

Raising Standards in Private Sector Rented Accommodation

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Members of the Committee

Wayne Bridges (Chairman)
Teji Barnes (Vice-Chairman)
Shehryar Ahmad-Wallana
Peter Davis
Beulah East (Labour Lead)
Becky Haggar
Manjit Khatra
June Nelson
Jane Palmer

Co-opted Member

Mary O'Connor

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CHAIRMAN'S FOREWORD

TO ADD

***Councillor Wayne Bridges
Chairman of the Social Services, Housing & Public Health Policy Overview
Committee***

Social Services, Housing and Public Health Policy Overview Committee – 23
February 2016

PART 1 – MEMBERS, PUBLIC AND PRESS

RECOMMENDATIONS

That the Cabinet and the Cabinet Member for Social Services, Health and Housing considers adoption of the following recommendations to be implemented by Officers:

Information sharing

1. That the Landlord's Forum be used as a platform / sounding board to raise awareness of new policy and legislation such as :
 - Elements of the Housing and Planning Bill affecting landlords
 - The Immigration Act 2014 and the current Immigration Bill concerning Right to Rent checks and evictions for those without a current right to rent.
 - Likely impacts from the Welfare Reform and Work Bill.

Intelligence

2. To investigate and present options for updating the private sector house condition survey, recognising the statutory duty placed on Councils under the Housing Act 2004 to review housing conditions in their area.

Health

3. That Cabinet be asked to note the relationship between good quality housing and improved life chances.

Raising standards & enforcement

4. Consider the new national legislation set out in the Committee's report following the Government's response to the consultation - 'Tackling rogue landlords and improving the Private Rented Sector', and subject to this becoming law notes new requirements including:
 - a. Contribute to a database of rogue landlords and property agents to keep track of persistent offenders and focus enforcement action.
 - b. Introduce Banning Orders on the worst offenders, so landlords or lettings agents would be prohibited from letting or managing residential properties for a specific period of time.
 - c. Where appropriate impose Civil Financial Penalties for breach of a Banning Order.
5. Considers drafting a 'charter' or standard for landlords and Lettings Agencies to adopt, as a model of good practice.

BACKGROUND

What is the Private Rented Sector?

The Private Rented Sector is a classification of United Kingdom housing tenure as described by the Department for Communities and Local Government, a UK government department that has amongst its remit the monitoring of the UK housing stock.

Other classifications are:

- Owner-occupied
- Rented from registered social landlords (housing association)
- Rented from local authorities

The private rented sector consists of 2.7m dwellings in the United Kingdom. Of this total, 2.4m are in England representing 12% of the English housing stock. The sector has grown by over 10% in the last ten years and, according to the Centre for Economics and Business Research, is forecast to grow by a further 40% over the coming ten years

Changes to the Private Rented Sector in Hillingdon

The private rented sector in Hillingdon has grown significantly in the last few years. As a result of a buoyant market place and increased competition to secure accommodation, the cost of accessing private sector accommodation has increased markedly and the make-up of the sector has changed. Competition for accommodation has also intensified as tenants have moved from inner to outer London boroughs where accommodation is comparatively more affordable.

These factors have created a different climate for private rented sector housing and have had a detrimental impact on a households' ability to access the sector. There is, for instance, some evidence that overcrowding is increasing. As a consequence, the Council needs to better understand the private rented market and in particular the impact of overcrowding on occupants' health.

Given the pressures on all Local Authorities to deliver best value in today's economic climate, it is important that information about available options is disseminated effectively in relation to both council services and those provided by others.

Due to the rapid growth of the sector and other changes, such as those relating to welfare benefits, it is timely to review the private rented sector.

A PROFILE OF THE PRIVATE RENTED SECTOR AND ITS TENANTS

The size and composition of the private rented sector and its occupants

The growth of the private rented sector is common across the country but has been particularly strong in London. Referencing the 2011 census, Officers explained the private rented sector made up 18.2% of the 100,214 households in Hillingdon. Comparing this to the data from the 2014 Annual Property Survey, it was noted that the proportion may have grown to as much as 28.2% (note: this is based on a sample survey and as such will be subject to a margin of error).

There has been a shift from owner occupation to private renting. Outright owner occupation increased slightly, but the number of households buying with a mortgage reduced by almost 6,000 households over this period. At the same time those letting from a private landlord or letting agency increased by over 8,500.

The differences within the private rented sector in different parts of Hillingdon

The Committee learnt that overall, the number of households renting privately had increased in all wards in Hillingdon, but there was also significant variation. Perhaps not to be unexpected given the Heathrow effect, the wards with the largest numbers of private renters were Heathrow Villages, Townfield, Uxbridge South, and Yiewsley. This was repeated in the census whereby the largest increase between the census years in the number of households renting privately was in Heathrow Villages (805) and the largest percentage increase was in Brunel (166%), owing in part to the continued expansion of the university. Within wards the percentage of households living in the private rented sector, at the time of the 2011 census ranged from 8.8% in Eastcote and East Ruislip to 35% in Heathrow Villages.

