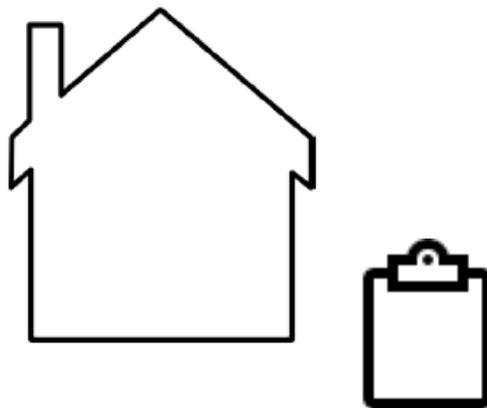


Private Rented Sector Inspections and Local Housing Authority Staffing

Supplementary Report for Karen Buck MP prepared by
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March 2018

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Introduction

This is a supplementary report prepared from the responses to the first question in a Freedom Of Information request from the office of Karen Buck MP to local housing authorities in England¹.

While the main report focused very much on the HHSRS hazards identified by local authorities and the use of the powers (and duties) in Part 1 of the Housing Act 2004 this report looks at the level of staffing in local housing authorities as it is assumed the ability of local authorities to inspect homes and enforce the provisions in the Act is dependent on the number and quality of staff available to do this work. Those authorities that are serious about tackling the problem of poor conditions in the PRS will ensure that they have staff available to put the policy into practice.

This report looks at current staffing levels, that is, levels as in the last full financial year 2016/17 only as the changes in the law affecting the private rented sector (PRS) introduced by the Housing and Planning Act 2016 began to be brought into force in April 2017. These changes are intended to tackle “rogue” or “criminal” landlords such as via the extension of Rent Repayment Orders and introduction of Civil Penalties but which in turn depend, on the Provisions in Part 1 of the Housing Act 2004 being used properly.

The report concentrates on those local authorities where it is assumed the majority of private sector homes are located, that is London Boroughs, Metropolitan Boroughs and Unitary Authorities. That said it has to be recognized that some smaller local authorities will have particular problems, for example with small HMOs providing accommodation for seasonal agricultural workers. This supplementary report is based on the returns of 96 local housing authorities out of the 263 original responding authorities (37%), which as at 2011 contained just over 1.78million PRS households (48% of the total number of PRS household in the 2011 census).

¹ The main report of this work *Local housing authority action on conditions in rented housing* can be found at http://www.sabattersby.co.uk/documents/KB_Fol_2017_Report_Final.pdf

Key findings

For the years covered in the original report 38 of 263 respondents to the question (14.4%) said that none of the staff carrying out inspections were qualified EHOs in 206/17. Of those councils covered in this report 10 metropolitan and unitary councils said that no qualified EHOs were employed to carry out inspections and in London there was only one (the City of London) so 11.5% of the councils in this report did not employ qualified EHOs to carry out housing inspections.

In the original report it was said that there had been a small increase in the number of authorities employing “other staff” to carry out inspections. In 2015/16, 67 had said they did not use other staff and this had reduced to 63 for 2016/17.

The average number of Environmental health officers available to inspect and enforce in respect of private rented accommodation was 2.46 in London and 2.2 for 10,000 properties. This ratio will have worsened significantly as the number of private rentals has risen by 26% since the last census

Since 2011 the PRS has increased in size to 4.7 million households from 3.72million in the 2011 Census (a 26% increase). This indicates that the ratios reported here would be optimistic and the distribution of this increase in the PRS is not known. The implication of this is considered further in the discussion section.

It would be difficult for these staffing levels to cope with complaints alone never mind take the initiative and seek out the criminal landlords

Table 1 provides the basic information on the ratios of all staff and EHOs per 10,000 PRS households. It provides the average and also the median. It can be seen that London Boroughs are more likely to employ EHOs than other local authorities and that more than half the non-London authorities employ fewer than two EHOs per 10,000 PRS households.

