

## **Council – 8 April 2019**

### **Private Rented Sector Housing and Selective Licensing Working Group – Report from Economy and Environment Overview and Scrutiny Committee**

**Service:** Resources and Transformation

**Wards:** All

#### **1. Summary**

The Economy and Environment Overview and Scrutiny Committee undertook a review of the private rented housing sector and in particular looked into problems facing landlords and tenants in Walsall. This review was carried out by a working group which presented its final report and recommendations to the Committee on 19 February 2019.

The working group consider representations from landlords, landlord and tenant associations, a local authority and charitable organisations. In addition, numerous publications and reports about the private rented sectors were considered with consideration to main issues affecting Walsall landlords and tenants.

A copy of the report is attached at Appendix 1 and provides the working groups finding.

As the Cabinet are the formal decision making body for this matter, the Council are asked to note and refer this to Cabinet for consideration.

#### **2. Recommendation**

That Council note the findings from the Private Rented Sector Housing and Selective Licensing Working Group and refer the recommendations to Cabinet to consider their implementation.

#### **3. Report detail**

The housing composition of Walsall varies across the Borough, with PRS Housing accounting for 12% (12,615) of accommodation in 2011 rising to 15,000 in 2018. Evidence shows that with the decline of social housing lets, the demand for PRS Housing will continue to rise unless there is appropriate investment in housing stock across the country.

The working group met with a variety of landlord and tenant organisations to ascertain their views on the problems facing the sector. In addition, the Working Group considered tenant feedback and case studies from charitable organisations.

The Working Group recognised selective licensing as a part of a wider picture of tackling housing standards within the PRS. It was noted that Local Authorities that implemented selective licensing schemes also established voluntary accreditation schemes. This was found to encourage the achievement of high standards within the sector.

Nationally, there are concerns about the recruitment and retention of qualified Environmental Health Officers who have a housing specialism. The Working Group recognised apprenticeships as an option to develop officers but identified that there is no approved apprenticeship training for this specialism. It was noted that Environmental Health Officers are required to complete placements in order to become fully qualified, the Working Group recognised that there was no corporate scheme to facilitate carrying out placements within relevant service areas. It is recommended that the Council investigate various methods of developing its own qualified Environmental Health Officers; however, due to the national dimensions, liaison with the West Midlands Combined Authority should also take place to investigate the funding and assistance to students studying Environmental Health.

Members recognised the resource limitations within Housing Standards Team and the challenges in locating rogue landlords. The Working Group noted the success of Ireland's private rented sector tenancy registration requirements, which make it compulsory for landlords to register tenancies with the Residential Tenancies Board. This requirement allows local authorities to gain information on rent levels locally and nationally, maintain an up to date landlord information database and property location statistics.

Members felt that Housing and Planning legislation should be inter-connected and streamlined. The Working Group felt that the current definition of a House in Multiple Occupation (HMO) which is different under the housing and planning legislation, is disjointed. Under the Housing Act 2004, a HMO is a house or flat occupied by at least three unrelated tenants who share either a toilet, bathroom or kitchen facilities with other tenants. Under the Town and Country Planning (Use Classes) Order 1987 (as amended), the regulations classify HMOs as either being small or large depending on the number of occupants:

- Small HMOs (Class C4) - properties housing between 3 and 6 unrelated people reside and share amenities;
- Large HMOs (Class sui generis) - 7 or more people sharing.

Both pieces of legislation have the same definition but the Town & Country Planning (Use Classes) Order 1987 (as amended) proceeds to break it into 2 types; small HMOs not requiring planning permission while large HMOs require planning permission to be set up. As a result, it is recommended that the Government amend this to a single definition.

Whilst there were annual house condition surveys in England, there has not been a Borough-wide survey since 2007. The Working Group felt that that due

to changes within the sector, a new survey is required to gain a better understanding of current housing conditions across the whole of the Borough.

The Working Group noted comments made by Karen Buck, Member of Parliament for Westminster North who was lead on the Homes (Fitness for Human Habitation and Liability for Housing Standards) Bill 2017-19 which received cross-party support. This highlighted that “if local authorities are serious about tackling the bad landlords they need the staff, and authorities that are doing the most on the PRS seem to have about 6 staff for 10,000 households in the PRS. It is arguable whether this is still insufficient, given the time that will also be spent on carrying out associated activities such as checking on ownership, preparing reports, notices and schedules of work and ensuring correct legal procedures are followed”.

It is estimated that the current number of private rented households in Walsall is 15,000 (compared to the 12,615 identified in the 2011 census). This would equate to circa a total of 9 members of staff to tackle the private rented sector issues as opposed to the current number of 2 using Karen Buck’s recommendations.

The Working Group heard concerns from landlords and organisations about the problems of dealing with tenant waste without a waste transfer licence.

The Working Group considered an external research report from Birmingham Adults Safeguarding Board and recognised the concerns of exploitation of exempt housing accommodation in the country. It was recommended that a further Working Group be established to investigate such concerns within the sector. Landlords should be encouraged to issue written tenancy agreements, as opposed to verbal agreements, which are difficult to enforce when there is a dispute.

Concerns were raised about the number of local authorities relocating tenants to live in accommodation in other areas of the country, including relocating such tenants into the Borough.

The Working Group recognised selective licensing as part of a wider approach of tackling housing standards within the PRS.

Selective licensing scheme success varies throughout the country with majority of schemes requiring significant start-up costs. The Group found that whilst licencing could not cover more than 20% of any area without approval from the Secretary of State, smaller area schemes worked better in other areas of the country in connection with other strategies. It was noted that any scheme is required to be evidenced based and as such it was recommended that a selective licensing scheme be established.

The Group found that local authorities that had implemented a selective licensing scheme also implemented a voluntary accreditation scheme. This has been found to encourage higher standards within the sector.

Accreditation provides the opportunity for landlords to receive support with incentives and achieve recognition of good standards in the sector. In addition, the scheme allows the Council to target enforcement, hereby making the best of use of limited resources and allowing easier identification of non-compliant landlords. Following feedback from landlords and other organisations, the Working Group felt that appropriate incentives for landlords to assist the Council in tackling homelessness was required as part of any proposed scheme.

The Working Group noted the level of resource and financial contribution required to establish a successful accreditation scheme. The City of Wolverhampton Council's accreditation scheme 'Rent with Confidence' was found to be an excellent example of a scheme which encourages landlords to improve the standards of PRS housing in the City. In addition, the scheme provides financial incentives for five-star landlords and ensures compliant standards with regular inspections.

