

Private Rented Sector Housing Plan

Improving Standards in the Private Rented Sector in Amber Valley

December 2019

Contents

1. Foreward
2. Introduction
 - 2.1 Amber Valley's Private Sector
 - 2.2 Activity Since December 2015
 - 2.3 National Picture
 - 2.4 Strategic Fit
3. Priorities within the Plan
 - 3.1 Addressing the Quality of Property Management and Standards through Enforcement
 - 3.1.1 Enforcing standards of accommodation
 - 3.1.2 Housing Health and Safety Rating System
 - 3.1.3 Energy Efficiency and Excess Cold
 - 3.1.4 Selective Licensing and Targeted Enforcement
 - 3.1.5 Houses in Multiple Occupation
 - 3.1.6 Licensable HMOs
 - 3.1.7 Non-Licensable HMOs
 - 3.1.8 Civil Penalties and Rent Repayment Orders
 - 3.1.9 Enforcement Policy
 - 3.1.10 Landlord Harassment and Illegal Eviction
 - 3.1.11 Anti-Social Behaviour
 - 3.2 Raising the Standards of private rented properties through proactive support and collaboration with partners
 - 3.2.1 Landlord Accreditation
 - 3.2.2 Providing Support to Landlords and Letting Agents
4. Monitoring
5. Action Plan

Private Rented Sector Housing Plan

1. Foreword

The private rented sector is important, it provides real choice and options for those seeking a home anywhere within the Borough. But some tenants have bad experiences and find that the lack of security and stability can result in challenges for families trying to keep children at the same school.

Landlord accreditation forms part of the offer to help the sector improve and the Council will work to try and increase the uptake as part of a process of increasing professionalism within the sector.

The impact on the private rented sector on the health and wellbeing of Amber Valley's residents continues to be a concern although difficult to evidence accurately. The lack of compulsory registration means that it is a challenge to compile evidence of where properties are and importantly their safety standards. The Council is dependent on tenants to identify issues with their property, to know what they can do and have the confidence to contact the Council. This needs to change so that the resources are used to identify the worst landlords and their properties.

Since 2015 when the previous plan was compiled there has been further regulation of the sector with continued pressure being placed on the Government to tighten the controls on poor practice that enables landlords to financially profit through providing sub-standard accommodation. The fear of eviction continues to be the biggest barrier in not complaining.

Levels of fuel poverty are a concern and given the age of the private rented properties improving energy efficiency to improve outcomes for tenants and reducing carbon emissions is going to be challenging.

The Council values the important role that the sector plays in providing accommodation for those approaching the Council, especially those unable to access social housing and is keen to continue to support landlords that are willing to provide a much needed warm and safe home. There is limited availability of accommodation for single people and the sector has the ability to deliver more choice.

More regulation is pending including a key change that is being discussed which is the end of no-fault evictions to give tenants greater security. This could have a significant impact on the sector. Evictions from private rents continues to be one of the highest causes of homelessness and the Council is working with others to introduce more support to landlords to put in place prevention measures to help maintain tenancies.

The Council has successfully brought back in house the delivering of the homelessness service and management of the housing register and this is enabling a far more effective joined up service with community safety and housing enforcement. For many households, access to the private rented sector is their only option. Currently 25% of the housing register is made up of applicants currently living in private rented housing, many of whom are adequately housed but are seeking the security and affordable rent levels that social housing has to offer.

This document provides further detail to support the delivery of the Housing Strategy 2019-24 and should also be read alongside the Council's Homelessness and Rough Sleeping Strategy and the Empty Property Strategy.

2. Introduction

2.1 Amber Valley's Private Rented Sector

The 2011 Census figure for the private rented sector in Amber Valley was 11.8% or 6,200 households up from 6.8% in 2001. Obtaining accurate data about the sector is not straightforward with several sources of potential data. Office for National Statistics estimate for 2017 was that the sector comprised 6,298 units, however the draft stock condition survey figures suggest that the figure is 5,564. This is a provisional figure and is likely to be an underestimate.

The Council is currently working with Derby City and all other Districts and the County Council to produce an updated desktop stock condition survey. An updated survey is anticipated in Q3 2019/20 and an action plan will be developed in response to the findings.

