

Cabinet - 24 April 2019

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

Portfolio: Councillor A Andrew – Deputy Leader, Regeneration

Service: Resources and Transformation

Wards: Borough Wide

Key decision: No

Forward plan: No

1. Summary

- 1.1 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 11 recommendations to the Committee on 19 February 2019.
- 1.2 The *final report* was noted by Council on 8 April 2019 where it was recommended that the 11 recommendations be considered by a future Cabinet. This report discusses these and makes a range of recommendations as detailed below.

2. Recommendations

2.1 That Cabinet:

- i) Write to Government to support recommendations 1 and 3 of the final report namely supporting;
 - a. The need for private landlords (with more than 25 properties) to register with a new Consumer Regulator who will manage registration, proactive monitoring and enforcement (social and private) of rented housing (as recommended by Shelter).
 - b. The request for a single Houses in Multiple Occupation definition (for all housing, planning and related enforcement agencies) to be agreed
- ii) Support the recommendations 2, 4, 6, 8, 9 and 10 as listed below;
 - a. 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.
 - b. The Council undertake a housing stock condition survey before 31 December 2019.
 - c. All Landlords be encouraged to issue written tenancy agreements.

- d. The Council engage with the West Midlands Combined Authority (WMCA) to secure funding to tackle homelessness in Walsall.
 - e. The Council investigate effective methods to recruit, develop and retain both qualified and nonqualified Environmental Health Officers (EHOs). This could include development apprenticeships, recruiting and supporting student traineeships and securing funding from West Midlands Combined Authority.
 - f. Further investigations, possibly via a further Working Group, to take place to investigate working practices within the exempt accommodation sector.
- iii) Include within 2020/21 revenue bids a proposal to fund from 2020/21 onwards circa 6 posts within Housing Standards to directly undertake housing enforcement in line with recommendation 5.
- iv) In line with Recommendation 7 agree that Housing Standards approach the City of Wolverhampton Council regarding the establishment of a partnership arrangement to participate in the Rent with Confidence (RwC) accreditation scheme and that the revenue implications of these be identified and brought back to cabinet for consideration.
- v) Defer until the final results of the current private rented stock condition survey are known, anticipated April / June 2019 the decision on licensing for Walsall.

3. Report Detail

- 3.1 The 11 recommendations of the Economy and Environment Overview and Scrutiny Committee are as follows and responses / updates to the same are included.
- 3.2 *Recommendation 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.*

This proposal put forward by Shelter in their report 'A Vision for Social Housing' mirrors legislation in Ireland and is supported as it is expected to lead to a reduced administrative burden for local authorities who too often have to make multiple checks (and sometimes unsuccessfully) to identify landlord contact information when carrying out potential enforcement.

- 3.3 *Recommendation 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.*

Over many years the Council has had significant and sustained success at securing funding from a range of sources (government, private) to help build and provide social housing in the borough. The Council with its partner Accord Housing Association funded the initial 'LoCaL Homes' offsite manufacturing closed-panel timber frame factory in Beechdale which due to its significant success has moved to larger (56,000 sq.ft) premises in Aldridge in 2018.

3.4 *Recommendation 3: The Government be requested to introduce a single HMO definition*

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.

The difference in definitions leads to a disjointed approach and confusion for the public and especially residents accommodated within the sector.

3.5 *Recommendations 4: The Council undertake a housing stock condition survey before 31 December 2019.*

The Housing Standards team have recently secured government funding under the Rogue Landlords scheme and contributions from energy companies to help fund a private sector stock condition survey of the borough. The Building Research Establishment (BRE) have been commissioned alongside a specialist thermal imaging company to undertake surveys and the results of these are expected in May / June 2019.

3.6 *Recommendations 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.*

The current estimate of 15,000 (based on an extrapolation of the 2011 census) private rented dwellings suggests based on MP Buck's ratio suggests a qualified staffing level of 9 officers on housing enforcement for the borough compared to the current level of 3. The private sector stock condition survey will provide an up to date estimate of Walsall's level of private rented dwellings and therefore the level of staffing is expected to change.

Table 1 below highlights the estimated annual cost of meeting this recommendation.

Table 1. Annual Costs of meeting MP Buck recommendation			
Role	Grade	Posts	Total annual cost
Qualified Housing Standards Officers	G9	6	£244,746
	Total	6	£244,746

It is noted that as indicated in recommendation 9 that there is a nationally recognised shortage of suitably qualified and experienced housing standard officers and therefore to build the service to an appropriate level a 3 phase approach is recommended as indicated in Table 2. This equates to a cost of circa

£1,371,492 based on 2019/20 salary costs for the period 2019/20 to 2024/25 compared to the expected Table 1 cost of £1,468,476.

