and baths and the availability of hot water from shared geysers. That is not to say that it is always a disaster, sometimes sharing is beneficial both in terms of friendship and of reducing the costs of meals. Nevertheless, as Chapter 2 stressed, bad conditions are inimical to these potential social benefits.

Thomas concluded that most people do not choose HMOs. Some, like students, might actively seek shared housing. For most, it is all that is available at prices that can be afforded. Whilst they accepted sharing as inevitable, they did not consciously choose it. The Sharers follow-up to the 1978 National Dwelling and Housing Survey found that 75 per cent preferred self-contained accommodation, half 'strongly preferring'. They wanted independence and privacy - at the time 50 per cent shared with people who were strangers when they moved in. Even half those who knew each other before they moved together to a shared dwelling preferred self contained accommodation. In other words, people still want privacy even if sharing is not inconvenient. As many as a third of households who strongly preferred self-contained accommodation said they would pay more to get it, though their incomes were no higher than others.(Rauta, 1986). Thomas found that 90 per cent of his 1985 sample preferred self-contained accommodation, but only 20 per cent were on a LHA or housing association waiting list. (Thomas with Hedges, 1986).

Few people therefore actually like sharing. It cannot be assumed, however, that there is - or is likely to be - an adequate supply of cheap, ready-access self-contained flats to meet these aspirations, either in the private or social rented sector. Indeed, only 16 per cent of all private rented sharers in the 1978 sharers survey expected to leave HMOs within a year for self contained accommodation. This implies that action to improve HMO standards and replace some with self-contained flats has to be set against possible consequences in the forms of increased rents and reduced supply.

In this context it needs to be stressed that the measures introduced by the Government in 1980 to stimulate the supply of private rented housing (such as introducing shorthold and assured tenancies), failed to do so because of the contradictions between its private rented policy and its desire to promote owner occupation (and maintain 'as of right' subsidies to do so), cut public spending and transfer social rented housing into owner occupation. The expansion of owner occupation has continued into the 1980s, not just through the discounted sale of council houses, but by the increase in 'conventional' ownership down the income and age scale (Kleinman and Whitehead, 1988; Maclennan and Munro,1986).

More and more who want to buy have been able to do so, with the result that those who could have afforded to pay rent for tolerable standards in the private rented sector now own their homes. As this thesis has already emphasized, the private rented sector is left with those who cannot buy, and it increasingly houses only those outside the labour market and those whose personal circumstances make them vulnerable (Whitehead and Kleinman, 1986). They have little bargaining power and the option for non family households of entering the social rented sector has diminished because of the combined effect of the fall in building programmes and of the sale of council houses on new lettings. Meanwhile municipalisation programmes have been stopped since they are inconsistent with privatization objectives.

Although the HMOs which provide them with shelter are de facto deregulated, being let outside the Rent Acts, tenants cannot afford to pay the kind of rents out of their incomes or benefit which would enable landlords to provide tolerable standards on relatively secure terms and make competitive returns. If they could, they could also afford to buy. The 1980 measures failed to tackle therefore the underlying problem of HMOs - the low incomes and rent paying capacity of the tenants. Fiscal austerity, on conventionally defined housing expenditure has not allowed rent allowance (Housing Benefit) to provide the level of subsidies to tenants comparable with those given to buyers and necessary to support rents giving competitive returns or, alternatively, to provide adequate capital subsidies to landlords. Meanwhile tax relief on mortgage interest has risen since 1980 and in crude terms young singles and partners in work get more by way of subsidy if they buy than if they rent. The continued discrimination in tax and subsidy terms against private

renting and in favour of owner occupation deflects demand for good quality rented housing into owner occupation and does not allow private landlords to compete with alternative tenures.

Unless Government is prepared to tackle this contradiction (with its ideological underpinnings) it is hard to see how local authority enforcement of standards can succeed in raising the housing quality of low income HMO residents. The Government is now going much further than their 1980 measure and partially deregulating all new lettings to stimulate supply. The likely impact of this on HMOs and on local authorities' abilities to regulate their standards in the future will be considerd at the end of the chapter. Meanwhile, local authorities' current power and duties and their use must be examined.

Local Authority Powers and Duties

This chapter is confined to procedures and practice in English LHAs although the level of concern and call for mandatory duties is of equal importance in Scotland (Currie and Miller, 1987).

The only duty currently placed on LHAs is to ensure that means of escape from fire are provided (or closure of parts of the premises) where there are three storeys with a combined area of at least 500 square metres. In other cases LHAs have the power to require means of escape or partial closure, in consultation with the fire authority.

Although LHAs are not under a duty to regularly inspect HMOs, they are obliged to inspect their district from 'time to time' to determine what action to take in persuance of their Housing Act powers but, in cases where LHAs do not carry out such inspections, it is not certain that judicial review would be a successful means of ensuring that HMOs were regularly inspected (see Arden, 1985). They can, with DoE consent, set up registration schemes which can also control, with exceptions, the use of an unregistered house as a HMO or limit its use to a specified number of occupants. They can require works to make HMOs suited for given numbers of occupants or households. They may limit occupation in relation to the amenities available and can also serve notices to prevent overcrowding. Where conditions are the result of bad management, LHAs can invoke

Regulations, set out in 1962, by serving a notice applying them to the HMO in question and requiring works to make good neglect in areas where the Regulations apply. Where LHAs have required works to be done they can do them in default and recover costs and landlords can be fined on conviction for knowing failure to comply with notices. In the worst excesses of bad conditions and mismanagement which threaten residents' safety, health or welfare, LHAs can take over management by means of a control order which may be a prelude to compulsory purchase (see Arden, 1986 and DoE, 1986).

Where LHAs serve notices requiring works to install amenities or means of escape from fire, an award of Special Grant for these (and associated repairs) becomes mandatory, where applications are duly made. At the time of the authors' survey the rate of grant was 75 per cent. This was subsequently reduced to 20 per cent from September 1988 for cases of mandatory grant, but LHAs continue to have the power to provide discretionary special grants at a maximum rate of 75 per cent (or 90 per cent in cases of undue financial hardship). The Government considered that paying mandatory grant at 75 per cent takes no account of the means landlords have to finance the work themselves. It also felt it encouraged landlords to postpone works so as to attract the biggest rate of grant and that this, in itself, discouraged LHAs from taking enforcement action.

Local authorities may also control multiple occupation through the planning legislation. The physical conversion of a single dwelling house to two or more separate dwellings is defined as development by Statute and requires planning permission. There is however no clear distinction between single household occupancy and multiple occupancy. The 1987 Use Classes Order eliminates some uncertainty by incorporating use of a dwellinghouse by no more than six people living together as a single household with use by a single person or any number of people living together as a family (DoE, 1987c). Any change of use going beyond these limits could constitute development and although the Courts, before the 1987 Order, have held that change from single to multiple occupancy can be material and subject to control it is always a matter of fact and degree. Enforcement against unauthorized physical conversion is possible within 4 years and at any time in respect of changes of use (without the creation of separate dwellings) which occurred after 1964. Nevertheless much is a 'grey area'. The Courts have held, for example, that a house shared by a

group of people sharing amenities and housekeeping does not constitute development whilst the same house used as rooms each with a cooker and the sharing of WC and bathroom would need planning permission.

These 'technical' planning issues are very pertinent to a LHA's strategy to regulate and improve HMOs. Not only are most HMOs unregistered with the LHA, but most, too, are unauthorized developments. (This volume;Leeds City Council, 1987). Housing Act enforcement must therefore be co-ordinated with any necessary enforcement, or regularisation, of the planning status of substandard HMOs.

Local Authority Powers: Discretionary or Mandatory?

The co-existence of substandard HMO conditions with LHA powers to inspect them and enforce standards has led to calls to turn these largely discretionary powers into mandatory duties on the grounds that the conditions can be attributed to LHAs' failure to use their powers.

These calls are relatively recent and there is little evidence, at least from Parliamentary Debates, that there were major demands for the HMO powers given to LHAs in the 1961, 1964 and 1969 Housing Acts to be made mandatory. The principal reservations were that the measures would be ineffective without adequate security of tenure for tenants and rehousing for those displaced by enforcement. These concerns have a contemporary ring. (House of Commons, 1961, 1963, 1969).

In the late 1970s and the 1980s there has, in contrast, been a build up of pressure for mandatory duties from backbench MPs in constituencies with significant numbers of HMOs, voluntary bodies like CHAR - the campaign for the single homeless - trade unions like the Fire Brigade Union, and professional institutions, like the IEHO. Much of the campaigning has been organised by an umbrella HMO Group with a wide membership. This single issue 'policy community' has also been influential in increasing the salience of HMOs within individual local authorities and the local authority associations. It is significant that the campaign did not consist of voluntary groups alone. The backing of professional bodies and other organisations has been crucial in widening it from an initial concern by voluntary groups about hostels for the single homeless to a

broader campaign committed to the eradication of bad conditions in bedsitters and the like generally. Because the campaign has drawn in professional institutions it has also gained in credibility. It is less easy to write it off as yet another campaign by a well intentioned but misguided voluntary pressure group when it is supported by responsible professional institutions.

In part the campaign's genesis can be ascribed to reactions to a series of tragic deaths from fire in HMOs in the late 1970s which exposed the extent to which unsafe, insanitary and overcrowded conditions continued to persist in HMOs, despite two decades of legislation designed to see their elimination. The Government was called on to make powers mandatory (House of Commons, 1979, 1980). The Government did amend the 1980 Housing Bill to widen the provision of special grants and to place the limited mandatory duties on LHAs in respect of means of escape from fire referred to above. It declined to extend mandatory duties further, arguing against placing onerous duties about registration on LHAs and about complying with national standards on landlords.

There has been no cessation of the calls for mandatory duties. These have included three private members Bills introduced by Jim Marshall MP (House of Commons, 1983), by Baroness Vickers (House of Lords, 1986) and by Donald Anderson, MP (House of Commons, 1987). None reached the statute book, and although Marshall's Bill got a second reading in the face of Government opposition, the Bill fell with the 1983 General Election (Holmes, 1983). There has been strong support from the voluntary sector (HMO Group no date), professional organisations (IEHO, 1985), the local authority associations (ADC, 1988; AMA, 1987) and a Select Committee of the House of Commons (House of Commons Welsh Affairs Committee, 1987).

Although the proposals put forward for mandatory legislation vary in detail, most incorporate the following:

(i) Clarify definitions e.g. to make it clear that all IEHO categories are HMOs

(ii) Provide for legislation about national standards for each HMO category

(iii) Place a duty of care upon HMO landlords to protect the health, safety and welfare of tenants

(iv) Place a duty on LHAs to inspect their district and locate and inspect all HMOs (with exceptions) on a regular (e.g. 2-3 yearly) basis

(v) Place a duty on LHAs to enforce minimum standards

(vi) Streamline enforcement legislation

(vii) Place obligations upon LHAs to rehouse HMO occupants displaced by enforcement

The aims of the proponents were well illustrated by the arguments employed during the Commons second reading of Marshall's Bill. Conditions in HMOs fall below standard - the term 'Dickensian' was used to describe some of them. Whilst some LHAs use their discretionary powers, others do not. The present laws are weak and cumbersome as well as discretionary and give tenants no right to initiate their use. Too many LHAs have ignored their existing powers and given HMOs too low a priority for far too long. The laws should be mandatory because HMO occupants have a right to a basic minimum irrespective of where they live (House of Commons, 1983).

These remarks were echoed in the second reading debate on Anderson's 1987 Bill. The problems, he argued, were due to the discretionary nature of the legislation, the present framework gives HMO tenants virtually no right to initiate action. The great majority of HMO tenants are unlikely to complain about their lot for fear of harassment or eviction. 'Yet one of the most shocking facts revealed in the Department's (DoE) postal survey was that 86 per cent of all local authorities said that their policies for dealing with HMO conditions were based on reacting to individual complaints. By definition a large proportion of tenants are unlikely to initiate such complaints because of fear' (House of Commons, 1987, at Col. 613).

It is not just the fear of harassment. It is also a matter of HMO tenants' knowledge of rights and procedures. Thomas showed that only 8 per cent of the households in the 1985 sample survey of HMOs had ever contacted their LHA about problems with their accommodation (Thomas and with Hedges, 1986). Most had only a vague awareness about LHA powers and exhibited a fear of officialdom as well as landlord harassment. They were

as likely to put up with substandard housing as to risk harassment, because they acknowledged the shortage of good housing at affordable prices.

Nonetheless, the Government has rejected demands for mandatory duties. Ministers explained in 1983 that they were worried about the extra costs of the legislation, not so much on the capital side since, at that time, they were urging LHAs to increase improvement grant expenditure. Rather it was the extra staff, since LHAs were being exhorted to curtail current spending. At a time of stringency there was the risk that staff would be diverted from the urgent task of chasing the worst HMOs to the less urgent job of locating and inspecting all HMOs, irrespective of conditions. Local discretion would be eroded by imposing national in place of locally determined standards and by eliminating LHAs' freedom to determine their own priorities and choose between HMO and other housing programmes.

Moreover, the proposals would dry up the supply of accommodation for the very group whose interests the Bill's sponsors were trying to protect. When confronted with extra costs landlords would give up whilst LHAs closed down HMOs which offended national standards. At the same time neither LHAs nor housing associations would match this fall with low cost shared housing. Despite acknowledging that 'the need for better standards is clear', the 'Times' Leader writer argued 'insist too much on higher standards and the landlord may go out of business. Some supporters of the Bill would be glad to see all such accommodation publicly provided, and that is indeed often the best solution. But if admittedly squalid accommodation is regulated out of existence without the assurance of an equal provision of better lodging, then many more in search of shelter may find it only under railway arches and the best will once more have been made the enemy of the tolerable' (The Times, 1983).

