

# MINUTES

**Meeting: Housing Committee**  
**Date: Tuesday 5 September 2017**  
**Time: 10.00 am**  
**Place: Chamber, City Hall, The Queen's Walk, London, SE1 2AA**

Copies of the minutes may be found at:

[www.london.gov.uk/mayor-assembly/london-assembly/housing](http://www.london.gov.uk/mayor-assembly/london-assembly/housing)

**Present:**

Sian Berry AM (Chair)  
Andrew Boff AM (Deputy Chair)  
Tom Copley AM  
Nicky Gavron AM  
Tony Devenish AM  
David Kurten AM

**1 Apologies for Absence and Chair's Announcements (Item 1)**

1.1 An apology for absence was received from Leonie Cooper AM.

**2 Declarations of Interests (Item 2)**

2.1 The Committee received the report of the Executive Director of Secretariat.

**2.2 Resolved:**

**That the list of offices held by Assembly Members, as set out in the table at Agenda Item 2, be noted as disclosable pecuniary interests.**

### **3 Minutes (Item 3)**

#### **3.1 Resolved:**

**That the minutes of the meetings held on 27 June 2017 and 4 July 2017 be signed by the Chair as correct records.**

### **4 Summary List of Actions (Item 4)**

4.1 The Committee received the report of the Executive Director of Secretariat.

#### **4.2 Resolved:**

**That the completed and outstanding actions arising from previous meetings of the Committee be noted.**

### **5 Property Guardianship in London (Item 5)**

5.1 The Committee received the report of the Executive Director of Secretariat as background to putting questions on property guardians in London to the following invited guests:

- Professor Caroline Hunter, York Law School, University of York;
- Jed Meers, York Law School, University of York;
- Lord Kennedy of Southwark, Shadow Spokesperson (Communities and Local Government, Housing and Home Affairs) and Opposition Whip (Lords);
- Rubina Nisar, Valuation and Strategic Assets, London Borough of Lambeth;
- Jon Castine, Environmental Health Officer, Westminster City Council; and
- Stuart Woolgar, Representative of the BSIA Vacant Property Protection Section, and Director of Global Guardians.

5.2 A transcript of the discussion is attached at **Appendix 1**.

#### **5.3 Resolved:**

**(a) That the report and discussion be noted.**

**(b) That the Committee continue into an informal discussion after the meeting to allow evidence to be heard from a member of the audience.**

## **6 Housing Committee Work Programme (Item 6)**

6.1 The Committee received the report of the Executive Director of Secretariat.

6.2 **Resolved:**

**That the updated work programme for 2017/18 Assembly Year be agreed.**

## **7 Date of Next Meeting (Item 7)**

7.1 The next meeting of the Committee was scheduled for Thursday, 5 October 2017 at 3.30pm in Committee Room 5, City Hall.

## **8 Any Other Business the Chair Considers Urgent (Item 8)**

8.1 There were no items of business that the Chair considered to be urgent.

## **9 Close of Meeting**

9.1 The meeting ended at 11.25 am.

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Chair

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Date

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## London Assembly Housing Committee – 5 September 2017

### Transcript of Item 5 – Property Guardianship in London

**Sian Berry AM (Chair):** Good morning, everyone. I would like to welcome the Committee and members of the public to this meeting of the London Assembly Housing Committee. The main item for discussion today will be property guardianship in London. Members of the public can follow the meeting on the webcast and on Twitter. If you can use the hashtags #AssemblyHousing and #propertyguardian for that, then we can join the discussion.

Can I remind Members, guests and the audience to turn your phones off and put them on silent?

Have we received any apologies for this meeting?

**Clare Bryant (Committee Officer):** We have received apologies for absence from Assembly Member Leonie Cooper and apologies for lateness from Assembly Member Nicky Gavron.

**Sian Berry AM (Chair):** Thank you. Moving on to Item 2 on the agenda, this is declarations of interests. Can I ask Members to note the list of offices on the report and ask if you have any additional interest to declare? No? Thank you very much.

Item 3 is the minutes of previous meetings. We have two sets of minutes in the agenda papers. Can I ask the Committee to confirm the minutes of the meetings of the Housing Committee held on 27 June 2017 and 4 July 2017 to be signed by me as a correct record?

**All:** Agreed.

**Sian Berry AM (Chair):** Thank you. The summary list of actions is Item 4 on the agenda. Can I ask Members to note the completed and outstanding actions arising from previous meetings?

**All:** Noted.

**Sian Berry AM (Chair):** Thank you, which takes us to our main item, which is a discussion on property guardianship in London. Can I ask Members to agree the focus of the discussion today? This is to identify the extent of property guardianship in London; to highlight good and bad practice and emerging self-regulation in the sector; to examine the impact of property guardianship on Londoners, including local authorities, communities, businesses and property security companies; and to consider the effectiveness of current legislation and whether it protects guardians adequately.

**All:** Agreed.

**Sian Berry AM (Chair):** Thank you very much. Can I now welcome our guests? We have Professor Caroline Hunter and Jed Meers. They are from the University of York and they are carrying out some research on behalf of the Committee. We have Lord Kennedy of Southwark, who is the Shadow Spokesperson for Communities and Local Government, Housing and Home Affairs, and the Opposition Whip in the [House

of] Lords. Thank you for coming. We have Rubina Nisar. She is the Valuation and Strategic Assets Officer for the London Borough of Lambeth. We have Jon Castine, who is an Environmental Health Officer from Westminster City Council. Finally, we have Stuart Woolgar, who is a representative of the British Security Industry Association (BSIA) Vacant Property Protection Section - which is the security industry, which is where this falls under - and a Director of Global Guardians, the guardian company, as well. Thank you all for coming very much.

With our questions, we wanted to start with Professor Hunter and Jed Meers. You are doing a piece of research for the Committee. You do not have findings yet, but if you can outline what you are looking at in brief and what sort of findings you will be bringing to the investigation?

**Jed Meers (York Law School, University of York):** What we are planning to do is basically in three different elements. What we have kicked off so far is a property guardian survey focused on the property guardians living in London.

The idea is to look at a few things, really: firstly, demographics and descriptors, not just things like income, occupation and ethnic status but other things that we are particularly interested in; disability, for instance - we do not know the extent to which property guardians have disabilities or otherwise - relationship status, whether their partners live in the property with them and all of those sorts of things. That is the first chunk.

Then there is entry into property guardianship, what tenure they came from, whether they have been within the sector for quite a long period of time, those sorts of issues. Asking about their current accommodation and property standards in particular we are interested in, down to the granular details of how many kitchens they have access to, whether they have shared bathroom facilities, what sorts of standards of repair the accommodation is in. A lot of those questions we have taken from the English Housing Survey and so we have a point of comparison with general data about the private rented sector.

Then we are interested in the licence agreements themselves, things like taking deposits, any fees they have had to pay, extra fees for things like fire safety packs where they have had to pay for those themselves; if there are any conditions specifically in the agreement or anything about the agreement they want to tell us about, notice periods, all that sort of stuff as well.

We then have a few broader questions in there about why they wanted to enter the sector and their experiences with the property guardian company, and a third section as well on if they have made any complaints, say, outside to local authorities or contacted a Citizens Advice Bureau and so on. Not everyone will be able to answer that, but we are interested in the circumstances if they have and whether they have. That is the first chunk.

Very briefly on the other two chunks, there is a mapping - which we have done before - of advertisements available in London for property guardianship companies. It is not a perfect tool, but the idea is to give an indication of what is currently available if you were to Google to try to find a property guardian property. We are doing that through the course of this month.

The final strand of it is a very small-scale telephone survey with Environmental Health Officers (EHOs) and all of the people responsible for similar functions across London Local Authorities.

Those are the three areas. The biggest part of that is the survey itself and that is currently underway. We have already been getting responses through to that and that will be open for the rest of this month.

**Sian Berry AM (Chair):** People can still sign up to do the survey?

**Jed Meers (York Law School, University of York):** People absolutely can, yes, at [propertyguardianresearch.co.uk](http://propertyguardianresearch.co.uk), if anyone wants to have a look at that.

