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The ‘Affordable Alternative to Renting’: Property Guardians and Legal Dimensions of Housing Precariousness

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# I. INTRODUCTION

For those looking for a ‘new affordable alternative to renting’[[1]](#footnote-1) and something ‘more adventurous’ than what is provided by a local lettings agent, then maybe being a ‘Property Guardian’ is ‘truly the exciting and cheaper alternative.’[[2]](#footnote-2) A number of companies in the UK offer the opportunity to be a property guardian. These companies – which are principally property management firms – function by advertising spaces in otherwise vacant commercial or residential buildings, providing security to the owner (against, for instance, squatting or criminal damage) and ‘quirky homes for low rent’ for those with a ‘flexible lifestyle’.[[3]](#footnote-3) The (advertised)room prices are attractive, with ‘rents starting at £35 per week including bills’,[[4]](#footnote-4) and example offerings include spaces in former fire stations,[[5]](#footnote-5) museums,[[6]](#footnote-6) churches and pubs,[[7]](#footnote-7) in addition to otherwise unoccupied residential properties.

Heralded by its proponents as providing cheap accommodation for occupiers prepared to accept ‘flexibility’,[[8]](#footnote-8) an ‘exciting’ and ‘adventurous’ alternative, increasingly the phenomenon is receiving critical attention: guardians have been described as an ‘underclass of renters’[[9]](#footnote-9) and the companies themselves as participating in ‘the monetisation of the housing crisis.’[[10]](#footnote-10) The uncertain rights, obligations, and security, associated with a perceived ‘unsettled’ lifestyle of ‘generation rent’,[[11]](#footnote-11) has sufficient purchase in popular culture to form the focus of a UK sitcom – *Crashing* – based in a disused hospital inhabited by property guardians. When asked if they enjoy living under the scheme, one character sardonically responds: ‘You’re not allowed to have parties, cook meals, light candles, have sex, express emotion, claim any rights, argue if they want to throw you out with only two days’ notice, or smoke. It’s a riot.’[[12]](#footnote-12)

The growth in property guardians may be seen as ‘a form of unregulated, semi-formal housing in the context of the growing shift of many housing practices from marginal to mainstream.’[[13]](#footnote-13) The phenomenon appears paradigmatic of the ‘precarious home’ outlined in the introduction to this collection. In this chapter we use the example of property guardians to examine the legal determinants of housing precarity, mirroring the work of Nicola Kountouris on the legal determinants of precariousness in work relations.[[14]](#footnote-14) The ‘intersectionality of housing and labour markets’ has been repeatedly emphasised by Hoolachan et al[[15]](#footnote-15) and others,[[16]](#footnote-16) but a similar approach to precariousness has not been explored in the housing context. Although property guardians might be considered ‘untypical’[[17]](#footnote-17) in housing law terms, our argument is that by focusing on the legal elements of property guardians we can identify the determinants that contribute to rendering housing relations inherently precarious.

Furthermore, the example of property guardians and their legal determinants allows us to explore the role of the state in both enhancing and limiting housing precariousness. Our argument is that the state has an ambivalent response to housing precarity. Lorey argues for an understanding of ‘governmental precarization’; namely: ‘understanding precarization as *governmental* makes it possible to problematize the complex interactions between an instrument of governing and the modes of subjectivation, in their ambivalence between subjugation and self-empowerment.’ (emphasis added)[[18]](#footnote-18)

There is already evidence in the work of Ferreri et al[[19]](#footnote-19) of the ‘constitutively double-edged’[[20]](#footnote-20) nature of the precarity of property guardians, setting flexibility against insecurity, choice against dependence, and innovativeness against legal uncertainty in the views of property guardians. However, our focus is on the state itself. How do the organs of the state – national and local governments – respond to the phenomenon?

With this approach in mind, the chapter is divided into four further sections. The section II below provides an overview of the property guardian phenomenon and the current (limited) evidence base on its extent and composition. Section III sets out the legal determinants of housing precarity under five headings: immigration; tenure/time; control; cost; and conditions. Section IV focuses of the role of authorities as a particular organ of the state. The section draws on survey data collected from Local Authorities on complaints made about property guardian companies, any associated regulatory, or other forms, of action they have taken, and a small case-study of Bristol. In Section V conclusions are drawn.

# II. PROPERTY GUARDIANS: AN OVERVIEW

In order to provide some context for the analysis which follows, it is important to outline what is currently known about the extent and working practices of property guardian companies. This will be concise; there is a paucity of available evidence on the phenomenon. There are, however, three key issues worth outlining: (i) their business models, (ii) evidence on extent and geographical spread, and (iii) possible explanations for their increasing prominence.

Though increasingly encompassing a wider range of activity, the largest Property Guardian companies – most notably, Camelot Europe, Ad-Hoc, and Global Guardians – operate in a broadly similar fashion, adopting a model with its roots in The Netherlands.[[21]](#footnote-21) Taking Camelot as an archetype, there are two sources of income: ‘licence fees’ received from those living in the properties, and management fees charged to the owners of the property.[[22]](#footnote-22) These vary depending on the nature and condition of the property,[[23]](#footnote-23) and the potential for ‘licence fee’ income, with guardian fees described as between ‘£30–£70’ per week, and property management fees as between ‘£30–£80’ per week.[[24]](#footnote-24) According to Camelot Europe, the general principle is that ‘property guardians pay a quarter of the going rate’, while recognising that it is ‘difficult to say what the going rate is for a fire station, for instance.’[[25]](#footnote-25) Circumstantial evidence suggests, however, that rents have become far closer to market levels as property guardian companies have attained a higher profile with renters.[[26]](#footnote-26)

The proposition, therefore, is a win-win scenario for owners of otherwise empty properties and those looking for (generally, inner city) accommodation. The presence of guardians ‘discourages squatting and allows control over the premises without the need for security guarding costs’ and exempts the property from business rates,[[27]](#footnote-27) while those who ‘prefer to live centrally but cannot afford significant rents’[[28]](#footnote-28) have access to otherwise unavailable housing.

The growth of property guardians may be characterised as a response to two different phenomena. First in England there is a crisis of affordability of housing. This crisis is largely caused by a mismatch between demand and supply.[[29]](#footnote-29) While the economic crisis of 2008 had some short-lived impact on house prices, it has not significantly improved the position. Indeed the economic crash has exacerbated the fall in the relative share of households owning their home and the growth in private renting.[[30]](#footnote-30)

This is particularly true of ‘generation rent’ who are increasingly excluded from owner-occupation.[[31]](#footnote-31) As the number of first-time buyers has declined, so too has the proportion of those under 34 who are owner-occupiers. In 1991, 67 per cent of the 25 to 34 age group were homeowners. By 2015–16, this had declined to 38 per cent.[[32]](#footnote-32) This has forced many young people into the ever-expanding private rented market.[[33]](#footnote-33)

A very different issue is that of empty properties and this provides the second element to the context of the growth of property guardians. The empty properties may be residential or commercial. They may be awaiting sale, demolition or refurbishment, but for whatever reason the owner prefers or has no choice but to keep the property empty.

