

Scrutiny Board (Environment and Neighbourhoods) Inquiry into Private Rented Sector Housing

Summary report of the working group meeting held on 16th October 2008.

1.0 Introduction

1.1 A working group of the Board met on 16th October 2008 to consider evidence in line with session one of the Board's Inquiry into Private Rented Sector Housing.

1.2 Session one of the Board's Inquiry focused on the following areas:

- the levels of owner occupied and private rented accommodation in Leeds;
- an analysis of trends in demand and supply for private rented accommodation in Leeds;
- legislation governing the private rented sector in the current Housing Act, with particular focus on Selective Licensing, Housing in Multiple Occupation (HMO) Licensing, Empty Dwelling Management Orders and Housing Health and Safety Rating System;
- issues surrounding energy efficiency and the Decent Homes requirements and how these can be promoted and sustained within the private rented sector;
- empty private rented sector properties and the negative impact they can have on neighbourhoods.

1.3 A number of briefing papers were submitted to the working group addressing the above issues. These are attached to this report as follows:

Appendix 2a – Briefing paper on housing legislation;

Appendix 2b – Briefing paper on maximising the utilisation of the existing housing stock - recycling the empties;

Appendix 2c – Briefing paper on energy efficiency in the private rented sector;

Appendix 2d – Copy of report to the Executive Board on 11th June 2008 on activity in the private rented sector;

Appendix 2e – List of reference documents as suggested further reading material.

1.4 The following Members and officers attended the working group meeting to discuss the evidence submitted:

Councillor B Anderson (Chair of the Scrutiny Board)

Councillor A Blackburn

Councillor D Coupar

Councillor D Hollingsworth

Councillor G Hyde

Angela Brogden (Principal Scrutiny Adviser)

Andy Beattie (Head of Service-Housing and Pollution Control)

Jon Hough (Principal Housing Strategy Officer)
Mike Brook (Acting Housing Regulation Service Manager)

2.0 Main issues raised

Levels of owner occupied and private rented accommodation in Leeds

- 2.1 The working group was informed that back in January 2005, it was reported to the former Neighbourhoods and Housing Scrutiny Board that the private rented sector in Leeds had increased over the past ten years from an estimated 7% of the total housing stock to 9.4%. At this time, the indications were that the private rented sector in Leeds would continue to grow in future, reflecting national trends.
- 2.2 It was noted that the private rented sector in Leeds now represents approximately 13% of the total housing stock and as such provides accommodation for a significant number of Leeds households, some of whom are amongst the most vulnerable members of society.
- 2.3 The working group questioned what proportion of the private rented sector stock was located within the city centre and how many of these properties were empty? In response, it was explained that the Council took the initiative to start monitoring the numbers of city centre units (all tenure) as from July 2007 and that at the time there were 5653 units completed . The last reported figures in relation to these specific units showed 1185 (20.96%) to be empty in September 2008. Of these properties 145 (2.57%) were void for more than six months but less than twelve, with 421 (7.45%) properties being void for longer than 12 months. However, it was reported that 232 (4.10%) of these empty properties within the city centre were known to be vested within trust funds, company portfolios or investors with more than one property.
- 2.4 The working group noted that the lack of affordable housing to buy has contributed to increased demand on the private rented sector which has responded accordingly over the last few years and flourished as a result of the various 'buy to let' financial packages available. The private rented sector is becoming a lifestyle choice and one of the growing markets is young professionals who want the freedom to come and go within the job market. Also, it was acknowledged that such young professionals are struggling to get onto the property ladder as owner occupiers because of the general increase in house prices in recent years.
- 2.5 However, the working group learned that even this previously thriving market is now seeing an increase in defaulting mortgagees and repossessions, especially amongst the 'small portfolio' landlords. As new property developments struggle to sell, this has led to a fall in property prices for new builds. As a result, the working group noted that the private sector tenure now appears to be shifting more towards owner occupancy again.

Trends in demand and supply for private rented accommodation in Leeds

- 2.6 When discussing trends, it was noted that there is a danger of describing the private rented sector as one homogenous tenure given the different variations available.
- 2.7 With regard to city centre trends, the working group learned that there have been indications of increasing numbers of new build empty flats (typical of many city centres) both for sale for owner occupation and as properties to rent. However, recent historical trends suggested that the rate of these new builds was so fast that it was taking time for the demand to catch up with the supply of new flats coming onto the market.
- 2.8 It was also highlighted that there are a growing number of under-used 'traditional' student let properties in the North West Leeds district which are currently suffering a downturn in demand because of the availability of alternative purpose-built student accommodation within the city centre and close to the universities. Whilst such new builds are particularly popular with new first year students, it was noted that there is still some demand for traditional properties by second and third year undergraduates who prefer to share a house. However, it was noted that where supply has been greater than demand, this has prompted a healthy competition between landlords which in turn has led to improvements being made to properties. The working group learned that Unipol had reported that, in the main, standards are better now than 10 years ago.
- 2.9 However, with the current economic climate, concerns were raised about the possibility of landlords committing lower levels of investments to their properties than the Council would wish to see. Particular concerns were also raised about landlords maximising the use of their properties by converting cellar spaces to accommodate more tenants, which could contravene fire safety regulations. It was noted that this was being investigated further by the Council alongside other partners.
- 2.10 The working group learned that Unipol carry out annual research into the student market to evaluate the intake and choices available. The Scrutiny Board will be exploring this issue further in session two of the inquiry when Unipol will be invited to contribute.
- 2.11 It was acknowledged that the current downturn in the traditional student rental market around the Headingley area could provide an opportunity to restructure the predominance of 'shared housing' units back into family housing or larger better quality products for the elderly, special needs groups or the growing demand for accommodation to house the newly qualified 'young professionals' who wish to set up their first home subsequent to leaving university.
- 2.12 The working group also noted that the recent phenomenon of 'buy to leave' (properties that have been purchased by investors purely for capital growth) could be turned around if the investors see a substantial decline in the

equitable growth of their investment properties. Furthermore, this factor could encourage these 'investors' to consider letting/selling their investments thereby bringing these properties back into the equation of being available as 'homes for people'.

- 2.13 There could also be an opportunity to broker deals with these property owners in order for them to consider letting out this previously wasted resource to people on the housing register, or perhaps consider targeting their product to niche and specialist markets such as providing accommodation for the elderly - thereby freeing up their often under used resource of family housing which would help to alleviate the current shortage of this type of housing throughout the city. However, it was noted that for social housing, the city centre was unlikely to present opportunities because of the high rent levels currently expected, unless the market becomes so bad that properties are struggling to sell or rent in the private sector.
- 2.14 It was highlighted that the current credit crunch and downward trend in house prices could, in time, bring about a more affordable private housing market which is less out of kilter with average earnings than has been the case over recent years.
- 2.15 The working group acknowledged that there is still a substantial amount of under-used housing accommodation throughout the city but, if the council can successfully bring these properties back into occupation, this could go some considerable way to providing the much needed housing that Leeds will require in the future.

Legislation governing the private rented sector in the current Housing Act

- 2.16 It was acknowledged that the Council now has a lot of powers under the Housing Act 2004. The working group learned that the local authority is the primary enforcement agency for conditions of health and safety in the private sector, including the private rented sector. It was reported that the Housing Act 2004 had introduced the Housing Health and Safety Rating System (HHSRS) and that the introduction of the HHSRS directs councils to consider a range of 29 identifiable hazards within dwellings and assess the risk posed by those hazards. The working group noted that the most serious hazards are classed 'Category 1' where the Council then has a duty to take action to eliminate or significantly reduce the hazard. The presence of a category 1 hazard would result in the dwelling failing the decent homes standard.
- 2.17 It was highlighted that the HHSRS applies to all houses in multiple occupation and singly occupied properties. In undertaking the assessment the practitioner is required to consider the likelihood of harm from a hazard i.e. the probability of an occurrence during the next 12 months following the assessment of the dwelling and the spread of harms from that hazard.
- 2.18 The working group noted that the assessment is made of the dwelling, disregarding the current occupiers, and therefore will not be affected by a change of occupier and a vacant property can also be assessed.

- 2.19 The working group learned that the service is primarily demand led. Since the service re-structured in May 2008, it has received around 250 service requests a month(approx 3000 per annum) covering a whole range of issues. When dealing with requests for assistance, it was highlighted that officers follow guidance set out in a number of quality manual procedures and that all staff are accredited through Warwick University to carry out Hazard Assessments.
- 2.20 It was noted that many of the requests are coming from the North West of the city, where students are predominately based as they are very well aware of their rights as tenants. The working group questioned how the Council is promoting its services within the inner city areas and particularly to vulnerable groups such as migrants. It was noted that migrants would often refuse to approach the council for help regarding poor private rented accommodation. As some migrants regard their stay as short term, and in some cases have accommodation provided as part of their employment arrangements, they would tend to put up with such living conditions knowing it was a temporary measure.
- 2.21 It was explained to the working group that the service is in the process of producing advisory leaflets for one stop centres and GP surgeries etc, where they can target vulnerable tenants and make them aware of their rights. It was highlighted that by having this knowledge to use against a landlord, this can sometimes be enough to create a positive reaction.
- 2.22 In promoting this service, the working group questioned whether there was enough service capacity to deal with any additional requests. In response, it was hoped that such a proactive approach would help to lessen the reactive work of the service in the longer term. It was also reported , by way of example, that Liverpool Council had negotiated with their local Primary Care Trust to secure £10 million for 25 staff to address hazards within properties. It was therefore acknowledged that Leeds could also benefit from exploring such innovative approaches and working more closely with central government and other partners.
- 2.23 The working group also asked about the use of Empty Dwelling Management Orders. Empty Dwelling Management Orders (EDMOs) give the Council discretionary powers to bring empty private sector dwellings back into use where the owners are unable or unwilling to do so. Once an Order has been granted, the Council can manage the property on behalf of the owner but does not become the legal owner of the property and cannot sell or mortgage the property.
- 2.24 The working group was informed that Leeds, like most other local authorities, are currently experiencing difficulties in putting into place procedures for utilising EDMOs. The primary obstacle is that there has been no serious expression of interest from ALMOs, Registered Social Landlords or 'accredited' private landlords to act as managing agents upon the council initiating the process of EDMOs.