### **Background papers**

- Private Sector House Condition Survey 2007;
- Quality Housing for All – The Selective Licensing Scheme – Nottingham City Council;
- Shelter: Selective Licensing for Local Authorities – A good practice guide; The Joseph Roundtree Foundation: Regulations of the Private Rented Sector in England using lessons from Ireland;
- Shelter: A Vision for Social Housing;
- Citizen's Advice Bureau - It's broke, let's fix it;
- Citizen's Advice Bureau - Touch and Go;
- Local Government Association (LGA) Guide to Housing, planning and homelessness;
- Housing, Communities and Local Government Committee – Private Rented Sector – Sessions 2013 – 2014 and 2017-2019;
- Selective Licensing in the Private Rented Sector – A guide for local authorities.

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# Private Rented Sector Housing and Selective Licensing Working Group



As presented to the Economy and Environment Overview and Scrutiny Committee on 19 February 2019.



**Walsall Council**



## Foreword

Since the financial crash Walsall has seen a sizable increase in the numbers of its residents living in private rented accommodation. Demand has outstripped supply for the number of homes available in the social housing sector. Therefore the number of homes in the private rented sector has increased to fill the gap. In particular, in the period 2011 to 2018 the number of properties in the private rented sector has risen from just over 12,500 to 15,000 and this is likely to continue to increase despite its increasing unaffordability. Coupled with woefully inadequate numbers of new social housing completions to meet demand this review is, we feel, timely.

The Economy and Environment Overview and Scrutiny Committee very much hope that our report and recommendations can inform and support efforts to set up new systems and processes for supporting the Borough's residents living in the private rented sector and improve services.

In gathering its evidence the Private Rented Sector Housing and Selective Licensing Working Group spoke with and asked questions of representatives from exemplars of good practice, representatives of local landlords and lettings agents as well as representatives of national landlords organisations, Citizens Advice Walsall and from the Council's own Housing Standards Officers.

Of particular interest to the Working Group was the opportunity to speak to gather first hand views on how the council could improve its provision for those living and working in this tenure.

It was clear that a properly defined and well communicated approach is needed to ensure that all parties are aware of the support and assistance the council can provide to them. We noted the need for landlords and agents to be made fully aware of their own rights and also legal responsibilities towards their tenants, in particular smaller, nonprofessional landlords.

Although there is a raft of Legislation applicable to the sector it was found to be fragmented and lacking in direction. Our recommendations feel there would be a clear benefit from a national register of Private Sector Landlords similar to that in place in Ireland. It was felt that this would add some clarity and protection for the majority of good landlords out there, and make it much easier for prospective tenants to find suitable accommodation.

Our recommendations also include ideas, taking into account what is legally possible, for ensuring better quality of accommodation in the private rented sector and encouraging and increasing landlord and agency accreditation, that Council pursue Selective Licensing in the areas of most need for such action with discounted fees for accredited landlords and additional discounts to those working with the council to reduce homelessness in our Borough.

We are very grateful and would like to thank, in particular our witnesses who gave evidence about the sector as well as the council officers who assisted. Finally, of course, thank you to the Committee members who took part and contributed to our lively discussions and suggested ideas for recommendations, and to our scrutiny officers Matthew Powis and Craig Goodall for making sense of it all!



***Councillor Ian Shires***

***Chair of Private Rented Sector Housing and  
Selective Licensing Working Group***

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## **Introduction**

The Economy and Environment Overview and Scrutiny Committee (the Committee) on 21 June 2018 resolved to establish a working group to investigate housing standards in the private rented sector and options for a selective licensing scheme in Walsall.

## **Terms of Reference**

Draft terms of reference were discussed and agreed by a meeting of the working group that took place on 17 July 2018. The terms of reference were subsequently agreed at a meeting of the Committee on 11 September 2018.

The full version of the Working Groups terms of reference can be found at Appendix 1 to this report.

The Working Group was supported by three officers:

Appollonaris Fonka  
Craig Goodall  
Matthew Powis

Team Leader – Housing Standards  
Senior Democratic Services Officer  
Democratic Services Officer

## **Membership**

The working group consisted of the following Councillors:

Councillor I. Shires (Chair)  
Councillor S. Coughlan  
Councillor L. Jeavons  
Councillor W. Rasab

Further to this a Member from the Children's Services and the Social Care and Health Overview and Scrutiny Committees was co-opted to the working group, namely:

Councillor D. Coughlan – Social Care and Health OSC  
Councillor A. Nawaz – Children's Services OSC

## **Methodology**

The Working Group has held 6 meetings during its investigations, taking into account the views of 9 witnesses.

## Witnesses

The Working Group met and discussed issues or received evidence relating to private rented sector housing standards and selective licensing, with the following witnesses being interviewed:

David Hobbs	Nottingham City Council
Lyndon Whitehouse	Owner of L&A Lettings
Richard Hall	Chair of Walsall Landlord Steering Group
Lesley Williams	Stafford Borough Council
Samantha Watkins	Policy Officer at Residential Landlords Association
Gavin Dick	Policy Officer at National Landlords Association
Hursheda Chauhan	Walsall Citizen's Advice Bureau
Michael Rowland	Walsall Citizen's Advice Bureau
Appollonaris Fonka	Team Leader – Housing Standards at Walsall Council

## Report Format

This report is a broad summary of the Working Group's findings and conclusion.

## Challenges within the Private Rented Sector in Walsall

Walsall has seen an increase in Private Rented Sector (PRS) housing accommodation in recent years. This has arisen due to a number of factors, including increased property prices and oversubscription in the social housing sector, and changes in legislation such as *Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018*.

The 2011 Housing Survey highlighted that PRS housing accounted for 12% of the Borough's housing stock. In 2011, this comprised of 12,615 properties, which rose to an estimated 15,000 properties by 2018.

The Council is required to verify high standards of housing in the area. The growth of the PRS has created challenges for the Council in ensuring housing standards remain consistent across the housing sector. The vast majority of landlords in Walsall are good landlords who maintain their properties and work in partnership with their tenants. However, there is a small but significant number of landlords in the area who do not. Members of the Working Group have become increasingly concerned at the unpredictable standards of accommodation within the sector and wish to take steps to help to rectify this.

In order to address this challenge, which is a national as well as local issue, the Working Group has investigated examples of good practice from across the country and abroad to encourage high standards of housing in the PRS. In addition, the Working Group was mindful of legislation available for the Council to utilise as well as utilising enforcement options.