Table 1 All Staff and EHOs per 10,000 PRS Homes*

| | Average No. Staff per 10K PRS Homes | Median No Staff per 10K PRS Homes | Average No. EHOs per 10K PRS Home | Median No EHOs per 10K PRS Homes |
|---|---|--|--|---|
| London Boroughs | 4.98 | 4.88 | 2.46 | 2.12 |
| Metropolitan & Unitary Authorities | 4.67 | 4.29 | 2.2 | 1.87 |

*Staff levels at 2016/17, PRS Homes as per 2011 Census

Table 1 also indicates that London Boroughs in general have a higher ratio of all staff and EHOs per 10,000 PRS households than other local authorities. For London Boroughs about half the staff employed inspecting homes are qualified EHOs.

Figures 1 to 3 indicate the number of staff employed directly or indirectly to carry out inspections of properties per 10,000 PRS households and also the number (ratio) EHOs per 10,000 PRS households by those authorities responding to the FoI request in the categories used for this analysis. The closer the two columns the greater the proportion of the inspecting staff are EHOs, so that columns of equal height indicate that all staff carrying out inspections are qualified EHOs.

The variations across these authorities is apparent in that some non-London councils have a higher ratio of staff per 10,000 homes even though the number of PRS households is smaller, for example Nottingham (which is about to introduce selective licensing from August 2018) had just over 29,000 PRS households in 2011 and more than 15 staff per 10,000 PRS households whereas LB Barnet had over 34,800 with a ratio of 3.4 staff per 10,000 PRS households. The London Borough of Newham with a PRS of over 34,500 in 2011 had staff at a ratio of just over 5 per 10,000 PRS households.

