

Sustainable Communities Overview & Scrutiny Panel

Date: 2 November 2020

Agenda item:

Subject: Support to Private Rented Sector Tenants

Lead officer: Steve Langley, Head of Housing Needs

Lead member: Councillor Martin Whelton, Cabinet Member for Regeneration, Housing and Transport.

Contact officer: Steve Langley, Head of Housing Needs

Recommendations:

A. No decision will be required as the report is for information only.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

The purpose of this report is to set out how the Council provides advice and support to private renters in Merton.

2 DETAILS

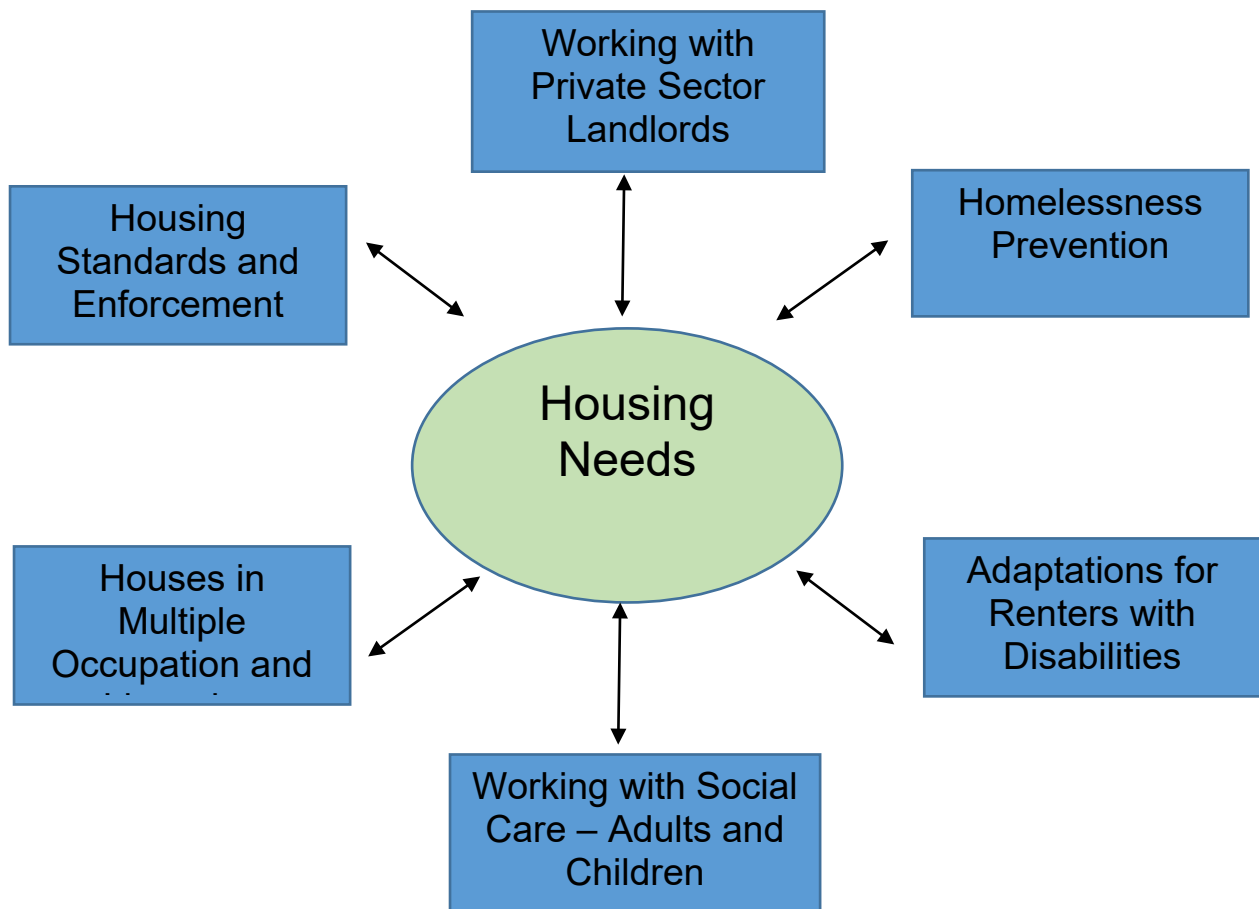
The Merton context.

Private sector housing plays a significant part in the housing provision within Merton accounting for 24.8% of supply and it is recognised that for the vast majority of private renters they occupy their homes peacefully and quietly without any need for interventions by the Council and its officers.

The Private Rented Sector is complex with 140 Acts of Parliament containing more than 400 individual regulations. It is important therefore that there is a joined up and co-ordinated approach in resolving private rented difficulties.

Private Sector support broadly falls into six areas:-

- Working with private sector landlords
- Housing standards and enforcement
- Houses in Multiple Occupation
- Homelessness Prevention
- Adaptations to renters with disabilities
- Working with Social Care (Adults and Children)



2.1. **Housing Standards and Enforcement**

Private sector housing plays a significant part in the housing provision within Merton. It is recognised that the majority of this housing is in good condition and well managed, however nationally the conditions in the private rented sector (PRS) tend to be less satisfactory than any other occupancy type. The Council has a responsibility to deal with unsatisfactory housing that presents health and safety hazards to the occupier.

