

DECISION-MAKER:	SCRUTINY INQUIRY PANEL
SUBJECT:	SOUTHAMPTON CITY COUNCIL'S APPROACH TO ENFORCEMENT OF THE PRIVATE RENTED SECTOR
DATE OF DECISION:	29 FEBRUARY 2024
REPORT OF:	SCRUTINY MANAGER

<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY

None

BRIEF SUMMARY

Following the cancellation of the 15 February 2024 meeting of the Inquiry Panel, at the fifth meeting of the inquiry the Panel will, in addition to the scheduled focus, be considering Southampton City Council's approach to enforcement of the private rented sector in the city.

RECOMMENDATIONS:

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| | (i) | The Panel is recommended to consider the comments made by the invited guests and use the information provided as evidence in the review. |
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REASONS FOR REPORT RECOMMENDATIONS

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| 1. | To enable the Panel to compile a file of evidence in order to formulate findings and recommendations at the end of the review process. |
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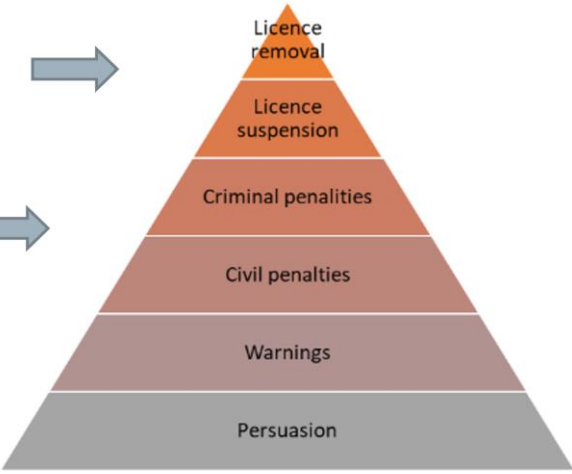
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

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| 2. | None. |
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DETAIL (Including consultation carried out)

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| 3. | At the 18 January 2024 meeting, when considering housing conditions within the private rented sector, the Inquiry Panel discussed local authority enforcement powers and examples of good practice. |
| 4. | At the 29 February meeting the Panel will be seeking to understand Southampton City Council's approach to enforcement of the private rented sector, any future plans to enhance enforcement, and to compare the Council's approach with identified best practice. |

Enforcement

5.	The Department for Levelling Up, Housing and Communities (DLUHC) sets the overall policy for the private rented sector and oversees the regulatory framework.
6.	Local councils are responsible for regulating the private rented sector in their area and enforcing landlords legal obligations. Councils choose how they regulate based on local priorities and have a range of investigative and enforcement tools available.
7.	<p>Legislation requires local authorities to:</p> <ul style="list-style-type: none"> • keep housing conditions (incl. overcrowding) under review • take enforcement action where a Category 1 hazard is identified.
8.	<p>To fulfil legal duties, local authority have wide enforcement powers including:</p> <ul style="list-style-type: none"> • formal “deterrence-focused” regulation i.e. statutory notices, civil penalty notices (up to £30K fines), banning orders, criminal penalties, and rent repayment orders. • other approaches i.e. surveys, licencing, informal actions. <p>Details of the enforcement powers available to local authorities can be accessed at paragraph 2.2 of the report published for the 16 November meeting of the Inquiry Panel - Appendix 2 - Briefing paper on local authority regulation of PRS.docx.pdf (southampton.gov.uk).</p>
9.	<p>In their presentation to the Inquiry Panel at the 16 November 2023 meeting, Expert Advisers to the Panel, Professor Helen Carr and Dr Mark Jordan, outlined what good local authority enforcement of the private rented sector looked like. This is represented in the graphic below.</p> <div data-bbox="1082 1189 1318 1240" style="text-align: right;">  University of Southampton </div> <h3 style="text-align: center;">What does good enforcement look like?</h3> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="width: 40%;"> <p>Full use of licencing & enforcement powers</p> <p>Following lack of compliance, response should escalate to formal action</p> <p>Advice, support as strategies of first choice</p> </div> <div style="width: 10%; text-align: center;"> <p>→</p> <p>→</p> <p>→</p> </div> <div style="width: 40%; text-align: center;">  <p><i>Pyramid of responsive regulation – Harris et al (2020)</i> 19</p> </div> </div>
10.	A study commissioned by DLUHC in 2021 to explore local authority enforcement in the private rented sector ¹ , found that the powers and enforcement measures

