

Corporate Scrutiny Committee

14 November 2019

Report of the Assistant Director Partnerships

Report on the Impacts of the Private Sector Housing Enforcement Policy

EXEMPT INFORMATION

None

PURPOSE

The report provides an annual update on the impact of the Private Sector Housing Enforcement Policy approved by Cabinet on 7th September 2017.

RECOMMENDATIONS

This report is for information only and the Committee is asked to note its contents.

EXECUTIVE SUMMARY

Progress

At the time of approval, the Private Sector Housing Policies anticipated upcoming legislation in the Housing and Planning 2016 and stated our intention to use new powers and sanctions where appropriate, including the powers to issue Civil Penalties for certain breaches of the Housing Act 2004, and look to make use of banning orders and the Rogue landlord database. This legislation has now been enacted.

Our approach to these new provisions has not changed although we have not to date made any entries onto the database or been granted a banning order. There are only a small number of Authorities who have to date used these provisions.

Staff have attended and contributed to regional workshops run by Ministry of Housing, Communities and Local Government (MHCLG) where the effectiveness and reform of Private Sector Housing legislation is discussed. The ideas discussed here do seem to be assimilated into new Regulations coming forward.

The private sector housing functions are now undertaken within the Strategic Housing Team which is within the Partnerships Team. We are continuing to build stronger working relationships with all areas of the Council to promote the crucial role that safe and secure housing must play in the health and wellbeing of the local population and use the Enforcement Policy in line with other legislation and powers to affect the best possible outcomes.

Working across teams we have managed complaints about the physical conditions of a property / garden which do not meet the threshold to be considered a 'statutory nuisance' or are not 'filthy and verminous' but are causing alarm harassment and distress' and a Community Protection Notice (CPN) may be issued using the ASB, Crime and Policing Act 2014.

The team have also worked to in partnership to tackle ASB from tenants in Houses of Multiple Occupation (HMOs).

Daily the Strategic Housing Team offer advice and support to tenants, landlords, owner occupiers, agents internal and external partners. This has a significant impact with an average of some 20 interventions per week since November 2018.

Most of these interventions have been informal interventions. Interventions include advice around

- standards,
- disrepair,
- licencing,
- tenancy and eviction issues
- energy efficiency.

The team are currently working with the corporate communication team to seek to reduce service demand by increasing the information available to all parties on our webpages.

There have been 3 Prohibition Orders issued by the team this year which have all safeguarded vulnerable people in very dangerous living conditions.

The Housing and Planning Act 2016 extended mandatory licensing of Houses in Multiple Occupation (HMOs).

Since 1st October 2018 HMOs where 5 people live require a Licence. (The 3-storey rule was removed.)

Throughout this year this area of work has continued to be a major focus in relation to the Team's regulatory role.

There are now currently 71 fully licenced HMOs with 7 new applications currently being processed.

Despite the challenging stakeholders involved we have influenced landlords to licence eligible properties and our success in this has influenced and supported a neighbouring Council in its approach to landlords. The team have updated processes in response to best practice including requiring additional information from landlords relating to the 'fit and proper person' test and fire safety.

Would be/new HMO landlords continue to be offered significant levels of advice and support to try and ensure that they are aware of their obligations from the outset and the accommodation provided will be of a good standard.

Licensing of HMO's will remain a priority for the coming year.

Legislative Changes

Over the last year there have been a number of legislative changes enacted or implemented targeted at improving both physical conditions in the rental sector and increasing the rights of private tenants. Some of the changes are detailed below.

The Homes fit for Human Habitation Act 2018 became law in March 2019 and gave increased rights to tenants in both the private and socially rented sector around ensuring that all properties are safe and up to standard both at the commencement and throughout the life of the tenancy. The Act gives the tenants the rights to seek actions through the Courts should they feel their home is unfit.

This is a power for tenants and does not alter any existing local authority powers. . The Team is able to offer advice to tenants where possible to seek their own redress under the Act. Disrepair issues are also dealt with as appropriate under the Housing Act 2004 in parallel to any action being taken by the tenant.

