

**Report of Director of Environments and Housing**

**Report to Executive Board**

**Date: 9<sup>th</sup> March 2016**

**Subject: Establishing a Council Lettings Agency and the Future Policy Direction for the Regulation of the Private Rented Sector**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	No
Are there implications for equality and diversity and cohesion and integration?	No
Is the decision eligible for Call-In?	Yes
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	No

**Summary of main issues**

1. In September 2015, the Executive Board received a report setting out the potential to establish a Council Lettings Agency and some policy options for the regulation of the Private Rented Sector (PRS). It was agreed that a report would come back to the March 2016 Executive Board setting out how those options could be implemented.
2. The proposal for a Council Lettings Agency is to build on the existing Private Sector Lettings scheme, managed at Leeds Housing Options Service, offering property owners an enhanced full management service, including repair works, with a fee being charged to cover costs. The proposal will bring together services across Housing Leeds with Leeds Housing Options managing the scheme and Property and Contracts delivering the repairs services. Housing related support to tenants will be provided by services commissioned through Public Health.
3. All properties owners will be eligible to let their stock through the scheme providing their properties are maintained to requisite standards. A particular focus will be placed on encouraging property owners with one or two properties, who may have limited knowledge and time to deliver a landlord service, to join the scheme.
4. This report also sets out proposals to establish a Leeds Rental Standard supported by a degree of self-regulation for the members of the standard. In addition the report will develop proposals to establish a rogue landlord unit, reinforce

arrangements for the Leeds Neighbourhood Approach (LNA) and consider the potential for a selective licensing scheme and for the implementation of a revised charging approach.

## 5. Recommendations

The Executive Board is recommended to

- Approve the proposal, in principle, to establish a Council Lettings scheme managed by Housing Leeds.
- Approve the proposal to establish a Leeds Rental Standard supported by self-regulation
- Approve the proposal to establish a Rogue Landlord Unit
- Approve the proposal to commit the LNA to a longer term multi-agency programme of work within Holbeck
- Request the Director of Environment and Housing to bring forward proposals for a Selective Licensing Scheme
- Approve proposals to implement a range of charging proposals as set out in this report

## **1.0 Purpose of this report**

- 1.1 The purpose of this report is to
- set out the proposals to establish a Council Lettings Agency
  - set out proposals for the regulation of the PRS

## **2 Background information**

### **2.1.0 PRS Regulation**

- 2.1.1 Over the last decade the PRS has seen the number of households living in the sector doubling from 2.2m to 4.4m. Within the same period there has also been a shift in the most common household type living in the sector from single people to couples with children.
- 2.1.2 The private rented sector (PRS) in Leeds now exceeds 18% of the total housing stock and covers approximately 58,000 PRS properties.
- 2.1.3 The last census data indicated that the highest concentrations of PRS are found in NW Leeds (LS6 postcode due to the student factor; some lower super output areas are as high as 75% PRS). Within the traditional inner city areas covered by postcodes LS7, 8, 9, 10, 11 and 12 the next highest concentrations of PRS properties are found and these are mainly in the lower rental market areas. A visual map and data is available on request.
- 2.1.4 Analysis of government data suggests that 16% of all privately rented homes are unsafe because they contain a category 1 hazard that presents “a severe threat to health or safety”. This means they fail the legal minimum standard for housing. This could mean that around 9k privately rented homes in Leeds fail to meet the minimum legal standard for housing. Analysis of the English Housing Survey for 2012 suggests that 40% of those failing properties will contain children and 17% will house people who are in poverty.
- 2.1.5 These national themes are reflected in the PRS in Leeds. The sector has grown about 10% over the decade of the last census and stood at 18% of the market in 2011 or 58k houses. This growth will have continued in the interim period. Rents across the city, excluding the student market, average around £140 per week, which is almost double the average social rent. The sector has significantly grown in the bottom end of the market where the poorest conditions are found and rents are increasingly supported by Housing Benefit which is paid regardless of the quality of the housing.
- 2.1.6 Improving the standards within the PRS has been a priority for the Council and it has maintained its core services of regulation and licensing whilst other Councils have reduced theirs in response to budgetary pressures. In 2014/15 these services received over 2,500 complaints about the quality of properties and licenced around 2,700 Houses in Multiple Occupation. There has been recent investment to establish the Leeds Neighbourhood Approach (LNA) which targets small areas of poor quality private rented accommodation with significant numbers of long term empties.