It seems that some of the demand for the service of property guardians comes from local authorities with empty blocks of flats, care homes and even offices. Freedom of Information requests have established that within 33 London-based local authorities in 2016, there were a total of 966 guardians living in 205 properties;[[34]](#footnote-34) notwithstanding the snapshot nature of the data, this suggests that the use of these companies by local councils is fairly widespread within the capital. Cuts to public services may have fuelled the use of these services.

So how widespread is the use of property guardians? There is no robust evidence available on total usage. Industry estimates suggest there are 25–30 property guardian companies in operation, with around 4,000 guardians currently in occupation.[[35]](#footnote-35)

The only other publically available source of data is the websites of the companies themselves. The authors operated a ‘web-scrape’ of advertised lettings information from the websites of the three largest property guardian companies operating in the UK – Ad-Hoc, Camelot Europe, and Global Guardians – in order to ascertain the numbers of rooms being advertised and their geographical location.[[36]](#footnote-36) Of the data, collected fortnightly between March and May 2015, we found a real-time average of 357 available rooms advertised across the three companies at any given time. The locations of these properties were than mapped to provide an indication of the geographical spread or any particular pattern. There was, perhaps unsurprisingly, a cluster of advertised properties within central London,[[37]](#footnote-37) then further clusters between Manchester and Liverpool (specifically the Warrington area), and in Birmingham. Importantly, there does not appear to be any association with the prevalence of empty properties within area (as ascertained through Council Tax and Business Rates Base Data), or – outside of the London context – rental prices.[[38]](#footnote-38)

# III. LEGAL DIMENSIONS OF PRECARIOUSNESS

Having provided a general overview of the property guardian phenomenon, this section now situates the practice within the legal dimensions of renting homes, particularly in the private rented sector. With this in mind, drawing on Kountouris’ analysis of work relations, we focus on the legal ‘dimensions and contexts’ of precariousness and how these are created and applied to different circumstances.[[39]](#footnote-39)

This has two key implications. First, it demonstrates the importance of not assessing the relative precariousness of atypical arrangements (in this case, property guardianship) with reference to those which are typical (such as assured shorthold tenancies[[40]](#footnote-40)). The inherent, and some would argue, increasing,[[41]](#footnote-41) precariousness of the latter negates their utility as a benchmark for comparison.[[42]](#footnote-42) Rather, by focusing on property guardians we can illuminate how other legal arrangements are also becoming more precarious. Likewise, the focus should not be on distinct categories or terms of reference (such as ‘illegal’ or ‘legal’), but instead on the ‘fact and degree of exclusion occasioned by legal distinctions’[[43]](#footnote-43) – in other words, the specific ‘legal determinants of precariousness’[[44]](#footnote-44) which arise in specific arrangements to compound precarity. Put simply, the focus here is on elements which can exacerbate precarity, not comparing precarious arrangements to even more precarious ones.

Our starting point is the idea of security; with a lack of security tending to greater precarity. Kemp[[45]](#footnote-45) has argued that housing tenures, such as the private rented, are a form of institution. Each tenure has a different make-up of security, depending on a number of factors including the nature of legislation/regulation and policy settings.[[46]](#footnote-46) Hulse and Milligan suggest that in rental tenures there is a distinction between *de jure*, *de facto* and perceptual security of tenure.[[47]](#footnote-47)

De jure security is embedded in property rights, the legal rules that enable owners to acquire, use and dispose of their property and lease arrangements over land/housing … De facto security refers to occupation and use of property such that, over time, occupiers may acquire greater security and the risks of eviction become less. Perceptual security refers to security as seen and experienced by occupiers; thus people may think that they may lose their housing/land whether or not this happens or is even threatened, or they may feel secure in their occupation even if they do not have legal rights that are enforceable.

Despite their separation of *de jure* and *de facto* security, in fact many of the *de facto* factors are also legal (others are market and public policy factors), so legal factors arise in both. In this chapter we have used Hulse and Milligan’s legal factors as the starting point for the legal determinants of housing precarity. They are: tenure/time; control; cost; and conditions. However, we have added immigration, which does not feature in Hulse and Milligan’s account. As in the labour market, one’s capacity to access rental housing in England is becoming more and more limited by immigration status.

Before turning to the determinants, there are two further points to make. The first of these is about the place of ‘legal uncertainty’. This is something more specific than the general uncertainty experienced in most situations or insecurity experienced as a ‘condition’ of precariousness.[[48]](#footnote-48) Instead, the suggestion here is that the uncertainty over one’s legal position – be it immigration status or the nature of their legal occupation of property – of both the individuals themselves and importantly those enforcing the law, can act to ‘compound’ precariousness.[[49]](#footnote-49) The problems associated with legal uncertainty as an aggravating factor in precarious arrangements has been considered elsewhere, particularly with reference to the status of migrants, where often the inability to define their legal status is ‘taken for granted’.[[50]](#footnote-50) Zou argues these uncertainties (for instance, the vacuities of work-related restrictions) are a specific way in which the law can aggravate their situation due to: the ‘enormous control’ it provides to those managing their employment, their associated inability to make long-term plans, and the uncertainty of conduct it generates, where individuals cannot be sure whether their actions or their situation is lawful or not.[[51]](#footnote-51) As will become apparent from the discussion below, this ‘legal uncertainty’ is prevalent within the specific case study of property guardians.

The second is ‘organisational precariousness’.[[52]](#footnote-52) It is argued here that this comprises two key ideas, which illustrate Hulse and Milligan’s perceptual security and how it interacts with legal determinants. First, that control and experiences of precariousness are compounded when there is particularly acute dependence; in other words, where an individual lacks the capacity to choose or negotiate their circumstances.[[53]](#footnote-53) This in turn can be compounded by legal arrangements, particularly with elasticity in obligations, with Kountouris suggesting that organisational precariousness emerges when:

a particular legal regime tends to lean more towards the *jus dispositivum* end of the spectrum rather than the *jus cogens* end of the spectrum … To put it in simpler terms, flexibility is not per se a determinant of organizational precariousness, as long as workers can exercise some degree of control over their flexible working lives, instead of being subject to their employers’ whim.[[54]](#footnote-54)

This dimension addresses important arguments about the ‘constitutively double-edged’ nature of precariousness, where *objectively* precarious arrangements may be *subjectively* valued by an individual due to, for instance, their flexibility.[[55]](#footnote-55) This is not necessarily problematic, indeed, the private rented sector, and other forms of housing which may be described as precariousness, can often offer flexibility and responsiveness not found in other tenures.It is important, however, to consider whether the individual is able to ‘exercise some degree of control’ over this flexibility, as opposed to it being mandated by the situation in which they find themselves.[[56]](#footnote-56) As suggested by Lorey, precariousness can engender ‘ambivalent productive moments, as they arise through techniques of self-government.’[[57]](#footnote-57) Otherwise, dependency demands long-term security and predictability, and precariousness provides short-term unpredictability; the two consequently struggle to reconcile and the latter is compounded.[[58]](#footnote-58)

## A. Immigration

Kountouris notes that:

[i]t is often ignored that one’s immigration status plays a crucial role in determining whether she will be in a position to enter a secure and rewarding work contract or relation, or instead will be confined at the margins of the labor market, in an inherently precarious, and often undeclared work, relation.[[59]](#footnote-59)

The same is true of the housing market. Access to ownership is tied to access to capital, leaving most immigrants to rented housing.