Table 1: Breakdown of private housing numbers by type and age

Property Type	Owner Occupied		Private Rent		Social		Total
	Number	%	Number	%	Number	%	
Detached	18,594	41.7%	932	16.8%	173	2.2%	19,699
Semi-Detached	14,765	33.1%	1,605	28.8%	4,275	55.6%	20,645
Terrace	9,704	21.8%	2,398	43.1%	1,816	23.6%	13,918
Flat	1,064	2.4%	620	11.1%	1,419	18.4%	3,103
Unknown	472	1.1%	9	0.2%	9	0.1%	490
Property Age							
Pre 1918	10,263	23.0%	1,856	33.4%	539	7.0%	12,658
1919 - 1944	7,469	16.7%	584	10.5%	1,269	16.5%	9,322
1945 - 1980	16,069	36.0%	1,482	26.6%	4,664	60.6%	22,215
1981 - 2002	6,111	13.7%	727	13.1%	868	11.3%	7,706
Post 2002	4,298	9.6%	898	16.1%	351	4.6%	5,547
(blank)	389	0.9%	17	0.3%	1	0.0%	407
Total	44,599		5,564		7,692		57,855

Table 1 provides a summary of the estimate of the size of the sector based on provisional findings of the stock condition survey. This is likely to be an underestimate as it is unlikely to include the properties where landlords have not used one of the deposit protection schemes.

In summary initial data from the stock condition survey sets out that;

- 43% of private rents are terraces
- 33% of private rents were built pre-1919
- 28% of private rents considered non-decent¹
- The highest rates of non-decency are in more rural wards although actual numbers are small

The age and house type profile mean that a high percentage of properties are older terraces making it inevitable that issues associated with energy efficiency and the impacts of cold and damp and mould will be significant.

¹Non-decency is a term used to describe whether a home is considered decent. There is no legal requirement for private rented homes to be decent but decency requires a property to have;

- Modern facilities
- Lack of category hazard
- Reasonable level of thermal comfort and
- An absence of disrepair

2.2 Activity since December 2015

Since December 2015 and the publication of the last strategy the Housing Team have dealt with the following;

- 297 complaints about damp
- 578 complaints about disrepair
- 44 complaints about the state or lack of amenities
- 13 overcrowding complaints
- 5 immigration inspections
- 49 complaints or queries about Houses in Multiple Occupation (HMO)
- 284 properties with F&G Energy Performance Certificates (EPC) were approached
- Issued 17 HMO Licences
- Served 30 Enforcement Notices

Amber Valley have 19 landlords registered with EMLAS Landlord Accreditation Scheme – covering 36 properties.

To date the Council has not been able to justify the introduction of selective licensing, but a new approach based on intelligence needs to be looked at where small groups of streets or properties on a street are actively targeted. This needs to be considered carefully to ensure that the impact on tenants is not disproportionate. Nottingham City Council has introduced selective licensing for the whole of the city, but more commonly, licensing focuses on small parts in areas where there are higher concentrations of anti-social behaviour and poor standards

In Amber Valley, landlords asked to complete repairs etc do so relatively promptly, but not enough landlords are proactively managing their properties and are themselves reacting to being instructed to complete repairs. The data in the tables provided in appendix 1 show that in almost all wards the number of non-decent private rented properties exceeds those that are privately owned. Many tenants approaching the Council are evidently exasperated by their landlord's failure to respond to what appear to be reasonable requests.

Unless there is a change of approach the powers given to the Council are unlikely to be fully utilised as the poorest landlords continue to evade their legal duties to provide safe accommodation in the knowledge that tenants will continue to be fearful of complaining.

The Council has embraced the opportunity to inform landlords about new minimum energy efficiency requirements, but equally will carry out enforcement against those landlords that refuse to engage. The legal requirements on landlords are likely to increase in response to carbon reduction targets and Climate Emergency. The Council has led on a countywide process of arranging for EPC enforcement in rented properties working closely with Derbyshire County Council Trading Standards.

HMO Licensing was addressed effectively and efficiently by the Housing team with most properties found to be of a good standard. Licensing fees were split into two parts based on case law to differentiate between the application process and the monitoring of standards during the licenced period.