Table 1

Wards	2011 % of households in PRS	Households in PRS		Difference 2001 to 2011	% inc 2001 to 2011
		2001	2011		
Barnhill	21.7%	413	881	468	113
Botwell	21.1%	526	988	462	88
Brunel	21.8%	354	943	589	166
Cavendish	10.1%	258	416	158	61
Charville	17%	285	691	406	142
Eastcote and East Ruislip	8.8%	239	390	151	63
Harefield	11.3%	188	307	119	63
Heathrow Villages	35%	690	1,495	805	117
Hillingdon East	15.4%	361	664	303	84
Ickenham	9.4%	251	345	94	37
Manor	14.1%	316	597	281	89

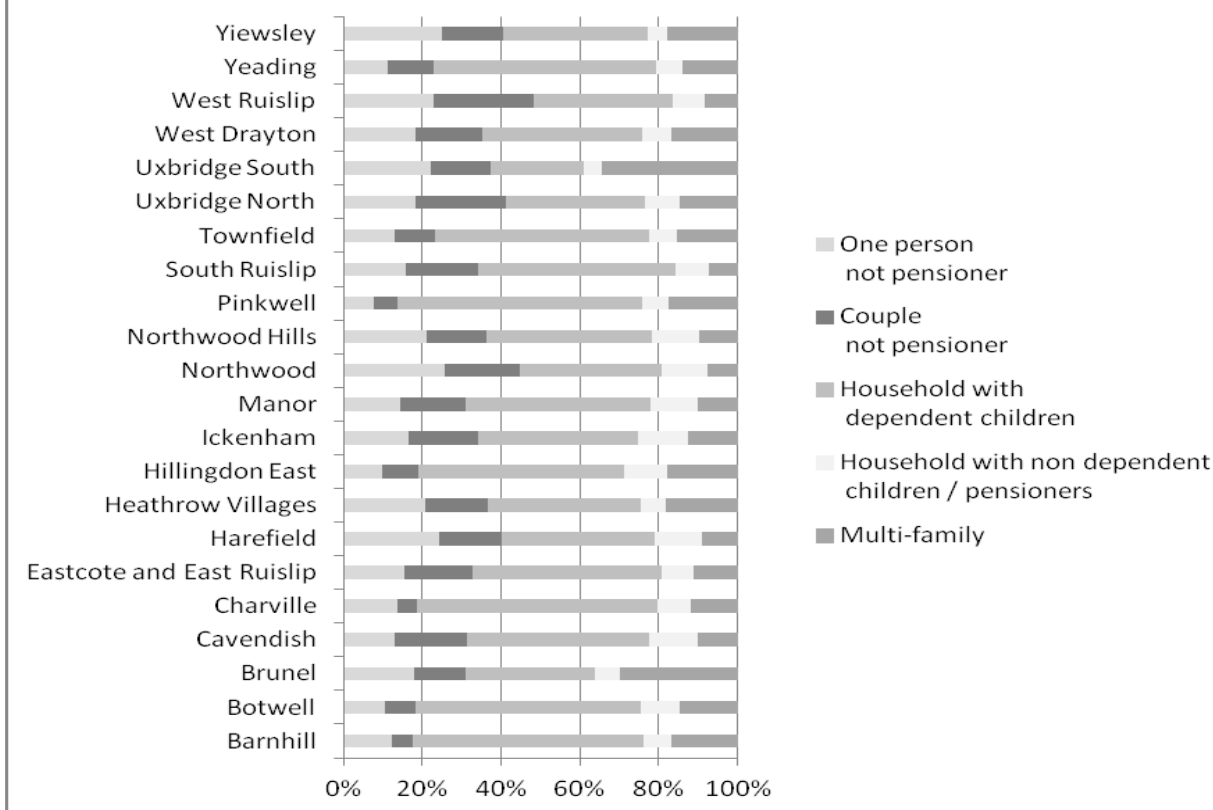
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Northwood	21.2%	630	908	278	44
Northwood Hills	17.1%	443	753	310	70
Pinkwell	20.7%	385	924	539	140
South Ruislip	19.7%	440	884	444	101
Townfield	22.8%	402	1,002	600	149
Uxbridge North	19.4%	637	867	230	36
Uxbridge South	26.4%	705	1,246	541	77
West Drayton	19.5%	395	997	602	152
West Ruislip	19.7%	567	856	289	51
Yeading	21.2%	394	906	512	130
Yiewsley	22.6%	557	1,081	524	94

The private rented sector has expanded beyond its traditional student and young professional, single person and couples market and now houses a wide range of people. Tenants in the sector come from a range of backgrounds, affluence levels, household type, age, and jobs. There are now many more families with children than was previously the case. Many households in the private rented sector are reliant on Housing Benefit.

The 2011 census data shows that households with children are the largest private rented sector client group in all LB Hillingdon wards and form more than half of all private rented sector households in 8 out of the 22 boroughs. In both Pinkwell and Charville the proportion was over 60% in 2011.

Household types in the private rented sector by ward at 2011 census



While the Committee recognised the Census provided the most comprehensive means of data capture to provide the Council with information on the size and composition of different housing sectors, the Committee felt there was scope to improve the Authorities intelligence gathering at a local level and an opportunity for Officers to investigate the viability of conducting further localised research.

The Committee also noted that the last House Condition Survey conducted by Fordham Research Group had been completed in May 2008. On this basis the Committee recommended:

2

To investigate and present options for updating the private sector housing condition survey, recognising the statutory duty placed on Councils under the Housing Act 2004 to review housing conditions in their area.

1. LEVELS AND THE IMPACT OF OVERCROWDING & REPORTED HOUSING ISSUES

Levels of Overcrowding in the Private Rented Sector

A national picture of overcrowding can be drawn from the census. An analysis of the 2011 Census data by the Office for National Statistics has indicated that overcrowding was most common among rented households, with similar proportions of socially rented (8.7%) and privately rented (8.6%) households in overcrowded homes, which was almost four times the proportion (2.3%) among owner occupied households.

The prevalence of overcrowding among rented households compared with owner occupied could result from one or a combination of reasons, which might include:

- An inability of households to afford to rent homes with more bedrooms.
- Some renters may decide to remain in smaller homes while they save towards a mortgage.
- There could also be an unavailability of suitable rental houses especially for large families, in certain localities.

Officers explained at Borough level, the current extent of overcrowding in the sector was difficult to measure, as the vast majority of the properties in the sector did not come to the attention of the Council. With the pressure on the cost of rented accommodation, some families may also accept a degree of overcrowding, in order to keep rent down, which other families would find unacceptable.