### Responsibilities and Enforcement

The Working Group was informed of the Council's Housing Enforcement Strategy and the duty of the Council to ensure that tenants do not live in unhealthy or unsafe living conditions, which is in accordance with the following legislation:-

The Housing Act 2004;  
The Environmental Protection Act 1990;  
The Public Health Act 1936;  
The Public Health Act 1961;  
The Building Act 1984;  
The Prevention of Damage by Pests Act 1949.

Housing Standard Enforcement Officers respond to and investigate any complaints from tenants and other residents regarding problems affecting any PRS property and take necessary enforcement action deemed appropriate. Despite triaging cases, the Council is reliant on tenants reporting problematic landlords and in some cases, the tenants are unaware of who their landlord is or how they could be contacted. As a result, the Council has found that locating and finding appropriate contact information for landlords takes considerable resource and officer time.

The Council, in serious circumstances, can take emergency remedial action or issue a prohibition order on any property that is deemed unhealthy or unsafe and where urgent action is needed. Non-compliance to remedial action can result in criminal prosecution through Magistrates' Court, where fines may be unlimited. Alternatively, the Council can impose a civil penalty charge of up to £30,000 without having to go through the Magistrates' Court.

The Working Group was informed that the Council had approved the Financial Penalties Policy on 13 November 2018, which authorised officer use of Civil Penalty Notice (CPNs) charges for non – compliant landlords when carrying out remedial works. Since the adoption of this policy, the Council has issued four intention notices to charge four landlords with fines for various breaches of the housing legislation.

Despite these responsibilities and enforcement powers, the Working Group learned that there can be challenges in identifying the owners of properties in order to take matters forward for tenants. The Working Group strongly believes that to truly tackle this issue, work is required at a national level by the Government. The Working Group noted a report from Shelter: ‘A Vision for Social Housing’, which recommends that the Government require all private landlords with over 25 homes to register with a new consumer regulator.

This mirrors legislation in Ireland, where it is the responsibility of all private landlords to register with the Residential Tenancies Board. This requirement has removed the administrative burden from local authorities to often have to make multiple checks (and sometimes unsuccessfully) to identify landlord contact information when carrying out potential enforcement.

The Working Group expressed concerns that a Borough Housing Survey had not been completed since 2011. It was therefore requested that to obtain updated information, the Council should conduct a housing survey by 31 December 2019.

### **Issues with properties and tenant concerns**

The Working Group learned that the Council had completed over 483 property inspections in 2017/18.

Table 1: Number of enquiries received, inspections undertaken and staff availability for 2012 to 2018.

<b>Year</b>	<b>No. of enquiries received</b>	<b>Number of inspections completed</b>	<b>Number of staff available</b>
2012/13	536	444	5
2013/14	709	462	5
2014/15	654	436	4
2015/16	473	393	6
2016/17	558	408	6
2017/18	585	483	5

The Group found that whilst the numbers of inspections has increased, the number of staff available to carry out inspections has not increased in line with demand. As a result, inspections were categorised in accordance with the significance of hazards found and the related vulnerabilities of the tenants.

Whilst positive engagement between landlords and tenants is always encouraged as the best option for resolving disputes, the Council may have to serve enforcement notices to ensure compliance. The Group noted that the Council had served 10 enforcement notices during 2017/18.

Table: Number of enforcement notices issues between 2012 and 2018.

		2013/14	2014/15	2015/16	2016/17	2017/18
Type of Housing Act 2004 Notices Issued			Number of Enforcement Notices Served			
Section 11	Improvement Notice (Cat 1)	5	1	1	4	2
Section 12	Improvement Notice (Cat 2)	5	2	1	4	3
Section 20	Prohibition Order	2	2	1	2	1
Section 29	Hazard Awareness Notice	0	1	1	0	1
Section 41	Emergency Remedial Action	0	1	0	0	0
Section 43	Emergency Prohibition Order	0	4	2	2	3
Civil Penalty Notices		NA	NA	NA	0	0
Prosecutions		0	0	0	0	0
Total		12	11	6	12	10

The type of enforcement notices that may be issued by the Council are explained as follows:-

### **Section 11 – Improvement Notices (Category 1)**

Requires the person on whom it is served to carry out remedial action within a specified time. As Category 1 hazards are the highest risk landlord are required to take remedial action to ensure that the hazard/s are removed or reduced.

### **Section 12 – Improvement Notices (Category 2)**

Requires the person on whom it is served to carry out remedial action within a specified time. Whilst Category 2 hazards are classed as low hazard, landlords are still required to take remedial action to ensure that the hazard/s are removed or reduced.

### **Section 20 – Prohibition Order**

This order imposes prohibition on the use of a whole residential or part use of a residential premises including homes in multiple occupation (HMO).

### **Section 29 – Hazard Awareness Notices**

This notice highlights to individuals that a hazard is present at the premises. These notices are similar to improvement notices, except that the dates for work to be started or completed are omitted.

### **Section 41 - Emergency Remedial Action**

This notice enforces emergency remedial action on the premises within seven days of starting the action.

## Section 43 – Emergency Prohibition Order

This notice enforces emergency prohibition order to prevent use of a premise.

Enforcement notices are deemed to be resource intensive for every case, so other methods of engagement are considered first and enforcement taken as a last resort. Cases are prioritised on the basis on severity, previous history and impact on tenants. The Working Group found comparisons in the report of Caroline Pidgeon MBE, on Rogue Landlords in London, which examined the challenges facing Londoners in the PRS. In particular, she highlighted that in 2017: ‘Last year I conducted a survey into the enforcement of standards in the private rented sector by local authorities, which established that enforcement was highly variable. This remain the case.’

The Working Group was informed of some of the difficulties facing the service when carrying out enforcement:-

- Recruitment and retention of experienced Environmental Health Officers has been a national concern;
- There was no statutory requirement for landlords to register their contact details with the Council. As a result, the service sometimes has had to utilise resources to locate problematic landlords;
- The Council is reliant on tenant complaints and correspondence when identifying properties with disrepair, carrying out inspections and issuing relevant notices;
- Due to resources and time constraints improvement negotiations with landlords are prioritised rather than the issuing of legal action.

The Landlord Group and the Working Group both raised concerns at the numbers of London Borough Councils relocating tenants to Walsall and its surrounding areas. Relocating tenants is causing a number of issues for landlords and the Council in relation to social and economic integration.