It is not disputed that the private rented sector should provide high standards, secure swift and effective access to justice and that the large volume of powers to protect tenants from poor housing are being used.

The Council takes a proactive approach to dealing with “rogue landlords” and improving housing conditions in the borough, thus seeking to ensure that private renters can occupy their homes safely.

Housing Enforcement Activity during 2020/21 (Sept YTD)

Number of cases

Query	Count
F&V - Filthy & Verminous	4
GPAY - Grant Repayment Query	10
HDIS - Housing Disrepair	96
HMOA - HMO Advice	37
HMOG - General HMO	116
HOTH - Housing - Other	113
MEN - Members/ MP Enquiry	31
P001 - Rats	27
P002 - Mice	6
P004 - Ants	1
P005 - Other	1
P008 - Pigeons	5
P00B - Bedbug Infestation	4
PDRA - Drainage	19
REFU - Refuse/Rubbish	63
URGE - Urgent Housing Request	2
WID - Works in Default	1
Total	536

Upon consideration of all available evidence the Council has a number of options to resolve a private tenant's difficulties: Take no action, offer informal action/advice, serve a statutory notice, issue a formal caution, prosecute, carry out works in default.

2.2. Houses in Multiple Occupation (HMOs) & Licensing

Some privately rented houses are let to people from several different families, either as bedsits or as shared houses. Houses like this are known as Houses in Multiple Occupation (HMOs).

HMOs provide a valuable source of rented housing to primarily single people in our area. However, this form of housing can be problematic due to fire safety issues and poor standards such as dampness, lack of affordable heating etc.

HMOs present higher risk accommodation particularly when considering fire safety. For that reason, larger HMOs (housing 5 or more people) require a licence. At the present time there are 246 licenced HMOs in the borough and officers are working hard to identify any others to safeguard the occupiers.

Identifying, inspecting and licensing of HMOs became more challenging when the requirement to licence was extended in October 2018. Prior to October 2018, a licensable HMO needed to occupy 3 storeys or more, but since then it can also apply to 1 or 2 storeys.

Landlords operating licensable HMOs without a licence are committing a criminal offence. It is our legal responsibility to monitor and enforce the new law to improve housing conditions for the tenants.

During 2019/20, the housing enforcement team identified three dwellings that were required to have a licence, but the Landlord failed to apply. All three cases were the subject of a criminal investigation and all three landlords were prosecuted. Offences included failure to licence an HMO, fire safety and HMO Management Regulations. There are a number of additional cases that have been identified where prosecution may be necessary and appropriate and officers are currently considering the facts.

Civil Penalties

Section 23 and 126 and Schedule 9 to the Housing and Planning Act 2016 amended the Housing Act 2004 so as to provide for the imposition of civil penalties as an alternative to prosecution for certain specified housing offences.

This power is set out at section 249A of the Housing Act 2004, which states that a “local housing authority” may impose a financial penalty on a person if satisfied, beyond reasonable doubt, that the person’s conduct amounts to a relevant housing offence in respect of premises in England. A relevant housing offence for these purposes means one of the following offences under the Housing Act 2004.

- Failure to comply with an Improvement Notice.
- Offences in relation to the licensing of Houses in Multiple Occupation.
- Offences in relation to licensing of houses under Part 3 of the Act if the Council adopted selective or additional licensing in the future.
- Contravention of an overcrowding notice.
- Failure to comply with management regulations in respect of Houses in Multiple Occupation.
- Breach of a banning order.

Only one penalty, of up to £30,000 may be imposed on a person in respect of the same offence.

The Council has a number of further cases in the pipeline where a Civil Penalty / Prosecution may be necessary and appropriate.

However, it is worth noting that a civil penalty notice was served upon a local Landlord for Housing Act 2004 breach of regulations. The penalty was for a sum of £8K. The Landlord was able to appeal the civil penalty to the first tier tribunal within a specified period, ending in February 2020. The Landlord failed to appeal the penalty, but has agreed to repay the debt. Where the landlord or agent fails to pay a civil penalty, the local housing authority may refer the case to the county court for a Court Order. If necessary, the local housing authority can use county court bailiffs to

enforce the order and recover the debt. These processes will incur costs and so will reduce the amount secured.

2.3. **Adaptations for Private Renters with Disabilities**

Disabled Facilities Grants (DFGs) are available from the Council to pay for essential housing adaptations to enable disabled people, including private renters, to stay in their own homes. The funding comes from Central Government.

How it works

It is a means tested grant, so targets the most help to those who cannot afford to adapt their homes.

To apply, a tenant has to be assessed initially by an Occupational Therapist (OT). Their role is to determine what works are necessary and appropriate to meet the tenant/his/her family's need.

The next stage of the process is a technical assessment to see if the recommendation made by the OT can be implemented in the property. We need to assess if the works are reasonable and practical to be undertaken. The funding of DFG is provided by Central Government and distributed locally as the Better Care Fund.

