



Report of Director of Resources and Housing

Report to Environment and Housing Scrutiny Board

Date: 20th April 2017

Subject: Private Rented Sector Housing - update

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes x No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes x No
Is the decision eligible for call-in?	<input type="checkbox"/> Yes x No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes x No

Summary of main issues

1. This report provides an update on private rented sector housing issues which were identified by the Environment and Housing Scrutiny Board as of particular interest at the January 2017 meeting. They are as follows:
 - The Housing and Planning Act 2016 and how it affects the private rented sector
 - The progress made by Housing Leeds on implementing the recommendations of the Executive Board Report in March 2016

Recommendations

2. Scrutiny Board are requested to note the content of the report.

1 Purpose of this report

- 1.1 The purpose of the report is to update the Scrutiny Board on the Housing and Planning Act 2016 as it affects the private rental sector and the progress made by Housing Leeds in implementing the recommendations of the Executive Board Report in March 2016 - Establishing a Council's Letting Agency and the future policy direction for the regulation of the Private Rented Sector.

2 Background Information

- 2.1 The private rented sector continues to grow significantly, within the city with an estimated 65,000 properties. This includes all privately rented accommodation – including university accommodation. There is no single privately rented market in the city. There are a number of markets which address the different needs of households such as the professional, student, family and low rental markets. However, it is estimated that 25% of the sector is in the low market rental areas, 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
- 2.2 Certain areas of the inner parts of the city have seen a change of tenure mix so that the private rental market is now the dominant sector. This can be over 50% of properties in some neighbourhoods. These changes have led to some areas having issues of transient populations, community cohesion, new communities migrating into an area and an increase in the level of inadequate and unacceptable managed accommodation provided by poor landlords. This has affected rent levels in the city which in turn has affected the supply of homes.
- 2.3 With the issue of a shortage of affordable home, including new build ones, the loss of social homes and the low availability of mortgages the private rented sector is increasing and becoming the only option or the option of choice for a large number of individuals and families.
- 2.4 Overall the private rented sector is generally of poorer quality than either the owner/occupation or social sector. Whilst it is recognised that there is no single private rental market in the city, with a variety of quality accommodation on offer, it is noted that most of the sector still offers quality homes above the legal minimum which the Council can enforce.
- 2.5 However, the majority of the private rental sector is actually contained within the pre 1919 stock and in the majority of this stock would be classified as in a poor condition. Overall around 45% of the private rented stock, compared to the Owner/Occupation sector at 30%, does not meet the decency standard previously required in the social sector. Most of this stock is the pre 1919 housing with the highest level of non-decent found within the inner areas of the city, especially in south and east.
- 2.6 One in five of the private rented sector has at least one or more category 1 hazards present in their property, this compares to just over one in ten in the Owner/Occupation sector. The main hazards found in the sector are excess cold, falls, disrepair and damp/mould. Again the highest level of

properties with hazards is within the inner areas of the city.

- 2.7 Unfortunately the most vulnerable, the young and elderly who tend to be on low income are generally found in the poorest quality privately rented homes in the city.
- 2.8 The size of the private rented sector has significantly increased over the last ten years, yet the resources to address the issues have not kept pace. The service is funded via the general fund which since 2010 has been subject to considerable financial pressure. Therefore there is a limit to the capacity currently available to the Council to address the concerns within the sector without additional pressures on the general fund. There is currently limited ability to generate additional income to support the work of the service. While the legislation allows a fee income to support HMO mandatory licensing, the income can only be used to support the administration of the scheme and not for other activities. Mandatory licensing, in any case, does not apply to the vast majority of homes.
- 2.9 The Housing Act 2004 does allow landlords to be charged for the service of notices but this only generates a limited income. In 2015/6 this was less than £20k. Government has recognised this issue and as part of the civil penalties under the Housing and Planning Act 2016, the Council will be able to keep all the income from fines provided it is used for private sector housing. Whilst welcomed, the level of fines has yet to be known and it is anticipated that due to the maximum fine being £30k that these will be subject to appeal by landlords and the recovery of the monies may prove to be problematic.
- 2.10 The Housing Act 2004 does allow a Council to introduce discretionary licensing, namely selective or additional HMO licensing. Both have to be subject to a business case based upon criteria laid down by Government. Whilst it is possible to charge a fee, as per mandatory HMO licensing, to deliver any such scheme, the income can only be used for this purpose and not to support other activity to address private rented issues. We are re-examining the case for selective licensing in parts of the city.
- 2.11 The Council's approach to the sector is to look to support the good landlords who provide good quality well managed accommodation which is essential to a city such as Leeds in order to continue to be prosperous and continue to grow its economy. However if you are a poor or rogue landlord the approach is to target resources to ensure that they do comply with their legal duties or face the full action of the Council and partners. The Council has agreed a more robust approach to the sector which supports this approach which together with the proposed Leeds Rental Standard has been subject to consultation with the sector in general. The National and local Landlord Associations are fully supportive of this approach to the regulation of the sector, as it helps to create a level and fair market for all by targeting those in the sector who have a disregard for their legal duties and create a bad reputation for landlords in the city.