**Sian Berry AM (Chair):** Thank you for sharing that. That is a really comprehensive piece of research. Has it been done before or is this new?

**Jed Meers (York Law School, University of York):** No, this is new. There is quite a lot of research happening with property guardians on a smaller scale. We have done some previous work before on a much smaller scale, which has been small-scale surveys with EHOs at local authorities. We have done a small forum piece of research with Property Guardians UK, RHE Environmental and the Empty Homes Network, which had only about 36 altogether property guardians participating, looking at similar questions but on a far smaller scale and United Kingdom (UK) wide.

We have done the advertisement mapping before across the UK. We just took a couple of months, ran weekly mining of the adverts available online, plotted them on a map and saw what came out. What we saw was that there are different pockets across the UK, particularly in London, Manchester and areas outside Liverpool and Birmingham, but there does not seem to be any rhyme or reason to the pattern.

We have done bits of this before, but this is the biggest try at doing something a bit more scalable and it should give us a better idea about incidence and other things like licence agreements, fees and otherwise in the sector.

**Sian Berry AM (Chair):** Thank you very much. This will be published, presumably, alongside our report?

**Jed Meers (York Law School, University of York):** That is right. We will be doing an interim report in the first week of October and then a fuller report after that.

**Sian Berry AM (Chair):** Great. Not everybody knows what a property guardian is and so my next question is: can you give us the basics on this, essentially? If you can outline what it is and, in legal terms, how the rights differ to normal tenants, what protections they have, that sort of thing?

**Jed Meers (York Law School, University of York):** On a basic level - and then I can pass over to Caroline, who can give you the much more in-depth bits on it - it is still housing law 101, in a way, and the distinction between a lease and a licence. There are three key conditions for our purposes, really: there has to be a term, there has to be rent and there has to be exclusive possession. We know property guardians pay rent; they often pay it monthly and so you have your term. The issue is the exclusive possession. That is the point of distinction between property guardians and tenancies *per se*.

The exclusive possession issue is complicated because a lot of the time property guardians may get a key for their own individual room, in which case there probably is exclusive possession, but if there are agreements, for instance, that allow property guardians to be moved by the property guardian company quite often or there are a lot of random inspections and those sorts of things, that could potentially play into the termination of a licence. It is exclusive possession that is the key issue.

The important point to underscore is: it is not what is in the licence agreement that is necessarily important. It is what happens in actual practice. There is the famous line from Street v Mountford, one of the key cases in this area, which is that if a manufacturer creates a four-pronged instrument for digging, it is a fork whether or not they call it a spade. It is what happens in actuality within the property that matters, not what necessarily the property guardian has signed.

That is the briefest overview. That is the distinction between a licence agreement and a tenancy.

**Professor Caroline Hunter (York Law School, University of York):** Essentially, the difference then becomes, if it is a tenancy, it will fall under the Housing Act 1988 and, if not, if it is a licence, then the rights are much more limited. There are some rights, largely under the Protection from Eviction Act 1977, and that means that at least they should get four weeks' notice and, if they want to stay, they have the right to stay until there is a court order.

**Sian Berry AM (Chair):** We have a sense from some of our other research and some of the discussions we have had that a number of property guardians are not getting that notice period that you just mentioned. Do you have a sense from your research so far of what proportion are being evicted illegally under those terms?

**Jed Meers (York Law School, University of York):** From the forum-based research, we have very limited evidence of that, but that is off a very small number of cases. That is off 36 people. We find in some cases, even when there is a two-week notice period written into the licence agreement, property guardian companies are giving more notice than that two weeks. Anecdotally, we know that is happening; we just have not picked that up in our own research yet.

**Professor Caroline Hunter (York Law School, University of York):** The starting point is the licence and what that says and it should be more than two weeks. Certainly, we have seen a change over time. Many started with just two weeks and have moved to four weeks, but I am not sure. What we do not know if it is all the firms or some of them that have made that change.

**Jed Meers (York Law School, University of York):** The other important question, which we will be hoping to look at in the survey as well, is where they move to because there is an issue. If they are moving on to an alternate property guardian company, then there is internal churn within the sector, rather than them moving on to become homeless, if you see what I mean. That is also an important issue with the notice periods.

**Sian Berry AM (Chair):** You have noticed that, basically, they are increasing over time and so this indicates that the property guardian companies themselves are becoming more aware of the law?

**Professor Caroline Hunter (York Law School, University of York):** I would say so, yes.

**Sian Berry AM (Chair):** That is useful to know. One of the other things that we have noticed people commenting on or suggesting is a problem is gagging clauses within licence agreements that say they are not allowed to speak about their experiences. Is that common and are you noticing problems with that?

**Professor Caroline Hunter (York Law School, University of York):** I do not know whether it is common or not. We do not have any evidence one way or the other whether lots of them are using it or not. I am not quite sure why they would put it in. There may be issues legally about whether it is enforceable or not, but there are no cases and so it is impossible to know. There is a case that could be made that it is not a reasonable clause, whether you are thinking about under the Consumer Rights Act, potentially, or Article 10 of



the Human Rights Act. None of this has been challenged and so we just do not know, legally, whether it is enforceable or not.

**Andrew Boff AM (Deputy Chair):** Does the fact that they are guarding properties have any legal recognition whatsoever when you are taking into account whether or not it is a tenancy or a licence?

**Jed Meers (York Law School, University of York):** No.

**Andrew Boff AM (Deputy Chair):** None at all?

**Jed Meers (York Law School, University of York):** I guess one arrangement you could say is if there was employed staff within the property itself. Maybe that could prove a point of distinction between a lease and licence, but otherwise if they are occupying --

**Andrew Boff AM (Deputy Chair):** No duties on a licence?

**Jed Meers (York Law School, University of York):** No, and so what we are looking at is those key points of distinction: the rent, whether it is for a term and exclusive possession. That is what matters. If it is provided for employment, that is in Street v Mountford as well, but not in the circumstances of a property guardian.

**Andrew Boff AM (Deputy Chair):** Thank you. Mr Woolgar, despite it being illegal to evict a property guardian within the 28 days of notice, we have heard some evidence from property guardians that they have been given notice of as little as a week to vacate a property. Do you accept that property guardians are at risk from illegal evictions?

**Stuart Woolgar (Representative of the BSIA Vacant Property Protection section, and Director of Global Guardians):** Yes. The reason why I joined the BSIA to create the code of practice was to create the minimum standards. At my own company, Global Guardians, we sought legal advice before we even started and it was a clear 28 days' notice. Unfortunately, in the industry there are some companies that do not operate with the 28 days. We have been made aware of it because, as a company, we get the guardians from those companies coming to us and telling us their stories. When we first started, it was 2011 and, at the time, everyone was doing one week, two weeks and all these kinds of notice periods. When it got confirmed to us about the Protection from Eviction Act 1977, immediately we changed to 28 days. Over probably the last five years, I would say the majority of the companies are doing 28 days but there are still companies, we hear, that do less than that.

In fact, one company we know of did three days' notice in order to win a contract and it was a property that we were looking after which we were given notice on. The client wanted it on a shorter notice period, which we did not agree to and said, "It is 28 days' notice". We warned the guardians, etc, but at the moment that property is now with another provider, which has given them three days' notice as a contract.

**Andrew Boff AM (Deputy Chair):** Three days?

**Jed Meers (York Law School, University of York):** That is in their contract, yes.

**Andrew Boff AM (Deputy Chair):** Is it legal for it to be in the contract?

**Jed Meers (York Law School, University of York):** No.

**Andrew Boff AM (Deputy Chair):** Could a minimum licence period be introduced to offer guardians more security? Effectively, it is kind of 28 days already, is it not?

**Jed Meers (York Law School, University of York):** Yes. It should always be 28 days. We do 32 days because what we are trying to do is, when we receive notice from a client, also make sure that it gets hand-delivered so that the guardians actually know. Sometimes we give longer notice periods if we are told upfront by a client, "In two months, the building is going to go back to being a flat", or whatever. You do know; you do get a sense from the client when they need their building back. Regardless of which company it is, the client will tell you, "We know it is going to be around this kind of time and so prepare your guardians", and so you can always give that information. In the licence agreement, there should be a minimum of 28 days.