The Committee heard that complaints to the Council's Contact Centre was the usual mechanism for the Council to learn about instances of overcrowding. In all cases, officers asked residents a series of questions so that a pro forma could be completed. On the basis of the information supplied, a decision would then be taken about how this information would be shared with other Council Departments so that site visits and or maintenance could be arranged and a resolution found.

Officers explained that if tenants had been unsuccessful by this route, it was usual for issues to be raised with local Councillors at Ward Surgeries. As a result of these meetings, Councillors had the opportunity to submit a Member's Enquiry on behalf of the resident to solve the problems posed. The implications of tackling the problem this way were that the Officer assigned with the ME would need to liaise with the contact Centre to assimilate the information which had been provided at first contact and then collate this with the information which had been provided at the Ward Surgery.

The Hillingdon amenity standards for houses of multiple occupation (HMO) requires a minimum room size of 6.5 square meters for single occupation and 10 square meters for two occupants. The sharing of rooms by persons of the opposite sex over

the age of 10 shall not be permitted unless and they are over 16 and live as husband and wife. A child (over 1 year old) will be considered as an individual person in terms of these standards. The sharing of a bedroom by three occupiers is only allowed in hostel type accommodation, where roughly an additional 5 square meters is required for each additional occupant.

From April to November 2015 there were 25 complaints to the Council about overcrowding and space in HMOs, and 8 in single dwelling rented accommodation. Usually this will be because the tenant(s) believe the property is too small for their needs, which may or may not be true. Each case is investigated. In the case of single dwellings, the key determinant is the Housing Health and Safety Rating System, where the ideal for preventing crowding hazards is described as:

Within a dwelling there should be sufficient space for the separation of different household activities, either by physical separation or by a clearly defined space within a larger space. The degree of separation is partly dependent on the number of people who can be expected to share the space, and whether or not they are expected to be part of the same household.

For larger households, physical separation of living, cooking, dining and even sleeping areas is more necessary. For such households, bedrooms should lead off a circulation space, and should be large enough to be useable for sleeping and for study or relaxing away from the other members of the household.

There should be sufficient provision for sleeping having regard to the numbers likely to be accommodated in the dwelling. As well as sufficient sleeping space, there should be a living area of sufficient size for the household. Indoor and outdoor play and recreation space is necessary in accommodation housing children. Outdoor play space should be readily visible from within the dwelling and safely separated from public and neighbouring areas.

To provide for adequate privacy for the user, each bath or shower should be sited in a bathroom and each sanitary closet should be sited in a bathroom or separate compartment provided with a lockable door.

A second stage is involved, involving determining whether the dwelling is over-occupied by the current household.

For licensed HMOs (i.e. where there are 5 or more occupants), the key determinant is how many persons the property is licensed for (which is based on the minimum amenity standards as above). If this number is exceeded, an Overcrowding Notice can be served requiring the number of occupants to be reduced to the licensed number as a maximum. In extreme cases, a Prohibition Notice can be served,

requiring the cessation of use of the premises for occupation, or a cessation of use as an HMO. The number of Overcrowding Notices and Prohibition Notices for overcrowding is less than 10 per year, but a larger number of cases are resolved by negotiation with the landlord. It should be recognised that sometimes the tenants are responsible for the overcrowding, rather than the landlord, when they move additional family members in.

The table below shows the number of complaints received (usually from tenants or their representatives, but these figures do not include Members Enquiries) from April to December 2015. PSH HMO codes are for HMOs and PSH HS codes are for single family dwellings (i.e. not HMOs). The most common cause of complaint in single family dwellings is damp and mould, followed by cold, then sanitation, pests, electrical or structural hazards, then problems with water and gas supplies. However, for HMOs the most common form of complaint (apart from complaints from neighbours) is overcrowding and space.

The conclusion from these figures is that overcrowding is a more significant issue in HMOs than in ordinary houses, although the numbers of complaints are not high. This is most likely because HMOs tend to be occupied by single persons or couples, rather than large families, and are shared by many people not of the same household who may not know or even like each other. Lack of space is therefore more likely to be a cause of complaint in HMOs, especially if the number of persons for which the property is suitable or licensed is exceeded.

Overall, there are 14,000 rented households in the Borough, so the number of complaints is not large in proportion at about 600 per year which is 4% of the whole, although of course the Council does not know how many people may live in unsuitable conditions who do not complain to the Council.

Complaints received (usually from tenants or their representatives, but these figures do not include Members Enquiries) from April to December 2015.

Housing Standards in HMOs	April	May	June	July	August	September	October	November	December	Sum:
PSH HMO - Resident or Other Complaint	2	2	10	13	6	6	3	2	1	45
PSH HMO - Crowding and Space	2	2	2	2	3	7	6	1	1	26
PSH HMO - Beds in Sheds / Illegal Outbuilding	3		1	1		1	1	1	3	11
PSH HMO - Damp and Mould Growth		1		3	1	1		3	2	11
PSH HMO - Hazards - Electricity		1	1		1	2		3	1	9
PSH HMO - Excess Cold							1	2	1	4
PSH HMO - Pest and Infestation		1			1	2				4
PSH HMO - Water Supply			1	1			1			3
PSH HMO - Call transferred to officer	1				1					2
PSH HMO - Hazard - Structural Collapse					1		1			2
PSH HMO - Hazards - Gas									1	1
PSH HMO - Hazards - Trips and Falls								1		1
PSH HMO - Mechanical Noise within the Home				1						1
Total	8	7	15	21	14	19	13	13	10	120