To confront arguments such as this the Bill's supporters explained that since LHAs already had the powers, the risk that supply would dry up already existed. It was a matter of removing LHA discretion to regulate HMO standards at a time when the extension in the scope and value of special grants had significantly reduced the risk because the cost of decent standards could fall substantially on the public purse, not just on the landlords' and tenants'.

Ministers were not moved by such appeals and similarly rejected the 1986 and 1987 Bills. In refuting the basis of the Vickers Bill it was argued that '...any local authority that is determined to secure improved conditions in HMOs can do so under existing legislation, and many do so. The Government believe that discretionary powers are the most appropriate because each authority is best placed to know the need of its own area and to assess priorities for the best use of available resources' (House of Lords, 1986 at Col. 1434). Anderson's Bill was similarly criticised by Ministers. Much of what was proposed 'already exists in current legislation, albeit in discretionary form. It is not in the Government's view the existing legislation that is at fault. It is wide ranging and capable in one form or another of meeting most, if not every situation. The powers are there for local authorities to use. In the Government's view the approach should be to concentrate effort on encouraging the wider application and knowledge of existing powers, not just among local authorities but among landlords and tenants, many of whom remain unaware of their individual rights. In the Government's view, local authorities remain best placed to consider the use of discretionary powers in the context of their knowledge of the housing situation in their area' (House of Commons 1987 at Col. 624). The Government were also alarmed at the impact of national standards on LHA resources and on supply, arguing that 'imposition of rigid standards...are too detailed to be practical and might serve only to produce (a) deterrent effect'.

The debates have been described at some length because they reveal a deep divide between those who would secure the right that poor and vulnerable citizens have to decent housing by imposing duties on LHAs and those who argue that LHAs are best placed to judge what action to take in the light of local needs, resources and other priorities. This sort of debate surrounds other areas of social policy. At its heart lies the appropriate balance between rules and discretion. The paper returns to this theme after next describing LHAs' current HMO policies. Before passing on, however, it is worth noting that the HMO campaigners have not only - or even mainly - been directing their attention at getting new legislation. Rather it is a multi-pronged approach and attention has also been given to urging LHAs to take up and use the powers they have (see e.g. HMO group 1983, and AMA, 1987).

Use of Powers by Urban LHAs in the North and Midlands

This section analyses the results of the author's survey of LHAs in 1987.

Supply trends

It is pertinent to report that LHAs estimated an upward trend in HMOs since 1980. Although not based on survey data, two thirds of LHAs noted that self contained flats had increased, especially where they were pursuing a planned and active intervention in the HMO field. In contrast whilst half LHAs said 'traditional', Category A, HMOs had increased, this was the only category of HMOs where some LHAs reported declines, especially in areas where a planned approach was taken. Category D was, unsurprisingly up in two-thirds of LHAs, an increase attributed by LHAs to, amongst others, the discharge of mental health patients by Health Authorities, and the greater economic attractiveness to letting via bed and breakfast than via 'traditional' bedsits. Half of the LHAs who had experienced an increase in Category B suggested that this was where the 'smart money' was going, especially in inner city 'partnership' and 'programme' local authorities. Landlords were buying up terraced houses (including suburban areas) and putting in a 'few kitchen units' for young singles, including students and professionals as well as the unemployed. Category B was seen to have many attractions in the form of 'fewer controls', lower overheads and a greater chance of capital gain than traditional bedsits. They were also attractive because they suited student sharers to whom houses could be let at higher occupancy rates than to other groups (see this volume, and Carver and Martin, 1987). Indeed some officers reported having people ringing them up asking what they had 'to do to get one of these houses started'.

Almost all the local authorities in the sample had confronted an increase in HMOs. Not all these new HMOs were in traditional inner urban localities and as one LHA officer explained: 'the people some landlords want to let to don't want to live in inner areas'.

Policy: reactive or proactive?

In the recent past the great majority of LHAs did not pursue planned strategies to seek out and inspect HMOs. The 1984 DoE survey found that responding to individual tenants' complaints was the main policy for 86 per cent of LHAs. There were, however, signs that things were changing. 30 per cent also said they tried to actively seek out HMOs before any complaints were made. Many stated that they were reappraising priorities and that an increased level of activity on HMOs was planned (Kirby and Sopp, 1986).

By 1987 the results of these plans could be seen. LHAs were asked whether they sought out HMOs for inspection and enforcement action ('proactive') or if they only reacted to tenants' complaints ('reactive'). 55 per cent of LHAs were 'proactive' authorities, covering 76 per cent of households living in furnished accommodation in the whole sample. These proactive authorities not only have more HMOs than others (1,800 on average compared with 400 on the DoE postal survey evidence) but they estimated a higher proportion to be below standard (64 per cent compared with 39 per cent). Not all, by any means, were inner city authorities since half the LHAs without designated inner area status were 'proactive' authorities.

As well as seeking out HMOs to improve standards by enforcement and negotiation, rather than solely responding to tenants' complaints, many proactive authorities took the view that a wider and co-ordinated approach, involving questions of security, tenancy relations and rents were essential if enforcement of physical standards was to succeed. (See, for example, Manchester City Council, 1985). See also Birmingham's Housing Action Team (City of Birmingham, 1986a; Thomas, 1986). Proactive policy can lead to landlords harassing tenants in order to empty a HMO as a way of avoiding compliance. Tenancy relations work is carried out to protect tenants at risk. At the same time tenants can be advised about rents and benefits. Co-ordinated approaches to the questions of physical standards and tenants welfare are, however, seen as worthwhile in their own right, not just a response to protect tenants from unscrupulous landlords trying to get rid of tenants when local authorities enforce standards.

Most, but not all, of these proactive authorities are seeking to maintain HMOs, not eliminate them by conversion to self contained flats. Despite a recognition by authorities about the role of HMOs in meeting needs, and problems relating to the affordability of converted flats, as many as a third of proactive LHAs are seeking conversions. In some cases this is because of unresolved conflicts between housing need and environmental planning perspectives on the question, housing officials emphasising the way bedsitters and the like can meet needs, whilst planners point to their bad neighbour characteristics. Nevertheless, in the majority of cases proactive LHAs wanted to retain - even extend - the number of private rented HMOs, whilst encouraging housing associations to provide converted flats, and bring the HMOs up to standard. In particular it was recognised that the present limited availability of funds for home improvement grants could support few conversions of HMOs into self-contained flats but a greater number of upgraded HMOs through special grants - albeit to a more limited standard. For this and other reasons therefore most LHAs recognised the importance of HMOs. Birmingham's view was typical of many. The "City recognises that HMOs have a significant part to play in providing a range of housing accommodation. Provided planning considerations are met, a controlled growth of multiple occupation is thought desirable". (City of Birmingham, 1986b).

Enforcement and grant aid

Not surprisingly, as Table 19.1 shows, by 1985 proactive LHAs were more active than others in serving enforcement notices. The results do not show the number of HMOs where enforcement action was taken since several notices can be served on any one HMO. Moreover the base numbers of HMOs are an estimate and use estimates for only one year for all years. Nevertheless the results do point to two things. First the overall level of activity fell from 1975 to 1980 and then rose by 1985. This is entirely consistent with what LHA officers said in interviews: that enforcement activity fell during the increase in home improvement grant work associated with improvement area declaration after 1974 and the grant 'boom' of the early 1980s. Since then the fall-off in grant work has seen a recovery of enforcement activity in HMOs, especially for notices in respect of amenities and the reduction of occupancy, which more than trebled, whilst notices about means of escape from fire 'merely' doubled.

Table 19.1: Average number of HMO notices[a] served by LHAs per 1000 HMO estimated by LHAs[b]

	1975	(N)	1980	(N)	1985**	(N)
Proactive LHAs Mean	28	(14)	21	(15)	136	(18)
Reactive LHAs Mean	42	(12)	32	(12)	28	(12)
All LHAs Mean	34	(26)	26	(27)	92	(30)
All LHAs Median	0		0		42	

Notes a Total notices served requiring works to be carried out or numbers of occupants reduced

b Total HMOs estimated for DoE postal survey

** Difference significant at 0.05 level using 1 tail t-test

N = No of LHAs returning statistical data.

NB no bias in those returning from sample of 41 interviews

Table 19.2: Average Number of Special Grants paid by LHAs per 1000 HMOs estimated by LHAs

	1980*	(N)	1985**	(N)
Proactive LHAs Mean	0.01	(17)	31.1	(18)
Reactive LHAs Mean	2.32	(11)	4.8	(14)
All LHAs - Mean	0.95	(28)	19.6	(32)
All LHAs - Median	0		0.7	

Notes * Difference significant at 0.1 level (1 tail t-test)

** Difference significant at 0.05 level (ditto)

N - no. of LHAs returning statistical data

Second, there is a difference between proactive and reactive LHAs but this difference only emerges after 1980 and is particularly pronounced in the case of notices about means of escape from fire.

The same increase in activity cannot be found in respect of management, closing and control orders, nor do proactive authorities seem to be more active than other LHAs. What seems to have happened is that the number of orders in force increased between 1975 and 1980 but have not increased in number since. There were only 50 such orders per 1000 HMOs in the whole sample. Proactive LHAs had only 48 management orders in force on average in 1985, although there were big variations between authorities, a few having a hundred or more and most significantly less. There were only 2 who had any control orders at all.

LHAs have been in the business, it would seem therefore, of trying to achieve physical standards of amenity and safety through their enforcement activity rather than dealing with the acknolwedged problems of mismanagement. This is reflected in the growth in the number of special grants paid between 1980 and 1985. As Table 19.2 shows, the payment of grants has risen everywhere from a very small base, but especially so in proactive LHAs who are more willing than reactive ones to pay special grants on a discretionary as well as mandatory basis and are seeking the improvement of HMOs as they stand, rather than conversion to self-contained flats. Over half proactive LHAs award discretionary special grants whereas 70 per cent of reactive authorities only award mandatory ones. Much of this work was being done to achieve the standards recommended by the IEHO, for three-quarters of all LHAs had adopted these - half without modification and a quarter with modification to suit local circumstances.

Changed priorities

It is evident that the increase shown in Tables 19.1 and 19.2 is of very recent origin. It was clear from interviews conducted with the LHAs that the changes have only come about in the last two or three years and that they are not confined to the proactive LHAs. Whilst 90 per cent of

proactive LHAs have given HMOs greater priority, so too have 60 per cent of reactive authorities - many are planning to take greater action and are more willing to take enforcement and give grant aid.

There were several reason for this increased priority. The national publicity given to conditions in HMOs as a result of the promotion of private members Bills, the professional and campaigning activity of the IEHO and HMO Group respectively, have been influential in persuading both officers and members, but particularly officers, to give HMOs greater attention. Half the LHAs mentioned this as a main cause of changed priorities. The influence of the IEHO on its members who work for the sample cannot be underestimated. Not only have the Institution's reports influenced its members but prompted them to take the recommendations to their Committee as bases for local action. The publication of the IEHO's recommended standards is a case in point.

At the same time LHA officers were becoming increasingly aware of the growing HMO problem in their district and of the gradual concentration of the marginalised and young poor in HMOs. In other words HMOs had come to be recognised as containing the worst conditions in the private sector, as the traditional private rented sector disappeared. Committee papers of the time make many references to these issues, citing the dramatic increase in single person accommodation and the inferior circumstances of their housing. Officers in half the LHAs referred to the growing concern they had about these conditions, not the least their professional worry about the hazards and lack of means of escape in HMOs. It was particularly significant amongst officers in all proactive and the larger reactive LHAs.

Member pressure was less important overall, being mentioned by just over a third of all LHAs, but it was more significant in the larger proactive ones. It was often associated with a change in party political control or changes in the leadership of the majority party, particularly upon the installation of new chairs. In many cases there had been 'manifesto' commitments to the needs of young single people and the single homeless, whilst new members often had direct experience or involvement with local 'grass roots' organisations which were actively engaged in these issues.

These changes in the political climate made it much easier for the growing officer concerns about HMO conditions to be translated into policy changes.

A third of LHAs had been subject to external pressure. There were two kinds. First, neighbourhood groups of owner occupiers adjoining HMOs complained about houses in their area becoming HMOs (especially the growth of Category B HMOs) with attendant problems of noise, untidy gardens and dustbins and car parking. Others, like the local CHAR groups, were pressing LHAs to extend their provision for young single people and improve conditions in the worst HMOs, especially hostels.

Significant too, had been changes in the demands on LHAs' resources. In a third of LHAs the fall-off in improvement grant work, especially after the 1982/4 'boom' was an important factor. This had two influences. First, 'grant work' squeezed out HMO work. HMO inspection and enforcement tended to be unpopular and unproductive in comparison with 'demand led' grant work which was easier to service. Where LHAs gave their officers discretion about inspecting HMOs, there was a tendency for them to favour grant work at the expense of HMOs. The fall-off in grant work enables this displacement effect to be reversed and greater priority given to HMOs. This is not simply a question of the attitudes of officers. Rather it is the changing pressure on LHAs to service grant applications, which is itself a factor of central as much as of local government policy. The second influence of the increase in 'grant work' is indirect, insofar as it is associated with the deliberate concentration of capital and staff resources in Housing Action Areas and other renewal priority areas. Only a small proportion of HMOs are in such areas. LHAs in the DoE postal survey estimated that only 7 per cent were located within area schemes, although the 1985 physical and social survey suggested that 26 per cent were potentially in area schemes (Kirby and Sopp, 1986; Thomas with Hedges, 1986). If they are not in area schemes they are unlikely to have been the subject of inspection or benefited from grant aid, given the concentration of staff and capital expenditure in area schemes. In other words they have missed out. The recent reductions in area declaration programmes will rectify this.