**Andrew Boff AM (Deputy Chair):** Thank you very much. Lord Kennedy, you have submitted some suggestions about how the law could be changed. I wondered how you thought that property guardians could be protected from these summary evictions.

**Lord Kennedy of Southwark (Shadow Spokesperson (Communities and Local Government, Housing and Home Affairs) and Opposition Whip (Lords)):** This whole area really came to notice when we were in the Lords and we were discussing the Housing and Planning Act 2016. We were shocked then in the debates to see how little protection property guardians actually have. It may well be that we should be looking at things like what protections there are in the private rented sector now and what can easily be moved across, maybe through secondary legislation, to give further protections to people.

It would seem to me that there were, I am sure, very reputable companies working in this sector to do things properly, but, as we have heard in evidence and we have heard, people are just not doing what they should be doing. Three days' notice is totally unacceptable for anybody to be treated like that.

We should be looking to what is in the private sector now and what can be moved across very quickly in terms of secondary legislation possibly and also, equally, what local government can do. Many, of course, of these property guardian properties are actually local authority properties. Again, local authorities themselves should make sure that the companies they engage to do these services for them adhere to the highest standards.

I was pleased to see, of course, that there is a code of conduct now through Ad Hoc. That is progress in the right direction. We need to set a gold standard to raise everybody up and, certainly when the public gets involved, they should be leading the way on that.

**Andrew Boff AM (Deputy Chair):** Is this one of these situations where the legal powers are already there? We have heard that it is illegal to evict somebody under 28 days anyway. Is it just the case that that law is not being enforced or is additional legislation required?

**Lord Kennedy of Southwark (Shadow Spokesperson (Communities and Local Government, Housing and Home Affairs) and Opposition Whip (Lords)):** It may well be both. In some cases, the law may well be there and it is a question for authorities to enforce that, of course. However, what we all know is that authorities are under many pressures to deliver with reducing budgets and problems, but other legislation will not be there and will not have the protections. Certainly, we should be looking at what can quickly be in terms of secondary legislation. Things that put in protection are already there for the private sector and can be moved across because they can get through Parliament very quickly.

**Andrew Boff AM (Deputy Chair):** Do you have any specific ideas about what can be moved across or what particular measures might be introduced?

**Lord Kennedy of Southwark (Shadow Spokesperson (Communities and Local Government, Housing and Home Affairs) and Opposition Whip (Lords)):** We need some stuff around the basics, fit for human habitation, environmental standards. That is what we need to be moving across because people are living in these properties, living in substandard accommodation, where they do not have proper washing facilities and they are living in windowless rooms. It is just not good enough. We should be looking at some of the environmental protections, the things that the EHOs would be doing now in terms of the private sector. Look at those things and if they can be moved across very quickly.

**Andrew Boff AM (Deputy Chair):** Again, I am sorry I am going over the same area, but it seems to me that those protections are already there but not being enforced. If we just add another law, that is another law for local authorities to ignore, is it not, or another regulation for them to ignore? If they are not doing their jobs now, what makes you think they are going to do their jobs with even more regulation?

**Lord Kennedy of Southwark (Shadow Spokesperson (Communities and Local Government, Housing and Home Affairs) and Opposition Whip (Lords)):** What we need to do is see where they are already and not there already and if we were to increase that and then, equally, working with the Association, look to increase the protection or the gold standard, really. We have begun to see in the sector with Ad Hoc, which put forward suggestions about how it would treat the people in its properties and that is a start. It is not perfect because, of course, again, a lot of it talks about how we will treat you and stuff but we also need to have a bit about what your rights are so that the people in the properties are fully conversant on what their rights are and how they can enforce them themselves as well. That is not very clear on anything I have seen.

**Andrew Boff AM (Deputy Chair):** Thank you very much. Mr Woolgar, just to pick up on that, do you think additional regulation in this sector may be helpful for you?

**Stuart Woolgar (Representative of the BSIA Vacant Property Protection section, and Director of Global Guardians):** My opinion on it is that, as in the security industry as a whole, we have security guards and a long time ago they were under-regulated and got away with lots of different things. Then the Security Industry Authority (SIA) came in and regulated the whole industry and it has improved and everyone is making much more progress. If you had the same situation with the guardian model, if it is the gold standard that the BSIA then regulates the industry with assistance, then all of the things such as environmental health, protection from eviction and so on could then be monitored by the external body to make sure all the guardian companies are compliant. Once that agreement is in place, for anyone who is outside of it, the law can easily be enforced upon them.

What has happened is that a lot of the guardian companies, because they are not under that regulation, try to get away with things that they should not be getting away with such as substandard accommodation, breaking the law.

**Andrew Boff AM (Deputy Chair):** Forgive me. It is a point I am constantly misunderstanding here. The regulation is already there.

**Stuart Woolgar (Representative of the BSIA Vacant Property Protection section, and Director of Global Guardians):** Yes.

**Andrew Boff AM (Deputy Chair):** When they do not comply with the regulation, they are breaking the law. Is that correct?

**Stuart Woolgar (Representative of the BSIA Vacant Property Protection section, and Director of Global Guardians):** That is correct, yes.

**Andrew Boff AM (Deputy Chair):** Thank you.

**Tom Copley AM:** We have heard that local authorities make up a large proportion of some property guardian businesses. What are the positives and negatives in terms of a local authority using property guardians to protect property and what other options do you have?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** Primarily, from a local authority point of view, our role is to protect public-owned buildings from squatting and vandalism. With residential property, the law is very clear that it is illegal to squat into a residential property. If we know a residential property is empty, we will just board it up or steel it and then we will approach guardians and do it in a more timely manner.

When we know it is a commercial property - and we hold several properties that are in regeneration schemes and it takes time for the regeneration to happen, 18 months, sometimes two years - our ideal option is to let it out on a commercial tenancy where there is regularity of income. In certain conditions that cannot be done and so the alternative is that we approach well-established property guardian companies that we have worked with. We know their response rates. We know the level of standards that they have. They will always come and inspect a property and ask for a lot of certification. They ensure that the buildings are statutorily compliance because, from their point of view, they have a duty of care to their guardian. They do not do overcrowding.

On one property, we spent about £10,000. It was a school building earmarked for demolition in about two years. It was only about 10 or 15 years old and so it was quite a new building. Even there, we had new kitchens and we had energy-efficient lighting and so it was done. In some cases, because the only money that we make from these buildings is not for the council's pocket but is to cover the holding costs, we still have to pay business rates, we have to pay insurance, and that is where the money goes. It is a covering cost.

**Tom Copley AM:** Let us take your residential property first. Let us say you are going to be demolishing perhaps an estate as part of a regeneration scheme. Would you have property guardians in there or would you have people on assured shorthold tenancies, maybe on a six-month to a year basis?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** If we have properties in a residential estate and they are in good condition, then our first duty would be to put temporary housing in there because we have a lot of homeless people. That is a blanket response in our council. That is the first choice. Because we have the Lambeth Decent Homes Standard, if the flat is in not such a good condition and it does not meet the standards for homeless people, then we would look at guardian companies because they have a different set of standards. Then we would look at guardians.

We cannot do assured shorthold tenancies because local authorities are not legally allowed to do them.

**Tom Copley AM:** In terms of the different standards, it would be a much lower standard, of course, for people going in on a property guardian basis rather than if you were housing people temporarily in there?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** Yes, but different. For temporary housing, sometimes you have to put new cookers, new worktops or new wiring with all the certification. With the property guardians, they will come in and do the checks to make sure it is safe on health-and-safety grounds, but we would not have to rewire it or bring it up to 2017 standards, as long as it is legal.

**Tom Copley AM:** As long as it is not dangerous, essentially?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** That is right, yes.

**Tom Copley AM:** All right. In terms of your non-residential property - let us say a school, for example - what are from your perspective, the benefits of using property guardians rather than, say, trying to maybe bring it into use temporarily for community purposes or something like that?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** In some cases, we do bring it into use for community purposes. We let them out to community groups if it is for a short term, yes.