The Group investigated tenant concerns in the PRS. The evidence supplied by Walsall CAB outlined the top 10 call issue triage data for a six month period doing 2018:-

Issue/Topic		Total number of calls
Rented Arrears – Private Landlord	Dealing with debt repayments	71
	Liability for debt	52
Private Sector Rented Property	Security of tenure	51
Rented Arrears – Private Landlord	Possession claim for arrears	36
Private Sector Rented Property	Rents	28
	Repairs/Maintenance	20
	Tenancy deposit protection	20
Rented Arrears – Private Landlord	Eviction for arrears	14
Private Sector Rented Property	Other	14
	Possession action (not arrears)	12
	<b>Total:</b>	<b>318</b>

Source: - Triage call data provided by Walsall Citizen’s Advice Bureau

In addition to the data provided, the CAB reported that it is experiencing an increase in the number of tenants approaching the service with rent arrears due to the introduction of Universal Credit. Anecdotally, evidence suggests that some landlords in the PRS are refusing to take on new tenants when they are receiving Universal Credit.

## Workforce

The Working Group was informed about the Housing Standards Team workforce, which has two fully qualified Housing Standards Officers. In order to be qualified, officers must be undertake an Environmental Health degree that is approved by the Chartered Institute of Environmental Health and complete professional exams and continuous professional development. The Group noted that there was no approved apprenticeship training nationally or locally for this specialism, as an alternative route to taking a degree. When the Council has recruited Environmental Health graduates who have not obtained the Institute’s professional standards, their retention has been problematic because the Council is unable to provide the assistance and placements to enable them to fulfil the professional requirements. Furthermore, the Working Group recognised that the Housing Standards team had an Environmental Health Officer graduate who is currently working towards becoming fully qualified.

As Environmental Health Officer shortages are a national issue, concerns regarding the development of new officers, apprenticeships and recruiting and supporting student traineeships should be raised with the West Midlands Combined Authority.

The table below outlines the Housing Standards Workforce:



A supplementary report created for Karen Buck MP for Westminster North on the Homes (Fitness for Human Habitation) Bill highlighted that ‘If local authorities are serious about tackling the bad landlords they need the staff, and authorities that are doing the most on the PRS seem to have about six staff for 10,000 households in the PRS. It is arguable whether this is still insufficient, given the time that will also be spent on carrying out associated activities such as checking on ownership, preparing reports, notices and schedules of work and ensuring correct legal procedures are followed.<sup>1</sup> As the number of PRS households in Walsall has exceeded 15,000 using the above equation would equate to a total of 9 members of staff to tackle PRS issues.

The Group examined comparative data from Nottingham City Council on the PRS. The City’s PRS as of 2017 was established at approximately 43,000 properties, including 7,748 Houses in Multiple

<sup>1</sup> Private Rented Sector Inspections and Local Housing Authority Staffing – Supplementary Report for Karen Buck MP prepared by Stephen Battersby – March 2018.

Occupation (HMO). This high number of PRS properties and HMOs was attributable to the area's significant student population. Whilst the proportion of PRS properties and HMOs was significantly higher in Nottingham, the Working Group noted the success of the City Council's Housing Department in managing a large selective licensing scheme. The Working Group noted that Nottingham's Housing Team was structured as a result of national difficulties when recruiting qualified Environmental Health Officers. As a result, the Nottingham team contains a higher number of junior and support officers<sup>2</sup>.

The table below compares Walsall Council and Nottingham City Council's staffing structure:-

Walsall Council		Nottingham City Council	
Housing Standards & Improvement Manager	X1	Operations Manager – Selective Licensing	X1
Team Leader – Housing Standards	X1	Principal Environmental Health Officer	X1
Housing Standards Officer	X2	Environmental Health Officer	X1
Walsall People's Project Officer	X1	Enforcement Officer	X3
Student Environment Health Officer	X2	Licensing Support Team Leader	X1
Empty Homes Officer	X1	Licensing Support Supervisor	X4
Technical Officer	X1	Licensing Support Officer	X21
Apprenticeship Posts	X2		
Caseworker	X1		
<b>Total</b>	<b>12</b>		<b>32</b>

### Houses in Multiple Occupation (HMO)

The Working Group noted that further regulation of HMOs on mandatory licensing will be effective from 1 October 2018. Further to this, the Working Group learned that there are two definitions of an HMO. Under the licensing of *Houses in Multiple Occupation (Prescribed Description) (England) Order 2018* landlords are required to obtain a licence from their local authority in order to let a HMO anywhere in England, if the property:

1. Comprises three or more storeys, and;
2. There are five or more people, from two or more separate households living there with shared facilities.

The second HMO definition, under the *Town and Country Planning Order 1987 (As Amended)*, classes HMOs as either small or large properties:-

1. Small HMOs (Class C4) - properties housing between three and six unrelated people who reside and share amenities which does not require planning permission;
2. Large HMOs (Class sui generis) - seven or more people sharing which requires planning permission.

The Working Group felt that the two definitions of a HMO cause confusion and it would be beneficial to create a single definition that would be applicable across housing and planning law.

The Working Group noted an increase in tenant licences issued within the PRS and expressed concerns that full written tenancy agreements were not always given to tenants. It was felt that to combat evictions, the Council should encourage all PRS landlords to issue written tenancies rather than licences.

<sup>2</sup> Nottingham City Council: Executive Board – Proposal for a Scheme of Selective Licensing for Privately Rented Houses – 18 July 2017

## Homelessness

The Working Group expressed concerns about the levels of homelessness in the Borough. The lack of affordable housing and the introduction of Universal Credit has been widely thought to have increased the levels of homelessness in the country. *The Guardian* published an article that stated: 'Government welfare reforms are fuelling a rise in homelessness in towns and cities across the country. Interviews with homelessness charities across England reveal a support system in crisis as the rollout of universal credit and freezes to local housing allowances rates put even basic accommodation beyond the means of many. One Shelter said Universal Credit was a factor in a third of its clients ending up in its care'<sup>3</sup>.

This statement was reiterated by homeless data provided by Shelter for the period October to December 2018, which stated that Walsall had the fourth highest rate of homelessness in the West Midlands:-

WEST MIDLANDS Local Authority	Homeless in Temporary Accommodation	Rough Sleeping	Total People Homeless	Population	Rate (1 in x)	National Rank	Regional Rank
Birmingham	15,481	57	15,538	1,137,123	73	22	1
Coventry	2,069	8	2,077	360,149	173	43	2
Rugby	313	6	319	106,350	333	70	3
Walsall	583	20	603	281,293	466	99	4

Source: Shelter: Homelessness in Great Britain – The numbers behind the story – Published December 2018

The Working Group considered a national view of homeless and a report from Shelter 'A Vision for Social Housing', which stated that over 277,000 people in England were homeless in 2018 and the figure was set to rise without changes within the housing sector. The report took into account non-government organisation (NGO) data and evidence presented from tenants.

