

# Brighton & Hove City Council

## Housing Committee

## Agenda Item 26

**Subject:** Private Sector Housing Update

**Date of meeting:** 28 September 2022

**Report of:** Executive Director Housing, Neighbourhoods and Communities

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**Ward(s) affected:** All

**For general release**

### 1. Purpose of the report and policy context

1.1 To update Housing Committee on progress since the *Private Rented Housing Update* was last reported on 16 March 2022, including:

- Stopping unlawful discrimination against benefit claimants;
- Options for establishing an Ethical Lettings Agency;
- Update on the feasibility of adopting an Ethical Landlords' Charter;
- Progress on Selective Licensing and Additional HMO Licensing;

1.2 To also advise on potential future pressures, should proposals published in the Government's "*New deal for private renters*" white paper be adopted as legislation.

### 2. Recommendations

2.1 That Committee notes the updates made to the Council's website, providing advice to private renters on what to do if they feel discriminated against, and encouraging landlords to support the Council's commitment to prevent homelessness.

2.2 That Committee agrees the standards adopted by the Council when assisting households to access more affordable private rented accommodation as enforceable *Good Landlord Standards* (see Appendix 2).

2.3 That Committee agrees the Council explore becoming members of an arms-length ethical lettings agency as a possible alternative to establishing an in-house *Ethical Lettings Agency*.

2.4 That Committee notes the update on establishing an evidence base should the Council want to apply for Selective Licensing and/or extend Additional HMO Licensing.

- 2.5 That Committee notes the potential changes to private rented accommodation, should the proposals set out in the *New deal for private renters* white paper be adopted into future legislation.
- 2.6 That Committee notes the additional monitoring agreed in the Quarterly Housing Performance Report.

### **3. Context and background information**

#### **3.1 Background**

- 3.1.1 Housing Committee on 22 September 2021 agreed that:

*‘Housing Committee agrees the re-purposing and expansion of the Directs Lets scheme as an ethical lettings agency incorporating Good Landlord standards. Any additional costs arising as a result of these changes will be brought back to committee for approval’.*

- 3.1.2 Housing Committee on 16 March 2022 resolved that:

*‘Housing Committee to delegate to the Executive Director for Housing Neighbourhoods and Communities to proceed with the commissioning of consultancy work needed prior to any recommendation to Committee on undertaking any formal consultation on a selective licensing scheme’.*

- 3.1.3 A Notice of Motion (NOM) was supported at Housing Committee on 22 June 2022:

*‘Stop unlawful discrimination against benefit claimants by landlords and letting agents’.*

#### **3.2 Stopping unlawful discrimination against benefit claimants**

- 3.2.1 In relation to the NOM supported by Housing Committee on 22 June (see 3.1.3) the local housing authority has no particular powers to prevent landlords and/or letting agents from discriminating against benefit claimants. However, if a person or persons believe they have been discriminated against in this way, they can choose to take action themselves.

- 3.2.2 A new page has been added to the Council’s website, *Housing Advice for Private Tenants*. This provides advice to private rented tenants on their rights, the responsibilities of landlords and letting agents, and includes action a person should take if they believe they have been discriminated against. A transcript is provided in Appendix 1.

- 3.2.3 The Council’s website page providing tenant advice to landlords has also been updated to request landlords to support the Council’s commitment to end homelessness in the City, by contacting [early.intervention@brighton-hove.gov.uk](mailto:early.intervention@brighton-hove.gov.uk) to avoid a tenancy ending in eviction.

3.2.4 The national database of rogue landlords and property agents, under the Housing and Planning Act 2016 (see Background Documents) is subject to statutory guidance. There is a strict criteria as to what details can be submitted, and although local authorities have a legal obligation to register details when appropriate, this is not publicly available and cannot be accessed through the Council's website. Legal restrictions in terms of data protection, accuracy and reasonableness prevent the local authority from providing its own public database.

### 3.3 Direct Lets

3.3.1 Directs Lets is the service used by the Council to secure private rented accommodation, and 'private sector leased' temporary accommodation. As well as ensuring minimum, enforceable standards are in place when assisting households to access their new home, additional support is also provided (see also Appendix 2):

- Where required and eligible, households will be provided with a deposit, or deposit guarantee and/or rent-in-advance;
- Free photographic inventories;
- Negotiation of longer-term tenancies (up to two years);
- Suitability assessments, to ensure households can afford the rent and the property will meet their requirements;
- Ensure arrangements are in place for rent payments from the tenancy start date;
- Support to ensure tenants settle in their new home; and
- Provide a first point of contact for both the landlord and tenant should there be any concerns relating to maintaining the home.

