

Housing and Community Safety Scrutiny Commission

Monday 3 October 2022

7.00 pm

Ground Floor Meeting Room G02A - 160 Tooley Street, London SE1 2QH

Supplemental Agenda No.1

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6.	Progress on Empty Homes <p>To receive a report from Perry Singh, Strategy and Business Support Manager, Housing and Modernisation on progress on Empty Homes.</p>	39 - 48

Contact

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Date: 29 September 2022

Item No. 5

ISSUES WITH LEASEHOLDER CHARGES AND THE IMPACT OF THE COST-OF-LIVING CRISIS ON LEASEHOLDERS

Housing and Community Safety Scrutiny Commission Monday 3 October 2022

Ina Negoita

Chair NW Area Forum

Chair Leaseholders Forum

Background

Firstly, I want to tanks to Councillor Cumbo for bringing to the attention of the Scrutiny committee

- Issues with Leaseholder charges and the impact of the cost-of-living crisis on leaseholders especially but not limited to rising energy bills and repair issues
- leaseholder experiences of legacy and current repair issues

For the past 7 years I was Chair of Homeowners Council, current chair of Chair of Northwest Area Forum and chair of Homeowners Forum.

During this time as the most of leaseholders I discussed with, faced a wide LBS officers' viewpoint that Leaseholders expect to be "funded" by tenants.

LBS's pubic rhetoric: Cllr Darren Merrill, Southwark Labour's cabinet member for council homes and homelessness, states a presumption that leaseholders have expectations "give much more favourable terms to leaseholders at the expense of secure tenants who have not been able to afford to buy their home, whilst delaying the council's ability to undertake essential works (6th July 2022)" is highly concerning, toxic against leaseholders which materialise into a hostile service delivery.

It is heart-breaking to see that some Cllr Darren Merrill continue the Cllr Stephanie Cryan trend to create and entertain artificial antagonism between the tenants and leaseholders to deflects from the real issues **which are the lack of accountability, poor financial and operational controls of LBS contractors.**

On top of overheads LBS charges 10-15% fees, higher the contracts costs more fees LBS collects so there is no incentive at all to deliver value for money solutions nor to implement efficiencies.

I want to assure you that not a single leaseholder out of the several hundreds I discussed with, ever has any expectation to be subsidised. **The Leaseholders just expect LBS to be Governance Compliant the Housing Act 1985/ 2004 which has clear provisions of how the major works and Service charges should be applied and compliant with Financial Controls Regulatory requirements.**

The Tenants are equally affected by the same repair/ major works issues the only difference being the tenants face poor service repairs delivery but have less visibility over the costs break down.

All the examples below are not matter of "opinion" but they have determinations by LBS auditors, several Regulators and 2 Tribunals.

Unlawful Service charges – pay for historical poor unfinished contractor work

A group of Leaseholders from NW Area have received in March 2022 ca £60,000 due to unlawful service charges refund ordered by a 4 years Tribunal case.

All the evidence papers were available since the beginning for the tribunal, the unlawful charges were due to fix poor workmanship done in 2012 by an LBS contractor, yet instead of looking to the evidence and solve the issue through internal procedures.

The cost of 4 years Tribunal with 8 LBS officers involved may had been as expensive as the refund itself and it is hard to understand why LBS chose to ignore evidence and waste resources.

During this time ICO Regulator as well ruled an infringement case against LBS for trying to re-write history rather than solving the leaseholder's complaint.

If LBS would have exercised appropriate financial and operational controls when the works were first executed in 2012 the leaseholders would not been unlawful charged in 2017.

I have to emphasize that **contrary to Cllr Stephanie Cryan and Cllr Darren Merrill unfounded, inflammatory and divisive statements the leaseholders do not expect any preferential treatment, they just expect LBS to be Governance compliant with the UK regulations and to perform the necessary controls on its contractors.**

A history of failed projects – continuous lack of accountability

In 2008 an integrated communal area fire alarm was installed, but had to be decommissioned due to being unfit for purpose in 2010 only partially refunded in 2012 after 2 years of complaints and escalations even that it never worked.

Despite having the available cash (money was not the issue) LBS didn't execute communal area decorations in Devon Mansions since 1998, already 2 cycles (every 7 years) missed.

2010-2021 LBS could have done a proper survey, consultation and execute the communal area works missed (money were available)

2021 A rushed decision (despite 10 years of doing nothing) was taken to install a new fire alarm on over 20 years old cracks of a building in "fundamental disrepair" as per the tribunal statement.



When the 20 years outstanding Communal works decorations will be done who is going to pay to remove the fire alarm pipes which were installed on 2 decades old cracks, and then put it back?

Major works – overcharges for poor maintenance work, lost warranty and poor planning

Roof Works

In 2018 a £15,000 per 2 bed flat S20 Notice of intention was served inclusive a full roof replacement for £5,583 which was done just in 2006, 14 years earlier despite the warranty life span was 25 years. LBS decided to replace the roof and sent the notice without a survey nor any form of investigation.

During a 1.5 years of complaints and investigation which required several FOI's (Freedom of Information requests) regulator compliance requests it was identified that due **very poor patches works 11 years of warranty was lost** and could not be repaired through warranty.

It is not reasonable for LBS to expect to pay for LBS's contractors poor jobs handed over without checks and sign offs of the works. LBS should claim back these costs from its contractors not from the residents.

The UK Housing Act is very clear that the leaseholders should not double pay for poor workmanship or be double charged. If every UK household would have their roof fully replaced every 14 years all of them would be bankrupt.

Scaffolding 2 years and 7 months – only 20% of time work

Scaffolding stated to be installed in February 2020 we are now end of Sept 2022 and the scaffolding will be to Dec. 2022 – **2 years and 7 months** to do just

1. power jet bricks cleaning (2 weeks)
2. Some pointing (1 months)
3. Concrete plinth repair (1 month)
4. Removal of tank rooms (1 month)
5. Roof replacement (1 month)

These works would have not taken more than 6 months if it would have been correctly staffed (during covid all the building companies operated efficiently at 60-70%) now there are on scaffold even less people than during covid.

Only 2-4 workers come on a whole building (4 blocks), work only for 2-3h pr day then disappear invariably before lunch and not return, sometimes only once a week other times no one would be for 3-4 months.

Unaccounted cost increases and cost increases for time not working


Only 20% of the 2 years and 7 years workers 2-4 attended the building for few hours a day when they attended.

