

Committee: Sustainable Communities Overview and Scrutiny Panel

Date: 18th January 2021

Subject: Housing Enforcement Update

Lead officer: Elliot Brunton, Interim Head of Housing Needs and Strategy

Lead member: Martin Whelton, Cabinet Member for Housing, Regeneration and Climate Emergency.

Director: John Morgan, Interim Director of Community and Housing

Contact officer: Elliot Brunton, Interim Head of Housing Needs and Strategy

Recommendations:

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

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1. The purpose of this report is to provide an update on the activities of the Housing Enforcement Team, and it seeks to explain process the officers follow after they have been contacted by resident complaining of disrepair in their home.

2 MERTON CONTEXT

2.1. There are 88,050 homes in Merton of which it is estimated 46,887 are owner occupied, 12,416 are owned by registered providers (of which there are 22 separate Housing Associations), and 28,747 are privately rented.

2.2. Responsibilities for carrying out repairs usually rests with the Landlord of the property, and this includes private landlords and housing associations. The vast majority of private rented homes are well managed and are in good condition. However where standards are not met there are a number of duties and powers delegated to the Council to deal with this.

2.3. The Housing Enforcement Team promotes and enforces standards in private homes. This is a complex area with a number of separate and interrelated functions. These include:

- a) Reactive Complaints. *Complaints about housing conditions for private tenants, social tenants and owner-occupiers.*
- b) Emergency Reactive Complaints. *Complaints about housing conditions for private tenants, social tenants and owner-occupiers.*
- c) Public Health and Nuisance-*Investigation and resolution of public health and drainage related matters, filthy and verminous property (private renters, social tenants and owner-occupiers), and advice on pests.*
- d) Houses in Multiple Occupation (HMOs) *reporting unlicensed HMOs, the licencing of mandatory HMOs, enforcement of*

licenced HMOs, proactive identification of HMOs and maintaining a public register of HMOs.

- e) Setting the Standard Inspections- *Inspections of bed & breakfast/studios used for temporary accommodation in the borough to ensure they meet standards. This includes properties used by other authorities.*
- f) Managing the Disabled Facilities Grant Funding.

2.4. Complaints about private sector conditions and other requests for service are received in a number of ways from members of the public and can be via telephone, email, letter, or from other Council teams. An initial risk assessment is carried out to determine whether a request is urgent or non-urgent. Examples of service requests are below-

Urgent Complaints	Non – Urgent Housing Disrepair	Non Housing Disrepair
<ul style="list-style-type: none"> • Lack of hot water • Lack of heating (Winter only) • Flooding • Dangerous Live Electrics • Water penetration • “Live” ceiling or wall plaster 	<ul style="list-style-type: none"> • Dampness and mould • Overcrowding • Defective windows/ guttering • Roofing defects • Defective washing facilities • Structural movement 	<ul style="list-style-type: none"> • Hoarding resulting in a filthy and verminous property • Advice on Pests such as Infestations of rats, mice, cockroaches and sign posting to appropriate agencies • Rubbish accumulation in gardens • Broken and blocked drainage • Overgrown gardens

2.5. 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, and/or carry out works in default.

2.6. The Council is required to have a *Housing Enforcement Policy* which is attached in appendix one. This sets out the approach to inspection and enforcement and lays down the principles that will be followed in deciding upon what action is appropriate in each case. The policy also sets out the process for dealing with individual complaints in some detail.

2.7. As noted above, the service is driven by individual reports of disrepair and similar issues from tenants and this leads to specific service requests being raised. The team is not involved in carrying out estate inspections on social housing sites as this is a landlord function and such inspections look at issues beyond that of a single dwelling. This includes inspection of the exterior and communal parts, facilities and grounds of an estate comprising

blocks of flats or a mixture of flats and houses built on land managed by a landlord. This assists the Landlord in managing its housing stock and liaison and consultation with its own tenants and stakeholders (when necessary and appropriate).