- 2.25 It was noted that Leeds has recently explored the possibility of procuring a partner/managing agent in conjunction with other West Yorkshire authorities in order to maximise the economy of scale for any interested agents. Leeds has joined with Bradford and Kirklees in seeking expressions of interest on this matter throughout the European Economic Area. So far , no expressions of interest have been forthcoming., but it is intended to readvertise for any possible interest which may be more successful in the current downturn in housing market activity.
- 2.26 The working group acknowledged that Leeds has devoted significant resources to returning long-term empty properties into use. One of the reasons for this success is the systematic monitoring of empty properties on a ward area basis and within targeted areas which have previously suffered high levels of empty properties and fragile demand such as East End Park, Cross Green, Harehills, Beeston and Holbeck, and to a lesser extent, Chapeltown. The working group received examples of such area profile reports and learned that such reports are available for each ward and can be accessed by Members to indicate trends within their areas. However, it was acknowledged that the data within these reports can change rapidly.
- 2.27 It was noted that an agreed action plan relating to the targeted areas has been established to encourage/facilitate the return back into economic use property which is not being utilised.
- 2.28 It was also explained to the working group that these areas all have high concentrations of rented accommodation, much of which has been provided by the buy-to-let boom of recent years. However, it was noted that unfortunately, the owners of the vast majority of these properties are ‘small portfolio’ landlords with only one or two properties within their portfolio and that these are probably the most vulnerable of property investors in terms of the cost of meeting their obligations.
- 2.29 The working group raised the issue of incentives for landlords and noted that there are limited financial incentives in the form of grants for landlords to carry out work to their properties, but only within a small number of Group repair schemes . However, there are a range of non financial incentives that the Council promotes in support of responsible landlords. The Council has one of the best landlord accreditation schemes in the country, however, this scheme focuses primarily in the North West of the city and therefore the Council is looking to promote the scheme city wide. It was noted that session two of the inquiry will be focusing on incentive schemes for landlords and will also involve discussions with landlord representative groups.
- 2.30 It was highlighted that whilst the small portfolio landlords are providing a valuable service, the difficulty for the Council is with monitoring and managing them better. The working group learned that in Europe, there are more ‘large portfolio’ landlords which therefore makes it easier to manage. In view of this, the working group agreed that the Council should also be exploring innovative ways to attract such landlords to Leeds and also suggested looking at

expressions of interest outside of the UK. The working group felt that more research was needed around what other European countries do and in particular, what their governments are doing to stimulate this market. A suggestion was also made for the Scrutiny Board to approach local MEPs for their input into this area.

Issues surrounding energy efficiency and the Decent Homes requirements.

- 2.31 The working group learned that the major hazards affecting the private rented sector in Leeds are excess cold, falls (on stairs, falls on the level and between levels) and fire safety. Excess cold hazards in this sector actually account for 61.6% of all category 1 hazards and poses the greatest challenge for the authority to resolve.
- 2.32 It was highlighted that excess cold, resulting from poor energy efficiency of houses and inefficient heating systems, is the primary reason why properties fail under the Housing Health and Safety Rating System. As a consequence of the significant proportion of older properties in the private rented sector (56% of rented properties constructed before 1919) and the technical difficulties and higher costs associated with improvements in such houses, the private rented sector presents a significant challenge in terms of scale and cost of improving energy efficiency. Furthermore, privately rented dwellings have far more Fuel Poverty - currently 33% compared with 16% in owner occupied dwellings.
- 2.33 It was reported that there is significant financial investment in the private sector facilitated principally through the Council's Fuel Savers Team.
- 2.34 It was also noted that an overall approach for enhanced action is intended through a refresh of the actions to deliver the Private Rented Sector Strategy. This will include the development of the Strategy to reflect new themes such as the Leeds Affordable Warmth Strategy; the Regional Fuel Poverty Strategy and Home Energy Conservation Act Recommendations.
- 2.35 The health impact of group repair schemes is also now being assessed with a view to extending such schemes to include innovative energy efficiency improvement work., Group repair funding, along with Health Through Warmth and Community Warmth funding currently represent the only public funded grant aid available to the private rented sector.
- 2.36 The working group acknowledged the Council's current target to bring 600 properties up to the Decent Homes standard and agreed that addressing excess cold and fuel poverty across all tenures must remain a key future priority, with a particular focus on the older housing stock, where many private sector tenants, including some of the most vulnerable members of society, reside.

Scrutiny Inquiry into Private Rented Sector Housing.

Briefing Paper: Housing Legislation

This paper will summarise the legislation under the Housing Act 2004 governing the private rented sector (PRS). It will have particular focus on the Housing Health and Safety Rating System (HHSRS), Mandatory HMO Licensing, as well as the option of discretionary Additional and Selective licensing schemes. A summary of the key aspects of the legislation are set out in an appendix to this paper.

It should be noted that the Housing Act 2004 also introduced Tenancy Deposit Schemes and more recent legislation has also introduced Energy Performance Certificates (EPC's) that are enforced by colleagues in Trading Standards.

The PRS in Leeds now represents 13% of the total housing stock and as such provides accommodation for a significant number of Leeds households, some of whom are amongst the most vulnerable members of society. The size and complexity of the sector has led the Council to utilise and consider all aspects of the above legislation and also to develop significant and appropriate working relationships with partners in the PRS. Significant work and progress has been achieved in the PRS due to the work of a landlord consultative group in agreeing and delivering attainable standards in the sector.

1) HOUSING HEALTH AND SAFETY RATING SYSTEM

- 1.1 The Housing Act 2004 introduced the Housing Health and Safety Rating system (HHSRS) replacing the fitness standard detailed in Section 604(1) of the Housing Act 1985. The HHSRS applies to all dwellings of all tenures.
- 1.2 HHSRS identifies 29 different hazards that may be encountered and requires a "risk assessment" to be carried out to determine the "hazardness" of the dwelling. The HHSRS applies to HMO's and singly occupied properties.
- 1.3 Each hazard is assessed separately to determine a score for that hazard for the dwelling if applicable. A single overall hazard score is **not** produced for the dwelling.
- 1.4 In undertaking the assessment the practitioner is required to consider the likelihood of harm from a hazard i.e. the probability of an occurrence during the next 12 months following the assessment of the dwelling and the spread of harms from that hazard. Harm is the adverse physical or mental effort on the health of a person. The spread of harms is the range of possible harm outcomes which could result from a hazard.
- 1.5 In undertaking the assessment the effect of the hazard is considered against the most vulnerable age group i.e. an age range of people for whom the risk arising from the hazard is greater than for any other age group.
- 1.6 The assessment determines a hazard score which is a numerical representation of the overall risk from a hazard and is based on the evaluation

of the likelihood of an occurrence and the probable spread of harms that could result. The hazard score is put into a range of bands to categorise the seriousness, the bands going from J – the least serious up to A the most serious. If the hazard score is more than 1000, band C and above, the authority has a Statutory duty to take action to reduce the hazard. Where a score of less than 1000 is determined the authority has a power to take action.

- 1.7 The assessment is made of the dwelling disregarding the current occupiers if any but is based on the potential effect of any hazards on a member of the relevant vulnerable age group. The assessment therefore will not be affected by a change of occupier and a vacant property can also be assessed.
- 1.8 The 29 hazards are arranged in four main groups reflecting the basic health requirements; physiological; psychological; protection against infection and protection against accidents including falls. The Leeds Private Sector House Condition Survey (2007) identified that the major hazards affecting the PRS in Leeds were Excess Cold, Falls (on stairs, falls on the level and between levels) and fire safety. Excess cold hazards in this sector actually accounts for 61.6% of all category 1 hazards and poses the greatest challenge for the authority to resolve.
- 1.9 The local authority may, and in certain instances has a duty to, take action to either eliminate or reduce a hazard. In the case of rented accommodation this may mean enforcement action is deemed appropriate. The underlying principle of the HHSRS is that any residential premises should be a safe and healthy environment for any potential occupier or visitor. The dwelling should be designed and maintained with non-hazardous materials and should be free from both unnecessary and avoidable hazards. The effect of HHSRS has been a move away from prescriptive standards to a risk based assessment although the Council does still provide advisory standards where appropriate.
- 1.10 The authority is the primary enforcement agency for conditions of health and safety in the private rented sector and has produced an enforcement methodology to maintain standards in the sector. The level of enforcement will be in line with the Council's enforcement policy and will be determined by the overall condition of the property concerned. Such action may involve one or more of; informal advice, service of Improvement Notices, prosecution, formal caution or works in default. Enforcement action via formal substantive notices includes Improvement Notices, Suspended Improvement Notices, Prohibition Orders or Demolition / Clearance areas. Penalties or actions following non-compliance with Substantive Notices for all landlords is determined in accordance with the Departments Enforcement Policy and complies with the principles of the Government's Enforcement Concordat.