- 2.12 In order to address the issues of poor property and management conditions in the sector, the Council has mandatory and discretionary powers available under the Housing Act 2004.
- 2.13 Below is a brief summary activity undertaken by the private sector housing service between 1st April 2016 and 31st December 2016 the Council:
- Received 1,528 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 and Bond Schemes;
 - Carried out over 1300 separate property inspections;
 - Undertook work to improve the standards of over 4,000 individuals living in the sector;
 - Undertaken proactive targeted interventions as part of the Leeds Neighbourhood Approach in Holbeck;
 - Falls, Excess Cold, Fire safety, Electrics and damp are the major hazards identified.
- 2.14 The Council continues to look at developing new and better ways of working. As part of this approach officers regularly attend meeting with DCLG on new developments and are part of the implementation working group for the Housing and Planning Act 2016 in relation to the private rented sector. Officers also attend meetings with other authorities to share good practise and new ways of working. This is both on a National and Regional level. As a result the Council's approach to the sector and its ways of working it is regularly invited to attend conferences to present papers on the way it works and the innovative ways it approaches it work on the private rented sector and empty homes.

3 Main Issues

- 3.1 The Housing and Planning Bill gained Royal Ascent on the 12th May 2016. An overview of the provisions was presented to the meeting of the Scrutiny Board in January. This report provides a further update on the latest position of the implementation of the Act as it affects the private rented sector.
- 3.2 The Act is broadly welcomed in terms of the Private Rented Sector as it is seen as providing additional tools by which the Council can regulate the sector. Officers from Leeds are represented on the DCLG working group working on its implementation and have had the opportunity to help determine the scope and extent of the new proposals.
- 3.3 It should be noted that official notification has now been received from the Department of Communities and Local Government (CLG) that the option to use Civil Penalties and the extension of the use of Rent Repayment Orders have been approved to start from 6th April 2017. Whilst this is welcomed, we are still awaiting the formal guidance to allow formal policies and

enforcement protocols to be established. Officers are currently working through options and liaising with other local authorities in preparation for this new work area.

3.4 The main provisions in the Act are outlined below:

3.4.1 **Introduction of the option to serve Civil Penalties as an alternative to Prosecution**

We welcome the broad proposals but are still awaiting the full guidance. Initial discussions with CLG, as part of the working group, indicate that the level of Civil Penalty will have a maximum penalty of £30K per offence and CLG are expecting penalties to be towards this higher range rather than lower levels. The main impact of this option is to act as a real deterrent and be punitive – the cost of the penalty has to be seen to be higher than the potential gain by the landlord.

Officers are working on potential options and use of a matrix that should allow consistent application of penalties. Officers are intending to liaise at a local, regional and national level to help achieve a level of consistency in the approach to using and setting the Civil Penalties.

Once full guidance is received then officers will determine alternatives and look to amend the existing enforcement policy to identify when such penalties should be used, when to still use prosecution and set appropriate guidelines for determining each penalty level. Any such penalties can be retained by the housing authority but are subject to appeal by the landlord and a process will also need to be established with Legal and Finance to allow the recovery of Civil Penalties.

3.4.2 **Extending the use of Rent Repayment Orders**

Again, we broadly welcome these proposals as it will act as a further tool to use against rogue and criminal landlords. The intention is to extend the use of RRO's to cover offences other than purely licensing and that they are used as an extra financial penalty against landlords.

We are now aware that this option will be implemented from 6th April 2017. As with the Civil Penalties, we are still awaiting full guidance on how this is likely to be implemented.

