

FINAL REPORT OF THE PRIVATE RENTED
SECTOR POLICY GROUP

The Private Rented Sector as a percentage of the Total Housing
Stock (Great Britain).

1900	90%
1951	45%
1960	26%
1971	14%
Dec 1975	15.9%

The 1975 figure includes other tenures - housing associations and tied cottages etc. which probably mean an over-statement of about 4-4½%.

1. The Present Situation

The picture shown by the above table is that the private rented sector has been steadily declining since the beginning of the century but still contains about 1 in 7 houses in our national housing stock. There are a variety of reasons for this. Certainly the rise of the building societies and the spread of owner occupation, helped by the introduction of tax relief on mortgage interest and the abolition of Schedule A, has coincided with a major shrinking of the private rented market. People found increasingly that private lettings were a socially unpopular form of investment. Rent controls made residential occupation a poor investment compared with the alternatives. Security of tenure severely discouraged the smaller landlord from letting. However the introduction of the 1957 Rent Act showed no halt to this decline. This Act established "creeping de-control" but may have hastened the decline in private renting by enabling landlords to get vacant possession and sell to owner occupiers. The major reason for this was that most landlords feared the loud and persistent Labour threats to reverse this legislation.

Not only has there been a decline in the numbers of properties available for private renting, there has also been a decline in the quality of the stock. In Autumn 1971 the National House Condition Survey showed that 1.2 million houses were "unfit for human habitation" - of these about 640,000 were privately rented which was 54 per cent of the total or 23 per cent of the total number of private tenancies. This is not surprising since 75 per cent of privately rented houses were built before 1919 and rent controls imposed since then have not made it worthwhile either to build for letting or to keep existing investments in decent repair. Under Labour's 1969 Housing Act improvement grants have tended to go to owner occupier accommodation which is already much better maintained. In 1971 only 23 per cent of improvement grants went to private tenancies; a total of 46,174 grants were authorized when, as previously stated, over 600,000 properties were unfit. The spread of General Improvement Areas and the introduction of Housing Action Areas under the Housing Act 1974 may however improve this position to some extent. Specially generous improvement grants are available in these areas for private landlords and owner occupiers.

* This meant that when a tenant died or moved, the property came out of control.

Labour's hostile attitude to the private landlord is getting steadily more marked. It is now clear that even Labour 'moderates' like Anthony Crosland declare at least in public that there is no long term future for the private landlord. The continuing threat from Labour can be shown by a summary of their recent legislation which has affected the private rented sector.

The Rent Act 1974

Rent legislation before this act had divided the private rented sector into two sections; furnished and unfurnished accommodation. The Rent Act (1974) changed this to a division between accommodation under the same roof as the landlord and accommodation where the landlord is an absentee. Tenants in furnished lettings where the landlord is an absentee now have security of tenure whereas tenants in unfurnished lettings where the landlord is also in occupation lost security of tenure for any new lettings although existing tenants in these cases were not affected. The previous policy group on the private rented sector suggested that there should be an end to the artificial distinction between furnished and unfurnished tenancies which has now been embodied in the Labour legislation and the present group also holds this view, without in any way accepting the security of tenure provisions contained in the Rent Act 1974.

Tenants in shared accommodation can apply to the Rent Tribunal for six months security of tenure which is technically renewable indefinitely. In practice this is unlikely to happen but the difficulties of securing eviction even here probably acts as a deterrent to letting rooms out and so encourages underoccupation. Even more strangely, the Act gives security of tenure to tenants in owner occupied accommodation on a second fixed term letting to the same tenant. This provision encourages eviction.

The Housing, Rents and Subsidies Act (1975).

