

REVIEW OF HOUSING CONDITIONS



2017



Review of Housing Conditions

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Executive Summary

The purpose of this review was to examine the extent of poor housing conditions in the Private Rented Sector within North Somerset, to establish if there are any particular areas which suffer from higher concentrations of such properties and to set out the future strategy.

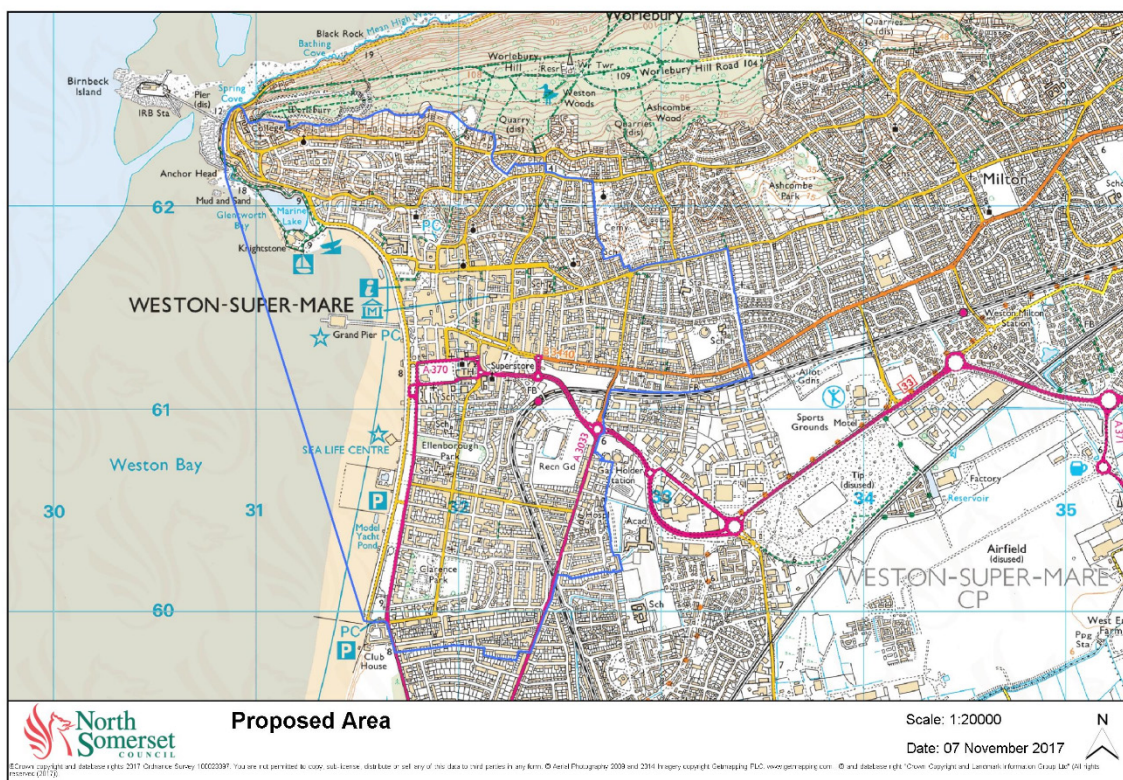
The findings from the research evidence:

- the poorest housing conditions in North Somerset are to be found in the older (pre-1919) privately rented housing stock
- there are high concentrations of privately rented housing including Houses in Multiple Occupation (HMOs) located in Weston-super-Mare town centre
- a variety of data sources confirm there is a concentration of poor quality privately rented housing in Weston-super-Mare town centre
- whilst the Additional Licensing scheme for HMOs is resulting in HMOs being improved the administration of the licensing scheme is resource intensive and a significant element of the cost of running the scheme cannot be recovered through licencing fees
- the reactive service provided to respond to complaints from tenants about poor housing conditions is resource intensive, results in significant staff time being spent dealing with housing which is generally not in the poorest condition and only results in small numbers of homes being improved in comparison to the number of complaints received
- there is a large number of known HMOs which are likely to be in a poor condition or have ineffective management practices and are located primarily in Weston-super-Mare town centre
- the introduction of new legislation will result in more HMOs being required to be licensed and will provide additional tools which can be used to improve the poorest rented housing
- using additional new powers will enable the council to recover the cost of enforcement action and to issue civil penalties where necessary, this income could be used to resource the enforcement service to enable a more proactive approach to be taken.