¹ [Local authority enforcement in the private rented sector: headline report - GOV.UK \(www.gov.uk\)](#)

	available to local authorities are valuable tools for tackling poor conditions in the private rented sector. However, the findings also identified that local authorities face significant barriers to tackling poor conditions, resulting in an uneven picture of enforcement.
	<u>Barriers to effective enforcement</u>
11.	The study commissioned for DLUHC identified a number of barriers to good enforcement by local authorities. These are summarised below.
	Lack of meaningful data about private renting
12.	Few local authorities participating in the study had sufficient, comprehensive knowledge of the local private rented stock to inform strategic decision making. Local authorities have a duty under Part 1 of the Housing Act 2004 to keep housing conditions under review and identify action needed, but local authorities were not always well informed about the private rented sector stock and only a small number carried out regular reviews of the stock.
	Capacity of local enforcement teams
13.	In the study there was a clear correlation between those working proactively, making use of the range enforcement tools and powers, and those with larger teams. The four most enforcement-led local authorities in the case study sample map directly onto the four local authorities with the largest teams.
14.	Enforcement teams are reliant on officers in other departments to progress certain aspects of their work (for example legal departments, revenue and benefits to pursue RROs, housing departments for management orders) and limited capacity in these teams was also found to limit what enforcement officers were able to do.
	The experience and expertise of enforcement teams
15.	The survey showed that local authorities that were most proactive in enforcement had teams comprised of highly experienced and qualified staff. These teams were also multi-disciplinary, including staff from other departments (trading standards, tenancy relations, legal) thereby enhancing the technical expertise overall.
	Political will, strategic commitment and related support of legal teams
16.	There was a clear correlation between local authorities with strategic or political commitment to improving private rented sector conditions through enforcement action, and those more operationally proactive in their efforts to do so. The support of senior managers and legal departments was found to be crucial to officers' ability to proactively enforce. These local authorities had explicit strategic commitment to tackling problems in the private rented sector, for example in their corporate strategy, and the link between strategic commitment and operational capacity was explicitly acknowledged
	Issues relating to the legal framework
17.	Various aspects of the legal framework were found to present challenges to local authorities in their efforts to enforce against poor standards. These include: <ul style="list-style-type: none"> • The number and range of laws that officers have to understand and navigate.

	<ul style="list-style-type: none"> • ‘Alignment’ issues between legislation in different disciplines of relevance to enforcement. • Lack of clarity in some legislation about which local authority department has responsibility to take action. • Questions about whether the HHSRS was the most effective way of assessing and tackling poor standards. • Not having the right legislative tools for tenancy relations offences.
18.	The study concluded that, with some notable exceptions and pockets of good practice, the barriers identified above, and other challenges, appear to leave many enforcement teams operating a reactive, rather than proactive service that is focused on fulfilling statutory duties and targeting only the worst standard properties. Addressing these barriers is likely to result in increased and more effective action to improve conditions and standards in the private rented sector.
	Renters (Reform) Bill
19.	The Renters (Reform) Bill is currently working its way through Parliament ² and will legislate for reforms set out in the private rented sector white paper published in June 2022.
20.	Local authorities will be given new enforcement powers to require landlords to make properties decent, with fines up to £30,000 or a banning order in the worse cases. Tenants will also be able to claim up to 24 months rent back through rent repayment orders up from 12 previously.
21.	Councils will also be given stronger powers to investigate landlords who rent substandard homes, providing them with tools to identify and take enforcement action against the criminal minority.
22.	However, with additional powers, and the removal of some of the identified barriers, the Government expects councils to prioritise private rented sector enforcement and the Renters (Reform) Bill includes a duty that local housing authorities shall ‘enforce the landlord legislation in its area’. National oversight of local councils enforcement is expected to be bolstered, including by exploring requirements for councils to report on their housing enforcement activity.
23.	Analysis provided by the Panel’s Expert Advisers, Professor Carr and Dr Jordan, at the 18 January 2024 meeting of the inquiry ³ , identified that the Renters Reform Bill is likely to have significant regulatory and resource implications for local authorities.
24.	<p>The recommendation from Professor Carr and Dr Jordan was that local authorities needed to adopt a more proactive and responsive regulatory approach which can:</p> <ul style="list-style-type: none"> • Demonstrate compliance • Develop novel data led enforcement practices - Eg NHS hospital admissions data and Indices of Multiple Deprivation data can be mapped onto housing conditions survey to target enforcement. <p>Regular housing stock condition surveys were also recognised as integral to a successful approach to enforcement.</p>

