

**Report of Director of Environment and Housing**

**Report to Environment & Housing Scrutiny Board**

**Date: 19 January 2017**

**Subject: Housing Theme – Update**

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

**Summary of main issues**

This report provides an update on four key housing issues which were identified by Environment and Housing Scrutiny Board as particular areas of interest at the October meeting. They are as follows:

- Implications and progress relating to the 2016 Housing and Planning Act;
- The quality of private rented sector housing;
- Issues with Right to Buy properties after completion;
- Turnaround times for filling void Council properties.

The report also includes an update on the Tenant Scrutiny Board and their recent enquiry work.

**Recommendations**

Scrutiny Board is requested to note the content of this report and identify areas for further investigation.

## **1. Purpose of this report**

The report covers areas of housing policy / activity highlighted by the Board and sets out the context, current position and the key challenges or next steps.

## **2. Main Issues**

### **2.1 Housing and Planning Act**

2.2 The Housing and Planning Bill gained Royal Assent on 12 May 2016. The Act provided the necessary legislation to implement a number of Government proposals including:

- Provision of Starter homes;
- The sale of higher value vacant local authority homes;
- Pay to Stay;
- Mandatory use of fixed term tenancies;
- Extension of right to buy to Housing Associations; and
- Reforms to private rented sector.

2.3 An overview of the provisions in the Act was presented at the October meeting of Scrutiny Board. An update on the latest position for each of the major strands is detailed below:

### **2.4 Starter Homes**

- We are still waiting for the government to make changes to national planning policy. At the moment we don't know how many homes will be built, whether Starter Homes will replace affordable housing, or the qualifying criteria for buying a Starter Home. There has also been a significant shift in housing policy in recent months which may impact upon the government's desire to deliver starter homes. More detail is expected in the forthcoming Housing White Paper.

### **2.5 Sale of Higher Value Vacant Local Authority Homes**

- Government announced in November 2016 that this policy will be delayed for at least 12 months, with an expected implementation date of April 2018. The Department for Communities and Local Government (DCLG) have not yet issued further guidance on how 'higher value' will be determined. This makes it impossible to assess the likely impact on the Housing Revenue Account Business Plan and to consider alternative options to pay the levy ahead of the expected implementation date.
- It is also unclear at this stage how the proceeds raised through the sale of high value homes will be used to fund a replacement property and subsidise right to buy in Registered Provider homes.

### **2.6 Higher Income Social Tenants: Mandatory Rents or 'Pay to Stay'**

- It was announced in November 2016 that the government will no longer be implementing pay to stay.

## 2.7 Mandatory Fixed Term Tenancies

- The Department for Communities and Local Government (DCLG) are expected to issue draft guidance and regulations for consultation in early 2017. Leeds is represented on the national working group and will respond formally to the consultation. Once the final guidance and regulations are issued the council will need to review the tenancy agreement. The tenancy agreement was last reviewed in 2008, and in addition to the statutory changes required there are a number of amendments the council proposes to make sure the agreement remains fit for purpose.
- The council will also need to review its existing Tenancy Strategy and Tenancy Policy to incorporate the proposed changes and ensure we have a robust process in place for managing fixed term tenancies.
- To date we are aware of limited circumstances where existing secure tenants will retain their security of tenure if they transfer to another property. These are likely to be tenants who downsize to a smaller property and tenants who are required to move due to regeneration schemes.
- Further discussions are taking place regarding other management moves and moves due to domestic violence and abuse.
- At present we anticipate the new regulations will not be in place before Autumn 2017.

## 2.8 Private Rented Sector

- The Act is broadly welcomed in terms of the Private Rented Sector. Again Leeds is represented on one of the DCLG working groups, but no detailed guidance has been issued to date. The main proposals include:
  - **Introduction of the option to serve Civil Penalties as an alternative to Prosecution.**  
We welcome the broad proposals but have requested further clarity and guidance on the parameters for use and levels of penalties.  
We expect full consultation to commence shortly and the new proposals are likely to be implemented by April 2017.
  - **Extending the use of Rent Repayment Orders.**  
Again, we broadly welcome these proposals but have asked for further guidance and clarity on the detail and expect full consultation to commence shortly with a view to implementation in April 2017.
  - **Banning Orders / Rogue Landlord Database**  
Further detail is still awaited on the use of banning orders and which offences will be included in the criteria. Government /DCLG have now commenced technical work on developing a national database and we await further advice on this. Implementation is not expected until October 2017.
  - **Electrical Safety**  
Discussions are still ongoing and DCLG have requested evidence on proposals to require greater electrical safety checks in the PRS. We await further information but as yet there is no indication as to the extent or likely implementation for this proposal.