Roof Works Original Estimate 2019 Supplier 1	Ref	Unit	Quantity	Tender	Amount	ROOF WORKS change of specification 35% cost increase	NO EXPLANATION 21						
Prepare existing roof covering, remove solar reflective paint, clear	R82	m2	229	170	38,990	As per Premier Roofing quotati	1 item	181,056	90,528				
Renewal: Extra Over costs to items R82/R83 above during strip off,	STARR1	m2	245	55	13,475								
Replacement Tank room double doors like for like [reduced height	STARR16	nr	2	2,115	4,231								
Supply, install and test new lightning conductor system to existing	STARR2	m	130	24	3,072	No explanation for change of specification 35% cost increase							
To roof top tank rooms, take down defective rainwater pipes and	STARR11(E	m	26	102	2,678								
Quantum Gold felt overlay system or equal and approved to garag	R83	m2	16	126	1,983								
Replacement Tank room single doors like for like [reduced height	R11	nr	3	240	719								
NE 500mm x 500mm	STARR5	nr	10	50	500								
Carefully remove all doors and thresholds to all water tanks and h	STARR10	m	5	90	446								
NE 750mm x 750mm	STARR6	nr	5	75	375								
Collar to pipe where penetrating roof coverings.	R30	nr	6	59	351								
Renew cast iron hopper head (any size), inclusive all fixings and joi	R68	nr	1	140	140								
Provide new rainwater outlets covers where missing or defective t	STARR9	nr	4	10	38								
Total Roof					66,996	Total Roof		90,528.0	135%				
Per flat													
Scaffolding Access 2019						Extra scaffolding 2021							
Allow here for a fully independent close boarded scaffolding and a	Sc4	m2	1,295	16	20,158	1 Plywood hoarding price per m	1792 Week	2	3,078				
Scaffolding for providing flameproof debris netting to all elevation	Sc6	m2	1,295	2	2,382	2 Steel Gates	2 No	330	660				
Allow for a weekly scaffold safety inspection by a competent and e	Sc8	wks	14	150	2,100	3 Decorate timber hoarding (col	128 LM	11	1,466				
Weekly rental	Sc21	wk	4	268	939	4 Erect and dismantle timber ho	128 LM	9	1,173				
Additional costs to provide scaffolding and temporary access to ca	STARSc5	item	1	500	500	Lights	64 No	48	3,072				
Ancillary Licensing costs / fees as more fully described within preli	STARSc4	item	0	1,645	411	Traffic Management	1 item	4,184	4,184				
Electrical Connection	Sc16	item	0	1,219	305	Scaffold Re design	3 item	800	2,400				
Carefully take down satellite dish; extend cable and resite on scaff	Sc11	nr	3	45	135	Hoist tower X 3	9 Weeks	1,438	12,940				
Erect & Test	Sc18	item	0	463	116	Extra Hire per hoist tower.	5 Weeks	430	2,150				
Transport	Sc15	item	0	439	110	Sc15 Transport	3 item	439	1,317				
Dismantle	Sc19	item	0	366	91	Sc16 Electrical Connection	3 item	1,219	3,657				
Power around Scaffolding inc check meters	Sc17	item	0	122	30	Sc17 Power around Scaffolding inc c	3 item	122	366				
Fit interlocks	Sc20	nr	0	61	15	Sc18 Erect & Test	3 item	463	1,390				
Provide security alarms for the scaffolding to comply with of Anne	Sc7	item	1	15	15	Sc19 Dismantle	3 item	366	1,097				
						Sc20 Fit interlocks	6 nr	61	366				
						Sc21 Weekly rental	42 wk	268	11,265	2 year			
						Run off's	3 No	1,500	4,500				
						4 Skips - Roll On-Roll Off	12 Each	435	5,222				
						Rubbish Shoots	3 item	1,331	3,993				
						Scaffold Extra Hire if runs over	22 Week	2,650	58,300				
						Extra for scaffold Licences	22 Week	614	13,504	6 mon			
						Ballast Hording (provisional sui	1 item	5,000	5,000				
						Hoist Operator	14 Week	441	6,173				
						Health & Safety Officer (visitin	3 Week	180	539				
Total Scaffolding first original per Block					27,308	Per building vs per blok (4)		36,953	135%				
Per flat					2,276				3,079				

There are only 12 flats in these blocks

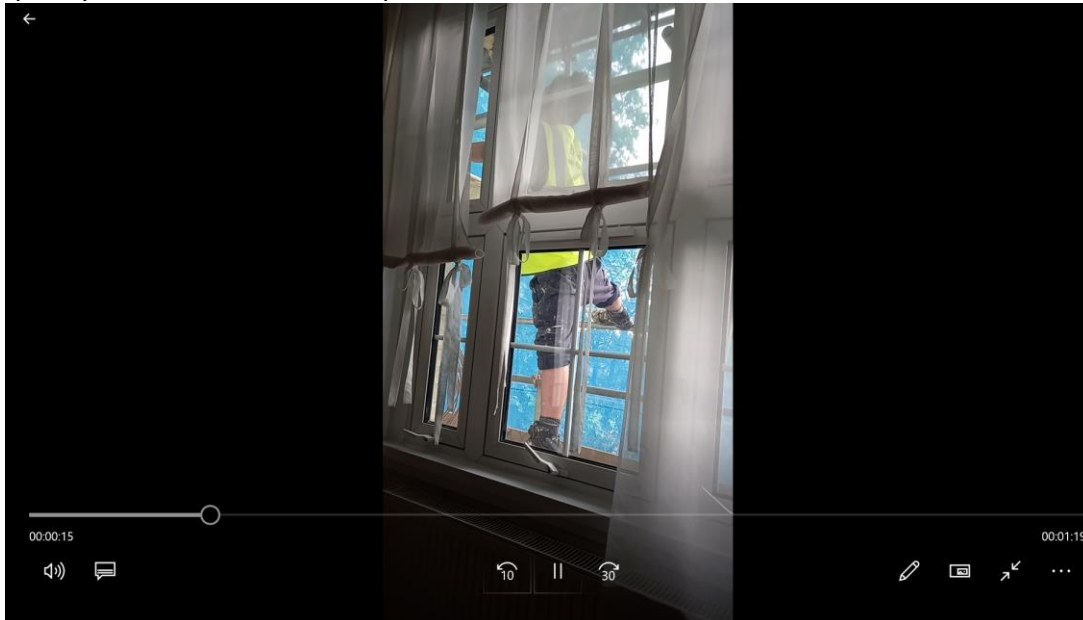
In 2 years LBS could not give any explanation where the Estimate roof cost increase come from, it seems that it has no control over its contractors. Even when one buys a £6 T-shirt on the label has more description than for the 35% increase in Premier roofing.

Because there is absolutely no incentive to get value for money the LBS fees increased as well as it will be an extra 10-15% increase in fees as well for over 2 years scaffolding "80% did nothing time".