For over 20 years, access to social housing[[60]](#footnote-60) in England has been limited by immigration status.[[61]](#footnote-61) Despite the popular view, amounting to a moral panic, that immigrants have privileged access to social housing, the reality is the opposite.[[62]](#footnote-62) Rather the evidence is that ‘new immigrants and migrants are being revealed to encounter major problems accessing and maintaining accommodation and to be experiencing poor housing conditions, overcrowding and homelessness, as well as exploitation by landlords in the private rented sector.’[[63]](#footnote-63)

For the private rented sector, the Immigration Act 2014 required private landlords to police the immigration status of any new tenant. To have the ‘right to rent’ a person must have the requisite qualifying status.[[64]](#footnote-64) Further, an amendment of the Act in 2016 permits landlords to terminate an agreement if the occupiers are disqualified.[[65]](#footnote-65) The scheme was rolled out nationally in October 2016, so it is difficult to know the effect of the Act.[[66]](#footnote-66) However, one estate agent felt:[[67]](#footnote-67)

Some of the most vulnerable people in the private rented sector may be forced to turn to the black economy to find a place to live. Someone who is homeless, for instance, may not hold a passport or visa; and obtaining one may be difficult, not to say costly, for someone living on the streets or in temporary accommodation, so this policy could well bar many such people from ever getting back into secure, rented accommodation.

The broad application of the Immigration Act 2014 means that offering an agreement to a property guardian would be covered by the Act.[[68]](#footnote-68) In any case, despite the flexibility offered by property guardian firms, they are not flexible about who they take. The Camelot website stated that applicants must have ‘proof of income and … provide an employer and character reference.’[[69]](#footnote-69) This may limit the number of migrants who can apply. While out of London our survey of local authorities revealed one case where: ‘Some of the tenants were EU residents with poor English and they did not know they were “Guardians”.’ Ferreri et al’s work on property guardians indicates that in London the guardians were largely middle-class, university-educated, and often working in the creative industries.[[70]](#footnote-70)

Accordingly, it seems likely that property guardianship does not and will not provide for the hyper-precarious migrant described by Lewis et al.[[71]](#footnote-71) The stratified rights they note in immigration law may not be as inherent in housing, but can be seen developing. For migrants a further layer of hyper-precarious housing, below property guardianship, is documented by Environmental Health News.[[72]](#footnote-72) This documents the ‘letting’ of a disused fireplace showroom – similar to many of the buildings occupied by property guardians. When it was inspected by EHOs, they found 107 people living in just 32 rooms. The occupiers, largely Romanian migrants working on farms, were sharing three kitchens, six toilets and six showers. Their housing status is not recorded, but the response of the local authority was to close the premises under the Housing Act 2004, making the occupants homeless.

## B. Tenure/Time

For Hulse and Milligan the length of a rental contract and its termination arrangements make up the *de jure* elements of security.[[73]](#footnote-73) In English law it can be seen to be made up of a number of elements which when aggregated may lead to greater or lesser security for the occupier. At its simplest and providing least protection, some legal security may simply prevent eviction except in accordance with the contractual (or common law) requirements as to notice and termination of the tenancy. One step up from this, the law may impose a minimum period of notice which is longer than the contractual one. It may impose a requirement that a court order is obtained prior to any eviction. Thus, as in employment,[[74]](#footnote-74) there is a strong temporal element in any relationship between an occupier and land owner.

Greater levels of security move beyond the contractual agreement between the landlord and tenant and limit the *basis* on which the landlord can evict the tenant. In these circumstances, notwithstanding that the contractual period of the tenancy may have come to an end or the contract makes a different provision, the landlord can only get permission to evict from the court on limited grounds. These may include fault on the part of the tenant (eg rent arrears or damage to the property) or need on the part of the landlord (eg to live in the property to redevelop it). Such security has usually been accompanied by rent control in order to prevent landlords simply pricing tenants out of properties.

These different levels can be mapped against the current legal provision for private tenants, but before doing so it is worth understanding how the current legal settlement contrasts with that which preceded it. The current legal position was largely established in 1988, when the then Conservative government passed the Housing Act 1988 and effectively deregulated the previous system which had offered a high degree of security to tenants. The pre-1988 position, which had existed from the mid-1960s, included rent control and quite severely limited grounds on which possession could be obtained (Rent Act 1977). Indeed in 1982, Honore concluded that the Rent Act 1977 provided ‘those who could not afford to buy their homes with a substitute for home ownership, a right to remain in occupation for at least a lifetime and often more.’[[75]](#footnote-75) This can be seen as the high-water mark of rights for private rented tenants.

One of the limitations of the Rent Act was the large number of exemptions, which had encouraged the use of agreements which fell outside the Act, as landlords attempted to circumvent the rent and security rules. Principal amongst these was the licence agreement. English landlord and tenant law has always differentiated between tenancies (which create an interest in land) and licences which are purely contractual. The Rent Act only applied to tenancies and not to licences. This led to a series of court cases where the boundaries between a tenancy and a licence were established by the courts. This culminated in two House of Lords decisions in the mid- and late-1980s: *Street v Mountford*[[76]](#footnote-76) and *AG Securities v Vaughan; Antoniades v Villiers*.[[77]](#footnote-77) The cases sought to subordinate the actual documents to the legal question, ie whether the three elements of a tenancy – exclusive possession, payment and term – were evidenced by the facts on the ground.[[78]](#footnote-78)

The Housing Act 1988 essentially removed the need for landlords to use devices such as the licence as rents were set by the market, and the length of the tenancy, subject to a minimum six-month period, was a matter for agreement. However, the requirement of property guardianship is such that even this limited security is too great. In order to ensure the property owner can take back the property without complications guardian companies have sought to use licences, for their greater flexibility.

The Ad-hoc website is typical:

Ad Hoc operates through licence agreements between it and our ‘Property Guardians’. This means that Property Guardians do not have the same rights as tenants. You are required to give us 14 days’ notice to terminate your contact. Ad Hoc will provide you with 28 days’ notice if we need to terminate your contract.[[79]](#footnote-79)

Thus they clearly are drawing on the position established in *AG Securities v Vaughan; Antoniades v Villiers*. The importance of this is shown in the Camelot website, which boasts:[[80]](#footnote-80)

The main condition for guaranteeing the flexibility of the Property Guardian concept is to make sure that the legal agreement between the client, Camelot and the Guardian is watertight. The proxies and license are updated continuously by lawyers specialising in property law.[[81]](#footnote-81)

Furthermore they (or their bailiffs) use the case law to underline their rights against occupiers when giving notice to leave the property:[[82]](#footnote-82)

We would bring to your attention the case of Street v Mountford. Whilst it is arguable that exclusive possession could be found, if in the absence of a fixed term of the agreement would fail to satisfy the ‘tenancy test’. Alternatively please see in Gray v Taylor [1998] 1 WLR 1093.

… This right under Common Law is set out in Halsbury’s Laws of England (Volume 97 (2010) 5th Edition).