Other pressures on LHA resources have been important, particularly in reactive ones. First the growth in Housing Benefit claims led council members to question the distributional effects of public funds. Where landlords had been receiving the direct payment of certificated housing benefit paid on high rent levels, members were anxious that the LHAs obtained value for money by taking enforcement action on unsatisfactory conditions. This attitude also led to attempts to restrict benefit payments (see prescriptive conclusions, below). In like manner members have also raised questions about the value for money obtained from the payment of mandatory special grants following upon enforcement action. In raising such questions members appear to have made a distinction between grants for houses and for HMOs. The former are a justified subsidy in relation to housing stock and area improvement policy objectives, whereas special grants may be unwarranted subsidies to individual landlords. Whatever the precise construction placed on this, these questions have also increased the political salience of HMOs within the LHAs.

Finally it is worth noting that one in ten LHAs also noted personnel movements as a factor in changed priorities. Professionals moving from one LHA to another appear to transfer policy as well as their own professional skills.

Problems of inspecting HMOs and enforcing standards

Locating HMOs is often alleged to be a major problem, especially as only just over a third of the sample LHAs have registration schemes and only a third of their estimated HMOs were registered. Indeed registration schemes were not associated with greater enforcement activity at all in either proactive or reactive LHAs. Kirby and Sopp discovered that less than 10 per cent of their sample use house condition surveys or census data. Most relied on their officers' accumulated knowledge of local conditions gained by casework (Kirby and Sopp, 1986; see also Claybrooke and Prentice, 1987).

It is perhaps surprising to discover, therefore, that only a quarter of LHAs said that locating HMOs was a problem. LHAs had three approaches to this. First, and most popular, was the use of existing administrative and other records to compile lists of likely HMOs for inspection. These

included cases where Housing Benefit had been paid to more than one claimant at an address, the Electoral Register, notifications of infectious diseases, following up property searches and newspaper advertisements. The decentralisation of housing management and environmental health teams has increased local knowledge about areas and contributed to LHAs' capabilities of spotting HMOs. Once lists have been drawn up, priority for inspection is usually given to properties of three or more storeys, because of fire hazards, with the residue being worked through on the basis of annual targets. It would be wise however to refer to the methodology used in the 1985 physical and social survey which abandoned this 'records' method when a pilot survey found it unreliable (Thomas with Hedges, 1986). Some, though a minority, of proactive authorities had programmes of cyclical inspections of known HMOs, the regularity depending on the type of HMO. Clearly once the 'backlog' of inspecting HMOs is overcome, more and more LHAs will have to institute cyclical programmes to ensure standards are maintained.

Less popular, but more likely to be effective within an area, is the 'area blitz' method. Existing information is used to identify priority areas with known concentrations of HMOs. The whole of each area is then surveyed to ensure that the many HMOs not picked up by the 'records' method are identified. Census indicators can also be used to locate priority areas. This method is often used in conjunction with the identification of priority area renewal zones (see Leeds City Council, 1987 for an example). This approach is often combined with policies to enforce physical and management standards in all HMOs in priority areas, combined with dealing actively with fire precautions outside priority areas - as well as acting on complaints about other standards.

Much rarer is the 'portfolio' approach where a local authority decides to inspect all known HMOs in the ownership of one or more landlords. In these cases the landlords have managed one or more HMOs so badly that the LHA gives priority to the rest of their portfolio.

The next three problems were experienced by up to half LHAs, especially the proactive ones. First, gaining access to HMOs and all their rooms, plus the associated problems of personal safety and unsocial hours. Second, the time needed to carry out inspections and prepare the intricate

notices necessary after working out schemes of improvement. Third the complexity of the statutory procedures that have to be followed - not least in relation to the number of notices per HMO and the method of service. Where LHAs have a programme of regular, cyclical inspection these problems are cumulative to the task of inspecting newly found HMOs.

Then LHAs have to confront, not only the landlords, but also the tenants and half the LHAs experienced difficulties with them. Problems with unscrupulous and aggressive landlords whose major expertise was in confounding the LHAs' enforcement procedures were to be expected. Tracing landlords was difficult. So to were those landlords, especially multi-company landlords, who switched ownerships between their companies or removed tenants temporarily to render null and void the notices officers had spent so many hours painstakingly drawing up. Maintaining services for tenants following gas and electricity disconnections was also problematic for many LHAs. Problems with tenants were less to be expected. However, proactive LHAs have to confront the difficulty of dealing with tenants who have not complained and asked for their accommodation to be inspected. LHAs often found tenants were apathetic, if not openly hostile, to inspections and the consequences of enforcement, especially if they feared harassment and attempts by landlords to get them to quit.

Two other problems were common, though less widespread - facing one in five LHAs. First, there is the problem of coordination. Co-ordination with town planning departments over enforcement is a particular problem, so too are conflicts about degrees of self-containment. The major problem is what to do about enforcing fire safety requirements in HMOs which are unauthorized in planning terms. In the past some LHAs have steered clear of enforcing standards - in particular where works are required and grant paid - for fear of compromising planning policy if subsequently the authority proceeds to enforcement under planning legislation. Given the unacceptable level of fire risk to which tenants are exposed if LHAs fail to act on unauthorised HMOs, LHAs are now more likely to act in advance of any resolution of planning status - at least to ensure, either that adequate fire precautions are installed, or a direction notice served to reduce numbers as interim measures. If enforcement steps are taken to remove the HMO in planning terms, tenants will have, in the meantime been

protected from fire at less cost in wasted grant, than if the LHA had insisted on enforcing on the full range of standards. In many cases informal indications from planning colleagues in advance of formally agreeing planning status enable LHAs to proceed to enforce on the full or limited range, depending on the likely outcome of the review of the planning status. LHAs have gradually evolved procedures for dealing with this, most effectively when working in priority areas, co-ordinating local planning policies for development control with enforcement procedures under the Housing Act. Co-ordination problems also arise in relation to tenancy relations issues - again mainly by LHAs which have not developed a coordinated generic approach to HMOs.

Second, there is the problem of workload where specialist teams face the constant difficulties of dealing with apathetic tenants, obstructive landlords and painstaking and cumbersome procedures. Painstaking work can so often be unproductive, if not completely abortive, when trying to get better standards.

The overall impression which emerges from this survey is the sheer complexity of the task which faces officers on the ground. The evidence confirms Kirby and Sopp's observation that "'officers' work on HMOs was often time consuming, repetitive and even when successful easily undone by subsequent poor management by landlords." (Kirby and Sopp, 1986) Without doubt there are many dedicated and skilful professionals at work in this area but if, as it seems, HMOs provide sometimes unpopular and unrewarding casework, it is not surprising that pressures of other work can displace effort on HMOs. Where officers are given discretion about inspection and enforcement it is hardly surprising, if having spotted a possible HMO in a street in their district, they cross over to the other side to visit an applicant for an improvement grant - a more straightforward case where someone has applied for a grant and is likely to welcome and co-operate with the officer. Many LHAs accepted that this potential problem was exacerbated when there were generic environmental health officers working in district teams, with general as well as housing duties. Where they have discretion to organise their own workloads, demand led grant work - and abbatoir inspections - can squeeze out HMO work. On the other hand, while specialist HMO teams can overcome the problem of competing priorities and differentially rewarding tasks, by removing discretion

about inspecting HMOs and enforcing standards, they do leave officers with heavy and often unrewarding HMO caseloads. At the same time specialist teams can lack the grassroots knowledge of the district officer.

The question of discretion is, of course, a wider one and the next section deals with it in general. Suffice it to note now that LHAs gave officers less discretion about standards than about carrying out inspections. Proactive LHAs gave their officers less discretion in both areas, but nearly half the reactive LHAs left it to the discretion of their officers whether or not a HMO was inspected.

Policy: effectiveness and reform

Given the debate, rehearsed in an earlier section, about the relative merits of duties and discretion, it should be noted that most LHAs considered their existing powers could be, and were, effective. There were, however, two conditions to this. First, provided they could offer grant aid - although some did have reservations about the need for this. (In addition the different time scale for enforcement action and grant approval could lead to complications, with landlords being required to undertake work before grants were approved.) Second, provided they had the time to follow up enforcement procedures. Thus 37 per cent of all LHAs, and 45 per cent of proactive LHAs, said enforcement was effective when linked with grant. More fundamentally, two thirds of all LHAs, and three quarters of proactive ones, said it was effective if they had the time. Few had to do work in default often, although a fifth said they had cause to do so at some time. Few prosecuted HMO landlords, a number commenting on the "paltry" level of fines. Delaying tactics by landlords also undermined effectiveness, especially in proactive LHAs who also encountered delays during court hearings. Altogether a fifth of LHAs said such tactics were harmful to successful enforcement.

In view of the campaign for legislative reform, it was perhaps surprising that many LHAs were satisfied with the set of powers they had. They could be made to work when combined with adequate resources for grants and staff time. Nevertheless, support for mandatory legislation came from 52 per cent of all sampled LHAs, who between them had 60 per cent of furnished renting households in the whole sample. Only 38 per cent of

LHAS were opposed to mandatory duties, and 10 per cent were uncertain about it. 60 per cent of partnership and programme LHAs favoured mandatory duties, compared with 40 per cent of others. In both types of authority, it was those pursuing reactive policies who were most in favour of mandatory duties (59 per cent compared with 45 per cent of proactive LHAs). Amongst the arguments for mandatory duties are that they would ensure that LHAs had to continue to make HMO work a priority at times when other demands, like grant work, were in danger of overtaking it, or when grant shortages restricted enforcement because members were worried about mandatory grants leading to overspend on limited budgets. Indeed, it was pointed out how important it would be for adequate staffing and capital resources to accompany mandatory duties. Indeed just over a quarter of all LHAs wanted mandatory grants abolished, both as a necessary consequence of introducing mandatory enforcement in a period of constraint on improvement grant expenditure, and because many of them considered landlords had adequate resources to do the work without grant aid. Some felt mandatory grants were a peverse reward to landlords for failing to provide adequate standards. In sum, LHAs should have discretion to judge if a grant was required. This would remove disincentives to take enforcement action, where LHAs did not want to pay mandatory grant in cases where it was not needed. This view was held by equal proportions of LHAs in favour of, and opposed to, mandatory inspection and enforcement and it reflects the views the ADC and IEHO (1988, 1985a) but not of the AMA (1987).

In addition the following specific reforms were identified by many LHAs to increase their effectiveness in removing unsatisfactory HMOs:

(i) An increase in the repairs element of the Special grant and the attachment of letting conditions to mandatory grants.

(ii) Simplification of the procedures for serving notices. In particular to enable the service of one notice, simultaneously specifying requirements in respect, say, of amenities, occupancy and fire safety. Also removing the notice of intention to serve direction orders or overcrowding notices.

(iii) Specifying reforms to the control and management order procedures, in particular to allow the 1962 Regulation to apply automatically to all HMOs not selectively by notice.

(iv) The introduction of regular licensing of HMOs, conditional on standards, with associated Termination Orders when HMOs were found unsatisfactory. The Leicestershire Act provisions were commended by many LHAs (See Cooke, 1987). It was also suggested that fees for licensing could conceivably cover the LHAs enforcement and inspection costs (See also Archer and Sims, 1987).

(v) The introduction of a national code for fire precautions. (The Home Office draft was issued in late 1987 after the interviews with LHAs had been completed.)

Rules or discretion: other perspectives

Before drawing any conclusions about the relative merits of discretionary powers and mandatory duties, it is pertinent to reflect on lessons which can be drawn from writings and debates about the nature of discretion. Much of the argument about discretion is related to normative, prescriptive, issues, principally because unfettered discretion is thought to undermine individual rights. The lack of detailed regulation of agencies and staff who are given a degree of discretion in the administration of policy can result in a very different treatment of individuals nominally entitled to similar rights. In such circumstances, it is argued that rules will secure rights since a restriction of discretion removes any arbitrariness in their distribution. Against this it is argued that rules can be equally unacceptable if they lack a responsiveness to human need.

Before attempting to assess the rules vs. discretion argument about HMOs it is important to try to draw back from an emotional, if understandable, concern for the plight of HMO residents and examine: first, whether there are any inherent limits to regulation by rules which require the continued exercise of discretion; second, whether the way in which the 'front line' professional carries out his or her case work affects the delivery of services; and third examine whether the politics of the task in question and the relationship between central and local government determine rule bounded or discretionary decision making.

A number of writers point the analyst of the HMO debate in helpful directions. First, there are echoes from the debate about welfare rights in Britain and the so-called 'anti-discretion movement' which wanted

guarantees about benefits from clear rules which fettered the discretion of officials to make payments. In his analysis of this debate Bull (1980) argued that it was necessary to distinguish between agency and officer discretion and between discretion and judgement. If agency discretion was abolished, so too was officer discretion to depart from rules in exceptional circumstances, but that still meant officers had an inevitable need to make judgements to interpret the rules and to decide questions where it was inappropriate to use rules. Two issues were, in Bull's view, in danger of being confused: the extent to which Parliament should permit agencies to exercise discretion and how far the inevitability of officer judgement can be subject to scrutiny. So far as HMOs are concerned a parallel would lay with Parliament fettering the discretion of LHAs about inspecting HMOs and enforcing standards where they failed to match local, published, criteria but leaving it to the discretion of LHAs to decide on standards appropriate to local circumstances, to depart from them in exceptional circumstances, subject to procedures enabling these local decisions to be subject to adjudication.