The Tenant fees Act became law in June 2019. The Act aimed to drastically reduce the amount of money required from potential tenants in order to secure a tenancy. In short landlords and letting agents can only make certain charges permitted by the Act. These include the rent, and a deposit now capped at 5 weeks rent. The duty to enforce rests with 'local weights and measures' – Staffordshire County Council Trading Standards, although the team offers advice to tenants' landlords, and colleagues around the Act.

As the legislation does have implication for the validity of Section 21 notices, there may be an increased number of 'cases' in the next few months.

The Minimum Energy Efficiency Standards (MEES) became law in April 2018.

For new tenancies it has become unlawful to rent out a property unless it reached a minimum energy rating of E. (unless property is registered on the exemptions register).

From April 2020 all existing tenancies are included in this requirement. The standards should mean that homes are warmer, easier to heat, with lower running costs and CO2 emissions.

Staffordshire County Council Trading Standards enforce on MEES infringements, however the team educate and assist tenants, landlords and colleagues around the requirements of MEES.

Properties potentially breaching the Regulations are reported when inspection visits are undertaken either proactively for Housing Solutions or on disrepair inspections.

The Council continues to fund an active energy efficiency advice service HEAT, which we refer both landlords and tenants into. Currently the team is actively involved in the roll out of the Staffordshire Warn Homes fund, bringing first time gas central heating and other measures to homes in all tenures across the Borough.

There are currently approximately 50 households who have been qualified and deemed eligible for the installation of a gas supply, boiler and heating for the very first time.

In partnership with Lichfield District Council (LDC) the Council continues to facilitate a highly successful Landlords Forum. The Forum continues to grow and provide useful platform to both communicate with and educate local landlords. We encourage them to work with us in helping to get applicants to the Housing Solutions re-housed or lease a property to us and reducing the need for formal interventions. In agreement with our partners at LDC and the National Landlord Association (NLA) these formal forums have become six monthly. Smaller, more frequent local sessions are being considered with the aim to be able to offer smaller locally tailored meetings to local landlords where we can concentrate on targeted education and landlords being able to meet local staff for advice and 'troubleshooting' sessions.

The team remain focused on dealing with Rogue landlords where identified and improving property conditions in line with current and emerging legislation.

FINANCIAL IMPLICATIONS

The cost of the activities outlined above are met from existing budgets.

BACKGROUND INFORMATION

The Council has a range of responsibilities regarding Private Sector housing, as set out in legislation, regulation and directed by best practice guidance. This includes the Housing Act 2004, Housing and Planning Act 2016, Environmental Protection Act 1990 and Public health legislation.

The overall approach taken is in line with the principles outlined in the Regulators code to act with fairness, transparency and proportionality.

Wherever it is appropriate we aim to resolve issues informally by mutual agreement. If this informal approach is not appropriate or not effective, we will move to take formal action.

The Regulators Code was introduced by the Department for Business, Enterprise, Innovation and Skills back in 2014 as part of the drive from central government to deal with what was often portrayed as unnecessary and complicated red tape and burdensome regulation which worked against economic growth.

Regulators must have regard to the code and should carry out their activities in a way that supports those they regulate to comply and grow and they should choose

proportionate approaches to those they regulate, based on relevant factors including, for example, business size, capacity and culpability.

The Enforcement Policy is one of a number of policy documents approved by Cabinet on 7th September 2017 which set out the Council's overall approach to fulfilling our obligations in regulating and improving standards across private housing in Tamworth. The Enforcement Policy seeks to clarify for all parties including, tenants, landlords, agents and homeowners which services we offer and what we expect from them. It also clarifies the Council's approach to charging. The Council's approach is to work in partnership with all parties and to use formal sanctions only as a last resort. This aligns with good practice guidance and offers more opportunities for improved outcomes for all stakeholders.

REPORT AUTHOR

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Appendices

None at this time