A strategic option appraisal concludes there is an opportunity to improve the efficiency of the service and release resources to proactively tackle poor housing conditions in the private rented sector by:

- working in partnership with those Rent with Confidence accrediting agencies who offer a full tenants complaints service to ensure landlords self-regulate in the first instance.
- redirecting staff resources from complaints work to focus on the poorest quality privately rented accommodation.
- introducing an area life centre approach which will ensure resources are targeted on 'Rogue Landlords' in a significantly more efficient way than through licensing, presenting fewer risks and providing greater flexibility.

The map below shows the proposed area. The blue line is the proposed boundary for the 'Action Area' with all private rented properties contained within the area being subject to the proposals contained within this report.



Map 1

Chapter 7 details how this approach would be implemented, including time scales along with recommendations to review the outcome. Chapter 8 makes recommendations to fully consult on the proposals contained within this report.

1.0 Introduction

The purpose of this review is to examine the extent of poor housing conditions in the Private Rented Sector within North Somerset, to establish if there are any particular areas which suffer from higher concentrations of such properties and to set out the future strategy. The report details findings from data mapping exercises and summarises current progress towards improving housing conditions. Approaches adopted in other parts of the country are discussed, current and new powers, and opportunities and options are evaluated and the proposed strategy is set out.

At the meeting of 21 June 2016 the Executive approved the designation of part of the area comprising Central and Hillside wards in Weston-super-Mare as a selective licensing scheme under the provisions of the Housing Act 2004. This required all privately rented homes in the area, unless exempted, to be licensed. Subsequently however in preparation for the implementation of the scheme some local landlords and a number of tenants expressed concern about the potential impact of the scheme and the landlords suggested a number of alternatives which they believed could achieve the objective of improving housing conditions. In light of this it was agreed that the scheme designation should be revoked to enable a further review of housing conditions in the private rented sector to be undertaken and to identify and progress options to deliver improved conditions. This further review has now been completed and this paper sets out the findings and makes recommendations on the way forward.

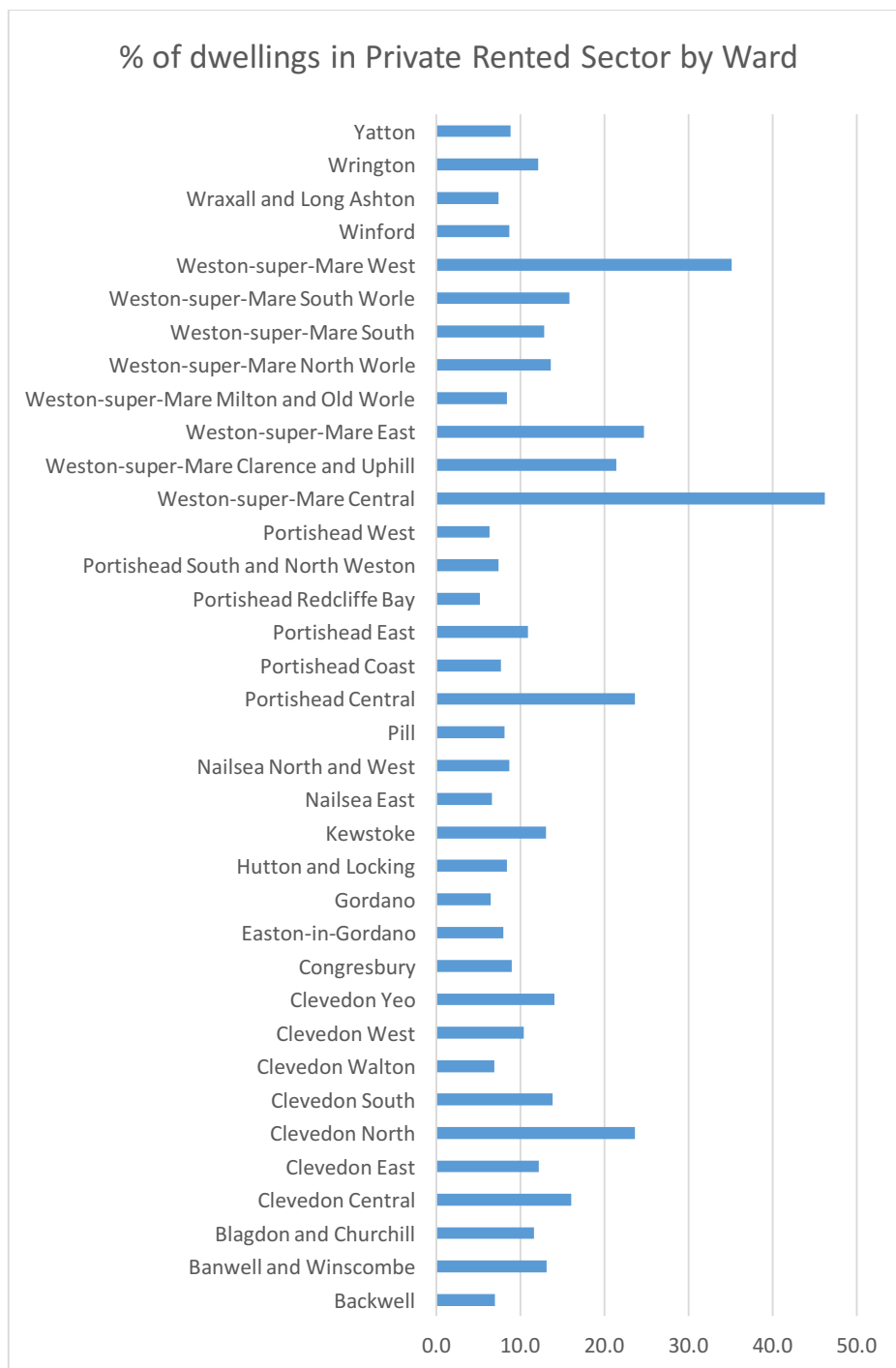
An option appraisal which details the extent of the poor housing stock and evaluates options for improvement can be found in section 6.