The manner by which officers cope with their HMO casework has already been referred to. Environmental Health Officer working on the ground can be categorised as equivalent to Lipsky's 'street level bureaucrats' (Lipsky, 1980). Such officers, Lipsky argued, use their freedom to make choices at the point of service delivery to devise ways of coping with the pressures of heavy case loads and the uncertainties under which they work. In effect, far from being passive channels through which policy is implemented, the choices street level bureaucrats make in exercising discretion and judgement become the policies. In essence Lipsky's thesis is that, although street level bureaucrats have a strong sense of public service, they also have large caseloads, inadequate resources, and face difficult, sometimes apathetic, hostile or violent clients. They develop coping strategies to protect themselves and manage their tasks in ways which effectively displace agency objectives. They have to ration their time in the face of excessive demands for their services. In the face of these pressures they use their discretion to develop ways of working and of processing clients in order to ration their time which result in a stereotyping of those who are dependent on them.

Thus, to pursue the HMO case, environmental health officers working on district teams on a generic basis have heavy caseloads of HMOs and other work, like home improvement grant applications and inspections. If all HMO residents are characterized as apathetic, feckless and inadequate young singles, officers can use this stereotype to justify concentrating on delivering grants to, say, pensioner owner occupiers who, by virtue of accepted need, infirmity and a positive attitude to officialdom, have a more favourable image. Thus 'undeserving' and 'deserving' stereotyping unwittingly displaces agency goals in the exercise of officer judgement. This stereotyping involves a simplification by caseworkers of the complexity of the issues they tackle and a suppression in their minds of the diversity of their clients and their needs as a basis for rationing. They involve developing defence mechanisms to justify decisions and forms of behaviour which act in self-fulfilling ways i.e conditions in HMOs do get worse and this can be ascribed to the behaviour and attitudes of the tenants.

Given the low status and powerlessness of clients with negative stereotyping it is difficult for street level bureaucrats to be accountable to them - caseworkers simply require deference from their clients to get compliance for their decisions. Because it is always necessary for officers to exercise some judgement, it is difficult for line managers to control their behaviour. The paradox, as Lipsky explains, is that despite the discretion they have, street level bureaucrats do not think they have any power. They are merely the oppressed front line representatives of large organisations with inadequate resources to meet increasing demands. For clients, however, street level bureaucrats represent the organisation, and their behaviour will be seen as evidence about agency attitudes and policy. Thus street level bureaucrats' behaviour may engender assumptions by clients about negative attitudes of agencies towards them, despite official policy to the contrary.

An emotive response to this analysis might be to insist that all discretion about HMOs is eliminated and officials bound by rules. Certainly it illustrates the crucial importance of providing adequate staff resources for the task in hand, consideration of the comparative appropriateness of all purpose district teams and specialist HMO teams,

the necessity to organise adequate support and training services and to coordinate the impact of all local agencies involved in ameliorative (e.g. standard enforcement) and preventative services (e.g. tenancy relations). to HMO residents at a local, district or team level as well as at agency level.

It is far from certain, however, whether all tasks involved in HMO work can be neatly fitted into either rule bounded or discretionary categories - with an implied assumption that there should be a serious attempt to increase rule bounded HMO decisions. Indeed it seems likely that there is a continuum on which different tasks can be placed.

Jowell's analysis of this question is pertinent since he argues that there are limitations on what rules can achieve in reducing administrative discretion (Jowell, 1973; see also Davis, 1969; Galligan, 1986; and Harlow and Rawlings, 1984 for additional discussion of the issue). He shows that two criteria are required to decide if discretion should be controlled by legalisation (rules) or judicialisation (subjecting decisions to adjudication): first, whether legal techniques can be effective in achieving intended aims and second, whether the task is suited to legal control.

He shows that rules, as concrete guides to implement policy have the great merit of affecting everyone equally, reducing arbitrary decisions by avoiding selective enforcement, giving notice of entitlement, helping administrators by guiding the allocation of resources and shielding them from pressure groups. Their limitations are that rigidity and legalism are inimical to the flexibility which might be proper in relation to policy goals. The advantages of adjudication lie in the involvement of all participants, the need to justify decisions in the light of principles and a case by case elaboration of the issues providing 'individualised justice'. On the other hand they do not guarantee the existence of substantive rights, the costs of adjudication may prevent some participating, case specific adjudication prevents comprehensive planning and does not result in comparison.

Jowell goes on to argue that these costs and benefits do not exist in isolation but depend on the problem in hand, since neither rules nor adjudication may be appropriate. He finds that this is particularly the case as far as standards are concerned where there may be no consensus and cases are unlike and may not recur, although the specification of criteria may be helpful in increasing precision. It is also the case, in the determination of need, whereas rules are appropriate for clear cut and recurring 'yes/no' decisions.

It may be less desirable, therefore, to fetter by rules the discretion LHAs currently have about determining standards for particular HMOs, than to limit the discretion they have about carrying out inspections. Perhaps the clearest message to emerge from Jowell's and others' analysis is that the advantages and disadvantages of rules and discretion do not exist in the abstract. At an emotive level discretion ought to be limited. Rules help foster fairness and reduce arbitrary decisions. They also promote predictability and this helps individuals affected by rules to plan their own affairs. There are also advantages in ensuring that decisions are subject to the due procedural processes of review and challenge by public hearings and inquiries. But there can be no absolute judgement about the choice between rules and discretion. It depends on the policy arena in question. Government it would seem needs both rules and discretion, provided that in exercising discretion it acts with rationality, purpose and morality (Galligan 1986). Nevertheless a core of guiding standards can enhance fairness, predictability and limit arbitrariness, whilst leaving a flexibility for the application of standards to particular cases. This would allow the parties involved to participate in the decisions that affect them, since evidence from other policy areas has shown that negotiation, consultation and bargaining may be more effective than rules in getting compliance with regulatory standards. Galligan who discusses some of this evidence puts it well: "It is necessary to be wary of any question which is put simply in terms of the merits of choosing between rules and discretion." (Galligan, 1986, p.165).

The final perspective lies outside this discussion about the inherent limits of control and looks at the politics of the policy itself for the source of discretion. (For a general discussion see Adler and Asquith, 1981). At first sight it is paradoxical that LHAs have been part of a

campaign to impose more duties or 'burdens' on themselves, reducing their 'autonomy'. The HMO issue illustrates the important role professional communities can play in the national-local government system as members of a function-specific policy community. (See Rhodes 1980, 1986a, 1986b for general discussion of these issues). Although Environmental Health Officers work for particular authorities, they are also members of a professional institution and often advisors to local authority associations. They are in contact with colleagues in other authorities and can therefore mobilise policy communities on a single issue in just the way they appear to have done about HMOs, with both the IEHO, ADC and AMA pressing for changes. In pressing their own professional aspirations they have tried to impose a further 'burden' on LHAs as well as 'nationalised' concern over, and policy approaches to HMOs, despite the widespread variation in local circumstances. In particular, this illustrates the way certain 'technocratic' professionals can draw on an intellectual hegemony in areas where there may be little political challenge to their technical competence, (for example on the health and safety risks in HMOs) at a time when there is a lot of scepticism about the role of other professionals in local government. This has enabled environmental health officers to play an effective role in the housing policy community (see Laffin, 1985 on this general theme).

That this mobilisation of professional concern has not succeeded in persuading central government to act must be seen in the light of the policy issue itself. It has been argued that housing policy has become increasingly 'nationalised' (Murie, 1985) but the gradual accretion of financial and other controls into the hands of central government, which can be evidenced in mandatory duties over council house sales since 1980, seems to have been selective. It does not extend to giving private tenants 'rights to buy', nor to requiring LHAs to inspect HMOs and enforce standards. Discretion to do the latter is left to LHAs, a discretion they have not always been prepared to exercise. The reasons for this can be found within the politics of the policy itself at both central and local government level. First unresolved contradictions in central government's housing policy leave HMO policy ambiguous. Second, other competing priorities within local government, shaped (and constructed) in part by central government and in part by local political pressures have pushed the enforcement of HMOs standards into a lower priority.

The discretionary nature of legislation is closely connected with the ambiguity of central government policy. Any reduction of discretion requires a reduction, if not elimination of the ambiguity. However, the ambiguity lies in certain contradictions in government housing policy. Central government is undoubtedly concerned about the plight of HMO residents yet, at the same time, it wants to support private rented housing as part of its privatisation strategy. It is alarmed lest any extension of LHAs' powers and duties thwarts this strategy by undermining landlords' profits. If enforcement were to succeed without eliminating supply, and without sacrificing its overall housing policy objectives, the government would have to create a market framework within which landlords could make competitive returns out of letting flats and bedsitters conforming to acceptable standards and at affordable prices. Until now, strategies to increase the supply of acceptable standard private rented housing have been thwarted by the government's refusal to reform housing finance and to provide adequate subsidies for landlords and tenants in this sector by comparison with those for owner occupation and social rented housing. The result is that the HMO sector only houses the marginal poor without the resources to pay for better standards. To date the government's relentless determination to promote owner occupation and as of right subsidies in this sector for ideological reasons, its consequent failure to create fiscal neutrality between renters and owners, whilst cutting public expenditure on rented housing, contradicts its policy to promote private rented housing. Without a redirection of subsidies to tenants and their landlords there cannot be any upgrading of HMOs.

It is this failure to resolve these contradictions which clouds central government policy about HMOs. LHAs are given powers, not duties, and central government is able to ascribe HMO conditions to LHAs failure to act, not on the underlying housing market factors in relation to national policy choices, which are its responsibility. At the same time it fails to provide adequate resources to LHAs as the basis for effective action on HMOs and other unsatisfactory housing. Thus central government can claim to be doing something about the problem by providing the powers, at the same time as LHAs blame central government for their inability to use them. Any reduction of LHAs' discretion in this field is unlikely without

greater clarity in private rented policy. This, it is suggested, is unlikely to happen because it requires something more fundamental in relation to questions of housing finance and inter tenurial relationships.

The failure of LHAs to act is not entirely the responsibility of central government. The empirical study of the application of HMO policy has shown how crucial competing priorities have been. In particular the decision by many LHAs to fund and service large capital programmes of house and area improvement has directed resources to inner city owner occupiers who have had greater knowledge and articulacy in voicing their demands than HMO residents. Indeed many LHAs had seen a fall in statutory enforcement work in HMOs, as planned capital programmes absorbed more and more environmental health officers' time in running teams of technicians servicing owner occupiers' grant applications. This has been exacerbated by the two year 'boom' in grant applications engineered by central government in 1982 when the percentage paid on intermediate and repairs grants was increased. In so far as these applications came from well advised owner occupiers, staff productivity in responding to these was much higher than carrying out enforcement work on HMOs.

Yet many of these capital programmes and grants are also discretionary. LHAs could have chosen to ignore these and to resource a planned programme of HMO inspections instead. What appears to have happened is that the economically marginalised who live in HMOs have also become politically marginalised. They are not organised into local pressure groups and their precarious housing circumstances prevent them complaining. Meanwhile, subsidized young occupiers buy up inner city housing with the aid of mainstream mortgage finance channelled to inner areas as Building Societies come down market under the pressure of financial deregulation and competition from Banks. These owner occupiers have been effective in getting their improvement grant applications serviced whilst Building Societies and others have reinforced and supported LHAs' strategies to declare area improvement schemes because this will give their mortgage investments greater security. Where HMOs appear in such areas the incoming owner occupiers mobilise action groups to get LHAs to enforce standards in the interests of local residents, not the tenants'.

What has happened in more recent years, however, has been a retreat both locally and nationally by the environmental health profession from a role of technicians servicing the grant applications of owner occupiers to their more traditional role of 'sanitary policemen', emphasising their professional values and skills for the service of the least well housed. At the same time, members of voluntary bodies working locally with the single homeless have moved into the local political arena and into key positions as councillors in inner urban LHAs enabling a redirection of priorities. Yet their ability to do this is not independent of external demands on resources, and it has occurred at a time when other demands, crucially to service owner occupiers' improvement grants have diminished since the 1982 to 1984 boom faded. Many have campaigned along with the IEHO for legislation which would limit their freedom of action, whilst at the same time they have sought to circumscribe centralisation of powers in respect of other services. This apparent paradox can be explained when it is seen as part of a wider campaign to reform housing finance and thus to create the circumstances in which locally based enforcement action can be effective. More significantly many professionals see mandatory duties as a means of limiting the options for political choice open to their members about conflicting priorities at times of scarce resources.

HMOs and the Deregulation of Private Rented Housing

It is unlikely that the Government's current policy (in the 1988 Housing Act) to partially deregulate private rented housing will enable more effective enforcement on its own. All new lettings are to be at market rents with tenants having security whilst paying them. This section briefly considers the impact on HMOs, but a more general discussion of deregulation is deferred to the final chapter in Part 5 of the thesis.

The Government believes rents will rise, drawing in additional investment and permitting higher standards in the existing stock, but the proposals are unlikely to succeed in meeting the needs of HMO tenants and bringing in new investment. It is crucial to remember that the HMO market is already de facto deregulated. It is hard to see how rents could rise to give competitive returns because of deregulation per se, given the current low incomes of tenants, without additional subsidies or greater hardship. Indeed the opposite may happen given the Government's determination to

restrict public expenditure. Whilst removal of controls may lift any ceiling currently placed on de facto deregulated rents, substantially higher rents are unlikely and it is difficult to imagine investors making long term investments which will be so dependent on demand underwritten by Housing Benefit. There may be some marginal increase in investment since some risks will be lower as a result of increased confidence, given that landlords can legally achieve market rents and secure vacant possession. As a result lower returns will be required permitting some increase in standards. In so far as landlords look for capital gains it is likely that most will offer relatively insecure shortholds to protect the liquidity of their investments. The lack of political consensus will provide no stability for long-term investment.

In all there must be serious doubts as to whether conditions in HMOs will improve upon deregulation. Indeed if anything they will worsen. If rents rise, more marginal owner occupiers with access to credit (and some savings) will transfer to owner occupation, thus reducing demand at rents which could give competitive returns on habitable HMOs. Demand for low quality and high density accommodation from those on low wages and limited benefit will increase, especially in areas of excess demand because subsidies will be insufficient to enable them to pay the kind of rents which will give landlords competitive returns on better housing. The bad conditions will further undermine reputation and deter 'responsible' investment.