² [Renters \(Reform\) Bill - Parliamentary Bills - UK Parliament](#)

³ [Regulation of housing conditions in PRS - Prof Carr and Dr Jordan \(slide 9\)](#)

	<u>Good enforcement practice – Local authorities</u>
25.	At the 18 January 2024 meeting the Panel were appraised of a number of different approaches employed by local authorities that had been identified as good practice as it relates to enforcement of the private rented housing sector. These included the following:
	The Leeds Rental Standard
26.	The Leeds Rental Standard is a badge developed by Leeds City Council that: <ul style="list-style-type: none"> • Establishes an overarching minimum standard for privately rented accommodation across the city • Aims to bring unity to accreditation • Raises the standards in professional and student lets in the city.
27.	The Leeds Rental Standard operates under the following existing schemes: <ul style="list-style-type: none"> • National Residential Landlords Association Accreditation Scheme • Unipol Code (unipol.org.uk) • ANUK / Unipol National Code (for larger student developments)
28.	Leeds City Council supports and partly funds the Leeds Rental Standard scheme in partnership with the other accrediting organisations - Unipol Student Homes and the National Residential Landlords Association.
29.	Leeds City Council want the Leeds Rental Standard to result in lighter touch regulation allowing the local authority to concentrate their regulatory resources on those that showed no sign of meeting standards voluntarily.
	The Good Landlord Charter – Greater Manchester Combined Authority
30.	Greater Manchester Combined Authority’s proposed Good Landlord Charter ⁴ is a voluntary scheme for landlords who want to commit to higher standards than they are currently required to by law. The scheme represents an instance of good practice in how it was designed with effective participation of landlords associations, tenant unions ie Greater Manchester Tenants Union (GMTU) and other stakeholders which acted as members of the coordinating group.
31.	To become a member of the Charter, landlords are required to demonstrate they meet twenty member criteria, which are specific commitments to going beyond the minimum required by law and include the following examples: <ul style="list-style-type: none"> • Affordable – e.g. a tenant should understand how their rent and other charges are set and should not be ripped-off. • Inclusive – e.g. make or facilitate reasonable adaptations to properties, where needed • Private and secure – e.g. tenants able to make reasonable changes to their home • Responsive – e.g. published, timely target response times • Safe and decent – e.g. a tenant should be able to live free from physical or psychological discomfort in their home, any work/repairs are done by a

⁴ <https://www.greatermanchester-ca.gov.uk/what-we-do/planning-and-housing/good-landlord-charter>

	<p>qualified or competent tradesperson, properties meet EPC C as a minimum</p> <ul style="list-style-type: none"> • Supportive – e.g. a commitment to refer tenants at risk of homelessness to council • Well managed – e.g. landlord must be able to demonstrate accreditation or training.⁵
	Selective Licensing in the London Borough of Newham
32.	<p>Cllr Shaban Mohammed and Helen Masterson, Head of Private Sector Housing Standards at the London Borough of Newham, delivered a presentation at the 18 January Inquiry Panel meeting on Newham’s selective licensing scheme.</p> <p>LB Newham - Selective licensing</p>
	Selective Licensing in Nottingham⁶
33.	<p>Nottingham City Council’s Selective Licensing scheme began in August 2018 and is aimed at tackling poor property conditions, high levels of antisocial behaviour, crime, and deprivation. To date, the Council’s team of 75 officers has received over 29,000 applications. The provision of advice to licence holders and compliance inspections led to approximately 25% of properties being improved.</p>
34.	<p>The Council has also had success in finding unlicensed properties and taking enforcement action against owners who don’t comply. They have issued 47 Civil Penalty Notices and 13 landlords have been prosecuted for 49 offences at 30 properties, 27 of these relate to Selective Licensing. This has helped the team to secure 1,305 licence applications from previously unlicensed properties. The scheme also led to a reduction in the proportion of privately rented homes with EPC energy rating below ‘D’ from 25.9% to 15.6%.</p>
35.	<p>To support landlords, the Council also offers a lower Selective Licence fee for accredited landlords through partners Decent and Safe Homes (DASH) and Unipol. This has seen the number of accredited landlords rise from 650 to 1,715 (January 2022). Approximately a third of all individually licensed properties are now accredited, with these landlords letting over 8,300 properties (January 2022), up from 3,917 in 2018.</p>
36.	<p>Results from the survey commissioned by DLUHC in 2021⁷ suggested that selective licensing is not widespread, with 88% of survey respondents reporting no selective licensing areas. Selective licensing was reported by case study local authorities to be essential to efforts to tackle poor standards, with one authority going as far as to suggest that ‘I don’t think we have the tools without licensing’. Selecting licensing is not appropriate for local authorities where problems are not concentrated, but a sizeable minority of case study local authorities reported that selective licensing would help them tackle poor standards but had not been pursued.</p>
	Information, advice and guidance – Exeter City Council
37.	<p>The Pyramid of responsive regulation, shown in paragraph 9, has advice and support as the strategies of first choice. Information, advice and guidance is key</p>