Section 7 makes recommendations for the way forward and details the preferred option and how this could be implemented.

2.0 Background

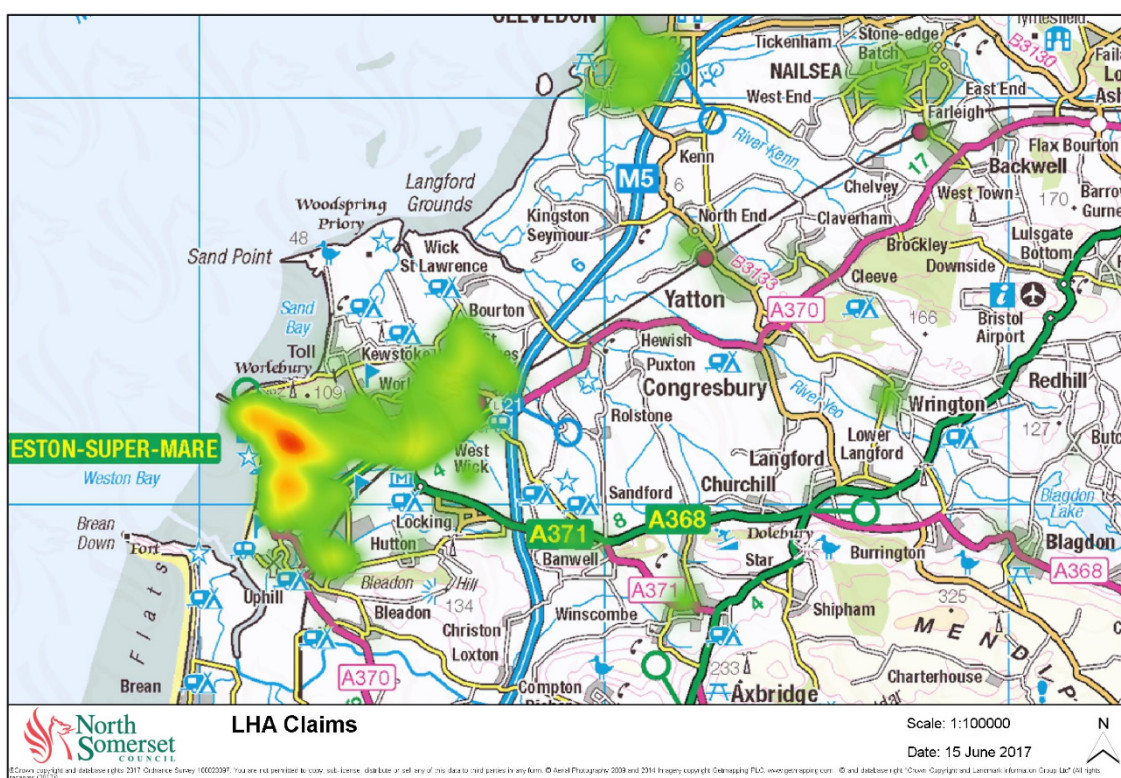
2.1 Where is the Private Rented Sector?