3.3.2 As such, Direct Lets is an invaluable service in the prevention of homelessness, ensuring re-housing options are maximised. It also compares favourably to similar services in other areas (Appendix 1).

3.3.3 With regards to Housing Committee's recommendation from 21 September 2021, agreeing '*the e-purposing and expanding the Direct Lets scheme as an ethical lettings agency incorporating Good Landlord standards*' it is noted that Direct Lets already demonstrates good landlord standards. Instead, it is recommended that alternative options are explored to establish an *Ethical Lettings Agency* (see 3.5)

### 3.4 Ethical Landlords' Standards

3.4.1 Enforceable standards in the private rented sector are set by Government and embedded in legislation. While enhanced standards may be adopted by the local authority, these would not be enforceable.

3.4.2 Any *Ethical Lettings Standard* would therefore be a voluntary standard, landlords and/or letting agents would themselves choose. They may be further encouraged if such a standard was widely acknowledged as a 'quality mark', although in a strong market with many potential tenants, further incentives may be necessary. Where schemes are successful, these incentives have been developed in collaboration with good private landlords.

3.4.3 If councillors wish to adopt an aspirational Ethical Landlord’s Charter, this could be done separately. However, officers would not be required to use this when helping households access privately rented accommodation. Instead landlords and/or letting agents could be signposted to these and could potentially sign-up to on a voluntary basis.

3.5 Ethical Lettings Agency

3.5.1 Establishing an *Ethical Lettings Agency* is high cost, especially if the impact on preventing and relieving homelessness, and any subsequent requirement to provide temporary accommodation, is limited. Research indicates the service offered by the Council’s Direct Lets is similar to ethical lettings agencies promoted by other local authorities (see Section 3.3).

3.5.2 This research has also identified a collaboration of a select number of local authorities operating in London and the South-East, operating as *Ethical Lettings CIC* (Appendix 3). There may also be other local agencies operating on an ethical basis, which the Council could partner with (or become members of) at arms-length.

3.5.3 It is recommended, at this stage, officers explore this further, to consider whether membership of an existing scheme offers a better, less costly option of achieving the standard aspired to by Housing Committee, rather than developing an ‘in-house’ option.

3.6 Selective Licensing and Additional HMO Licensing Update

3.6.1 The Pathway to Selective Licensing is set out in Appendix 4, with the current status of the feasibility study having commenced, indicated. Since agreeing at Housing Committee on 16 March 2022 to proceed with commissioning consultancy, the Council has held initial consultation with members, and has procured external consultancy to undertake a feasibility study. Unfortunately there have been some delays caused as a result of lead officers leaving the Council and census data not being available (see table 1 below).

Action	Date	Complete
Consultation with Members	May 2022	✓
Head of Service left BHCC	June 2022	-
Procurement for consultants commenced	June 2022	✓
Census data released <sup>1</sup>	July 2022	✓
Consultants appointed	August 2022	✓
Consultants start	September 2022	✓
Data gathering	September 2022	Ongoing

Table 1: Update on progress toward selective licensing

3.6.2 Consultants, Cadence, have now been appointed and commenced the selective licensing feasibility study in September 2022. This exercise will incorporate assessment of the housing stock and data analysis by Metastreet. Any potential future projects relating to this piece of work would then be subject to a separate procurement process.

<sup>1</sup> At the time of this report being published (20/9/22) only Tier One census data has been released.

- 3.6.3 The evidence gathering will then inform a view on whether the Council has a reasonable chance of success in progressing an application for selective licensing as well as supporting any case to extend Additional HMO Licensing. Fundamentally, this is a desk top exercise, with no physical surveying of properties taking place. Experience of other local authorities is that this is sufficient to introduce their own scheme or to gain approval from the Secretary of State if required.
- 3.6.4 Until the feasibility study has been completed, it is not possible to state whether this would be taken to the next phase. It is anticipated an update will be reported to Housing Committee at the meeting in January 2023.
- 3.6.5 It should be noted, as Brighton & Hove have already had an existing Additional Licensing scheme in operation, the evidence base gathered through the feasibility will provide justification as to whether this is extended. The timeline for this study does mean it's likely that there will be a break with the existing Additional HMO Licensing scheme expiring before consultation on an extension can commence. However, the feasibility study, indicating an intention to continue with Additional HMO Licensing, will provide sufficient time to request existing resources in this area are carried forward.