One difficulty we have had is that when we have let them out to community groups, sometimes it is for only six months and then they do not have anywhere else to go. Then we have to go and find somewhere to relocate them. What we have tended to do is use guardians, just mainly for three months, six months or nine months. In some cases - a school building, for example - the guardians have the classrooms, and then the hall and the bigger facilities we let for filming because they need just short-term places to do filming and then they are out again. Again, those sorts of costs help cover the building costs.

**Tom Copley AM:** There are organisations like The Hive in Dalston, which has taken over in this case a commercial property, not a council property. There is Theatre Delicatessen, for example, which has taken over a number of buildings around London while they are being developed. Are you open to those kinds of organisations if they want to come to you?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** We would consider them, but the buildings have to match their needs.

**Tom Copley AM:** Absolutely, but potentially?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** Yes.

**Tom Copley AM:** If I could turn to you now, Lord Kennedy, what are the benefits from property guardianship as you see them? Do you see benefits from property guardianship?

**Lord Kennedy of Southwark (Shadow Spokesperson (Communities and Local Government, Housing and Home Affairs) and Opposition Whip (Lords)):** Yes, there can be benefits. What I would like to see, of course, is that it is at a fair and proper standard. I can see the benefits if you have a property there and the property can be then looked after and protected. It can offer an alternative accommodation at a cheaper rent. I see all those benefits.

My worry, of course, with all these things is about the bottom end where things can be at risk and where things are not as safe as they should be and people are living in substandard accommodation. That is my

worry. I can see the benefits and I have no issue with that *per se* as it is. Clearly, it is becoming a much bigger issue in London, but my worry always is that it is just things being done on the cheap, really, and people being put in poor accommodation. That is the worry.

**Tom Copley AM:** Do you worry that part of the reason why there has been this growth is simply that some people see they have no choice and that, therefore, it is not people choosing to live in that way but it is essentially forced upon them because they might not necessarily be able to afford to live elsewhere? Or do you think that people actively do make a choice sometimes to do this?

**Lord Kennedy of Southwark (Shadow Spokesperson (Communities and Local Government, Housing and Home Affairs) and Opposition Whip (Lords)):** Some people make choice and that is absolutely fine. If they want to do that, absolutely fine. Maybe lots of young people want to do that.

However, other people may be forced into it. Rents now in London are astronomical. I live in Lewisham and I live in a very ordinary terraced street. I pay my mortgage. I could not afford to pay the rents people are charging to live in the same house a few doors down from me. Phenomenal rents people are paying. Some people could be forced into this. Again, as I said, it is always going to be at the bottom end of how people are treated.

**Tom Copley AM:** Thank you.

**Sian Berry AM (Chair):** We did the basics of the rights earlier on. Can I ask Stuart maybe to outline how the finances work on this? The guardians themselves are paying rent. They also have to pay council tax. There are questions about business rates and what happens when you convert a commercial property for people to live in it. Can you just outline where the money goes and how property guardian companies make a profit?

**Stuart Woolgar (Representative of the BSIA Vacant Property Protection section, and Director of Global Guardians):** Sure. It depends on the property guardian company and its agreement with the clients because they are all quite different.

Some property guardian companies will charge the client for the works needed to make the property habitable. If it is a derelict property, it will need bathing facilities, it will need cooking facilities, it will need places for people to sleep in, to utilise, etc. It might need a whole new fire alarm system and so on. All of the compliance works are sometimes chargeable by the guardians to the client who owns the property. Sometimes the client does it themselves. It all depends on the arrangement. That is for something that needs to take place to make the property habitable.

Then there are other costs such as making sure the water supply is safe and checked for legionella, making sure the asbestos is safe and secure and not disturbed; also, gas safety, electrical safety, fire safety. These are the compliance issues that need to be covered with costs.

On top of that, whilst they are managing the property, some guardian companies will charge the client a management fee to protect the building depending on the length of the contract, depending on what income comes from the guardians and so forth. Some of them choose not to charge a management fee. Some of the guardian companies will choose to pay the client a fee to look after the building as well, depending on what the arrangement is.

The business rates issue for commercial buildings can be mitigated depending upon where the guardians are placed. If the guardians are placed in, say, 80% of the building, then 80% of the building then gets reduced from the business rates from the Valuation Office Agency (VOA). What happens is the guardians living in the property are there to secure the property and so the primary use still stays as it was; ie an office, a school, etc. What changes is the ancillary use, which is what the guardians -- when they live in the property, in order to protect it, they have to live there and so they have to have a residential part to live in, basically. That becomes the ancillary use and that gets then charged with council tax. Depending on the property and, again, the arrangement with the client, either the guardian company will pay the council tax or the client will pay it. It is all very different depending on the client and the arrangement.

Other things such as the building insurance still needs to be paid for by the property owner; obviously, insurance from the guardian companies, the guardians. Then the guardians themselves, depending again on the scheme, either pay their own contents insurance or they choose not to. Then the guardians will pay the property guardian company a licence fee to live in the property as well. Some guardian companies charge for administration fees. Some charge for Disclosure and Barring Service (DBS) checks and credit checks; also, fire safety packs are charged as well. Some guardian companies charge a deposit for the living space and it is returnable upon the guardian leaving the property but, again, a lot of arrangements at the moment are quite ad hoc, I suppose. It depends upon the arrangement with the client and the guardian company, but they are the main things.

Also, waste disposal as well: the cost of paying for the waste on a commercial unit normally comes to the guardian company or the client or, if there is council tax payable, then it is provided by the council.

**Sian Berry AM (Chair):** Thank you for that. That was comprehensive. Just to be clear, though, the rent that the guardians pay mainly goes to the guardian company? It covers costs but also provides the profits?

**Stuart Woolgar (Representative of the BSIA Vacant Property Protection section, and Director of Global Guardians):** Yes.

**Sian Berry AM (Chair):** It does not usually get paid to the building owner?

**Stuart Woolgar (Representative of the BSIA Vacant Property Protection section, and Director of Global Guardians):** No.

**Sian Berry AM (Chair):** No. That is right, is it not? Can I move to Rubina now? From a local authority's point of view, you gain by getting council tax for properties that are not empty. Is that right? You get more council tax for a lived-in property?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** We get council tax for properties that are straightforward residential. With the properties that are commercial like schools or depots that they are in, there has been a problem for the past year because the VOA has not been changing them. There is a case to appear in the High Court because the VOA has challenged changing a commercial property for residential use. At the moment, we still have to pay business rates for the building. That is basically what is happening.

**Sian Berry AM (Chair):** A normal building owner would still be paying business rates, even if they filled it with property guardians?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** Yes, for the past year.

**Sian Berry AM (Chair):** It is not a way out of business rates, essentially?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** No, we still have to pay it. That is it, yes. We are not getting the rating savings that we would have liked to have had. Once it is has been sorted in the High Court and we have made all the appeals, it will then be backdated respectively, but in the interim period we still have to fork it out.

**Sian Berry AM (Chair):** In terms of the licence fees, I have done some research on this asking various local authorities, but in general and in your local authority, the council does not receive those? The kind of contract you have is nil cost and nil payment back?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** Yes. We have a contract with the property guardian and, in most of the cases, they will normally say, "Whatever the costs of conversion to make it to the standard that you want, you take it from the income" - this is for the larger buildings - "and then, whatever is left, we split the balance". The main thing is to cover the costs and then we split whatever income is there. That is in the commercial ones.

In the residential ones, again, sometimes we have to pay for showers to be installed if there are not enough and then we get a set fee, but the guardians have to pick up their own electricity bills and their own utility bills. In the commercial ones, again, that is all part of the cost, the utility bills. It does vary but generally, with residential, we do get money from it.

**Sian Berry AM (Chair):** Thank you very much. Finally, to Stuart, you mentioned administration fees. Would they come under the letting fees ban and would you be able to no longer charge those? Do you know?