2) MANDATORY HMO LICENSING

- 2.1 The Housing Act 2004 introduced the mandatory licensing of certain high risk houses in multiple occupation (HMOs). The Act was implemented on 6 April

2006 and gave a period of 3 months from the implementation date for applications to be made for a licence after which time it became an offence to operate a licensable HMO without having made an application.

- 2.2 The Act redefined the term HMO in so far as housing legislation applies. The actual definition of an HMO is complex as is that of a licensable HMO but in simplistic terms a licensable HMO is a house where there are 5 or more persons, comprising of at least 2 households and the accommodation is on 3 or more storeys.
- 2.3 This definition meant that student shared houses meeting the requirements detailed above become licensable HMOs. Again in simplistic terms most 5 + 6 person student shared houses had not previously been considered to be in multiple occupation based on established case law which described such accommodation as single household shared houses . Most student shared houses of 3 or 4 persons whether living in two or 3 storey houses also became HMOs under this new Housing legislation but are not subject to mandatory licensing.
- 2.4 Because of the nature of properties in Leeds (namely a significant number of 3 storey properties) and that there were two major Universities in Leeds it was clear that the impact of the Act would have a significant effect in Leeds as there were potentially thousands of licensable properties particularly in NW Leeds.
- 2.5 Mandatory licensing is designed to enable the Council to achieve the following:
 1. Identify where the higher risk HMOs are situated
 2. Ensure that HMO landlords are fit and proper persons
 3. Ensure that HMO landlords are competent and have the resources and systems in place to properly manage HMOs
 4. Place conditions on the licence to ensure that HMOs are suitable for the number of persons occupying them and that the HMOs are properly managed
 5. The inspection of licensed HMOs to ensure that they are safe and healthy and if not to take enforcement action to achieve this
 6. To require landlords to receive training to ensure that they understand their management duties
 7. The option for the Council to take over the management of an HMO in default of the landlord where the landlord is not competent and the health and safety of the tenants is at serious risk
- 2.6 The primary purpose of HMO licensing is to protect the health and safety of tenants living in them. A secondary purpose of licensing is to ensure that HMOs are managed in a way that avoids them having an adverse effect on the immediate neighbourhood.
- 2.7 It was very difficult to accurately predict the exact number of licensable properties in Leeds as the Act redefined a House in Multiple Occupation. An

estimate was made based on information from the then current Leeds House Condition Survey and in consultation with Unipol Student Homes, Council Tax, Development Department and West Yorkshire Fire and Rescue Service. The definition of a HMO under planning legislation and for Council Tax purposes was unaltered by the Housing Act and there are significant differences under the different pieces of legislation. This causes some confusion about what constitutes an HMO.

- 2.8 The results of the Leeds House Condition Survey in 2007 undertaken by Consultants commissioned by the Council have recently become available. Having regard to the definition of a licensable HMO in the Housing Act 2004 the consultants advise that there are an estimated 3000 licensable HMOs within the City and this figure is predicted within a 10% accuracy and therefore the medium range is between 2700 and 3300 licensable properties.
- 2.9 There are a number of reasons why the Council now consider the revised number of 3000 properties is the target level for licensable HMOs namely:
1. there had been no previously known accurate figure of potentially licensable properties.
 2. a significant number of larger shared houses have been converted over the last few years to self contained flats thereby taking them out of licensing.
 3. there has been a significant number of purpose built large developments aimed at the student markets which has affected the letting market in the traditional housing sector meaning that a substantial number of shared houses are being under occupied.
 4. a number of landlords have purposely downsized their properties to avoid licensing.
 5. many of the traditional bedsit properties have been converted to studio flats again taking such properties outside licensing.
 6. the survey was commissioned following the introduction of the Act and therefore the new definition of HMO was taken into account.
- 2.10 By the end of September 2008 Leeds had received a total of 2922 applications for licensing. Of these applications only 121 (4.1%) are in respect of bedsit properties with the remaining relating to communal shared housing (typical of student lets) which are predominantly located in NW Leeds. This is the greatest number of licenses issued by any local authority in the country.
- 2.11 The HMO Licensing team established to administer the mandatory scheme has initially been focused on the promotion of the scheme , finalising documentation and licence conditions and issuing licences to applicants who have submitted an application. In future resources will focus more on identifying unlicensed HMO's by detailed campaigns in targeted areas of the city along with the inspection and monitoring of properties subject to licensing to ensure compliance with conditions during the 5 year term of the licence. It should be noted that the national amenity standards and national fire safety guidance have both been revised since the introduction of Mandatory Licensing and this will have a significant resource implication for the HMO

team as all licenses already issued may now need to be varied.

- 2.12 Under the Housing Act 2004 the Council has legal powers of enforcement which include summary proceedings which can be instigated for operating a relevant HMO without a license or failing to comply with license conditions. There are also powers to take over the management of property in certain circumstances, known as Management Orders.

3) ADDITIONAL HMO LICENSING

- 3.1 Section 56 gives power to designate either all or part of an area to be subject to additional licensing in relation to a description of specified HMO's.
- 3.2 The authority must be satisfied that a significant number of the designated HMO's are being managed sufficiently ineffectively as to give rise, or likely to give rise, to one or more particular problems for those occupying the HMO's or for members of the public.
- 3.3 Additional licensing must be consistent with the authority's overall housing strategy and the authority must adopt a co-ordinated approach in dealing with homelessness, empty properties and ASB in the PRS. The authority must also consider if any other courses of actions available to them that might provide an effective method of dealing with the problem or problems and consider that the designation will significantly assist them to deal with the problem(s).
- 3.4 Examples of properties being managed sufficiently ineffectively and having a detrimental affect on the local area are:
- Those whose external condition and curtilage (including yards and gardens) adversely impact upon the general character and amenity of the area in which they are located.
 - Those whose internal condition, such as poor amenities, overcrowding etc. adversely impact upon the health, safety and welfare of the occupiers and the landlords are not addressing these issues.
 - Those where there is a significant and persistent problem of ASB affecting other residents and/or the local community and the landlords are not taking reasonable and lawful steps to deal with the problems.
 - Those where the lack of management or poor management skills or practices are adversely impacting on the welfare, health or safety of residents and/or impacting upon the wider community.
- 3.5 Additional licensing should not be made if the problems are associated with a small number of properties.
- 3.6 In relation to conditions of HMO's (internal or external) the authority must first consider whether problems can be addressed by actions under Part 1 of the Act or Part IX of the 85 Act.

- 3.7 Local Housing Authority's (LHA's) must demonstrate how additional licensing will work in conjunction with existing initiatives such as accreditation and partnerships. Licensing is not a stand alone tool. Landlords will need adequate support to help deal with problem tenants.
- 3.8 Authorities should have active outreach support programmes to engage with landlords and tenants who need their assistance.
- 3.9 Consultation to be carried out with local residents, tenants and landlords plus businesses in the area. Authorities must give a detailed explanation of how the proposed designation will tackle specific problems, the potential benefits etc. and a business case submitted to the Secretary of State for their consideration and approval.

4) SELECTIVE LICENSING

- 4.1 The Housing Act 2004 introduced discretionary licensing powers that local authorities could introduce subject to certain criteria. Part 3 of the act introduced Selective Licensing. For a local authority to designate an area it must produce a business case for approval by the Secretary of State. The criteria for such a case is:
- The area is, or is likely to become, an area of low housing demand OR
 - An area experiencing significant and persistent problems of anti social behaviour attributable to the private rented sector.
- 4.2 Selective licensing can not be introduced in isolation but must be part of an overall regeneration of an area. Once approved then a landlord would need a licence to operate. Operating without a licence is an offence with a fine of up to £20,000.
- 4.3 The aim of selective licensing is:
- To complement the other regeneration initiatives within the area
 - To improve the management of the Private Rented Sector (PRS) within the area
 - Help to increase demand for the area and support both tenants and landlords and the local community
 - Contribute to a sustainable community and neighbourhood
- 4.4 Selective licensing applies to properties in the private rented sector. It does not apply to owner occupied properties. It does not apply to properties managed or controlled by Housing Associations (Registered Social Landlords) or by an ALMO. It does apply to properties that are privately rented to single persons, families or in multiple occupation.
- 4.5 In Leeds an area of PRS housing located in the Cross Green and East End

Park district of the city has been identified as a potential selective licensing area. In line with the criteria described above a full consultation period has taken place and as a consequence a detailed business case was submitted to CLG on 22nd May 2008. The CLG responded on 2nd September 2008 raising a number of points for clarification due to opposition from the Residential Landlords Association (RLA). The authority responded to these concerns on 12th September and now awaits the CLG's final decision.