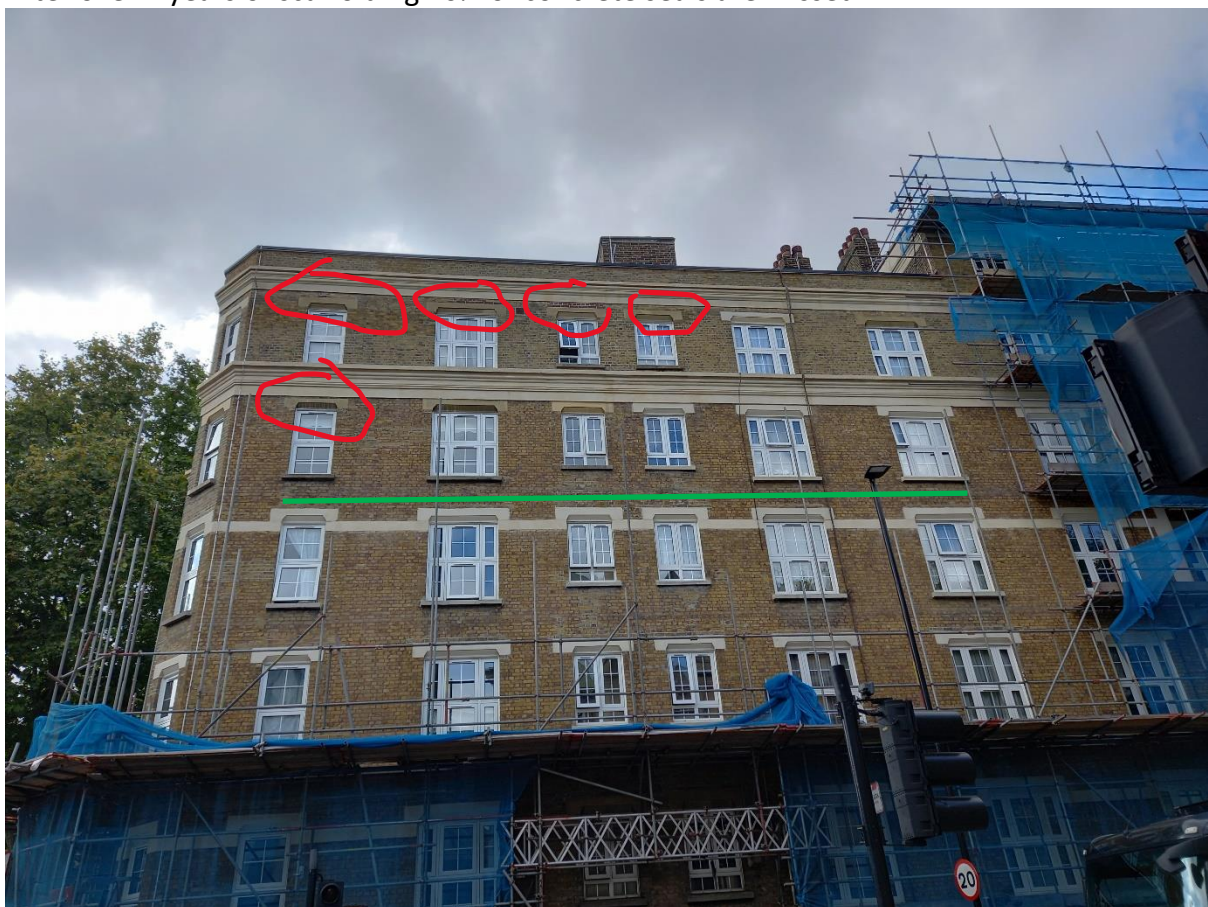
	OUR REF:	JW/2936	Unit 32B, Thames Enterprise Centre East Tibbury, Essex RM18 8RH																																																				
	DATE:	22/01/2021	tel: 01375 511420 email: contact@prclimited.co.uk																																																				
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Quality of works – unequipped, poor workmanship, socialising in groups only 1 working, safety risks cigarettes on scaffolds

Men hanging on scaffold without even the most basic equipment, no safety harness either. What quality of work would one expect



After over 2 years of scaffolding 40% of concrete seals are missed

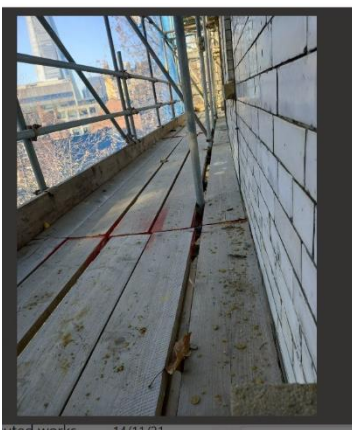


This is how it looks the finished work, more like after war than over 2 years Major works





the LBS contractors spent more time in groups socialising that doing works (**even smoking on the scaffolds**)



3 Cleaners have been sent to clean with a single broom, a single dustpan and they cleaned only less than half of the area.

LBS had paid 500 times for a poor executed task



Conclusion:

The leaseholders have to pay for Service charges and Major works as prescribed by Housing Act and the rest of the UK legislation. Not a single leaseholder argue against it **contrary** to Cllr Darren Merrill the public statements that the leaseholders are looking for a preferential status and to be subsidised.

The evidence above, Regulators Rulings and outcome from Tribunals show that due to poor financial and operational controls over its Contractors the residents have to pay over inflated bills for poor quality work. This is exacerbated by the fact that LBS works with the same contractors for decades and there is little to no accountability.

The issue the leaseholders raise and it is not only for them but for the tenants as well, LBS pays astronomical overinflated amounts on contractors without the required paperwork, hardly any operational controls to see the quality of the work which have to be done again and charged again.

Recommendations:

1. LBS has a hostile attitude to leaseholders, no leaseholder is looking to have a preferential status just LBS to be Governance Compliant with the UK regulatory requirements. LBS image as a fair freeholder would benefit if it would stop to villainize the leaseholders.
2. LBS is using Lawyers and significant resources to fight the leaseholders rather than **addressing the real, core issue the poor financial and operational controls on its contractors**. The leaseholders are not the enemies, they are valuable resources to support LBS in bringing value for money for all parties, leaseholders, tenants and LBS itself.
3. LBS could save significant resources if the issues will be addressed as they come rather than ping-ponging leaseholders from one department to another for months until reaches the regulators.

Thank You for your attention
Ina



Housing and Community Safety Scrutiny Commission

Service Charges

Louise Turff

Head of Homeownership Services
London Borough of Southwark

What is a service charge

○ **The Law**

Section 18 of the Landlord & Tenant Act 1985 – the meaning of “service charge” and relevant costs”

- (1) In the following provision of this act “service charge” means an amount payable by a tenant of a [dwelling] as part of or in addition to the rent –
 - (a) which is payable directly or indirectly, for services, repairs, maintenance [improvements] or insurance or the landlord’s costs of management, and
 - (b) the whole or part of which varies or may vary according to the relevant costs.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose –
 - (a) “costs” includes overheads, and
 - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

What is a Service Charge

○ **The Law**

Section 19 of the Landlord & Tenant Act 1985 – limitation of service charges: Reasonableness.

- (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period –
 - (a) only to the extent that they are reasonably incurred, and
 - (b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard;and the amount payable shall be limited accordingly.
- (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

What is a Service Charge

- **The Law** – s. 19 Reasonableness amended by part 3 of the Housing Act 1996
- A tenant by whom, or a landlord to whom, a service charge is alleged to be payable may apply to a Leasehold Valuation Tribunal [now the First Tier Tribunal] for a determination-
 - (a) whether costs incurred for services, repairs, maintenance, insurance or management were reasonably incurred,
 - (b) whether services or works for which costs were incurred are of a reasonable standard, or
 - (c) whether an amount payable before costs are incurred is reasonable



What is a Service Charge

- Reasonableness is not an all or nothing test
- A service charge is not inherently unreasonable due to its size:-
 - Is the work necessary
 - Is the cost within industry norms
 - Has the work been done to a reasonable standard



The Lease

- Southwark's standard lease requires the council (as the landlord) to issue an estimated service charge prior to the start of each financial year
- There is no separation between annual revenue service charges and major works service charges
- The estimate is based on the costs the landlord is expecting to incur within the financial year, including those for major works
- The leaseholder is required to pay the estimated service charge in four equal amounts on 1st April, 1st July, 1st October and 1st January
- At the end of the financial year, once the actual costs are known, the landlord issues the actualisation of the service charge (including any major works expenditure). The actualisation may lead to a debit or credit on the service charge account
- Any debit is due to be paid within 30 days of notification
- Any credit is applied to the account
- The lease has no mechanism for refunds
- We will refund credits on application if the account is clear and the credit is more than £100.