Housing Standards in single dwellings	April	May	June	July	August	September	October	November	December	Sum:
PSH HS - Damp and Mould Growth	20	9	12	8	3	6	11	16	20	105
PSH HS - Excess Cold	4		3		3	5	14	9	8	46
PSH HS - Pest and Infestation	3	3	7	2	3	7	6	3	2	36
PSH HS - Sanitation and drainage	4	5	3	2	4	4	2	4	5	33
PSH HS - Hazards - electricity	5	2	4	2	2	3	7	6	1	32
PSH HS - Hazard - Structural collapse	2	2	2	3	2	10	4	1	1	27
PSH HS - Hazards - Gas	2	2	4	2	1	1	1		3	16
PSH HS - Water Supply	3	3	2		1	4		1	2	16
PSH HS - Crowding and space	2			2	3			1	2	10
PSH HS - Hazards - trips and falls	1		1	2	2		2		1	9
PSH HS - Lack of Cooking Facilities	2	2	4						1	9
PSH HS - Call transferred to officer	1				1					2
PSH HS - Pollution								2		2
PSH HS - Fire - Hazards	1									1
Total	50	28	42	23	25	40	47	43	46	344

Grand total	58	35	57	44	39	59	60	56	56	464
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HEALTH IMPLICATIONS OF OVERCROWDING

At the second witness session, the Director of Public Health spoke about the links between overcrowding, poor housing conditions and the impacts these had on health.

Definitions of overcrowding included a normative judgment about the adequacy of personal space in a dwelling and an objective measure of number of people per room in a dwelling. The common consequences of overcrowding include:

- Children’s education may be affected by overcrowding directly, through a lack of space for study, as well as indirectly because of school absences caused by illness
- People with poor health may have difficulty holding down or securing employment and may not be able to afford housing appropriate to their needs.
- People with illnesses may live in overcrowded conditions as a result of their need for care and support from relatives.
- Overcrowding can lead to both physical illnesses such as tuberculosis from close contact with infected co-inhabitants and mental illnesses caused from stress due to invasions of privacy, noise and limited access to facilities.
- Noise from people in adjacent rooms or neighbours can have psychological adverse effects.

Referring to the Government-commissioned Black Report ¹and the more recent Marmot Review, the Committee heard studies had placed particular emphasis on housing as a health inequality issue and saw adequate housing as a prime requisite for health. Noting this relationship, the Committee recommended:

3

That Cabinet be asked to note the relationship between good quality housing and improved life chances.

It was noted that housing had long been recognised as an important mechanism for improving people’s health and sense of well-being and for reducing health inequalities between different groups. The relationship between housing and health was, however, a complex one as housing is inextricably linked with other key determinants of health such as the socioeconomic circumstances of individuals and locality factors.

It was clear to the Committee that groups such as those who were already unwell, older people, people with disabilities and the unemployed were among those most likely to live in poor housing and also tended to spend long periods of time indoors exposed to potentially hazardous environments.

Turning to the most prevalent issues which could arise from overcrowding, the simple message was the greater number of individuals there were in a given space, resulted in an increased pressure on the household. Committee heard that dampness, moisture and mould in indoor environments had been associated with adverse health effects in population studies in Europe, North America and elsewhere. Officers reported the most commonly reported health effects were airways symptoms, such as cough and wheeze, but other respiratory effects, and

¹ Black Report 1980 <http://www.ncbi.nlm.nih.gov/pubmed/7118327>

skin and general symptoms had also been reported. Officers concluded the relative lack of knowledge regarding the role of specific exposures in dampness and mould related health problems, was largely due to their complex nature.

Likewise, overcrowded conditions could give rise to increased residential second-hand smoke exposure and increased numbers of lower respiratory infections, asthma, heart disease and lung cancer. Officers explained that breathing in other people's tobacco smoke (second-hand, passive or involuntary smoking) was known to cause a range of disorders from minor eye and throat irritation to heart disease and lung cancer. Given their developmental stage, children were particularly vulnerable to the effects of second-hand smoke and prolonged exposure increases the risk of cot death, glue ear, asthma and other respiratory disorders, including emphysema later in life.

During the course of discussions, the Committee also focused on the most vulnerable groups at either end of the age spectrum and the following points were noted:

Impact of poor housing on children's health

Living in substandard housing could have an impact on a child's physical and mental development:

- Cold temperatures lower resistance to respiratory infections;
- damp conditions are favourable to bacteria and viruses;
- and mould and fungi produce allergens that can lead to asthma and other respiratory problems. Damp and mould impact more strongly on children than adults.

Damp, mouldy homes are between one and a half and three times more prone to coughing and wheezing – symptoms of asthma and other respiratory conditions – than children in dry homes. These can lead to:

- Sleep loss,
- Restrictions on children's daily activities, and absence from school
- Living in cold, damp housing may well have an impact on children's mental health too, increasing children's chances of experiencing stress, anxiety
- Poor housing conditions also affect children's recreational opportunities.

Impact of poor housing on older people

- Older people living in cold, damp homes are at greater risk of Arthritic symptoms and rheumatism, which can result in prolonged immobility, making it even more difficult to keep warm;
- Domestic accidents and falls, including fatalities;
- Social isolation;
- Mental health problems.
- Neighbourhood effects

The Committee thanked the Director of Public Health for a detailed and comprehensive report. It was noted the health considerations highlighted in the report, identified the Local Authority had a large responsibility to ensure that tenants were not placed in sub standard accommodation.

Noting that damp had been cited as one of the primary causes of bad health, the Committee agreed the response time to complaints was important, as the implementation of repairs had a direct bearing on raising overall standards in the Private Rented sector.

The Committee acknowledged that it was a difficult balancing act to ensure the authority offered advice and guidance without stepping outside of its remit.

Housing conditions - complaints about standards in the private rented sector

To address complaints about housing conditions (not necessarily overcrowding) the Committee learnt that Hillingdon currently employs 4.1 full time equivalent posts as "housing standards officers" (5 staff members two of whom are part time).