Figure 1: London Borough staffing

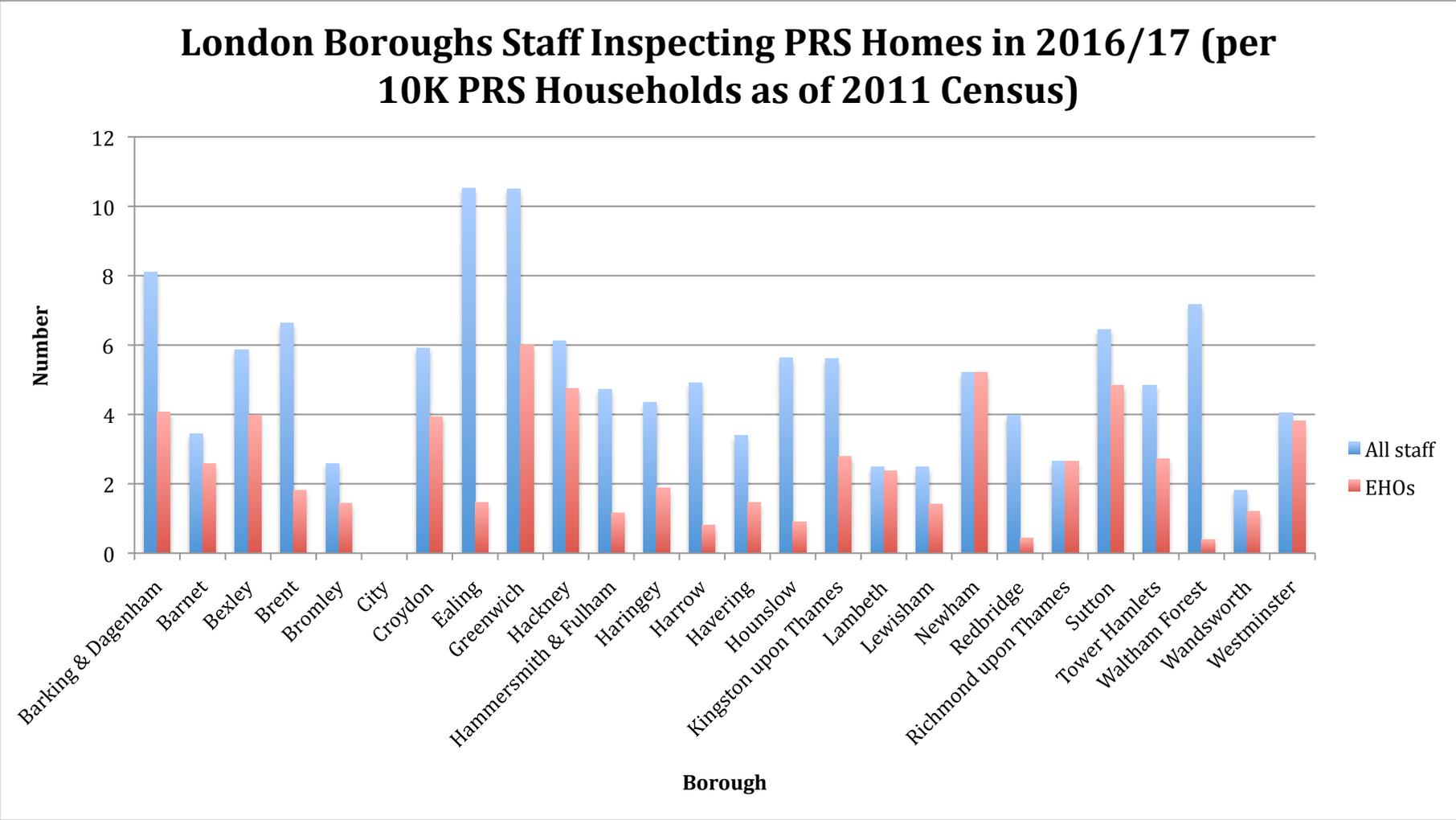


Figure 2: Non-London Council staffing (1)