2.3 National Picture

Since 2015 the Government has introduced increasing amounts of regulation on the sector including the following;

- Civil penalties as alternatives to prosecution with Councils able to keep the proceeds ringfenced for enforcement
- Banning order offences to force the worst landlords out of the market
- Rent Repayment Orders in certain circumstances to allow tenants to recover rent paid to landlords
- A Rogue Landlord Database
- Minimum Energy Efficiency Standards for properties to be rented out
- Homes (Fitness for Habitation) Act 2018 that introduced tenant redress for homes that are not fit for habitation
- Tenant Fees Act 2019 setting the limitations on fees that can be charged.

Looking ahead further regulation is likely with the Government either consulting on or having plans to consult on a range of measures designed to improve the sector. This includes;

- Further regulation around minimum energy efficiency targets for rented homes
- Tenancy reform to reduce no-fault evictions whilst making it easier for landlords to evict where the tenant is clearly at fault
- Increased availability of redress schemes including ensuring that all landlords are part of redress schemes
- Further extension of the range of banning order offences
- Modernisation of the HHSRS (Housing Health and Safety Rating System)
- Extension of the viewing rights of the Rogue Landlord Database so tenants can view entries

The legislative approach to improving the private rented sector is still piecemeal, making it more complex for all involved within the sector.

2.4 Strategic Fit

With respect to the private rented sector as a housing authority the Council has responsibility for;

- assessing housing conditions
- enforcing housing standards legislation;
- enforcing illegal eviction and harassment and other elements associated with the conduct of the landlord or letting agent;
- maximising the sector's role in preventing homelessness;
- ensuring that residents have access to safe housing choices.

The Council needs to respond and continue to enforce against the landlords that put the lives and health of their tenants at risk whilst recognising the value of the sector in providing accommodation. The Council's Housing Strategy (2019-24) identifies that action is required to protect vulnerable people within the private

sector. This plan sets out greater detail about how the Council and its partners will deliver elements of the housing strategy relating to the private rented sector.

In summary the private rented sector;

Impacts of the PRS	
Positive	<ul style="list-style-type: none"> • Provides a range of different accommodation types for home seekers in all parts of the Borough • Provides options especially those that need flexibility of tenure • Accommodation is frequently cheaper to set up than social housing with carpets, curtains and white goods often provided • Enables the Council to discharge duty to homeless households • Can be a solution for properties that are empty • Can be self-regulating through higher standards of property management
Negative	<ul style="list-style-type: none"> • Requires the enforcement of standards of accommodation to ensure health and wellbeing of residents • Fear of loss of home through eviction can be a constant fear for tenants • Loss of tenancy and frequent moves are not helpful for stable family life • Cause of demands on Council homelessness services through eviction • Source of anti-social behaviour especially where landlords do not manage their properties • Can be source of empty properties where landlords cannot or choose not to renovate • Lack of rights and responsibilities within the sector • Regulatory framework has become very complex

On this basis the Council's relationship with the private rented sector is not straightforward.

A positive vibrant sector will operate with minimal intervention and mean;

- Good consistent quality homes that are occupied, safe, warm and affordable
- Properties not left empty as investment is rewarded through rental returns
- There will be positive communication between landlord and tenant that is able to withstand income shocks and other factors
- Landlords will have a robust business plan able to financially cope with unexpected costs such as boiler replacement
- Letting agents and landlords act within the law, completing repairs in a timely fashion
- Tenants will feel confident about seeking the support of the Council without fear of reprisals
- Tenants conduct themselves appropriately and look after their accommodation and pay their rent on time

A poor quality, poor performing sector will result in the opposite outcomes.

The private rented sector is involved in contributing to the delivery of both the Empty Property Strategy and the Homelessness and Rough Sleeping Strategy and references to the impacts of the sector, both positive and negative, will be referenced in the respective documents.

For this plan priorities for the Council should be based around providing a robust intelligence-based enforcement function whilst working with partners to provide support to both tenants and landlords and seeking to improve the management of the sector.

3 Priorities within the Plan

3.1 Priority 1 Addressing the quality of property management and standards through enforcement

New legislative controls have been introduced by the Government to address issues within the sector both property and conduct based. This has added to the core pieces of legislation which includes the Housing Act 2004 as the primary enforcement power supplemented by other supporting pieces of legislation that can be used to tackle nuisance and other issues.

