

Item No. 6	Classification: Open	Date: 15 July 2013	Report to: Overview and Scrutiny sub Committee:- Housing, Environment, Transport and Community Safety.
Report title:		Overview and Scrutiny Report on Private Sector Housing regulation	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Fiona Colley, Cabinet Member For Regeneration and Corporate Strategy And Councillor Mark Williams Deputy Cabinet Member for Housing	

SUMMARY

1. The following reports provides a broad outline of private sector housing in Southwark and overview of the current national and local pressures that are impacting on the quality of accommodation in some parts of the private sector.
2. This paper sets out background information about Landlord Accreditation and selective licensing schemes which the Leader has stated he is committed to implementing in Southwark and has appointed Councillor Williams to lead on as Deputy Cabinet Member for Private Rented Sector Housing. Officers are currently working up proposals to introduce these to improve standards in private sector housing in the borough.
3. This work will be complemented by a public awareness and education campaign which will explain the rights and responsibilities of both tenants and landlords.

BACKGROUND INFORMATION

National picture

4. The most recent census, published by the Office for National Statistics, shows the number of private renters in England and Wales increased by 88% between 2001 and 2011. In addition the ability to discharge the council's homelessness duty through private sector accommodation, new energy efficiency responsibilities in the energy bill, and changes to the single room rate (which is a driver for the demand in homes of multiple occupancies (HMO's)) are all conspiring to increase the significance of the sector for local authorities.
5. According to the latest English Housing Survey, 37% of privately rented homes are non-decent compared to 25 per cent of the owner-occupied homes and 20 per cent of the socially rented homes.
6. Standards of management within this sector vary enormously, and the highly publicised instances of rogue landlords demonstrate that there is a particular problem of upholding acceptable standards in some parts of the sector. The sector has seen an alternative 'housing market' whereby garages, sheds and outbuildings are now being used as accommodation, which has led to the government's much publicised 'beds in sheds' focus.

Local picture

7. Southwark's Housing Condition Survey (HCS) 2008 reported that there were 77,000 private dwellings in the borough, 22,000 of which were privately rented. The 2011 census

data suggested that the PRS had grown to over 28,000 dwellings. However, the Mayor's Housing Covenant estimates that by 2025, the private rental sector will be 37% of the entire housing sector. If this figure extrapolated for Southwark based on 120,000 households (2011) the sector may grow to over 44,000 dwellings.

8. Census data (2011) shows that there has been a 98.9% increase in the private rented sector, up from 14,323 in 2001 to 28,493 in 2011, and now accounting for nearly one in four households in compared to 13.5% at the time of the 2001 Census.

Current Legislative framework

9. Under the Housing Act 2004 it is compulsory for local authorities to license HMO's that are 3 or more storeys high, and have five or more people in more than one household who share amenities such as bathrooms, toilets and cooking facilities. Under the Act, anyone who owns or manages an HMO that falls under the compulsory licensing scheme must apply to the council for a license. The council must give a license if it is satisfied that the:
 - HMO is reasonably suitable for occupation by the number of people allowed under the license.
 - Proposed license holder is a fit and proper person.
 - Proposed license holder is the most appropriate person to hold the license.
 - Proposed manager, if there is one, is fit and proper.
 - Proposed management arrangements are satisfactory, the person involved in the management of the HMO is competent and the financial structures for the management are suitable.
10. Southwark has a statutory duty to license larger HMOs, which fall under the definition above. To date 150 are licensed and up to standard.
11. Under parts 2 and 3 of the Housing Act 2004 (the Act) Local Authorities have the power to introduce a discretionary licensing scheme. There are two types of scheme that can be considered which are 'additional' and 'selective' licensing:
 - Additional licensing under section 56 of the Act -allows the local authority to extend the Mandatory HMO licensing scheme to include other types of HMO.
 - Selective licensing - is a regulatory tool provided by Section 80 of the Act. This applies to all dwellings in the private rented sector. However a selective licensing scheme can only be declared if one of two general conditions is met. The first relates to low housing demand: The second relates to anti social behaviour.
12. Successful discretionary licensing schemes can result in private tenants living more securely in reasonable housing conditions. They can also contribute towards regeneration and a reduction in anti social behaviour, if they are combined with other initiatives which deal with the problems in the area as a whole. Up until March 2010 discretionary licensing schemes could only be set up with approval from Communities and Local Government (CLG), but from 1 April 2010 schemes could be approved by local authorities (known as general consent)

