

**Report of Service Manager, Private Sector Housing**

**Report to Director, Environment and Housing**

**Date: 25<sup>th</sup> January 2017**

**Subject: Adoption of an updated Enforcement Policy for Private Sector Housing.**

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?	No
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 March 2016 a paper was approved by the Councils' Executive Board regarding the future direction of the Private Sector Housing Service. The paper sets out a number of opportunities to improve service delivery, highlight new ways of working and determine service priorities.

2. The main areas of activity identified included:

- Investigating options for an element of self-regulation in the sector
- Establishing a rogue landlord unit to target poor performing landlords
- Look to establish an ethical lettings agency as a real alternative for landlords
- Linking the operation of the Leeds Neighbourhood Approach to Regeneration initiatives
- Developing a more robust enforcement policy to support these initiatives and concentrate resources on the worst areas.

3. Central to all these initiatives is the need to refresh and update the existing enforcement policy to reflect the new ways of working and ensure the adopted policy complies with regulatory requirements. However, the policy must be fair, clear and

transparent to staff and customers whilst ensuring existing limited resources are targeted at the worst offenders.

4. The new enforcement policy has been developed following consultation with all interested parties, including landlord associations, and represents a measured but robust approach to addressing issues in the private sector.

### **Recommendation:**

The Director, Environment and Housing, is requested to approve the adoption of an updated Enforcement Policy for use by the Private Sector Housing service.

## **1 Purpose of this report**

- 1.1 The purpose of this report is to set out the remit and scope of the new enforcement policy to be used by the Private Sector Housing Service and seeks the Directors' approval to adopt the policy.

## **2. Background information**

- 2.1 Currently, the main functions of the Private Sector Service can be summarised as a range of regulatory functions, property inspection regimes, an Empty Homes strategy, capital works programme(s) and loan support to vulnerable people.
- 2.2 Whilst a wide range of regulatory options are utilised, the primary legislation, whether as part of the reactive service, the Leeds Neighbourhood Approach (LNA) or Rogue Landlord Unit, is the Housing Act 2004 to enforce conditions within the sector.
- 2.3 Part 1 of the 2004 Act allows for property standards and general disrepair to be addressed primarily using the Housing, Health and Safety Rating System (HHSRS) which is a risk based assessment of conditions and how they affect the occupying tenant. This is a prescriptive and well established process with Government guidelines on compliance and interpretation.
- 2.4 Parts 2 and 3 of the 2004 Act relate to Mandatory and Discretionary Licensing. In Leeds we have over 2,700 Licensed HMO's and regulate the property and management conditions through this process.
- 2.5 Whilst we do not currently operate any discretionary licensing scheme(s), we do maintain the authority to designate such schemes through these powers if we consider conditions and circumstances support such needs.
- 2.6 The work to reduce the number of empty homes across the city has evolved successfully over the years and incorporates partnership working with the third sector and social enterprise organisations.

## **3 Main Issues**

- 3.1 The increasing role of the private rented sector has led to ever increasing work demands on the service and seen its' profile rise in the city. It now represents over 20% of the total housing stock in the city.

- 3.2 The increasing number of private landlords has also identified the lack of knowledge in the industry as many are not professional landlords by nature. The rise in the low rental market in the private rented sector has led to poorer housing conditions and less compliant landlords.
- 3.3 The service has always tried to engage with the sector and has used a wide-range of informal methods to investigate and resolve housing complaints. These initiatives have included positive engagement with the various landlord organisations and the use of the Leeds Landlord Accreditation Scheme (LLAS) to promote higher voluntary standards in the sector. This will be continued and improved with the introduction of the new Leeds Rental Standard.
- 3.4 In addition, the Housing Act 2004, encourages a degree of informal investigation to avoid the need for formal enforcement wherever possible and this is embedded within the existing policy and procedures. Whilst this has worked to help resolve tenant concerns it is also very resource intensive, can cause delays to actions and in some cases, allows poor landlords to avoid or delay appropriate enforcement action.
- 3.5 Despite efforts by the service to triage complaints and provide appropriate advice and information, it is clear that some landlords are abusing the system and avoiding or delaying compliance at the expense of the tenant and this service.
- 3.6 These landlords are not meeting their legal obligations, whilst making profits through rent receipts and often endangering the tenants' health and safety interests. Some landlords and agents are fully aware of the legal obligations through advice and enforcement actions taken at other property that they own or manage, but choose not to replicate these standards across their portfolio.
- 3.7 In light of this, and to give a clear direction of travel for the service, it is necessary to make the enforcement regime more robust. This will still comply with the necessary Regulators Codes but will eliminate delays and target poor performance or non-compliance. It will provide a more rapid response to tenants living in the poorest quality accommodation.
- 3.8 Whilst maintaining the ability for landlords to comply on an informal / voluntary basis, it will set out a clear procedure for compliance and introduce more formal enforcement at an earlier stage. In addition, the policy also re-enforces that those landlords subject to formal enforcement, will also be subject to appropriate charging penalties in order that the service can recover reasonable costs entailed in taking the enforcement action.
- 3.9 Although the formal enforcement element of the new policy will be more robust it will still be supported by informal strategies aimed at achieving voluntary compliance. Key to this will be the introduction of the new Leeds Rental Standard and the continuing partnership working with the landlord associations aimed at promoting higher standards in the sector.
- 3.10 The overall result of the new policy will allow those landlords willing to comply with their legal responsibilities to do so with our support and assistance. However, those refusing or failing will be subject to the full force of enforcement and charged