APPENDIX

HOUSING ACT 2004 - A SUMMARY OF MATTERS RELATING TO THE PRIVATE RENTED SECTOR

1. HOUSING HEALTH & SAFETY RATING SYSTEM (HHSRS)

- Replacement for the Housing Fitness Standard
- Will apply to HMOs and singly occupied property
- System identifies and rates the severity of a range of hazards found in dwellings according to their risk to health & safety
- Health includes mental health
- If a hazard is above a specified rating trigger (category 1) Local Authorities will have to take enforcement action; below the trigger but within specified hazard bands (category 2), action will be discretionary
- Enforcement action can be Hazard Awareness Notice, Improvement Notice, Suspended Improvement Notice, Prohibition Order, Demolition Order/Clearance Area
- Local Authorities can declare a Clearance Area if the condition of the properties in it are hazardous
- Local Authority can charge for serving enforcement Notices
- Undertakings to do remedial works will be permissible
- Powers are available to the Local Authority to carry out work in default and/or prosecute where legal contraventions are found
- Enforcement action guidance to be issued by the Government

2. LICENSING OF HOUSES IN MULTIPLE OCCUPATION

- New definition for an HMO – 3 or more unrelated people sharing
- Houses converted to self contained flats after 1991 and in accordance with Building Regs. will not be included in the defn. of HMO
- Buildings in non self contained flats will be HMOs
- Mandatory licensing system for higher risk HMOs (5 or more people AND three or more storeys)
- Discretionary additional licensing system to be available for lower risk HMOs but for which there will need to be a suitable business case
- The business case will need to show that a significant proportion of HMOs in an area are being ineffectively managed to a point that there are problems for the occupiers or members of the public
- A discretionary additional HMO licensing scheme will operate the same as if it was mandatory

- An Exemption Order can be issued for up to six months if the landlord intends to take steps to avoid an HMO being licensable
- Regulations will prescribe standards to be attached to the licence conditions
- Licence conditions may include number, type and quality of amenities & health & safety standards
- Category 1 and 2 HHSRS hazards cannot be remedied using the licence conditions - such hazards will need to be remedied using the Notice procedure as described in the previous section
- If licence refused or revoked - Local Authority will need to make a Management Order and take responsibility for the HMO
- Govt. are to issue an Approved Code of Practice for the Management of HMOs to complement new HMO Management Regulations.
- Local Authorities may make it a licence condition that the licensees attend a training course on the HMO Management Code of Practice
- Licences will last for 5 years
- HMOs owned by Public bodies will be exempted from licensing
- Student halls of residence will be exempted if they are operated by the Educational Institutions that own them
- Licensing regime to be self funding - licence fee will be payable
- Up to one years rent will be repayable as compensation to tenants by a landlord for unlicensed HMOs that are found to be unlicensed
- Licence conditions will include matters relating to property management, tenant behaviour, improvement works, occupancy levels, prevention of occupation of parts of the HMO, provision of safety certificates for essential services, provision of a tenancy agreement, obtaining references
- Licence condition can include timescales for works to be carried out to make the HMO suitable for occupation
- 'Fit and proper person' i.e. competency requirement needs to be satisfied for licensee and anyone managing the property on their behalf
- Licensee has to be the most appropriate person to be the licensee
- Before issuing a licence Local Authority need to be satisfied that the license holder has satisfactory management arrangements in place + funding and is competent to be a manager
- Procedure for application - notice to landlord with proposed licence - period of representation - licence issued - right of formal appeal - tenant can also appeal about conditions
- Procedure same for acceptance or refusal
- Licences have to be issued within 6 weeks of application
- It will be an offence to let an HMO without a licence (max £20,000 fine) or in contravention of a licence condition (max £5,000 fine)

3. SELECTIVE LICENSING OF PRIVATE LANDLORDS

- Local Authorities will have the power to licence privately rented houses in areas of low demand and in areas with high anti social behaviour
- Power will be available from June 2005
- Characteristics of low demand include high numbers of empty properties, low property prices, high turnover, anti social behaviour

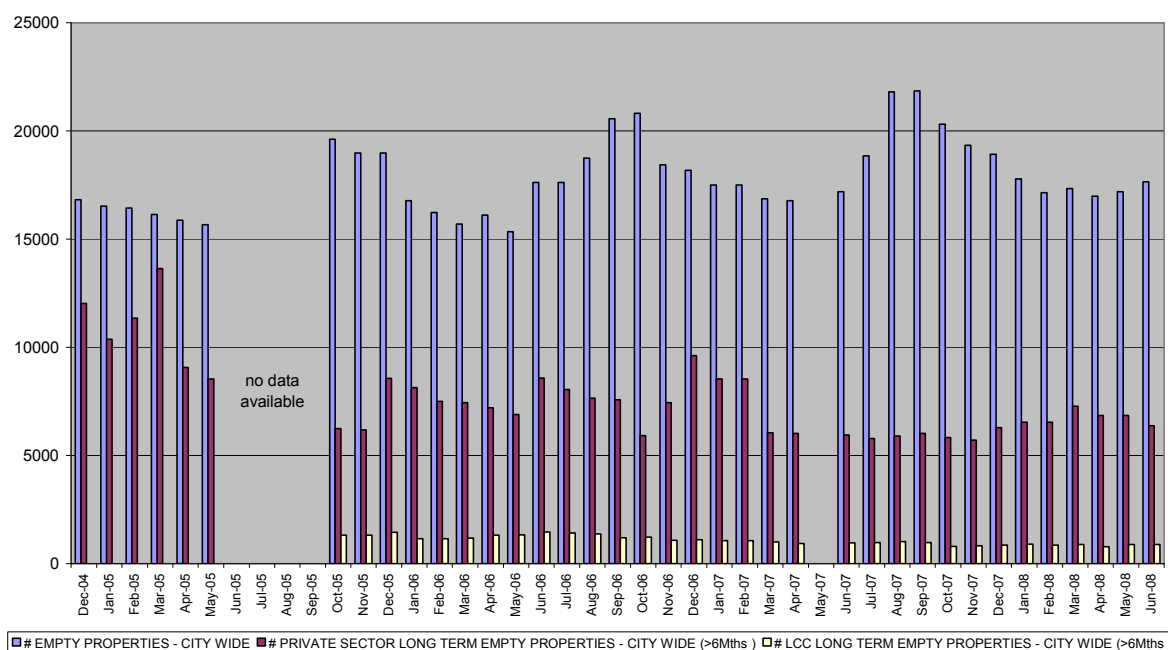
- Area will need to be one that is subject to comprehensive regeneration and/or anti social behaviour action
- Business case needs to be satisfied for an area to be designated
- Government will provide criteria for suitability of an area for selective licensing
- Licence conditions will include matters relating to management, tackling anti social behaviour, property condition, property use and occupation and contents, take up of references, safety certification and terms of occupation
- Licence will require landlord or manager to be fit and proper person
- Licences will run for 5 years
- HMO licensing regime will over ride selective licensing regime where an HMO subject to HMO licensing is within an area subject to selective licensing
- Properties refused a licence or licence revoked will be subject of a Management Order – the Council will then need to take over the management responsibility for the property
- Local Authority can issue an Exemption Order for up to 6 months if a landlord wishes to avoid a property being licensable
- It will be an offence to let a property without a licence or in contravention of a licence condition

INQUIRY BY SCRUTINY BOARD INTO THE PRIVATE RENTED SECTOR HOUSING IN LEEDS

Maximising the utilisation of the existing housing stock – recycling the empties.

- 1.1 One way of meeting at least some of the current housing supply shortage is to look at making more efficient use of existing properties, and in particular those that are unoccupied or being used less effectively than they might. These properties could make a valuable contribution towards providing the much needed accommodation that will be required throughout the country and the Government has legislated to assist this process.
- 1.2 The Empty Homes Agency estimated that in 2006 there were 663,000 properties vacant in the UK, of which approximately 288,000 were long term vacant (empty six months or more).
- 1.3 The situation in Leeds as at September 2008 was that 17,639 properties were void (this represents 5.35% of the total housing stock, however, it should be noted that this figure does include all the `transactional' voids which are part of the `churn' of a normally functioning housing market). In September 2008, of the aforementioned voids, 6,377 had been empty for more than 6 months (1.93% of the total housing stock).

CITY WIDE EMPTY PROPERTY TRENDS



- 1.4 Detailed data on a number of priority areas, plus general data on the current situation and historical trends in all wards, is available for information if required.
- 1.5 It is clear that there is a substantial 'reservoir' of potential accommodation that is currently being under-used throughout the city and, at this time of acute housing shortage, it is a wasted resource that should not be ignored.
- 1.6 Nationally the Government has been keen to promote the return to use of empty private sector housing, as a key contribution to meeting housing need and to make the most effective use of resources. Leeds has adopted a range of strategies, and committed significant resources, to meet this challenge and, in doing so, has made progress in encouraging the reoccupation of many long-term empty homes throughout the city. However, there remains much to be done and the changing economic climate suggests that the situation is unlikely to improve without significant further intervention.

The current situation regarding empty properties within Leeds.