⁵ <https://www.greatermanchester-ca.gov.uk/media/9125/good-landlord-charter-consultation.pdf>

⁶ Case study included in [A fairer private rented sector print.pdf \(publishing.service.gov.uk\)](#) – p51

⁷ [Local authority enforcement in the private rented sector: headline report - GOV.UK \(www.gov.uk\)](#)

	to increasing landlords and tenants understanding of their rights, responsibilities, and to identify and promote good practice.
38.	The approach followed by Exeter City Council to educate and inform both landlords and tenants via checklists and training modules is both comprehensive and clear and can be accessed via the links below: Private Tenants' Checklist - Exeter City Council Landlord Checklist - Exeter City Council Landlord training modules - Exeter City Council
	<u>Enforcement in Southampton</u>
39.	Southampton City Council's Private Rented Sector Enforcement Policy is attached as Appendix 1.
	HMO Licensing and Additional Licensing Scheme
40.	At the 16 November meeting of the Inquiry Panel, Southampton City Council's Private Sector Housing Manager referred to the Council's HMO Licensing and Additional Licensing Scheme.
41.	There are approximately 6,000-7,000 HMOs in the city. The Council has a statutory duty to licence all HMOs occupied by five or more persons in two or more separate households.
42.	In the city we have approximately 2,500 of these Mandatory HMOs, which require licensing every five years. All licensed HMOs must meet certain conditions concerning safety and amenities and be properly managed so as to ensure that they do not impact negatively on the local neighbourhood. Failure to licence and failure to comply with conditions are offences which can result in enforcement.
43.	Southampton City Council has also operated additional HMO licensing schemes in certain wards within the city. Additional licensing schemes allow SCC to licence smaller HMOs, and 'cluster flats within purpose-built student blocks not captured by the Mandatory scheme.
44.	Schemes have covered the four central wards of Bevois, Bargate, Portswood and Swaythling and also the western wards of Shirley, Freemantle, Bassett and Millbrook.
45.	Additional licensing schemes have captured another 2,500 HMOs across the city. These schemes can only run for five years and run on a 'cost recovery' basis. The most recent scheme covering the central wards ended on September 30 th 2023.
	Context – Conditions in the private rented sector in Southampton
46.	The details below about housing conditions within Southampton's private rented sector provides some context to the discussion about the Council's approach to enforcement in the private rented sector.
47.	The most reliable source of data on housing conditions is the local authority housing stock condition survey. This is vitally important in developing a scientific basis for understanding housing conditions and targeting enforcement action in a proactive and structured fashion. The most recent Southampton Council housing stock condition survey (2008) found that 38% of all private homes