The fact is that central government has not resolved the contradictions inherent in its policy. It cannot revive private renting and improve HMO conditions, whilst maintaining support for owner occupation and failing to provide adequate support for reasonable standard rented housing. Whilst the BES scheme (see Chapter 20) brings significant subsidy into private renting for assured tenancies it is unlikely to have an impact on HMO standards. The Government's policy on HMOs remains ambiguous. Whilst it said, during the debates on the Bill, that it would review and strengthen LHA enforcement powers it did not say it would create duties to carry these out (See House of Commons, 1988 and below). More seriously it has not created the circumstances in which LHA use of these powers can be

effective, given the unfavourable market factors within which LHAs will have to use them, not the least the continuing insecurity and poverty of those dependent on HMOs for whom few, if any, alternatives exist.

Government Proposals about HMOs

It is the Government's intention to make the existing legislation work better (DoE 1988d). The new fitness standard (DoE, 1987b) will be adapted, as far as HMOs are concerned, to reflect the greater intensity of use and the health and safety problems inherent in HMOs, like the need for fire escapes. The proposed grant regime will cover all work needed to bring HMOs up to this fitness standard on a discretionary basis.

The Government have made it clear that it does not intend to replace LHAs powers with duties, arguing that such a change would have undesirable consequences and that many LHAs consider their existing powers adequate. Recognising however that these powers are unnecessarily complex and absorb a lot of staff time the Government has made two sets of proposals to amend them.

First, it has suggested a restriction in the definition of HMOs. It accepts that the wide interpretation of the current definition results in an uncertain and also inconsistent application by LHAs. It proposes to exclude self-contained flats and houses occupied by up to 6 people living together as one household, but not to set out different categories of HMOs. The restricted definition would therefore apply to situations where there is sharing by unrelated parties and a greater intensity of use than by a single family.

Second, it proposes four modifications to enforcement procedures to streamline them. A common single notice procedure will be introduced for works to bring HMOs up to the new fitness standard. The new powers to enforce repairs notices introduced in 1988 would also be applied to HMOs. It will no longer be necessary for LHAs to make an order before the Management Regulations can be applied: they will apply automatically. The control order procedure will be amended including measures to speed up

procedures. Registration Schemes may be amended by placing tougher penalties on landlords who fail to register, and to allow LHAs to change registration fees.

The proposals to amend the current improvement grants framework in England and Wales are also relevant and can be found in consultation papers (DoE, 1987b, 1989b). At the time of writing it is anticipated that the proposals on grants will be incorporated in the Local Government and Housing Bill, due to be published in February 1989. The proposals on HMOs may have to await later legislation.

A single unified grant (making no distinctions between repairs and improvements) will be available to bring houses up to the new fitness standard. While this will be a mandatory grant for owner occupiers it will only be available for landlords as a discretionary grant, provided they let on regulated or new style assured or shorthold tenancies. There will be no eligible expense limit. To ensure work is subsidised only where justified, detailed specification will be built into grants about the work needed to remedy unfitness. Discretionary grants will also be available for the higher target standard, subject to an eligible expense limit. The amount of grant (to reach either standard) will be subject to a test of the resources available to landlords to do the work themselves. The intention is to assess how much of the cost can be recovered from increased rental income (e.g. in supporting a loan), the balance being given on grant. The LHA will determine how much rent is available for this and assess the shortfall, consulting Rent Officers about prevailing rents and the extent to whoch they provide a satisfactory return or the investment. It is clear that the test can be related not only to the dwelling in question or but also to a test of the wider resources available to landlords in assets and other properties. Grants will be repaid if dwellings are sold within five years.

Evaluation

Many authorities consider their existing powers to be effective in enforcing standards. Effectiveness depends however on adequate staffing to undertake time consuming inspections and to pursue complex enforcement

procedures. Effectiveness also depends upon the adequacy of capital resources to support mandatory and discretionary special grants paid consequent upon inspection and enforcement.

The argument for mandatory duties recognises that the rights vulnerable members of the community have to minimum standards of amenity and safety should be safeguarded by statute. Relying on complaint based systems alone will not achieve this. Occupants of multi-occupied houses are amongst the most vulnerable people in society. They do not choose to live in shared housing. A combination of transience, mobility, vulnerability and poverty give them no option. They are not likely to complain about inadequate standards to their local authorities for two reasons. First, inadequate knowledge about local authority powers, combined with a suspicion of officialdom. Second, a fear that a consequence of complaint will be harassment by their landlord and the knowledge that it will be difficult for them to find anywhere else to live. Landlords who run the worst HMOs probably attract the most powerless tenants. In these circumstances it is important to ensure that local authorities act independently of tenant complaints to seek out and eradicate substandard conditions. Until recently local authorities have not done this. Evidence suggest that other demands on local authority resources from less vulnerable members of the community can - and have - displaced inspection and enforcement work on multi-occupied houses. Insofar as authorities accepted this argument, they were echoing and endorsing the views of professional institutes and the local authority associations: that the inspection and enforcement of standards should not be a matter of local choice. Like the housing of homeless persons in priority categories, residents of multi-occupied housing should have access to minimum standards irrespective of where they live. That is not to say that the duty should extend to all houses where there is sharing nor, that there should be national minimum standards. The duty should be confined to regularly inspecting and enforcing standards in certain restricted categories, but local authorities should have discretion about these standards and the way they are applied to individual HMOs, subject to the minimum fitness standard proposed by DoE. The LHAs' standards should be published and incorporated in statutory local plans to ensure coordination with planning policies. Such standards would then be subject to public participation and to review and public local inquiries.

Local authorities recognize that such a duty has implications for resources and priorities. In part these stem from their assessment of the time consuming and often abortive nature of current enforcement procedures. Most were critical of these and put forward recommendations for detailed changes. Were these to be made (as the Government now proposes) less staff time will be wasted especially on abortive work. In addition the resource implications of mandatory inspection duties could be confined to certain categories of multi-occupied houses. Authorities are also concerned about the demand that mandatory grants would have on their capital resources. A third in the sample took the view the grants should be discretionary since they believe many landlords had adequate resources and that, in any case, they should not benefit from grant aid to upgrade properties that they had deliberately neglected. Local authorities' assessment of landlords' ability to pay for higher standards from their returns must be in doubt. The Department's own research suggests that many could not, and the author's work would indicate that many only make competitive returns by skimping repairs and management. However there is now less danger that enforcement action would force authorities to 'top slice' capital programmes for landlords who have adequate resources to comply without grant aid, since the Government propose that all grants will be discretionary subject to a test of resources. (In the meantime, of course, the percentage of mandatory grant aid has been reduced to 20%.) In a number of ways, therefore, local authorities should find that doing inspections and carrying out enforcement requires a more efficient and equitable use of scarce resources than at present. To promote confidence for investors, grants should be mandatory to achieve the fitness standard not discretionary as proposed. If grants are not mandatory, LHAs should at least have the power to deduct grant from the cost of any work done in default, leaving the landlord to pay the balance together with a change for administration.

In view of this, the argument for mandatory duties is a powerful one. It rests on the need to guarantee the housing rights of a vulnerable group in society, in the knowledge that other demands on local authorities' time and capital have displaced them in the past. This is not an 'attack' on local authorities because they should have discretion about standards and

their application. For certain categories (see below) there should be a duty to inspect and enforce and it should not be a matter of local political choice as to whether or not these inspections are done.

Many local authorities find that definitions are a problem. Those that do tend to want a series of precise definitions embracing various categories of HMO. Others take the opposite point of view and welcome the flexibility whereby the current definition allows them to apply standards to a variety of shared housing.

There are two related issues about definitions. First, an appropriate definition of a HMO must be justified in relation to the powers that authorities will have to control HMOs and regulate standards. Second, any definition should foster clarity and thus promote predictability for landlords, who need to know, when investing in HMOs, whether or not their property will come within the ambit of authorities' regulatory and control powers.

The above issues suggest that the degree of flexibility inherent in the current definition is inappropriate. It creates uncertainty for investors and enables authorities to intervene in types of sharing where regulation and control is inappropriate.

The case for authorities enforcing standards in HMOs turns on the fact that separate households have to share facilities, including cooking, washing and toilet facilities. It is evident from much of the research conducted on HMOs that people do not choose to live in HMOs. They have shared these facilities with strangers because they cannot afford separate self-contained accommodation. There is a strong case for regulating conditions, both on the grounds of the social costs of inadequate facilities and on equity grounds to guarantee minimum standards for HMO residents.

Where, however, a group of unrelated people live together as a household sharing their housekeeping arrangements, there is much less of a case for the control of this form of sharing and the regulation of its standards by HMO legislation. There is also no case for using this legislation to regulate standards in converted flats where each household has exclusive

use of basic amenities. Nevertheless there is a case for securing adequate means of escape from fire in the latter cases but as this is already covered by other legislation there is no case for incorporating converted flats in HMO definitions merely for this purpose.

The arguments and proposals in this section of the consultation paper about definitions seem acceptable therefore. The exclusion of houses occupied by up to 6 people living together as one household would have the added benefit of conformity with the 1987 amendment to the Use Classes Order under Town and Country Planning legislation, which incorporated such houses with those occupied by a single person or a family. Thus change of use of a house from family use (or use by a single person) to use by up to 6 people living together as a household no longer needs planning consent. There is much potential for confusion where there is no congruence in housing and planning enforcement about the degree of sharing. That the current differences do not promote desirable clarity for investors is clear from the research. That the confusion will be reduced is to be welcomed, and investors should no longer be faced with enforcement notices under planning legislation for houses which were assumed to conform with HMO standards (and vice versa). The case for control rests on sharing by separate households. Where a house is shared by 6 or fewer people who live as separate households, the house should be included in the ambit of the definition.

The proposals about procedures for single enforcement notices are to be welcomed. Many authorities find the need to serve an array of separate notices cumbersome and wasteful of scarce resources. The proposal to make the combined notice registerable as a land charge (together with the revised power in the Housing Act 1988 to recover default costs) is also to be welcomed as it will give authorities the confidence to proceed with enforcement in the knowledge that proceedings will not be aborted if landlords evade complying with notices by switching property between their companies.

The proposals about management orders are also to be welcomed. Authorities regard the necessity to serve a notice before the Management Regulations can apply to a particular property as a quite unnecessary procedure,

believing that landlords of all HMOs should be obliged to meet, as a matter of course, what are very basic minimum standards.

So, too, are the proposals about control orders. So unwieldy are the procedures that very few authorities in the sample made any orders and the Department's proposals will reduce some of the current reluctance to use control orders.

Registration schemes, despite their (few) champions have fallen into disuse because many authorities think that only 'good' landlords will register properties and they take few steps to maintain the currency of their register. If failure to register a property as a HMO was an offence subject, on conviction, to a large scale fine (say Scale 4) more landlords would have incentives to register, provided, of course, authorities pursued positive information policies about registration schemes. To assist authorities to enforce standards, all schemes should have 'control' provisions. Whilst authorities should have powers to levy fees to cover the costs of compiling and maintaining registers (landlords should be obliged to re-register every two years), the fee should not cover authorities' costs of carrying out their other HMO powers. It would be inequitable if 'good' landlords had to bear the authorities' costs of enforcing standards against bad landlords and would give good landlords a disincentive to register.

Conclusions about HMO Standards and their Enforcement

Despite the Government's failure to introduce mandatory duties, many of their other proposals should assist LHAs. It will promote greater clarity about definitions for both landlords and tenants, will overcome a number of the criticisms LHAs had about their current enforcement powers and provide them with some of the modifications they want to see.

Within the area of local discretion a number of choices have to be made which cannot realistically ignore supply considerations, since LHAs are not in a position to shape market response to their interventions. As Thomas, concluded, HMOs have a place in the market, however unacceptable they are now. Until the need for cheap ready access furnished housing can be met through affordable and accessible self-contained accommodation

shared houses have an important role to play at the bottom of the market. The challenge is to upgrade them and their management without reducing the relatively low cost of multi-occupied houses (Thomas, with Hedges, 1986).

LHAs will therefore have to pitch local standards in relation to judgements about supply. Although few units of accommodation are likely to be lost (Thomas judged 7 per cent by enforcement action at IEHO recommended standards), landlords' costs will go up.

That LHAs acknowledge the supply consequences of their decisions is clear from survey responses, both in respect of standards and local rules about payment of housing benefit on rent. On the latter the position at the time of the survey reflected concerns that benefit, especially certificated benefit, drove up rent. Some LHAs were therefore referring rents to Rent Officers for determination of Fair Rents - not usually in all cases, but in cases where rents were unreasonably high by a given margin above local Fair Rent levels. (See Leeds City Council, 1986; York City Council, 1986). LHAs accepted that this was a difficult decision to take. If rents fell, supply might be withdrawn or tenants harassed by their landlords. Many indeed commented on the need for a balance to be struck, somehow, between high standards with high rents (and benefits) and low standards with low rents, as a result of 'tough' rent and benefit policies. LHAs' ability to choose their policy was being increasingly limited however by the incentive based arrangements introduced in 1988 for paying DSS subsidy to LHAs. Benefit payments did not cover all the payments, where rents were unreasonably high in relation to local Fair Rent levels. Similar arrangements also apply to rent support in the deregulated market following on the Housing Act 1988 (e.g. see DoE, 1987d). Rent officers will determine whether or not market rents paid by Housing Benefit claimants are reasonable. If not DSS subsidy on LHA benefit payment will be restricted to that part of the rent which is reasonable. If LHAs want to pay benefit on the full market rent they will have to fund all of the difference. (See Chapter 20 for further discussion of this).

