

READING BOROUGH COUNCIL

REPORT BY DIRECTOR OF ENVIRONMENT & NEIGHBOURHOOD SERVICES

TO:	HOUSING, NEIGHBOURHOODS AND LEISURE COMMITTEE		
DATE:	18 March 2015	AGENDA ITEM:	8
TITLE:	PRIVATE RENTED SECTOR ACTION PLAN		
LEAD COUNCILLOR:	Councillor Richard Davies	PORTFOLIO:	Housing
SERVICE:	Regulatory Services	WARDS:	BOROUGHWIDE
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1.0 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The Private Rented Sector is a valuable housing option offering flexible and suitable accommodation for many residents. Many homes in this sector provide good quality housing which is managed well by landlords and their agents. However, in some cases, the sector can often be seen as offering poor security of tenure which is managed poorly; contributing to anti-social behaviour in areas.
- 1.2 This report sets out an approach to working to improve standards in the Private Rented Sector (PRS) where needed through education, partnership and where necessary enforcement. An action plan has been developed to enable the delivery of this approach and includes a draft PRS Charter, which aims to build a common understanding of values, standards and requirements for the rental sector.

2. RECOMMENDED ACTION

2.1 To implement the following services:

a) Launch a new campaign and materials to:

- raise awareness about the advice and services available to landlords and tenants
- increase the identification and referral of sub-standard properties
- promote tenants' rights and responsibilities
- educate landlords on their responsibilities

b) Improve mechanisms to identify and target vulnerable groups most at risk from rogue landlord activity, to ensure support is focused on those in most need.

- c) Establish a corporate approach to managing the negative impacts that high levels of tenure turn over can have on communities.
- d) To consult on a Private Rented Sector Charter, which demonstrates the Council's and partners' commitment to improving the sector.
- e) Establish a working group to explore with partners and stakeholders a 'Rent with Confidence' scheme aimed at building consumer confidence and helping to differentiate landlord sub sectors.
- e) To review the outcomes of implementing the private sector action plan and wider housing strategy to determine whether further consideration should be given to discretionary licensing in the private rented sector.

3.0 POLICY CONTEXT

General market

- 3.1 The Private Sector Housing Stock Condition Survey 2013 indicated that 28.5% of dwellings in Reading were in the Private Rented Sector (PRS). This compares to an average of 21.4% nationally (2011/12). The survey identifies 10% of the PRS to be houses in multiple occupation (HMO), compared to the national figure of 2.3%. The number of non-decent homes has reduced by 40% since the last stock condition survey in 2006, however 12,200 private sector homes still fail to meet the decent homes standard. 27.2% of private rented tenants have informed their landlord or agent about outstanding repair issues, with 40% of those tenants indicating that the issues remained unaddressed.
- 3.2 Private rented accommodation provides a flexible and accessible housing solution for many residents. The Council recognises the valuable contribution the sector makes to providing decent and safe homes for many tenants. There is however a minority of landlords who provide poorly managed, substandard and unsafe homes, often to the most vulnerable in society. In some areas with high densities of private rented accommodation, there can be a direct impact on neighbourhood cohesion. Due to the shorter periods of time tenants are likely to occupy properties; they are likely to have less social investment in their neighbourhoods. There is also a perception that areas with high numbers of rented properties will suffer from increased anti-social behaviour.
- 3.3 Market forces have led to significant numbers of family dwellings in Reading being converted, sometimes without permission, into self-contained flats or HMOs. This change can result in over occupation of dwellings with resultant impacts on neighbours; reduced or poor standards of construction or management and increased anti-social behaviour e.g. environmental crimes.

The National outlook

- 3.4 The Department for Communities and Local Government (DCLG) has outlined the national challenges:
- Lack of supply has led to a lack of affordability and choice.
 - Lack of professional landlords and a need to improve management practices in some parts of the sector.