2.1.7 The government issued a consultation paper titled “Tackling rogue landlords and improving the private rental sector” in September 2015. In the paper the government stated that it intends to drive out what they see as a small number of rogue or criminal landlords who knowingly rent out unsafe and substandard accommodation. The outcome of the consultation paper has been a number of proposed changes to policy contained within the Housing and Planning Bill which was laid before parliament in October 2015.

2.1.8 In bringing forward proposals for the future regulation of the PRS, the context set out above has been fully considered. Equally important considerations have been that the proposals provide a response to the recently published Index of Multiple Deprivation and that the policies will support the Council’s ambitions for a strong economy in a compassionate city.

## **2.2.0 Current Council use of the PRS to meet Housing Need**

2.2.1 The Leeds Housing Options service is the principal Council service offering housing advice to people who are homeless or in acute housing need. Leeds Housing Options manages an existing private rented lettings scheme that aims to match prospective tenants with properties that landlords have made available to Leeds Housing Options to help let. The main element of the scheme is a ‘Damage Liability’ provision whereby the Council commits to covering the cost, up to the equivalent of four weeks rent, of damage or loss at the end of the tenancy. The cost of the damage liability provision is sourced through the Council’s Homeless Prevention Fund.

2.2.2 The Homeless Prevention Fund also covers the cost of up-front bond payments to help people secure private rented tenancies that are not directly let through Leeds Housing Options Service. Landlords are obliged to place bond payments in one of three government approved Tenancy Deposit schemes<sup>1</sup>. Bonds paid by Leeds Housing Options are held in the name of Leeds City Council and are repayable, minus any agreed deductions for loss or damage, at the end of the tenancy.

2.2.3 Inclusion of a property to let through Leeds Housing Options or payment of an up-front payment is dependent on the property being inspected as fit to let by the Council’s Private Sector Housing Regulation Team. The inspection process focuses on the identification of Category 1 Hazards (such as excess cold/limited fire escape/high risk of falls) under the Housing Health and Safety Rating System with landlords obliged to carry out improvements before a tenancy can commence. The scheme plays an important role in improving housing standards in the private rented sector.

2.2.4 The scheme operates in partnership with the Leeds Benefits Service in respect of identifying vulnerable tenants who may struggle to pay rent were the Local Housing Allowance to be paid directly to them rather than the landlord. Leeds Benefits Services assesses, on a case by case basis, whether Local Housing Allowance should be paid directly to landlords and such decision making can incentivise a landlord to let a property through the scheme.

2.2.5 Approximately 700 private tenancies are set up through a combination of the damage liability and up-front bond routes per year. £73k has been paid in up-front

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<sup>1</sup> <https://www.gov.uk/tenancy-deposit-protection/overview>

bonds and £36k in damage liability payments for the period April 2015 to January 2016 with £35k recovered in tenancies that have ended.

2.2.6 The Private Sector Lettings scheme has played an important role in the reduction of temporary accommodation placements in Leeds. There were 61 statutory homeless households placed in temporary accommodation at the end of December 2015. This was the lowest figure of all the Core Cities when population figures are equalised. Substantial savings to the cost of temporary accommodation have been generated through the reduction in placements made.

### **3 Main issues**

#### **3.1.0 Council Lettings Agency**

3.1.1 The proposed Council Lettings scheme aims to build on the success of the existing Private Sector Lettings scheme operated through housing options. The current scheme, centred on matching tenants to properties, damage liability payments, up-front bond payments, housing inspection, will be maintained and free to property owners.