The fact that new legislation has been introduced to address minimum standards of properties and the conduct of agents and landlords speaks volumes. More legislative change can be anticipated that seeks to impose greater control over those landlords that are unable or unwilling to provide safe and warm accommodation.

3.1.1 Enforcing Standards

The Council's statutory functions are contained within the relevant Housing Acts, most recently the Housing Act 2004. The Council has a duty to review housing conditions in their area and identify any action that may need to be taken by them under any of the provisions of the Housing Act. This includes provisions in relation to houses in multiple occupation (HMOs).

The Council continues to balance proactive and reactive functions. Officers respond to service requests and will visit to identify the nature of the complaint and whether it can be addressed through advice or whether a formal approach to a landlord is required. Increasingly the Council has been seeking to support tenants to approach their landlord given that enforcement by the Council frequently results in retaliatory eviction.

Calls are often received once a relationship between landlord and tenant has broken down. There is a careful balance to be achieved between effective use of officer time and providing a sensitive and effective response to complaints. Increasingly officers are looking to understand the underlying issues and where possible achieve the best possible outcome which is to secure repairs and rebuild the relationship between tenant and landlord with the outcome that the tenancy is maintained.

Landlords when presented informally or formally with a schedule of work to address disrepair are largely compliant and the Council serves few enforcement notices. The council is aware that some of those landlords that might be described as rogues will not come to the attention of the Council without taking a more proactive approach of seeking out the worst properties.

Complaints have in recent years varied in terms of type and volume with peaks of damp and mould complaints during colder and wetter periods. Minimum EPC standards will help but in parts of Borough with rented properties in conservation areas, addressing these issues will be challenging.

The Council's approach to enforcement action is set out in the Enforcement Policy. This details how the range of enforcement options from informal action to statutory notices will be used.

3.1.2 Housing Health and Safety Rating System (HHSRS)

The Housing Act 2004 introduced the HHSRS and the 29 hazards used to assess the risks to the occupants and forms the basis for determining if category 1 or 2 hazards exist.

The evidence base for the HHSRS is out of date and the Government has launched a consultation exercise on the future use of the HHSRS as an assessment tool with several options being considered. The Council will respond to the review once it is concluded and will amend enforcement processes once the outcome is known.

ACTION: The Council will apply enforcement tools in accordance with the Enforcement Policy balancing the risks presented with the attitude of the landlord and letting agent.

3.1.3 Energy Efficiency and Excess Cold

One of the most important issues within the private rented sector is energy efficiency. Table 5 shows the percentage and numbers of properties failing decent homes standard for thermal comfort. With significant proportions of the stock being older and less energy efficient by design this will remain a challenge. With many Victorian and Edwardian terraced properties being constructed of solid walls and expensive to treat, making homes more energy efficient will be more challenging. This is further complicated for properties within Conservation Areas where further limitations will be placed on remedial measures available.

In addition to assessing for the excess cold hazard there are further legal requirements including the need to obtain an EPC and now to ensure that the property has a minimum EPC rating (subject to exemptions). The legislation has made it an offence to start a new tenancy after April 1st, 2019, where the property is F or G rated and it to be an offence to rent to existing tenants where the EPC is F or G.

In 2019 the Council undertook a project looking at the 284 EPC rated F&G properties (non-flats) that could be obtained from the national register. The project was in part designed to make landlords aware of this new requirement. Of the 284 properties around 40 have failed to respond and will require follow up enforcement. The remaining property owners have upgraded the property since, not had a change of tenancy so have until April 1st 2020 to improve, or are now owner occupied.

The Council has worked with DCC Trading Standards to take on the powers for enforcing EPCs in the private rented sector. This is a sensible approach given that it is the Borough that is best placed to enforce this legislation.

MHCLG have stated that there is likely to be further regulation increasing the minimum energy efficiency of private rented properties. This will be challenging for the sector and enforcement will form part of the improvements required to reduce carbon emissions from domestic energy consumption.

ACTION: The Council will continue to enforce EPC requirements to minimum EPC levels and enforce against those landlords that let properties without an EPC, to improve the energy efficiency of the private rented stock.