There is a paradox here. Legally the licence limits the certainty of the guardian in terms of the right to remain in the property. But the legal terrain is not that ‘watertight’; it is difficult to be so confident about the lease/licence distinction as every case will turn on its facts and the application of the law to them by a judge. In order to preserve the uncertainty for the occupier the property guardian companies sell guaranteed flexibility through creating legal certainty in their websites and documents. This limits the chances of the occupier challenging the agreement.

However, this certainty is a chimera, as was demonstrated in the County Court decision of *Camelot Property Management Ltd v Roynon*,[[83]](#footnote-83)where the judge found the ‘licence agreement’ in fact created an assured shorthold tenancy. Nonetheless, property guardian firms continue to use licences and the guardians continue to be in a position of uncertainty.

## C. Control

The licence/tenancy distinction is an important determinant of the rights of the occupier. As summarised by Arden et al,

there can be no tenancy unless the occupier takes possession of the premises in question, and that possession is exclusive … [W]hat it means is that the tenant has the right to exclude all others from the premises, including the landlord.[[84]](#footnote-84)

The use of a licence allows for a greater organisational control over the property and occupier than would be the case if a tenancy were offered.

Most guardian firms impose additional limitations about conduct and can be far more intrusive in terms of monitoring behaviour (one aspect that indicates these are genuine licences). In 2015 the Camelot website noted that they carry out unannounced monthly inspections; further ‘Guardians are only allowed two guests each at any one time, and cannot under any circumstances hold a party in the property.’[[85]](#footnote-85) This sort of limitation seems normal for guardians, as Barbara Speed writes:[[86]](#footnote-86)

Even if you make it past the checks, there are a fair few rules to contend with. No pets, no parties, no smoking, no candles … Oh, and you can’t leave the property for more than 24 hours without explicit permission. Most agencies also carry out unannounced inspections at least once a month. Until recently, several also had clauses in their contracts forbidding guardians to speak to the press; as far as we can tell, this is no longer the case.

The rules highlight the big catch with property guardianship: even its strongest advocate would admit that the exchange is, essentially, reduced rents (sorry, we mean fees) for reduced rights.

Rules are enforced through unannounced inspections, warning cards, threatening e-mails and fines.[[87]](#footnote-87) For one of the property guardians interviewed by Ferreri et al, this created an ‘aura of fear where you always have to be afraid that they are going to get you, somehow, that you are going to do something that is prohibited by the licence agreement’ (Piero).

For Guy Standing[[88]](#footnote-88) the ‘precariat lives with anxiety – chronic insecurity associated … with teetering on the edge, knowing that one mistake or one piece of bad luck could tip the balance between modest dignity and being a bag lady…’ The legal control in the agreements for property guardians indicates how housing precarity adds to this anxiety.

## D. Costs

In employment ‘income precariousness’ is a

multidimensional legal determinant that strikes, in many ways, at the heart of the problem of precarious work. A person’s working life can easily be affected by all other legal determinants of precariousness, but the availability of a steady and decent income can still allow that person to live a fulfilling and dignified existence.[[89]](#footnote-89)

One form of legal protection for employees is the minimum wage. Similarly rent control has in the past played a role providing protection of private tenants, in terms of protecting their standard of life. As noted above, that protection ended in the Housing Act 1988.

One of the attractions of property guardianship is the lower cost. Accordingly, it might be seen as helping to provide more affordable housing. However, there are elements that illustrate that costs of housing are not just about the rent. For example, guardians are generally asked to pay a deposit of at least £350 (£600 in London). This deposit is said to be refundable, but it is not clear from the website of property guardian companies in what circumstances it might not be. Given that the scheme operates outside the usual legal provision of an assured shorthold tenancy, there is no suggestion that it will be protected through the tenancy deposit legislation[[90]](#footnote-90) and there is some anecdotal evidence of problems. Further, other fees are levied: for example a relocation fee to move into new property[[91]](#footnote-91) and for a fire pack and administration fee to move in.[[92]](#footnote-92) Although it may seem a form of housing with less ‘income precariousness’[[93]](#footnote-93) than the high cost of the private rented market, some of that is hidden in the lack of legal rights.

## E. Conditions

The final element of the legal determinants is control of property standards. This takes a number of legal forms in England. Some are rights given directly to the occupier. The most important example of this is the Landlord and Tenant Act 1985, section 11 which implies a term into all short-term tenancy agreements that the landlord is responsible repairs to the structure, exterior and utilities serving a property. It is a feature of this legislation that it applies to tenancies and not to licences, as with tenure, taking guardians out of the certain legal framework.

Residential property standards are also enforced by local authorities. Authorities are given a range of powers in the Housing Act 2004. In relation to the Housing Act 2004 (‘the 2004 Act’) two key Parts may potentially come into play: first Part 1, which contains the provisions relating to housing standards; and secondly Part 2, which relates to the licensing of houses in multiple occupation (‘HMOs’). As Burridge and Ormandy[[94]](#footnote-94) show, each Part has a separate history. Part 1 was a deliberate move from early methods of regulating ‘unfit’ housing to a risk-based approach. On the other hand, the regulation of HMOs continues to follow the ‘traditional model’ of specifying standards.

Part 1 applies to ‘residential premises’.[[95]](#footnote-95) Taking the definition it seems likely that any building occupied by guardians will fall within it.[[96]](#footnote-96) If this is so then, under Part 1 local authorities will have powers and in some cases the duty to take action if the premises are hazardous. There are 29 different hazards identified by the 2004 Act and the relevant regulations, including, damp and mould, excess cold, lack of adequate facilities for food preparation, inadequate provision of facilities to maintain good personal hygiene. If deemed hazardous because of their poor state of repair, the authority could serve a prohibition order[[97]](#footnote-97) preventing any occupation and thus defeating the whole point of the guardianship.

It is also likely that the management company will be the person having control for the purposes of Part 2, depending on the nature of the licence agreement with the property owner. The obligations in Part 2 will come into play if the premises are of three or more storeys and contain five or more guardians.[[98]](#footnote-98) It will also come into play if the local authority has designated an area in which other houses in multiple occupation require licensing. In either case, certain mandatory conditions will apply as to gas, electrical and smoke safety, and local authorities may also require facilities such as bathrooms and completion of repairs before a property is licensed. Given these requirements, what do the guardian firms say about conditions in their buildings? Guardians of London[[99]](#footnote-99) states in answer to the question: ‘What condition does a property need to be in to qualify for temporary protection?’

General property requirements are:

* The property is wind and water tight.
* The property is not vandalised or derelict.
* Basic facilities are in place; electricity and water.

For a small start-up fee we frequently install basic wheel-in, wheel-out shower pod units, which mean we can provide temporary washing facilities – these washing facilities have been approved by English Heritage. The guardians provide their own kitchen equipment including microwaves and portable kitchen hobs that are no greater than 13 amps for fire safety reasons.

There is no mention of the property meeting the standards laid down in the Housing Act 2004. The Guardians of London FAQ’s for property owner continues:

Q. It’s too derelict, it’s not suitable?

Ideally, the property needs to be water tight and wind tight but we can recommend accredited maintenance teams who can very easily and economically bring a property to the minimum H&S and environmental requirements in order for it to be habitable.