This Act ends the procedure of de-control of controlled tenancies by reference to their rateable value as was the practice under the Housing Finance Act (1972). Properties now have to have the basic amenities and the landlord in addition must satisfy the local authority that the property is in reasonable repair. 12½ per cent towards the cost of repairs can be compounded into the rent but otherwise the rent remains frozen until the local authority de-controls the property when the rent officer registers the property and the rent can be phased to a 'fair' rent level. Improvement grants are also available for up to 90 per cent of the eligible expense limit of £3,200 for hardship cases in Housing Action Areas under the Housing Act (1974). However a landlord must guarantee to keep his property in the rented sector for 5 years or repay the grant.

However on November 20th 1975 at Eastbourne the then Secretary of State for the Environment did announce a review of the Rent Acts which he admitted had become 'an impenetrable jungle for the responsible and the irresponsible landlord alike'. He saw the need to 'ease the passing' of the private landlord. One can only hope that the findings of the review (due in 1977) will bring about at least a partial change of attitude in the Labour Party. There is growing evidence of public awareness of the damaging effects of the Rent Act but without any response from Labour, the essential job of bringing more rented property into use will be far more difficult.

2. Policies for the Existing Stock

A. Security of Tenure

The security of tenure provisions in the Rent Acts 1965 and 1974 have particularly discouraged the smaller landlord who has most need to be able to regain possession of his property at relatively short notice. In contrast the investor landlord is far more concerned with his return on capital investment.

The Group feels that in some areas of the country and in particular in the areas of greatest housing stress there is a continuing need for security of tenure. On the other hand there is the need to enable an owner of property to regain what is his when it is fair and right that he should have it. Insufficient legal protection of the tenant leads, in times of shortage, to exploitation in which the lower income section of the community suffer most through rents they are unable to afford and threats of eviction. Too much protection leads equally to hardship amongst the poorer landlords, who form the majority and makes them vulnerable, frequently in their own homes, to unscrupulous tenants. We recognize the need for a balanced approach in this sensitive field and recommend the following proposals:-

1. The Group believes that in certain areas of the country pilot schemes of complete de-control might be implemented under the existing powers of Section 100 of the Rent Act (1968). The advice of Estate Agents and other professionals could be sought as to which parts of the country could best benefit. In order for these experiments to be successful it is essential that these areas be of a reasonable size. These would need to be something like the size of a county. If they prove successful one would then embark on de-control elsewhere. The Group does recognise, however, that in some cases landlords will take the opportunity to sell up to owner occupiers or local councils to avoid re-imposition of control by a future Labour Government.

2. Particularly in the major conurbations security of tenure should remain for existing tenants. A change may well be necessary, however, to bring into use the large number of properties at present standing empty and to encourage landlords to keep available for letting those properties which become vacant in the future. Sir Brandon Rhys-Williams' scheme for a new form of short lease tenure was agreed to have much merit.

During the period of the lease the tenant would have security of tenure but the landlord would be entitled to vacant possession at the end of the lease if he wanted, unless he wanted it merely to put in a different tenant. A minimum period of lease would be necessary which could be extended if both parties wished. The scheme would apply to both furnished and unfurnished accommodation and the rent would be fixed either by agreement or on application by either party to the Rent Officer with appeal to a Rent Assessment Committee or its successor (see later).

Whilst the group prefers the idea of short terminable leases we are not opposed to the scheme introduced by the North Wiltshire District Council. This scheme involves the local authority

taking on a lease from the landlord and sub-letting to the tenant who thus becomes a council tenant with no security of tenure. We understand that 38 landlords have so far taken up the offer which would represent a useful addition to the stock of available rented accommodation if every district council did the same. (40 councils are now in fact operating the scheme). The Group is concerned however that if councils fail to move tenants at the end of a lease, they would become fully protected tenants. We consider it essential that the status of the tenant should be established unequivocally as that determined by the lease between the landlord and the local authority. As a safeguard against "backdoor" municipalization a local authority should give an undertaking not to municipalize for a period of years. If this undertaking was breached by the local authority the landlord should have access to the Courts for a reasonable sum of damages.