It stated that: 'The shortage of social housing has led to increased rationing. This has meant pressure to prioritise social housing allocations for those in the greatest need, and most going to people on low incomes. Last year, 30% of households moving into social housing were homeless, and 63% of social lettings in 2016/17 were to the 20% of households with the lowest incomes.'

'Eviction from a private tenancy is the most common cause of homeless. Even more live in unsuitable accommodation either because it doesn't meet their medical need or because they are living in very poor, unsanitary or overcrowded conditions. Ultimately, if more social housing is not delivered, these groups will increase in number. More people will have no choice but to live in very poor or unsuitable private rented housing – or to sofa surf, live in temporary accommodation with no home of their own, or sleep rough.'

There is a need for more accessible and affordable accommodation to reduce the numbers of the homeless in the long-term. However, the Working Group was very pleased to note the Council's success with effective co-ordination with landlords across the Borough to re-house individuals at risk of being made homeless.

It was noted that the *Homelessness Reduction Act 2018* empowered local authorities to provide services to those at risk of becoming homeless. However, there were concerns about the lack of support for homeless individuals who require additional support. The Welsh Government has introduced a Housing First scheme, which aimed at targeting individuals likely to develop severe

<sup>3</sup>The Guardian – 'Revealed: How Universal Credit is fuelling Britain's homelessness crisis' published on 28 October 2018.

mental illness, poor physical health or who lack the social support to live in sustained accommodation. This scheme has been successful in assisting with the reduction of homelessness in Wales, together with the implementation of a Rough Sleeping Action Plan 2018-2020<sup>4</sup>.

The Working Group appreciates the funding for the pilot Housing First scheme for the West Midlands. The Working Group believes that a regional approach to tackle homelessness is the correct way to address this issue and therefore looks to West Midlands Combined Authority to continue to pursue opportunities for funding and strategic planning in order to tackle homelessness in Walsall and in the wider West Midlands.

## **Changing Lives, Raising Standards**

Members learned about the various tools available for tackling some of the challenges facing the PRS.

This led to the question: 'How does the Council improve the lives of tenants in housing accommodation in the Borough, whilst matching housing needs locally, and reducing homelessness'?

After consideration, the Working Group concluded that there was not a standalone method of improving standards but felt that a co-ordinated approach, using various different methods, focusing on efforts to engage with landlords to empower them to improve standards for tenants would yield the greatest results. The methods that the Council could consider implementing are outlined below.

### **Selective Licensing**

Selective licensing was first introduced as part of the Housing Act 2004 and came into force in April 2006. Selective licensing is a tool that local authorities can use on specified areas following the submission of significant evidence. The concept is that selective licensing can assist in tackling areas with the following problems:-

- Low housing demand or likely to become a low demand area(s);
- Experiencing significant or persistent anti-social behaviour;
- Poor property conditions;
- Experiencing high levels of migration, deprivation or crime.

The Council previously consulted the public and organisations on proposals for Selective licensing in most of Willenhall, the Town Centre and some adjoining areas in 2017/2018. These areas were highlighted as suffering from low demand for housing, deprivation and high rates of crime/migration.

The Working Group noted that the decision was taken to defer implementation of a selective licensing scheme following a Court of Appeal decision in the case of *Brown v Hyndburn Borough Council*. This decision highlighted that the conditions which Councils include in their licensing schemes may not be a duplication of their powers in Part 1 of the Housing Act 2004.

The Working Group heard evidence from Nottingham City Council which has a widely recognised selective licensing scheme. It was introduced following a rise in the quantity of accommodation within the City deemed to be of inadequate standards. The Group acknowledged some examples of best practice from the City Council including the following:-

<sup>4</sup>Welsh Government: Rough Sleeping Action Plan – February 2018 - <https://gov.wales/docs/desh/publications/180206-rough-sleeping-action-plan-en.pdf>

- Utilising a mixture of administration and environmental health officers to address resource gaps within the Housing Standards Service;
- Following concerns from objectors to the City's selective licensing scheme, the City Council actively monitors potential rent increases with PRS properties as a result of the licensing scheme;
- Recruiting and retaining experienced Environmental Health Officers is a concern nationally;
- The City Council has introduced a fee discount for armed forces landlords which complied with the Armed Forces Covenant. In addition, the City Council was considering further discounts for landlords who assist with the reduction of homelessness in the City.
- The operation of an accreditation scheme that is backed up by property inspections.

Representations from landlord groups communicated that they felt that whilst selective licensing was a tool which could be effective in small areas, other methods of increasing PRS standards are more effective, such as utilisation of Civil Penalty Notices (CPNs). There is a view that the broad approach of any implemented selective licensing has the risk of penalising good and compliant landlords whilst displacing rogue landlords into different areas. The landlord groups confirmed that a large number of landlords had assisted the Council in housing the homeless. However, it was requested that the Council offer further support and incentives to encourage more landlords to rehouse the homeless people within the Borough.

The Working Group felt that selective licensing still represented a valuable tool to promote good management of private rented properties within areas that require improvements. However, the Working Group felt that in order to be successful any selective licensing scheme should follow the example set by Nottingham City Council and introduce an appropriate accreditation scheme that included mandatory property inspection to ensure that properties are kept at an appropriate standard.

## **Housing Accreditation**

The Working Group considered housing accreditation options for the PRS in the Borough. Accreditation schemes varied across the country; however, the concept remains the same. Landlords comply with the scheme by meeting certain standards and are awarded an accreditation mark. Incentives for this accreditation allow landlords to advertise that they comply with the standards, thus attracting greater interest from prospective tenants.

It was found that most accreditation schemes are for general compliance with no enforcement or inspection being integrated into the scheme. In addition, schemes require a co-regulation between the tenant, accreditation provider and landlord. Accreditation results in the following benefits:-

- Recognised accreditation stamp, which is recognised by landlords, agents and tenants;
- Industry knowledge and networking with support;
- Allows targeted enforcement and easier identification of non-compliant landlords;
- Option to provide discounts on selective licensing or HMO schemes to encourage accreditation sign up;
- Easier and streamlined complaints handling.