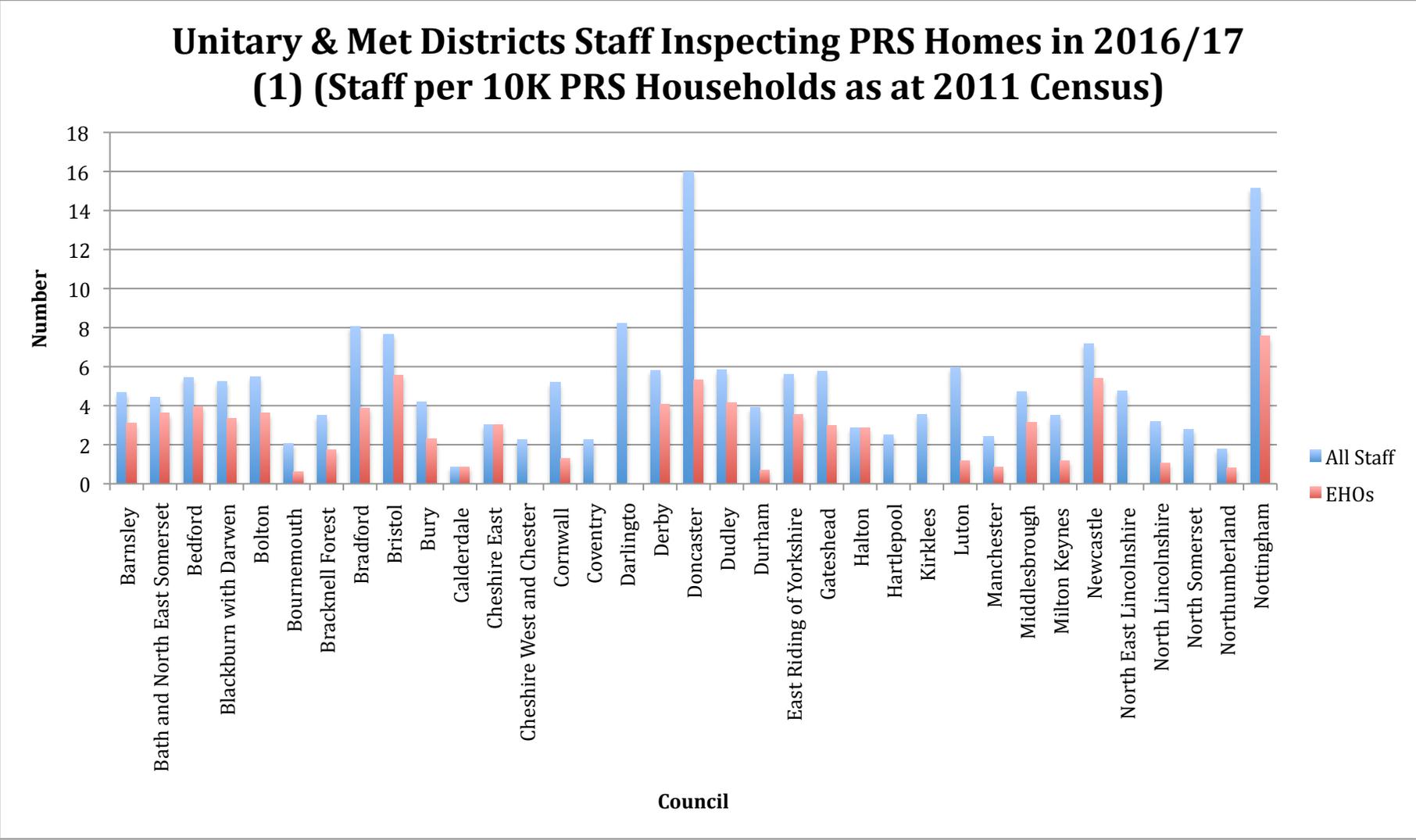
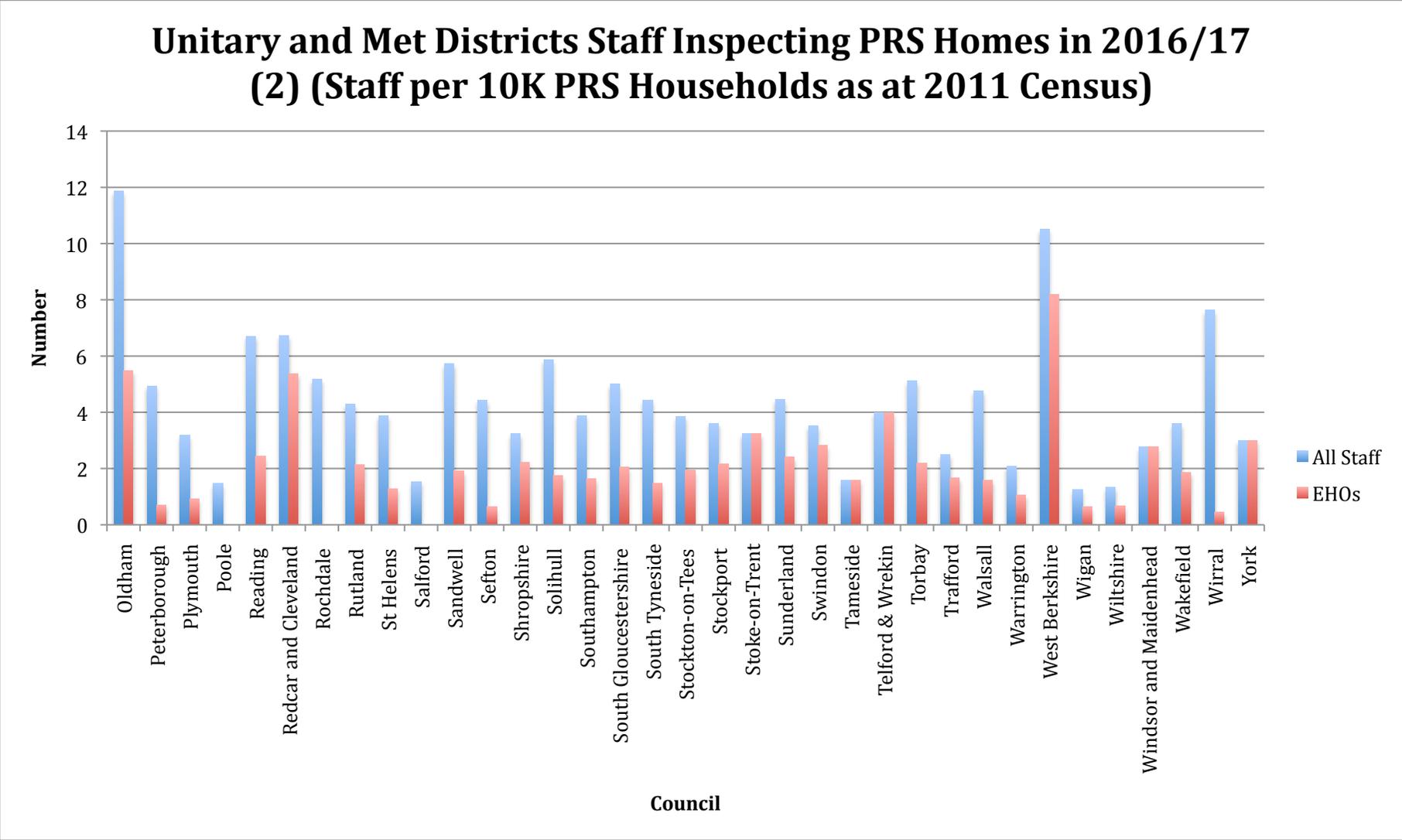