**Stuart Woolgar (Representative of the BSIA Vacant Property Protection section, and Director of Global Guardians):** Yes, it is similar to that. I have been in the guardian industry for 12 or 13 years now and so I remember from the start and it was originally for the processing of the documents, similar to a letting agent, I suppose. In the industry, I have seen figures from between £70 for that up to about £150. That is what I have seen.

**Sian Berry AM (Chair):** That sounds quite similar to the letting agent industry. I would be interested to know if it did come under that. Maybe we need to find out.

**Professor Caroline Hunter (York Law School, University of York):** I think they have to be tenancies to be in the legislation and so, if they are licences, then they will not. It is the same with the deposits, which do not fit under the legislation if they are licences.

**Sian Berry AM (Chair):** There is no protection for the deposits that the property guardians pay, either?

**Professor Caroline Hunter (York Law School, University of York):** If they are not tenancies, yes.

**Sian Berry AM (Chair):** Again, that is useful to know. Thank you very much.

**Jed Meers (York Law School, University of York):** They don't have to provide protection. That is probably the distinction, yes. Some may do.



**Sian Berry AM (Chair):** Thank you very much.

**Tony Devenish AM:** Jon, starting with you, please, how are EHOs dealing with the properties occupied by guardians and what are your common concerns?

**Jon Castine (Environmental Health Officer, Westminster City Council):** We use the main legislation, which is the Housing Act 2004, which identifies a number of potential hazards that can exist in a dwelling. The common issue that comes up is often the occupation of a property by guardian companies pulls it into the house in multiple occupation (HMO) licensing regime of the Housing Act 2004, which places a duty that we are required to inspect and assess those hazards that can exist in the dwelling.

The most common problem I have is the lack of any proactive interaction with the companies. It is a case of being found rather than coming forward and telling us that they are making that occupation. Then there is the issue about who is the person that is in control, who is managing and who is responsible. They are the common problems that we come across.

**Tony Devenish AM:** In terms of resources, do you have the capacity to check the properties protected by guardians?

**Jon Castine (Environmental Health Officer, Westminster City Council):** We are under a legal duty to do so and so that is what we do. In terms of resources, that is really beyond my ability to comment. We have a legal requirement to do it and certainly in the local authority that I work for, we do those inspections, yes.

**Tony Devenish AM:** Great, thank you. Can I also ask Caroline and Jed [Meers] to comment on that, please?

**Professor Caroline Hunter (York Law School, University of York):** We would agree that the 2004 Act applies. There are some issues about some firms that think it does not and might say to local authorities, "It does not apply", but it does. There is an issue about who is the person in control, which is not quite so simple; put it that way. Is it the guardian company? Is it the landlord? Who do you then have to take action against if they are not working within the law?

**Jon Castine (Environmental Health Officer, Westminster City Council):** I have always adopted taking action on the guardian company as the person because they take the rent and they provide the access to them. They are the people who are putting the individuals into the property and they are collecting the rent and, therefore, in my opinion, they would be the persons. When I have taken enforcement action, that is on whom I serve notice.

**Tony Devenish AM:** I am going to move on to ask: do you have any evidence and concerns generally that guardians are not reporting issues to their local EHOs?

**Jon Castine (Environmental Health Officer, Westminster City Council):** Yes, as I said before, the underlying issue I have is that the two properties I have dealt with have both been. They have not approached us as a company and said, "We are taking control of this building. Do you want to work with us and make sure it is up to standard and complies with the relevant legislation?" That is the biggest issue for myself and, from second-hand information from other colleagues, it is common across London.

**Tony Devenish AM:** Do you think guardians themselves know that they can report?

**Jon Castine (Environmental Health Officer, Westminster City Council):** From my dealings with the two properties, the first one I had very few issues from the guardians themselves and the second property it came about as a concern from the guardian who contacted us and it became evident that it was being occupied in that way.

**Tony Devenish AM:** Thank you.

**Sian Berry AM (Chair):** Can I ask you to go into more detail about the kinds of problems that you find when they are reported to you?

**Jon Castine (Environmental Health Officer, Westminster City Council):** Yes, sure. From personal experience, I have dealt with only two properties. The first one was very straightforward and was fine. It made perfect sense. It was a large HMO that was owned by a registered social landlord. They were going to redevelop it into residential accommodation and there was a long period of time between them emptying it and then permission being granted. A guardian company was employed to use the building and that was no problem at all. It was purpose-built. It had adequate fire and heating. It was warm. It made very good sense to occupy it in that manner and we had very few problems there at all.

The second property was an office block and that has been slightly more problematic. The problem with the Housing Act is that the underlying principle is that it should be free from unnecessary and avoidable hazards - essentially, safe - but an office building, as long as it is warm and dry and has the relevant standards, gas safety certification, fire standards, etc, can be made to work. You are trying to fit a round peg into a square hole because the Housing Act was generated essentially for residential use of residential properties and not commercial.

There are other issues regarding planning consent. Even if it is being used for a very short period, it is becoming a residential building, in my opinion. It is not being used as an office block or whatever its use was. It goes back to the argument about the case that was mentioned earlier. It is a spade and it has four prongs, it is a fork. It is a fork; it is not a spade.

The main problem I encountered was when a basement in an office block was being used for sleeping accommodation, which we resolved by serving a prohibition order saying that the basement could not be used for sleeping accommodation.

**Sian Berry AM (Chair):** And that is just against the law; that is unsafe.

**Jon Castine (Environmental Health Officer, Westminster City Council):** It is just that there are no windows. Even prison cells have windows.

**Sian Berry AM:** You have not taken action very often, then?

**Jon Castine (Environmental Health Officer, Westminster City Council):** No, I have only had to deal with -- both of those properties fitted the regime by licensing and so they required a HMO licence. They fitted the mandatory criteria. They were over three storeys, they had more than five occupants and more than two households and they shared amenities. Therefore, they fell under the regime. On both occasions, it took some discussion with the guardian companies, but they both did licence.

**Sian Berry AM (Chair):** What about maintaining standards in places that you recognise do not need a licence?

**Jon Castine (Environmental Health Officer, Westminster City Council):** No, it does not matter. The standards still apply. The HMO mandatory licence is there where the criteria are met, but the legislation applies to all residential accommodation. Even if a guardian company occupied it with just one or two individuals, it is still required under the Housing Act 2004 to meet those standards.

**Sian Berry AM (Chair):** Thank you. If these are temporarily in short-term occupations, does the turnover present a challenge to you in identifying and then the timescale to take action?

**Jon Castine (Environmental Health Officer, Westminster City Council):** Yes. Like I said, inevitably, these buildings tend to fall under the HMO licence regime and you can apply for a temporary exemption notice under the legislation, but that notice is not there to avoid licensing. It is where you can prove that there are circumstances that would justify the property not being licensed, such as bedsit accommodation that you have applied to turn into flats. If it is going to be only a few months, you might then take that into consideration. However, where people are actively putting in tenants to reside, you cannot apply that temporary exemption. Yes, it is challenging.

Also, it is very useful when guardians come to us and make us aware of the issues that they face because it is not something ...

The main concern I have with guardians is using the legislation where it was not really designed to fit, which is the use of non-residential dwellings. Then it becomes complicated because there is the issue of managing and the person in control and then, as Stuart [Woolgar] has previously identified, the contract that that guardian company has with the building owner that we are not aware of. It may well be that the building owner is providing the essential services. If that is the case, the issue there is: would it be better if the contract was better constructed so that the building could be made up to standard? Ideally, if we are going to go from a gold standard, should the building not be prepared up to the relevant legislative standards prior to occupation? That is where it is a case of coming to us and the lack of proactive activity from guardian companies.

**Andrew Boff AM (Deputy Chair):** Just very quickly, on having suspicions that a building is being occupied perhaps by property guardians, do you have power to enter?

**Jon Castine (Environmental Health Officer, Westminster City Council):** Yes, if we suspect it of being an unlicensed HMO, we can go in without the landlord's consent. If we are doing an appointment for an inspection, we would normally give 24 hours' notice. If we suspect it is unlicensed, yes.

**Andrew Boff AM (Deputy Chair):** Does that apply whether or not it is a commercial property or a residential property?

**Jon Castine (Environmental Health Officer, Westminster City Council):** If we believe a building meets the managing criteria for HMO licensing, then we would be justified in arguing that we could go in, yes, irrelevant of its purpose.