3.1.4 Selective Licensing and Targeted Enforcement

The Government has introduced different forms of area-based licensing schemes in order to give Councils the ability to focus enforcement in specific geographical areas. In order to introduce a scheme, there must be robust evidence to demonstrate how such a scheme would achieve licensing objectives. This nominally

relates to high levels of anti-social behaviour and poor property conditions. This could be an answer to addressing the issues of tenants not coming forward. However, in Amber Valley there are not considered to be specific areas that would meet the criteria. It is important that this is kept under review with Community Safety and that the opportunity to address standards in a small area might need to be considered.

ACTION: The Council will look at how targeted area-based enforcement might be implemented without having to resort to selective licensing.

3.1.5 Houses in Multiple Occupation

Houses in multiple occupation (HMOs) can present the highest risk residential accommodation, with fire safety, electrics and excess cold being key hazards. Recent experience of HMO licencing was that licensed properties were of a good standard. Officers will continue to support landlords that approach the Council for advice by supporting them to ensure that properties are safe by design, recognising that there is a pressing need for single person accommodation that is unlikely to be delivered in the social housing sector.

3.1.6 Licensable HMOs

Licensing of HMOs was introduced in 2006 and the original licensing criteria was widened in 2018 with changes made to the definition of a licensed HMO, mainly to reduce the requirement for the property to be 3 storeys. This means that the Council now has 17 licensed HMOs rather than 7 that it had up to the changes. The Council has adopted policies for the licensing of HMOs including the setting of fees and will periodically review the documents.

ACTION: The Council will continue to seek unlicensed HMOs and take appropriate enforcement action, especially where landlords have sought to avoid licensing.

3.1.7 Non-Licensable HMOs

HMO inspections are completed in response to local intelligence provided by the Police and Community Safety Teams as well as responding to complaints.

The Council is increasingly coming across properties that are rented by a company (often a contractor) which then uses the property with workers using the accommodation flexibly. One property used in this manner recently had a fire that could have had far more severe consequences. Investigation showed that the owner of the property was under the impression that the property was in single occupancy and did not have the safeguards that might be expected in a multi occupancy residence.

ACTION: The Council will continue to seek to ensure that Non-licensed HMOs meet minimum standards

ACTION: The Council will ensure that all licensable HMOs are licensed

3.1.8 Civil Penalties and Rent Repayment Orders

The Council has adopted a Civil Penalty and Rent Repayment Order Policy and will keep this updated as the trend appears to be that new national legislation will introduce the ability for the Council to recover costs through civil penalties. To date no civil penalties have been issued as landlords have always completed schedules of work within the time required. The Council is committed to working with the

Derbyshire Law Centre and other organisations to ensure that in appropriate cases tenants can recover rent paid.

ACTION: The Council will continue to periodically review the Civil Penalty and Rent Repayment Order policy and implement when appropriate.

3.1.9 Enforcement Policy

The Council has an Enforcement Policy that sets out the factors that need to be taken into account when making enforcement decisions.

ACTION: The Council will complete periodic reviews of the Housing Enforcement Policy

3.1.10 Landlord Harassment and Illegal Eviction

The Council responds to approximately ten cases per year. The taking of witness statements and negotiation with both parties to achieve resolution can take many hours. The Council will work with DHA (Direct Help and Advice) and Derbyshire Law Centre to provide the most effective response.

It is important the Council works closely with partners to coordinate efforts to ensure that those landlords that seek to disregard the legislation are brought to task.

Tenants that move into poor accommodation may prefer to move out rather than contact the landlord and then a new tenant moves in perpetuating the cycle.

ACTION: The Council will work with partners to ensure that tenants are protected from poor practices of both letting agents and landlords

3.1.11 Anti-Social Behaviour

There is concern that poor management of accommodation can lead to anti-social behaviour particularly where there are transitory tenancies and tenants are not part of the community. Continuing to work closely with the Community Safety Team, the Council will deploy resources to carry out inspections where it is evident that private rented properties are being poorly managed and having a negative impact on the community.

ACTION: The Council will seek to target enforcement resources to respond to complaints of anti-social behaviour and where appropriate seek to hold landlords to account

3.2 Priority 2 Raising the standards of private rented properties through proactive support and collaboration with partners

An aspiration is for the sector to improve through self-regulation so that enforcement can focus on the core of poor landlords that knowingly put tenants at risk.

The Council really values the work undertaken by partners, primarily Derbyshire Law Centre and the Derbyshire Districts Citizens Advice to provide advice to tenants faced with a range of issues around their tenancy. This is set out in more detail in the Homelessness and Rough Sleeping Strategy.