3.4.3 **Banning Orders**

Officers welcome the opportunity to consider banning orders against the very worst performing landlords and consider this as a real step forward in taking direct action in the lower end of the rental market. Further detail is still awaited on the use of banning orders and which offences will be included in the criteria. Officers have had the opportunity to directly communicate with CLG / Government on which offences should be considered and how this should be applied. Implementation is not expected until October 2017.

3.4.4 Rogue Landlord Database

Government /DCLG have now commenced technical work on developing a database that will be operated on a national basis but with each local authority responsible for updating the database locally – this is a huge undertaking for Government and local authorities and we await further advice on this. Implementation is not expected until October 2017.

3.4.5 Electrical Safety

Discussions are still ongoing and CLG have requested evidence from the sector 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.

3.4.6 Improved Data Sharing

We are on proposals to provide access to the 3 Tenancy Deposit Scheme data which will help to improve the intelligence available to a local authority. This is expected in April/May of this year.

The Government is also proposing to issue best practise guidance on the use Council Tax data and other intelligence sources to support the work of Council's in tackling rogue landlords. Currently Government proposes to issue this in April/May of this year.

3.5 In addition to the above the Government is also considering the extension of mandatory House in Multiple Occupation (HMO) licensing. Currently the Council has a mandatory duty to licence all houses in multiple occupation which as 3 storeys or above and occupied by 2 or more households. Leeds has the largest number in the country with around 2800 at any one time. Preparations for the third phase of licensing have commenced with the majority of existing licences due for renewal between April and August 2017. The cost of licensing to the Council is covered by the licence fee charged to owners.

3.6 In addition, the Government has 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 the proposals. 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 and occupied by 2 or more households. No further guidance or information has been made available since the last technical consultation last year.

3.7 In Leeds, this is likely to have a limited impact, although until full details are known it is difficult to accurately predict. The Government has indicated that the new regime will come into force as of October 2017 with an implementation date of April 2108. However these dates may be subject to change.

- 3.8 In March 2016 the Executive Board approved the recommendations for the future policy direction of the private rented sector and agreed in principle to create a Council Letting Agency. The service has implemented further strategies to support these:

3.8.1 **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 been completed 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. Subject to formal approval by the Council it is proposed to have a launch date for the new scheme– this is likely to be late April 2017 and Cllr Coupar, Executive Lead Member, has agreed to host the launch event.

- 3.8.2 **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 a range of enforcement options and resulted in:

- Over 220 separate full property inspections, re-inspections and visits,
- 35 proactive property inspections in targeted areas
- Over 285 formal enforcement notices being issued, of which,
 - 31 were formal improvement notices under the Housing Act 2004
 - 14 were Prohibition Orders under the Housing Act 2004,
 - 3 formal prosecutions are currently underway.

A range of other legislation has also been used including the Building Act, Environmental Protection Act, Town and Country Planning Act etc. to achieve compliance.

In order to be successful it is essential to develop partnerships. The RLU have developed closer working relationships with other Council Services

(Revenues and Resources, Planning etc.) and external agencies (Police, Immigration, financial institutions etc.) to ensure all enforcement is fully co-ordinated to maximise the actions taken against the targeted landlords.

The work of the unit has attracted widespread interest and led to filming by the BBC regarding property inspections being undertaken and the links to illegal evictions.

- 3.8.3 Leeds Neighbourhood Approach (LNA)** - As part of addressing standards in the sector the Council continued with its Leeds Neighbourhood Approach in Holbeck, which is currently targeting 404 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 two target areas 291 properties have been inspected and 515 hazards identified which are being addressed. In addition, 315 referrals have been made to partners to address issues and 62 empty homes returned to occupation since the start of the work in the area. In July 2016, Executive Board agreed that the approach should remain in Holbeck for a further 3 years at a cost of £1.2m. 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 to an initial phase of group repair in Holbeck. This will include external energy efficiency works as well as typical renovations such as new roofs and windows.

- 3.8.4 Empty homes** – This continues 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 February 2017 the net reduction was actually 2376. 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. As part of the November 2016 meeting, the Executive Board agreed to extend the support to the Empty Homes Doctor for a further 3 years at a cost of £100K per annum.