**Andrew Boff AM (Deputy Chair):** Thank you very much.

**David Kurten AM:** I will start with Rubina, if I can, about the London Borough of Lambeth and what you do. How do you ensure that your guardian companies comply with minimum standards?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** Normally what happens is they inspect a building and often they ask for things like the electricity certificate, gas certificate, any legionella. If a building has already been occupied, like I said - I do not know; if it is a day centre and is already functioning - we will have all of those documentations and then we try to do a straight handover so that there is no void period.

Often in the agreement the buildings are inspected every two weeks or sometimes any month. Any problems like roof leaks, they are on the phone to us straight away. They have the power to spend up to £500 straight away for anything quick like an emergency, a leak or whatever. Therefore, there is a very strong working relationship between us and the guardian company. Any defects either we will get repairs or they will get repaired because, being a council, we have a model of responsibility to make sure that whoever is in our properties is safe. There are also regular fire drills and fire alarm testing to make sure that things are carried out.

There is a visitors' book sometimes and so anybody who is not a guardian -- if I have to go around there, I have to sign in the book. Often, we have to tell them a day or so beforehand, "We want access to the building", and so it is all booked and it is all programmed.

**David Kurten AM:** Obviously, you have very good practice as the borough but if things do go wrong, do you make information available to guardians on ways they can report any concerns; for example, on your website or any other way?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** The contract is between us and the guardian company. We do not have any direct contact with the guardians. We do not enter into dialogue with the live-in guardians.

**David Kurten AM:** The issue may be, if the guardians themselves experience a problem, how do they know where to report things? Does that rely on the guardian company to inform the guardians?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** Yes, the guardians will have to speak to the guardian company and then the guardian company will then come back to us. From the guardian's point of view, if the company is not performing in the way the guardian would then like it to do, then the guardian has to consider all their options.

**David Kurten AM:** Yes. Do the guardians know when they go into the property that it is a London Borough of Lambeth property or would they not know that?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** Most of our guardians know it is a council building.

**David Kurten AM:** Is there any information on your website so that if guardians do have any issues - as a wider thing within the borough - that there is someone they can contact and talk to?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** No, the only information on our council website is when we do Freedom of Information (FOI) queries and we put on there how many

properties are occupied by guardians and what the total income received is. We cannot put addresses down because that is confidential. Then we put a list of which guardian companies we use and we have a duty to report that, but there is nothing on our website saying to guardians, "Ring us if the tap is leaking", or something. There is no contract between us and the live-in guardians. They are there purely as licensees of the guardian company.

**David Kurten AM:** Yes. I know that you are saying you have good practice and you check all the electricity, gas, safety, fire testing and everything, but is that something that you might consider, just having a section on your website to say, "If you are a property guardian and there are problems, just as a general thing, contact this person", or, "Contact that person", or, "These are your rights"?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** I would have to take legal advice on that.

**David Kurten AM:** Yes, thanks. The Housing and Planning Act 2016 includes a push to improve property conditions in the private rented sector. How can we make sure guardians are also protected by these improved standards?

**Lord Kennedy of Southwark (Shadow Spokesperson (Communities and Local Government, Housing and Home Affairs) and Opposition Whip (Lords)):** It will be a question of ensuring: does the law actually cover them? If it does, it is a question then of us working with local authorities to ensure that they are enforcing the legislation. In terms of where property guardians are based, I suspect it is a bigger issue in London than elsewhere, but many think of course that it will start appearing elsewhere in the country as well, I am sure.

It is a question of, as you have heard, ensuring that the local authorities are doing the enforcement work and also ensuring that the guardians themselves understand their rights. A lot of the websites I have looked at in terms of property companies talk about, "You can have exciting living here. This is great. It is all new", and stuff, but there is very little that says, "Also, your rights are this. You can expect these minimum standards from us and, if it is not the case, you can go here for some redress". It is ensuring that people are properly informed. The legislation may well be there and the guidance is there, but people often do not know what their rights are. It is ensuring that through various means people understand what their rights are and what their protections are and they know where to go to get those enforced.

**David Kurten AM:** Are they covered by the Housing and Planning Act or not? Are property guardians covered by the protections in that law or are they not?

**Lord Kennedy of Southwark (Shadow Spokesperson (Communities and Local Government, Housing and Home Affairs) and Opposition Whip (Lords)):** They are not covered in that Act in particular, but they are covered particularly in terms of more general housing.

**David Kurten AM:** Yes. There was something interesting that you said earlier, Stuart. Sometimes the contracts have to stipulate that there is a 28-day notice period. One of the issues about guardians is that sometimes they are afraid to come forward if there are problems because, in the contract, there is sometimes a clause that says they are not allowed to talk to the press.

If there was a breach of the contract and the guardians were kicked out on three days' notice, would that nullify the whole contract and then allow people to go and contact and talk to the press or not?

**Stuart Woolgar (Representative of the BSIA Vacant Property Protection section, and Director of Global Guardians):** I think it would. I am trying to think. We do not stipulate that, but some of the companies do have that clause in there. As far as I know - I am not 100% sure on that - it applies to them purely whilst they are in the property. It goes back a long time to when it originally started.

It is not essential to any contract for that to be in a guardian company's licence. For instance, any guardian company can end the licence at any time for any reason. The property might not be going back; they just want that living space or whatever it is. In terms of that rule sticking after, it is not legally enforceable as far as I know.

**David Kurten AM:** It is not legally enforceable to say you are not allowed to talk about your experience?

**Stuart Woolgar (Representative of the BSIA Vacant Property Protection section, and Director of Global Guardians):** No. In my opinion, it does not make sense because, surely, you should be allowed to. If the guardian company is not performing, you should be allowed to find other recourse.

**David Kurten AM:** Jed [Meers] and Professor Hunter, do you have an opinion on that as legal experts?

**Professor Caroline Hunter (York Law School, University of York):** We would think they probably are not enforceable, but we do not really know that unless a case goes forward. It is really hard to know why they have been put in there. It is interesting that you do not have a view on why they are there, but they would be very difficult to enforce. That is all I can say at this point.

**David Kurten AM:** Thank you. All right.

**Sian Berry AM (Chair):** Can I ask one quick question about local authorities? Lord Kennedy might be the best person to ask about this. Is there a conflict with local authorities being the landlords and the enforcers? We have definitely heard that there is a large proportion. Particularly in London, local authorities are the ones using guardians. It just seems to me that there may be a conflict there.

**Lord Kennedy of Southwark (Shadow Spokesperson (Communities and Local Government, Housing and Home Affairs) and Opposition Whip (Lords)):** There may well be. The authorities should manage that in terms of ensuring that they champion best practice and that they engage in companies that are working at the highest levels here. Potentially, yes, if the authority owns a building, they engage a property guardian company, presumably, and then all of a sudden, they have the role potentially to enforce issues or problems there. They could have but they would take measures to ensure that that is not the case for them as an authority.

**Sian Berry AM (Chair):** Jon, you are the department who must be enforcing against. Does Westminster Council have properties that you have had terms about?

**Jon Castine (Environmental Health Officer, Westminster City Council):** Yes, we have. Yes, an office block is being used currently, although it is due to be vacated at the end of this week. Clearly, if the property was being directly managed and occupied by the local authority, we would have no enforcement powers because the building would be exempted under the legislation.

It comes back to the contract. As Lord Kennedy and Stuart [Woolgar] have said, a commercial property can be made perfectly usable for residential accommodation for a short period of time, but it has to come up to those standards. You cannot use the excuse that you have subsidised the cost of the security of the building by providing substandard accommodation. If you are going to provide accommodation, it must meet the relevant legislation.

**Sian Berry AM (Chair):** Thank you. That is interesting to think about. We have identified also a problem with knowledge about rights that property guardians have. Hopefully, this investigation and the report we will do will raise some awareness amongst property guardians.

Can I ask the researchers if that is an issue? Are you asking property guardians what awareness they have of their ability to complain?