Our guardians are very flexible and you’ll be surprised at how little is required to enable guardians to move in.

Nor is their reference to ‘minimum … requirements’ a reference to the standards required for HMOs. In order for an HMO to be licensed there will usually be a requirement of a minimum provision of cooking and bathroom facilities as well as stringent fire safety requirements. There is a reference to fire safety particularly by reference to the fact that ‘Unlike other Guardian companies, we include a full property H&S and Fire Risk Assessment.’ It is not clear how extensive this is, as there is also reference to minimum habitable standards, above.

Without extensive inspection of properties offered it is difficult to know what standards are usually met in guardian properties. However, it seems safe to conclude that they are likely to be at the lower end of compliance and, as will be discussed below, there is some evidence that local authorities find that there is a failure to meet standards set out in the Housing Act 2004.

# IV. THE LOCAL AUTHORITY RESPONSE

In this penultimate section we consider the response to property guardians by the state, in particular local authorities. As set out above, they have duties and powers in terms of housing standards. At the same time there is evidence that local authorities use property guardian firms for buildings they own.

This potential clash is evidenced in Bristol, where property guardians were occupying a number of otherwise empty buildings, including an elderly persons’ home. One of the residents was served a notice to quit in May 2016; he refused to leave and, as noted above, the County Court found him to be a tenant.[[100]](#footnote-100) In the light of the ‘scandal’ the council pledged to ‘investigate fully’.[[101]](#footnote-101) At least two of the properties required licences but it took two years for even one to have an application made.

Even when Camelot did apply for an HMO licence for Broomhill, in October 2015, it took Bristol City Council more than a year to actually issue one. A council spokesman said:

A number of factors have affected the time it took to issue the licence over this period, including the possibility of the property being demolished and the agreement between Camelot and Property Services coming to an end and not being renewed.[[102]](#footnote-102)

In June of 2017 the Council decided to initiate a ‘managed withdrawal from these arrangements. There’ll be no new ones. Of the ones we’ve already got, we’ll be giving notice to end the contracts on buildings we can do something with straight away.’[[103]](#footnote-103)

As the Bristol experience illustrates, the use of legal duties and powers by local authorities can be problematic. In order to find out more about whether local authorities have encountered issues relating to property guardians, an on-line survey was set up. We wanted to find out if the same legal requirements were being applied to property guardian buildings as to other homes. The survey was promoted to local authority staff (primarily environmental health officers) working in private rented sector teams through the Institute of Environmental Health and RH Environmental’s Housing Professionals Forum. A total of 33 responses were received from across England.

The number of responses to the survey does not allow for any significant quantitative analysis. The responses came from all the regions of the country, save the north east. Fourteen of the 33 respondents had received direct complaints about guardian premises, with issues raised including: fire hazards, disrepair, vermin, lack of facilities, ‘unfair terms’ and inadequate heating. In most cases where there had been a complaint the local authority had inspected, sometimes requiring the assistance of other organisations in their assessment – particularly the fire authority or other council departments such as building control (for instance, to assess the adequacy of fire precautions). Generally, the authority was able to negotiate some improvement, but some had resorted to legal notices and requirements to licence, with a particular dependence on identifying the property as an HMO.

What emerges from the comments is some frustration and uncertainty about the legal position. The fact that the occupiers are not tenants is frequently part of an argument that there is no legal protection in relation to standards:

[Having referred to a particular case involving empty properties belonging to a housing trust which was persuaded to make improvement to avoid negative publicity] However, some of the other property being managed by the guardianship company are privately owned e.g. ex-nursing homes and the owners are not as easily swayed by our arguments as they have been told the guardians have no tenancy rights.

The company responsible for creating the guardianship were unaware of the legislation relating to EH, HMO and planning and believed that the fact that the occupants were guardians (not tenants) and their occupation was transient, that the legislation did not apply. They believed their responsibilities for safety etc were discharged by providing a ‘tenant pack’ which included a battery smoke alarm.

This in turn leads to uncertainty about what legal action the local authority can take: ‘Not had the approaches [requiring application for a licence] tested but aware that there are problems with HMO definition. No action taken more recently due to uncertainty of how to act.’

This may be evidence of the arbitrary approach to HMOs that Burridge and Ormandy discuss.[[104]](#footnote-104) That certainly stems from the temporal limit of the guardians’ rights. ‘There is anxiety that the licence the Guardians are on [has a] 14 days’ notice period so any intervention by the authorities will simply result in the Guardians becoming homeless.’

In one instance it was reported that once the property owner became aware of the legal position the properties were taken out of guardianship:

Camelot briefly let out individual floors in an office block to rent paying tenants … I visited the accommodation and declared it to be an HMO due to shared bathrooms. I took the Fire Officer with me who discovered severe fire safety deficiencies. Upon contacting the owner of the building he did not realise how it all worked and that he had responsibility for maintenance and the tenants. The premises were vacated and taken out of Camelot management.

The disordered and uncertain approach to the enforcement of what are – in terms of their substantive design – minimum standards and requirements for the provision of settled housing, demonstrates firms using legal uncertainty to try to limit the use of state power. Further there is fragmentation of power: owners of the properties themselves may not be aware of the extent of the practices of the management company; local authorities may be reliant on informal mechanisms or forms of negotiation to respond, and approaches may require action spread across multiple departments or agencies with different interests or priorities:

Coordination of depts and agencies proved effective, as did exposing the problem to the landowner in this case.

The big issue for me was the sham licence; for Planning and Environmental Health it was the mass letting of a large site (a former hospital) without any regard to planning or environmental health law. Perhaps the biggest scandal was that the head landlord, which knew all about what the guardianship company was doing, is a registered social landlord, a housing charity.

These problems align with both the structural difficulties inherent in responses to precarisation by the state, with the act of enforcement and regulation being fragmented, and also with the ‘normalisation of the precarious.’[[105]](#footnote-105) Indeed, a response from one participant at a London local authority stated that: ‘It is my understanding that the Council continues to track down and challenge the guardianship model, in terms of HMO and wider Housing Act 2004 requirements, protection from eviction and planning use.’

Data received from FOI requests[[106]](#footnote-106) on the use of property guardian companies by local authorities demonstrates that this same authority utilises such schemes, having spent nearly £70,000 on associated fees since 2014. As in Bristol, the same authority attempting to enforce regulation on a property guardian property, while at the same time utilising their services, demonstrates the Janus-faced nature of the state to housing precarity. We would suggest that different elements of the legal determinants have different traction. The element of tenure/time has little traction and the use of licences to ensure control of the return of property is appealing to local authorities. On the other hand, the duties in terms of condition of housing still exercises authorities, but it is sometimes the use of legal uncertainty by the property guardian firms which leaves them floundering.

# V. CONCLUSIONS

As the Introduction to this collection demonstrates, precarity in housing has many elements. However, the legal security of occupiers must play an important role. This chapter has used the example of property guardians to explore the legal determinants of this element of housing precarity. By focusing in on these five elements – immigration status, tenure/time; control; cost; and conditions we have sought to illuminate the elements which can exacerbate precarity, rather than comparing precarious arrangements to even more precarious ones.