Figure 3: Non-London Council Staffing (2)



Discussion

Nationally in 2016 around 27% of PRS homes were classified as non-decent (English Housing Survey¹, (EHS)). If evenly distributed that would mean about 2,700 in every 10,000 PRS homes. Also according to the EHS around 80% of private renters were reported as saying they were satisfied with their accommodation². That would leave around 2,000 in every 10,000 dissatisfied. Further, the latest EHS data shows 16.8% of the PRS has a Category 1 hazard³, which would imply about 1,700 in every 10,000. So at the least the staffing levels recorded here would have to be capable of dealing with around 2,000 homes, assuming that others are not subject of complaint, and that there are no other initiatives (such as pro-active inspections) occurring. That would seem problematic.

Although the increase in the PRS may not be evenly distributed, the possible effect on staff ratios can be illustrated by an example. Looking at a London borough with about the median staffing ratio and a number of PRS households in 2011 of 18324, taking the overall increase in the PRS, would mean that by 2016 the number of households in the PRS could have increased to 23,000. That would give a ratio 3.9 staff per 10,000 households as opposed to the 4.9 given in the figure reported here.

For many authorities the numbers of “other staff” are substantially greater than the number of EHOs - this might explain why some councils see licensing as an important if not the major contribution to regulating the PRS. The licensing process is more administrative and requires less “professional judgement”.

Figures 1 to 3 illustrate the breakdown of staff in local authorities. As has been pointed out the closer the two columns are in height for any council, the greater the proportion of staff inspecting homes will be qualified EHOs. The question arises as to the quality and competency of the other staff involved in inspecting properties. At least with EHOs the route to qualification is transparent and well known and they will have had to demonstrate at least a basic level competency including an understanding of the legal framework. The training also involves an understanding of risk assessment and risk management as well as the techniques involved in inspecting properties. If they are also members of the professional body (the CIEH) they will also have had to comply with the requirements of continuing professional development. While the non-EHO staff may be as competent in inspection and use of the law, there is no way of knowing, nor

¹ EHS Headline Report 2016-17 Housing Stock annex tables AT2.2 see <https://www.gov.uk/government/statistics/english-housing-survey-2016-to-2017-headline-report>

² DCLG English Housing Survey Private Rented Sector Report 2014-15 at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/570848/Private_Rented_Sector_Full_Report.pdf

³ EHS Table DA4101 (SST4.1) Health and safety – dwellings 2015 at <https://www.gov.uk/government/statistical-data-sets/dwelling-condition-and-safety>

is there any quality control or assessment beyond what might or might not be applied internally.

If local authorities are serious about tackling the bad landlords they need the staff, and authorities that are doing the most on the PRS seem to have about six staff for 10,000 households in the PRS. It is arguable whether this is still insufficient, given the time that will also be spent on carrying out associated activities such as checking on ownership, preparing reports, notices and schedules of work and ensuring correct legal procedures are followed.

That said there is considerable variation in the ratio of staff to PRS households and in some authorities the ratio is between 2 and 3 officers per 10,000 PRS households - they are unlikely to be able to actively seek out the worst landlords and deal with them at this ratio. They will barely be able to deal with complaints never mind take the initiative on finding the poorest properties and worst landlords.