- 1.7 Within the private sector, the predominance of long-term empty properties has historically been associated with poor quality, older housing in areas with poor environments and high levels of poverty and deprivation. These areas often have large concentrations of back-to-back and terraced housing which are often owned by private landlords or absentee owners. This is what one might describe as the traditional picture of long-term empty property in unpopular localities.
- 1.8 More recently however, there have been indications of increasing numbers of new build empty flats (typical of many city centres), both for sale for owner occupation and as properties to rent. These properties may eventually be occupied when the demand for this type of property catches up with the supply of new flats coming onto the market, but current trends suggest that this could take some time. Additionally, there are a growing number of under-used 'traditional' student let properties in the North West Leeds district which are currently suffering a downturn in demand because of the availability of alternative purpose-built student accommodation within the city centre and close to the universities.

1.9 The lack of affordable housing to buy has contributed to increased demand on the private rented sector which has responded accordingly over the last few years and flourished as a result of the various 'buy to let' financial packages available. However, even this previously thriving market is now seeing an increase in defaulting mortgagees and repossessions, especially amongst the 'small portfolio' landlords. Should this trend continue, it could lead to certain fragile housing markets returning to decline and there is recent evidence of an increase in void rates occurring within several districts of Leeds that have a high concentration of this largely 'non-professional' private rented sector accommodation.

Previous action that Leeds has taken to maximise the use of private sector empty housing.

1.10 Leeds has devoted significant resources to returning long-term empty properties into use. The following table shows the number of long term empty properties (i.e. empty for over 6 months) that were returned to occupation each year as a result of direct intervention on the part of Leeds City Council.

Year	Number of long term empty properties brought back into occupation each year
2004/05	1584
2005/06	1724
2006/07	2361
2007/08	2989

1.11 The reasons for this success in bringing empty homes back into use in Leeds are primarily due to having a robust Empty Homes Strategy that feeds into the Council's Affordable Housing agenda and which focuses upon :-

1. Intensive Neighbourhood Management
2. Information analysis and dissemination

3. Local ownership – to engage the local stakeholders and foster a sense of ownership within them to deal with the problems of empty properties and the issues that surround them.
4. Systematic monitoring of empty properties on a ward area basis and within targeted areas which have previously suffered high levels of empty properties and fragile demand such as East End Park, Cross Green, Harehills, Beeston and Holbeck, and to a lesser extent, Chapeltown. An agreed Action Plan within those areas has been established to encourage / facilitate the return back into economic use property which is not being utilised.
5. Community safety.
6. Environmental Management and Improvements.
7. The adoption by Leeds City Council of a policy of charging 100% council tax on all long term-empty properties in support of its corporate Empty Property Strategy.
8. The creation and establishment of a specialist Empty Property Enforcement Team and Empty Property Champions within Health and Environmental Action Services, funded through the Neighbourhood Renewal Fund. Building Control have also established a specialist Empty Property Team which deals with predominantly commercial properties that are either ruinous or dilapidated. This staffing resource, the funding for which is ending in 2009/10, has been engaged in the delivery of the Empty Property Strategy by :-
 - Proactive identification of empty properties and their associated problems via the utilisation of 'on the ground surveys' within the targeted areas and data obtained from council tax records.
 - Proactive use of information – databases prompt making contact with owners of long-term empty properties in order to offer advice and assistance in returning their property back into habitation.

- A proactive multi-agency approach to enforcement action – on problematical empty properties, i.e. enforced sale, compulsory purchase and Town and Country Planning Act 1990 Section 215 etc.
- Cost effective advertising of empty properties – for ‘accredited landlords’ via ‘choice based letting’.
- Promotion of the Leeds Landlords Accreditation Scheme for the private rented sector.
- Promotion of the Investors in Leeds Register – an initiative to match potential investors with owners of long-term empty properties.
- Publicity – utilising various delivery vehicles such as promotional leaflets and the media, especially with regard to successful enforcement action.

The outputs / outcomes that have been achieved by the Empty Property Team 2007/2008.

1.12 Within 2007/2008 The team has:

- Returned: 131 properties to habitation.
- 37 reoccupations that had at least one HHSRS category 1 Hazard
- 37 properties brought up to decency standard
- 10 Landlords referred to join the Leeds Landlord Accreditation Scheme
- 304 Enforcement actions taken
- 13 rapid responses for sealing up of private sector empty properties that were open to unauthorised access
- 35 long term-empty properties (over 5 years old) that received high level enforcement action

- 10 enforcement actions using Town and Country Planning Act resulting in 2 prosecutions

1.13 However, despite our past endeavours there is still a substantial amount of under-used housing accommodation throughout the city but, if we can successfully bring these properties back into occupation, this could go some considerable way to providing the much needed housing that Leeds will require in the future.

The opportunities that could exist due to the current downturn in the housing market within Leeds.

1.14 The current credit crunch and downward trend in house prices could, in time, bring about a more affordable private housing market which is less out of kilter with average earnings than has been the case over recent years.

1.15 The recent phenomenon of 'buy to leave' (properties that have been purchased by investors purely for capital growth) could be turned around if the investors see a substantial decline in the equitable growth of their investment properties. Furthermore, this factor could encourage these 'investors' to consider letting / selling their investments thereby bringing these properties back into the equation of being available as 'homes for people'.

1.16 Should the aforementioned occur, there could be an opportunity to broker deals with these property owners in order for them to consider letting out this previously wasted resource to people on the housing register, or perhaps consider targeting their product to niche and specialist markets such as providing accommodation for the elderly – thereby freeing up their often under used resource of family housing which would help to alleviate the current shortage of this type of housing throughout the city.

1.17 Furthermore, the current downturn in the traditional student rental market around the Headingley area could also provide an opportunity to restructure the predominance of 'shared housing' units back into family housing or larger better quality products for the elderly, special needs groups or the growing demand for accommodation to house the newly qualified 'young professional's' who wish to set up their first home subsequent to leaving university / college. This would also facilitate a better community mix /

cohesion within the area and could go some way to alleviating the current criticism of having areas within the city that have too high a concentration of students and the associated problems that this invariably presents.

The drawbacks that could occur due to the current downturn in the housing market within Leeds.

- 1.18 The downside of the current credit crunch and downward trend in house prices could be that it might become the catalyst for the return to decline of areas where Leeds has undertaken a concerted effort in regenerating previously low demand areas of the city i.e. East End Park, Cross Green, Beeston, Holbeck, Harehills and to some extent Chapeltown.
- 1.19 These areas all have high concentrations of rented accommodation, much of which has been provided by the 'buy-to-let' boom of recent years. Unfortunately, the owners of the vast majority of these properties are 'small time' landlords with only one or two properties within their portfolio and these are probably the most vulnerable of property investors in terms of the cost of meeting their obligations. Additionally, the fear over negative equity resulting in property being left empty with little or no interest from potential purchasers could impact on the problem of empty properties in some areas of housing.
- 1.20 Under these circumstances, the ethos of 'intensive area management', which is an integral strand of the corporate Empty Property Strategy, would invariably be required in order to manage the ensuing environment / health and safety issues that result from the abandonment of properties within declining communities / fragile housing markets.

ANALYSIS / OPTIONS APPRAISAL FOR LEEDS ADOPTING EMPTY DWELLING MANAGEMENT ORDERS

Brief synopsis of Empty Dwelling Management Orders

- 1.21 Empty Dwelling Management Orders (EDMOs) give the Council discretionary powers to bring empty private sector dwellings back into use where the owners are unable or unwilling to do so.
- 1.22 Once an Order has been granted the Council can manage the

property on behalf of the owner but does not become the legal owner of the property and cannot sell or mortgage the property.

- 1.23 There are two types of Empty Dwelling Management Orders – Interim and Final.
- 1.24 Interim Orders can only be made once the Council has applied to a Residential Property Tribunal (RPT) who must consider whether making an EDMO is the most appropriate action.
- 1.25 The Residential Property Tribunal must take into account the rights of the owner and the interests of the wider community and be satisfied that :-
- the property has been empty for at least 6 months
 - the owner has not taken immediate steps to secure occupation of the property
 - it is unlikely that the property will become occupied if the EDMO is not made
 - the council, acting as the Local Housing Authority, has complied with legislation in applying for an EDMO
- 1.26 Final Empty Dwelling Management Orders, lasting up to 7 years, can only be made to replace an Interim Order if the council considers that the property would become or remain unoccupied without an order in place.
- 1.27 The council must consider the effect of any final EDMO for the owner and the community in the same way as a Residential Property Tribunal does with an interim order.

Problems currently encountered in setting up an EDMO in Leeds

- 1.28 Leeds, like most other local authorities, are currently experiencing difficulties in putting into place procedures for utilising EDMOs.
- 1.29 The primary obstacle is that there has been no serious expression of interest from ALMOs , RSLs or 'Accredited' private landlords to act as our managing agent upon our initiating the process of EDMOs.
- 1.30 The reluctance on the part of our 'usual' partners on these types of housing matters stems from the fact that the figures do not 'stack

up' on their part and they argue this on the basis that the up-front costs of renovation, buildings and contents insurance and securing the property falls upon the Local Housing Authority or its agents. Furthermore, most are of the opinion that even with a continuation of tenants in occupation of the property and a constant stream of fair market rent, the income may not be able to reimburse the costs incurred by the Local Housing Authority within the mandatory time limit of an EDMO (maximum period of 7 years). Leeds City Council would therefore have to underwrite the aforementioned initial costs and any shortfalls that may occur in the same way as a private sector landlord client would have to meet the costs incurred by managing agents.