Transfer Agreement

- Houses are usually sold via a transfer agreement
- If the house is on an estate the transfer agreement will normally contain covenants for the payment of charges for communal services
- Freeholders are not charged on an estimated basis, but only once the actual costs have been incurred
- The transfer requires payment within 30 days of the invoice
- Freeholders are currently not required to be consulted under s20, and neither are they protected under s20b
- The council does issue freeholders with consultation letters mirroring s20 when qualifying work is proposed for which they will be charged (mainly communal heating systems and roofs)
- Freeholders are given the option of paying their actual charge interest free over 12 months

Payment Options

- Revenue service charges can be paid on the quarter days in accordance with the lease or over 12 months in equal instalments (interest free)
- An actual service charge debit can be paid over the remaining six months of the financial year
- Extending payment terms for revenue service charges builds debt, as at least one new invoice will be issued each year
- There are various options for major works service charges:-
 - Payment in accordance with the lease, on the quarter days of the year when the expenditure is due to be incurred
 - Payment over 12 months in equal instalments (interest free) from the April following the invoice date
 - Payment over 36 months in equal instalments (interest free, but for resident leaseholders only)
 - For invoices of more than £7,200, payment over 48 months in equal instalments (interest free but for resident leaseholders only)
 - A longer term service charge loan at a low rate of interest
 - An equity share or equity loan
 - In exceptional circumstances the council may be able to buy-back the property if the leaseholder cannot afford the service charges
 - These are still the widest range of options in London
- <https://www.southwark.gov.uk/home-owners-services/service-charges/ways-to-pay-major-works-costs>



Payment Options

- Currently re-looking at offering longer term interest free period for resident leaseholders
- Interest free periods come at a cost to the HRA, as council pays interest on borrowing for major works schemes
- Costs are frequently incurred on major works schemes before the estimated service charges are issued. On occasion the total cost is incurred prior to invoicing
- Any decision to extend the period must take into account the impact on the HRA as it will involve the tenants subsidising homeowners

Housing Revenue Account Income 2022/23

Income of £287.3m from:

- **Rents - £202.1m**
- **Fixed service charges - £16.5m**
- **Heating charges - £9.3m**
- **Variable service Charges - £33.3m**
- **Garages - £6.0m**
- **Commercial Rents - £8.3m**
- **Fees, charges, capitalisation, recharges - £11.8m**

Housing Revenue Account Expenditure 2022/23

- **£287.3m expenditure including:**
- **Repairs - £59.2m (including responsive repairs, planned maintenance etc)**
- **Heating - £22.5m (inc £12.2m district heating)**
- **Leasehold Buildings Insurance - £5.3m**
- **Cleaning and Grounds maintenance - £18.2m**
- **Debt charges - £30.6m**
- **Depreciation - £53m**
- **TMOs – £7m**

Lift Costs

Total cost of lift service in 2021/22 - £4,899,450.59

Not chargeable - £1,114,387.29

Net Chargeable figure - £3,785,063.30

Chargeable lift costs:

Repairs (inc PPM)	£2,055,726.91
Electricity	£762,986.57
<i>Sub Total</i>	<u>£2,093,843.88</u>
Overheads	<u>£966,349.82</u>
<i>Total</i>	<u>£3,785,063.30</u>

Lift Costs to Green Towers

- Total lift costs to Green Towers

Repairs (inc PPM)	£12,086.79
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Electricity	£2,052.44
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Overheads	<u>£4,044.04</u>
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Total	<u>£18,183.27</u>
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Service Charge Apportionment

- Schedule 3 paragraph 6 (2)
 - The Landlord may adopt any reasonable method of ascertaining the said proportion and may adopt different methods in relation to different items of costs and expenses



Service Charge to Green Towers

- No of properties in Green Towers - 80
- Each property given weighting of 4 units plus number of bedrooms
- 17 one bed properties (weighting of 5)
- 63 two bed properties (weighting of 6)
- Total units – 463
- 59 secure tenants (14 one bed & 45 two bed)
- 21 leaseholders (3 one bed and 18 two bed)

Service Charge to Green Towers

Total lift cost – £18,183.27

Divided by total units - 463

Multiplied by property weighting – 5
or 6

One bed property - $£18,183.27/463*5$
= £196.36

Two bed property - $£18,183.27/463*6$
= £235.64



Service Charge to Green Towers

- Total charges to one bed properties
– £3,338.18
- Total charges to two bed properties
– £14,485.09
- Total amount paid by secure tenants
– £13,352.73
- Total amount paid by leaseholders -
£4,830.54



Reconciliation

- Total lift costs £18,183.27
- Total cost to tenants £13,352.73
- Total cost to leaseholders £4,830.54
- Total sum charged £18,183.27



No Charge to Ground Floor

- Four properties – 2 one bed properties, 2 two bed properties
- Divisor reduces to 441
- Service charge for one bed properties increases to £206.16
- Service charge for two bed properties increases to £247.39

Administration Fee

- Schedule 3 paragraph 7 (7)
 - The employment of any managing agents appointed by the Council in respect of the building or estate or any part thereof provided that if no managing agents are so employed then the Council may add the sum of 10% to any of the above items for administration.
- The administration fee goes towards to the services provided wholly to home owners:-
 - Construction, billing and collection of service charges
 - Statutory consultation
 - Communications with homeowners
 - Leaflets
 - Home Owners Guide
 - Drop in sessions
 - Public meetings attended by HOS staff
 - Homeowners fund
- Income from administration fee does not cover the costs of providing the service



Heating/Fuel Costs

- Homeowners pay their fair proportion of the cost of fuel used and repair and maintenance of the boiler and infrastructure serving their property.
- The charge is weighted in accordance with the size of the property and the type of service provided
- Tenants pay a weekly charge for fuel only, based on the anticipated boroughwide cost of fuel for the forthcoming year
- Homeowners service charges are actualised, so they only pay for fuel used and repairs and maintenance carried out
- Tenants charges are not actualised
- The council bulk buys its fuel at a much lower rate than that obtained on the domestic market
- The council currently has a fixed rate in place for gas until April 2023. This is at a much lower rate per KWH than the domestic market.