All this goes to illustrate the importance of co-ordinated local action (AMA 1987) which becomes all the more important if mandatory duties are not imposed. HMO standards are not just a question for environmental

health and fire officers. Town planning, tenancy relations, housing management (rehousing and managing control order HMOs), rent levels and benefits all have to be considered. Difficult decisions have to be taken. They need assessment in the light of local circumstances.

Rules can appropriately circumscribe some of these, but room for discretion must be left open in relation to standards and their applications, provided their application is open to procedural review and challenge. Clear rules however can specify LHAs obligation to regularly inspect and register all HMOs, subject to agreed and specific exceptions, as suggested, and require them to draw up local standards and enforce them. All of this will need resources and creative decisions on how best to use officers in teams so that their public service aspirations are not frustrated by experiences as 'street level bureaucrats'.

What remains in doubt is whether the circumstances will be favourable for LHAs to exercise these tougher powers. If anything, deregulation will worsen conditions. If rents rise, more marginal owner occupiers with access to credit (and some savings) will transfer to owner occupation, thus reducing demand at rents which could give competitive returns on habitable HMOs. Demand for low quality and high density accommodation from those on low wages and limited benefit will increase, especially in areas of excess demand because subsidies will be insufficient to enable them to pay the kind of rents which will give landlords competitive returns on better housing. The bad conditions will further undermine the already poor reputation of this part of the private rented sector and deter 'responsible' investors. In short, it is unlikely that the Government has created the circumstances in which LHA use of these powers can be effective, given the unfavourable market factors within which LHAs will have to use them, not the least the continuing insecurity and poverty of those dependent on HMOs, for whom few, if any, alternatives exist.

What is crucial, therefore, to successful enforcement is the nature of the wider economic framework, as much as the specific details of enforcement duties and powers. HMO tenants cannot afford the rents landlords require for decent housing. Subsidies are needed therefore. These can either go to the tenants, in the form of housing benefit to help them pay higher rents, or to the landlord in the form of improvement grants to reduce his

or her own costs of providing decent standards at levels which can be paid for from current rent levels. There can be a mixture of both demand and supply subsidies. Enforcement will increase landlords' costs and, in certain circumstances, the number of lettings will fall. Rents will have to rise sufficiently to enable landlords to get a competitive return and Housing Benefit will have to take the strain to enable tenants to defray rent increases. The extent to which the Housing Benefit system does this will be crucial to the success of enforcement - if it is to work in the interest of existing tenants. If rents do not rise - or do not rise sufficiently - to cover the investment required, then payment of discretionary grant under the proposed system should in principle cover all the costs not met by rents. Whether or not it does, will turn on LHAs' willingness to pay grants and on the detailed rules used to determine grant, not the least the allowance made for risk, liquidity and capital appreciation in deciding on an appropriate rate of return to work out how much of the improvement and repair works can be serviced by rents. Debates on the enforcement of HMO standards must therefore incorporate a debate about the resources and rules for the Housing Benefit and improvement grant systems and their application at the local level. Unless these other financial frameworks are consistently related to the achievement of housing standards, LHAs' use of the propsoed tougher enforcement powers may well prove to be abortive.

PART FIVE

SUMMARY AND CONCLUSIONS

CHAPTER 20

INVESTMENT IN PRIVATE RENTED HOUSING IN THE 1980s AND 1990s: MARKET RESPONSES TO REGULATION AND DEREGULATION

Introduction

The empirical research reported in this thesis has been done into two quite specific aspects of private rented housing. First, the nature and impact of LHA policy in respect of physical and management standards. Second, the extent to which there have been changes in the ownership of private rented houses - and the impact which new investment has had on physical conditions.

The evidence about LHA policy, the ways discretionary powers are used and their impact on standards have been discussed in some depth in the previous three parts of the thesis. The implications of the research findings for the way LHAs should be able to enforce standards and pay grants to private landlords in the future were examined in Chapters 18 and 19. Both chapters contained an evaluation of current Government policy in this respect and put forward specific alternative proposals. It is not intended to repeat these discussions in detail here, but to refer to them only as necessary in the context of the main purpose of this concluding chapter.

Instead the objective of this last chapter is to summarise the evidence in the thesis about changes in the ownership of private rented housing, to look at how recent investors have responded to central and local government policy about private renting over the last decade, and to consider how they might react to current policy on deregulation.

Since 1980 the Government's intention has been to increase the private renting of empty property and stimulate new building, especially for those who are mobile and want accommodation for a relatively short period, but the initiatives taken by the Government in 1980 are widely agreed to have had little impact (see Kemp, 1987a; HCEC, 1982). Until now, policy about private renting has tended to ignore questions of demand and links between tenures, whilst concentrating on regulatory measures (see, for example, Doling and Davies, 1984; and Harloe, 1985). It has left untouched the tax and subsidy discrimination against private renting and has not

increased the rent-paying capacity of predominantly low income private tenants at a time when the middle and upper income groups who sustained private renting in the past now own their own homes.

During the 1980s there has been a growing interest in reviving private investment in rented housing, both in Britain and abroad (see, for example, Maclennan, 1988 and NFHA, 1985). There are many reasons for this, including in Britain the ideological preference of the Government for privatisation. Other factors include the growing concern about the shortage of housing for rent, manifested, in its most acute form, in rising homelessness, in the face of public expenditure constraints, the pervasive physical decay in private rented housing in inner city neighbourhoods, and the acute shortage of rented housing in growing regions of economies, co-existing with labour surpluses in the peripheral regions.

For all these reasons the Government has now gone considerably beyond its 1980 measures and deregulated new lettings. In its 1987 White Paper it argued that private renting is a good option for people who need mobility and do not wish to be tied to the ownership of a house (DoE, 1987a). Controls mean landlords' returns give them no incentive to stay in the market and keep property repaired. Laws on security deter people from providing temporary lettings. The supply has shrunk below 'what is needed' and those who want to move cannot find new tenancies. Partial deregulation was proposed as a means of stimulating supply. It was enacted in the Housing Act, 1988.

The objective of this chapter is to use the evidence gained from this research and elsewhere to evaluate the short term impact of deregulation. The chapter has four sections. The first looks at the investment that has occurred in the 1980s and how it has been shaped by policy. The second identifies the problems that have arisen and examines the needs of landlords and of tenants that should be met in a market framework. The third section looks at how far the new legislation on deregulation meets these needs. The final section suggests what further improvements are needed.

Investment in the 1980s

The main effects of policies, given the economic environment of the 1980s, were overall decline in the size of the sector, together with a large scale shift within the sector away from the provision of regulated, mainly unfurnished tenancies, towards lettings which for all practical purposes fell outside the regulatory framework.

One third of the houses let unfurnished in inner Sheffield in 1979 became vacant during the period of the analysis. Over half of these were sold to owner-occupiers. 25 per cent were relet furnished, and only 17 per cent were relet unfurnished. On the other hand, in the much smaller furnished sector, even though nearly 30 per cent of the houses let in 1979 were sold to owner-occupiers, the total supply remained constant, mainly because of the houses transferred from unfurnished lettings.

Investment in the Unfurnished Sector

One of the most important findings with respect to the regulated unfurnished sub-sector was the level of activity among investors. Basically what had been happening was that older style, long term landlords had been selling up mainly to large company landlords, often in the building industry, new to landlordism.

The objective of these new landlords or "property dealers" was not apparently long term investment but rather to obtain improvement grants, upgrade the property and ultimately sell as vacant units. The process can be characterised thus. Property dealers speculated by buying terraced properties with sitting tenants to sell when the tenants leave. In the meantime, the properties were improved with up to 75 per cent grants, making them saleable and mortgageable, and at the same time often providing building work for the landlords' businesses. To avoid being locked into long term lettings, they bought run down property (to attract grant), with single pensioner sitting tenants (to maximise chances of vacancy and avoid relatives with succession rights) and bought on a large scale (guaranteeing a steady rate of vacancies). If tenants quit or died before conditions on grants keeping the property in the rented sector expired, landlords relet temporarily on shorthold to avoid repaying the grant. This process was happening in two thirds of the 41 urban local

housing authorities studied, especially in partnership and programme authorities when grants are more readily available. In Sheffield. 45 per cent of the 1985 unfurnished sample had changed hands since 1970

Buyers advertised for tenanted property in local papers, bought at auction and used networks of estate agents acting as brokers between new and old landlords. There had been particular interest in umimproved terraced housing in renewal areas, subject to compulsory repair and improvement notices, because these carried the right to mandatory grants - important at times of grant restrictions. Moreover, existing owners subject to enforcement notices often had neither the desire, nor the capital to improve, so they wished to sell and were generally better off financially selling out to property dealers than to local authorities or housing associations.

Local authority policy was important to this investment strategy - through their area schemes, grant policy and repairs enforcement orders. This last both put pressure on existing landlords to sell up and carried grant entitlement, without continued letting as a condition of award. Some authorities thought buyers were deliberately running down property or persuading their newly acquired tenants to complain to attract enforcement action. Elderly tenants, on the other hand, were often unhappy when confronted with their new landlords' workforce.

Investment in the Furnished Sector

The follow-up survey in Sheffield included only houses let to a single household, but as these households were often sharers, including students, the lettings came within definitions of houses in multiple occupation. This sub-sector had also undergone considerable change in ownership. Over a quarter of the 1985 total had changed hands since 1979. These included two thirds of the properties switching from unfurnished to furnished lettings and, significantly, three quarters of those switching were bought with vacant possession. Most new investors were small scale with fewer than six properties each.

This trend was confirmed by the survey of the 41 authorities. Almost all authorities had experienced an increase in furnished accommodation. Over half thought the number of shared houses had increased - suggesting that

this was where the 'smart money' was going, especially in partnership and programme authorities. Generally investors were buying up terraced houses, 'putting in a few kitchen units' and letting to young singles. Such lettings were subject to fewer controls, cost less in overheads and offered a greater chance of capital gain than traditional bedsits.

It was tempting to describe these investors as "property milkers". Far more than in the unfurnished sub-sector, lettings are regarded as investments for their rent income than for capital gain alone and most are puchased for continued letting. Their state of repair suggests they have been "milked" for the maximum net rental. New landlords acquired furnished property in the very worst state of repair, and few put defects right. Furnished property was in worse repair in Sheffield than unfurnished in both 1979 and 1985

Tenants, however, appeared much less likely than unfurnished tenants to complain. This is probably because they neither understand the system nor feel confident to risk complaining. The 1985 national survey of HMO's confirmed this: 80 per cent were below standard on at least one of three criteria (disrepair, occupancy and management). Tenants did not complain either to the local authority or to landlords, because they feared harassment and eviction and knew that there was a shortage of reasonable quality housing they could afford. Most had only a vague idea about the Councils' responsibilities and distrusted officialdom.

The insecurity of furnished tenants was highlighted by the fact that most Sheffield lettings were not directly protected by the Rent Act - with half such tenants in 1985 having licence agreements, which allowed market rents and provided contractual security. Since then, the Street and Montford judgement has suggested that many licences would be legally regarded as 'sham' evasion. Landlords have therefore turned to shorthold tenancies which give only contractual security but did come within the Fair Rent system, until the enactment of the Housing Act, 1988. (Blakey, 1987; Carver and Martin, 1987).

Rents and Investment Returns

The main reasons usually advanced for the decline in private renting, particularly in the regulated sector are the low rents and rates of return available and the better investment opportunities elsewhere. The surveys provide considerable evidence on these aspects.

First, in the unfurnished sector in Sheffield rents - net of rates, water and service charges - doubled in real terms between 1979 and 1985. Over the period the retail price index and the average earnings index of all employees rose by 74 and 87 per cent respectively, whereas rents rose at least twice as much as this. This increase was mainly the result of Rent Officer determination. 80 per cent were registered Fair Rents and, except for the presence or absence of basic amenities, variations in rents amongst properties were largely explained by the date of rent registration and, therefore, by the effect of the phasing of increases. The state of repair of the property made no statistical difference to the registered rent. In the light of this evidence, it is hardly surprising that landlords (especially longstanding ones) endorsed the Fair Rent system as an independent means of setting rents - the operators of the legal control system were clearly often allowing them higher rents than they would otherwise have achieved.

For all these increases, rates of return on rent alone were still low. Calculations of returns from unfurnished properties in 1985 based upon rents, the 1985 vacant possession capital valuation of the sample properties (average 12,900) and their annual management and maintenance costs (average £244) suggested that unfurnished properties yielded only about 5 per cent per annum gross (3 per cent net of costs) on rent alone (i.e. making no allowance for capital appreciation).

Not surprisingly only 32 per cent of unfurnished houses in Sheffield in 1985 had landlords who were satisfied with these returns, especially as many made comparisons with returns from more liquid and less risky alternatives like building societies or government bonds. These nominal returns however ignored real increases in rents and capital appreciation. When these are incorporated, the net present value of the return gained by landlords who had bought unfurnished sitting tenant property in 1979 was more than the alternative of placing the sitting tenant price either in

Building Societies or equities over the period 1979 to 1985, provided capital appreciation in the sitting tenant value was included in the calculation. Although this does not take into account the greater risk and lower liquidity of property investment, property dealers had an investment strategy which minimised risk and maximised liquidity, as the research showed.

Landlords were, nonetheless, rational to say they would sell unfurnished property if it became vacant "tomorrow". If they had got vacant possession in 1979 they would have been better off investing the sale proceeds in alternative investments than carrying on renting. Only if they could have been certain in 1979 that they would get vacant possession (and capital gain) in 1985 would they have been better off staying in property. Thus, despite the doubling of rents in real terms since 1979, 80 per cent of properties had landlords who would sell vacancies "tomorrow", once the restraints of reletting conditions on grant aided property were taken into account. Property dealers would be cashing in their speculative gains and more longstanding, often elderly, landlords extracting their capital and escaping the "bother and fuss" of coping with property.