- 2.8. The Housing Enforcement Policy sets out the Council's approach to dealing with complaints from tenants of housing associations and other registered providers. Such landlords have programmes of planned maintenance, repairs services and their own internal complaints policies, and are subject to regulation by the Housing Ombudsmen. As result the Housing Enforcement team would not 'normally' take on such cases of disrepair (see section 6 of the housing enforcement policy).
- 2.9. At the suggestion of this panel a web page now exists on Housing Association tenancy rights which sets out Landlord's repairing obligations and complaints processes, and provides details of useful contacts.
- 2.10. The panel will be aware that Councillor Nick Draper was appointed to the role of Tenants Champion. The purpose of the role is to support individual tenants, both private and housing association, if they are have difficulties in getting repairs of their hone carried out. The contact details of the Tenants Champion is advertised on the Council's Website.

3 HOUSING ENFORCEMENT ACTIVITY FROM APRIL 2017

- 3.1. The table below sets out team activity based on the type of complaints/service requests received since April 2017

Query	2021 Dec 17th YTD	2020-21	2019-20	2018-19	2017-18
Filthy & Verminous	1	6	6	3	8
Grant Repayment Query	11	23	14	13	9
Housing Disrepair	206	267	268	323	264
HMO Advice	251	326	385	525	127
Housing - Other	115	145	129	110	69
Members/ MP Enquiry	72	65	65	56	6
Rats	24	44	30	52	32
Mice	17	17	12	24	27
Cockroach Infestation	2	0	3	3	6
Ants	0	1	2	0	0
Other	0	1	5	1	4
Insect Infestation	0	1	0	0	0
Pigeons	5	7	0	0	0
Squirrels	0	2	0	0	0
Bedbug Infestation	5	5	0	0	0
Drainage	22	31	32	33	29
Refuse/Rubbish in Gardens	66	101	87	113	67
Totals	797	1042	1038	1256	648

3.2. Whilst there are naturally variations from year to year for different requests, over the 5 year period, there is one factor that was outside of normal variations. This was the extension of the scope of properties that are subject to a Mandatory HMO Licence. In October 2018 the law changed that extended the number of properties requiring a HMO Licence. Consequently from 2018 onwards there is a significant increase in the number of HMO related service requests.

3.3. **HMO Licensing.** The table below sets out the number of HMOs on the HMO register at the end of each year.

Dec 2021	2020	2019	2018	2017
388	282	182	171	149

3.4. **Prosecutions.** The summary below sets out a summary of recent prosecutions. Each case for prosecution is judged on its own merits in line with the criteria set out in the Housing Enforcement Policy. In the majority of cases, disrepair and other similar issues are resolved through informal or formal action.

Prosecutions since 2019	
LBM v Landlord of Property in Graveney Ward (6th August 2019)	Unlicensed HMO and other offences under Housing Act 2004. Sentence - Fine - £1,965; Costs - £1,750; Victim Surcharge - £196 The total amount payable = £3,911.00
LBM v Landlord of property in Colliers Wood (25th October 2019)	Unlicensed HMO and other offences under Housing Act 2004 Sentence - Fine - £3, 844; Costs - £1,997.50; Victim Surcharge - £170. The total amount payable = £6011.50
LBM v Landlord of property in Figgs Marsh (5th November 2019)	Unlicensed HMO and other offences under Housing Act 2004 Sentence - Fine - £2694.00; Costs - £1,990.00; Victim Surcharge - £170 The total amount payable = £4854.00.

<p>LBM v Landlord of property in Graveney (4th May 2021)</p>	<p>Unlicensed HMO and other offences under Housing Act 2004 Sentence - Fine -£13,800; Costs - £2,530.00; Victim Surcharge - £190 The total amount payable = £16,520.00</p>
<p>LBM v Landlord of property in Wimbledon Park (22nd September 2021)</p>	<p>Unlicensed HMO and other offences under Housing Act 2004 Sentence- Fine- £30,560, Victim Surcharge £380 prosecution costs £2340 The total Payable £33,280</p>

4 CASE STUDIES

4.1. The author of the report feels that it would be helpful to the panel to be advised of a number of case studies which demonstrates the activities of the team.