### 3.7 Potential Future Pressures

3.7.1 On 16 June 2022, DLUHC published a [‘New deal for private renters’](#) white paper. This was a general election manifesto pledge by the Conservative Party in 2019 and in the Queen’s Speech to Parliament in May 2022. Since its publication, events in Government have changed dramatically, meaning there is currently uncertainty regarding any progress of the white paper. The headlines are:

- A new blueprint for renters reform, ending the injustice of unfit homes and help protect renters from rising cost of living;
- A ‘Decent Homes Standard’ being extended to the Private Rented Sector for the first time;
- Banning of section 21 ‘no-fault’ evictions;
- Ending arbitrary rent review clauses, giving tenants stronger powers to challenge poor practice, unjustified rent increases and enable them to be repaid rent for non-decent homes;
- Making it illegal for landlords or agents to have blanket bans on renting to families with children or those in receipt of benefits
- Making it easier for tenants to share their homes with their pets

3.7.2 Some commentators in the sector suggest the impact of implementing the recommendations set out in the white paper will reduce the number of private rented properties, as existing landlords seek to exit the market. However, contrary to this, others have pointed out that the changes simply reflect what is already the good practice which many landlords already adhere to. Therefore, it may be reasonable to assume where landlords seek to exit the market, others will take the opportunity to increase their portfolio.

- 3.7.3 Even if landlords did exit the market *en masse*, this is most likely to impact properties being made available for sale, potentially decreasing house prices and opening up the market for new homeowners, who may otherwise inflate the private rented market.
- 3.7.4 The biggest impact may be an increase in the number of unlawful evictions. It stands to reason, that if the means through which a landlord can gain vacant possession of a property is reduced, they may revert to other means, such as harassment of tenants. This is setting aside a 12% increase nationally in the number of unlawful evictions across England and Wales<sup>2</sup>.
- 3.7.5 Recommendation 2.6 approves additional reporting of enforcement monitoring to enable us to better understand the effectiveness of our enforcement process prior to any periodic review, and in light of any changes that come about as a result of new legislation or policy.

#### **4. Analysis and consideration of alternative options**

- 4.1 Analysis and options have been considered in Section 3 (above)

#### **5. Community engagement and consultation**

- 5.1 Not applicable

#### **6. Conclusion**

- 6.1 The Council has updated advice on its website providing advice for private renters, including what action can be taken if a person or persons believes they have been discriminated against if they are a benefit claimant. The website information has also been updated to encourage landlords to support the Council's commitment to prevent homelessness.
- 6.2 Publicising the standards adopted by the Direct Lets service is a preferred alternative to adopting an *Ethical Landlords' Charter* as it does not restrict access to some private rented properties.
- 6.3 Becoming members of an *Ethical Lettings Agency*, incorporating other local authorities in the region, may present a more cost-efficient option than the Council establishing its own agency.

#### **7. Financial implications**

- 7.1 There is £0.100m one-off funding available in 2022/23 for the work needed to explore and scope the feasibility of a broader based Ethical Letting Agency proposal. If the Council were to pursue membership of an Ethical Lettings CIC, then costs would need to be reviewed to ensure that they could be contained within current budget resources going forward. Any need for further resources would require approval from Policy & Resources Committee.

Name of finance officer consulted: Monica Brooks      Date consulted  
5/9/22:

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<sup>2</sup> [Offences under Protection from Eviction Act 1977 in England and Wales](#); Safer Renting May 2022

## **8. Legal implications**

- 8.1 There are no significant legal implications to draw to the committee's attention arising from this report. However, legal advice may be necessary if the Council were to pursue membership of the *Ethical Lettings CIC*.

Name of lawyer consulted: Liz Woodley      Date consulted 31/08/22

## **9. Equalities implications**

- 9.1 There are no equalities implications relating to this report.

## **10. Sustainability implications**

- 10.1 There are no sustainability implications relating to this report.

## **11. Other Implications [delete any or all that are not applicable]**

### **Social Value and procurement implications:**

There are no social value or procurement implications relating to this report.

### **Crime & disorder implications:**

There are no crime and disorder implications relating to this report.

### **Public health implications:**

There are no public health implications relating to this report

## **Supporting Documentation**

### **1. Appendices**

1. Appendix 1: Transcript of *Advice to Private Renters* provided on the Council's website
2. Appendix 2: Direct Lets Standards (when assisting households to access private rented accommodation)
3. Appendix 3: Summary Analysis of Ethical Lettings Agencies
4. Appendix 4: Pathway to Selective Licensing

## **Background Documents**

1. [Database of rogue landlords and property agents under the Housing & Planning Act 2016](#)