The team was larger than this, but work has been re-organised to allow these officers to concentrate on raising standards in the private rented sector. Work has been re-assigned to other teams which concentrate on nuisance from rented properties, grants and adaptations to private properties and procuring new landlords and in-house leased properties. The housing standards team is therefore well placed to deal with complaints about standards, in:

- private rented single dwellings
- houses of multiple occupation (HMOs)
- temporary accommodation, such as bed and breakfast hotels
- mobile homes and caravan sites

Where the Council provides the accommodation, such as properties leased direct from landlords or through agents such as Orchard and Shipman, the standards team will make sure that adequate standards of accommodation are provided. Where the tenant has a tenancy agreement with the landlord independent of the council, the council's primary role is to respond to complaints from tenants about hazardous conditions, rather than quality or value for money issues which are matters between the tenants and the landlord.

Hazards are assessed under the government's Housing Health and Safety Rating Scheme, introduced to support the enforcement measures in the Housing Act 2004. The most common hazard types in Hillingdon are shown in this table:

Regulatory and Control Powers Available

A number of regulatory and control powers are available to the Council. These are listed in Appendix D

2. Information, advice and guidance

The final witness session examined the information, advice and guidance currently provided and also took account the views of a local Lettings agent to see where there might be an opportunity to improve what was currently done. Officers explained that information is provided through the Council website, leaflets, various fora and the Hillingdon People monthly magazine.

When making enquiries, the Committee appreciated that people's needs and experiences were multidimensional and influenced by:

- The specific housing issue(s) which had brought them to the Council, often involving a multiplicity of complex issues, developing over time;
- Their personal emotional and practical circumstances which may have caused, exacerbated or coincided with their housing issue; and
- Their own personal capability to seek out help, including their awareness of support options available to them, their confidence in engaging with these supports, and their skill in using these effectively to resolve their housing issues.

The Committee Members knew from the experience of their ward surgery work that as the complexity of housing issues or personal circumstances rise, people's capability to resolve problematic housing situations decreases. This includes their ability to: articulate their key housing needs; identify necessary information or advice to address these needs; and take successful action to bring about positive change. Given a tendency to wait to seek support until 'critical moments,' people seeking out housing advice and support thus tend to be doing so in highly emotional and often fairly urgent circumstances. This of course raises challenges for support services, which must provide for people's practical and emotional needs.

The Category Manager (for Housing) demonstrated what information was available to tenants, lettings agents and landlords and how to go about accessing it. Although the Committee agreed this was comprehensive and informative, it illustrated that often the best way to find information was by using the ' search functions within the website and search engines.. While this was useful, it did of course assume the user was conversant with certain housing terminology to refine their search parameters. As such, the Committee agreed it would be useful and helpful if the web based Housing information was reviewed together with a limited degree of user functionality to test the ease at which key information could be found in the future. Since this part of the review in December 2015, the website has been modernised to improve its search function capability. Members will keep this under review.

The Committee were aware Local Authority has a well attended and successful Private Landlords Forum which had been in operation for the last 15 years where information is exchanged and partnership working on various schemes has been

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developed. Landlords are encouraged to join the London Landlords Accreditation Scheme (LLAS) which provides training courses on the essential legal and other information needed to run this type of business properly. Given the significant forthcoming changes to the Housing and Planning Bill, Immigration Act and changes to tax arrangements for Buy to Let Landlords, the Committee felt there was scope for the Landlords Forum to be used as a more effective platform to highlight, discuss and inform landlords of future obligations which would significantly impact on their business models.

The Committee welcomed the news that Officers could also take action over landlords when either serious, immediate hazards were present or did not carry out repairs within a reasonable time. The main powers are now within Part 1 of the Housing Act 2004 and include Improvement Notices, Prohibition Orders, Emergency Remedial Action and Hazard Awareness Notices.

Bearing in mind the changes on the horizon, the Committee recommended that:

1

That the Landlord's Forum be used as a platform / sounding board to raise awareness of new policy and legislation such as :

- **Elements of the Housing and Planning Bill affecting landlords**
- **The Immigration Act 2014 and the current Immigration Bill concerning Right to Rent checks and evictions for those without a current right to rent.**
- **Likely impacts from the Welfare Reform and Work Bill.**

Harking back to the 2008/09 review, the Committee recalled how many PRS landlords had favoured public sector tenants as they were perceived as presenting a lower risk and offered a more secure form of tenancy.

However, the Committee learnt that there had been a sea change in the market whereby landlords now chased the prevailing market rent.

Speaking about recent changes, the Committee welcomed the news that legislative change meant there was now a greater onus on landlords to monitor the quality of their housing stock to ensure it was compliant with new guidelines.

In response to a Committee question about what further action the Council could possibly take to improve the sector, suggestions relating to incentive payments, grants and underwriting the payment were proposed. These were greeted as a candid view of Landlord's willingness to work with the Council given the current dynamic market.

The Committee noted that a number of avenues had already been explored by the Council to improve the sector but given the recent changes to Benefits legislation, the number of tenants in arrears was rising as was the number of evictions. Officers were aware of these issues and explained that the Council regularly monitored market conditions.

Having discussed the enforcement options available to the Council at some length, the Committee reviewed the types of action which could be taken against those landlords and letting agents which had repeatedly offended. Officers explained the Housing and Planning Bill was undergoing its ascent and its policy objectives were to build homes more quickly, assist people to purchase their homes and also to ensure the way housing is managed is fair and fit for the future. Providing an overview of key aspects of the Bill, the Committee noted that Parts 2 and 3 would give local authorities additional powers to tackle rogue landlords in the private rented sector. Forthcoming measures include the ability to apply for banning orders and the creation of a national database of rogue landlords.

In this respect, the Committee felt the implementation of a blacklist would effectively fulfil the dual function of providing tenants with a vetted selection of landlords to choose from while at the same time help raise standards in the PRS as the existence of a blacklist would act as a deterrent to non-compliance.

Developing this further, Officers explained that Government guidance on the topic suggested that being on the database would not in itself be an offence, however the database would enable local authorities to keep track of landlords/letting agents who have been convicted of certain offences and help focus their enforcement action where it is most needed. In terms of data protection, the Committee were informed that the database would only be accessible by local housing authorities and central Government as the rationale behind the database was to assist local housing authorities keep track of known rogue landlords and letting agents and thus become a mechanism to focus their enforcement action.