4.2. **Filthy and Verminous**

Property converted to two flats – Ground floor flat and first floor flat. Both flats share a common entrance. The freeholder is also the leaseholder of the ground floor flat and an owner-occupier and the first floor flat leaseholder rents the flat to an assured short hold tenant.

March 2020 - Following complaints from neighbours, officers served Public Health Act 1936 Section 83 as amended by Section 35, of the Public Health Act 1961 notice on the owner-occupier of Ground Floor Flat, requesting that the clearance of all unwanted belongings and general household rubbish from his property as it was deemed filthy and verminous. The Owner failed to do so and as result the Council carried out works in his default. The owner at the time was cooperative and provided access to Council officers and contractors who cleared the property. The property was left in a clean condition.

June 2021 - the council received new complaints regarding the reoccurrence of Owners hoarding habits and the conditions inside the property become filthy and verminous, once again. Statutory Notices were served requesting the clearance of the property as it was deemed filthy and verminous.

The Owner failed to comply with the Notice and further more ceased to cooperate with Council Officers and contractors who were unable to gain

access to survey for the purposes of obtaining estimates for the clearance of the property and to carry out works in default. Officers therefore applied for a warrant to enter the premises for the purposes of clearing and cleaning the property in order to comply with the requirements of the Statutory Notices. The Magistrate granted the Warrant and the property was cleared improving the living conditions for the owner and his immediate neighbour.

4.3. Prohibition Order

June 2019 – Officers received complaint about an unlicensed HMO. Officers visited and carried out unannounced HMO inspections. Conditions in the property were dangerous. There were two changes in level and a steep staircase to an unlit basement. Officers found that a family of four persons were living in the basement of the property with no natural lighting or ventilation. The means of escape from fire was compromised and there was no early fire warning system.

The officers were satisfied of the existence of Category One Hazards, which involved an imminent risk of serious harm to the health and safety of any of the occupiers. A Prohibition order was served with immediate effect as officers were of the opinion that the design of the building was such that no remedial works could be prescribed to reduce the risk and remove the Category 1 Hazards from the basement flat.

4.4. Housing Association Property

May 2021 – following contact from a solicitor representing a tenant of a Housing Association property an inspection was carried out and a Housing Health & Safety Rating System (HHSRS) assessment was carried out. The deficiencies found related to a number of Category One And Two Hazards under ;Damp and Mould (Hazard 1); Crowding and Space (Hazard 11); Domestic Hygiene Pests & Refuse (Hazard 15) Personal Hygiene, Sanitation & Drainage (Hazard 17) and Falling Between Levels (Hazard 22).

The Officer served Preliminary notices on the Housing Association and the remedial works related to Category One hazards have been complied with by the Housing Association.

5 SUMMARY

- 5.1. This report seeks to summarise the work of the work of the housing enforcement team but the descriptions and examples are not intended to be exhaustive and going forward the Housing Enforcement Team will continue to promote and enforce private sector standards in line with the statutory duties and the Council's Enforcement Policy.

6 ALTERNATIVE OPTIONS

None for the purposes of this report

- 7 CONSULTATION UNDERTAKEN OR PROPOSED**
7.1. None for the purposes of this report
- 8 TIMETABLE**
8.1. None for the purposes of this report
- 9 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**
9.1. None for the purposes of this report as information only
- 10 LEGAL AND STATUTORY IMPLICATIONS**
10.1. None for the purposes of this report as information only
- 11 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**
11.1. None for the purposes of this report as information only
- 12 CRIME AND DISORDER IMPLICATIONS**
12.1. None for the purpose of this report
- 13 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**
13.1. None for the purposes of this report as information only
- 14 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**
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- 15 BACKGROUND PAPERS**
15.1. None
- 16 APPENDICES-HOUSING ENFORCEMENT POLICY**

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