13. Local councils have discretion to introduce additional licensing of other types of HMO's which are not subject to mandatory licensing, including poorly converted self-contained flats (also known as Section 257 HMO's after the section in the Act which defines them). This may be in a defined geographical area or across the whole of a council's area. These schemes are aimed at dealing with situations that cannot be improved by any other means. The council has to consult local landlords before introducing additional licensing and they have to publicise it when it comes into force.
- 14 The setting up of a discretionary licensing scheme involves researching and collating the evidence to provide the business case for the scheme and carrying out an extensive consultation exercise. Under general consent, the government requires that the consultation must last for a minimum of ten weeks. The scheme can then come into force three months after the local authority approves the designation and it can last for up to five years.
- 15 The research, evidence gathering and consultation, must be robust to avoid any legal challenge which may result in the scheme being revoked. Local authorities need to keep their schemes under review to show whether the designation is achieving the desired effects. Schemes work by:
 - Only granting licenses to landlords or managing agents who have demonstrated that they are fit and proper persons to hold a license.
 - Attaching conditions to the license to control the management, occupation and use of the property. (Some mandatory conditions must be applied, such as a requirement to take up references for new tenant and to provide a written tenancy agreement).
16. Following the introduction of the scheme, Landlords and managing agents have to:
 - Apply for a license for each property
 - Pay a fee for each application
 - Show the property is safe and managed responsibly
 - Show they are 'fit and proper' persons
17. Each License granted will be bound with conditions, and these include:
 - Tenancy management conditions especially around seeking references, managing ASB and having written tenancies and deposits protected.
 - Property management conditions ensuring tenants know how to manage household rubbish, working smoke alarms and gas safety certificates, and
 - Occupancy management conditions that will control the number of tenants in a property based on room sizes and the level of amenities and facilities.
18. Local authorities running a discretionary licensing scheme may choose to require landlords to join up to an accreditation scheme (such as the London Landlord Accreditation Scheme) to help landlords improve their management skills.
19. The council is currently assessing the details to carry out a consultation, including detailed data collection and analysis, as part of its plans to introduce a selective licensing scheme.

Officers are currently reviewing the lessons learnt from Newham Council who recently introduced a selective licensing scheme in 2013 which covers their entire borough.

20. The introduction of a selective licensing scheme takes between 12-18 months to commence implementation.

Category 1 Hazards

21. The Housing Act 2004 introduced the Housing Health and Safety Rating System (HHSRS), a prescribed method of assessing individual hazards, rather than a general standard to give a judgment of fit or unfit.

22. The Southwark Housing Conditions Survey in 2008 estimated that 37% of the private rented sector had category 1 hazards. Assuming that percentage has remained the same, given the growth in the PRS, it can be estimated that over 10,500 PRS dwellings require statutory intervention in order to meet minimum standards.

23. The HHSRS is evidence based (national statistics on the health impacts of hazards encountered in the home are used as a basis for assessing individual hazards) and 29 hazards are covered in total (Appendix 2 provides a list and description of the HHSRS Hazards) Hazards are rated according to how serious they are and the effect they are having, or could have, on the occupants. Each hazard is assessed separately, and if judged to be 'serious', with a 'high score', it is deemed to be a Category 1 hazard. All other hazards are Category 2 hazards. Local authorities have a duty to deal with hazards which are assessed as 'Category 1' and discretionary powers to deal with 'Category 2' hazards. The enforcement regime can require the improvement or prohibition of the use of the dwelling or its parts.