Census – the private rented sector accounts for 16.2% of the housing stock in North Somerset (14,270 dwellings – Census 2011), distributed across North Somerset as set out below.



Weston-super-Mare Central ward has the highest level of rented accommodation at 46%, followed by Weston-super-Mare West at 35% and East at 24%.

Tenants of rented housing can claim Local Housing Allowance (in future this will be replaced by Universal credit) where their income is below prescribed levels. Map 1 shows the distribution of Local Housing Allowance claims in North Somerset, the areas in orange and red highlight a concentration of claims. The high concentration of claims in Weston-super-Mare corresponds with the census information and also (as set out in section 3) with those areas identified as having with high levels of poor quality privately rented housing.



Map 2

2.2 What must the Council do to improve housing conditions?

The Housing Act 2004 places a number of statutory duties on the Council, in summary these are:

- Keep housing conditions under review with a view to identifying any action that may need to be taken under various specified pieces of legislation

- Inspect premises in specified circumstances for example where we become aware a building may contain a hazard.
- Take appropriate enforcement action where a Category 1 hazard may exist
- License Houses in Multiple Occupation (HMOs) included in the national mandatory scheme

We deal with these statutory duties in a number of different ways:

Stock Condition Survey

The Housing Act 2004 places a duty on the council to keep housing conditions under review. This council does not have the skills or resources to carry out stock condition surveys therefore we commission an independent organisation to carry out the survey on our behalf. This review uses data from the 2011 and the 2017 surveys to analyse stock conditions and trends.

Inspection of Houses

Private rented sector properties are inspected to check compliance with the Housing Acts in a variety of circumstances for example in response to a complaint about poor housing conditions or as part of processing an application for a HMO licence. Inspections focus on assessing the likelihood of an incident arising from the condition of the property and what the harmful outcomes might be. As a result of the assessment it is determined whether the property has any Category 1 (serious) or Category 2 (other) hazards, as defined in the Housing Health and Safety Rating System (HHSRS).

If it determined a property contains serious Category 1 hazards this is discussed with the landlord to encourage them to deal with the problems. If this is not successful the council must take some form of enforcement action, for example:

- issue an improvement notice to the landlord to carry out improvements to the property
- ban the use of the whole or part of a dwelling or restrict the number of people living there using a prohibition order
- serve a hazard awareness notice to draw attention to the problem
- take emergency remedial action to fix the hazard where there is an immediate risk to the tenant if the works are not carried out

The council recharges the landlord any costs associated with serving an improvement notice, prohibition order or taking remedial action.

Dealing with complaints about poor housing conditions

Tenants, members of the public and other stakeholders can contact the council where they are concerned about poor housing conditions or management arrangements. Prior to April 2015 the council inspected every property where a complaint relating to potential serious hazards was received. This approach was resource intensive and as a result a new system was introduced where the landlord is notified of the problems and given a reasonable time scale to carry out any necessary improvements prior to any inspection taking place.

If the works are not carried out within the agreed timescale the council arranges to inspect the property and carry out a full assessment under the HHSRS. Any Category 1 hazards found are then dealt with through enforcement action with a charge to the landlord for the costs involved in inspecting the premises and associated work.

Licensing of HMOs

Mandatory Licensing

There is a statutory duty on local authorities to licence HMOs of three or more storeys housing five or more people who form more than one household sharing facilities. Private landlords must be deemed to be a "fit and proper" person in order to be granted a licence. Local authorities can impose conditions on a licence, such as how many individuals are permitted to live in the building. The mandatory HMO licensing regime addresses poor management practices and aims to secure a reduction in death and injury from fire and other health and safety hazards, and ensures adequate provision of amenities.

Breach of a licence condition is a criminal offence with an unlimited fine on successful prosecution.

Additional Licensing of HMOs

Poor conditions and bad management practices can exist in smaller HMOs which are not required to be licensed under the mandatory licensing scheme. In 2014 the council used the discretionary powers under the Housing Acts to extend licensing to smaller HMOs in part of Central Weston-super-Mare.

In order to introduce Additional HMO licensing schemes Local Authorities are required to provide a robust evidence base for introducing a scheme and must demonstrate the HMOs are poorly managed which is having a detrimental effect on the area. The Council are required to consult with local residents, landlords and tenants for a minimum of ten weeks about proposed licensing schemes.

Once a designation is confirmed landlords who operate within the designated area are required to apply for an HMO licence for each of their properties. A scheme can only last for a period of 5 years; in Weston-super-Mare the scheme will expire at the end of 2018.