✓ 3. Students The Group feels that student accommodation registered with an approved university or educational institution should be exempt from the security of tenure provisions of the Rent Acts. A letter was sent to all universities and polytechnics in England and Wales. 45 replied of which 18 were in favour of such a scheme. Of the remainder many found accommodation for their students in halls of residence and therefore felt that the scheme was not really of much relevance to their particular needs although in no way opposed to it being introduced for the benefit of other areas.

✓ 4. Flats over Shops. Many flats over shops are at present left empty because the shop owner wishes to ensure that they are available if and when he may need for shop staff or to sell on retirement. An additional problem is that in some cases access to the flat would be through the shop and the landlord needs to be able to regain possession if he has any doubts at all about the honesty of his tenant.

5. Inherited Properties. During probate of will, often taking many months, properties are often left empty. The executors of the estate should be empowered to let the property free of security of tenure up to a time of two years.

✓ 6. Case 8 Rent Act 1974. At present an owner can claim possession if he requires the property for his own occupation or for members of his family. However the owner has to prove greater hardship than the tenant and it is suggested that this provision be removed for the owner himself although not for a member of his family. Further the Group feels that the Court should grant an order for possession if it is satisfied that the owner needs to sell the property in order to buy another home elsewhere because of, for instance, a new job in a different part of the country.

✓ 7. Fixed Term Lettings. The Group feels very strongly that owner occupiers should be able to give second or subsequent fixed term lettings to the same tenant without that tenant getting full security of tenure. It is absurd that a tenant who gets on well with the landlord should be evicted because the landlord has no real option if he wishes to maintain control of his own home. If 'shortholds' were introduced (see above) no further action would be needed here.

The Group is concerned at the complexity of the Rent Acts and the difficulties created by more exceptions and anomalies. Nevertheless we believe that in advance of the findings of the review of the Rent Acts, these changes are fully justified.

B. Court Procedures

The Group is concerned at the number of bodies with jurisdiction in the field of landlord tenant relations. The delays, and expense experienced by landlords in removing bad tenants is one important reason why properties are not re-let. Court procedures in the field of landlord-tenant relations should be reviewed with the possibility of amalgamating the overlapping jurisdictions of County Court, Magistrates, Rent Tribunals and Rent Officers. The solution probably lies in setting up a new landlord/tenant court to deal with all questions in this field.

C. Improvement Grants

Whilst this area is not the responsibility of the Group, we wish to make some observations. First we welcome the increase in rateable value limits for conversions since this will encourage a reduction in underoccupation. However all the evidence suggests that landlords are not making sufficient use of improvement grants. There may be scope for specially favourable grants for private landlords provided that they guarantee to leave their property available for renting for say five years and first offer it to a local authority or housing association if they sell within that period.

D. Controlled Dwellings

At present the rents charged for these houses are ridiculously low. The only increase allowed is 12½ per cent of the cost of repair. The group strongly believes that these properties should be de-controlled as quickly as possible with rents being phased to fair rent levels. Rent allowances are available for poorer tenants and the Rent Officer will take into account the state of the property in fixing the new rent. The only result of present rent levels is a continuing deterioration of the properties in some cases to total dereliction. If specially generous grants were made available to landlords to instal the basic amenities, the Rent Officer could insist that they were installed within 5 years of the de-control with power to return them to control in the event of a default.

E. Rents

A recent survey carried out by the British Property Federation showed that the average net return for unfurnished regulated tenancies was just over 1.8 per cent. Unfurnished controlled tenancies yielded a meagre 0.65 per cent. The present distinction between 'fair' rents for non-resident landlords and 'reasonable' rents for resident landlords is anomalous and should be dispensed with. The Group believes that a new system should be introduced based on a fair return on capital value for the landlord. The rent phasing provisions of the Housing, Rents and Subsidies Act (1975) merely ensures that regulated rents become out of date before they can be collected. The Group feels that if triennial rent reviews are to continue, any resultant rent increases should be payable immediately.