What emerges for property guardians is a mixed picture; the loss of security through lesser tenure/time, control and conditions being most strongly evident. Furthermore we have argued that two intersecting dimensions of precariousness – ‘organisational precariousness’ and ‘legal uncertainty’ – can be useful in highlighting how the legal dimensions can compound precariousness. These two elements have received particular attention within the literature on the precarious status of legal migrants[[107]](#footnote-107) and on the difficulties associated with increasingly precarious employment;[[108]](#footnote-108) the case study of the property guardianship phenomenon demonstrates their application here.

First, though ‘legal uncertainty’ may sound a trite descriptor of precariousness, it can act as an important compounding element. In a similar fashion to how the in-determinability of a migrant’s legal status can compound both their own situation and complicate the task of those governing it,[[109]](#footnote-109) uncertainty as to the legal position of ‘property guardians’ and the correct enforcement practices, can act as a distinct compounding element.

Secondly, and linked to this first issue, the dimension of ‘organisational precariousness’ often employed to analyse precarious employment practices,[[110]](#footnote-110) can aid the understanding of the property guardian phenomena too. This is in two ways: by accounting for the problems caused by acute dependence and the lack of choice in compounding precarious arrangements, and by focusing attention on the fragmented power relations between individuals and organisations in the governing of these phenomena.

In legal terms the picture is one where one party attempts to strip back security to an absolute minimum for these occupiers. It is asserted that there is no more than a contractual right to a period of usually four weeks’ notice, at which point all rights terminate. Firms seem to suggest that this also enables the legal requirements as to property standards to be avoided. The legality of this has yet to be tested and there are reasons to doubt whether it is as clear cut as suggested by the property guardian firms. This problematic position further underscores the problems inherent in regulatory responses to ‘precariousness’ within housing contexts; minimum standards, so often articulated as a means for providing an adequate ‘floor’ to these unpredictable practices, are not always effectively enforced or their application clearly delineated.

As to the state response to the phenomenon of property guardians, it is clear that it is unconcerned with the tenure/time dimension, as illustrated by local authorities using property guardians firms for their own empty properties or at a national level in a different way stripping away that dimension for tenants.[[111]](#footnote-111) The position in terms of conditions is more ambivalent.

1. \* York Law School, University of York, UK.