Heating/Fuel Costs

- Communal systems are recommended as more cost effective over time and environmentally better
- The older the system the more repairs are required, so the higher the cost
- Newer systems are more efficient
- The Council must install heat meters where possible
- Where heat meters are installed homeowners will be charged for the cost of actual fuel used
- Repairs and maintenance of the infrastructure will still be charged on the weighting method
- The Council bulk buys gas, leading to a cheaper rate than that on the domestic market

Average service charge - Gas

Weighting Factor 4.52 (Full Heating & Hot Water)										
	0 Bed	1 Bed	2 Bed	3 Bed	4 Bed	5 Bed	6 Bed	7 Bed	8 Bed	10 Bed
22-23	700.47	790.61	969.45	1063.42	1112.75	1154.79	1335.77	1507.48	1058.49	1677.43
21-22	410.8	386.67	455.4	497.14	582.34	696.12	827.87	714.04	507.94	
20-21	378.66	385.03	461.05	523.41	647.62	857.08	917.96	912.49	819.84	809.37
19-20	416.05	436.64	525.38	575.79	678.9	866.72	1046.3	936.2	1144.76	950.52
Weighting Factor 3.5 (Full Heating Only)										
	0 Bed	1 Bed	2 Bed	3 Bed	4 Bed	5 Bed	6 Bed	7 Bed	8 Bed	10 Bed
22-23	668.94	836.17	820.86		1355.43	1505.11				
21-22	267.67	334.59	330.32		544.49	602.25				
20-21	236.64	295.8	363.77		488.36	532.43				
19-20	281.5	351.87	385.23		573.53	633.37				
Weighting Factor 2.5 (Partial Heating)										
	0 Bed	1 Bed	2 Bed	3 Bed	4 Bed	5 Bed	6 Bed	7 Bed	8 Bed	10 Bed
22-23	412.13	465.91	850.18	1170.58	1203.67					
21-22	160.1	197.72	355.47	496.33	509.97					
20-21	124.39	265.74	270.36	428.46	494.09					
19-20	173.1	326.29	336.66	531.61	549.52					
Weighting Factor 1 (Hot Water Only)										
	0 Bed	1 Bed	2 Bed	3 Bed	4 Bed	5 Bed	6 Bed	7 Bed	8 Bed	10 Bed
22-23			180.55	209.48						
21-22			76.41	89.91						
20-21			61.11	71.87						
19-20			95.5	117.6						

Reducing Service Charges

- Homeowners pay a variable service charge constructed from the actual costs incurred in managing and maintaining the structure, exterior, common parts and common services to the block and estate
- In order to reduce the service charge there would need to be a reduction in cost. This is likely to be attained only by a reduction in service. For example:-
 - If a block is served by a lift, the lift could be decommissioned
 - Only urgent and emergency repairs could be carried out
 - A reduced caretaking and grounds maintenance service could be provided
- While this would reduce the expenditure, and thus the service charge, it would also lead to deterioration of the block, estate and communal services, and ultimately devalue the property when the leaseholder comes to sell
- The average time between a leaseholder buying and selling on is approximately 7 years, although the original right to buy leaseholders often sell on soon after their discount period has ended.
- The Council could be at risk of legal challenge by leaseholders if the block and estate are allowed to fall into disrepair. Tenants would also have the right to take legal action for disrepair



Reducing Service Charges

- It is not an option to simply not charge homeowners their fair proportion of costs
- The HRA is ring-fenced – if homeowners do not pay their fair share of the costs then the burden falls to the tenants
- This reduces the available income for services, which in turn would lead to a reduction of provision, ultimately leading to a deterioration of the block and estate with the same risk of disrepair claims and problems of resale
- Instead the council provides alternative ways to pay in order to assist leaseholders, even though this is at a cost to the HRA



Right to Buy

- Housing Act 1985
- Schedule 6 implied covenants
 - Council (landlord) retains responsibility for structure, exterior, common parts and communal services
 - Landlord must provide buildings insurance
 - No impediment to sub-letting
- Leaseholders must pay their fair share of the costs



Amending the Lease

- Surrender and regrant of approx 14,500 leases
- Cost at least £1,000 per lease – total cost to HRA at least £14,500,000 (more likely to be a much higher figure, especially if compensation to the leaseholder is required)
- Need to agree the surrender and re-grant with each leaseholder – this is likely to be impossible to achieve
- Change to new leases causes difficulty as the council would need to administer and manage different landlord obligations
- Changing the lease would not resolve the central issue of costs – leaseholders would still be obliged to pay their fair share of costs incurred on services provided by the council



Leases

- Most leases contain the same or similar covenants
- Earlier leases have individual block definitions identified by Valuer, rather than standard definition
- Earlier leases may have services crossed out if not received at the time
- Since 2003 leases have been standard
- Limitations to service charge may be applied in the first five financial years of the lease (subject to s125 Housing Act 1985)

Item No. 6	Classification: Open	Date: 03 October 2022	Meeting Name: Housing and Community Safety Scrutiny Commission
Report title:		Empty Homes Action Plan – Progress on empty homes	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Darren Merrill, Cabinet Member for Council Homes and Homelessness	

RECOMMENDATIONS

1. For Scrutiny to note the progress towards delivering the Southwark Empty Homes Action Plan.

BACKGROUND INFORMATION

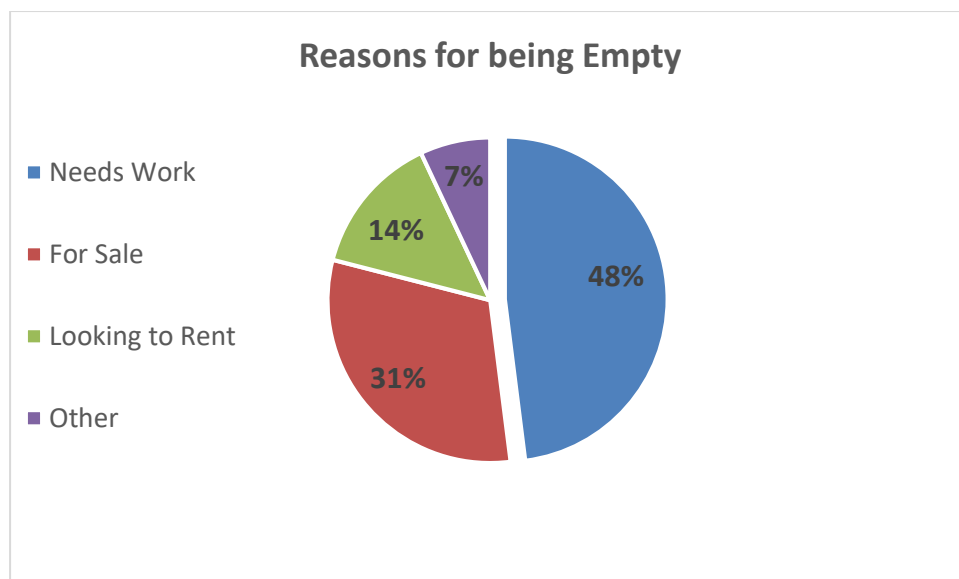
2. Southwark Council has adopted a zero tolerance approach to empty homes given the significant demand for homes in the borough. The Southwark Empty Homes Action Plan was approved by Cabinet in October 2021.
<https://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?AllId=62258>
3. Many teams from across the council contribute to the plan and the plan is monitored through a group of senior managers. The plan will be updated in October/November using the latest empty homes figures from council tax. This report contains some preliminary figures but the final figures may change slightly when the official snapshot of data is recorded.
4. This report updates on the progress in delivering each section of the action plan. The order has been altered as this provides a clearer narrative to our progress, what has been learnt, what has been done in response and what has the outcome been so far.