- 3.8.5 Council Letting Agency** – options are currently being developed based on best practice across the country, the performance of the existing Private Sector Letting Scheme, consultation feedback from the sector and the legal and financial constraints different models of an agency may give rise too. Officers have visited and discussed the approaches adopted by a number of other Council's as to how their schemes operate, their financial models and the success of the approach in their specific areas and markets.

As part of the creating an agency there needs to be consideration given to the financial viability of a standalone agency, the issue of state aid, the

market for such an approach by the Council, the legal position of the agency in relation to its duties, the risks proposed by the approach and whether this will provide a better service than the current letting scheme to increase the supply of quality homes for those who need to rent within the sector.

The existing lettings scheme is managed across the Leeds Housing Options service (with a service objective of meeting housing need) and the Private Sector Housing Team – with a service objective of improving housing standards. The two service objectives are complementary. The Private Sector Housing team inspect each potential letting and a letting cannot progress without a satisfactory inspection/necessary works being carried out. This improves housing stock and fosters confidence in potential tenants that a private rented tenancy is a good housing option. At the same time, the Leeds Housing Options Service has a vested interest in only proposing prospective tenants to landlords in whom there is reasonable confidence that they will be good tenants. Landlords would soon pull out of the scheme if they were not being offered potentially good tenants. The scheme is in two parts: properties let directly let through the scheme, with a commitment to pay up to the equivalent of four weeks rent (damage liability payment) for rent loss/damage occurring during the tenancy or the payment of a bond (to be held in a nationally recognised bond protection scheme in the name of Leeds City Council) for a property advertised through wider routes. The condition of the payment is that the property passes a property inspection. The damage liability or bond payment is the Council's maximum liability in respect of the tenancy. In 2016/17, 436 private rented tenancies were secured through the two scheme options.

The existing lettings scheme has a number of positive attributes: it helps to address housing need, it leads to improvements in housing stock, it establishes working contact with private landlords, it reduces demand for homeless temporary accommodation and pressure on council housing stock whilst at the same time minimises the Council's exposure to financial liability relating to private rented tenancies.

Nevertheless, there is a commitment to continue to develop a fee charging private sector lettings scheme, whilst not exposing the Council to legal challenge (relating to the state aid status of a scheme), any conflict of interest in being simultaneously a managing agent and sector regulator and financial risk.

There are a number of ways in which the existing scheme can be enhanced including:

- Offering a dedicated support helpline for landlords in relation to tenancy management
- Offering a proactive support service for landlords which could cover advice on tenancy renewals and ending tenancies
- An inspection service including inventory/exit inspections, and

- gas, electric and energy performance certification
- Full repairs service.

Clearly one of the key issues is whether there is a market for such a service and, if so, what landlords would be willing to pay.

It is proposed to bring forward options to determine the best practical approach to improve standards in the sector, whilst supporting landlords with the management of their properties to ensure good quality homes for their tenants. It is proposed that any scheme will link into the proposed Leeds Rental Standards as part of the support offered to landlords.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Consultation and engagement is embedded within the individual policies and areas of activity.

4.1.2 Officers are actively engagement in working groups with DCLG over the implementation of the Housing and Planning Act 2016, including helping to draft statutory guidance.

4.2 Equality and diversity / cohesion and integration

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

4.3 Council policies and best council plan

4.3.1 The Private Sector Housing Service supports 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 property to enhance the overall street scene.

4.4 Resources and Value for Money

4.4.1 Individual evaluations are undertaken on the different policy and work activities.

4.4.2 Civil penalties under the Housing and Planning Act 2016 allows any fine to be retained within the private sector housing service to target rogue landlords

4.4.3 Any increase in the definition of mandatory HMO licensing will be covered by additional fee income to cover the extra cost of enhance scheme.

4.5 Legal implications, access to information, and call-in

4.5.1 All the new provisions of the Housing and Planning At 2016 are being considered as part of the ongoing implementation of the legislation.

4.5.2 This report does not contain any exempt or confidential information.

4.6 Risk Management

4.6.1 Risk management is embedded within the individual policy and activity areas highlighted in the report.

5 Conclusions

- 5.1 The report covers the issues identified by the Resources and Housing Scrutiny Board at their January 2016 meeting in relation to the private rented sector.

6 Recommendations

- 6.1 Scrutiny Board is requested to note the contents of the report.

7 Background Documents¹

- 7.1 None

¹ 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.