- Delivering improved transparency of letting agents' fees
 - Growing demand for longer tenancies from families.
 - Challenges for particular groups - homeless, vulnerable and benefits recipients.
 - Lack of tenant knowledge.
- 3.5 Nationally 89% of the private rented sector is owned by individual private landlords rather than large scale investors. Many landlords own only one property with over 60% having no relevant experience or qualification and only 6% are accredited.
- 3.6 In response to the national challenges, there has been recognition that the Letting Agents industry has been largely left unregulated, with a handful of voluntary trade schemes promoting good practice. The Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 came into force on 1 October 2014 and requires Lettings Agents to become a member of a 'redress scheme'. The redress schemes allow people living in or owning property in the PRS to complain if they receive poor service from their agent. Common complaints about lettings and property management in the PRS are:
- how agents handle the security and holding deposits;
 - missed appointments;
 - pressuring tenants to take tenancies;
 - poor customer service;
 - out of date and misleading adverts; and
 - opaque and variable fees.
- 3.7 Many landlords also appoint an agent to manage their properties on their behalf with common complaints about how the property is managed being around repairs not being carried out in a timely manner or to a satisfactory standard, general customer service and notice and conduct of visits from agents.
- 3.8 In recognition of some tenants' lack of knowledge, DCLG has also produced a 'draft Tenants Charter' (October 2013) (attached as appendix 2) which provides information on:
- what the tenant can expect and what questions need to be asked before agreeing to rent a property;
 - the responsibilities of the tenant and landlord during the tenancy;
 - ending the tenancy; and
 - tenants' rights and what to do if something goes wrong.
- 3.9 The Royal Institution of Chartered Surveyors (RICS) published a 'Private Rented Sector Code of Practice' (attached as appendix 1) with a range of professional stakeholder organisations. The Code aims to provide consistent guidance to landlords, lettings and managing agents on statutory and best practice approaches in the sector to ensure:
- Good quality homes for rent;
 - Consistent and high standards of management; and
 - Choice for the consumer.

Licensing

- 3.10 The Housing Act 2004 brought in two licensing scheme types, mandatory and discretionary. The aim of licensing in the PRS is to regulate the physical standards of properties whilst also improving management. Mandatory licensing requires houses in multiple occupation comprising of three storeys or more and of five bedrooms or more to be registered. Currently there are over 800 properties in the mandatory licensing scheme.
- 3.11 Since 2010, 14 local authorities have introduced a total of 23 discretionary licensing schemes, with only four specifically for anti-social behaviour issues. There is a strong lobby calling for the broadening of the scheme criteria to include 'high demand', as well as calls to simplify the process for applying the scheme locally.
- 3.12 The Council implemented a project to undertake a feasibility study into the use of additional or selective licensing in the Borough and to consider if appropriate to take steps to implement a scheme(s) within a Neighbourhood Improvement Zone(s). A discretionary licensing scheme would require all privately rented homes in a specific area to be registered.
- 3.13 Following an extensive study and financial modelling and taking into account the current legal challenges around discretionary licensing, the cost of such a scheme and its benefits the introduction of additional or selective licensing in the Borough is not proposed at this stage. This position will be reviewed if the current action plan falls short of delivering PRS improvements. If the action plan is successful, the actions could deliver at reduced costs similar outcomes to a licensing scheme without risks of legal challenge.

Retaliatory Evictions

- 3.14 The Tenancies (Reform) Bill aims to put a stop to revenge eviction in the private rented sector. Renters would no longer have to choose between living in poor conditions and losing their home and if successful should have an impact on driving up standards. The private members bill was taken to its second reading on 28 November, but failed to attract sufficient MPs for it to move forward. An amendment to the Deregulation Bill has been tabled, which would look to introduce the first two clauses of the Tenancies (Reform) Bill.

4.0 THE CURRENT POSITION

- 4.1 A number of services across the Council engage with the PRS, including Environmental Health, Housing Options and Advice, Planning, Social Care, Building Control, Public Health and Streetcare.
- 4.2 Consultation with residents through "Let's Talk", Planning's consultation around the use of Article 4 directions (which can require developments currently not requiring planning permission to gain consent) and ongoing concerns expressed by Neighbourhood Action Groups indicates that the PRS has a significant impact on communities.
- 4.3 The Private Sector Housing Team receives over 2,000+ service requests relating to housing enforcement matters each year. This drives the way in which the service is delivered i.e. reactive approach rather than proactive or

programmed inspection of the private rented stock. Currently only mandatory licensed properties are on a programmed inspection approach, meaning that they are inspected based on risk.