- **Improved Data Sharing**

We are awaiting consultation on proposals to improve data sharing between Departments / Agencies that will improve intelligence on the sector. We expect this to be positive but do not yet have an implementation date for this proposal.

2.9 Further updates will be provided to Scrutiny Board on the Housing and Planning Act when DCLG guidance/regulations have been published.

2.10 **Quality of Private Rented Sector Housing**

2.11 The private rented sector continues to grow within the city with an estimated 60,000 properties. This includes all privately rented accommodation – including university accommodation. There is no single market and the majority of these properties provide good quality homes for individuals and families. However, it is estimated that 25% of the market is low market rents with some of the poorest housing in the city. This market has seen a significant growth in recent years and provides the biggest challenge to the Council.

2.12 The Council has mandatory and discretionary powers under the Housing Act 2004 to address standards in the sector. Last year the Council:

- Received 2600 requests for service from tenants in the private rented sector;
- Inspected all properties under the Temporary Accommodation contract and let via the Private Sector Letting Scheme;
- Undertook work to improve the standards of 5500 individuals living in the sector.

2.13 The Council has a mandatory duty to licence all houses in multiple occupation which are 3 storeys and above and are occupied by 2 or more households and 5 or more people. The city has the largest number of such properties in the country, with around 2800 at any one time. Currently preparations have commenced for the third phase of licensing, where the majority of these will need relicensing in April/May next year. The cost of licensing to the Council is covered by the licence fee charged to owners.

2.14 In addition, the Government has recently issued further draft consultation to local authorities on proposals to widen the scope of Mandatory HMO Licensing. The Council has already made written representations and broadly welcomes this. However, the proposals appear to be limited in that they will remove the number of storey criteria but still retain the minimum number of tenants at the existing level of 5 or more. In Leeds, this is likely to have a limited impact, although until full details are known it is difficult to accurately predict. It is anticipated that full details will be provided by Government early in the New Year with implementation during 2017.

2.15 Further initiatives were agreed by Executive Board in March 2016 to further enhance standards within the private rented sector. The service has begun to implement two further strategies:

- a) Replace the existing Leeds Landlord Accreditation Scheme (LLAS) with a new sector led Leeds Rental Standard. The aim is to introduce an element of self-regulation in the market whereby good landlords will voluntarily meet agreed property and management standards. This will be overseen by a governing body

administered by the sector and with Council approval. The successful introduction of such a scheme will be unique across the country and will allow the Council to target its limited resources on the areas of greatest need.

Detailed preparations and discussions have now taken place with key private sector groups including the Residential Landlord Association (RLA), the National Landlord Association (NLA) and Unipol. Significant progress has been achieved and the sector has now proposed a singular approach, detailed governance procedures, and a detailed business case and costing plan. These are being discussed further with the intention that a new Leeds Rental Standard will be launched early in the New Year.

b) Creation of a rogue landlord unit – this is a specific small team of officers (taken from existing resources) that are tasked with identifying those landlords who consistently act in a criminal or rogue manner. The proactive action will be robust and co-ordinated with other services and agencies to maximise impact.

Although this new Unit has only been operational for a number of months, it has already taken significant targeted action against a number of poorly performing rogue/criminal landlords. This action has included the use of Prohibition Orders, Improvement Notices, charging notices and Formal Prosecutions. In addition, closer working relationships have been developed with other Departments (Revenues and Resources, Planning etc) and agencies (Police, Immigration etc) to ensure all enforcement is fully co-ordinated to maximise the actions taken.

2.16 As part of addressing standards in the sector the Council continued with its Leeds Neighbourhood Approach in Holbeck, targeting 185 properties in the Receptions to address poor quality homes, return empty homes back into occupation and working with partners to address issues affecting individuals concerns. These include access to health services, addressing social and financial exclusion, fire safety, security and jobs and skills. In the first area all properties have been inspected and 370 hazards identified which are being addressed. 206 referrals have been made to partners to address issues and 50 out of the 70 empty homes returned to occupation. In July 2016, Executive Board agreed that the approach should remain in Holbeck for a further 3 years. This will allow all properties to be visited and inspected, including all of the Council's own stock to ensure full compliance with the relevant legislation. In November 2016 Executive Board agreed a further initiative to support more investment into Holbeck which will see an additional £4.5M funding.