How do we deal with HMOs which do not fall into a licensing regime?

In North Somerset there are a large number of HMOs which do not fall within a licensing regime. HMOs tend to offer the poorest type of accommodation in the private rented sector and management of these properties is difficult due to tenants living in high densities, often sharing facilities. In addition tenants in HMOs rarely complain to the council, this has been evidenced through the number of HMOs in poor condition where tenants have not complained to the council.

There are approximately 2000 HMOs in North Somerset, the council has put in place a prioritisation system to enable those HMOs in the worst condition to be targeted within the limited resources available.

Every HMO which is brought to the attention of the council has a prioritisation assessment carried out. This involves a door step assessment by a member of staff which cannot be completed without speaking to a resident. Scores are awarded based on the risks to the occupants and placed in a band; they are then inspected as and when resources allow. Further detail on the banding system can be found at Appendix A.

Working with landlords to self regulate

Local Authorities are encouraged to work with good and well intentioned landlords, to keep them informed about the minimum standards for rented homes and to avoid the need for enforcement action which is costly and resource intensive for councils. By encouraging good landlords to self-regulate Local Authorities are able to direct available resources to tackling rogue landlords.

Forums – In North Somerset we have supported the active Private Sector Housing Forum since it was established in 1998. The group meets quarterly and membership has increased recently since the formation of the National Landlords Code of Excellence (local landlord accreditation scheme). The meeting is attended by Private rented sector team staff representatives and is cost effective way of engaging with the sector.

Accreditation – a voluntary council run accreditation scheme was developed in North Somerset in 2008 with landlords, but despite resources being invested by the council the scheme had limited success with a total of 150 properties being accredited at the schemes height.

In 2016 a new accreditation scheme across the West of England was introduced called Rent with Confidence, more details can be found in section 5.

Sub regional working with West of England Colleagues has also resulted in on-line development opportunities for landlords and the highly successful Landlord Expo which is held annually was attended by 710 landlords in 2017.

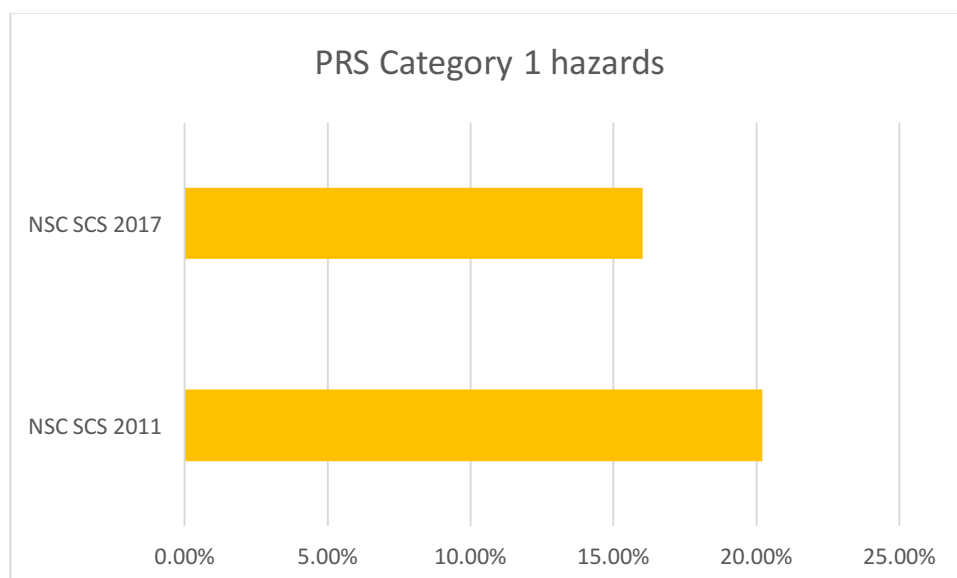
3.0 Findings

This section details the research which has been carried out and summarises what we know about poor housing conditions in North Somerset.

3.1 Stock Condition

Quality of stock is generally considered in terms of either decency which is a nationally recognised standard, although not one which is enforceable by the council, or more commonly the extent of Category 1 hazards (where intervention of the council is a legal requirement). For the purposes of comparing the stock within North Somerset the Category 1 hazards standard has been used.

% of Category 1 Hazards in the Private Rented Sector in North Somerset



The graph shows an improvement in housing conditions in the period 2011 to 2017 from 20% of the stock having Category 1 hazards in 2011 to 16% in 2017. In comparison, nationally the 2014-15 English Housing Condition Survey show levels of hazards in the Private Rented Sector at 15%.