**Jed Meers (York Law School, University of York):** Yes, that is a huge issue, not least also whether they read the licence agreements themselves because not everybody will read them cover-to-cover necessarily.

There is an issue about who to make complaints to. That came out in particular in our forum-based research. People were not sure - particularly in cases where the property was owned by a housing association or where there was a mix of other people in there; say council flats that are under development where some other tenants are still in other locations in the property and some are occupied by property guardians - about who to make complaints about repairs to. Do you contact the property owner or do you contact the property guardian company?

Yes, there is a lot of confusion because it is confusing and difficult to get advice on easily. When people have approached organisations like the Citizens Advice Bureau and others for advice, it has not always been as forthcoming because it is a complicated area. There are a lot of guardians advising each other and that sort of material going on, but it is a lot of knowledge about their own rights, knowledge about who to make complaints to in some circumstances. That has definitely come up in our small-scale work so far.

**Sian Berry AM (Chair):** Yes, it does seem to be the stage that we are at where property guardians are talking to each other and the problem is emerging. I can see how it is totally confusing if you are renting what was a council flat, your neighbours are tenants, you have a property guardian company and you want to complain to the council about the environmental health problems. What on earth goes on there?

**Andrew Boff AM (Deputy Chair):** Can I just ask? What case law is there? Is there much to inform us?

**Professor Caroline Hunter (York Law School, University of York):** There is very little on property guardians themselves. In fact, there is a case that went to the courts in Bristol about the licence/tenancy issue but only at the County Court level. For various reasons, it did not go any further. There is very little out there at the moment and so we are all saying, "We think it is this". There are some things that are quite clear, but there are other bits that are not clear. Unless it goes to the courts, we will not be clear.

**Andrew Boff AM (Deputy Chair):** This gagging clause, I should imagine, is illegal to have in a contract. It is not just that it is not enforceable, is it not? Can you have something in a contract that --

**Professor Caroline Hunter (York Law School, University of York):** On what basis? You can put in one, for example, for employment and it would be quite legal there and there are good reasons why you might have

one in employment. It is very unusual to have them in leases, for example, and so it seems very odd to have them in licences.

**Andrew Boff AM (Deputy Chair):** Thank you.

**Sian Berry AM (Chair):** Great. I want to ask Stuart now because I know you have been working on something called the British Standard Vacant Property Protection Services Code of Practice. Can you tell us more about this and how you think it might help to ensure minimum standards are met?

**Stuart Woolgar (Representative of the BSIA Vacant Property Protection section, and Director of Global Guardians):** Sure. We went with the BSIA back in 2015 because at the time there was definitely a problem with lots of guardian companies in the marketplace that were not adhering to any of the minimum standards, statutory standards, etc. As part of the Vacant Property Protection Group of the BSIA, I went with companies who did closed-circuit television (CCTV), boarding and lots of other vacant property protection services.

Within that standard as well, we then start talking about guardianship. It comes under a heading called "Protection by occupation", which relates to property guardianship. It outlines what a property guardian is. It outlines what type of arrangement the guardian should have with a guardian company's provider. It also outlines the kind of contract a property owner should have with a property guardian company. Within the contract, it has clear stipulations of who deals with, say, the maintenance issues. It should be clear in the contract. It should be clear what the minimum contract period should be and who deals with the statutory compliance. All the things that we have discussed should be in that contract, very clearly, between the property owner and the property guardian company.

On top of that, it then talks about it in terms of notice periods, in terms of monthly inspection reports or things that the client should be receiving, as well as the standards that the guardian should be receiving. There are things in there such as heating, hot water, the basic standards.

This was agreed upon by the BSIA as well and so it was not just guardian companies. It was external consultants, etc, who basically worked together with us to put the standard together. Then the standard itself has now gone through another part of it where we have the code of practice and then the guidance notes as well for people who look at it so that they can understand what it means. The whole thing itself has now been published and the next step would be to have a body to implement it for the guardian companies to adhere to.

**Sian Berry AM (Chair):** Sorry, I was distracted by some Committee business there. Can you tell us more about the association as well that you are putting together?

**Stuart Woolgar (Representative of the BSIA Vacant Property Protection section, and Director of Global Guardians):** Yes, the BSIA is an association and it consists of lots of different groups within the association. There are, for instance, CCTV groups, intruder alarm groups and so on, all about private security. The group is the Vacant Property Protection Group. It has also people with CCTV, boarding and so on at empty properties only. We all have discussions about the things that we need to implement for best practice on there. It is basically all about best practice for each of those services.

What we have been trying to do is to get more property guardian companies to get involved in it so that we can start working with the actual practice. I know that there is talk of an association with guardian companies to set their own one up and we have been part of that as well, but what I felt was that the standard is already



written and we just need to maybe expand upon it as we get more and more opinions on it. We would utilise the code of practice we already have and then the BSIA would help us implement it across all the members. Any member of the BSIA should then adhere to that standard.

**Sian Berry AM (Chair):** What proportion of property guardian companies do you already have in the association? It strikes me that there are quite a lot of start-ups and things that are not necessarily coming out of the security industry.

**Stuart Woolgar (Representative of the BSIA Vacant Property Protection section, and Director of Global Guardians):** Yes, it has been difficult. We do not have the majority at all. We probably have the minority at the moment who are part of it. We have put our feelers out to try to get other people engaged in it. I am not sure why people have not come to it but it is something we just want to get as many as possible involved in so that we can then roll it out properly and cover as much of the industry as we can.

**Sian Berry AM (Chair):** Will this do enough to ensure there are not any -- I do not know if the word 'cowboys' is right, but given the lack of law around this, there is nothing to prevent somebody coming in on the side, is there?

**Stuart Woolgar (Representative of the BSIA Vacant Property Protection section, and Director of Global Guardians):** There are ways. It is like the SIA itself. Now you cannot become a security company providing security guards unless you are SIA approved. If we could get it to that level for the BSIA and you could not become a property guardian company unless you were a member of the BSIA, then that would be very useful because then you can deal with the practice. The cowboy companies would not be able to exist. You would have the minimum standard there.

The problem I had with just the guardian companies doing it themselves is: how do we know that they are going to implement it? Companies within that property guardian association were breaking the law in terms of the notice periods. They were doing less notice periods and the minimum standards they were not adhering to. If you had a body such as the SIA or the BSIA to monitor the whole industry and regulate it, then anyone who wants to start a guardian company would have to adhere to this code of practice.

**Sian Berry AM (Chair):** The ones that are in the BSIA with you are signed up to the standard?

**Stuart Woolgar (Representative of the BSIA Vacant Property Protection section, and Director of Global Guardians):** Yes.

**Sian Berry AM (Chair):** Is that working? Are they adhering to the standard?

**Stuart Woolgar (Representative of the BSIA Vacant Property Protection section, and Director of Global Guardians):** As far as I know, yes.

**Sian Berry AM (Chair):** That is good. I want to move on to Lord Kennedy in a second but, first, can I ask Rubina to what extent local authorities might have a role in this by, say, insisting that they only employ people who work to this particular standard?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** Yes, we are open to it. We are very happy about this Global Guardians trading association that is starting up and that we are starting to see. We get approached all the time by guardian companies nearly every week, "We are a company. Can we

do this?" Sometimes they write to members and all the rest of it. Now we have started saying that we want to use guardians that are potential members of these associations.

You see, because we are such a large property-holding organisation, our needs are instant reactive in that sometimes we may need a building boarded up one day at a day's notice. A lot of these start-ups, even if they were on there, cannot meet our demanding and challenging needs that we have. We tend to go for ones that meet our requirements, can do instant boarding-up, can do response, can do CCTV and can get a building occupied very quickly. Not all of them can meet our needs.

However, yes, we are happy to work with recognised companies. We have no problem with that.

**Sian Berry AM (Chair):** Local authorities will tend to sign a long-term contract with one company to operate multiple buildings. Is that the way it has to work?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** One council - I think Camden Council - went out to tender, got all the companies to bid and then had one provider. We have not done that. We have four companies that we work with to give them all an equal opportunity to say, "This is the building". From our point of view, we have to look at costs, we have to look at income and we have to look at expenses. We have to look at them and say, "Which one will give us the best value?" It may be that we have one company to do all of the boarding-up on that building and another company may occupy it. We are always juggling between them and then, obviously, we do what is right for the council.

