

REPORT FROM: CHIEF EXECUTIVE

**TO: SPECIAL BUDGET POLICY AND RESOURCES
COMMITTEE**

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HOUSING STANDARDS ENFORCEMENT ACTIVITY

PURPOSE OF REPORT

To update the Council's Policy and Resources Committee with regards to the following:

- To outline the existing powers and resources available to the Council for improving Private Sector Housing in Pendle and is designed to enable Members to review the Council's work in this area.
- The report on enforcement activity taken by the Environmental Health Residential Team in the year 2022-2023 with regards to disrepair and enforcement in the area of private sector housing.

RECOMMENDATIONS

- (1) That the Policy and Resources Committee note the action that has been taken by the Environmental Health Residential Team over the last 12 months to improve the privately rented property in the Pendle area.
- (2) That the Council reviews the Environmental Health Enforcement Policy following the proposed introduction of the Renters Reform Act.
- (3) That the Council undertakes a Housing Stock Condition Survey to provide an accurate, up to date picture of the quality of the borough's housing stock.

REASONS FOR RECOMMENDATIONS

- (1) To ensure that the conditions in the Private rented sector are managed and improved.
- (2) The Renters Reform Bill is proposing strengthening of enforcement powers in order to improve Housing Standards enforcement. It is important to ensure that all implications of

the Bill are considered and that the Enforcement Policy allows the Council to act in line with all available powers.

- (3) The Housing Stock condition survey was last completed in 2009. A revised survey is now needed to fully understand the quality of the housing stock in order to inform future council planning.

ISSUE

- (1) At the meeting of Council on 8th December 2022 it was resolved that the Chief Executive present a report to the next meeting of the Policy and Resources Committee with details of existing powers and resources available to the Council, the extent to which these powers are currently used, how use of existing powers can be extended; and, what further powers and resources would be beneficial in dealing with these issues in Pendle.
- (2) The private rented sector (PRS) is an important part of the housing market in Pendle. The last stock condition survey in 2009 showed that 18% of the boroughs housing stock was in this sector of the market with a further 11% being social rented.
- (3) The stock condition survey also showed that the property conditions in the private rented sector were amongst the worst in the borough with 21% of all privately rented properties having at least one category 1 hazard (Housing Health and Safety Rating) present and a significant number of them having multiple category 1 hazards.
- (4) The Stock Condition Survey has not been updated in recent years due to the costs involved. From the number of complaints being received it can be assumed that the condition of the stock has not improved since then. An up to date survey is now required.
- (5) The current Environmental Health Enforcement Policy which is available at https://www.pendle.gov.uk/downloads/20005/your_environment was last updated and adopted by the Council on the 9th November 2021 this was to incorporate legislative changes to the enforcement of Electrical Safety within the private rented sector which require inclusion within the Policy.
- (6) The policy, has been written to incorporate all enforcement activity carried out by the Environmental Health Teams within Housing, Health and Engineering Services and provides a framework to ensure that any enforcement activity is carried out in a fair and transparent way.
- (7) The Housing Act 2004 is the main driver of improvement within the Private rented sector. For example Officers have been using measures in the Housing Act 2004 to license Houses in Multiple Occupation (HMO). Officers also act as a focal point to disseminate information to private sector landlords on a variety of matters such as good management practices and standards and loans for bringing long term empty properties back into use. We are responsible for working towards ensuring that vulnerable households are living in decent quality housing; Implementing the Housing Act 2004 and Promoting energy efficiency.
- (8) The Housing Act 2004 which has been in force since April 2006 also introduced the Health and Safety rating system (HHSRS) as a means to identifying unacceptable housing standards and the basis for determining where local authority intervention is needed. Dealing with the hazards can be quite complex; where possible, officers will seek to find solutions by agreement and co-operation and will keep in mind the maxim that prevention is better than cure.

The principle behind the HHSRS is that 'any residential premises should provide a safe and healthy environment for the occupants and any visitors'. The HHSRS assessment can be applied to all types of residential premises including a single family dwelling, a house in multiple occupation (HMO) or units of accommodation within the HMO.

- (9) The Environmental Health Residential Team is committed to improving standards in private sector housing with the aim of ensuring that all private accommodation is well managed, properly maintained, safe and habitable. All privately owned, privately rented and registered provider accommodation is covered.
- (10) Although Pendle has some excellent landlords and letting agents, the Council has a vital role to play in tackling irresponsible landlords and property management / letting agents who do not comply with their legal obligations and prevent them from profiting from their non-compliance.
- (11) In order to achieve this the Council has a raft of statutory powers and duties to regulate private sector housing and public health. These are assisted by the Housing Health and Safety Rating System (HHSRS), the mandatory licensing of houses in multiple occupation (HMO's), HMO Management Regulations and the option for selective licensing within the Pendle area.
- (12) In addition the Council also has powers to ensure that Landlords are complying with certain legal requirements and powers in relation to smoke and carbon monoxide alarms and electrical safety.
- (13) There is also the proposed Renters Reform Bill which is set to be introduced in this session of Parliament. Whilst it is too early to determine all implications of the Bill when it is enacted it is set to strengthen enforcement tools for Private Sector Housing Enforcement and extend the Decent Homes Standard across private rented properties. This would positively improve the quality gap between the private rented sector and Social Housing. There is also the possibility that there will be increased flexibility for tackling area specific accommodation issues.