- 1.31 Leeds has recently explored the possibility of procuring a partner / managing agent in conjunction with other West Yorkshire authorities in order to maximise the economy of scale for any interested agents. We have joined with Bradford and Kirklees in seeking expressions of interest on this matter throughout the European Economic Area. However, no expressions of interest have been forthcoming.
- 1.32 The use of EDMOs within the Leeds Empty Homes Strategy was the subject of a recent report to the Leeds Housing Partnership Executive and consequently all the ALMOs and RSLs which are operating within the Leeds district were contacted with a view to enquiring as to whether they would be willing to act as our managing agent subsequent to our acquiring properties via EDMO action. Unfortunately, to date, no ALMO or RSL has confirmed an interest to act on our behalf regarding this matter.
- 1.33 Uncertainty over the likely scale of operations is another factor which has frustrated progress over our adoption of EDMOs. Since we can only estimate the extent to which we would be able to utilise this piece of legislation, potential future partners seem reluctant to engage with us unless we can give them clear projections on the number of cases that we would be likely to refer to them. Therefore, the inability to quantify accurately this matter deters potential partners / managing agents from being able to consider / set up an appropriate business plans on this issue.
- 1.34 Having said this, EDMOs have a somewhat limited application as not all empty properties are eligible for consideration under this legislation and, as they are subject to approval by the RPT, any

application for an order can be challenged by the owner through the RPT.

1.35 There are a range of exemptions which would preclude EDMO action being taken - as follows :-

1.36 The property has been occupied solely or principally by the relevant proprietor and is wholly unoccupied because :-

- he is temporarily resident elsewhere;
- he is absent from the dwelling for the purpose of receiving personal care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder;
- he is absent from the dwelling for the purpose of providing, or better providing, personal care for a person who requires such care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder;
- he is a serving member of the armed forces and he is absent from the dwelling as a result of such service;
- the property is used as a holiday home (whether or not it is let as such on a commercial basis) or is otherwise occupied by the proprietor or his guests on a temporary basis from time to time;
- the property is genuinely on the market for sale or letting;
- the property is comprised in an agricultural holding within the meaning of the Agricultural Holdings Act 1986 (a) or a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995 (b);
- the property is usually occupied by an employee of the relevant proprietor in connection with the performance of his duties under the terms of his contract of employment;
- the property is available for occupation by a minister of religion as a residence from which to perform the duties of his office;
- the property is subject to a court order freezing the property of the relevant proprietor;
- the property is prevented from being occupied as a result of criminal investigation or criminal proceedings;
- the property is mortgaged, and where the mortgagee, in right of the mortgage, has entered into and is in possession of the dwelling; or

- the person who was the relevant proprietor of it has died and six months has not elapsed since the grant of representation was obtained in respect of such person.
- The property is under repair, maintenance or improvement works or where
- The owner has applied to a local planning authority or other authority for permission to make structural alterations or additions to the dwelling and he is awaiting the decision of a relevant authority on the application.

1.37 The vast majority of empty properties within Leeds could invariably be exempt from the EDMO legislation – where the properties are either genuinely on the market for sale or letting, being renovated / developed or are classified as a ‘second home’ on the council tax records (where the owner is paying the appropriate council tax).

Best use of Empty Dwelling Management Orders within Leeds

1.38 EDMOs are not suitable for all cases of empty properties e.g. in areas suffering low demand, but they could be a useful addition to the council’s Empty Homes Strategy and should be seen as an alternative solution to enforcement action such as compulsory purchase in areas where there is high demand and insufficient housing supply.

1.39 EDMOs would probably also work when used in conjunction with other aspects of the council’s Empty Homes Strategy i.e. within areas that are already receiving regeneration funding and where the demand for the area has been re-established.

1.40 When a local authority considers utilising an EDMO it should be mindful that the cost and administration arrangements have to be taken into consideration and there must be a strong prospect of the property returning to use as a direct result of the Order. Any property that requires extensive works would have to be put under a final EDMO in order to recoup the cost of renovation and repair via the rental income.

1.41 It should also be considered that the ongoing costs for refurbishment, administration, management etc have to be borne out of the rental income and that responsibility for council tax, ground rent, utility costs, security and building / contents insurance

will also be at the council's expense once an order is in place.

Compulsory Purchase

- 1.42 The Health and Environmental Action Service's Empty Property Team have currently submitted 18 cases of Compulsory Purchase Orders which have been approved by the Director of Environment and Neighbourhoods to proceed with the CPO arrangements and these cases are actively being pursued by Legal Services at an estimated total acquisition cost of between £1,550K - £1,755k. However, this does not include the estimated administration fees of £310K - £351K that will be required upon acquisition of the said properties.
- 1.43 Currently, a budget of only £250K has been identified from the council's capital resources to fund the acquisition of these properties, but recent negotiations with the West Yorkshire Housing Partnership have secured a further £240K for the period 2008/09. However, even with this additional funding, it is still insufficient to facilitate the acquisition of the currently approved CPO cases throughout the city and, should this situation prevail, the acquisition of the majority of the currently identified CPO cases will not be able to continue until this limited budget is able to be replenished from the sale of acquired properties.

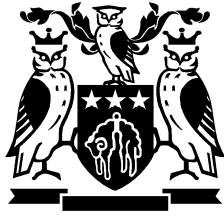
Energy Efficiency in the Private Rented Sector.

- 1.1 The recent Leeds Private Sector House Condition Survey (LHCS) 2007 shows that a significant proportion of the private rented sector can be found in the older pre 1919 housing stock. There is particular concern that the standard of energy efficiency (the SAP rating) is often poor in this older housing and a significant number of private sector tenants are in fuel poverty.
- 1.2 In light of the above and in response to issues and conclusions raised by the recent LHCS a report was submitted to, and endorsed by, the Council's Executive Board in June 2008. The purpose of the report was to identify current good practice and propose a range of initiatives to further enhance the existing strategies. A copy of this recent report is attached for information and provides a more detailed appraisal of the subject.
- 1.3 The issues relating to excess cold and thermal efficiency can be summarised as follows:
- 1.4 The LHCS and Community Warmth Initiatives have, and will continue, to provide detailed and specific information to enable the authority to target it's enforcement regime,
- 1.5 In 2007/08 the following assistance was provided to the private rented sector:
 - 392 Warm front grants (> £360K in value) were provided
 - 1,200 households were provided specific detailed advice for their properties,
 - Advice sessions on energy efficiency were provided to Accredited Landlords,
 - Enforcement action was taken against any landlord refusing their tenants access to grant aid,
 - Advice leaflets were prepared to raise awareness amongst private tenants and better enable them to make complaints,
 - In excess of 60 improvement notices were served against private landlords to improve energy efficiency.
- 1.6 In addition to the above initiatives it was considered necessary to provide further enhancements and the following proposals are currently being developed and implemented in order to refresh the existing PRS Strategy:
 - An overall approach for enhanced action via the development of a PRS Strategy that reflects existing strategies such as the Leeds Affordable Warmth Strategy, The Regional Fuel Poverty Strategy, and Home Energy Conservation Act Recommendations. In particular, the information and intelligence from the LHCS will facilitate targeted interventions in areas of the city most at need,
 - Enhanced partnership working across all Directorates within the Council together with all key stakeholders (including private landlords),

- Increased use of the Housing Act 2004 and the Housing Health and Safety Rating System (HHSRS) aimed at addressing excess cold hazards in the PRS. We will aim to increase enforcement activity in this area by a minimum of 50% on the 2007/08 baseline,
- We will aim specific targeted work at the most vulnerable dwelling types located in the worst affected wards,
- All front line staff will receive programmed training – this is already being planned and co-ordinated and will enable officers to better identify poor thermal efficiency and take up of grant aid as well as improving enforcement activity,
- Enhanced working with the private landlords – Again this work has already started and a Forum was recently held at Leeds Civic Hall for members of the Leeds Landlord Accreditation Scheme (LLAS) to raise awareness and promote energy efficiency,
- Development of a series of suggested energy improvements work for various property types – these matrix have been promoted and are now posted on the Fuelsavers website,
- Group repair schemes already play a key role in regeneration and a Health Improvement Assessment (HIA) is currently being assessed with a view to extending such schemes. These schemes already significantly improve the thermal efficiency of the dwellings but further enhancements will also be considered for future schemes,
- Initiatives such as the 5 Ward Initiative will continue to see PRS households directly contacted via a programmed mail out of targeted information,
- The introduction of the requirement for Energy Performance Certificates (EPC's) in the PRS from 1st October 2008 provides a further opportunity to promote energy efficiency amongst the private landlords. An advice session has already been provided for LLAS members and information and updates are provided on a regular basis via the accreditation newsletter. Further consideration on how to promote the EPC's and requirements for landlords is also underway as is the need to work closely with service providers and key stakeholders. Furthermore, the authority, through its involvement in the UK HECA Executive is lobbying for additional specific information on EPC data to be made available by DCLG to local authorities to assist with further targeted enforcement actions,
- We have also created links to national and regional initiatives to maximise exposure such as the Yorkshire Landlords Day, organised by the Residential landlords Association, where officers were available and were able to promote energy efficiency and accidents in the home,
- Officers are currently forming a steering group, including members from all key stakeholders such as the Landlord Consultative Group, Private Rented Sector Strategy Group and Leeds Housing Partnership. The remit of the group will be to continuously monitor performance and review progress and effectiveness of the agreed action plans. This group will be incorporated within the remit of the Fuelsavers Advisory Board which is already considered to be working well.

