

OVERVIEW & SCRUTINY COMMITTEE

CHAIRMAN: Cllr Mike Haines

DATE: 27th September 2018

REPORT OF: Private Sector Housing Team Manager

SUBJECT: Housing enforcement and improving the private rented sector

PART I

RECOMMENDATION

That members note the content of this report and the actions being taken to improve housing conditions in the private rented sector in Teignbridge.

1. PURPOSE

To update members on recent changes to legislation in relation to the private rented sector and to advise members of our recently launched Property Agents Rating Scheme (PARS).

2. BACKGROUND

In the 2011 Census, Teignbridge reported over 9,000 (16%) homes in the private rented sector. Teignbridge also has a low level of social housing stock, 9% compared to England's 18%, so it is increasingly important that we work with private landlords, letting agents and developers to increase the supply of good quality rental accommodation for our residents.

Over 2,000 (19%) households in the private rented sector are living in homes with at least one category 1 hazard, with over 1,000 households living in a cold home. Approximately 1,600 (14%) of households are living in fuel poverty.

The legislation in relation to the private rented sector is complex and recent years have seen an increase in the regulation of this sector.

Teignbridge Housing enforcement policy (approved by members on 3rd October 2017) <https://www.teignbridge.gov.uk/media/6066/171101-housing-enforcement-policy-2017-master-v4.pdf> introduced civil penalties of up to £30,000 as an alternative to prosecution for certain specified offences and the extension of rent repayment orders to cover illegal eviction, breach of a banning order and certain other specified offences.

In accordance with the policy, the Council will initially work informally with a landlord to secure improvements to a property. However where a landlord is unwilling to carry out the necessary identified works, a formal approach is taken with the serving of an appropriate notice. Over the last 2 years, 74 notices have been served. We have successfully prosecuted a landlord who did not comply with a notice securing a fine of £1,000 plus costs and victim surcharge, as well as successfully defending an appeal to the First Tier tribunal. 216 properties have been improved as a result of the action of enforcement work and 488 category 1 and high-scoring category 2 hazards have been remedied.

The following changes to legislation should be noted:

HMO licensing

Houses in multiple occupation (HMOs) form a vital part of the private rented sector, often providing cheaper accommodation for people whose housing options are limited. Some HMOs are occupied by the most vulnerable people who live in properties that were not built for multiple occupation, and the risk of overcrowding and fire can be greater than with other types of accommodation.

The Housing Act 2004 introduced licensing of larger HMOs that are 3 or more storeys and occupied by 5 or more persons forming at least 2 separate households, with some sharing of facilities.

From October 2018 this has been extended so that smaller properties used as HMOs will require a license (i.e. the number of storeys has been removed).

Liaising with Devon and Somerset Fire and Rescue Authority, there are currently 15 HMOs which hold a mandatory licence. It is anticipated that a further 20 properties will need to be licensed and applications received to date are currently being processed. It is anticipated that this will raise an income of approximately £11K to administer the applications.

Minimum Energy Efficiency standard

From April 2018, The Energy Efficiency (Private rented Property) (England and Wales) Regulations 2015 has made it unlawful to let a residential property with an Energy Performance Certificate (EPC) rating of 'F' or 'G'. This will only initially apply to new tenancies but from April 2020 it will apply to all tenancies even when there has been no changes in tenancy arrangements. A landlord can register an exemption which can include reasons such as the following

- "No funding" exemption
- 7 year payback exemption
- All improvements made exemption
- Consent exemption
- Devaluation exemption
- New landlord exemption (only lasts 6 months)

We have advised landlords and agents of these changes through our landlord's newsletter and have been actively promoting financial assistance for landlords through the Help to heat scheme. This scheme is funded through the Energy Company Obligation (ECO) flexible eligibility criteria which is supported by the local

authority identifying householder most in need through our statement of intent (<https://www.teignbridge.gov.uk/media/6799/180418-statement-of-intent-eco-flexible-eligibility-v4.pdf>). Teignbridge Council has supported 50 landlords in the provision of either new/improved heating and/or insulation. This funding stream is currently moving into a new phase (ECO3) and the funding for landlords will no longer be available for 'F' and 'G' rated properties, placing the onus back on landlords to improve the energy rating of their property.