Table 2. Costs of meeting MP Buck recommendation – Phased approach			
Phase 1: 2019/20 and 2020/21			
Role	Grade	Posts	Total cost
Student EHOs	G5	2	£96,500
Technical Officers	G7	2	£148,004
Qualified Housing Standards Officers	G9	2	£163,164
	Total	6	£407,668

Phase 2: 2021/22 and 2022/23			
Role	Grade	Posts	Total cost
Student EHOs	G5	0*	£0
Technical Officers	G7	2	£148,004
Qualified Housing Standards Officers	G9	4*	£326,328
	Total	6	£474,332
Officers progress from student to Technical officer and from technical officer to qualified standards officer in 2 year period			

Phase 3: 2023/24 and 2024/25			
Role	Grade	Posts	Total cost
Student EHOs	G5	0*	£0
Technical Officers	G7	0*	£0
Qualified Housing Standards Officers	G9	6*	£489,492
	Total	6	£489,492
Officers progress from student to Technical officer and from technical officer to qualified standards officer in 2 year period			

An increased level of staffing is expected to result in a proportionate increase in the level of enforcement action including service of statutory notices. Cabinet in October 2018 agreed the use of civil penalty notices (CPN) and rent repayment orders (RRO). Both of these are financial penalties that can be sought against landlords / agents who breach a range of statutory housing powers. Income from these cannot be guaranteed and they should not be seen as an 'income generator' however all income received can statutorily be 'ring-fenced' for housing enforcement. Table 3 below provides a 'projection' of the potential income from this increased activity.

Table 3 'Projection of potential enforcement income.						
	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
Statutory Notices issued	30	30	48	48	60	60
Civil Penalties Notices (CPN) issued	8	8	12	12	15	15

Income from CPN	£60,000	£60,000	£90,000	£90,000	£150,000	£150,000
Rent Repayment orders (RRO) secured	4	4	6	6	8	8
Income from RRO	£9,940	£9,940	£14,910	£14,910	£19,880	£19,880
Potential income	£69,940	£69,940	£104,910	£104,910	£169,880	£169,880

The projected income from Table 3 totals £689,460 if this is used to offset the staffing costs of the phased approach (Table 2) this leaves a net total revenue cost of circa £682,032 for the 6 year period with net of £134,000 to be met in year 1.

3.7 Recommendation 6: All Landlords be encouraged to issue written tenancy agreements.

There has been anecdotal evidence of an increase in the use by landlords of licences, potentially seen as a method of reducing the period of notice prior to eviction. The Money Home Job service always seeks to encourage landlords to use tenancies and it is additionally noted that where a landlord seeks a legal eviction if the matter goes to court the court will determine whether the 'licence' is in fact a tenancy or not. For example there have been cases nationally where a landlord assumed they had created a licence and the court held that it was a tenancy.

3.8 Recommendation 7: The Council approach the City of Wolverhampton Council regarding the establishment of a partnership arrangement to participate in the Rent with Confidence (RwC) accreditation scheme.

Whilst it is proposed to establish a partnership arrangement with the City of Wolverhampton Council to participate in the RwC accreditation scheme it is noted that key to it's current success is:

- provision of financial incentives for five-star landlords and
- ensuring compliant standards with regular inspections.

Both of these require sufficient resources for example, sufficient inspection staff and funding to cover discounts on statutory licensing fees. It is noted that the staff proposed under recommendation 5 could assist with this recommendation.

3.9 Recommendation 8: The Council engage with the West Midlands Combined Authority (WMCA) to secure funding to tackle homelessness in Walsall.

The Council has secured £1.3M from the WMCA for the Housing First Initiative (started in January 2019) which provides support and long term accommodation for rough sleepers. The Housing and Welfare Team link directly with the West Midlands Major's Homelessness Taskforce seeking best practice and reduce homelessness across the region.

3.10 Recommendation 9: The Council investigate effective methods to recruit, develop and retain both qualified and non-qualified Environmental Health Officers (EHOs). This could include development apprenticeships, recruiting and supporting student traineeships and securing funding from West Midlands Combined Authority.

In recent years the Housing Standards service has undertaken a programme of 'building their own' through creation of Student EHO roles which then progress onto Technical Officer and ultimately professionally qualified housing standards officer posts. The national EHO Apprenticeship is expected to be launched nationally in September 2019 and will assist in the above 'career' path.

