

For publication

Private Sector Housing Report 2022 (incorporating EPC and HMO Amenities and Space Standards)

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| Meeting: | Cabinet |
| Date: | 19 July 2022 |
| Cabinet portfolio: | Housing |
| Directorate: | Housing |
| For publication | |

1.0 Purpose of the report

- 1.1 To consider and approve key policies that will enable the Private Sector Housing Team to continue to proactively maintain and improve private stock within the borough.

2.0 Recommendations

- 2.1 That Cabinet notes the update on the activities of the private sector housing team during 2021/22.2.2
- 2.2 That Cabinet approves the Private Sector Housing Energy Performance Certificate policy.
- 2.3 That Cabinet approves the Private Sector Housing Amenities and Space Standards policy.
- 2.4 That Cabinet approves delegated authority for the Service Director – Housing in consultation with the Cabinet member for Housing, to agree minor policy adjustments in between review periods.

3.0 Reason for recommendations

- 3.1 In April 2021 Cabinet approved the Private Sector Housing Action plan. This report provides an update of the activities of the team during 2021/22 and gives further details on additional and revised policies which will enable the Private Sector Housing Team to continue to work proactively with those landlords willing to comply with housing legislation and actively regulate non-compliant landlords

4.0 Report details

4.1 Present situation

4.1.1 The number of privately rented households across the country has increased over the last 20 years, from a total of just over two million households in 2000 to a total of 4.43 million households as of 2021. Whilst the quality of privately rented housing has also improved rapidly over the past decade, a small number of rogue or criminal landlords knowingly rent out unsafe and substandard accommodation. It is these landlords that Government and local authorities are determined to crack down on and disrupt their business model.

4.1.2 In 2019 Chesterfield Borough Council took part in a joint Housing Stock Condition Survey, hosted by Derby City Council and Derbyshire County Council and including all the District/Boroughs. The stock condition report found that in Chesterfield, approximately 23% (8956) of private homes failed to meet the decency standard. Finding that more privately rented homes failed the decency standard (29.0%), compared to the proportion of owner occupied homes (22.5%). These findings reflecting national trends and correlations against poor housing conditions and deprivation. This data highlights the importance of a robust approach to enforcement of landlords who rent out poor quality housing.

4.1.3 The Council has an overarching Housing Strategy which aims to enhance Chesterfield's housing offer so that anyone wishing to live in Chesterfield can live in a quality home they can afford.

4.1.4 The Council has in place an existing Private Sector Housing Enforcement Policy. The Private Sector Housing Enforcement Team actively enforce against private landlords whose accommodation falls below the required standard and in recent years the team have achieved a good record of successfully prosecuting rogue landlords.

4.1.5 The previous Private Sector Housing cabinet report in 2021 highlighted the lack of resources within the Private Sector Housing Team and Cabinet approved the recruitment of two additional officers into the Private Sector Housing Team. We have successfully recruited into the Senior Environmental Health Officer role and are really benefiting from the expertise that officer brings to the team. The Empty Homes Officer role will be advertised shortly as part of the ongoing Housing reshape which will offer staff within the department the opportunity apply for this exciting opportunity.

4.2 New Policies

4.3 Energy Performance Certificate Policy.

4.3.1 The Energy Performance of Buildings (England and Wales) Regulations 2012 have been introduced to ensure landlords have a valid EPC certificate. This

legislation has been delegated down to all Derbyshire Districts and Boroughs from Derbyshire County Council Trading Standards legislation to enable Districts to enforce alongside The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015. This legislation has been introduced to tackle the least energy efficient properties and requires that all privately rented properties have at least an E rated EPC, ensuring a minimum level of thermal efficiency.

- 4.3.2 The EPC policy sits under the Private Sector Housing Enforcement Policy which sets out the Councils approach to Private Sector Housing enforcement in a clear and transparent way.
- 4.3.3 Both Chesterfield Borough Council and Government share the desire to improve domestic energy efficiency and contribute towards the reduction of carbon emissions and greenhouse gases, with the aim of helping to reduce the effects of global warming.
- 4.3.4 Ensuring that all privately rented properties have at least an E rated EPC will help to lower demand for energy thereby contributing towards the smoothing of seasonal peaks in energy demand. It will also help tenants, many of whom are fuel poor, to better manage their energy costs.
- 4.3.5 Improving the energy efficiency of homes and ensuring that they are warm and free from hazards will help to contribute to an improvement in the health and wellbeing of residents. This will, in turn help to reduce the amount of clinical interventions required for cold and damp related health conditions
- 4.3.6 The EPC policy sets out the options available to landlords to achieve compliance and the financial penalties available to the council where landlords fail to engage and do not comply with legal requirements.

4.4 Houses In Multiple Occupation (HMO) Amenities and Space Standards Policy.

- 4.4.1 Local authorities are responsible for ensuring that the number and location of washing, cooking and toilet facilities and sizes of bedrooms and kitchens in houses in multiple occupation (HMOs) are reasonably suitable for the number of people living in them.
- 4.4.2 Houses in multiple occupation (HMOs) are houses or flats that are occupied by more than one household. Some of these buildings have shared facilities such as kitchen and bathrooms. It is recognised that these types of properties are often occupied by the most vulnerable residents in the Borough.
- 4.4.3 The Private Sector Housing Team, have until now been guided by specific standards prescribed by legislation and also Chesterfields locally applied standards. These standards assist in deciding whether an HMO is suitable,

what if any additional amenities are required and advise landlords of what is expected of them.