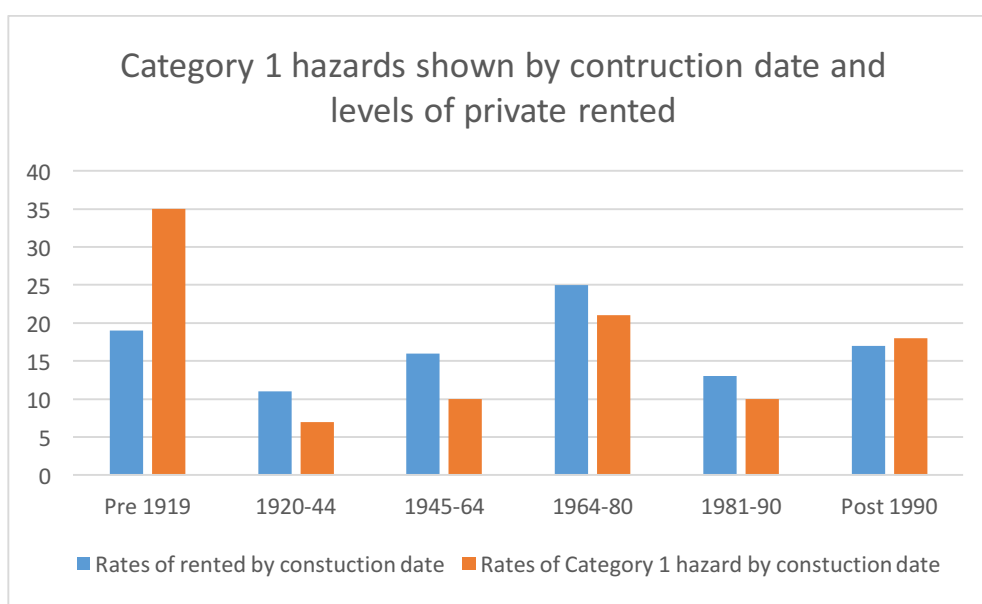
The table below demonstrates the actual improvement in housing conditions over this period.

Year of SCS	% stock with Category 1 hazards	Number of properties in PRS	Number of properties containing Category 1 hazards	Number of properties improved
2011	20.2%	16,290	3,290	322
2017	16%	18,433	2,973	317

In 2005 there were 3612 properties that contained Category 1 hazards and from the above table it can be seen in the 12 years from 2005 to 2017 on average 53 properties per year had been improved.

It is also useful to identify if there are any concentrations of poor housing conditions:

The bar chart below (Stock Condition Survey 2012) shows the percentage of buildings constructed within the date range in the private rented sector. The orange bar shows the percentage of buildings within the construction period likely to contain Category 1 hazards.