2.17 Empty homes continue to be a priority for the service. The Core Planning Strategy has a target of a net reduction of 2000 empty homes from April 2012 to March 2017. As of August 2016 the net reduction was actually 2252. The Council has adopted a new Empty Homes Strategy for 2016 to 2019. This continues the work to address empty homes, not just by the work of the Council but also with partners in the Community Led Housing Sector. At its November meeting, Executive Board agreed to extend the support to the Empty Homes Doctor for a further 3 years at a cost of £100K per annum.

## **2.18 Issues with Right to Buy (RTB) properties after completion.**

### **2.19 Properties becoming private rented**

2.20 At the October meeting of Environment and Housing Scrutiny Board, Members asked for an update on the number of RTBs that become private rented.

2.21 Members queried the current ownership status of RTBs and what covenants are in place in relation to the use of property and permissions to use as private rented property. A number of members queried whether we could expand covenants to be more prescriptive about controls, as they are aware of a number that are let as private rented housing as soon as they are sold.

2.22 Once a property is sold through RTB, the council do not have any control over what happens to the occupancy of that property unless it is sold on or the fabric of the property is altered or there is a breach of covenants.

2.23 There are no covenants as part of RTB legislation that requires the buyer to occupy the property after purchase. Prior to completion the council does carry out checks that there are no breaches of tenancies and the tenants are living at the property.

2.24 In cases where it is suspected that the tenant is not living at the property a referral will be made to the Tenancy Fraud Team to make further checks. At the end of Q2 there were 13 active RTB fraud investigations underway. In 2015/16, two properties were recovered through the tenancy fraud initiative due to RTB fraud, i.e. the tenant who had submitted the RTB application subsequently withdrew it and terminated their tenancy.

### **2.25 Properties being sold on after RTB completion**

2.26 Members queried current controls in relation to subsequent sale of RTBs within the 5 year discount repayment period and felt that controls may not be as robust as they should be.

2.27 The individual registered property titles have formal Restrictions noted on them in favour of the Council setting out what the particular compliance requirements are.

2.28 The Right to Buy pre sale guidance is available to tenants prior to sale.

2.29 If a subsequent sale is proposed in the first 10 years from the date of sale, the owner or the solicitor acting on their behalf must approach the Council in relation to the Right of First Refusal and Discount Repayment pre-emption periods. If the Council confirm that they do not wish to re-purchase a letter is issued confirming section 156A of the Housing Act (as amended) has been applied and a copy can be forwarded to Land Registry. If the request is within the 5 year discount repayment period the letter requests that the Council is informed when a sale has been agreed along with the sale price, to allow the discount repayable to be calculated. On receipt of this information a letter of confirmation is provided in relation to the discount

repayable amount and repayment details. It is the owners/solicitors responsibility to advise the Council when the sale has completed.

- 2.30 Once payment is received the Council issues a discharge certificate to confirm the charge in relation to repayment of discount can be removed by Land Registry.
- 2.31 The Council is reliant on the owner/Solicitor acting on their behalf, informing the Council of their intentions in relation to proposed sales/completions, and the Land Registry for ensuring that formal restrictions are complied with. If the Council is made aware after a sale has completed, the Council would pursue recovery for any outstanding balances.
- 2.32 Tenants are made aware of their commitments in the pre-RTB sale guides, and the statutory requirements are contained in the RTB Transfers/Leases applicable to houses and flats. The individual registered property titles also have formal restrictions noted on them in favour of the Council setting out what the particular compliance requirements are (as similarly applies with statutory discount charge entries for potential repayment liabilities in the first 5 years from sale).