If landlords can expect real increases in rents and capital gain, it is better to compare nominal returns from renting with equities, rather than Building Societies or bonds. Nevertheless the 3 per cent nominal net return was clearly inadequate (even given the rent increases and capital gain on top), especially given the, then, low liquidity and high risk of private rental investments. Indeed the British Property Federation in evidence to the House of Commons Environment Committee argued for 6 per cent net, 9 per cent gross (HCEC, 1982, Vol. 2 p.276). Indeed the Small Landlords Association were quite emphatic about this in their evidence to the same Committee. They argued for 12 per cent gross, 10 per cent net. 'Such an increase would be clearly beyond the means of many tenants. Equally, however, many landlords would be satisfied with a lower rate of return provided they were guaranteed the right of repossession on reasonable terms, in which case it would be reasonable to take account of any real capital gains'. (HCEC 1982, Vol. 2, p.179). This implies doubling rents on existing stock in Sheffield - along with appropriate

adjustments to security to increase liquidity. Thus the level of rents and the extent of security are important in determining landlords' rates of return.

The position in the furnished sector was, not surprisingly, very different. Rents for houses which were let furnished in both 1979 and 1985 doubled, rising 25 per cent more than retail prices between 1979 and 1985 - less rapidly than in the unfurnished sector. Of course where landlords changed from unfurnished to furnished letting they got very much bigger increases. This part of the market was essentially deregulated with only 7 per cent of rents being registered. Rents were closely related to the total number of sharers, especially students. Landlords liked students because they could increase occupancy levels and let to them on per person rentals (consistent with non-exclusive occupation agreements). As a result, on average they received £2,700 per annum from houses let to students in 1985.

In 1985 furnished properties were valued on average at £15,900 and annual running costs averaged £612. Average annual nominal rates of return were 14 per cent gross and 9 per cent net. Not surprisingly, 72 per cent of furnished houses had landlords satisfied with their rental income and 80 per cent of furnished houses would be relet if they became vacant 'tomorrow'.

Private Rented Investment: Current Problems and Implications for Policy

The Unfurnished Sub-sector

This has also been sometimes referred to as the long term sub-sector in this thesis - and elsewhere. The majority of its tenants are elderly, they typically live in terraced housing and have lived there for many years. Their incomes are low and their rents are registered Fair Rents. Property dealers have made money from letting such property in good condition to low income people, usually on registered rents, but only because they invested for capital gain rather than rent. Rent increases since 1979 were not enough to pursuade them to stay in residential property, mainly because the gap between sitting tenant values (the prices investors pay to buy the discounted stream of net rents and capital

appreciation) and vacant possession values (the prices owner-occupiers are willing to pay) has remained. The gap existed not only because rents were kept low by regulation, but also because of the low effective demand from poor tenants, because security puts restraints on landlords' capacity to realise their investment, and because vacant possession prices were increased by subsidies to owner-occupiers.

Rents in this unfurnished regulated sector do not give landlords returns on vacant possession value commensurate with returns elsewhere, which have similar - or better - risk and liquidity characteristics. Existing landlords therefore want to sell up, but have to hang on in order to get the vacant possession value, unless they sell prematurely with sitting tenants because of age, capital requirement or a perceived risk of being stuck with the property, including the risk of repairs enforcement by the local authority.

The value gap also explained the activities of property dealers who exploited it by buying at sitting tenant value to sell at vacant possession value, prepared to offer existing landlords a "mark up" on sitting tenant prices to encourage sales. Local authorities' policies (enforcement action, mandatory grants and area renewal schemes) assisted dealers by providing a pool of traditional landlords selling up, grants for subsidised upgrading, and environmental improvements which encouraged potential home owners to buy houses in the area.

Without substantial extra subsidies, rents in a deregulated market paid by low income tenants are unlikely to rise sufficiently to close this value gap and so prevent continued decline of the existing inventory, let alone rise to levels which would give competitive returns in relation to replacement costs and thus bring about new building for long term renting. Insofar as realising capital gain is important the investment must also be liquid: hence long term security, as well as low rent, stands in the way of encouraging investment.

The Furnished Sub-sector

This has also been referred to as the "rapid turnover sub-sector", since most of its tenants are young singles and other transient groups. Most are on low incomes and they tend to stay only for a short period in a

letting. Investment in lettings here has been profitable. Nominal rates of return have been comparable with alternative liquid investments. But profitable letting to low income people was only possible by renting out disrepaired and badly managed properties on licence agreements at high occupancy rates to tenants dependent on grants and welfare payments and paying out very high proportions of their gross income in rent. Moreover access was problematic. Non-price rationing was endemic. Tenants could face demands for large advance rental payments or 'side money' at the better end of the market. The need to exploit tenants in this manner in order to make profits reinforces negative images of landlordism. Agents who are professionally qualified avoid this area of property management to eliminate potential involvement in dubious practices.

This sub-sector was de facto deregulated by 1985 - although in principle the possibility of tenants establishing protection and getting rents registered, limited the rents landlords charged to avoid the risk of tenants seeking to refer even higher rents to Rent Officers. But both parties faced problems. Tenants got accommodation which was insecure and was poor value for money. Landlords found their investment risky. Demand depended on the income maintenance systems available to students and to unemployed tenants and licencees. Councils were starting to refer unreasonably high rents to Rent Officers when tenants claimed Housing Benefit. Costs depended on the local authorities' willingness to enforce repair and other standards, and many authorities were becoming more active in this regard. Finally, landlords had to let outside the Rent Acts to maintain rent and the liquidity of their investment. Up until 1989, this was a high risk area and a risk premium was required if landlords were to remain in the sector. Current investors' expertise has had to be as much in operating outside the legal framework as it has had to be in prudent and responsible property management.

Implications for Legal and Financial Frameworks: Landlords' and Tenants' Requirements

The pre-1989 legal and financial framework met the needs neither of landlords nor tenants. Unfurnished tenants paid (relatively) low rents for secure but poor quality properties - unless property dealers bought them. Furnished tenants paid high rents for insecure and poor conditions, whilst prospective tenants searched under conditions of excess demand.

Meanwhile landlords either accepted below market returns or operated outside the legal framework. As the Commons Select Committee on the Environment observed in 1982, the central dilemma is that rents would have to rise considerably to give landlords competitive returns on decent housing, but that such rents could not be paid without greater hardship or considerable subsidy (HCEC 1982, Vol. 1). Deregulation, per se, is no guarantee that market rents would give competitive returns. If these problems are to be resolved within a market framework, policy must address questions of demand as well as supply.

Tenants in the long term sub-sector are mostly elderly. They require low rents, security, and improved standards. They need protecting from harassment if landlords seek to sell or to let in the deregulated sector. Landlords will ultimately sell upon vacant possession. Meanwhile they need incentives to improve and maintain standards, but there is no case for deregulating rents since most have paid a sitting tenant price and are getting adequate returns on this. (See Ricketts, 1986, for an alternative approach to this sector, involving tradeable property rights rather than deregulation per se).

Tenants in the rapid turnover sector want easy access, habitable standards and affordable rents more than long term security. Few can pay rents which are both affordable and also give landlords adequate returns, certainly on replacement costs as well as on the cost of supplying from the existing inventory. Tenants' low bargaining power affords them little choice especially in areas of excess demand. If their bargaining power cannot be raised they need protection through standard contracts together with more opportunities to choose accommodation by the building of more local authority and housing association houses. Only if there is a big increase in supply is it likely that low income tenants, with little current choice or bargaining power, will benefit from deregulation.

Landlords in the rapid turnover sector want adequate returns in relation to the liquidity and risk of this type of investment. This means a combination of rents which gives competitive returns, the ability to evict bad tenants with speedier procedures, and repossession when they want to sell. Large, long term investors emphasise rents and competitive returns. Small ones are concerned about modifying security. (See for example

evidence of British Property Federation, Chesterton's and Small Landlords' Association In HCEC, 1982 Vol. 2 ; see also Whitehead et al., 1985). Stability in the legal framework is also needed to eliminate uncertainty about the reintroduction of controls. It is also important to increase the reputation of this class of investments so that good quality landlords are prepared to come into the market. If landlordism is seen as a repugnant form of investment, many will not enter the field, even if the returns are good. Capital subsidies may be important therefore, in ensuring both that returns are competitive and social objectives are achieved.

Deregulation

Given this picture, it is not surprising that a market oriented government should seek to change the regulatory framework and attempt to make private renting a more desirable investment. In other words, the Government has attempted to shift the balance in favour of investors and, in so doing, to give a higher priority to the needs of those seeking accommodation. One of the problems for legislators who want to carry through a programme of deregulation is how to balance the interests of existing and potential tenants (see for example the analysis in Whitehead et al., 1985). If existing tenants are to be protected, is it possible to prevent deregulation of new lettings 'spilling over' to the existing sector? More generally, it needs to be recognised that the problems of the sector and the interests of its residents are very diverse. A single policy is unlikely to meet the required range of policy objectives, ranging from the needs of the elderly and the condition of their houses to the needs of job movers and of young people leaving home for the first time. Different policy instruments will be required.

The Government's policies about this and other matters are now examined in the light of the thesis and other evidence.

The Relevant Provisions of the Housing Act, 1988

Under the provision of the Housing Act 1988, the private rented sector is again split into two - now delineated by the date at which the tenancy commenced. (See Smith, 1988 for a concise summary).

Existing tenants lose neither their security nor their right to Fair Rents, although rights of succession are modified to speed up deregulation. Laws on harassment are also strengthened. All new lettings, which would in the past have been Rent Act lettings (including relets), however, will be at market rents, but with varying security. There are two ways of letting. First, there is a modified form of assured tenancy with freely negotiated rents, in which it is lawful to charge a premium, and where security will be protected by fixed tenancies running on as statutory periodic tenancies, subject to new mandatory and discretionary grounds for eviction, such as, respectively, three months rent arrears and persistent delay in paying. If the basis for rent increments is not specified in the contract, Rent Assessment Committees may adjudicate on a market rent. The previous requirements for assured tenancy landlords to be approved and for qualifying lettings to be newly built or improved has been abolished. Second, assured shorthold tenancies will have no security beyond a fixed period (as little as six months) but tenants (during a first contractual shorthold) may apply to the Rent Assessment Committee to determine a market rent, which will take account of the limited security, in situations where market rents are considered excessive and information about comparables exists. The expectation is that rents for assured tenancies will be higher than for assured shortholds because of the greater security (thus compensating landlords for their lower liquidity).

Rent officers will be able to ration housing benefit if tenants occupy too much space or rent very expensive properties. More generally, market rents paid by all Housing Benefit claimants will be referred to Rent Officers for validation as reasonable for the purposes of the subsidy paid by the Department of Social Security to local authorities. These rents will be based on a rate of return method, allowing for capital appreciation, where no competitive market exists (consultants have been advising DoE on this). The Government will reimburse local authorities the cost of paying benefit on reasonable rents, but if they choose to pay benefit on a rent which is judged 'unreasonable' they must bear the full cost of the difference. (see DoE 1987d). This is an extension of existing practice and policy. Local authorities have been able to limit benefit to reasonable rents or refer unregistered rents to Rent Officers, and from April 1988 incentive based formulae were introduced to calculate Central

Government subsidy on local authorities' housing benefit payments. Subsidy was paid at 25 per cent (instead of the normal 97 per cent) when benefit was paid on rents in excess of a limit for each district, corresponding nationally to 180 per cent of average registered rents. The 1988 Act abolished local authorities' powers to refer unregistered rents to Rent Officers.

As Chapters 18 and 19 have discussed, the Government also proposes to restructure the home improvement grant system, reducing required standards and making all grants to private landlords discretionary. Grant paid will no longer be related to a given percentage of eligible costs, but to a test of landlords' ability to finance the eligible work out of rental income.

Two associated pieces of legislation are relevant to a consideration of deregulation. For the first time since 1945 they provide subsidies for the provision of private rented housing, enabling private landlords to compete on more nearly equal terms with other tenures.

The Local Government Act, 1988, gives local authorities the power to provide financial assistance to private landlords (and housing associations) letting assured tenancies. The assistance can range from 50 to 75 per cent of scheme cost, dependent on region.

More significantly the Finance Act, 1988, extended the provisions of the Business Expansion Scheme (BES) to rented housing. This provides significant inducements to invest in unquoted companies letting assured tenancies (assured shorthold letting does not qualify) in properties which are fit, have all the standard amenities, and are subject to no premium. To qualify for the BES tax breaks up to 1993, individuals must invest a minimum of £500 and a maximum of £40,000 in any year, either directly or through a managed fund, in new property companies letting on assured tenancies. This investment is eligible for income tax relief at investors' marginal tax rates and for full capital gains tax relief on disposal of shares after five years (although the company is liable for tax on gains it makes on property it sells). Companies can invest up to

£5m per tax year and properties should cost no more than £85,000 outside London (£125,000 in London) at acquisition or after refurbishment (See Greaves, 1989; Hackwood, 1989; Smith, 1988).

Evaluation: The Continuing Regulated Sector

The Government have been correct not to remove controls from existing tenants who are often elderly and have nowhere else to go. They are also right to tighten up the laws on harassment, particularly by giving displaced tenants the right to compensation related to capital gains. There should anyway be little risk of additional harassment as the incentives which previously existed before 1989 to secure vacant possession to sell or to let on the de facto deregulated market have hardly changed.