- 4.4 Regulatory compliance includes information, advice, inspection, warnings, enforcement and prosecutions. Officers' work also includes partnering with Royal Berkshire Fire & Rescue as part of their risk based inspection programme, liaison with the University of Reading and the inspection and compliance of B&Bs used by the Council as emergency temporary accommodation.
- 4.5 The feasibility study identified a number of weaknesses in the current approach to regulating the sector, including a lack of impact on the most vulnerable tenants' living conditions.

Letting Agents

- 4.6 The national statutory redress scheme for letting agents or property management was introduced late in 2014. Estate agents are already required to belong to a redress scheme, and their existing membership may already cover their letting agency work as well as estate agency work. Some lettings agents and property managers already belong on a voluntary basis to the Property Ombudsman Scheme or the Ombudsman Services Property Scheme (two of the three approved schemes), and they will automatically become members of the approved scheme. The third scheme to be approved is the Property Redress Scheme.
- 4.7 Trading standards already have powers under consumer protection legislation to deal with issues such as giving false or misleading information, charging unfair or unreasonable fees, or falsely claiming to be a member of a professional body or approved redress scheme. Further legislation to regulate letting agents is on its way.
- 4.8 There are currently an estimated 87 letting agents operating within the Borough.

5.0 WAY FORWARD

- 5.1 In light of the matters raised and summarised in this report and taking into account that the sector, in the main, offers affordable and flexible homes of suitable quality it is proposed to provide a more targeted approach to work in partnership to proactively drive improvements where action is required. It is proposed to diversify the team by embedding a Trading Standards role in the Private Sector Housing team. This will achieve a number of objectives:
 - To review and provide support to Lettings and Managing Agents to ensure that tenants and landlords are protected from unfair practices.
 - To review the PRS current position with Environmental Performance Certificate (EPC) compliance. The sector needs to move to a position where they meet minimum energy efficiency standards and this will impact on tenants health and work towards reducing the impacts of fuel poverty.
 - To ensure that all Lettings and Managing Agents operating within the Borough are members of a redress scheme.

- To work with enforcement staff to advise on fraudulent activity such as the issuing of 'fake certificates'.
 - This is an innovative approach, currently being trialled by Islington and Newham Councils.
- 5.2 It is further proposed to appoint two full time officers to deliver the PRS action plan. One of the key roles of these officers will be to work with partners to gather intelligence on the location of vulnerable tenants and high risk properties, using this to target advice and where necessary enforcement action. The officers will work on an area based proactive inspection programme with 400 properties surveyed per annum along with an estimated 100 enforcement actions per annum.
- 5.3 Part of the officer's time would also be secured to support tenants with tenancy related matters in their home. This first contact approach should help to deal with some of the concerns expressed by tenants over retaliatory evictions. It is anticipated that approximately 100 cases will be dealt with per annum. In addition, one of the officers will be involved in proactively delivering approximately five community education talks per annum on PRS standards.
- 5.4 Working differently with the sector, it is hoped to reduce the number of enforcement related service requests.
- 5.5 In addition to the work outlined above it is proposed to:
- Reviewing and developing internal systems to deal with allegations of harassment and illegal eviction, including as necessary prosecution of landlords or their agents.
 - Increasing the identification and referral of sub-standard properties by working with partners and stakeholders to further develop our intelligence led approach.
 - Establishing mechanisms to identify and target vulnerable groups most at risk from rogue landlord activity, to ensure support is focused on those in most need.