 Camelot Europe, ‘Find Rooms to Let’: uk.cameloteurope.com/8/0/rooms-to-let/find-rooms-to-let-from-only-40-per-week.html. [↑](#footnote-ref-1)
2. Ibid. [↑](#footnote-ref-2)
3. Graham Norwood, ‘Property guardian schemes offer quirky homes at low rents. But not for long’, *The Guardian* (10 January 2010): www.theguardian.com/money/2010/jan/10/property-guardian-schemes. [↑](#footnote-ref-3)
4. Ad-Hoc Property, ‘Property Guardians’: www.adhocproperty.co.uk/property-guardians/. [↑](#footnote-ref-4)
5. Ad-Hoc Property, ‘Fire Station – Property 220’: properties.adhocproperty.co.uk/living-space/in-and-around-newcastle/fire-station~220/. [↑](#footnote-ref-5)
6. Henry Zientek ‘Property guardians have moved into a Kirklees museum to keep squatters away’, *The Huddersfield Daily Examiner* (5 July 2017): www.examiner.co.uk/news/property-guardians-moved-kirklees-museum-13284067. [↑](#footnote-ref-6)
7. Ad-Hoc Property, ‘House Sitters Bag Top Properties on Cheap’: <http://www.adhocproperty.co.uk/2014/07/from-churches-to-pubs-to-million-pound-homes-professionals-are-slashing-rents-by-house-sitting-vacant-properties/>. [↑](#footnote-ref-7)
8. Eg Joe Jervis, ‘What housing can learn from profit-driven property guardians’, *The Guardian* (3 February 2012) [www.guardian.co.uk/housing-network/2012/feb/03/housing-profit-property-guardian-industry?INTCMP=SRCH](http://www.guardian.co.uk/housing-network/2012/feb/03/housing-profit-property-guardian-industry?INTCMP=SRCH). [↑](#footnote-ref-8)
9. Lucas Amin and Margot Gibbs, ‘The high price of cheap living: how the property guardianship dream soured’ *The Guardian* (24 December 2015): www.theguardian.com/society/2015/dec/24/the-high-price-of-cheap-living-how-the-property-guardianship-dream-soured. [↑](#footnote-ref-9)
10. Tom Zephyr, ‘My real-life experience as a property guardian was anything but funny’ (2016) *The Guardian* (18 January 2016): www.theguardian.com/housing-network/2016/jan/18/property-guardian-channel-4-crashing-generation-rent. [↑](#footnote-ref-10)
11. Jennifer Hoolachan, Kim McKee, Tom Moore and Adriana Mihaela Soaita, ‘“Generation rent” and the ability to “settle down”: economic and geographical variation in young people’s housing transitions’ (2017) 20 *Journal of Youth Studies* 63. [↑](#footnote-ref-11)
12. George Kane [Director], ‘Crashing’ [Television broadcast] (Channel 4, 2016). [↑](#footnote-ref-12)
13. Mara Ferreri, Gloria Dawson and Alexander Vasudevan ‘Living precariously: property guardianship and the flexible city’ (2016) 42 *Transactions of the Institute of British Geographers* 246–59. [↑](#footnote-ref-13)
14. Nicola Kountouris, ‘Legal Determinants of Precariousness in Personal Work Relations: A European Perspective’ (2013) 34 *Comparative Labor Law & Policy Journal* 21. [↑](#footnote-ref-14)
15. Hoolachan et al (n 11 above) 64. [↑](#footnote-ref-15)
16. See eg: Jill Morgan ‘Housing and security in England and Wales: casualisation revisited’ (2009) 1 *International Journal of Law in the Built Environment* 42; Hannah Fearn and Kevin Gulliver, *A New Deal for Tenants Scoping a Precariat Charter for Social Housing* (Human City Institute, 2015). [↑](#footnote-ref-16)
17. See Kountouris (n 14 above) 21. [↑](#footnote-ref-17)
18. Isabell Lorey, *State of Insecurity: Government of the Precarious* (Verso, 2015) 13. [↑](#footnote-ref-18)
19. Ferreri (n 13 above). [↑](#footnote-ref-19)
20. Louise Waite, ‘A Place and Space for a Critical Geography of Precarity?’ (2009) 3 *Geography* *Compass* 412, 418. [↑](#footnote-ref-20)
21. Ferreri (n 13 above) 5. [↑](#footnote-ref-21)
22. Ferreri (n 13 above). [↑](#footnote-ref-22)
23. For instance, a common practice is the installation of temporary showering facilities or the provision of certain white goods for communal areas. As stated in the Estates Gazette, ‘the guardian company can advise on the installation of self-contained shower pod, while the tea point in an office building could be a perfectly suitable kitchen area’: see Samantha Baden, ‘Property Guardian Angels’, *The Estates Gazette* (July 2013) 93–95. [↑](#footnote-ref-23)
24. Ibid. [↑](#footnote-ref-24)
25. Ibid. [↑](#footnote-ref-25)
26. See per Lord Beecham, HL Deb, 9 February 2016, vol 768, col 2219. See also Maya Oppenheim, ‘I can’t even afford to be a property guardian’, *New Statesman* (27 July 2015):http://www.newstatesman.com/politics/2015/07/i-cant-even-afford-be-property-guardian. [↑](#footnote-ref-26)
27. Emma Chadwick, ‘Rise of the property guardians’, *The Estates Gazette* (April 2015) 96–97. [↑](#footnote-ref-27)
28. Ibid. [↑](#footnote-ref-28)
29. K Barker, ‘Review of Housing Supply: Final Report – recommendations’ (HMSO, 2004). [↑](#footnote-ref-29)
30. Peter A Kemp, ‘Private Renting After the Global Financial Crisis’ (2015) 30 *Housing Studies* 601, 613. [↑](#footnote-ref-30)
31. Kim McKee ‘Young People, Homeownership and Future Welfare’ (2012) 27 *Housing Studies* 853; Hoolachan et al (n 11 above). [↑](#footnote-ref-31)
32. See DCLG, ‘English Housing Survey: Private rented sector, 2015-16’ (DCLG, July 2017) www.gov.uk/government/uploads/system/uploads/attachment\_data/file/627686/Private\_rented\_sector\_report\_2015-16.pdf. [↑](#footnote-ref-32)
33. Karen O’Reilly and John Bone, ‘No Place Called Home: The Causes and Social Consequences of the UK Housing “Bubble”’ (2010) 61 *The British Journal of Sociology* 231. [↑](#footnote-ref-33)
34. Thanks to Samir Jeraj for providing the authors with the raw data of his Freedom of Information request activity in the city. [↑](#footnote-ref-34)
35. Charlotte England, ‘Property guardians: a solution to the UK’s housing crisis?’, *The Guardian* (24 March 2015): www.theguardian.com/sustainable-business/2015/mar/24/property-guardians-housing-solution-opportunism. [↑](#footnote-ref-35)
36. More details and interactive maps can be found online at: www.propertyguardianresearch.co.uk/maps. [↑](#footnote-ref-36)
37. Ferreri et al (n 13 above), 7 also comment on the significance and uniqueness of London, but it is clearly a nationwide phenomenon. [↑](#footnote-ref-37)
38. For more information, please see: www.propertyguardianresearch.co.uk/maps. [↑](#footnote-ref-38)
39. Kountouris (n 14 above) 24. [↑](#footnote-ref-39)
40. The assured shorthold tenancy under the Housing 1988 is the ‘norm’ for private renting in England. [↑](#footnote-ref-40)
41. See the introductory chapter to this collection. On the UK position, see: Jill Morgan, ‘The casualisation of housing’ (1996) 18 *Journal of Social Welfare and Family Law* 445; Jill Morgan ‘Housing and security in England and Wales: casualisation revisited’ (2009) 1 *International Journal of Law in the Built Environment* 42 and Suzanne Fitzpatrick and Beth Watts (2017) ‘Competing visions: security of tenure and the welfarisation of English social housing’, Housing Studies On-line: http://dx.doi.org/10.1080/02673037.2017.1291916. [↑](#footnote-ref-41)
42. Kountouris (n 14 above) 25. [↑](#footnote-ref-42)
43. Sarah Marsden, ‘The New Precariousness: Temporary Migrants and the Law in Canada’ (2012) 27 *Canadian Journal of Law and Society* 209, 210. [↑](#footnote-ref-43)
44. Kountouris (n 14 above). [↑](#footnote-ref-44)
45. Kemp (n 30 above) 602. [↑](#footnote-ref-45)
46. Kath Hulse and Vivienne Milligan, ‘Secure Occupancy: A New Framework for Analysing Security in Rental Housing’ (2014) 29 *Housing Studies* 638. [↑](#footnote-ref-46)
47. Ibid, 641, building on Jean-Louis van Gelder, ‘What tenure security? The case for a tripartite view’ (2010) 27 *Land Use Policy* 449. [↑](#footnote-ref-47)
48. See: William Daniel Vera Rojas, Monica Budowski and Christian Suter, ‘Threats to Happiness: How Lower Middle Class Households Deal with Insecurity and Precariousness’ in Mariano Rojas (ed), *Handbook of Happiness Research in Latin America* (Springer Netherlands, 2016) 231; and David Farrugia, ‘Youth Homelessness, Reflexivity and Inequality in Late Modernity’ in Farrugia, *Youth Homelessness in Late Modernity*, vol 1 (Springer Singapore, 2016) 17–38. [↑](#footnote-ref-48)