This process ensures that any home adaptations we carry out are part of the overall health and care system to deliver joined up services.

2.4. **Prevention of Homelessness**

The prevention of homelessness, for private renters is a central plank to the work of the housing team. As the table below sets out the number of homelessness preventions have remained fairly consistent.

2016/17	2017/18	2018/19	2019/20	2020/21 (Sept YTD)
458	465	504	480	227

Officers carry out an assessment of each person's individual needs and look at what housing options are available to prevent their clients from becoming homeless. These include:

- Advice on security of tenure.
- Advice on Protection from Eviction.
- Legal Advocacy on tenant's behalf with private landlords.
- Negotiating with hosts to allow clients to continue to stay with them.
- Offering incentives to Landlords to renew tenancies
- Increasing the security of the homes of the victims of domestic violence via the sanctuary scheme to allow them to stay.
- Home visits to confirm the circumstances of the client.

- Rent and mortgage rescue scheme to pay arrears where clients meet the criteria
- Increased priority on the Council's waiting list where the requirements of the council's Housing Allocations and Nominations Policy are met.
- Offers of accommodation from the Council's Rent Deposit Scheme.
- Arranging local supported housing / hostel places for single people.

The Council also provides advice and assistance to private renters who visit the Council's offices. Housing Officers are available on a drop-in basis, or alternatively can contact officers via email or telephone. In addition, the Housing Advice website provides advice and assistance on a range of private sector matters including security of tenure, illegal eviction etc.

2.5 Coronavirus Act 2020

The introduction of the coronavirus act 2020 brought a number of changes to the way the private rented sector operates. These include:

- Since the 26th March 2020 most tenants have been entitled to a 3 month notice period
- From 29th August 2020, most notices will have to be at least 6 months, including section 21 and rent arrears under 6 months. This does not affect notices served before 28th August 2020
- Illegal evictions remain a criminal offence to Landlords who must continue to follow correct legal procedures to obtain vacant possession
- All ongoing cases of housing possession action in England and Wales were banned from 27 March 2020 for a period of 90 days. On 5 June 2020, the Secretary of State, Robert Jenrick, announced an extension of the moratorium on possession actions for a further two months. The Government confirmed that the courts would start to process repossession cases again from 24 August 2020 but on 21 August a further 4-week suspension to 20 September was confirmed
- Repossession actions in the courts were able to begin again from the 21st September

We do not know how many tenants will lose their homes now that the ban on evictions has been lifted. There is likely to be a backlog of cases in the courts so it could be some months before we see increased levels of homelessness from private renters

2.6 Rough sleepers

This report would not be complete if we did not mention Rough Sleepers. Since lockdown began, Merton has housed over 72 individuals into emergency accommodation, some of whom would not usually be eligible under the Housing Act for assistance.

We are now working to provide support to move those individuals on to alternative accommodation preventing a return to the streets. This has been referred to as “in for good”. Merton has signed up to the rough sleeping Nest Steps strategy, agreeing to work in partnership with London Councils, the GLA, Public Health and the NHS to ensure no one who has been placed into emergency accommodation without an offer of support to end their rough sleeping. Housing solutions for former rough sleepers has included moves into the private rented sector and supported housing.

Merton submitted a Next Steps strategy to the MHCLG which outlined the need for revenue funding for support services and capital funding for procurement of accommodation. The outcome is that Merton was successful in its request for revenue funding and is awaiting confirmation as to whether its capital request was approved.

Over the last 4 years, Merton has successfully obtained close to £1.2m in grants from the MHCLG, through various programme such as the Rough Sleeping Grant (RSG), Rough Sleeping Initiative (RSI), Rapid Rehousing Pathway (RRP), Controlling Migration Fund (CMF) and Cold Weather Funding, to provide outreach, accommodation and support services for rough sleepers.

2.7 Summary and planning for the future

Whilst it cannot be disputed that the Covid 19 virus has changed many aspects of our working and private lives, and as hard as it is dealing with outbreak and lockdowns, Merton is adapting to the challenges head on and this includes looking at ways to meet the housing needs of our resident, including private renters.

Through the departments “Recovery and Restart” programme we have recognised that we will only be able to tackle these issues by renewed collaborative working with housing providers, residents and the private rented sector.

We have ambitious, yet challenging objectives to:

- Increase Housing supply in the private rented sector
- Increase affordable housing supply with a refreshed housing Strategy. This is being delivered collaboratively with our future Merton colleagues
- Improving housing conditions in the private rented sector through proactive housing enforcement
- Improving housing services through digital connectivity

- Prior to Covid 19 we had increased staff capacity within the housing enforcement team and will be continuing to communicate our approach in supporting private renters through our Landlord forum

3 ALTERNATIVE OPTIONS

3.1 Not applicable as report is for information only.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. Not applicable as report is for information only

5 TIMETABLE

5.1. Not applicable as report is for information only

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. Not for the purposes of this report.

7 LEGAL AND STATUTORY IMPLICATIONS

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. Not for the purposes of this report

9 CRIME AND DISORDER IMPLICATIONS

9.1. Not applicable

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. None.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- None.

12 BACKGROUND PAPERS

12.1. None