Improving our understanding of private sector empty homes to better target action and support

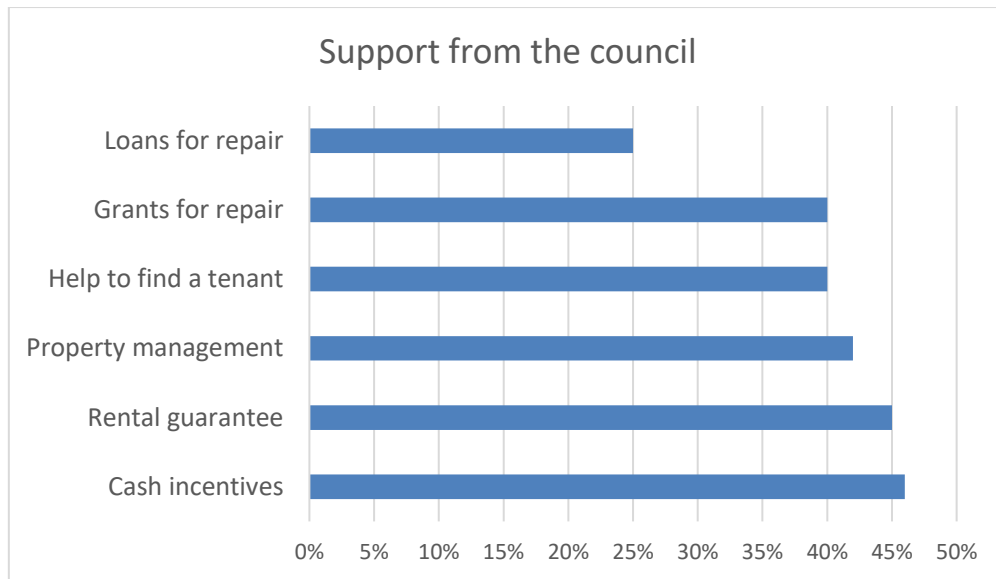
5. One of the key first tasks was to gain a better understanding of which properties were sitting empty, how long they were sitting empty and why. For private properties the source of data for this is council tax records which is primarily designed for collecting the money owed. It was not designed to be a source of information about empty properties, and also it is reliant on residents keeping the council informed of changes.
6. The Council has been reviewing the council tax database to gain a better understanding of why homes are empty and to target advice and support. The Income Operations team undertook a survey to try and understand what if anything would encourage people to bring their homes back into use. A total of 2,065 accounts were selected as part of the survey covering property which had been either empty or unoccupied for at least 3 months and where the liable

party was a private individual. The survey included unoccupied but furnished properties to try and understand why people were retaining property in the Borough but not living in it and if there was any incentive which might encourage them to take action.

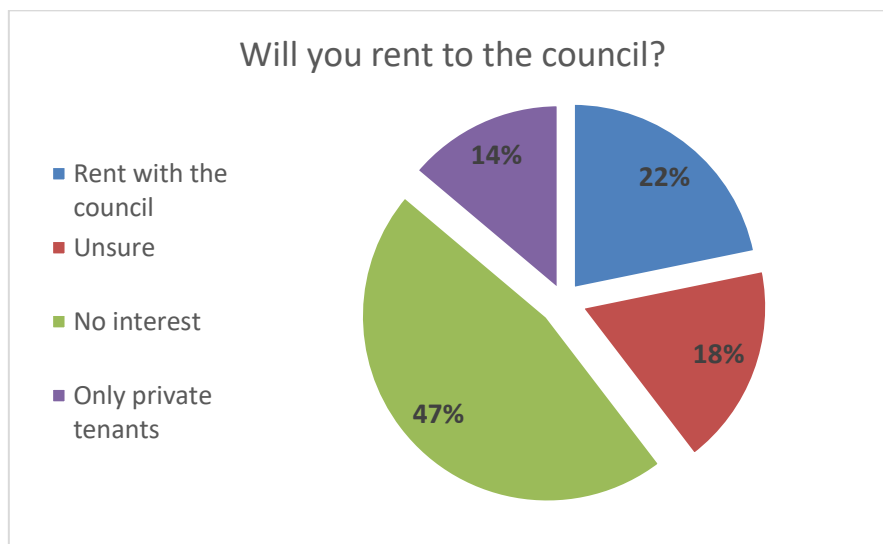
7. 54% of those surveyed indicated that their home was not actually empty suggesting the council tax data is incorrectly inflating the empty homes figures due to people incorrectly reporting or not updating their details. Officers had suspected that given the removal of the council tax discount, residents were no longer incentivised to contact the council when properties become occupied. The council tax premium only comes into effect after two years being empty, when again residents have a real incentive to update records. There is also a possibility that some of these homes are being used for short-term lettings such as Airbnb. The council has begun creating a new system to identify when an empty property owner stops making payments, which would trigger a contact to see if there has been a change of circumstance.
8. 48% of residents said that the home was empty due to works being needed – of these two-thirds indicated they needed significant renovation, with the remainder indicating minor works. 31% indicated that the home was up for sale. In the 'Other' (7%) category residents gave a number of reasons including: the impact of COVID; financial issues; negative rental experiences; and the need to resolve issues with cladding.



9. Residents were asked whether they were interested in getting support from the council in bringing their home back in to use. More than half of residents indicated that they did not want any help from the council. Of those that were interested in support they were asked to indicate the type of support needed, shown in the chart below. Note that residents could indicate interest in any support they felt relevant.



10. The council has two twin aims of bringing homes back into use and also assisting homeless households into good quality homes. Therefore the survey asked whether home owners would let their home to the council.



11. The number of home owners willing to let their homes to the council at 22% is disappointing, and clearly at variance with the number willing to take council support. There were a further 18% that appeared to be persuadable. One of the major issues is that the Local Housing Allowances offers rent levels that lag significantly against market rents available in the borough.
12. The council is working on our marketing material which will bring together all the range of incentives that are available to home owners, which will include: rent guarantees; property management; tenant referrals; cash incentives, loans, grants etc.
13. Following the initial survey the council has run a targeted campaign against 450 properties empty for longer than 6 months. 103 responses have been received so far and the results are being analysed.

14. The council has been working to increase awareness of the support available to bring properties back into use. The council has improved the webpages on grants and loans available and ensured that information links effectively with the council tax webpages about the premiums for empty properties. Information about the revised grants and loans has been included in e-newsletters. Further communications campaigns are planned.
15. The council has also made it easier to report empty homes via the telephone and the Southwark website to help reduce the time it takes for the council to become aware of properties as they become vacant.
16. The council has also started investigating the potential to use the council temporary accommodation income database to understand which property is being used for this purpose, to ensure this is not incorrectly being reported as vacant.