24. The full range of legal powers available to local authorities for alleviating unacceptable HHSRS Hazards are:

- Improvement Notice
- Prohibition Order
- Emergency Remedial Action Notice
- Emergence Prohibition Order
- Demolition Order (Housing Act 1985)
- Clearance Areas (Housing Act 1985)
- Management Orders / Interim Management Orders.
- Hazard Awareness Notice.

(Improvement Notices and Prohibition Notices can be 'suspended' in appropriate circumstances.)

25. All notices and orders have a statement of reason attached to them which states why one type of enforcement action was taken instead of another. Consideration is given to the views of owners, landlords and tenants before formal action is taken except in very urgent cases. Where the proposed notice includes a schedule of works, this is sent to all interested parties asking for their views, prior to the notices being formally served.

Other private sector housing schemes

26. There are a number of schemes which have been introduced to improve the standard of management and quality of accommodation which is provided through the private sector. These include:-

- **The London Landlord Accreditation Scheme:-** was set up in 2004 with the aim of improving landlord knowledge and awareness around key property management issues, in the hope that this would make it more likely that their properties would be maintained to a higher standard, their tenants' safety and health would be improved and their businesses would be better protected against falling foul of the complex laws surrounding the letting of residential properties.

In Southwark, there are currently approximately 354 LLAS accredited landlords and the project team working on this scheme, are undertaking action locally to increase the number of accredited landlords.

- **Beds in Sheds:-** the Government announced that they were committed to taking action against 'criminal landlords' who were letting converted sheds, unused caravans or other substandard accommodation for financial gain. To this end the government made £1.8 million in funding and has been allocated to help local authorities tackle the problem of 'beds in sheds'. The money to nine councils, considered to be the worst affected 7 of which are in London and include Southwark.
- **Cross Agency Enforcement Programme:-** The government has launched a task force, including the police, local authorities, the UK Border Agency and HM Revenue and Customs (HMRC), which will crack down on owners of substandard properties and deal with illegal immigrants.
- **Local Landlord Accreditation Schemes:-** Local authorities use private rented accommodation to discharge its duty for providing temporary or other short term housing to those people it accepts are in need. Local accreditation schemes provide vulnerable tenants who secure short term accommodation with safe and high quality accommodation. The scheme aims to promote good practice and improve standards of management in the private rented sector. Southwark Council current accesses around 1.400 properties spread across London and the Home Counties, for short term accommodation. The council is looking to introduce a Local Landlord Accreditation Scheme in the autumn 2013.

Current regulatory and enforcement activity

27. In 2012/13 the Private Sector Housing and Public Health Team (PSHPHT) received over 1,300 service requests that required inspection and follow up. These ranged from potentially life threatening conditions such as defective electrics, gas safety issues, and no fire protection in HMO's accommodating 5 or more tenants, to overcrowding issues, pest infestation and broken amenities not being remedied by landlord
28. Between 128 HMO's housing over 1,200 tenants were subject to regulatory activity. The condition of over 100 dwellings were improved as a result of our interventions, which in turn safeguarded the health, safety and welfare of 700 private sector tenants
29. Currently 150 HMO's are licensed by the team and meet the minimum standards required. This protects the health safety and welfare of over 1,000 tenants.
31. In 2012/13 the team:
 - Served 161 prohibition notices which prohibited the landlord from letting inadequate rooms.
 - Served 20 notices for overcrowding.

- Dealt with 252 dwellings with category 1 hazards or requiring improved health and safety arrangements in HMO's via formal warnings.
- Served 375 Housing Act Notices
- Prepared 10 prosecutions 4 of which were successful and 6 are pending.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact

APPENDICES

No.	Title
Appendix 1	List and description of the Housing Health and Safety Rating System (HHSRS) Hazards
Appendix 2	

AUDIT TRAIL

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Version	V.2
Dated	2 nd July 2013

Appendix 1

Hazards covered by the HHSRS

Damp & Mould Growth

Threats to mental & physical wellbeing from living with dampness, mould & fungal growths and dust mites.