3.1.2 An enhanced service offer will be offered to landlords including all elements of the existing scheme plus the following service:

- Provisions of tenancy agreement
- Provision of Section 8 (when the tenant is in more than 8 weeks in rent arrears) followed by Section 21 (issuing 2 months' notice) (although ensure the landlord serves this not Leeds Housing Options)
- Initial inventory with photographs
- Quarterly inspections with basic report sent to landlord.
- Inspection on exit of tenant with photographs.
- Dedicated team available to answer queries.
- Advertise online and outside of LHO.
- Inform council tax of move in date
- Meter readings on utilities
- Complete repairs and maintenance
- Ensure all tenancy agreements are renewed
- Set up deposit protection scheme arrangements and deal with disputes
- Deal with tenancy breaches, including anti-social behaviour
- Chase late payments of rent
- Deal with general queries/complaints from tenants
- Deal with all rent matters

3.1.3 It is proposed to charge property owners a fee of 8% of the weekly rent. Conventional commercial lettings agents charge a fee of between 7 and 17% of the weekly rent charge.

3.1.4 It is envisaged that property owners will gradually decide to take up the enhanced service offer rather than the current standard service. Property owners will need to be convinced, in common with what has occurred with the current service offer, that it represents a good offer to them. The scheme will be open to all property owners

but it is envisaged that it will be particularly attractive to property owners with one or two properties that may have limited knowledge of the best way to let and manage their housing. The end of Local Housing Allowance payments, administered by the Council, and introduction of the housing element within Universal Credit, managed by the DWP, will have implications for private landlords and especially in respect of direct payment of rent. It may well be that the benefit changes make renting to people on benefits a less attractive option. However, it is believed that a number of landlords will consider that letting their stock through the Councils Lettings scheme, with the accompanying proactive service offer, is a good option for maximising rental collection.

- 3.1.5 The assumed incremental development of the scheme means that it is proposed to manage the scheme, in the initial period, within the existing staffing base at Leeds Housing Options which manages the Private Sector Lettings scheme.
- 3.1.6 The Property and Contracts division within Housing Leeds has agreed in-principle that the in-house service, Leeds Building Services, or the approved contractor for council housing maintenance, Mears Group, will deliver the repair and maintenance service. This is predicated on the condition that properties accepted onto the scheme will be in a good standard of repair with this being assessed through inspection by the Private Sector Housing Regulation Team. Agreement will be reached with Property and Contracts as to the value of the fee that is required to cover repair and maintenance costs.
- 3.1.7 Public Health (Strategy and Commissioning) is currently reviewing the commissioning of housing related support services for people who are homeless or in acute housing need. This includes the provision of floating housing support service to support people sustain private rented tenancies and will complement the service offer through the Council Lettings scheme.
- 3.1.8 It is believed that by the beginning of 2018/19 around 300 properties will be managed, on an on-going basis, through the enhanced service offer and 500 through the current standard offer. The enhanced service offer will generate annual income of £125k per year or £416 per property.
- 3.1.9 In order to be successful, the council will require a commercial approach if it is to compete in the private rented sector and compete with other offers available to Landlords. However in terms of commercial viability and autonomy, it will be necessary to have a structure and operational system that allows for this but that does not conflict with the councils own governance structures.
- 3.1.10. There are various options that will be explored. These may include an in house model, a wholly owned, but stand-alone company, outsourcing to a third party or partnerships with existing organisations.
- 3.1.11 Before making recommendations on the most appropriate model, legal advice will be sought.