The LGA have suggested that that the Renters Reform Bill will bring about much needed data updates to the HHSRS along with a national registration system of landlords and adequate funding to tackle the challenging nature of the PRS. A summary of the proposed changes is in Appendix 1.

- (14) In order to regulate the private rented sector housing, the Council's Environmental Health Residential Team request information, carry out inspections, process licence applications, encourage and promote good practice, provide owners, landlords and property management agents with advice and information, investigate possible offences, and where appropriate, take enforcement action which can include service of Improvement Notices, Prohibition Orders, Hazard Awareness Notices and Emergency Remedial and Prohibition Orders. The Council can take prosecution proceedings through the courts or the issuing of civil penalties as introduced under the Housing and Planning Act 2016.
- (15) Since the 6 April 2017, local housing authorities have had the power to impose civil penalties of up to £30,000 on individuals and organisations, as an alternative to prosecution, for certain offences under the Housing Act 2004. Rent repayment orders have also been extended to cover a wider range of offences. The Environmental Health enforcement Policy permits the Council to make full use of these powers.
- (16) The range of enforcement matters dealt with by the Council in this policy area are such that it may be necessary on occasions to work with other agencies. For example the Council

may carry out joint inspections with Lancashire Fire and Rescue Service, Lancashire Police, The Home Office, HMRC or the Health and Safety Executive.

Depending on the circumstances informal and or formal notices will be issued together with details of the work required to reduce the level of risk.

- (17) There are circumstances in which enforcement is unavoidable and the Council has to use its full legal powers, including prosecution and where necessary making a prohibition order, which closes the whole or part of residential accommodation or restricts the number of permitted occupants. Ideally Officers would work with property owners to deal with disrepair through negotiation, signposting or the provision of information.
- (18) The Environmental Health Residential Team has received 153 complaints since April 2022 from tenants in the private and social rented sector whose landlords are refusing to maintain their properties. Of these complaints 18 were classed as urgent with seven for the lack of hot water.
- (19) The team also received seven Complaints where landlords have either deprived the tenant of their accommodation or is harassing the tenant with the intention that they leave the property.
- (20) Investigation of the 153 disrepair complaints resulted in 43 properties being assessed under the HHSRS and 76 category one hazards being identified and 164 Category 2 hazards being identified an average of 1.7 per property with the most prevalent Category one hazard identified being Excess Cold with 55% of homes having this hazards present. 60% of the assessed homes had damp and mould present, however only 9% of the properties had category 1 damp and mould hazards present.
- (21) The Environmental Health Residential Team took informal action, in line with the unit's enforcement policy against all properties where hazards were identified. 2 Emergency Prohibition Orders, and 7 Category 1 Prohibition Orders were served and 3 Category 2 Prohibition Orders were served. Some 31 informal actions were taken. This resulted in improvements being made to improve the living conditions in 21 homes.
- (22) 10 landlords failed to comply with the informal action which has led to 10 Notices under Section 11 and 9 notices under Section 12 of the Housing Act 2004 being served.
- (23) Of these 6 landlords complied with the requirements of the notice within the timescale or are currently carrying out the work and in 4 cases the Council has carried out / is seeking to carry out the works in default of the owner and is seeking recovery of the cost from the owner.
- (24) 24 notices under section 80 of the Environmental Protection Act 1990 were served to reinstate hot water and or heating or to complete urgent works on privately rented properties. The Council arranged to carry out the works in default of Notices in 8 cases and again is seeking to recover the costs from the owners.
- (25) The section has also received seven enquires from tenants where the landlord has illegally evicted the tenant or is harassing the tenant to make them leave the property without following the correct procedure. In line with best practice, all of these cases have been dealt informally and the Environmental Health Residential Team have not taken any prosecutions.
- (26) The Environmental Health Residential Team has suffered from recruitment and retention challenges. This situation has been exacerbated by many factors including a national skill shortage of qualified and experienced staff, cuts in funding available for training vocational

students and competing priorities in local government performance expectations. The Leadership and Transformation Board is urgently reviewing options for how best to resource this important work.

IMPLICATIONS

Policy: None

Financial: A Borough wide housing stock survey is expected to cost circa £30,000. Once firmed up, further approval will be sought to fund this via the revenue budget.