Taking a zero tolerance approach to long term empty private sector homes

17. Many of the factors that result in homes sitting empty are outside the control of the council, and the position is constantly churning, as properties are returned to use and new homes become vacant. The council is committed to using all the powers available to tackle the number of empty homes, and over the past year the council has significantly strengthened its ability to tackle these issues.
18. One of the key tools to tackle empty homes is applying council tax premiums to empty properties. The council already applies the maximum premiums available. The council has been lobbying for powers to apply premiums on empty but substantially furnished properties, and to shorten the length of time required from two years before a premium can be applied. Such changes have now been proposed in the Levelling Up and Regeneration Bill. This will be monitored as/if the bill progresses through Parliament. If enacted, the Council will explore introducing these changes.
19. Officers are continuing to empower the council to use powers such as Empty Dwelling Management Orders and CPOs. A report went to Cabinet in March 2022 which agreed a capital allocation of £2m to provide funding to compulsory purchase (CPO) long-term empty homes. This will be a revolving fund as costs will be recouped from the sale of the properties. Further details are in paragraphs 29-33 of the [report](#).
20. EDMOs and CPOs remain incredibly difficult to implement. Formal approval for an EDMO must be obtained from the First Tier Tribunal, who need to be assured that the property has been vacant for two years or more; and the property is the cause of nuisance to the community, or a cause of antisocial behaviour. There are number of other exclusions where an EDMO cannot be used. The first step in the EDMO process is the granting of an interim EDMO for a 12 month period. During this time the Local Authority must work with the owner to agree a route to returning the property back into use. The Local Authority can then move to a final EDMO. This lasts for up to 7 years. This will

allow for the local authority to carry out necessary works and take over management of the property. Rent can be charged and any costs accrued can be offset against this revenue. Very few EDMOs have been agreed nationally.

21. Compulsory Purchase Orders can only be used where it can be proven that no other means is available to a Local Authority which will result in the property being returned to use. The CPO powers are used as a final option and are governed by legislation and must be in accordance with Government guidance.
22. The council continues to make use of enforcement powers where an empty property is a statutory nuisance, linking landlords to other support and options available to bring properties back into use.

Working with residents and property owners to quickly bring empty private sector homes back in to use

23. The council is committed to working with property owners and landlords to bring empty private sector homes back in to use. Often advice might be all that is needed but sometimes households might require grants or loans. Officers conducted a review which concluded that individual grants and loans needed to increase to take account of the increase in building costs and to incentivise landlords/property owners to complete repairs/ improvements. In response in March 2022 Cabinet agreed to increase the annual capital funding available for grants to refurbish empty homes from £95k to £400k, and to increase the annual capital funding available for loans to refurbish empty homes from £62k to £700k. To support the expanded programme two additional officers are being recruited. Further details are in paragraphs 22-26 of the [report](#).
24. The council is also working to incentivise property owners to let their homes to let to homeless families. We are currently working on our marketing material which will bring together all the range of incentives that are available to home owners, which will include: rent guarantees; property management; tenant referrals; cash incentives and so on.
25. The action plan included an action to consult on a new zero cost private rented sector license fee as part of the refreshed Private Rented Sector Licensing Scheme. Cabinet agreed changes to mandatory licensing for HMOs, additional licensing for HMOs, selective licensing in many wards, and the final proposals for the council's Gold Standard Charter for Landlords as set out in Appendix 9 and 10 of the report. The Gold Standard Charter includes a 'Gold Standard Charter Plus' which gives an additional discount to any Gold Standard Charter Landlord who has signed up to the Council's Finder's Fee Scheme. Where landlords have signed up to the social lettings agency, the properties will be managed by the Council so become exempt from licensing, preventing the need to apply or pay for a license.
26. The Empty Homes Team provides support and financial support to owners to return their empty homes to use. In 2021-22 36 properties were brought back in to use against a target of 25. The target for the current year is 30, and for the subsequent years is 50, based on the additional resources being provided.

These 'hard' targets are based on proactive work with individual owners. However, the work of the wider project team appears to be having an impact. There has been a reduction of over a 1,000 empty non-council homes. This has been offset in part by the increase in empty council homes, due to regeneration and refurbishment as set out in paragraph 35.

Campaigning for more resources and more effective powers to tackle empty homes in the private sector

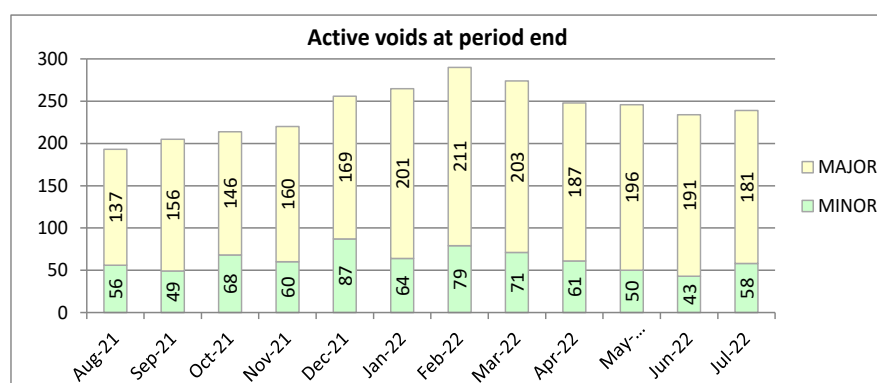
27. As stated, the council has been lobbying for additional powers to tackle empty homes and to simplify the existing powers to make them easier and cheaper to use, such as empty dwelling management orders and compulsory purchase orders. There has been some movement from the Government on this issue with potential changes to the application of council tax premiums to empty but substantially furnished properties, and potentially reducing the vacant period to one year from two before a premium can be applied. The council will continue to push for these new powers as the Levelling Up and Regeneration progresses, or failing that to ensure this is included in future legislation. The Council will continue to work with our partners to push for change in this area.

Reducing the number of empty council homes

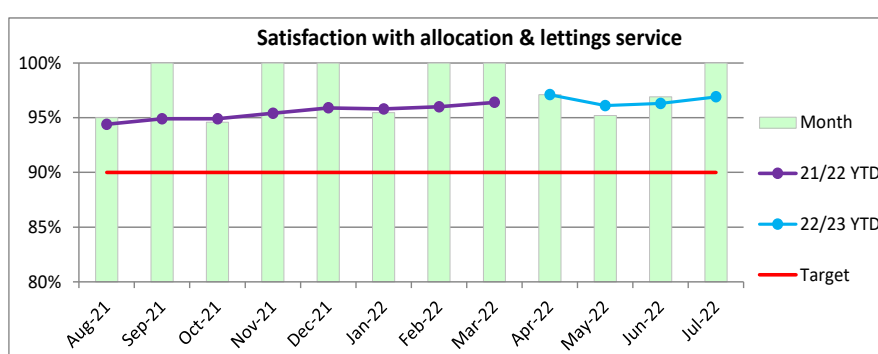
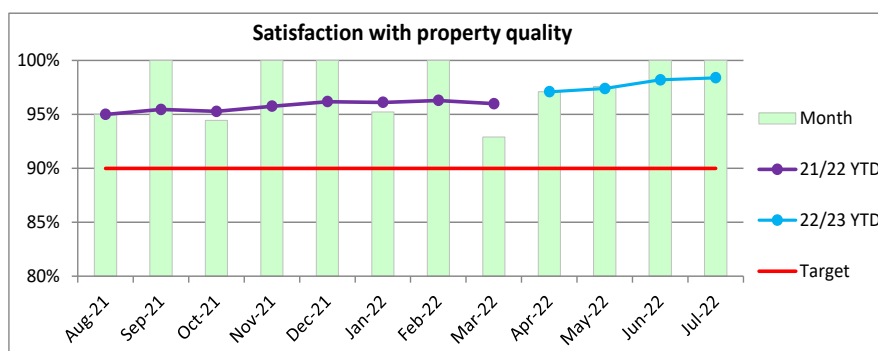
28. The action plan contains targets to return council homes to use. The performance on these are still being affected by the impacts of the covid pandemic. This resulted in restrictions on contractors which delayed repair work, and prevented being able to offer multiple household viewings once the property was available to let. For minor works voids, the target in the plan was to turn the void around within 28 days. As of July 2022 this was running at 81.4 days. There had been 75 lets since 01 April 2022. For major works voids the target was 100 days. In July 2022 it was running at 150.6 days. There were 169 lets.