### **3.2.0 Leeds Rental Standard and Self-Regulation**

- 3.2.1 Currently in the sector standards are set by Legislation and have been supported in the city by a range of accreditation schemes, the landlord associations, the Universities and Unipol with the Council providing the regulatory role. This approach has without doubt enabled standards to increase. However, this has mainly been within the student and city centre markets. The Council expends a considerable resource regulating these sectors which, in the main, provide above minimum legal standards of accommodation and offers a strong customer voice.
- 3.2.2 Whilst accreditation schemes have been a catalyst to the improvement of standards and Leeds has long been recognised for its own scheme, over the last two years it has been extremely difficult to attract new members to the scheme.
- 3.2.3 Officers have held a number of meetings with the Resident Landlord Association (RLA), the National Landlord Association (NLA) and Unipol about developing a new model to replace accreditation whilst at the same time ensuring the drive for better standards of accommodation was maintained. Out of these discussions came an agreement to establish the Leeds Rental Standard which would be self-regulated by its members. The self-regulation element will enable the Council to redirect resources at the poorest accommodation.
- 3.2.4 The Leeds Rental Standard, will differ from the London Rental Standard which members may be aware of, in that the Leeds Standard will deal with property standards as well as management practice. It will also be supported by an inspection regime run by the membership of the scheme with the ability to refer cases back to the Authority for it to use its regulatory powers. Neither of these elements of the proposed scheme are features of the London Rental Standard. It is the inclusion of these elements that gives the Council confidence to move to a self-regulation format.
- 3.2.5 It is intended that all members of current accreditation schemes, whether run by the Council or the Associations and Unipol will automatically become members of the new Rental Standard. This will be phase one of the introduction which will offer the opportunity to market the brand. Phase two will be for the membership to organise itself to take advantage of the self-regulation opportunity.
- 3.2.6 The establishment of the Leeds Rental Standard will be accompanied by an agreement with the Council acknowledging the self-regulation role, setting targets for increasing membership, setting the ambition to drive up both standards of accommodation and management in the sector, establishing a mechanism to provide the Council with assurances about the operation of the scheme and allowing for landlords to be referred back to the Council where it is necessary to take regulatory action.
- 3.2.7 It is anticipated that phase one of the introduction can be completed by the end of April 2016, with phase two completed during the summer of 2016. Alongside this implementation it is intended to discuss the scheme with the Association of Residential Letting Agents (ARLA) to explore ways in which ARLA and its members can become involved in the scheme.

3.2.8 The Leeds Rental Standard will provide a new impetus to ensuring that standards of accommodation and property management are maintained and improved. It will be a new and innovative scheme that will continue to place Leeds at the forefront in the sector. The Leeds Rental Standard is available on request.

### **3.3.0 Rogue Landlord Unit**

3.3.1 Increasingly the Council finds itself taking regulatory action against different properties in the ownership or management of the same landlord or property management organisation. In the main this work is undertaken on a property by property basis by the reactive team within the PRS Service. On occasions more detailed work on a portfolio of properties has been undertaken. Examples of this work have been in connection to the LNA and the former Selective Licensing Scheme in Cross Green.

3.3.2 In the light of this, it is considered that the opportunity to create a Rogue or Criminal Landlord Unit within the service is worthy of consideration. The purpose of the unit would be to effectively target those landlords/agents that consistently fail to meet the minimum legal standards and have a poor history of compliance.

3.3.3 The intention would be to target resources on a worst first basis to make the biggest impact. Criteria will be drawn up to identify which landlords/agents should be the focus of targeted enforcement action, how the process should be delivered and how landlords/agents are included or removed from the process. The initial criteria will include:

- History of non-compliance
- History of lack of engagement with the service
- Previous prosecution/enforcement history
- Intelligence from partner agencies, service initiatives etc.

3.3.4 The new unit would need to develop working relationships with partner agencies to produce co-ordinated action against landlords/agents known to be avoiding their responsibilities. Key to this will be working with partners such as the Police, Home Office, HMRC. Many of these relationships have been established through other partnership work such as the LNA and the Flats above Shops programme. Implementation of the unit can be accommodated within existing resource by reconfiguring existing resources. The implementation of the self-regulation proposals within the Leeds Rental Standard will add flexibility to the uses of resources within the PRS Service. The unit will also support proposals contained within the Housing and Planning Bill for tackling rogue landlords.

### **3.4.0 Leeds Neighbourhood Approach (LNA)**

3.4.1 The LNA model works on the principle of targeting small geographical areas where there is a known poor quality of private rented accommodation and a number of long term empty properties. The model seeks to address these issues and support the community through a partnership/multi-agency approach. This approach has proved to be extremely successful.