Another measure explored by the Committee included the viability of introducing Banning orders whereby landlords and letting agents would be prohibited (banned) from renting out or managing property. The effect of a banning order would be the landlord or letting agent was banned from:

- letting housing;
- engaging in letting agency work;
- engaging in property management work; or
- doing two or more of those things

Officers explained that the current thinking suggested that where a landlord or letting agent had been convicted of an offence which could trigger inclusion on the Database, it would be open to a local authority to seek a banning order from a First Tier Tribunal where they believed the offence has been particularly serious and/or

where the individual is a repeat or prolific offender. There will be a right of appeal against a banning order.

On this basis the Committee recommended that:

4

Consider the new national legislation set out in the Committee's report following the Government's response to the consultation - 'Tackling rogue landlords and improving the Private Rented Sector', and subject to this becoming law notes new requirements including:

- a. Contribute to a database of rogue landlords and property agents to keep track of persistent offenders and focus enforcement action.**
- b. Introduce Banning Orders on the worst offenders, so landlords or lettings agents would be prohibited from letting or managing residential properties for a specific period of time.**
- c. Where appropriate impose Civil Financial Penalties for breach of a Banning Order.**

Since the witness sessions concluded the Housing and Planning Bill has been progressing through Parliament. The Bill has completed its passage through the House of Commons and was introduced into the House of Lords on 13.01.2016. This is a wide ranging Bill, Part Two of which is concerned with driving rogue landlords out of business. Measures are aimed at disrupting the behaviour of criminal landlords and property agents. The Bill also gives private landlords the right to reclaim their property in the event that a tenant abandons the property, without being required to go through costly processes or accept long periods of lost rental income.

A small number of rogue or criminal landlords knowingly rent out unsafe or substandard accommodation and the Government wants to do more to tackle the worst offenders. At present, the fines issued are inadequate. They are not sufficiently punitive or enough of a deterrent to disrupt the business model of disreputable landlords.

The measures introduced in the Bill are designed to help improve standards in the private rented sector and tackle the minority of rogue or criminal landlords. It lays the foundation for a database of rogue landlords and in extreme cases, the local authority will be able to ban a person from renting out properties which require a licence. Local authorities will be able to retain fines (for rent repayment orders and civil penalty notices) and access data from Tenancy Deposit Protection schemes) so

that they can develop a better picture of the private rented sector in their area and focus activity accordingly. If passed as it currently stands the Bill will make the following changes:

- The Secretary of State must establish and operate a **database** of rogue landlords and property agents and local authorities will have responsibility to maintain the contents of the database. An entry on the database must be made if a banning order against the person has been made. Every local authority will have access to the database but may only use the information on the database in connection with their housing enforcement activity. The database will make it easier for local authorities and enforcement agencies to identify and track rogue operators who move in and out of their locality.
- **Banning Orders** will prevent rogue / criminal landlord and property agents from operating or receiving a rental income for serious or repeated housing offences. A local authority may apply for a banning order against a person who has been convicted of a banning order offence and a ban must last for at least 6 months. A banning order is made by a First-tier Tribunal, banning a person from letting housing, letting agency work or property management work. Breach of a banning order will be a criminal offence and courts will be able to impose an unlimited fine and/or a term of up to six months imprisonment.
- Local authorities will also be able to impose a **civil financial penalty** for breach of a banning order. The financial penalty imposed must not be more than £30,000. A fine cannot be imposed if criminal proceedings have been instigated. Local authorities will be able to retain the fines they receive as income. Regulations may specify how the income is used.
- The **fit and proper person test** will be strengthened to provide that landlords must also be entitled to remain in the UK and must not be insolvent or bankrupt.
- **Rent Repayment Orders** (RROs) were introduced by the Housing Act 2004. Occupiers of a property, or the local authority can apply to a Residential Property Tribunal to recover rent or Housing Benefit (or Universal Credit) paid to an unlicensed landlord of a licensable HMO to cover the period when a licence was not in place, up to a maximum of 12 months. Measures in the Bill will extend the use of RROs to cover the illegal eviction of a tenant where a landlord has failed to comply with a statutory notice, such as an Improvement or a Prohibition notice or has breached a banning order. A rent repayment order may be made by a First-Tier tribunal where a landlord has committed a specified offence. These offences relate to:

Criminal Law Act 1977	Section 6(1)	violence for securing entry
Protection from Eviction Act 1977	Section 1(2), (3) or (3A)	eviction or harassment of occupiers
Housing Act 2004	Section 30(1)	failure to comply with improvement
	Section 32(1)	failure to comply with prohibition order etc
	Section 72(1)	control or management of unlicensed HMO
	Section 95(1)	control or management of unlicensed house
Housing and Planning Act (if passed)	Section 30(1) (current draft)	breach of banning order

- **Tenancy Deposit Protection Scheme Data Sharing** will allow local authorities to access the local data held by the companies operating Tenancy Deposit Protection schemes. Schemes will be able to charge a reasonable cost to local authorities for access to the data.
- **Abandonment legislation** will provide clarity and speed up the process enabling a landlord to regain possession of their property after a tenant has absconded. Landlords will be able to regain possession of a property where the tenant hasn't paid rent for eight weeks and they haven't responded to three warning notices that they will be evicted. A landlord would no longer need a possession notice from the courts to regain a property. The Bill makes provision for a tenant to apply within 6 months to the county court for an order reinstating the tenancy if the tenant has a good reason for having failed to respond to the warning notices.

These changes add up to a significantly different environment for private sector enforcement activity and the firm action in the bill to help improve conditions and standards has been welcomed by many organisations including CRISIS, CAB and SHELTER. It is reiterated that the changes have not yet been enacted and are subject to amendment. Assuming that they become law, Officers will seek to make best use of the measures included and their impact will be monitored.