Conclusion

- 1.7 Excess cold resulting from poor energy efficiency of houses, particularly older houses of solid wall construction with attic rooms within the usual loft area of the roof construction, and with inefficient heating systems, is the primary reason why properties fail under the Housing health and Safety Rating System. As a consequence of the significant proportion of older properties in the private rented sector (56% of rented properties constructed before 1919) and the technical difficulties and higher costs associated with improvements in such houses, the private rented sector presents a significant challenge in terms of scale and cost of improving energy efficiency . Furthermore, privately rented dwellings have far more Fuel Poverty (where more than 10% of net income is needed to provide adequate heating and hot water) – currently 33% compared with 16% in owner occupied dwellings.
- 1.8 Addressing excess cold and fuel poverty across all tenures must remain a key future priority, with a particular focus on the older housing stock , where many private sector tenants , including some of the most vulnerable members of society, reside.



Originator: Mike Brook
Tel: 0113 2476242

Report of the Director of Environment and Neighbourhoods

Executive Board

Date: 11th June 2008

Subject: Activity in the Private Rented Sector regarding Energy Efficiency.

<p>Electoral Wards Affected:</p> <p><input type="checkbox"/> Ward Members consulted (referred to in report)</p>	<p>Specific Implications For:</p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input checked="" type="checkbox"/></p>
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Eligible for Call In

Not Eligible for Call In (Details contained in the re)

EXECUTIVE SUMMARY

The Private Rented Sector represents 13% of the total housing stock in Leeds and as such provides accommodation for a significant number of Leeds households, some of whom are amongst the most vulnerable members of society. Whilst there are many examples of good , well managed accommodation providing choice in a mixed tenure housing stock, there are also still examples of poor housing which do not represent value for money and have a detrimental impact on the health and well being of tenants.

Drawing a distinction between the older housing stock and more recently constructed accommodation, particularly in the city centre, much privately rented housing remains in poor condition . There is particular concern that the standard of energy efficiency (the SAP rating) is often poor in older housing and a significant number of private sector tenants are in fuel poverty.

This reports provides the background context of the city's private rented housing stock and sets out ways in which future strategy will contribute to improving both energy efficiency and reducing fuel poverty in the sector.

1.0 Purpose Of This Report

1.1 The purpose of this report is to advise the Executive Board on the current position and activity on energy efficiency measures within the private rented sector.

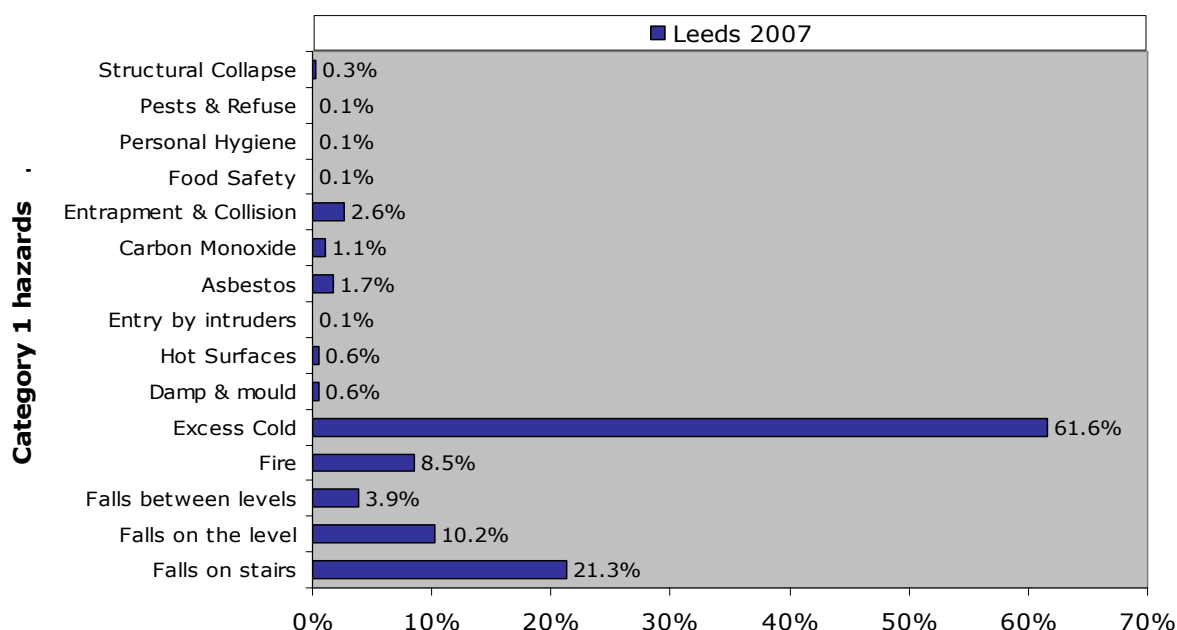
2.0 Background Information

2.1 The policies relevant to this subject include the Private Rented Sector Housing Strategy (2005 – 2010), the Leeds Affordable Warmth Strategy, the Home Energy Conservation Act (HECA) 11th progress report and the findings of the Leeds Private Sector House Condition Survey 2007. All of these pieces of work have identified the issue of poor energy efficiency in the Private Rented Sector as a key area for future focus. The Leeds Private Sector House Condition Survey 2007 in particular provided sound evidence to assist in informing housing strategies in general. This survey highlighted the priority areas for interventions to be the regeneration areas located in the central and inner city areas of the city and include Beeston, Cross Green and Harehills where the oldest houses are often found.

2.2 The introduction of the Housing, Health and Safety Rating System (HHSRS) in 2006 directs Councils to consider a range of 29 identifiable hazards within dwellings and assess the risk posed by those hazards. The most serious hazards are classed Category 1 where the Council then has a duty to take action to eliminate or significantly reduce the hazard. The presence of a category 1 hazard would result in the dwelling failing the decent homes standard.

Figure 1 below illustrates the significance of excess cold of all the statutory category one hazards within this sector :

Figure 1 – Category 1 Hazards by reason, as % of Category 1 Hazards



2.3 Recent research in Leeds suggests that 3,880 private sector dwellings need to be made decent, of which 2,730 are within the Private Rented Sector. Improving thermal comfort is a significant step in order to achieve this decency target. The intention, then, is to increase a range of activities to achieve more thermally efficient properties in the sector, to contribute effectively to the Council's targets on decency and reducing fuel poverty.

2.4 If the usual range of the energy efficiency improvements such as loft insulation and full central heating were carried out to all private sector dwellings considered to be in need of improvements (including owner occupied), this would involve an estimated 200,000 dwellings at a total estimated cost of £368million (an average of £1,840 per dwelling). With 13% of the total housing stock being in the Private Rented Sector, it can be assumed that approximately 26,000 dwellings would require such improvement.

3.0 **Legal Provisions to improve Energy Efficiency in the Private Rented Sector.**

3.1 In respect of energy consumption, the main relevant legislation is the Sustainable Energy Act 2003. This is supported by the Housing Act 2004 which provides legislative powers that allow the Authority to directly address energy efficiency in the Private Rented Sector and the main provisions are summarised below:

- The Housing Health and Safety Rating System (HHSRS) – to address poor housing conditions and eliminate category 1 hazards (the prime issue being cold homes).
- Licensing of Houses in Multiple Occupation (HMO) – the Housing Act allows Authorities to attach reasonable conditions to licenses requiring agreed standards to be reached in certain higher risk HMO's or designated selective licensing areas.
- Home Information Packs – Requires Private Sector landlords to provide energy performance certificates detailing the thermal efficiency of the properties from October 2008.

3.2 The 2007 Leeds Housing Stock Condition Survey and Community Warmth Initiative provide additional information to enable the Authority to better target its enforcement regime. For example, since the publication of the Stock Condition Survey results in late 2007, it became possible to identify dwelling types and locations within the city that are most likely to have poor thermal efficiency.

4.0 **Actions to date on addressing energy efficiency in the Private Rented Sector.**

4.1 Work to improve energy efficiency and the reduction of fuel poverty in this sector is not new to Leeds. Whilst much of the legal framework to secure improvement has been enforceable only relatively recently, Members will be

aware of the significant financial investment in the private sector facilitated principally through the Council's Fuel Savers team.