49. Laurie Berg, *Migrant Rights at Work: Law’s Precariousness at the Intersection of Immigration and Labour* (Routledge, 2015) 44. [↑](#footnote-ref-49)
50. Ibid. [↑](#footnote-ref-50)
51. Mimi Zou, ‘Hyper-Dependence and Hyper-Precarity in Migrant Work Relations’ in Tindara Addabbo and others (eds), *Labour And Social Rights. An Evolving Scenario* (Giappichelli Editore, 2015). [↑](#footnote-ref-51)
52. Kountouris (n 14 above). [↑](#footnote-ref-52)
53. Zou (n 51 above). [↑](#footnote-ref-53)
54. Kountouris (n 14 above) 34. [↑](#footnote-ref-54)
55. Waite (n 20 above) 418. [↑](#footnote-ref-55)
56. Kountouris (n 14 above). [↑](#footnote-ref-56)
57. Lorey (n 18 above). [↑](#footnote-ref-57)
58. Zou (n 51 above). [↑](#footnote-ref-58)
59. Kountouris (n 14 above) 27. [↑](#footnote-ref-59)
60. ie provided by local authorities or not-for-profit landlords at less than market rents. [↑](#footnote-ref-60)
61. Housing Act 1996, s. 160ZA and the Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006 (SI 2006/1294). [↑](#footnote-ref-61)
62. David Robinson ‘New immigrants and migrants in social housing in Britain: discursive themes and lived realities’ (2010) 38 *Policy & Politics* 57. [↑](#footnote-ref-62)
63. Ibid, 64. [↑](#footnote-ref-63)
64. Immigration Act 2014, s. 22. [↑](#footnote-ref-64)
65. Immigration Act 2014, s. 33D. [↑](#footnote-ref-65)
66. Although see: Claire Brickell, Tom Bucke, Jonathan Burchell, Miriam Davidson, Ewan Kennedy, Rebecca Linley and Andrew Zurawan, ‘Evaluation of the Right to Rent scheme. Full evaluation report of phase one’ (Research Report 83, Migration and Border Analysis, Home Office Science, October 2015): https://www.gov.uk/government/uploads/system/uploads/attachment\_data/file/468934/horr83.pdf. [↑](#footnote-ref-66)
67. Quoted in Hilary Osborne, ‘Landlords “don’t understand right to rent immigration”’, *The Guardian* (1 Febuary 2016): www.theguardian.com/money/2016/feb/01/landlords-do-not-understand-rules-immigration-checks-association. [↑](#footnote-ref-67)
68. See the Immigration Act 2014, s. 20. [↑](#footnote-ref-68)
69. Camelot Europe, ‘Guardian FAQs’: uk.cameloteurope.com/frequently-asked-questions/guardian-faqs. [↑](#footnote-ref-69)
70. Ferreri (n 14 above). [↑](#footnote-ref-70)
71. Hannah Lewis, Pete Dwyer, Stuart Hodkinson and Louise Waite ‘Hyper-precarious lives: Migrants, work and forced labour in the Global North’ (2015) 39 *Progress in Human Geography* 580. [↑](#footnote-ref-71)
72. Tom Wall, ‘Borderlands: A special investigation into migrant worker housing’ *Shorthand Social* (4 May 2016): social.shorthand.com/\_tomwall/3yM1xsWekY/borderlands; Consider also the Government’s clamp down on ‘Beds in Sheds’ in 2012: DCLG, ‘Announcement: Major clampdown launched on “beds in sheds”’ (DCLG, 31 August 2012): www.gov.uk/government/news/major-clampdown-launched-on-beds-in-sheds. [↑](#footnote-ref-72)
73. Hulse and Milligan (n 46 above). [↑](#footnote-ref-73)
74. See Kountouris (n 14 above). [↑](#footnote-ref-74)
75. Anthony Honore, *The Quest for Security: Employees, Tenants, Wives* (Stevens, 1982) 37. [↑](#footnote-ref-75)
76. *Street v Mountford* [1985] AC 809, HL. [↑](#footnote-ref-76)
77. *AG Securities v Vaughan; Antoniades v Villiers* [1990] 1 AC 417, HL. [↑](#footnote-ref-77)
78. Andrew Arden, Martin Partington and Caroline Hunter, *Arden & Partington on Housing Law* (Loose-leaf: Sweet & Maxwell), paras 2-06, 2-07. See particularly Lord Templeman’s warning about ‘the judge awarding mark for drafting’ in *Street v Mountford* [1985] AC 809. [↑](#footnote-ref-78)
79. Ad-Hoc Property, ‘Property Guardians – Frequently Asked Questions’: www.adhocproperty.co.uk/property-guardians/faqs/. [↑](#footnote-ref-79)
80. Camelot Europe, ‘Reliable Legal Structure’:: uk.cameloteurope.com/property-guardians/reliable-legal-structure. [↑](#footnote-ref-80)
81. For one of the changes that has happened to the occupier agreement is that they offer 28 days’ notice rather than 14 which was common in 2012 in response to the Protection for Eviction Act 1977, s. 3: see Giles Peaker, ‘We eat ham and jam and spam a lot’ (*Nearly Legal: Housing Law News and Comment*, 26 September 2016): nearlylegal.co.uk/2016/09/eat-ham-jam-spam-lot/. [↑](#footnote-ref-81)
82. For the full notice see ibid, where it is described as a ‘farrago of nonsense’. [↑](#footnote-ref-82)
83. *Camelot Property Management Ltd v Roynon*, judgment of 24 February2017 Claim No: C01BS354. The judgment is available at: 431bj62hscf91kqmgj258yg6-wpengine.netdna-ssl.com/wp-content/uploads/2017/02/CamelotvRoyon.pdf. [↑](#footnote-ref-83)
84. Andrew Arden et al (n 78 above), para 2-05. [↑](#footnote-ref-84)
85. The website has since been updated, and is more circumspect. [↑](#footnote-ref-85)
86. Barbara Speed, ‘Central London properties, minus the sky-high rents. But what’s the catch’ (Citymetric, 5 August 2014): www.citymetric.com/politics/central-london-properties-minus-sky-high-rents-what-s-catch; see also Ferreri et al (n 13 above) 10. [↑](#footnote-ref-86)
87. Ferreri et al (n 13 above) 10. [↑](#footnote-ref-87)
88. Guy Standing, *The Precariat: The New Dangerous Class* (Bloomsbury Academic. 2011) p. 20. [↑](#footnote-ref-88)
89. See Kountouris (n 14 above), 32. [↑](#footnote-ref-89)
90. Housing Act 2004. [↑](#footnote-ref-90)
91. Ad-Hoc Property (n 79 above). [↑](#footnote-ref-91)
92. Camelot Europe, ‘Reliable Legal Structure’ (n 80 above). [↑](#footnote-ref-92)
93. See Kountouris (n 14 above). [↑](#footnote-ref-93)
94. Roger Burridge and David Ormandy, ‘Health and safety at home: private and public responsibility for unsatisfactory housing conditions’ (2007) 34 *Journal of Law and Society* 544. [↑](#footnote-ref-94)
95. Housing Act 2004, s. 1(4). [↑](#footnote-ref-95)
96. See Caroline Hunter and Giles Peaker, ‘Who Guards the Guardians?’ (2013) 16 *Journal of Housing Law* 13. [↑](#footnote-ref-96)
97. See 2004 Act s. 20. [↑](#footnote-ref-97)
98. See 2004 Act, s. 55 and Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2006 (SI 2006/371). [↑](#footnote-ref-98)
99. See Guardians of London, ‘Frequently Asked Questions’: [guardiansoflondon.com/faqs/](http://guardiansoflondon.com/faqs/). (Interestingly this is almost the exact same wording as on the Camelot site in 2015). [↑](#footnote-ref-99)
100. *Camelot Property Management Ltd v Roynon* judgment of 24 February2017, Claim No: C01BS354. [↑](#footnote-ref-100)
101. Tristan Cork, ‘Scandal of Bristol City Council’s empty nursing homes being rented out “illegally”’, *Bristol Post* (22 December 2016): www.bristolpost.co.uk/news/bristol-news/scandal-bristol-city-councils-empty-6655. [↑](#footnote-ref-101)
102. Ibid. [↑](#footnote-ref-102)
103. Per Councillor Paul Smith quoted in Triston Cork, ‘Bristol council to become first in UK to ban property guardian companies after six months of scandal around empty buildings’, *Bristol Post* (17 June 2017): www.bristolpost.co.uk/news/bristol-news/bristol-council-become-first-uk-117026. [↑](#footnote-ref-103)
104. Burridge and Ormandy (n 94 above) 564. [↑](#footnote-ref-104)
105. Lorey (n 18 above). [↑](#footnote-ref-105)
106. Thanks to Samir Jeraj for providing the authors with the raw data of his extensive Freedom of Information request activity in the city. [↑](#footnote-ref-106)
107. For instance, see Zou (n 51 above). [↑](#footnote-ref-107)
108. Kountouris (n 14 above). [↑](#footnote-ref-108)
109. For instance, see Zou (n 51 above ). [↑](#footnote-ref-109)
110. For instance, see Kountouris (n 14 above). [↑](#footnote-ref-110)
111. See Morgan, and Fitzpatrick and Watts (n 41 above) and Chris Bevan and Emma Laurie, ‘The Housing and Planning Act 2016: Rewarding the Aspiration of Homeownership?’ (2017) 80 *Modern Law Review* 661. Also on Australia, Brendan Edgeworth, Chapter five of this volume. [↑](#footnote-ref-111)