Even if numerically there are the staff, in many authorities there are few if any qualified EHOs and that raises questions as to the training and competence of these officers to deal with the hazardous conditions and bad landlords e.g. Coventry has no EHOs inspecting PRS homes and a low ratio of staff to PRS households, Manchester also has a low ratio and few EHOs. Some non-EHOs may be competent others less so (but cheaper to employ!) but there is no way of being able to assess this.

It might be assumed that low staff/PRS household ratios would equate to low enforcement activity. However Manchester (ratio of 2.41 all staff but only 0.86 EHOs) reported serving 69 Improvement Notices in 2016/17. This might not be as high as might be expected it was well above the median. Coventry with no EHOs inspecting properties and a staff ratio of only 2.26 reported that only 6 Improvement Notices were served. LB Greenwich on the other hand (ratio of 10.5 for all staff and 6 EHOs per 10,000 PRS households reported serving 126 Improvement Notices.

Looking at Figures 1 to 3 and service of Improvement Notices as reported in the Fol requests, West Berkshire with a high staff to PRS households ratio served just 11 Improvement Notices and Wirral with a relatively high ratio for all staff but few EHOs served 79. Doncaster served only 28 and Nottingham served 89 such notices although both had similar and high ratios. LB Croydon with a relatively low staffing ratio (two thirds of which were EHOs) served 292 Improvement Notices, more than any other council but LB Ealing (staffing ratio of 10.53 largely non-EHOs) only served 25. Looking at LB Barnet with a similar number of PRS households to LB Newham at 2011 (over 30,000) but with a staffing (all staff) ratio of 3.44 compared to 5.21, served 12 Improvement Notices in 2016/17. So there is no obvious pattern.

Much it seems depends on internal policies and attitudes. LB Waltham Forest for example with a ratio of just over 7 staff (but only 0.4 EHO per 10,000 PRS households) served only 17 Improvement Notices, but put much energy into implementing borough wide selective licensing. On the other hand LB Newham, already referred to and well known for its selective licensing regime but with all inspection staff being qualified

EHOs, served 101 Improvement Notices. Curiously, Westminster with a ratio of about 4 staff per 10,000 PRS households, predominantly qualified EHOs, did not provide information on enforcement activity responding N/K to this question.

So there is no obvious connection between staffing levels (a high ratio could exist in a local authority with a small PRS) and enforcement activity. Yet it would not be surprising if there were a tendency for officers in councils to use “informal” approaches rather than the powers within the Act. “Other action” is outside the scope of the 2004 Act does not run the risk of an appeal to the First-tier Tribunal or having to proceed with formal enforcement action such as prosecution which is time-consuming. Figures from the FoI request indicated “other action” was taken on an average for all respondents of about 15 times in 2016/17 compared to an average of 13 Improvement Notices. That said such averages hide marked disparities as the median for Improvement Notices was 5 in 2016/17 and for “other action” it was 0 meaning that half the number of respondents had not used “other action” and used only the provisions in Part 1 of the Act. While from the officers’ perspective such an approach may have its attractions, the problem with “other action” is that it leaves tenants vulnerable to retaliatory eviction and also will be outside the scope of the provisions brought in by the Housing and Planning Act 2016.

It should be noted that these staff not only deal with Part 1 but also HMO licensing whether or not there is additional licensing (of HMOs) or selective licensing. Part 1 of the Housing Act 2004 is primarily concerned with the risks to health and safety arising from deficiencies in the dwelling. At the same time the provisions in the Act specifically require that licensing should not be used to address such risks (although may do inadvertently) and that Part 1 should be used. These staffing levels make it hard to see how many local authorities can address effectively the problems in the private sector, and conditions that pose a risk to health and safety.

Conclusions and Recommendations

Overall there is considerable variation on overall staffing levels to tackle problems in the PRS. Furthermore there are widely varying approaches to the use of qualified EHOs for inspecting properties and utilizing the provisions of the 2004 Act. As has been reported previously, some local housing authorities do not have any EHOs carrying out this work. There is no obvious pattern indicating enforcement levels vary with staffing levels, no doubt because there are other factors influencing use of the provisions in Part 1 of the Housing Act 2004, although it does seem more likely that will be more use of the Housing Act powers where a large proportion of the staff are qualified EHOs.