accordingly. This will improve service delivery and support vulnerable tenants in a more timely manner.

- 3.11 The policy has been constructed in such a way as to comply with the Regulators Code 2014, remain fair, and transparent but also flexible enough that it can be easily adapted to incorporate likely legislative changes contained within the new Housing and Planning Act and proposed extensions to HMO licensing.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 Detailed discussions have taken place with Legal Services about the Council's legal regulatory role, including the Enforcement Policy.
- 4.1.2 The draft policy was also circulated to other interested parties in the private sector and other comparable local authorities for comment. All responses received were positive and supportive.
- 4.1.3 Further consultation has also taken place with the Residential Landlord Association (RLA) and the National Landlord Association (NLA) and their legal representatives and they have given agreement in principle to this new policy.
- 4.1.4 The draft policy has also been fully discussed and debated at the PRS Housing Forum and received full cross party and member support.

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

- 4.2.1 There are no issues for Equality and Diversity / cohesion and integration.

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

- 4.3.1 The Council has an ambition to be the "Best City". One determiner of achievement will be whether or not the city has housing to offer that meets the ambition of "Best City". This policy will support the Best Council Plan in relation to living in good quality affordable homes within a clean and well cared for place by addressing poor housing conditions, improving external appearance of the properties and to enhance the overall street scene.
- 4.3.2 The Private Rented Sector is key market provider of housing in the city. The Council has a clear regulatory role in this sector to ensure that standards are maintained and tenants have access to a safe, warm and secure home. The implementation of this policy will be another tool with which to regulate the sector.

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

- 4.4.1 Adoption of this more robust policy will help resources be targeted at the very worst properties thus helping the more vulnerable tenants. The policy reflects existing staffing resources so there is no additional cost to the service but aims to target activity and create more efficient ways of working.

- 4.4.2 The increased use of formal enforcement through the Housing Act 2004 will also see an increase in charging notices. The income received from this covers staffing costs and can be re-invested back into the service.

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

- 4.5.1 The decision being requested falls under the Director's delegations in accordance with part 3 of the constitution.
- 4.5.2 The adoption of this new enforcement policy is an administrative decision only and is not therefore subject to call in.

#### **4.6 Risk Management**

- 4.6.1 There is no identified legal risk to this decision given that it is fully in line with the Regulatory Code and has been subject to full consultation. The service will ensure the policy is fairly and equitably administered.
- 4.6.2 A consequence of increased enforcement is a likely increase in complaints against the service and formal appeals against Statutory Notices to the First tier Tribunals. This is to be expected and policy and procedures will be developed by the service to ensure all actions are taken in accordance with legislator requirements. The only impact on the service is likely to be the increased time spent by staff and management in dealing with these "appeals".

#### **4.7 Conclusions**

- 4.7.1 The implementation of the new enforcement policy is fully in line with the Councils' ambition to be the best city.
- 4.7.2 The new robust policy is closely linked to informal strategies and the proposed new Leeds Rental Standard that will enable all compliant landlords to operate efficiently and in full engagement with the Council.
- 4.7.3 The new policy is fair, transparent and fully enforceable and will provide the service with the necessary tools to tackle the worst housing conditions in a more robust and efficient manner.

#### **4.8 Recommendations**

- 4.8.1 The Director, Environments and Housing, is requested to approve the adoption of an updated Enforcement Policy for use by the Private Sector Housing service.

#### **4.9 Background documents<sup>1</sup>**

- 4.9.1 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.