In terms of what other positive steps might be taken, the Chairman explained he was aware a Reading Charter² had come into being.

The ambitions of the charter include:

- Tenants and landlords both take full responsibility for the homes they let out and live in.

² The Charter is about setting out key actions that the Council will lead on to help support tenants, landlords, letting and managing agents to deliver a safe, healthy and thriving private rented sector

- Increase the number of landlords supplying good quality private rented homes.
- Tackle fuel poverty and improve energy efficiency in private rented housing.
- Work with tenants, landlords and agents to agree procedures to tackle disputes.
- Act against criminal landlords to protect tenants.
- Bring an end to unfair practices which contribute to a negative image of the private rented sector.

The Committee heard that measures in the action plan included; ensuring all letting and managing agents operating within the borough were members of a redress scheme; developing systems to deal with allegations of harassment and illegal eviction; increasing the identification and referral of sub-standard properties and developing and promoting a 'rent with confidence' scheme.

As a result, it was felt that the charter contained a number of good ideas and suggestions which would contribute to creating the conditions for the sector not only to thrive but also a set of aspirational goals.

On this basis the Committee recommended that:

5

That the Council considers drafting a 'charter' or standard for landlords and Lettings Agencies to adopt, as a model of good practice.

Conclusions

Given the national housing crisis, the Private Rented Sector has become a vital aspect of housing in Hillingdon. Since the last Housing condition survey, the number of people using the private rented sector has risen exponentially and so there is a clear onus on the Council to ensure it takes positive steps where possible to assist and improve the quality of life of our residents in this sector.

Our review has alluded that incidences of overcrowding may well be increasing driven by a necessity to accept lower housing standards to minimise costs. However, there is no panacea or single action that can be taken to solve all the problems associated with the sector. Enforcement options for the Local Authority will be strengthened by the Housing and Planning Bill when passed. These will however focus on the most serious and severe instances or malpractice.

Our review makes a series of recommendations which seek to improve the regulatory control of landlords and suggests ways in which landlords can be proactive to improve the sector through a combination of accreditation and further partnership working.

Finally, the review identified that although support is available, there is scope for officers to improve access to information, advice and guidance to ensure that we, as an Authority, do all we can to help prevent homelessness and support vulnerable tenants.

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Appendix A - Terms of Reference

The following Terms of Reference were agreed in the review scoping report.

Terms of Reference

- a. To provide a profile of the sector and its tenants and how this has changed for comparative purposes and provide information regarding accessibility to such accommodation;
- b. To report on levels and the impact of overcrowding in the sector particularly in relation to the health of occupants;
- c. Consider current and potential mechanisms through which information regarding their options is made available to existing and prospective private rented sector tenants. To include council services and signposting to other agencies;
- d. To make recommendations to Cabinet based on the findings of this review

Appendix B - Witnesses

Witness sessions for the review were held on 3 September, 6 October and 4 November 2015. These sessions heard from the following witnesses:

Witness Session 1 (3 September 2015)

Setting the context and reviewing the size and scale of the PRS in Hillingdon

Debby Weller, Policy and Strategy Manager, LBH

Nigel Dicker, Deputy Director, Residents Services, LBH

Witness Session 2 (6 October 2015)

Overcrowding, health implications and remedial measures

Nigel Dicker, Deputy Director, Residents Services, LBH

Dr. Steve Hajioff - Director of Public Health, LBH (written submission only)

Witness Session 3 (4 November 2015)

Information, advice and guidance

Ed Shaylor, Community Safety Team - Service Manager, LBH

David Youngs, (Category Manager - Housing).

Nigel Dicker, Deputy Director, Residents Services, LBH

Debby Weller, Policy and Strategy Manager, LBH

David Miller, Charrison Davies, Estates Agency

Social Services, Housing and Public Health Policy Overview Committee – 23
February 2016

Appendix C - Background Reading

To assist with the writing of this review, reference has been made to the following background information.

Housing and Planning Bill - 2015-16

<http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7331>

www.housingnet.co.uk/download_pdf/1317

Licensing Of Two Storey Houses In Multiple Occupation - 23 July 2015 Cabinet report

Private Housing

<http://www.hillingdon.gov.uk/article/7800/Private-housing>

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Appendix D - Regulatory and Control Powers Available

Enforcement Powers - Housing, HMOs & Empty Properties

The Housing Health and Safety Rating system (HHSRS)

As well as hearing about how complaints into overcrowding were addressed, Officers explained that there were a number of enforcement powers available to Local Authorities to require landlords to carry out remedial works, or take other actions relating to their properties and these were changed by the introduction of the HHSRS in the 2004 Housing Act.

This replaced the previous housing fitness standard, which had existed, with some amendments, for nearly 70 years. The new Housing Act 2004 came into effect from April 2006.

The new standard must be applied to all private housing, be it owner occupied, private rented, an HMO or an empty property and has the advantage of enabling a wider range of matters to be taken into consideration for possible action. There are now 29 separate hazards, which might need to be considered when inspecting a property and each would need to be assessed for each dwelling. These include fire, damp and mould, crowding and space, electrical hazards, lighting, excess cold etc which are all commonly found in the private rented sector.

The system enables a score to be calculated for each hazard and if this exceeds 1000 points then a Category 1 hazard is said to exist and this triggers action by the Authority. There are a range of options open to the Local Housing Authority and these range from:

- 1) Serving a Hazard Awareness Notice –notifying the landlord/owner of the existence of the hazard – no direct action taken as for very minor issues.
- 2) Serving an Improvement Notice - this requires the landlord to take steps to at least reduce the hazard so that it is no longer a Category 1 – used in more serious cases.
- 3) Serving a Prohibition Order - which would prohibit the use of the dwelling until the hazards are reduced.
- 4) Taking Emergency Remedial Action when there is a Category 1 hazard, which poses an immediate danger to the health and safety of the occupiers. The Authority can take steps to remove the immediate hazard, recharge the landlord and notify him within 7 days of the action taken.