Some accreditation schemes include benefits, such as giving reductions in selective licensing fees.

The Working Group recognised the cost implications of establishing an accreditation scheme. It was noted that Wolverhampton City Council offered a 'Rent with Confidence' scheme which ranked PRS landlords through a five –star rating system that could be utilised by the Council to reduce financial burden of initial start-up cost. The National Landlord Association and the Residential Landlord

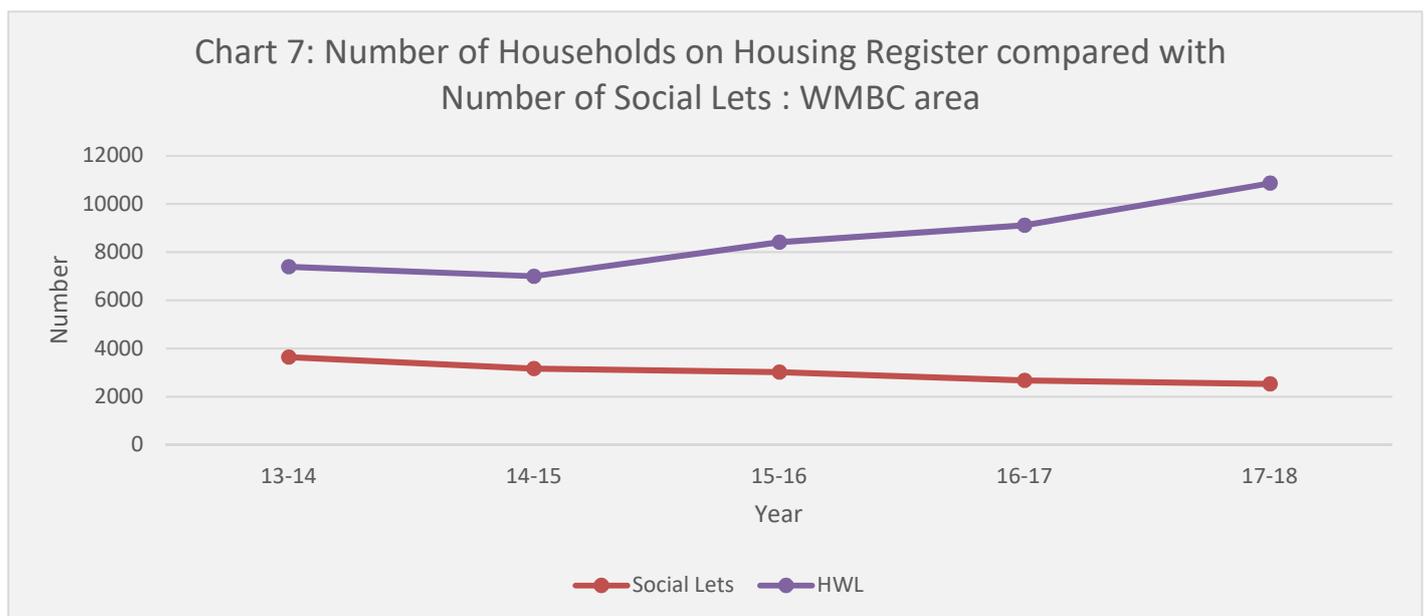
Association both offer accreditation schemes, which some local authorities had utilised instead of establishing a standalone scheme. However, as the association providers did not include mandatory inspection was part of their respective accreditation schemes, the Working Group believed that they would more effective in encouraging landlords to maintain a high standards of properties if inspection was introduced as part of the accreditation process.

### Meeting housing demands

The Working Group recognises that there are significant challenges in providing affordable accommodation which meets the housing demands of future generations. The Working Group also recognises the important work of social housing providers to provide affordable accommodation in Walsall. However, concerns were raised at the decline of social housing lets in the Borough displacing vulnerable tenants into the PRS. This was demonstrated in a report on Walsall Council's Allocations Policy and Nominations Agreement which said 'The number of social housing lettings has decreased by 30% between 2013/14 and 2017/18, while social housing stock numbers increased by just over 3%. Social housing comprised 24% of all housing stock in 2017 within the WMBC area, with owner occupation still the largest tenure at 60%'.

This decline in social housing reflects the national picture, and is therefore not unique to Walsall:-

Source: Walsall Council Allocations Policy and Nominations Agreement 2019.



Number of Households on the Housing Register compared with Number of Social Lets (including Internal Transfers) : WMBC area					
Year	2013-14	2014-15	2015-16	2016-17	2017-18
<b>Social Lets</b>	3649	3172	3021	2678	2530
<i>(of which Internal Transfers)</i>	<i>(539)</i>	<i>(1086)</i>	<i>(313)</i>	<i>(256)</i>	<i>(251)</i>
<b>HWL</b>	3748	3831	5398	6441	8330

This chart demonstrates that the differences between housing waiting lists and social lets is widening with a reduction in the number of social lets annually. A report by Shelter on A Vision for Social Housing outlines the need for social housing to assist in meeting the demands of housing in future. It said 'With no action, we expect to see 3.1 million households failed by the housing market over the next 20 years.' This is outlined with the following diagram:-



Source: Shelter: A Vision for Social Housing – Published on 14 January 2019

A research study received by Birmingham Safeguarding Adults Board on Shared 'Exempt' Accommodation in Birmingham, England highlighted the impact of social housing decline on tenants in Birmingham<sup>5</sup>.

It said 'The situation in Birmingham is an indictment of a social, economic and policy environment that has narrowed almost out of existence adequate housing choice for low income and vulnerable groups and cut local authority resources to the bone; benefit regulations that are open to subjective interpretation and abuse; housing policy that absolves certain bodies from sufficient regulation, and seemingly unrealistic expectations by some providers about what it entails to manage multiple occupied houses containing a variety of vulnerable, complex or at – risk individuals.'

The Working Group felt that due to the complex and challenging nature of exempt accommodation, a Working Group was required to investigate this sector further.

To tackle the problem of inadequate standards and shortfalls with housing, the Working Group calls upon the Council to secure funding to build and provide social housing with options for modular homes to be incorporated into any house building programme.

<sup>5</sup>Birmingham Safeguarding Adults Board – Risk, Safety and Wellbeing in Shared 'Exempt' Accommodation in Birmingham – Published September 2018.

## Conclusion

The Working Group was established to investigate concerns about the potential decline of housing standards in the Private Rented Sector (PRS) and consider ways to improve standards for both tenants and landlords.