Ultimately these properties will be sold off mainly to owner-occupiers. In the meantime some will be acquired by property dealers and improved. As Chapter 18 suggested, how far the grant reforms will remove property dealers' and long standing owners' incentives to carry out improvements depends in part on the test used to define the rental resources available to pay for improvement, whether it is property or firm related, how much is allowed for risk and liquidity and how much expenditure is to be eligible for grant aid. The removal of mandatory grant is likely to reduce dealers' incentives to invest. The proposed system is likely to be more efficient in the use of public funds (grants will not be paid on costs which could be supported by rents). It is less likely to be equitable (since the discretionary basis could mean that grants could be distributed in a capricious and arbitrary manner unrelated to tenants' or landlords' needs). It is also likely to be less effective because it will increase uncertainty and will be harder to understand.

If incentives are to be reduced, failure to get property improved will be a cost, not only to many tenants, but also to whole neighbourhoods. The Government needs to tackle this problem on a much more comprehensive basis, including an appropriate combination of mandatory and discretionary grant aid together with tax allowances to encourage investment in the stock. In effect there is a strong case (provided that tenants' interest are protected) for encouraging a private sector "buy out" from older longstanding landlords who are uninterested in improvements. And the

application of fair rent formulae (which still apply to existing tenants) should create incentives for landlords to carry out annual and cyclical maintenance. Such a 'buy out' strategy could involve housing associations as well as private interests (see Maclennan, 1986, 1988).

Evaluation: The Deregulated Sector

The main emphasis of policy is however on the new tenancies and on increasing investment in easy access accommodation. The overall intention of the legislative changes is to increase rents, to reduce the risk of this class of investment and to enhance its liquidity, thereby increasing returns to a competitive level and drawing in new responsible investors who will expand the overall supply. The Government particularly want to increase supply for households at an early stage in their lifecycle and for job movers and do not intend private renting to provide for families or other low income households. This is correct. Either owner-occupation or social rented housing can better meet the needs of families and the vulnerable. Only those with economic power are likely to benefit from the attributes of private rented housing in relation to ready access, lower transaction costs, fewer obligations and flexibility in changing housing decisions (Whitehead and Kleinman, 1986). Indeed, as Coleman points out, given the existence of mortgage interest income tax relief for owner occupiers, 'renting at market rents but without an equivalent fiscal or other subsidy for tenant or landlord becomes an attractive or cheap choice for the consumer only under limited circumstances' (Coleman, 1989, p.46). He identifies the following categories where this might apply: those who want to live cheaply in a small quantity of housing in a city centre location, people who move often and incur a lot of transactions costs, high income households not wanting the responsibility of owning a home, those who need to save up for a deposit to buy, and short term residents like students and overseas business people.

The market for this ready access housing was, however, <u>de facto</u> already deregulated by 1989. The question is whether <u>de jure</u> deregulation will lead to increased rents, provide competitive returns, draw in new investors, increase supply and give tenants bargaining power.

On the demand side, there must be some doubt as to how far higher rents can be sustained, given the low income of current and potential tenants unless there is increased subsidy to help them defray higher costs. Three factors suggests the opposite may happen.

First, students' grants have fallen in real terms by 20 per cent since 1980 and they have lost some of their eligibility to claim housing benefit, particularly to claim benefit in the summer vacation unless they reside at their private rented residence, thus undermining landlords' income, many of whom rented for 52 weeks to students who 'occupied' for say, 38 (see Harris, 1987). The announcement that grants are to be frozen and topped up with loans after 1990 increases uncertainty about levels of demand from students.

Second, the revised Housing Benefit system introduced in April 1988 worsened the position for those in work, those with occupational pensions and savings and those under 25 (see Kemp, 1987b, for background to this reform). Although it covers all eligible rent and, 80 per cent of the rates for those below the Income Support Level, and whilst all tenants receiving some benefit will be protected from rent increases, significant numbers, including low paid workers, will receive little help towards total rent and those on benefit will be subject to high marginal tax rates if their incomes increase, because of the steep taper of 65 pence in every pound by which benefit is withdrawn when net income exceeds Income Support.

Because all tenants in receipt of some housing benefit receive, in extra benefit, the full amount of any rent increase, all tenants on benefit have marginal housing costs of zero and no financial incentive to 'haggle' with landlords over rents and to 'shop around' to find alternatives. As a result there will be a complex administrative system of referring the rents of claimants to Rent Officers to check if the rent is a market rent or a rent which reflects the operation of the Housing Benefit System. The problems involved in validating 'reasonable' market rents in areas where there have been few comparable free market lettings are very considerable. Using a rate of return method implies knowledge of vacant possession valuations, of what to allow for risk, liquidity and capital appreciation and how to assess appropriate allowances for furnishings, management and

maintenance. None of these will be readily assessable (see Whitehead and Kleinman, 1988 for a general discussion of this problem). If these rents are set below actual rents charged, LHA subsidy will not be paid by DSS on the difference. LHAs will be free to pay full benefit on the rent actually charged, rather than the rent validated by the rent officer, but will have to pay for the full cost of the difference. If they prefer to pay benefit only on the validated rent, tenants will then have to pay even more from their meagre resources, or landlords will increase occupancy rates for a lower per person rent or rents will fall, causing landlords to leave the market.

Thus, whilst the formal removal of controls may lift any ceiling currently placed on de facto deregulated rents, there is little evidence that the market can sustain substantially higher rents, except in areas of housing pressure such as London, given the low income of tenants and the new Housing Benefit system. Moreover where the system pays all the eligible rent plus increases, claimants will have no financial incentive to shop around to find alternatives. As a consequence tenants will lack either financial muscle or incentive to bargain with landlords about rents as well as other contractual terms, the latter being particularly important since the Government have not legislated for standard contracts. Only if there is a big increase in supply is it likely that low income tenants, with little current choice or bargaining power, will benefit from deregulation and, given the enhanced powers landlords have to fix rents and other terms, deregulation will bear particularly harshly on low income tenants in areas of shortage. Most tenants will be too poor to pay the rents which will give landlords competitive returns, while those that can pay them will find it cheaper to become home owners. If rents rise it will give further incentives for people who are ineligible for housing benefit to transfer into owner occupation where they will get tax relief on mortgage interest as of right. There must be some doubt therefore whether the demand side conditions conducive to new investors have been created, unless additional subsidies are provided.

That is not to say, of course,that a growth in supply of new and well improved houses to rent privately in desirable neighbourhoods would not, of itself, create a demand which does not now exist. Given that such accommodation is very difficult to find now, potential demand is deflected

into owner occupation where such property is more readily available. Potential demand for such rented accommodation may well be found amongst groups of job movers and other well paid professional and other workers at an early stage of their careers who value the flexibility that renting can bring and who can also afford a rent giving landlords a competitive return. Currently many such potential tenants choose to buy and tie up capital, not only because subsidised home ownership is very competitive, compared to paying an economic rent, but because they cannot find housing of comparable quality in the rented sector. If they can, they will retain flexibility, eliminate (or substantially reduce) transactions costs and will not need to lock up capital in house purchase. In such situations renting may well become more attractive to them.

It also has to be admitted that the new legislation is a stage in the direction of providing the necessary conditions for increased supply. In principle, the legislation enhances the reputation and increases confidence by lowering the risk of this class of investment since it provides a statutory framework for letting at market rents with minimal security and reduces the risks of being saddled with 'bad' tenants. The rate of return required for this lower risk should be less than under the current framework for, as can be seen from the Sheffield evidence, current de facto market rents reflect the high risk of letting on the margins of the law. De jure market rents need not necessarily rise, all other things being equal. Given market rents, contractual arrangements for rent reviews in line with inflation and statutory powers to remove bad payers, together with other possession rights enhancing liquidity, some of the requirements of larger, long term investors could be met within the proposed framework. In principle, therefore, the legislation should overcome many of the problems landlords experienced under the current framework and meet many of the needs identified above.

In practice, it is simply not clear that deregulation will result in rents that give competitive returns without significant and assured subsidy. The earlier assured tenancy scheme foundered after the withdrawal of capital allowances because investors considered returns were inadequate from rents at current levels of demand (Kemp, 1987a). The current BES scheme is an attempt to reintroduce capital subsidy for a short period, although it remains to be seen whether it will create only a short lived

'wave', rather than more enduring investments. The first signs from prospectus are that it will be short lived, most promoters emphasizing capital growth and 'exit routes' for investors to achieve tax free gains. As a sympathetic critic of Government policy put it, 'it allows money to be made by going into renting only by getting out of renting after a few years' (Coleman, 1989, p.48). Perhaps even more importantly, from the point of view of bringing in long term responsible investors, there is still no political consensus and no certainty about the long term stability of the legal framework. This is crucial if investors are deciding to make investments in new buildings where the return is expected to arise over the lifetime of several Parliaments. Reputation - which is crucial to institutions - could be undermined by the Goverment's determination not to resurrect the system of prior approval of assured tenancy landlords. The Government believes prior approval would have high administrative costs and could not guarantee netting all 'cowboys'. Instead, the Government prefers the approach of policing standards and, as Chapter 16 described, has amended local housing authorities enforcement powers in the 1988 Act. Nonetheless, the fear remains that the 'ghost of Rachman' has not entirely been laid (although an important step in the direction of exorcising this ghost has been the way some BES schemes are linked to housing associations).

One area where there is some chance of expansion is among smaller landlords who get the power via assured shorthold tenancies to realise vacant possession values and remove bad tenants easily. Such landlords might be prepared to accept lower rents and rates of return than current investors, and provide better value for money and improved standards, especially for young single people. Certainly, it would appear that, if capital gain is crucial to most landlords' investment horizons, letting on assured shorthold tenancies is likely to dominate new lettings. If the possibility of capital gain means that landlords will accept equity related returns, they may well also accept lower rents than they would want in the absence of capital gain. This may well make it feasible to expect some short term investment, but it cannot be realistic to build new houses to let on the expectation of capital gains continuing. It is far more likely to be a short than a long run expectation. It is not a viable basis for rebuilding private renting.

Conclusions

Some of the framework that is necessary to ensure enduring new net investment in private rented housing has therefore been set in place by the Housing Act 1988, but problems remain, both in relation to sustainable rents and confidence in the sector.

Most importantly, it is hard not to conclude that the 1988 legislation fails to address the underlying problems of the private rented sector about levels of demand and competing tax and subsidy arrangements in other tenures. It is, however, possible to see some way ahead. Capital subsidies may be the only obvious way of ensuring both that returns are competitive and social objectives are achieved. Given all the risks of providing rented housing to low income people and the uncertainties about the legal framework and rent allowance system, it is far more lively that investors will respond to capital subsidies than make investments whose returns are dependent on tenants' rent paying capacity being underwritten solely by Housing Benefits. At the same time if other tenants on higher incomes are to be attracted, rents need to be set at a level which makes renting competitive with house purchase. Again capital subsidies may be needed. Without the abolition, or phasing out of mortgage interest relief, some compensating subsidy to private renting is required and the BES scheme is a start in this direction. In addition, what is needed is a framework in which financial institutions can lend, via property bonds or by indexed or low start loans, to property management companies for the purchase and improvement of vacant inner city dwellings for young singles and job seekers. This should be allied with greater use by local authorities of revised discretionary and mandatory powers to police and enforce standards of houses let at market rents. It almost certainly requires a system of prior approval of landlords (which would increase the likelihood of bipartism support), and retention of approved status would be subject to letting at acceptable minimum standards.

On the demand side, tenants need a greater degree of market power if the proposals are to work to their advantage. This requires four things. First, prescribed forms of contracts should be required for all new lettings together with the establishment of Housing Courts to arbitrate on

disputes (see Satsangi, 1988, for a review of these proposals). Second, the Housing Benefit system needs to be fundamentally remodelled. Consideration should be given to basing rents on standard market rents valued for each area. Claimants would be allowed to keep any differences between the standard and actual rent agreed with the landlords. At the risk that some tenants would lose, the gain would be that this gives the tenants both incentives and power with which to bargain. (See evidence from USA experience of the Experimental Housing Allowance Program in Friedman and Weinberg, 1983; Wolman, 1987; see also Whitehead et al., 1985). Third, tapers on benefit for those whose net income exceeds income support levels should be less steep and allowances used to calculate eligibility should be more generous. In short, Housing Benefit will need to underwrite market rents. Fourth, the bargaining power of low income tenants would be greatly increased if their access to social rented housing was increased. All of this means both more public investment in the provision of adequate rented housing and more public expenditure on helping low income tenants afford their standards.

Without more public investment, the House of Commons' Select Committee on the Environment's central dilemma will not have been resolved. Indeed, if anything, it is more likely that there will be an increase in the demand for low quality, high occupancy, housing by young people in work, posing a dilemma for local authorities in exercising any tougher powers they are given to enforce standards. Unfortunately deregulation, as currently implemented, conflicts with Government policy to cut public spending on housing and to maintain fiscal support for owner occupation which reduces demand for private renting. Revival of commercial private renting on any scale is unlikely on these terms.

This then raises the intriguing question as to the role housing associations might play in the future, as an alternative to commercial private renting, by providing housing to people outside their traditional client group. The government is moving housing associations to a more market oriented approach. New tenancies have to be assured and housing associations are free to set their own rents. Housing Association Grant has been reduced and is fixed at the outset of a scheme rather than paid, as in the recent past, as a grant covering capital costs that cannot be funded from Fair Rents. The balance has to be borrowed, including new

forms of finance, like index linked loans. The intention is to transfer risk to housing associations and make them more efficient. It might also move them up market (NFHA, 1987). As the future unfolds there may well develop a very complex provision of subsidised independent rented housing, some provided through BES schemes and some by Housing Associations, both for groups traditionally dependent on commercial landlords, while some will continue to be provided commercially, perhaps also involving public funds in the form of improvement grants. The interesting question then arises as to which of these forms of quasi-private provision provides rented housing for young singles and mobile households in a way that is most equitable, efficient, and effective in its use of public funds. But to begin to answer that question requires yet another research project and one which is beyond the scope of this thesis.

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