Most Vulnerable: 14 years or less

Excess Cold

Threats to health from exposure to sub-optimal indoor temperatures.

Most Vulnerable: 65 years plus

Excess Heat

Caused by excessively high indoor temperatures.

Most Vulnerable: 65 years plus

Asbestos & MMF

Caused by exposure to asbestos and manufactured mineral fibres (MMF).

Most Vulnerable: No specific group

Biocides

Threats to health from those chemicals used to treat mould growth and timber in dwellings.

Most Vulnerable: No specific group

Carbon Monoxide & Fuel Combustion Products

Hazards due to high levels of CO, NO₂, SO₂ & smoke in the atmosphere.

Most Vulnerable: For CO - 65 years plus, for NO₂, SO₂ & smoke – no specific group

Lead

Threats to health from the ingestion of lead.

Most Vulnerable: Under 3 years

Radiation

Threats to health from radon gas, airborne, or dissolved in water. E.g., leakage from microwaves might be considered.

Most Vulnerable: People aged 60-64 who have had a lifetime exposure to radon

Uncombusted Fuel Gas

The threat of asphyxiation due to fuel gas escaping into the atmosphere within a dwelling.

Most Vulnerable: No specific group

Volatile Organic Compounds

VOC's are diverse group of organic chemicals which includes formaldehyde that are gaseous at room temperature, and are found in a variety of materials within the home.

Most Vulnerable: No specific group

Crowding and Space

Health hazards linked to a lack of living space for sleeping and a normal family/household life.

Most Vulnerable: No specific group

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Entry by Intruders

Problems keeping a dwelling secure against unauthorised entry, and the maintenance of defensible space.

Most Vulnerable: No specific group

Lighting

Threats to physical and mental health linked to inadequate natural and/or artificial light. It includes the psychological effect associated with the view from the dwelling through glazing.

Most Vulnerable: No specific group

Noise

Threats to physical and mental health caused by noise exposure inside the dwelling or within its cartilage.

Most Vulnerable: No specific group

Domestic Hygiene, Pests & Refuse

Health hazards due to poor design, layout and construction to the point where the Dwelling cannot readily be kept clean and hygienic; access into and harbourage within dwelling for pests; inadequate and unhygienic provision for storing and disposal of household waste.

Most Vulnerable: No specific group

Food Safety

Threats of infection due to inadequate facilities for the storage, preparation and cooking of food.

Most Vulnerable: No specific group

Personal Hygiene, Sanitation & Drainage

Threats of infection and threats to mental health associated with personal hygiene, including personal washing and clothes washing facilities, sanitation and drainage.

Most Vulnerable: Under 5 years

Water Supply for Domestic Purposes

The quality and adequacy of the water supply for drinking and for domestic purposes such as cooking, washing, cleaning and sanitation.

Most Vulnerable: No specific group

Falls Associated with Baths etc.

Falls associated with a bath, shower or similar facility.

Most Vulnerable: 60 years plus

Falls on the Level

Falls on any level surface such as floors, yards and paths. It also includes falls associated with trip steps, thresholds or ramps, where the change in level is less than 300mm.

Most Vulnerable: 60 years plus

Falls Associated with Stairs and Steps

Falls associated with stairs, steps and ramps where the change in level is greater Than 300mm. It includes falls on stairs or internal ramps within the dwelling, internal Common stairs or ramps within a building, access to the dwelling and to shared facilities or means of escape in case of fire. It also includes falls over stair, step or ramp guarding (balustrading).

Most Vulnerable: 60 years plus

Falls between Levels

Falls from one level to another, inside or outside a dwelling, where the difference in levels is more than 300mm. For example, falls out of windows, falls from balconies or landings, falls from accessible roofs, into basement wells, and over garden retaining walls.