- 4.4.4 From 1 October 2018, Government extended the scope of licensable HMO's, to include all HMOs occupied by 5 or more people usually sharing an amenity, regardless of the number of storeys. It has also introduced new national minimum room size standards for sleeping accommodation and a specific requirement to comply with councils' household waste storage and disposal schemes.
- 4.4.5 Government guidance issued at the same time, also empowers local authorities to set their own standards, which may be higher than the statutory minimum, but cannot be of a lower standard.
- 4.4.6 With the introduction of the new legislation, Chesterfield Borough Council's existing locally agreed standards need to be refreshed.
- 4.4.7 These local standards should be interpreted as guidance to landlords, as to what the local authority is likely to consider reasonable for the number of people occupying an HMO taking account of property type and layout.
- 4.4.8 The standards also provide the Council with a suitable benchmark when setting amenity requirements in HMOs. This should ensure consistency and avoid exposing the Council to potential challenge in court and subsequent costs, should a landlord be successful in proving that requirements are not being applied consistently across the borough.

5.0 Alternative options

- 5.1 Not to approve the recommendation to adopt the Private Sector Housing report, EPC Policy and HMO Amenities and Space Standards. This will undermine the Council's efforts to tackle rogue landlords operating within the borough and may also mean that tenants remain living in poor quality privately rented housing.

6.0 Implications for consideration – Financial and value for money

- 6.1 Enforcement of the policies may have cost implications in relation to Private Sector Housing officer time and Legal services in relation to support provided for any legal action the team may take as a result of the policies.
- 6.2 It is proposed to charge non compliant landlords the maximum permissible penalty for non compliance. In respect of the The Energy Performance of Buildings (England and Wales) Regulations 2012, the maximum fine is £200. The fines relating to non compliance with the The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 are:

| Breach | Penalty |
|--|---|
| Letting a sub-standard property for less than 3 months | up to £2,000 plus a publication penalty |
| Letting a sub-standard property for 3 months or more, | up to £4,000 plus a publication penalty |
| Registering false or misleading information on the PRS Exemptions Register, | up to £1,000 plus a publication penalty |
| Failing to comply with compliance notice | up to £2,000 plus a publication penalty |
| Maximum cumulative penalty to be applied against an individual property (NB This penalty can be repeated if the property remains sub- standard and is let on a new tenancy. | up to £5,000 |

6.3 Whilst the cost of enforcement is acknowledged, the fee income received by the council in relation to enforcement should offset some costs.

7.0 Implications for consideration – Legal

7.1 The Energy Performance of Buildings (England and Wales) Regulations 2012 has been delegated down to all Derbyshire Districts and Boroughs from Derbyshire County Council Trading Standards legislation to enable Districts

7.2 The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, places a duty upon the Council to enforce the minimum requirements of the regulations.

7.3 The Amenities and space standards are not a legislative requirement placed on Councils, however, Government does give Local Authorities the ability to put in place their own locally approved standards.

8.0 Implications for consideration – Human resources

8.1 The implementation of the new policies will be met within existing resources within the Private Sector Housing Team.

9.0 Implications for consideration – Council plan

9.1 The policy will be instrumental in delivering the following Council Plan objectives:

- i. Improving quality of life for local people

- ii. Identify and reduce the number of poor quality, private sector houses

10.0 Implications for consideration – Climate change

10.1 The occupants living in privately rented properties that are in breach of the EPC regulations are very often the most vulnerable in our society and those who are also living in fuel poverty. The enforcement of the EPC policy will help vulnerable occupants to occupy homes that are more thermally efficient and will also help reduce the carbon footprint across the borough.

11.0 Implications for consideration – Equality and diversity

Initial equalities impact assessment has been carried out on the policies and no negative impacts for protected groups have been identified.

12.0 Implications for consideration – Risk management

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| Description of the Risk | Impact | Likelihood | Mitigating Action | Impact | Likelihood |
|--|--------|------------|---|--------|------------|
| Increased enforcement of Private Sector Housing could drive landlords out of the market. | L | L | The 2019 Stock Condition Survey highlighted that there were already 8956 homes in the private sector that failed to meet the decency standard. whilst the majority of landlords do comply with new regulations, it is acknowledged that a minority will not, which may on a short term basis reduce the pool of privately rented properties. The PSH Teams priority is to ensure compliance through education. Enforcement is only used as a last resort and only in relation | L | L |

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| | | | to the worst housing stock in the borough. | | |
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Decision information

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| Key decision number | All key decisions must be in the Forward Plan at least 28 days in advance. There are constitutional consequences if an item is not in the Forward Plan when it should have been. Contact Democratic Services if in doubt. |
| Wards affected | All Wards |

Document information

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| Report author | |
| Sarah Watts Private Sector Housing Manager | |
| Appendices to the report | |
| Appendix 1 | EPC Policy |
| Appendix 2 | Amenities and Space Standards Policy |