

Report of the Strategic Director of Place to the meeting of Environment and Waste Overview and Scrutiny Committee to be held on March 27th 2018.

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Subject:

Energy efficiency in the private rented sector in the Bradford district

Summary statement:

This report provides an update for members on energy efficiency in the private rented sector in the Bradford district including an update on the impact of legislative changes.

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Overview & Scrutiny Area:

**Regeneration and Economy/Environment
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1. SUMMARY

This report provides an update for members on energy efficiency in the private rented sector in the Bradford district including an update on the impact of legislative changes.

2. BACKGROUND

2.1 The Environment and Waste Overview and Scrutiny Committee considered a report on energy efficiency in the private rented sector on April 18th 2017. At that meeting members requested that a further update report be presented to the Committee after a further 12 months.

2.2 The importance of decent homes that people can afford to live in is one of the six key objectives within the Council Plan. Addressing poor housing conditions contributes not only to the housing objective within the Council Plan but also more widely as:-

- Good quality housing attracts companies and workers - leading to an economically prosperous district
- Children and young people are better able to benefit from education if they are well housed – leading to a district of excellence in learning
- Good quality housing promotes community safety – leading to a safer place in which to live, work and play
- High quality, affordable, warm homes promote health and wellbeing – leading to a healthy district

2.3 In 2015 the Council commissioned a Stock Modelling assessment of housing conditions in the district. Conducted by the Building Research Establishment, the findings indicate that:

- The importance of the private rented sector in the district has grown significantly from 11% of housing (22,200 dwellings) in 2007 to 18% of housing (39,382 dwellings) in 2015.
- 8,291 (21%) of dwellings in the private rented sector have a Category 1 hazard
- The estimated cost of mitigating all hazards in the private rented sector is £19.8m
- 11% (4,452) of private rented dwellings have an Energy Performance Certificate (EPC) rating below Band E
- Fuel poverty affects 15% in the owner occupied sector, 28% in the private rented sector and 18% in social rented (10% income definition)
- The highest concentration of all HHSRS hazards and fuel poverty are found in the wards of City, Manningham and Bowling and Barkerend.

A comparison with the results from the previous Stock Condition Survey undertaken in 2007 indicates that there has been a slight improvement in property conditions but that there are still significant issues with property condition in the private sector and, in particular, the private rented sector.

The importance of addressing these poor conditions in order to create a good quality private rented sector for the District is recognised as a priority in the Council's "Housing and Homelessness Strategy for Bradford District - A Place to Call Home: 2014-2019".

- 2.4 The Housing Standards Team based within the Economy and Development service is a statutory service responsible for inspecting property in order to ensure compliance with various housing and other legislation. The service is largely reactive and particularly focuses on conditions in the private rented sector, although it does perform a number of statutory functions relating to statutory nuisance and filthy and verminous premises across all tenures.

The HST is also responsible for the administration and enforcement of the mandatory licensing scheme for Houses in Multiple Occupation (HMOs).

- 2.5 In 2016/17 the service received 1714 service requests, all of which related to housing condition, the majority of which were from the private rented sector. This represented a 21% increase in service requests when compared to 2015/16.
- 2.7 The main legislation enforced by the team is the Housing Act 2004. This legislation came into force in April 2006 and uses the Housing Health and Safety Rating System (HHSRS) as the prescribed method of assessing a house's condition. Under the HHSRS officers are required to ensure that each property is assessed against 29 separate hazards. Using the assessment tool hazards are categorised as either Category 1 or Category 2 hazards.
- 2.8 Under the Housing Act 2004 the Council must keep the housing conditions in their area under review and has a duty to remove Category 1 hazards where they exist.
- 2.9 The HHSRS is based on risk assessment and is not prescriptive. All 29 hazards in each property must be individually risk assessed, thus the outcome of the assessment between properties will vary.
- 2.10 In 2016/17 the most frequently scored hazards were Fire, Damp and Mould and Excess cold.
- 2.11 The Housing and Planning Act 2016 introduces a number of amendments to the Housing Act 2004. One of these amendments is to introduce a new section into the Act which establishes the legal basis for imposing civil penalties for specific offences under the Housing Act 2004.