Most Vulnerable: Under 5 years

Electrical Hazards

Hazards from electric shock or electricity burns, including from lightning strikes.

Most Vulnerable: Under 5 years

Fire

Threats from uncontrolled fire and smoke. It includes injuries from clothing catching alight, which appears to be common when people attempt to put out a fire. It does not include clothing catching alight from a controlled fire by reaching across a gas flame or an open fire used for space heating.

Most Vulnerable: 60 years plus

Hot Surfaces & Materials

Burns or injuries caused by contact with a hot flame or fire, and contact with hot objects or hot non-water based liquids, and scalds – injuries caused by contact with hot liquids and vapours. It includes burns caused by clothing catching alight from a controlled fire or flame.

Most Vulnerable: Under 5 years

Collision & Entrapment

This includes risks of physical injury from: Trapping body parts in architectural features, e.g. trapping limbs or fingers in doors / windows; Colliding with objects e.g. glazing, windows, doors, low ceilings and walls.

Most Vulnerable: Under 5 years

Explosions

Threat from the blast of an explosion, from debris generated by the blast, and from the partial or total collapse of a building as the result of an explosion.

Most Vulnerable: No specific group

Position & Operability of Amenities

Threats of physical strain associated with functional space and other features at dwellings.

Most Vulnerable: 60 years plus

Structural Collapse & Falling Elements

The threat of the dwelling collapsing, or a part of the fabric falling because of inadequate fixing or disrepair, or as a result of adverse weather conditions. Structural failure may occur internally or externally.

Most Vulnerable: No specific group

Appendix 2

Case Studies

1. Severe Overcrowding

7/8 Bedroom property, 3 storeys, HMO. 1 shared bathroom and 1 large shared kitchen. There is another bathroom on the ground floor but this is exclusively used by the ground floor occupants.

There is a cellar being occupied by 2 brothers – Romanian. No natural light or ventilation.

The top floor rear rooms is occupied by a Romanian couple (the husband is the brother of the men in the cellar) and their 1 year old daughter and 2 year old son. This room measures approx 10.6 sq metres (big enough to be used as a bedsit for a single person).

The rent is collected from some tenants in cash

Action Taken

Two Prohibition Orders are served:

The Cellar – No natural light, no ventilation, height of ceiling is 1.5 metres (4 feet, 11 inches), floors, walls and ceilings are not plastered – bare brick.

The top floor rear right bedroom – measures 10.6 meters squared and is occupied by a couple and their two children (both under 3 yrs old). This is below our HMO room size standard. The room has severe condensation and mould growth.

2. Commercial Premises used as a dwelling



Commercial property (fish/mobile phones) with a lot of refrigeration equipment. The property was inspected in the early hours (2am) by police and Southwark Anti Social Behaviour Team they found what they believed was people residing there (probably workers). The only means of exit was through the main shutter at front. Initially when asked to open shutter it took some time to open it. At the rear is a space created for storage there had been someone sleeping there. There is also mezzanine level above this which there is a room with bedding on the floor and portable TV. There was evidence of some suitcases with clothes but no other means of storage. EHTS officers inspected, 12 hours after the initial police inspection. In the meantime the owner had time to clear evidence of permanent occupation from sleeping areas. We understand that the workers are being investigated for immigration offences.

The means of escape, from the occupied parts of the building, passes through the commercial shop which in total contains a lot of electrical equipment. The means of escape also passes by a kitchen with no fire door in place. Within the kitchen the occupier(s) have been using a portable gas ring connected to a gas bottle (butane). There are also butane gas bottles kept on the means of escape.

The electrical wiring is in poor state which increases the risk of fire starting and no working fire alarm system at the property. There is substantial disrepair throughout the property and the only means of escape to a place of total safety is through the main entrance which is a roller shutter door with no wicket gate.