- 3.4.2 Since the commencement of the Leeds Neighbourhood Approach empty properties have been targeted by the team. This has resulted in 146 properties being brought up to a good standard of accommodation and returned to occupation. Within the Nowell's 52 empty homes have now been re-occupied with a further 4 still being targeted by the team. In Armley 50 empty homes are now providing homes with a further 5 still to be returned and in Holbeck 38 are now being lived in, with 32 to be reoccupied. As part of the Flats above Shops project, 6 empty flats have been returned to occupation, with a further 20 units currently being renovated.
- 3.4.3 Where owners refuse to bring their empty homes back into use in these target areas the team have commenced compulsory purchase action against owners. So far 5 are in this legal process as most owners have or are renovating their homes to provide affordable homes.
- 3.4.4 To date the LNA has moved around the city working in Leeds 9 and 12. The benefit of moving post codes is that the team can target hot spots within the city. Currently the team are working in "The Receptions" within Holbeck, where property conditions are particularly poor and issues affecting residents are significant. A map of the proposed area is available at request.

### **3.5.0 Selective Licensing**

- 3.5.1 Despite reductions in funding, the Council has sought to protect the service which oversees quality in the private sector. Utilising funding from the New Homes Bonus, there has been an expansion of work to return empty homes which has been very successful. Nevertheless, the enormous growth of private sector rented sector has outstripped the Council's resources. In the face of this, we are looking at new means to generate income from within the sector to better regulate it in the interests of tenants.
- 3.5.2 The Housing Act 2004 gives the Council the power to implement Selective Licensing schemes. Such schemes must be supported by a business case, subject to community consultation and be designed to tackle low demand, significant and persistent ASB, poor property conditions, high levels of deprivation and high levels of crime. A scheme can run for a maximum of five years. If a city wide selective licencing scheme was proposed approval of the Secretary of State would be required.
- 3.5.3 The Council has run a Selective Licensing scheme in Cross Green. The scheme ended in 2014 and had significant success in tackling property conditions, crime and low demand. Works continue in the area providing energy efficiency measures through a group repair scheme.
- 3.5.4 Despite the benefits the scheme did not cover its costs and entailed significant overheads in its place. Subsequently the Department has operated the Leeds Neighbourhood Approach.
- 3.5.5 Changes to the selective licensing regime, however which now enable Council's to potentially recover full costs, now reopen the potential to launch a wider scheme. It is proposed to develop an approach in the coming months.

### **3.6.0 Charging Proposals**

- 3.6.1 The Council has the power to issue charging notices under the Housing Act 2004 to recover the costs for taking enforcement action. It is for each Council to determine its own enforcement action policy. Currently there is a policy to follow informal methods as far as possible and this lead to a wide variation in whether or not a charging notice is served. For example properties may have a Category 1 hazard but because the enforcement is being pursued informally, no charge is levied.
- 3.6.2 It is proposed to take a much more robust approach which would result in the service of charging notices in all cases where a category 1 and category 2 hazards are identified.
- 3.6.3 There are also a range of new regulations that have been introduced by the government for which the Council is the regulatory body and can use charging notices. These include the Property Redress Scheme where a landlord or agent must be a member of a recognised redress scheme or is subject to a £5k fine. The Smoke and CO2 regulations where there is a mandatory requirement for at least a smoke alarm on each storey of a privately rented property and CO alarm in rooms containing solid fuel burning appliances, where breaches can lead to a charge up to £5k.
- 3.6.4 The Housing and Planning Bill has some proposals to enable Local Authorities to issue charging notices.as an alternative to prosecution. Clarification of these proposals is awaited.
- 3.6.5 Taken together these proposals provide a more comprehensive approach to charging that better reflects the provision of the service. It is likely that they will lead to an annual income of around £100k to £200k, which can be reinvested in services.

#### 4.0 Corporate Considerations

##### **4.1 Consultation and Engagement**

- 4.1.1 It is proposed to consult on the Council Lettings Agency with the existing Private Sector Lettings scheme members and to make use of the existing local landlord forums. The proposals can also be taken to the quarterly meetings of the RLA and the NLA.
- 4.1.2. Consultation will continue with the RLA, NLA and Unipol over the implementation of the Leeds Rental Standard. Should any proposals be brought forward on Selective Licensing there will need to be considerable consultation with landlords within the scheme as part of the development of the scheme's business case.

##### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 The report proposes the establishment of a Council Lettings Agency run by the Council and a range of new policy initiatives for the improved regulation of the Private Rented Sector (PPRS)
- 4.2.2 The proposals contained within this report will have no specific implications on Equality and Diversity / Cohesion and Integration. Appendix 1 These proposals, however, are intended to better support tenants on low income.

##### **4.3 Council policies and the Best Council Plan**

- 4.3.1 All the proposals within this report directly support the priorities of the Council as set out in the Best Council Plan and the Council's vision. The provision of good quality private rented accommodation supports the Council's ambition to be the best city.
- 4.3.2 The proposals in this report will directly support the key objective of supporting communities and tackling poverty. They will also support the ambitions of the breakthrough projects for Housing Growth and reducing health inequalities through healthier lifestyles.

#### **4.4 Resources and value for money**

- 4.4.1 The proposals for the future regulation of the PRS are intended to generate income for the general fund through the improved charging policy which could deliver between £100k and £200k per annum
- 4.4.2 Insurance, any liability relating to the operation of the Council Lettings Agency would need to be covered through the councils existing insurance policies.

#### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 All of the proposals contained within this report can be delivered within the powers of the Council. The intention is to create the agency, at least in its initial form, within the Local Authority. However, this does raise concerns about commercial purpose, state aid and liabilities incurred through the operation of the agency.
- 4.5.2 Before implementing the agency, there will need to be further work completed with Legal Services to ensure that the agency is implemented in a manner that minimises the risk of any commercial challenges and to ensure that in its operation it will be able to withstand any commercial challenges should they arise.
- 4.5.3 In addition, the agency will need to be set up so as to minimise the risks of incurring liabilities through its operations and discussions will need to take place to ensure that the Council's current insurance policies will cover any risks and liabilities that do occur.
- 4.5.4 There are no access to information issues in this report
- 4.5.5 This report is eligible for call in.

#### **4.6 Risk Management**

- 4.6.1 A key risk will be that landlords do not want to be part of the Council's Lettings Agency. Officers will work closely through existing communication channels with landlord organisations to persuade landlords to join. In addition the regulatory teams within the PRS Service will publicise the Agency when dealing with landlords. A full risk log will be developed as part of the implementation plan.
- 4.6.2 A key risk to the Leeds Rental Standard is that the membership does not regulate their members satisfactorily resulting in a reduction in standards. To offset this, the Council will insist on an agreement with the membership that will give assurance to the Council about standards within the scheme. This agreement will also allow the

Council to take action against members that do not maintain their standards. A full risk log will be developed as part of the implementation plan.

## **5 Conclusions**

- 5.1 The Council's Lettings Agency will be a major step forward in the offer the Council can make to landlords. Many landlords are accidental landlords and are unsure how to let their property. The Council's agency will provide an alternative to a number of poor quality agents within the city.
- 5.2 The new regulatory proposals will also be a major step forward. The Leeds Rental Standard will be one of the first of its kind in the country. It will offer landlords a degree of autonomy in return for the maintenance of standards and an ambition to increase standards.
- 5.3 The introduction of the rogue landlord unit will provide a response to those landlords and agents that continually provide poor quality accommodation disregarding the needs of their tenants.
- 5.4 The concentration of the LNA within Holbeck will allow the Council to continue a much needed multi-agency approach in one of the most deprived areas in the city.
- 5.5 Taken together these proposals provide a significant package of measures aimed at improving the quality of housing on offer within the PRS.

## **6 Recommendations**

- 6.1 The Executive Board is recommended to
  - Approve the proposal, in principle, to establish a Council Lettings scheme managed by Housing Leeds.
  - Approve the proposal to establish a Leeds Rental Standard supported by self-regulation
  - Approve the proposal to establish a Rogue Landlord Unit
  - Approve the proposal to commit the LNA to a longer term multi-agency programme of work within Holbeck
  - Request the Director of Environment and Housing to bring forward proposals for a Selective Licensing Scheme
  - Approve proposals to implement a range of charging proposals as set out in this report
- 6.2 The Executive Board is recommended to delegate the implementation of all of the proposals to the Director of Environment and Housing.

## Background documents<sup>2</sup>

None

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<sup>2</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.