A civil penalty is a financial penalty imposed by a Council on an individual or organisation as an alternative to prosecution. Under the above legislation the Council would be able to impose a civil penalty of up to £30,000 per offence for the following offences under the Housing Act 2004:

Section 30 – failure to comply with an improvement notice
Section 72 – mandatory licensing of Houses in Multiple Occupation (HMO)
Section 95 – licensing under Part 3 of the Housing Act 2004
Section 139 – failure to comply with an overcrowding notice
Section 234 – breach of management regulations in respect of HMO

In order to implement these new powers the Council had to first adopt and publicise its policy with regard to the use of civil penalty notices for these offences.

Implementation of these new powers also required the Council's Private Sector Housing Enforcement Policy to be amended.

The Council's Private Sector Housing Enforcement Policy was updated to include the Council's policy relating to Civil Penalty Notices and was agreed by Executive in November 2017.

2.19 Officers have been working with colleagues across West Yorkshire to agree a consistent approach across the sub region with regard to the enforcement approach to Civil Penalty notices for Housing Act offences and level of monetary fine. This is important due to the fact that property owners often operate across local authority boundaries.

2.20 From April 1st 2018, under the Energy Efficiency (Private Rented Property) Regulations 2015 (the Regulations), there will be a requirement for any properties rented out in the private rented sector to normally have a minimum energy performance rating of 'E' on an Energy Performance Certificate (EPC).

The regulations will come into force for new and renewals of tenancies with effect from 1st April 2018 and for all existing tenancies on 1st April 2020.

2.21 Under the Regulations there are a number of offences which range from an offence of registering any false or misleading information on the Private Rented Sector Exemptions Register to renting out a property with an EPC rating below 'E' for varying periods of time.

The Regulations set out the maximum level of fines/penalties that can be levied for the various offences but leave it to the discretion of the enforcing authorities to determine the level of fines in each case. There is a maximum level of penalty which applies to each property. This is set at £5,000.

2.22 When the Regulations were originally introduced responsibility for enforcement rested with the Weights and Measures authority. In West Yorkshire this would be West Yorkshire Trading Standards Service (WYTSS) rather than the Council. However the Regulations have since been amended such that enforcement responsibilities now appear to have been divided between WYTSS and the Local Authority, with responsibility for enforcement in domestic privately rented properties potentially now resting with the Local Authority.

There is some ambiguity relating to who the enforcing authority will be for domestic premises between the guidance issued by the Department for Business, Energy and Industrial Strategy (BEIS) and the Regulations themselves. Officers are seeking clarification on this.

2.23 On December 19th 2017 the Government launched a consultation on proposals to amend the Regulations that apply to domestic properties. A key proposal in this consultation is an amendment to the funding arrangements for the domestic minimum standard. The consultation proposal involves the removal of the 'no cost to the landlord' principle and the introduction of a 'landlord funding contribution' component which would take effect where a landlord is unable to obtain suitable third party funding. To protect landlords from excessive costs as a result of these proposed changes, the consultation proposes the introduction of a cost cap to limit the amount any landlord would need to invest in an individual property. The closing date for contributions to the consultation is March 13th 2018. The date for any decisions to be implemented following the consultation are not known.

2.24 Should the Local authority be confirmed as the enforcing authority for domestic premises, a number of tasks will need to be undertaken before the new duties relating to the Regulations can be enforced. These include:

- The Council's Private Sector Housing Enforcement policy would need to be amended.
- As with the levels of fine for Civil Penalty Notices and smoke detection it would be considered appropriate that officers work with colleagues across West Yorkshire to agree a consistent approach and to establish fine levels relating to these

Regulations as they will other new responsibilities still to be introduced under the Housing and Planning Act 2016.