This analysis does raise further questions on how well the connection between housing and health is appreciated and the contribution local councils can make to improved public health through improving housing conditions in the PRS.

While the numbers of staff did not appear to vary greatly over the three years of the FoI request, but there is a question of whether sufficient numbers are being employed by local authorities to tackle the problems in the PRS and even to be able to respond promptly to complaints or intelligence that indicates the need for enforcement action.

In view of the financial difficulties that local authorities face it is understandable if there is a desire to employ other staff, but this is short-term and could leave tenants even more vulnerable. Furthermore there is no way of knowing whether the non-EHO staff have sufficient competency to carry out adequate inspections and use the law effectively – this is a matter for local management.

At a time when training budgets are also limited there should be some formalised mechanism whereby staff employed to carry out inspections and use the 2004 Act have to demonstrate competency to undertake the work. While there are training courses provided by different agencies, there is no requirement for staff to attend these, nor demonstrate that they understand the legal provisions.

While it is one thing to have a legal framework to tackle "rogue" landlords, the legislation is useless without the competent staff in local authorities to implement these provisions effectively. That is a matter for both central and local government to address. There has to be a political will at both levels to invest in proper staffing. As has been commented before "council budget cuts of April 2015 have led to many enforcement posts being deleted and people doubling up on duties they have no previous experience of. Without enough staff to enforce these standards rogue landlords will continue to operate beyond the resources of councils"⁴. Ad hoc additional funding from time to time such as the £12 million provided to a number of local authorities to help tackle acute and complex problems with rogue landlords, including "Beds in Sheds" is an inadequate approach and cannot ensure that sufficient suitably trained staff can be engaged in this work. Such is the scale of the problems in the PRS that there has to be a continuity of funding not piecemeal initiatives.

It is also apparent from this piece of work that there is also a challenge for professional bodies and in particular the CIEH to encourage more EHOs to specialise in housing, and to ensure their members are fully equipped to use the legal provisions that are in place to protect tenants. The CIEH should also consider setting out a recommended level of staffing and criteria for effective private rented sector teams. The CIEH in the past as considered staffing issues⁵ as has the World Health Organisation⁶.

⁴ <https://www.theguardian.com/housing-network/2015/aug/26/rogue-landlords-council-cuts>

⁵ <https://www.cieh.org/assets/0/72/1126/100736/602a8d73-aa95-46ab-9c38-5424c3055303.pdf>

⁶ http://www.who.int/healthinfo/systems/WHO_MBHSS_2010_section2_web.pdf

Annex 1

Note on method used.

The first question on the FoI request was about the number of staff employed (directly or indirectly) to inspect homes. The information provided by those authorities in the categories of London Boroughs (33 including the City), and Metropolitan Boroughs (total of 36) with Unitary Authorities (a total of 55) have been analysed using an Excel spreadsheet. For a realistic assessment of staffing levels and in order to make valid comparisons between authorities the analysis considered the number of staff and number of qualified Environmental Health Officers (EHOs) per 10,000 households in the PRS.

The size of the PRS in each of the responding local authorities was obtained from the House of Commons Library and their help is acknowledged and appreciated, but it was only possible to identify the number of PRS households from the 2011 Census data. This would inevitably mean that the ratios are likely to be optimistic given the increased size of the PRS since 2011. This increase though is unlikely to have been uniform across the country.

The figure of 10,000 was selected because it was below the median number of PRS households in both categories of authorities (25,000 in London Boroughs and 14,400 for the other authorities) but would give a realistic ratio more closely matching the actual numbers. In fact only 16 non-London councils had a PRS smaller than 10,000 households and in London, only the City had a PRS smaller than 10,000.

The responses analysed were from 26 London Boroughs (including the City) (79%) and 70 authorities that were either Metropolitan Boroughs or Unitary councils (77%). The information used was that from 96 local housing authorities out of the 263 original responding authorities (37%). A return from one additional metropolitan borough was received but the numbers provided were so out of line as to cause concern as to their accuracy and attempts are being made to validate these figures by contacting the authority. No response has been received in time to enable those figures to be included in this report.