The options 2) and 3) can all be served as “Suspended” Orders to only take effect when certain conditions are met, for example in order to avoid making a tenant homeless.

Local Housing Authorities will all have enforcement policies which will set out when these options are, or are not utilised. There are, generally, rights of appeal against the formal notices and Orders, which are now heard by a Residential Property Tribunal rather than the magistrates' court, as in the past. This new system is more complex and time consuming to use, in practice, than the previous Housing Act enforcement regime.

Our general policy is to always use informal action first unless there is an immediate, serious issue needing prompt action to safeguard the health and safety of the tenants

HMO Specific Enforcement

As well as assessing HMOs using HHSRS, we also have local adopted standards which set out acceptable levels of kitchen and bathroom facilities within a property with a maximum sharing ration of 1:5.

Under the Housing Act 2004, HMO Management Regulations are also included which cover additional areas such as cleaning of common parts, refuse storage, maintaining gardens etc

We also work in partnership with the London Fire Brigade who have powers under the Regulatory Reform (Fire Safety) Order 2005 to close down HMOs that pose a very serious fire safety risk to the occupants. These powers have immediate effect and can involve prosecution with fine levels much higher than in Housing Act cases.

Management Orders for HMOs & Empty Properties

As a last resort and for use in the most difficult cases, a Local Authority can use Management orders - Interim (IMO) & Final (FMO) management Orders for HMOs & Empty Dwelling Management Orders (EDMO) for Vacant properties, which enable us to take control of a property for a period of up to five years. During this time the Council is responsible for bringing the property up to a safe level of repair and managing and dealing with tenancies and day to day running.

Planning

There are no specific, statutory planning controls in respect of HMOs and proposals for HMOs are considered in the same way as all other planning applications. Proposals to convert dwellings are determined in accordance with the provisions of the Hillingdon UDP and any other material considerations.

There is, however, specific Supplementary Planning Guidance (SPG) on HMOs. This has been the subject of public consultation and carries considerable weight as a material consideration in the determination of applications. The current SPG on HMOs has, therefore, played a central role in the assessment of planning applications. As above, where properties are being used by less than six persons, living together as a single household, planning permission is not required. However, landlords are encouraged to apply for a Certificate of Lawful Development. If granted, this provides formal clarification that their property can be used in a prescribed manner without the need for planning permission.

Regulatory Responsibilities within Hillingdon

Only known HMOs, or those brought to the Council's attention, are being dealt with by Planning and Housing.

Planning have appointed an additional enforcement officer, which has been of direct assistance. There are three planning enforcement officers with responsibility for all planning enforcement matters covering a wide range of land use planning breaches and alleged breaches. HMOs are not necessarily prioritised, given the range of other enforcement work which requires attention.

There is one HMO officer in the Private Sector Housing section and a manager who also undertakes some HMO Enforcement work. The HMO Officer is responsible for complaints from tenants, individual enforcement (often with Planning), programmed inspection of existing hostels, hotels and higher risk premises, licensing of new HMOs and HMO grants of all types. The remaining HMOs used to provide temporary accommodation for the homeless, which no longer include families, is inspected by the Temporary Accommodation officer in Housing. That officer inspects all temporary accommodation, the majority of which is self-contained.

The Building Control Service deal with fire requirements and other Building Regulation HMO matters through their team structure

Any significant increase in the number of identified HMOs will require additional resources in both the Planning and Private Sector Housing departments given the substantial workload generated prior to, during and after the processing of an HMO application/registration.

It is not an option to identify an additional and substantial number of HMOs and do nothing about them.

In addition to hearing what action Officers can take, we also raised a number of further issues, including:

- The Powers are available to address issues with HMOs
- Local Authority Influence over landlords
- The different types of “standards in circulation”
- Effective standards / accreditation schemes (and the promotion of)
- The work conducted to highlight effective standards
- Tenancy Agreements and papers issued tenants by landlords

Powers to address issues with HMOs

Clearly not all HMOs cause problems, and many go unnoticed. However, others that may cause problems, often student or other ‘single household’ properties are perceived by the public as HMOs when in fact they are not (for the legal reasons round ‘one household’ above). As HMO legislation cannot be applied any intervention is generally through Noise legislation or, in some cases, the Public Health Acts

Hillingdons Current Enforcement Policies

Hillingdon already operate an Additional Licensing Scheme for Houses In Multiple Occupation across the south of the Borough. Our current Planning Enforcement and Private Sector Housing Teams are working very closely with each other in dealing with issues of Rogue Landlords, Sub-standard accommodation and the use of illegal outbuildings. As a result we have received funding from the DCLG to employ a dedicated prosecutions lawyer and additional staff to help prevent the problem of Rogue landlords from taking hold within our borough.

HMO Licensing in Hillingdon - the next five years

The intention is to retain the same area and 13 wards south of the A40 and retain the same qualifying criteria of three or more households consisting of five or more people in order to avoid confusion to landlords and letting agents. Over the last ten years of HMO Registration and Licensing both landlords and agents have become familiar with the scheme criteria and as current licenses come up for expiry landlords

and agents will not have to deal with new qualifying criteria and areas, allowing for a simple business as usual approach.

As can be seen from the information collected over the last five years of Additional Licensing there has been a significant rise in two-storey HMOs within the south of the Borough, which is very likely to continue. This growth supports the intention to continue with Additional HMO Licensing and also demonstrates that in 2010 the Council chose the correct area to apply additional licensing to. As already stated there is no need to extend the area northwards.

Licensing fees were recently reviewed by the Council's Cabinet and have been set at £980 for a new license application and £735 for a renewal as of the 1st April 2015. It is proposed that the same fee structure will apply to all HMO licenses whether Mandatory or Additional licensing to avoid confusion and maintain consistency across the two licensing schemes.

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