**Sian Berry AM (Chair):** That leaves Lambeth more flexible than other Councils, say, to things like the community to argue for a building not to be occupied but to be used in community meanwhile use and things. It is that kind of difference that it might make.

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** Yes.

**Sian Berry AM (Chair):** Lord Kennedy, can I ask you, from what Stuart [Woolgar] was saying, whether legislation is going to be needed in the end to really make sure best practice takes place?

**Lord Kennedy of Southwark (Shadow Spokesperson (Communities and Local Government, Housing and Home Affairs) and Opposition Whip (Lords)):** Possibly and hopefully not. Hopefully we can get to the point where people will join the BSIA and we, through peer pressure, get people to sign up to a code. One of the problems we have at the moment is actually getting legislation through Parliament. There is not much space and so we are going to have to look at what we can do outside that at the present time, but certainly getting companies signed up to the BSIA and working with them can be the way forward. I saw the Ad Hoc property company and their charter as well. Clearly, one end of this business is moving in the right direction. It is getting everybody going that way as well.

The one thing that is missing from all these things, of course, as I said before, is ensuring that the guardians themselves know their rights and also, if their rights are being infringed, how they can take action to enforce their rights. It was mentioned: will there be a redress scheme in terms of the organisations, the BSIA and things, so that, "If our members do not do this, you can come here for this redress". Those are things to have in place. It is, "These are your rights. If they are infringed, you can go here. This is the redress scheme", and those sorts of things. They, hopefully, can be done without legislation just by everybody working to uplift the standards in the industry.

**Sian Berry AM (Chair):** Stuart, is there redress within your current standard?

**Stuart Woolgar (Representative of the BSIA Vacant Property Protection section, and Director of Global Guardians):** No, not at the moment, but that is quite interesting because it is something that could be very useful. We spoke a lot about the guardians, the rights, etc, and it is something that as a company, we do look for that all the time. We give them multiple ways of contacting, complaining, etc. However, in terms of an external body, it is something that definitely could happen with the BSIA. We could implement that quite easily. If that were the case, then it would give them a lot more reassurance - if I am a guardian, I know exactly what I am doing - and we can direct them to the BSIA itself, almost like a code of what they are going to get, basically.

At the moment, a lot of the guardian companies will give them a licence agreement; they might have an interview with them; they might pretty much just give them the keys and get on with it. However, realistically, there needs to be something so that they know exactly what they are getting into, "I am going to be on a licence agreement. That means I do not have exclusive possession, etc. It means I do have 28 days' notice and, if that is broken, it is illegal". These kinds of things, if they are made clear from an external body as well, could be very useful.

There was something you said earlier about the local authorities. If it is a local authority-owned building and they are getting no assistance from the guardian company, there needs to be something to assist them on that. With some of the organisations we work with, they do have bits on their websites that you can go to on some of the boroughs, but it is not an industry-wide process at the moment. With the BSIA, you could have a redress arrangement.

**Sian Berry AM (Chair):** Thank you very much. We have discussed quite a lot what local authorities might do and what the Government might do in terms of legislation. We are the London Assembly and we scrutinise the Mayor's work and so is there anything from any of you that you think ought to be done at a Greater London Authority (GLA) level that the Mayor could do in terms of these standards and improving practice or improving publicity or anything like that?

**Lord Kennedy of Southwark (Shadow Spokesperson (Communities and Local Government, Housing and Home Affairs) and Opposition Whip (Lords)):** Certainly the GLA and the Mayor could look at the issue we have discussed today: how can you as a body or the Mayor take some of these issues forward? Many things will not need legislation and if you take a lead on those - and, again, I suspect in terms of property guardians that the vast majority are in London at the moment but I am sure they will be elsewhere as well - and if London and the Mayor and the Assembly are taking a lead and the companies are engaging in that, that best practice can move elsewhere in the country. There will be lots you could do in terms of setting standards up and working with the BSIA and local authorities to get these better standards in place.

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** Would you be able to - I do not know - look at the issue of squatting in commercial property and that sort of legislation? Often when a building becomes empty because they have even got a guardian in there, squatters go in there. They are very good at it. Then we have to go to court and it can take six weeks or two months. By the time we have it they have trashed it and then we have to spend a fortune cleaning it up to make it habitable. It has been done in the residential sector. Whether it can be looked at in the commercial sector, we do not know.

**Sian Berry AM (Chair):** In terms of support for local authorities or convening local authorities, these are things that the Mayor quite often does. Is there something that you would want to see?

**Rubina Nisar (Valuation and Strategic Assets, London Borough of Lambeth):** We are happy with the way it works at the moment. From our point of view all we want to be able to ensure is at the end of the period we get our building back so we can do that redevelopment.

**Nicky Gavron AM:** I am really sorry. Actually, I am really sorry. I had a previous speaking engagement and so I am very sorry not to have been here to hear the whole thing.

I am not sure whether you have covered this or not but I was interested in the people who are benefitting – this is residential – from living in these properties. How many of them can live in a property? Are there any rules about that? I know families cannot but these presumably will be single people.

**Jed Meers (York Law School, University of York):** The short answer is we do not know, to be honest. We have had just 60 responses to the survey already, so not a huge number. From what we have been looking at on a smaller initial study, of about 35 tenants or so, there is a huge range of people. We were thinking these are millennials and so on, which is generally how a lot of the media reports might write it up, but actually there is quite a range of people in there. They are not necessarily single. They might be in couples and live with their partner in the property as well. It is quite a range of people but we still do not really know how many necessarily, the split of properties these people are in or much of the demographics. However, it is more of a range of people than you might initially assume.

**Nicky Gavron AM:** I see. I was interested because, given the dire need for accommodation in London, it is an interesting way of giving people somewhere to live.

**Sian Berry AM (Chair):** Yes, and we have an enormous amount of research results coming through as well.

That is the end of what we would like to ask our current guests. If you would like to leave now you can. We have some more formal business to go through.

I want to ask the Committee a question as well. We have people in the audience who have been contacting us through email who would like to give us some evidence about their experiences. I know some of these people. They are people who worked in Meanwhile Spaces and community benefit types of things that Tom Copley [AM] was asking about earlier on. Would it be okay if we close the session with the current guests, let them leave and then have them down for just a few minutes because we do have plenty of time, if that is all right with you?

**All:** Agreed.

**Sian Berry AM (Chair):** Great. We will leave the webcast on and record what they say because I do not think it is evidence we really have yet.

**Andrew Boff AM (Deputy Chairman):** Just one thing, I am happy with that but it would have been nice to have had notice beforehand.

**Sian Berry AM (Chair):** Yes. We did not realise until they arrived in the audience halfway through the meeting that they were here, I am afraid. Not being aware of the agenda, they have asked to speak. Given that we have time, that is fair enough.

I would like to welcome, if you would like to come down to the floor, Pete Phoenix, who is a community worker and a housing campaigner. He is a trustee of a charity called Space Generators and has quite a lot of experience of working in Meanwhile Spaces and things like that, working in empty buildings and making community use out of them. We are obviously focusing our investigation on residents but one of the alternatives is community use.

Because this is an informal part of the meeting I am going to finish the formal part of the meeting now, if that is all right with the Committee. Can I ask the Committee to agree the recommendations and note the discussion that we had today?

**All:** Agreed.

**Sian Berry AM (Chair):** Looking at our work programme, we have the initial priorities for our work programme for 2017/18 in paragraphs 4.1 to 4.4 of our agenda, if you can agree those?

**All:** Agreed.

**Sian Berry AM (Chair):** Thank you very much. Our next meeting is 5 October 2017 at 3.30pm in Committee Room 5 in City Hall. This is 30 minutes later than on the agenda and so please note that. There is no other urgent evidence. I need to bang the gavel to close the formal part of the meeting. Can we keep the webcast on? Is that all right? Thank you. That is the end of the Committee.

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