Legal: Section 3 of the Housing Act 2004 requires the council to keep under review the housing conditions in its' district with a view to identifying what, if any, course of action should be taken by the Council. Enforcement action is taken in line with Environmental Health's enforcement policy.

Risk Management: None

Health and Safety: None

Sustainability: The improvement of privately rented property assists in providing sustainable neighbourhoods.

Community Safety: Improvements in the properties helps tenants to stay in their homes resulting in a reduction in the number of unoccupied houses which in turn reduces crime and antisocial behaviour.

Equality and Diversity: Enforcement action is taken in line with Environmental Health's enforcement policy.

APPENDICES: Appendix 1- Summary of the Renters Reform Bill

LIST OF BACKGROUND PAPERS

None

APPENDIX 1 – Summary of the Renters Reform Bill

The Renters Reform Bill is set to be introduced in this session of Parliament.

The Bill seeks to fundamentally reform the Private Rented Sector and level up housing quality. There are 12 main action points proposed:

1. Properties will meet the Decent Homes Standard (DHS) and halve the number of non-decent rented homes by 2030. The DHS includes measures that require properties to be free of serious hazards, in a reasonable state or repair, to have modern facilities including kitchen and bathroom and updating of heating and insulation.

The DHS currently only applies to the social housing sector but is set to be extended to the private sector. It requires homes to be free from serious health and safety hazards and kept in a good state of repair by landlords

2. Accelerating quality improvements in the areas that need it most. The areas are yet to be announced and pilot schemes with local councils is yet to be explored.

3. Abolishment of Section 21 - ‘no fault’ evictions. A tenancy will only end if the tenant ends it or if the landlord has a valid ground for possession. All tenancies will be moved away from assured shorthold tenancies and will become periodic so weekly or monthly rolling tenancies. All new and existing tenancies are to move to periodic tenancies to allow tenants to leave when they want to leave, provided they give 2 months’ notice. There may also be a requirement that all tenancies are in writing.

At this time the Government remain committed to this proposal but there has been reports the Government may scrap this ban. Much will depend on further readings of the Bill and possible changes in Government over the coming months.

4. Reform grounds for possession so landlords have effective means to gain possessions. Details of some of the new grounds are included below.

- a) A new mandatory ground for repeated serious arrears. Where the tenant has been in at least 2 months’ rent arrears 3 times within the previous 3 years, the Court must make an eviction order. This will apply regardless of the arrears balance at the time of the hearing.
- b) A ground for landlords wishing to sell or move themselves (or their close family) into their rental property.
- c) Specific grounds for supported and temporary accommodation.

5. Only allow rent increases once per year. Landlords will only be permitted to increase rents once per year and must give a minimum notice of 2 months. The Bill seeks to end use of rent reviews or automatic rental increases which are vague and unconnected to the market.

Tenants will be given the confidence to challenge unjustified increases through the First Tier Tribunal. How this confidence is to be given remains unclear, however.

6. Ombudsman that all private landlords must join. Providing fair, impartial and binding resolution to many issues.

A new Private Renters’ Ombudsman will be introduced whose powers and decisions will be binding on all landlords. Membership will be mandatory.

The Ombudsman will have powers to compel landlords to “put things right”, either by way of apologies, remedial action or payment of compensation up to £25,000.

7. Targeting unacceptable delays in court proceedings. “Wide ranging reforms” are promised targeting areas that frustrate and hold up possession proceedings. Where the required financial and physical resource necessary to achieve this will come from is not specified in the Bill. There will not be a new housing court introduced. There is a wish to strengthen mediation services for landlords and renters to prevent avoidable evictions.

8. Introducing a new Property Portal. It will hold the information about landlord’s compliance at properties and is intended to assist landlords in understanding your responsibilities. It will be mandatory to join.

A new property portal will be introduced to assist landlords understand and demonstrate compliance with their legal requirements.

9. Strengthening local councils’ enforcement powers and ability to crack down on criminal landlords.

Civil Penalty Notices are set to be issued by local authorities to those who illegally evict or harass tenants; Rent Repayment Orders for breach of the DHS, tenant compensation through the Courts for breaches of the new regulations; restrictions on a landlord marketing or re-letting for three months following use of “moving” / “selling” grounds. Mandatory entries on to the ‘Rogue Landlord Database’

10. Legislation to make it illegal for landlords or agents to have blanket bans on renting to families with children or those in receipt of benefits.

11. Tenant’s right to request a pet, which landlords must consider and cannot unreasonably refuse. Pets will be permitted in rented accommodation, subject to the landlord requiring pet insurance covering damage to the property.

12. Monitoring development of solutions to passport deposits. This is aimed at helping tenants who struggle to raise a second deposit to move around the PRS more easily.