29. The letting of some of the long standing major voids is impacting on the average turnaround time. Looking at just new voids the year to date performance as running at 53 days for minor voids and 64 for new major voids.

30. Looking at the active voids, the majority of these continue to be major voids.



31. Following a void period, the satisfaction with the quality of the property has increased and satisfaction with the allocation and letting service remains high among new tenants.



32. There is increased scrutiny and monitoring of council empty homes, the team are working with Contractors to ensure all empty homes are brought back into use. Two additional contractors have been brought in to focus on complex long standing and Temporary Accommodation voids. A new KPI for Contractor's performance monitoring has been developed to ensure targets are met.

33. As part of the repairs improvement plan, a new IT system is being rolled out for the voids team. This will allow for enhanced functions for monitoring works from specifications through to completions, including detailed monitoring on financial completions.

34. The data above includes information on active voids. According to the September council tax records there were 1,714 empty properties where the council was recorded as responsible for the council tax (not just council rented). The vast majority of these are not active voids. According to the Voids Team records in September 2022 there were 1,144 non active voids broken down as follows:

Demolition	Refurbishment and FRA type 4 safety works	Other	Total
778	306	60	1,144

35. Most of the non-active voids are involved with major regeneration schemes or where major investment or fire safety work is required. With the regeneration

voids, some of the properties are effectively uninhabitable but there are strict rules about what can be removed from the council tax property list on which these figures are based. Many of these are expected to be removed from the figures shortly once demolition gets underway. Some of the key examples of these regeneration or structural issue voids are:

- Aylesbury Estate – The vast majority of the long term empty properties are linked to the Aylesbury Estate regeneration. In September 2022 this accounted for 623 voids of which 543 were vacant for over two years. This regeneration has run in phases which has resulted in many homes needing to be vacated and sitting vacant prior to demolition. To reduce the number of vacant homes some of these were homes have been used as temporary accommodation. At Wendover a new phase of emptying properties has started.
- Ledbury – In 2021 due to structural issues, in consultation with residents a decision was made to demolish the four tower blocks at Ledbury Estate, consisting of 224 homes. Residents are being required to leave their homes while blocks are demolished and new homes are built. In September 2022 this accounted for 79 voids of which 72 were vacant over 2 years.
- Tustin and Hillbeck Close Estates - In March 2021, residents voted in favour of demolishing and rebuilding the low-rise buildings in a residents' ballot. The programme comprises of the demolition of 249 homes (200 council rented and 49 leasehold)
- Maydew House – This comprises of 144 units which were vacated by the Council between 2010 and 2015 in order to facilitate a programme of asbestos removal, heating works and replacement of bathrooms and kitchens which was determined too intrusive to carry out with residents in situ. Following an options appraisal in 2011, further consultation led to a decision in 2012 to undertake a major refurbishment. In 2018 planning permission was granted to refurbish the building and add 5 storeys of accommodation on the roof. Following procurement, a contractor was appointed to finalise the costings and design in 2020. During this period, further surveys identified additional structural and fire prevention issues which needed to be addressed in the works contract. A revised costing was submitted earlier this year. Following consideration of this cost and consultation, a report is scheduled to be presented to Cabinet in December to agree a way forward for the block.
- Marie Curie – In May 2021, the council informed residents in Marie Curie that they needed to move out to carry out major essential works, including fire safety improvements to their homes and block. Marie Curie is a 16 storey block of 98 two bedroomed maisonettes. In September 2022 this accounted for 54 voids.

36. The council is keen to make best use of these empty properties. It conducts frequent review of empty homes on regeneration scheme to ensure empty properties are used as temporary accommodation for as long as possible. Where there are delays to the programme, the temporary accommodation strategy for the scheme is reviewed and additional homes brought back into use. Following a review of the Aylesbury regeneration empty homes, 80

additional units on the Aylesbury estate have been brought back into use as temporary accommodation for homeless households.

37. Between April 2022 and August 2022, 569 void properties were completed and relet – 342 as permanent accommodation and 227 estate voids for use as temporary accommodation.

Impact of the empty homes action plan on the overall numbers of empty homes

38. This report highlights the progress made towards the action plan in terms of the actions that have resulted from the plan. Some of these changes are still in their infancy with additional staff still being recruited and growing awareness of the new grants and loans. Work has commenced but it is too early for some of these tools to have had much impact. That said the numbers appears to be moving in the right direction with the total number of empty homes (excluding second homes, furnished and uninhabitable homes) falling from 4,469 to 3,950. There has been a big decrease in the number of homes empty for less than 2 years falling from 3,250 to 2,738.

Primary liable party as recorded on council tax (right) and empty homes category (below)	Total October 2021	Total September 2022 (preliminary data)
Empty no premium (less than 2 years)	3,250	2,738
100% premium (empty 2-5 years)	932	894
200% premium (empty 5-10 years)	247	274
300% premium (empty over 10 years)	40	44
Total premium (empty over 2 years)	1,219	1,212
Total empty unfurnished	4,469	3,950
Second homes	476	451
Furnished, but unoccupied	2,745	2,457
Uninhabitable	10	16
Total empty homes <i>including unfurnished and second homes etc.</i>	7,700	6,874

39. As mentioned earlier in this report, the Levelling Up and Regeneration Bill included a proposal to allow Local Authorities to charge a premium on empty but substantially furnished properties, that have been vacant for over two years, or potentially one if the empty time period is also reduced. These powers if enacted could significantly help the council to reduce the number of empty homes further.
40. It is clear from the table above that there is still considerable work to be done, particularly for the longer term vacant properties. As stated in the council homes section, many of those are council properties which are due to be demolished. Under official rules these can't be removed from the list until they are physically demolished. A large number of these are expected to be demolished soon and some major refurbishments are due to complete too.
41. Looking specifically at council properties there is evidence that the number of council homes is increasing, partly due to an increase in new voids compared to the same period last year. In the long term empty properties the vast

majority of these are empty due to either redevelopment or refurbishment and major fire safety or type 4 works required.

Council homes	October 2021	September 2022
Empty no premium (less than 2 years)	637	847
100% premium (empty 2-5 years)	570	613
200% premium (empty 5-10 years)	194	232
300% premium (empty over 10 years)	24	22
Total premium (empty over 2 years)	788	867
Total empty unfurnished	1,425	1,714