The housing composition of Walsall varies across the Borough, with PRS Housing accounting for 12% (12,615) of accommodation in 2011 rising to 15,000 in 2018. Evidence shows that with the decline of social housing lets, the demand for PRS Housing will continue to rise unless there is appropriate investment in housing stock across the country.

### *Overview of Private Rented Sector (PRS) findings*

The working group met with a variety of landlord and tenant organisations to ascertain their views on the problems facing the sector. In addition, the Working Group considered tenant feedback and case studies from charitable organisations.

The Working Group recognised selective licensing as a part of a wider picture of tackling housing standards within the PRS. It was noted that Local Authorities that implemented selective licensing schemes also established voluntary accreditation schemes. This was found to encourage the achievement of high standards within the sector.

Nationally, there are concerns about the recruitment and retention of qualified Environmental Health Officers who have a housing specialism. The Working Group recognised apprenticeships as an option to develop officers but identified that there is no approved apprenticeship training for this specialism. It was noted that Environmental Health Officers are required to complete placements in order to become fully qualified, the Working Group recognised that there was no corporate scheme to facilitate carrying out placements within relevant service areas. It is recommended that the Council investigate various methods of developing its own qualified Environmental Health Officers; however, due to the national dimensions, liaison with the West Midlands Combined Authority should also take place to investigate the funding and assistance to students studying Environmental Health.

Members recognised the resource limitations within Housing Standards Team and the challenges in locating rogue landlords. The Working Group noted the success of Ireland's private rented sector tenancy registration requirements, which make it compulsory for landlords to register tenancies with the Residential Tenancies Board. This requirement allows local authorities to gain information on rent levels locally and nationally, maintain an up to date landlord information database and property location statistics.

Members felt that Housing and Planning legislation should be inter-connected and streamlined. The Working Group felt that the current definition of a House in Multiple Occupation (HMO) which is different under the housing and planning legislation, is disjointed. Under the Housing Act 2004, a HMO is a house or flat occupied by at least three unrelated tenants who share either a toilet, bathroom or kitchen facilities with other tenants. Under the Town and Country Planning (Use Classes) Order 1987 (as amended), the regulations classify HMOs as either being small or large depending on the number of occupants:

- Small HMOs (Class C4) - properties housing between 3 and 6 unrelated people reside and share amenities;
- Large HMOs (Class sui generis) - 7 or more people sharing.

Both pieces of legislation have the same definition but the *Town & Country Planning (Use Classes) Order 1987 (as amended)* proceeds to break it into 2 types; small HMOs not requiring planning permission while large HMOs require planning permission to be set up. As a result, it is recommended that the Government amend this to a single definition.

Whilst there were annual house condition surveys in England, there has not been a Borough-wide survey since 2007. The Working Group felt that due to changes within the sector, a new survey is required to gain a better understanding of current housing conditions across the whole of the Borough.

The Working Group noted comments made by Karen Buck, Member of Parliament for Westminster North who was lead on the Homes (Fitness for Human Habitation and Liability for Housing Standards) Bill 2017-19 which received cross-party support. This highlighted that “if local authorities are serious about tackling the bad landlords they need the staff, and authorities that are doing the most on the PRS seem to have about 6 staff for 10,000 households in the PRS. It is arguable whether this is still insufficient, given the time that will also be spent on carrying out associated activities such as checking on ownership, preparing reports, notices and schedules of work and ensuring correct legal procedures are followed”.

It is estimated that the current number of private rented households in Walsall is 15,000 (compared to the 12,615 identified in the 2011 census). This would equate to circa a total of 9 members of staff to tackle the private rented sector issues as opposed to the current number of 2 using Karen Buck’s recommendations.

The Working Group heard concerns from landlords and organisations about the problems of dealing with tenant waste without a waste transfer licence.

The Working Group considered an external research report from Birmingham Adults Safeguarding Board and recognised the concerns of exploitation of exempt housing accommodation in the country. It was recommended that a further Working Group be established to investigate such concerns within the sector. Landlords should be encouraged to issue written tenancy agreements, as opposed to verbal agreements, which are difficult to enforce when there is a dispute.

Concerns were raised about the number of local authorities relocating tenants to live in accommodation in other areas of the country, including relocating such tenants into the Borough.

#### *Overview of Selective Licensing findings*

The Working Group recognised selective licensing as part of a wider approach of tackling housing standards within the PRS.

Selective licensing scheme success varies throughout the country with majority of schemes requiring significant start-up costs. The Group found that whilst licencing could not cover more than 20% of any area without approval from the Secretary of State, smaller area schemes worked better in other areas of the country in connection with other strategies. It was noted that any scheme is required to be evidenced based and as such it was recommended that a selective licensing scheme be established.

#### *Overview of Accreditation findings*

The Group found that local authorities that had implemented a selective licensing scheme also implemented a voluntary accreditation scheme. This has been found to encourage higher standards within the sector.

Accreditation provides the opportunity for landlords to receive support with incentives and achieve recognition of good standards in the sector. In addition, the scheme allows the Council to target enforcement, hereby making the best of use of limited resources and allowing easier identification of non-compliant landlords. Following feedback from landlords and other organisations, the Working Group felt that appropriate incentives for landlords to assist the Council in tackling homelessness was required as part of any proposed scheme.

The Working Group noted the level of resource and financial contribution required to establish a successful accreditation scheme. The City of Wolverhampton Council's accreditation scheme 'Rent with Confidence' was found to be an excellent example of a scheme which encourages landlords to improve the standards of PRS housing in the City. In addition, the scheme provides financial incentives for five-star landlords and ensures compliant standards with regular inspections.

## Recommendations

That:

1. As recommended by Shelter, the Government should require landlords to register properties with a new Consumer Regulator who will manage registration, proactive monitoring and enforcement (social and private) of rented housing;
2. The Council and its partners work together to secure appropriate funding to build and provide social housing. This should include investigating the possibility of constructing modular homes as part of the social housing programme;
3. The Government be requested to introduce a single HMO definition;
4. The Council undertake a housing stock condition survey before 31<sup>st</sup> December 2019;
5. The Council increase resources for housing enforcement to tackle rogue landlords and poor housing conditions. In addition, consideration should be given to increasing staffing levels within the Housing Standards service in line with the recommendation of Karen Buck MP to ensure that the staff ratio is more than 6 staff per 10,000 households in the PRS;
6. All Landlords be encouraged to issue written tenancy agreements;
7. The Council approach the City of Wolverhampton Council regarding the establishment of a partnership arrangement to participate in the Rent with Confidence accreditation scheme;
8. The Council engage with the West Midlands Combined Authority to secure funding to tackle homelessness in Walsall;
9. The Council investigate effective methods to recruit, develop and retain both qualified and non-qualified Environmental Health Officers. This could include development apprenticeships, recruiting and supporting student traineeships and securing funding from West Midlands Combined Authority;
10. Further investigations, possibly via a further Working Group, to take place to investigate working practices within the exempt accommodation sector;
11. That selective licensing be pursued in Walsall Town Centre and Willenhall with discounted fees for accredited landlords. Consideration be given to provide additional discounts for those landlords who assist the Council with housing homeless residents.