### **2.33 Maintenance of properties following sale**

- 2.34 Members also queried what could be done to ensure that properties and gardens were maintained post sale.
- 2.35 The following covenant is currently included in the Council's standard sale Transfers:
- “Not to permit any building or erection upon the Property or any footpath driveway or passageway or fence for whose repair the Transferee is liable or any entrance drive gate or crossing to fall into disrepair nor permit any drain gutter or fall pipe to become obstructed so as to cause damage or nuisance to the adjoining or neighbouring property now or formerly or the Transferor or the occupants thereof.”
- 2.36 The Council's standard sale Transfers also include a general “clean and tidy” covenant relating to gardens that owner/occupiers are required to observe/adhere to.
- 2.37 If the owner fails to keep their garden in good condition, the housing officer will write to the owner to remind them of the covenant provisions and give a reasonable time to undertake the work. If there is no response the case is referred to the Locality Team to consider action under Town & Country Planning Act 1990 (as amended) or Section 43 Anti-social Behaviour, Crime & Policing Act 2014. This could include formal action by way of service of a Notice, which legally requires the owner to undertake the work.

### **2.38 Subletting and resale**

- 2.39 Members also felt that there were a number of examples of RTBs being sublet / resold and the applicant being rehoused by LCC. They requested the number of RTBs which were subsequently sublet / sold for PRS and applicants rehoused, and what controls there were in place for this.

2.40 Over the last 5 years there have been 45 housing applications registered from former LCC properties which had been purchased through RTB. Of these, 11 were made in the name of the former tenant who had purchased their home. In the last 3 years only 2 customers have been rehoused back into LCC accommodation, one was awarded priority to move due to a change in circumstances, the other was rehoused into sheltered housing.

2.41 The council operates an open housing register, and accepts housing applications from home owners, including former tenants who have purchased their home. Unless the customer is in housing need (for example, overcrowded, threatened with homelessness due to affordability or relationship breakdown, medical issues etc) they will remain in Band C of the housing register, and their waiting time is limited to 6 months when bidding on available properties. In practice this means a home owner in no assessed housing need would only be considered for very low demand properties.

#### 2.42 Void Turnaround Times of Council Homes

2.43 Re-let Days - As of week 39 (up to the end of December 2016), Citywide re-let days stand at 27.10 compared to 2015/16 year-end figure of 30.52 days, the current target is 28 days, please see below for detailed breakdown.

	<b>Sept-16</b>	<b>Oct-16</b>	<b>Nov-16</b>	<b>Dec 16</b>
<b>BITMO</b>	29.43	28.98	28.47	21.57
<b>East</b>	25.59	25.51	25.55	28.00
<b>South</b>	29.44	29.15	29.04	25.57
<b>West</b>	27.30	27.03	26.84	27.81
<b>Housing Leeds</b>	25.51	27.28	27.17	27.10

2.44 The monthly figures show good continuous performance for the average re-let. The void numbers, time in works, ready to let to tenancy commencement time and overall re-let time also continues to remain low.

2.45 Lettable Void Properties - Overall the number of lettable voids and the number of voids in works as at week 39 (end of December 2016) at 366 voids (+16 new build, buy backs and major refurbishments which will be discounted once re-let). Voids (excluding new build, buy backs and major refurbishments) is 0.64% of the total LCC stock and the percentage rent loss from voids is 0.60%.

2.46 Re-let time performance is continuing to improve, and the percentage of empty properties remains extremely low. We are continuously looking at how we can further improve performance through improved processes and place a greater emphasis on quality and customer care, whilst ensuring that budgets are managed effectively.

2.47 Housing Leeds monitors the quality of empty properties and ensures a high quality customer service through the following:

- There are Key Performance Indicators in place to monitor the contractor's performance, including the quality of voids returned to let.



- Weekly updates are received from the contractor regarding properties in their possession and when then they are due to be completed by.
- 20% of post and pre inspections are carried out by Housing Leeds after the contractors have handed the property back to ensure that the re-let standard has been met.
- Final fix ring backs are carried out 30 minutes to 1 hour after the appointment to ensure that the appointment has gone ahead satisfactorily and the customer is able to move in. If there are issues this allows the voids team to take ownership and try and resolve any issues that may have occurred at first point of contact.
- A buddy system is in operation whereby the Technical Officers name and contact number is given to the customer at sign up so if there are any issues the customer can ring the Technical Officer direct and these can be dealt with at first point of contact.
- Quality checks are carried out by Tenant Inspectors on a quarterly basis.
- Complaints are reviewed to identify any learning/ actions that can be implemented.

2.48 Housing Leeds has recently introduced a Variable Lettable Standard which enables us to offer an enhanced lettable standard to 22 blocks / streets which have sustainability issues, high turnover and low levels of customer satisfaction.