Where the property is occupied by a vulnerable tenant, through recent changes to the loan and grants policy, the Council may be able to assist in the improvement of energy efficiency measures, financially supported by the Better Care funding allocation.

Through the Property Agent Rating Scheme (PARS), discussed below, we will be taking action to ensure that properties with an EPC rating of 'F' or 'G' are not let and that landlords are directed to appropriate funding streams, where available to improve these properties. Formal action will be taken where necessary.

Banning Orders and Rogue landlords

Banning orders are aimed at rogue landlords who flout their legal responsibilities and who rent out accommodation that is substandard. It has regard to the seriousness of the offence and previous convictions/rogue landlord database.

The database of rogue landlords is a new tool for local authorities to keep track of rogue landlords in England. In determining the decision to include a landlord on the register the Council must have regard to the severity of the offence, mitigating factors, culpability and serial offending and deterrent to repeat offending.

Property Agent rating scheme

In September 2018, the Council launched the Property Agent Rating Scheme (PARS), a scheme similar to the Food hygiene rating scheme. Co-designed with letting/managing agents, landlords, landlord associations and other professionals associated with the letting business, to help landlords and tenants, this scheme is a means of ensuring that all letting agents and property managers comply with letting related legislation, creating a fair playing field across the industry. As well as reassuring landlords that their business is being handled professionally it will also help improve conditions and safety in rental properties.

There are four potential ratings ranging from bronze, which is the minimum rating, up to platinum. To achieve a bronze standard this is still identified as 'good' and means the agent meets all current letting relating legislation. Achieving a silver means that the agent also offers good practise, gold rated agents go the extra mile offering enhanced service, with platinum agents being members of a regulatory body, i.e. ARLA as well as encouraging online reviews from tenants and landlords regarding their service.

Training on housing conditions has supported agents on this scheme empowering them to identify hazards and work with the landlord to improve housing conditions

prior to letting ensuring that properties are safe and secure before occupation. By investing in this training it is anticipated that this will release Officer time to deal with those agents and landlords who blatantly do not comply with the legislation.

There is currently no overarching regulation of letting agents or property managers. We estimate that there are approximately 40 letting/managing agents operating in the Teignbridge area dealing in the region of 4000 properties. To date 15 applications have been received for this scheme and whilst the scheme is not mandatory we will be assessing all agents to ensure compliance with the bronze level and taking appropriate action where agents falls short of this level.

3. CONCLUSION

A recent University of York report “The Evolving Private Rented Sector: Its contribution and Potential”; Julie Rugg and David Rhodes has stated that the private rented sector is “confused and contradictory” and “failing at multiple levels” calling for the introduction of a register for both letting agents and landlords, as well as a new property MOT. Teignbridge District Council continue to use the current legislation to improve the private rented sector and it is anticipated that with the introduction of the PARS scheme, further improvements will be made to this sector.

Alison Dolley
Private Sector Housing Team Manager

Wards affected	<i>All</i>
Contact for any more information	<i>Alison Dolley</i>
Background Papers (For Part I reports only)	<p><i>Housing enforcement policy</i> https://www.teignbridge.gov.uk/media/6066/171101-housing-enforcement-policy-2017-master-v4.pdf</p> <p><i>Local Authority Statement of Intent</i> https://www.teignbridge.gov.uk/media/6799/180418-statement-of-intent-eco-flexible-eligibility-v4.pdf</p> <p><i>The Evolving Private Rented Sector: Its contribution and Potential”; Julie Rugg and David Rhodes</i> http://www.nationwidefoundation.org.uk/wp-content/uploads/2018/09/Private-Rented-Sector-report.pdf</p> <p><i>Housing Grants and loan policy</i> https://www.teignbridge.gov.uk/media/7317/housing-grant-and-loan-policy-v4.pdf</p>
Key Decision	<i>No</i>
In Forward Plan	<i>No</i>
In O & S Work Programme	<i>Yes</i>