	(owned and rented) in Southampton did not meet the Decent Homes Standard while 25% of private rented dwellings had a hazard that is likely to result in harm that needs medical treatment. ⁸																														
48.	Analysis of Southampton’s Tenants Survey ⁹ , conducted in October 2023, identified that over half (59%) of respondents said that they had experienced issues with repairs or maintenance with their landlord.																														
49.	<p>Respondents were also asked if they have ever reported problems about the condition of their home to their landlord. The response is identified below:</p> <table border="1"> <thead> <tr> <th>Issue</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>Damp/mould</td> <td>48%</td> </tr> <tr> <td>Plumbing issues</td> <td>43%</td> </tr> <tr> <td>General/continuous state of disrepair</td> <td>37%</td> </tr> <tr> <td>Broken boiler</td> <td>30%</td> </tr> <tr> <td>Poor insulation (e.g. windows, walls)</td> <td>25%</td> </tr> <tr> <td>Broken windows (e.g. broken glass, closing mechanism)</td> <td>23%</td> </tr> <tr> <td>Roof issues (e.g. leaks)</td> <td>21%</td> </tr> <tr> <td>Poor ventilation</td> <td>20%</td> </tr> <tr> <td>Poor quality heating (e.g. old storage heaters)</td> <td>19%</td> </tr> <tr> <td>Not reported any of these</td> <td>17%</td> </tr> <tr> <td>Insect infestation</td> <td>12%</td> </tr> <tr> <td>Unsafe/exposed wiring</td> <td>10%</td> </tr> <tr> <td>Leaking radiators</td> <td>7%</td> </tr> <tr> <td>Other</td> <td>7%</td> </tr> </tbody> </table> <p>Key findings</p> <ul style="list-style-type: none"> Just under half (48%) of respondents have reported issues with damp or mould to their landlord 17% of respondents did not report any of the listed issues to their landlord <p>Source – Southampton Private Rented Sector Survey</p>	Issue	Percentage	Damp/mould	48%	Plumbing issues	43%	General/continuous state of disrepair	37%	Broken boiler	30%	Poor insulation (e.g. windows, walls)	25%	Broken windows (e.g. broken glass, closing mechanism)	23%	Roof issues (e.g. leaks)	21%	Poor ventilation	20%	Poor quality heating (e.g. old storage heaters)	19%	Not reported any of these	17%	Insect infestation	12%	Unsafe/exposed wiring	10%	Leaking radiators	7%	Other	7%
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50.	Of those who reported, 83% have reported issues about the condition of the property to their landlord. Damp or mould (48%), plumbing issues (43%) and general state of disrepair (37%) were the 3 most commonly reported problems.																														
	Invited Guests																														
51.	<p>To provide context to the information above, the key presenter at the 5th meeting of the Inquiry Panel to consider the enforcement of the private rented sector in Southampton will be:</p> <ul style="list-style-type: none"> Steven Hayes-Arter - Service Manager for Private Sector Housing & Port Health at Southampton City Council <p>Steven has been asked to:</p> <ul style="list-style-type: none"> Outline the Council’s approach to enforcement of Southampton’s private rented sector. Summarise the HMO Licensing Scheme and Additional Licensing Schemes employed in Southampton and the effectiveness of the schemes. 																														

⁸ Southampton City Council, Housing and Health in Southampton Report available at <https://www.southampton.gov.uk/moderngov/documents/s26558/Appendix.pdf> p 38. Also see [https://www.seeda.co.uk/publications/Addressing Poor Housing Conditions in the Private Sector in the South East 2006 1 2006.pdf](https://www.seeda.co.uk/publications/Addressing_Poor_Housing_Conditions_in_the_Private_Sector_in_the_South_East_2006_1_2006.pdf)

⁹ [Southampton Private Rented Sector Tenants Survey](#)

	<ul style="list-style-type: none"> Identify opportunities to improve the approach employed by the Council to enforcement of the private rented sector. <p>In addition, Southampton Tenants Union and representatives from Landlord Organisations have been invited to provide a perspective on the Council's approach to enforcement in the private rented sector.</p>
52.	<p>The invited guests will take questions from the Panel relating to the evidence provided. Copies of any presentations will be made available to the Panel and will be published on the Inquiry Panel's pages on the Council website:</p> <p>Browse meetings - Scrutiny Inquiry Panel - How do we get a better deal for private sector renters in Southampton? Southampton City Council.</p>

RESOURCE IMPLICATIONS

Capital/Revenue/Property/Other

53. Resources to support the scrutiny review will come from existing budgets.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

54. The duty to undertake overview and scrutiny is set out in Part 1A Section 9 of the Local Government Act 2000.

Other Legal Implications:

55. None

RISK MANAGEMENT IMPLICATIONS

56. None

POLICY FRAMEWORK IMPLICATIONS

57. None

KEY DECISION?

No

WARDS/COMMUNITIES AFFECTED:

None

SUPPORTING DOCUMENTATION

Appendices

1. Southampton City Council's Private Rented Sector Enforcement Policy

Documents In Members' Rooms

1. None

Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out?

No

Data Protection Impact Assessment

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out?

No

Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential
1.	None