Initiation Documentation

<b>Work Group Name:</b>	Private Rented Housing Sector and Selective Licensing Working Group
<b>Committee:</b>	Economy and Environment Overview & Scrutiny Committee
<b>Municipal Year:</b>	2018/19
<b>Chair:</b>	Councillor I. Shires
<b>Lead Officers:</b>	Appollonaris Fonka Matthew Powis
<b>Membership:</b>	L. Jeavons S. Coughlan W. Rasab
<b>Co-opted Members:</b>	1 x Member from Children’s Services Overview and Scrutiny Committee (Councillor Nawaz) 1x Member from Social Care and Health Overview and Scrutiny Committee (Councillor D. Coughlan)

<b>1. Context</b>	<p>Following, the first meeting of Economy and Environment OSC it was resolved to establish a task and finish group on the Private Rented Sector and Selective Licensing. The Committee took into consideration the following:-</p> <ol style="list-style-type: none"> <li>I. A report from Housing, Communities and Local Government Committee in April 2018 investigated obstacles for Local Authorities intervening with housing standards in the borough and the main challenges within the sector.</li> <li>II. Citizens Advice Bureau – It’s Broke, Let’s fix it report published in July 2017.</li> </ol> <p>The Committee requested further investigation into recommendations from HCLG Select Committee and add further thought to ways in which the standards of management, use and occupation of Private Rented Sector (PRS) Housing could be improved in Walsall.</p>
<b>2. Objectives</b>	<p>The working group wishes to investigate:</p> <ol style="list-style-type: none"> <li>I. The role of the Council with enforcement and current/required resources to carry out enforcement duties in Walsall;</li> <li>II. Development of an accreditation scheme for new/existing private rented homes and analysing good practice in other areas of the country;</li> <li>III. Understanding regulatory legislation on effectiveness of current powers (including Selective Licensing);</li> <li>IV. Understanding Selective Licensing consultation, Article 4 directions and houses in multiple occupation (HMOs);</li> <li>V. Challenges and issues currently facing the Council, partners, landlords and tenants in the PRS;</li> <li>VI. Impact of health and wellbeing of tenants in the PRS.</li> </ol>
<b>3. Scope</b>	<p><b>What should be included and excluded?</b></p> <p>The working group will consider the private rented sector challenges and current issues in Walsall. The review will also look into policy, financial and legislative impacts.</p>

	The review will not be considering issues with relating to social or privately owned housing.
<b>4.</b>	<b>Equalities Implications</b>
	<p>There is a legal and moral obligation to ensure that, when undertaking a scrutiny review, the impact of policies; procedures; strategies and activities is considered within the 6 strands of equality (Age, Disability, Gender, Race, Religion or Belief, and Sexual Orientation)</p> <ul style="list-style-type: none"> <li>• How will the working group consult with each of these six groups regarding this review and its outcomes?</li> <li>• If an EIA has been carried out for this service\policy then what were its outcomes? Can this be mapped into the review? If no EIA has been carried out by the service is one required and can this be reported to the working group?</li> </ul> <p>The Working Group will consider the Equality Implications when taking into consideration of improvements to Private Rented Sector Housing.</p>
<b>4.</b>	<b>Who else will you want to take part?</b>
	<p>Think about who else, other than lead officers and members, it would be useful to include either as part of the working group or to bring information at specific points. For example- partners, stakeholders, other authorities.</p> <p>A representative from a neighbouring Local Authority;  Private Rented landlords;  Tenants;  Walsall Landlord Steering Group;  Citizen Advice Bureau;  Joseph Rowntree Foundation;  National Landlord Association;  Midland's Landlord Accreditation  Residential Landlord Association;  Shelter;  Nottingham and Trafford Councils.</p>
<b>5.</b>	<b>Timescales &amp; Reporting Schedule</b>
	<p>Needs to be completed within the same municipal year and so should be able to report to full panel by the last meeting at the latest but consider the subject- is there anything else that it may need to tie into (e.g. academic or financial year or to coincide with national/sub-regional developments)  How often will update be provided to full panel?</p> <p>Task and Finish Group – First meeting to discuss Terms of Reference – July/August 2018</p> <p>Terms of Reference to be approved at Economy and Environment OSC – 11 September 2018</p> <p>Final report due by 19 February 2019.</p>

<b>6.</b>	<b>Risk factors</b>		
	<p>Are there any obstacles that can be predicted? For example, is it dependent on other organisations outside your control and duty to cooperate? Identifying these factors early and how they will be mitigated should help minimise their impact.</p>		
	<b>Risk</b>	<b>Likelihood</b>	<b>Measure to Resolve</b>
	Partner organisations being unresponsive/unwilling to cooperate	High	Consider the most effective way to engage each of the identified groups that the working group wishes to speak to.
	Potential challenges identifying suitable tenants to represent the broad spectrum in the Private Rented Sector.	Medium	Engage with represented bodies such as Shelter to gain a wider understanding of need.

Date Agreed:	17/07/2018	Date Updated:	31/07/2018
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**Timetable:**

<b>Meeting</b>	<b>Activity</b>
17 July 2018	Discuss and agree draft terms of reference.
11 September 2018	Present working group terms of reference to Economy and Environment Overview and Scrutiny Committee for approval.
Sept – November 2018	Meet with witnesses and gather evidence in regard to: - . 1. Enforcement; 2. Accreditation schemes; 3. Regulatory legislation.
November 2018 – January 2019	Meet with witnesses and gather evidence in regards to:- 4. Selective Licensing, Article 4 and HMOs; 5. Challenges and issues facing the Council, partners, landlords and tenants;
January-February 2019	Review evidence and draw conclusions in preparation for a draft final report with recommendations.
19 February 2019	Present final report and recommendations to Economy and Environment Overview and Scrutiny Committee.