Setting standards

- 5.6 Further work areas will relate to:
- Launching a new campaign and materials to raise awareness about the advice available to landlords and tenants.
 - Promoting tenants' rights and responsibilities, through the use of the DCLG draft Tenants Charter.
 - Educating landlords on their responsibilities. It is proposed that the RICS Private Rented Sector Code of Practice be used as the basis of the landlord support.
 - Exploring with partners and stakeholders a 'Rent with Confidence' scheme aimed at building consumer confidence and helping to differentiate landlord sub sectors.
- 5.7 If after review it is determined that the actions identified have had insufficient impact and having considered the wider housing strategy, a pilot discretionary licensing scheme may be brought back to discuss. A 3 month

statutory public consultation will be required before determining whether to proceed to implement a scheme.

Private Rented Sector Charter

- 5.8 It is proposed that a PRS Charter is developed, based on the Council's ambitions and the actions outlined in this proposal are published for partners and stakeholders to sign up to. The Charter will be based around 'providing a home for those most in need' as outlined in the Corporate Plan 2015-18. An example of a draft Charter is included in the Background papers (appendix 3).

6.0 OTHER OPTIONS CONSIDERED

6.1 Accreditation:

The Council ran an in house accreditation scheme for over 10 years and whilst it had some market penetration and maintained standards amongst those landlords who chose to participate it was unable to improve properties with low standards. The scheme was mainly supported by student landlords in partnership with the University of Reading. The scheme was extensively reviewed and the decision was taken to partner instead with the National Landlords Association who provides landlords with training and accreditation, but this is also a voluntary scheme in which landlords choose whether or not to participate.

6.2 Landlord Self-Regulation:

This is the approach many landlords advocate, as there is a belief amongst compliant landlords that the market will regulate itself. This however has proven not to be the case in Reading due to the high demand for housing, high rents and low incomes. The Council carries out interventions in the PRS due to poor management, illegal evictions/harassment, poor conditions, street scene issues, ASB issues and planning and building control contraventions. The National Landlords Association Accreditation scheme does provide good landlords with a mechanism to distinguish themselves from the rest of the market in respect of an understanding of their duties, but market penetration to date is poor.

6.3 Targeted Enforcement:

The principles of better regulation state that regulation should be proportionate and targeted and therefore regulatory intervention should be risk-based and focused on specific problems. Regulatory services work in this way through implementing risk based inspection programmes, mandatory HMO licensing and requests for service. Targeting landlords who operate below the radar has remained challenging despite improving reporting mechanisms and access to information. The approaches outlined above would go some way to further improving targeting in Reading.

7.0 CONTRIBUTION TO STRATEGIC AIMS

- 7.1 **Providing homes for those most in need** - the proposals in this report will result in improved housing conditions and contribute to the health, safety and welfare of residents by driving up physical and management standards in the Private Rented Sector.

7.2 Keeping the town clean, safe, green and active - the outcome of this project will reduce the impacts of enviro-crime, reported anti social behaviour, and build community resilience.

8.0 COMMUNITY ENGAGEMENT AND INFORMATION

8.1 Following development of the PRS Charter, to encourage support and further partnership working and to develop and advance actions to improve the PRS.

8.2 If the intention is to proceed with a pilot licensing scheme, the Council must undertake a statutory consultation with those affected by the impact of the proposals i.e. Landlords, tenants, residents, businesses etc within the Neighbourhood Improvement Zone.

9.0 EQUALITY IMPACT ASSESSMENT

9.1 An Equality Impact Assessment will be carried out if a consultation on the proposal to launch a pilot selective licensing scheme is agreed and will be published as part of the public consultation

10.0 LEGAL IMPLICATIONS

10.2 The Housing Act 2004 Part 3 contains the provisions under which any selective or additional licensing scheme may be made. The Council must consider whether alternative courses of action would meet its objectives e.g. an accreditation scheme. The Council must consult persons affected by any designation and consider the representations made by them.

11.0 FINANCIAL IMPLICATIONS

11.1 £90k has been built in to 2015/16 budget for the appointment of two full time officers to support the implementation of the PRS action plan

Background Papers / Appendices

1. RICS - Private rented Sector Code of Practice
2. DCLG - Draft Tenants Charter
3. Plymouth draft Charter for Private Rented Housing.
4. Private Sector Housing Stock Condition Survey 2013 (available on request)