3. OTHER CONSIDERATIONS

- 3.1 Research from the Energy Saving Trust in 2013 found that tenants in private rented housing are the least likely to benefit from the uptake of energy efficient, money saving upgrades to their homes through the Energy Company Obligation (ECO) scheme and various other initiatives that have operated over the past 14 years. This has also been the experience locally where it has been difficult to get uptake from the private rented sector for various energy related initiatives, especially where a customer contribution is required. A reason for this may be because it is unclear who is the main beneficiary of the work, i.e. is it the tenant who benefits from lower bills or the landlord whose property is improved.
- 3.2 It can be difficult for private landlords to establish a business case to justify investing in stock at the lower end of the PRS market, as it tends to provide low yield rents and any energy efficiency improvements in the property are unlikely to attract a higher rent or significantly increase the potential sale value. This is likely to be an issue in some parts of the Bradford District where there are the most significant levels of fuel poverty.
- 3.5 The HST has recently developed a new information page on the Council's "Stay Connected" service. This will be used to provide information and updates for landlords and tenants on a range of issues including new legal responsibilities and available initiatives.
- 3.6 Officers have worked on a regional basis to develop an Energy Repayment Loan (ERL) for owner occupiers to enable them to access energy efficiency schemes. This has been developed with and will be administered by the regional Homes and Loans service hosted at Sheffield City Council. This scheme can provide:
- an interest free loan secured on the property of between £300 to £5,000 to be repaid over a period of up to 5 years
 - loans would not be expected to normally be given where the total loan to value would exceed 70% of the property's unimproved value

These loans will be delivered by the Empty Homes and Loans team within the Housing Operations service at Bradford.

A similar product aimed at landlords has been developed although funding has not yet been identified to deliver loans to this user group. The Executive would also need to determine that the Council's Comprehensive Housing Renewal Policy should be amended to include this additional form of assistance before it could be made available.

The delivery of any scheme targeted at rented properties would need to be implemented carefully to ensure that it could be effectively delivered alongside the Council's other housing enforcement responsibilities.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 Additional resources will not be made available from central Government to implement the new and proposed statutory responsibilities. The Council can however retain any income generated from civil penalty notices that are paid provided that it is used to further the Local Authority's statutory functions in relation to their enforcement activities covering the private rented sector.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

No significant risks have been identified.

6. LEGAL APPRAISAL

- 6.1 There is some ambiguity relating to who the enforcing authority will be for domestic premises between the guidance issued by the Department for Business, Energy and Industrial Strategy (BEIS) and the Regulations themselves. Officers are seeking clarification on this.
- 6.2 Legal Services provide advice on the format of notices and procedures required to implement the new statutory responsibilities.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

The improvement of housing conditions in the District will have a positive impact on those groups and individuals who suffer multiple disadvantages associated with poor quality and inadequate housing.

7.2 SUSTAINABILITY IMPLICATIONS

The interventions that the Housing Standards team take to improve the quality of the private rented stock will help to create a more sustainable housing stock for the district.

The Housing service will continue to work with neighbouring Local Authorities and other regional partners to gather information and develop initiatives to tackle local and regional problems.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

Any work done to a domestic property to remove excess cold as a hazard or to improve its energy efficiency is likely to have the effect of reducing the domestic carbon emissions of that property (in addition to reducing the household's heating bills). This will contribute to meeting the District's Greenhouse Gas Emissions targets.

7.4 COMMUNITY SAFETY IMPLICATIONS

One of the hazards assessed by officers using the Housing Health and Safety Rating system (HHSRS) relates to entry by intruders. Where the hazard of entry by intruders has been identified in a home measures to address that hazard will be included in any action taken.

7.5 HUMAN RIGHTS ACT

No implications under the Human Rights Act have been identified.

7.6 TRADE UNION

No Trade Union implications have been identified.

7.7 WARD IMPLICATIONS

Housing Standards work is largely reactive and covers the whole District.

8. NOT FOR PUBLICATION DOCUMENTS

None.

9. OPTIONS

9.1 Option 1 – that the Committee note the report.

9.2 Option 2 – that the Committee note the report and request a further update on energy efficiency in the private rented sector in a further 12 months.

10. RECOMMENDATIONS

10.1 That the report be noted and a further update on energy efficiency in the private rented sector be presented in twelve months time.

11. APPENDICES

None.

12. BACKGROUND DOCUMENTS

None.