4.2 In 2007/08, the following assistance was provided to the private rented sector:

- 392 Warm Front Grants were provided, at a total value of just over £360k.
- 1,200 households were given tailored advice for their particular properties.
- Members of the Landlords Accreditation Scheme have received information through newsletters, presentations and training on energy efficiency measures throughout 2007/08. This has included providing worked examples of suitable energy efficiency works for certain property types, to educate landlords on some of the practical detail on improvements that would have the greatest impact on improving thermal efficiency.
- A leaflet has been produced for tenants, advising of actions open to them to improve the energy efficiency rating of the property they rent, by working through their landlord.
- Landlords who refuse eligible tenants access to Warm Front grant aid are now referred directly for enforcement action, although the number needing to be referred is low in practice.
- Over 2,800 licenses have been issued for Houses in Multiple Occupation to date. All such licenses contain a condition relating to minimum standards regarding heating systems. Whilst not in itself an energy reducing measure, it will do much to remove vulnerable households from fuel poverty.
- The Council offers Home Improvement Assistance, through equity release loans to householders, a proportion of which include energy efficiency improvements. Over 1500 households have been assisted through this scheme in the two years up to April 2008.
- In addition to the long history of financial incentives to assist energy efficiency improvements, the relevant parts of the Housing Act have been enforced in Leeds since April 2006. Over 60 enforcement notices were served to require improvements to address issues associated with cold homes in the first three quarters of 2007/08.

5.0 Proposals for Enhanced Action

5.1 An overall approach for enhanced action is intended through a refresh of the actions to deliver the Private Rented Sector Strategy. This will include the development of the Strategy to reflect new strategies such as the Leeds Affordable Warmth Strategy, the Regional Fuel Poverty Strategy and Home

Energy Conservation Act Recommendations. In particular, the information and intelligence from the Leeds Housing Stock Condition Survey 2007 will facilitate targeted interventions in areas of the city where they are most needed.

- 5.2 A prerequisite for success is an effective partnership across all Directorates within the Council together with key stakeholders such as delivery agents, landlords and managing agents etc.
- 5.3 A range of initiatives have been identified and are planned, with some already underway:
 - 5.3.1 Increased use of the Housing Act 2004 Housing Health & Safety Rating System aimed at addressing excess cold hazards in the Private Rented Sector. Whilst specific enforcement targets are not felt to be appropriate, enforcement activity in this area will aim to be increased by a minimum 50% on the 2007/08 baseline.
 - 5.3.2 Specific proactive targeted work will be aimed at the most vulnerable dwelling types located in the worst affected wards. In addition, appropriate enforcement action will be taken against any landlord who prevents warm front grant improvements being applied to their properties.
 - 5.3.3 Programmed training for all front line staff will take place to improve awareness of issues around Health Through Warmth, excess cold, Fuel Poverty and the availability of improvement schemes and grant aid for the private sector.
 - 5.3.4 Enhanced working with private landlords on this subject will occur through improved information and advice via the Leeds Landlord Accreditation Scheme (LLAS) and UNIPOL. Detailed information to landlords on suitable thermal efficiency measures using the existing newsletters and forums will continue and build on that provided in 2007/08. A recognition scheme to reward landlords in the LLAS who carry out energy efficiency works to our recommended standards will be considered.
 - 5.3.5 Existing partnership working with the Homelessness Advice and Prevention (HAP) team has seen the creation of new tenancies within the private rented sector. Performance measures will be developed for landlords to comply with energy efficiency standards for all such tenancies.
 - 5.3.6 The health impact of group repair schemes is now being assessed with a view to extending such schemes. Although group repair schemes include only external works, thermally efficient materials and recycled products are used to reduce household energy consumption. In addition, all occupants are provided with information and advice on improving energy efficiency within the dwelling. Group repair funding, along with Health Through Warmth and Community Warmth funding currently represent the only grant aid available to landlords.

- 5.3.7 A greater influence will be brought to the various regeneration schemes across the city to promote thermal efficiency as a significant element.
- 5.3.8 The license conditions attached to HMOs will be reviewed to introduce thermal efficiency conditions when licenses are due to be renewed (in addition to the current requirements for heating systems).
- 5.3.9 The business case for selective licensing in the city has only just been submitted for approval, however specific conditions on properties within such areas will be considered and introduced where justifiable & complimentary to the selective licensing pilots.
- 5.3.10 The Empty Property Strategy will be updated to provide incentives for landlords to incorporate suitable energy efficiency measures alongside requiring them to bring the properties back into use. This action would include the promotion of initiatives including warm front grants and could be targeted at members of the Accreditation Scheme as existing partners providing good services. The incorporation of suitable covenants on properties for sale will be pursued to ensure improvements in energy efficiency on properties subject to such action.
- 5.3.11 Links will be strengthened with all key stakeholders and partners involved in service delivery. A typical example could be discussions with colleagues in Development Department regarding planning applications and the extension into energy efficient measures. An extension of the application of S.106 monies to cover enhanced thermal efficiency works will be explored with colleagues in Development. The promotion of initiatives with property developers to generate energy efficiency and sustainability savings when considering new build and affordable homes will also be considered. Complimentary to these initiatives would be the need to ensure that all such work on dwellings is effectively monitored and policed to ensure compliance with Building Control Regulations.
- 5.3.12 Initiatives such as the 5 ward initiative will see Private Rented Sector households directly contacted via a programmed mail-out of targeted information. In addition, the introduction of the requirement for Energy Performance Certificates as part of the Home Information Packs (HIPs) will be used as an opportunity to provide advice regarding energy efficiency measures in the private sector. Also, officers undertaking routine inspections of dwellings will identify households using pre paid or expensive fuel tariffs for these cases to be referred to partners to establish more efficient schemes.
- 5.3.13 Links to national and regional initiatives will be maximised. Initiatives such as the Yorkshire Landlord Day, organised by the Residential Landlords Association will allow the opportunity to promote energy efficiency matters such as efficient boilers and insulation works with the landlords and developers.
- 5.3.14 All housing policies will seek to incorporate energy efficiency measures to

remove excess cold and improve thermal efficiency. Any such schemes would then be used to demonstrate possible efficiency savings and promote good practice when undertaking renovation or improvement works.

- 5.3.15 Officers will form a steering group, including members from all key stakeholders such as the Landlord Consultative Group, Private Sector Strategy Group and Leeds Housing Partnership. The remit of the group will be to include continual monitoring of performance targets and review the progress and effectiveness of the agreed action plans listed above. This activity could be incorporated within the remit of the Fuelsavers Advisory Board, which is considered to be working well.

6.0 Implications For Council Policy And Governance

- 6.1 The existing Private rented Sector Strategy already plays a significant part in contributing to the criteria set out in the Vision for Leeds strategy document and in particular the Council's Narrowing the Gap Agenda. It will continue to contribute to the Council's strategic outcomes in particular around the themes Thriving Places, Environmental Excellence and Health and Wellbeing.
- 6.2 Development and inclusion of new proposals in the Private Rented Sector Strategy and elsewhere will further enhance performance and contribute towards the eradication of fuel poverty. Furthermore, the actions to improve thermal efficiency and reduce energy consumption and CO₂ emissions will produce a positive contribution to the Council's Environmental Plan.

7.0 Legal And Resource Implications

- 7.1 The Council has a legal responsibility to enforce a range of statutory provisions relating to housing conditions, in particular a duty to remedy Category 1 Hazards identified in houses under the provisions of the Housing Health and Safety Rating System introduced by the Housing Act 2004, which replaced the old Fitness Standard.
- 7.2 There are no obligations on the local authority to provide financial assistance to landlords to help meet the cost of complying with standards. There are however, resource implications for the Council in fulfilling its duties and seeking to achieve the targets for improving the conditions in the private sector as a whole through promotional and regulatory actions ,bearing in mind the total number of houses in the sector . The Leeds Housing Condition Survey predicts a required investment of £368m in the next 5 years to address Category 1 hazards alone in the private sector. The major proportion of these hazards relate to excess cold issues, which gives some indication of the scale of the challenges ahead.

8.0 **Recommendations**

- 8.1 Members of the Executive Board are asked to endorse and support the actions proposed to promote energy efficiency measures in the private rented sector (para 5.0), which build on those undertaken to date.

SCRUTINY INQUIRY INTO PRIVATE RENTED HOUSING

REFERENCE DOCUMENTS

PREVIOUS REPORTS TO SCRUTINY BOARDS

18 January 2005	The Housing Act 2004 – The Impact on the Private Rented Sector in Leeds
07 September 2005	Private Sector Housing – Action to Address Fitness and Empty Properties
22 February 2006	Progress Report – The Implementation of the Housing Act 2004
March 2007	Leeds Housing Investment Programme
24 October 2007	Empty Property Strategy – Position Update

PREVIOUS REPORTS TO EXECUTIVE BOARD

10 March 2003	Long-Term Empty Homes
21 September 2005	The Establishment of an HMO Licensing Team in respect of the Mandatory Licensing of HMOs (Houses in Multiple Occupation)
13 November 2006	Empty Property Strategy 2006-2010
11 June 2008	Activity in the Private Rented Sector regarding Energy Efficiency

CURRENT LCC STRATEGY DOCUMENTS

- Leeds Housing Strategy 2005/06 – 2009/10
- Empty Properties Strategy 2006-2010 and Action Plan (update at 30.07.08)
- Leeds Private Rented Housing Strategy 2005-2010 (January 2007)
- Leeds Home Improvement Assistance Policy