2.49 The enhanced standard will mean that new tenants will be offered full decoration of the kitchen, bathroom and one other room of the tenant's choice as part of the void works.

2.50 Customer satisfaction will be reported in January 2017 for December 2016 as ring backs have not yet started for that period. A review will be carried in April 2017 to establish whether or not tenancies are more sustainable.

#### 2.51 **Tenant Scrutiny Board and the wider tenant involvement framework**

2.52 Housing Leeds has a Tenant Involvement Framework – promoted to tenants as a 'wheel of involvement' (see appendix 1). This gives tenants the opportunity to take part in a range of formal groups, each with a particular theme or focus, or, as we move to the outer part of the wheel, less formal activities such as completing surveys or doing an estate walkabout.

2.53 Key parts of the framework are VITAL, the 'Voice of Involved Tenants across Leeds' and the local Housing Advisory Panels. The Tenant Scrutiny Board works independently to the rest of the involvement framework.

2.54 Tenant Scrutiny and Tenant Scrutiny Boards are tenant forums to make evidence based recommendations for service improvement. They have been developed in response to regulatory requirements. The Homes and Communities Agency Regulatory Framework for Social Housing, and specifically within this, the Tenant Involvement and Empowerment Framework, outlines the obligations for all social housing landlords in England in relation to how landlords are expected to work with tenants. The standard sets a clear expectation that tenants should be able to influence and be involved in *'the scrutiny of their landlord's performance and the making of recommendations to their landlord about how performance might be improved'*.

2.55 During its October 2016 meeting, the Environment and Housing Scrutiny Board discussed the role of the Tenant Scrutiny Board and sought further clarification surrounding its governance and support arrangements. The Terms of Reference and Procedure Rules for the Tenant Scrutiny Board were developed by Corporate Governance and agreed with the Tenant Scrutiny Board in 2014. These are therefore attached in Appendix 2 for the Scrutiny Board's information.

2.56 We are currently reviewing the Tenant Involvement Framework with VITAL so that we can:

- Engage with a greater number of tenants in more informal and local ways – for example using more pop up consultation on local issues or using the mobile office;
- Having a streamlined 'formal' structure of meetings – that pull in more Customer Insight and focus on service improvement;
- Supporting and working with others to do more local community projects, such as the Parenting Programme or focussing more on Digital Inclusion and all the benefits this can bring;
- Closely link the work of tenant engagement, involvement and community investment to the themes of the housing strategy.

2.57 The new framework will strengthen the links between the Tenant Scrutiny Board and VITAL (the Strategic Tenant Body) so that the activity of the TSB is open and transparent to tenants more widely. There will be more opportunities and channels for each other to share their priorities and highlight other issues that these two key parts of the framework might want to work on.

#### **2.58 HAPs – relationship between HAPs and Community Committees and ward members**

2.59 Close working relationships between the Communities Teams, Ward Members and the HAPs is supported by:

- A ward member from each ward within the HAP area being invited to become a HAP member.
- Officers are instructed to follow a set process that includes:
  - Sharing project proposals with Communities Teams to explore opportunities for joint funding
  - Sharing all projects that are due for consideration by the HAP with local ward members.
  - Feeding back to ward members the decisions from the HAPs themselves.
  - Making relevant teams, services or third parties aware as part of a wider consultation process.
- The involvement service supporting the HAPs have, and are able to, provide formal updates to local Community Committee meetings.
- HAP members are encouraged to attend Community Committee meetings
- The Localities Review aims to further strengthen the benefits of close working to tackle local priorities.

### **3. Corporate Considerations**

#### **Consultation and Engagement**

Consultation and engagement is embedded within the individual policy / areas of activity.

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

An equality impact assessment is not required at this stage as this report is primarily an information report.

#### **Council policies and City Priorities**

Housing policy and activities contribute to making *Leeds the best city to Live*.

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

Individual evaluations are undertaken within the individual policy / areas of activity

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

This report does not contain any exempt or confidential information.

#### **Risk Management**

Risk management is embedded within the individual policy / areas of activity.

### **4. Conclusion**

The report covers a range of policy areas identified by Environment and Housing Scrutiny Board at their October meeting.

### **5. Recommendations**

Scrutiny Board is requested to note the contents of this report, and highlight any areas for further investigation.

### **6. Background documents<sup>1</sup>**

None

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<sup>1</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.