3.2.1 Landlord Accreditation

DASH Landlord Accreditation Scheme delivered by DASH Services continues to be offered to landlords that want to access the support accreditation provides with almost 3000 landlords members with over 10,000 properties across the East Midlands. In Amber Valley there are 19 members covering 36 properties. This figure is a very small proportion of the total landlord base but is consistent with other neighbouring Councils that do not have populations of university students. If the Council is minded to increase accreditation then incentives would be needed to increase numbers as the market place does not warrant landlords taking this extra step. The Council should seek to promote the existing scheme and determine if there are any affordable incentives given that there is no budget to fund any measures

ACTION: The Council will promote landlord accreditation and the benefits of membership.

3.2.2 Providing Support to Landlords and Letting Agents to Improve

The Council has provided information and advice to landlords through links to websites such as DASH (Decent and Safe Homes) hosted on behalf of the East Midlands by Derby City Council. The Council will continue to maximise the use of links to dedicated resources rather than replicating information locally. It is important that the Council makes information available to facilitate understanding of the responsibilities involved with regards to renting out properties. The challenge will be how landlords can be encouraged to access and then act on this information. There can be no excuse for a landlord not knowing their responsibilities given how easy it is to access information.

Parts of the sector's legal duties fall within consumer protection legislation. The Council led a successful bid to the MHCLG Rogue Landlord Fund in 2018/19 to improve awareness of legal duties for agents as well as advocates and services that represent tenants facing issues with their rented property.

As has already been identified, the sector has already been subjected to greater levels of regulation with more to follow so accessibility to information for landlords will continue to be important.

The Council has actively supported the development of the CallB4UServe service designed as a service for landlords to resolve tenancy issues and ultimately reduce the number of avoidable evictions.

There is clear but anecdotal evidence that many landlords are still dependent upon an inspection regime to tell them what they must do rather than getting it right themselves. Trade bodies and membership organisation have a critical role and it is hoped that with greater scrutiny of the sector that landlords most of whom only have one property will seek advice and act appropriately.

The Council has actively supported the development of a new service hosted by DASH Services called Call Before You Serve (CB4YS) which is an upstream intervention service designed for landlords to resolve tenancy issues as early as possible and ultimately reduce the number of avoidable evictions thus reducing the burden of homelessness on the council.

ACTION: The Council will continue to work with Derbyshire County Council Trading Standards to provide information to lettings agents about legal responsibilities

4 Monitoring

The actions within the Plan will be incorporated within the Housing Team's Business plan and monitored by the Council through reporting to Cabinet. It is anticipated that the first review of the Action Plan will be undertaken after the first year of the Plan's implementation.

5. Amber Valley Private Sector Housing Action Plan 2019 – 22

PRIORITY	DESIRED OUTCOMES	ACTIONS
<p>1 Addressing the quality of property management and standards through enforcement</p>	<p>Increase in the quality and supply of private rented accommodation</p>	<ul style="list-style-type: none"> • The Council will apply enforcement tools in accordance with the Enforcement Policy balancing the risks presented with the attitude of the landlord and letting agent. • The Council will continue to enforce EPC requirements to minimum EPC levels and enforce against those landlords that let properties without an EPC, to improve the energy efficiency of the private rented stock. • The Council will seek to support landlords to access funding that might be available to invest in the private rented stock in Amber Valley. • The Council will look at how targeted area-based enforcement might be implemented without having to resort to selective licensing. • The Council will ensure that all licensable HMOs are licensed • The Council will continue to seek unlicensed HMOs and take appropriate enforcement action, especially where landlords have sought to avoid licensing. • The Council will continue to seek to ensure that Non-licensed HMOs meet minimum standards • The Council will complete periodic reviews of the Housing Enforcement Policy • The Council will seek to target enforcement resources to respond to complaints of anti-social behaviour and where appropriate seek to hold landlords to account
<p>2 Raising the standards of private rented properties through proactive support and collaboration with partners</p>	<p>Supporting the sector to improve through self-regulation and provision of information</p>	<ul style="list-style-type: none"> • The Council will promote landlord accreditation and the benefits of membership • The Council will continue to work with Derbyshire County Council Trading Standards to provide information to lettings agents about legal responsibilities