Summary of category 1 hazards

Fire safety

Other hazards

Electrical hazards

no natural light

falls from height

Food Safety

Personal Hygiene

Management issues

Action taken

The building cannot be used for occupation and an Emergency Prohibition Order was served. The occupiers were single males who made alternative arrangements.

3. HMO with an occupied Caravan in the rear garden



4.



The property is a five bedroom HMO with an occupied mobile home in the garden. It is occupied by people with alcohol and drug dependencies or previously homeless individuals, who find their way to the property through adverts at tube stations or at the '999' club in Deptford (a charity for homeless people). Due to this, conditions in the property deteriorate rapidly, the tenants do not look after the property, there are frequent breakages and despite having a cleaner for the common parts, the property is often very dirty.

There are currently five tenants in the main house and one tenant in the mobile home. Two of these tenants are extremely vulnerable and need supported housing; we are working with SASBU and the police to achieve this

Two of the rooms in the property are below the minimum room size of 10sqm for a single room required by the Council's HMO standards. The first floor front right bedroom measures 6.9sqm, and the first floor rear room measures 8.8sqm. There is no communal living space in the property.

Summary of hazards

Excess Cold – One of the bedrooms has a cracked window pane.

Crowding and Space- Two of the bedrooms are undersized and there are too many households in the property.

Entry by Intruders- The lock to the front door is in disrepair following a drugs raid by the police.

Domestic Hygiene, Pests and Refuse – The property is filthy.

Food Safety- There is an insufficient number of power sockets in the kitchen.

Personal Hygiene, Sanitation and Drainage – The WC is leaking.

Fire – Some of the fire doors are in disrepair and we can't be sure that the automatic fire detection system is working as no test certificate has been provided.

Action

Prohibition Orders were served in respect of the two undersized rooms in the property and the Caravan

We are currently worked with SASBU and the police to vacate the most vulnerable tenants from the property – their rooms were filthy and this is had an impact on the property and their behaviour on the local community.

4. Disused Office Block used to house 50 tenants



Inspection revealed that between 40 and 50 young people from a number of different countries had moved into the property between November 2011 and the date of inspection. The residents came from Spain, Italy, Netherlands and a range of other mainly European countries.

Acting on information received from neighbours and the Police a visit was made. We were informed that the 5th and 6th floors had been altered and were now being used for residential purposes. Access was gained to the building and we were accompanied by two colleagues from Planning Enforcement.

Officers found various degrees of building and construction on most floors which present their own hazards to tenants. However, Fifth floor consisted of 26 single bedrooms, a kitchen dining room containing 2 sets of facilities. There was a unisex area containing 3 shower cubicles and next door 3 WC cubicles and a range of 3 wash hand basins. Sixth floor - this had 22 single bedrooms, 2 galley style kitchens / dining areas each with 2 sets of facilities. The hygiene provisions were the same with 3 shower compartments and 3 WC compartments with a range of 3 wash hand basins.

Fire safety was completely inadequate. The control panel at ground floor did not appear to be on. There were call points at the exit from each floor on to the staircase but in 2 cases the glass was broken, and the extensive alterations on the other floors have probably caused the system to be turned off. Some of the doors were found to the secondary escape route were chained shut and the main exit door had the shutter down. There were

detector heads and sounders in the corridors but these were not working. The rooms and the kitchens had no smoke or heat detectors. The doors to the corridor appeared to be fire doors but in many cases they had dead locks. The final exit door to the main exit requires a key this needs to be changed.

Summary of category 1 hazards

Fire

Other hazards

Crowding & space

Domestic hygiene, pests & refuse – rubbish storage and disposal.

Personal Hygiene

Management issues No Planning permission for residential use. Inadequate fire safety the risk

There are no adequate arrangements for refuse disposal.

There are insufficient amenities.

Significant number of rooms undersized

Each floor is entered is a lockable door and has a set of kitchens, toilets and showers.

Action

Prohibition notices served. Building no longer used to provide human habitation.