- 3.11 *Recommendation 10: Further investigations, possibly via a further Working Group, to take place to investigate working practices within the exempt accommodation sector.*

Money Home Job has undertaken considerable sustained work over the last 3 years reviewing all supported / exempt accommodation providers in Walsall to ensure that the provision of care support and supervision is at the appropriate standard for the level of 'intensive housing management costs' that are sought by the providers. If required a financial review is also undertaken on annual or biannual basis. All new providers are subject to an detailed interview process at their initial enquiry stage and any subsequent application must be supported by the completion of the appropriate form(s) and the provision of relevant verifiable accounts.

The Investigations Manager who leads on this work will support a further Working Group on the topic.

- 3.12 *Recommendation 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.*

As indicated in 3.5 above the Council awaits the results of a detailed borough-wide private sector stock condition survey. This will provide an up to date evidential base for the consideration of:

- Selective Licensing - which covers all private rented dwellings within a specific geographic area
and or
- Additional Licensing - which covers all HMOs within a specific geographic area.

The government expects both forms of licensing to be self-financing. Therefore, any discounts offered to either accredited landlords or those assisting the Council with housing homeless residents must be recouped through higher charges to other landlords.

Statutory licensing schemes are anticipated to lead to an increase in formal enforcement action (such as improvement notices) and these in turn may lead to a number of civil penalty notices being issued, in addition to those referred to in 3.6. As highlighted earlier, also at 3.6, whilst income from these cannot be guaranteed it can be directly used to off-set housing enforcement staffing costs and could therefore contribute to the recommendation 5.

4. Financial implications

- 4.1 The key financial implications from the final scrutiny report relate to the following.

- 4.2 Recommendation 5: Increase staffing on housing enforcement.
As indicated in section 3.6 the increase in staffing is anticipated to result in a net revenue cost of £682,032 for 6 years with an initial net cost in year 1 of circa £134,000. There is a current ring fenced reserve of £100,000 for housing and it is proposed to use this to off-set the majority of the in-year cost. It is noted that there is no additional funds currently available to meet the balance of £34,000 or the longer term balance of £548,032.
- 4.3 Recommendation 11: related to Selective Licensing.
As indicated in 3.12 it is currently recommended to defer this matter until the results of the private sector stock condition survey have been received. As noted by Cabinet in March 2018 the cost associated with re-running the statutory consultation programme for Selective Licensing is estimated at £25,000. There is also a potential additional cost of defending a Judicial Review on Selective Licensing. As indicated in March 2018 the Council considers that its previous approach to consultation has taken the reasonable steps other councils would take and there has been nothing that the Council is aware of that would suggest it has gone 'radically wrong'. Based on this whilst it cannot predict the outcome of any possible judicial review it does not consider that one would be successful.

5. Legal implications

- 5.1 The recommendations within this report are in line with the primary legislation (principally the Housing Act 2004) and national best practice and the existing Housing Strategy (2012-2016) which highlights that the Council is committed to improving the condition and availability of private rented homes in the borough. It is expected for example that Selective and or Additional Licensing will also be referenced in the new Housing Strategy consultation document due for publication later in 2019/20.

6. Procurement reporting

- 6.1 There are no procurement implications.

7. Property implications

- 7.1 There are no direct property implications for the council as this proposal relates to private landlords and agents only.

8. Health and wellbeing implications

- 8.1 Improved private rented housing conditions have a direct link with the Marmot Review (Fair society healthy lives) and improving the health and wellbeing of tenants .

9. Staffing implications

- 9.1 Recommendation 5 proposes the recruitment of 6 new officers to support the housing enforcement work of the Housing Standards Service.

10. Reducing Inequalities

10.1 The implications for reducing inequalities have been taken into account and assessed and are covered in detail in the report considered by Council in April 2019.

11. Consultation

11.1 The final report has been presented to both Scrutiny and Council for consideration.

11.2 If any form of statutory licensing is agreed for the future this will be subject to a formal consultation in line with the relevant legislation.

Background papers

Private Rented Sector Inspections and Local Housing Authority Staffing -
Supplementary Report for Karen Buck MP prepared by Stephen Battersby

Author

David Lockwood
Manager Soft Facilities Management and Housing Standards and Improvement
☎ 01922 658459
✉ david.lockwood@walsall.gov.uk



James Walsh
Executive Director
Resources and Transformation

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Councillor A Andrew
Deputy Leader, Portfolio Holder Regeneration

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