The question of financial return on residential investment is of far more consequence to the investor landlord than security of tenure since this type of landlord is only really concerned that the tenant pays his rent, provided this happens he is not really concerned to switch tenants because there is no financial benefit in doing so.

3. The Private Tenant

The Group took evidence from representatives of various tenants' associations. As a result of that meeting we propose the following.

1. Any legislation giving council and new town tenants the right to buy should also give sitting tenants in the private sector the right to first refusal at market price (without vacant possession). Long leaseholders at low rateable values already have the right to buy the freehold.

2. There is some evidence that service charges for mansion blocks are excessive. It may be necessary to tighten up the provision relating to service charges contained in the Housing Act 1974.

3. The level of take-up of rent allowances is at present very low. For furnished tenants the take-up is about 5-10 per cent and for unfurnished tenants about 25-30 per cent. The Group strongly believes that if progress is to be made towards realistic rent levels, this level must be increased. Field studies on the reasons for low take-up and more advertising are certainly required.

4. In many blocks of flats, there is a growing demand for co-ownership particularly when they are sold in the event of a bankruptcy for instance. The Group strongly believes that co-ownership should be encouraged as a form of half-way house between owning and renting. However the existing structure of co-ownership tends to threaten the rights of individual tenants. In any review of co-ownership this problem merits serious consideration.

It is vital that our policy for the rented sector is sold to the public as a fair policy between landlord and tenant. In particular that we have no intention of removing security of tenure for existing tenants until and unless there is ample evidence that such a move would not produce hardship.

4. Financial Incentives

1. Residential Landlords. The Group believes that the levying of Capital Gains Tax on resident landlords who sell their property should be discontinued. Our survey of the universities suggested that this was a major disincentive in some parts of the country. The Group also believes that residential landlords should no longer be liable to schedule B tax on their rental income.

2. Incentives for new investment in building. The Group sees considerable merit in extending tax depreciation to residential property as is the case at the present time with industrial property. However the Group recognises that expenditure on this area should be closely related to the expected benefits to be derived in the form of new capital investment.

5. New Investment

The Group is frankly doubtful about the possibilities of any significant new investment in building for letting for two reasons. First the unavowed hostility of the Labour Party and second the very high rents that would be needed to ensure a rate of return comparable with other investments. However, the Group did take evidence from John Heddle, and Vivian Linacre who outlined their proposals contained in the GPC pamphlet "A New Lease of Life". They recommend the encouragement of a major expansion of new building for leaseholders at market rents. We are frankly doubtful whether institutional investment would be available for this type of development given the political dangers from Labour. The rents needed would be very high indeed and they suggested that tax relief should be available on rent payments. No doubt council tenants would want this as well and it would be enormously expensive. Sir Keith Joseph has suggested an indemnity fund for new investors in residential accommodation for letting which would be made available if Labour reneged on the new policy. We have not had time to examine this idea in detail but consider it merits very serious consideration.

6. The Group believes strongly that the Labour Party's policy of municipalizing the private rented sector is extremely costly and socially undesirable. The private landlord offers a variety of accommodation and in particular ensures that the single and the mobile who do not need long term security of tenure can find a home. Reversing the long and steady decline of the private rented sector will be a very difficult task but at the very least the Group believes it essential to keep in existence a considerable stock of houses available for private renting.

MEMBERS OF THE POLICY GROUP

Hugh Rossi MP (Chairman)
Timothy Raison MP
Walter Clogg MP
Nicholas Scott MBE, JP, MP
Cyril Townsend MP
W. Rees-Davies QC, MP
Geoffrey Finsberg MBE, MP, MP
Sir Brandon Rhys-Williams Bt, MP
E. King MP
Hal Miller MP

Lady Young
Tony Kerpel (Ex Chairman of the Young Conservatives)
Councillor Irwin Bellow (Leader of Leeds Council)
Rodney Stewart-Smith (Society of Conservative Lawyers)

Patrick Rock (Secretary)

Conservative Research Department,
24, Old Queen Street,
London, S.W.1.

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