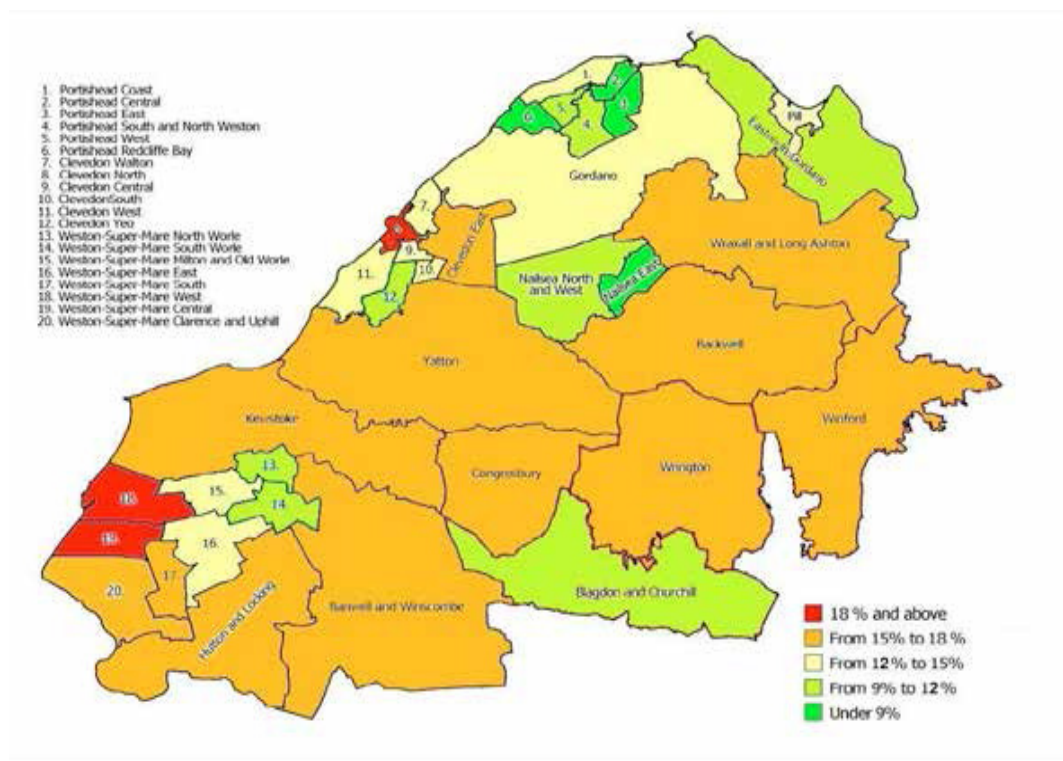


The graph demonstrates the majority of Category 1 hazards are found in the older housing stock and the majority of renters in North Somerset live in buildings constructed between 1964 and 1980 but with a significant number living in the oldest housing stock.

The Stock Condition Surveys can also provide us with information as to where the poor housing conditions are most likely to be situated within North Somerset. The two most recent surveys were carried out by different companies which makes it difficult to directly compare data in the same format.

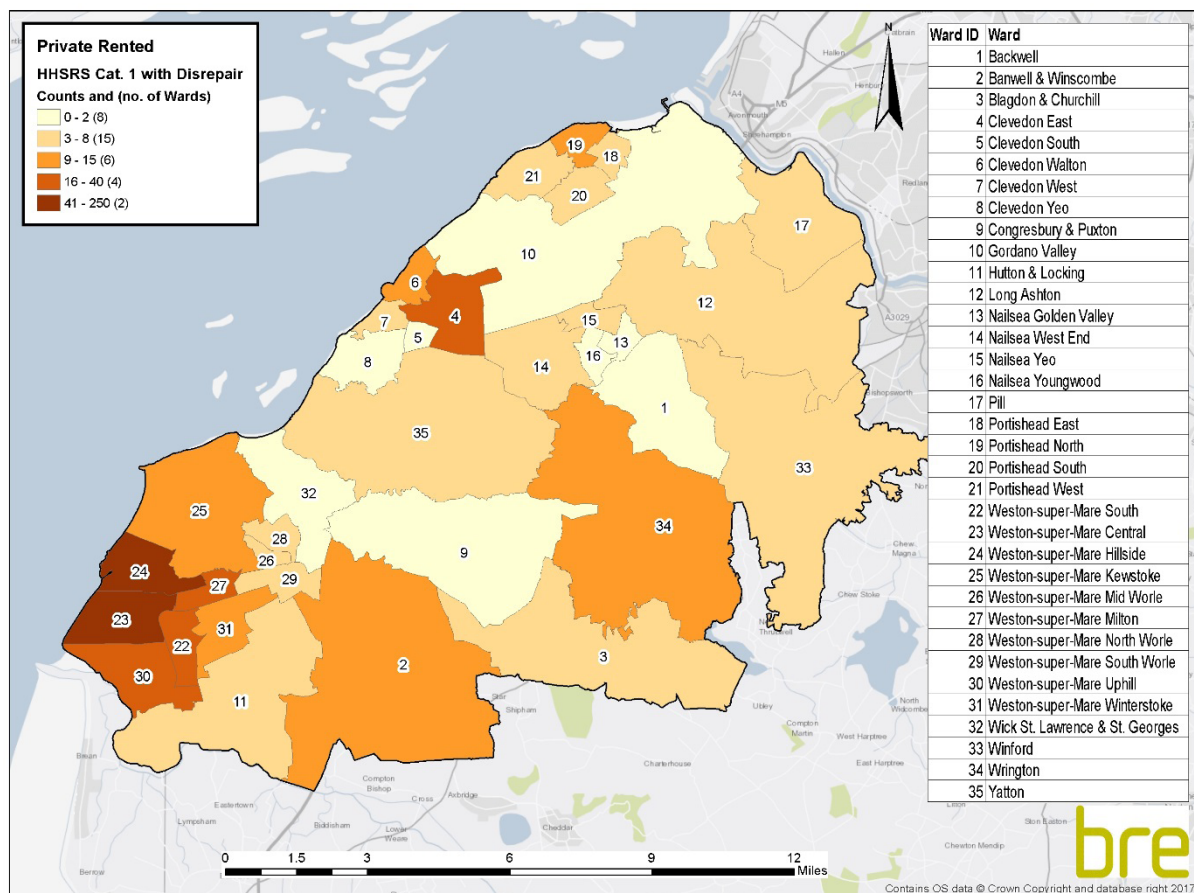
Map 3 is taken from the 2012 survey and shows the Wards with the highest levels of Category 1 hazards (across all tenures) these are:

- Weston-super-Mare Central
- Weston-super-Mare West
- Clevedon North



Map 3

The latest survey results (Map 4) carried out in 2017 are consistent with the previous two surveys in that the wards of Central and the former West Ward still have high levels of poor housing conditions.



Map 4

Summary

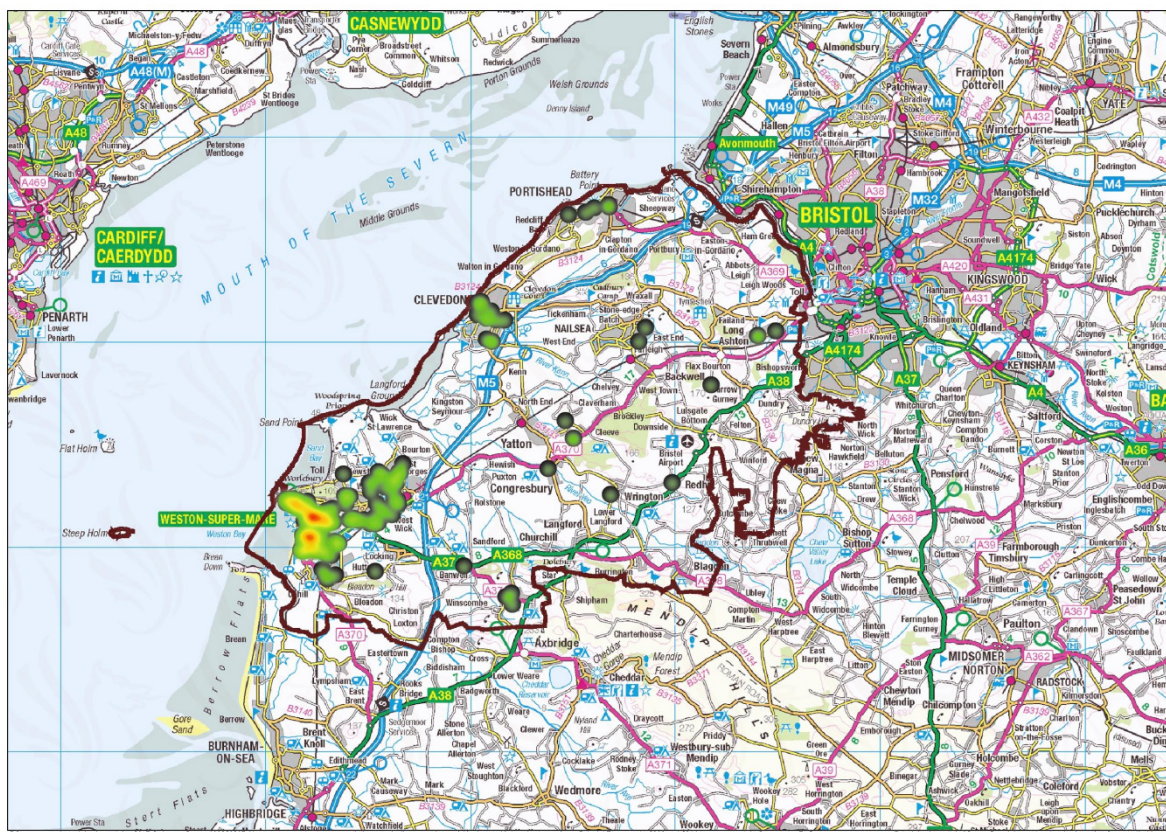
The census data demonstrates the high proportion of privately rented housing in Weston-super-Mare. The stock condition survey shows that the worst housing conditions in North Somerset are to be found with the town of Weston-super-Mare within the older housing stock where there is a high concentration of poor quality privately rented housing.

3.2 Analysis of Complaint data

Each year the Private Rented Housing Team receive a high volume of phone calls from tenants concerned about the condition of their homes. Many of these complaints are valid and the council resolve the disrepair, although sometimes tenants can make vexatious complaints for other reasons.

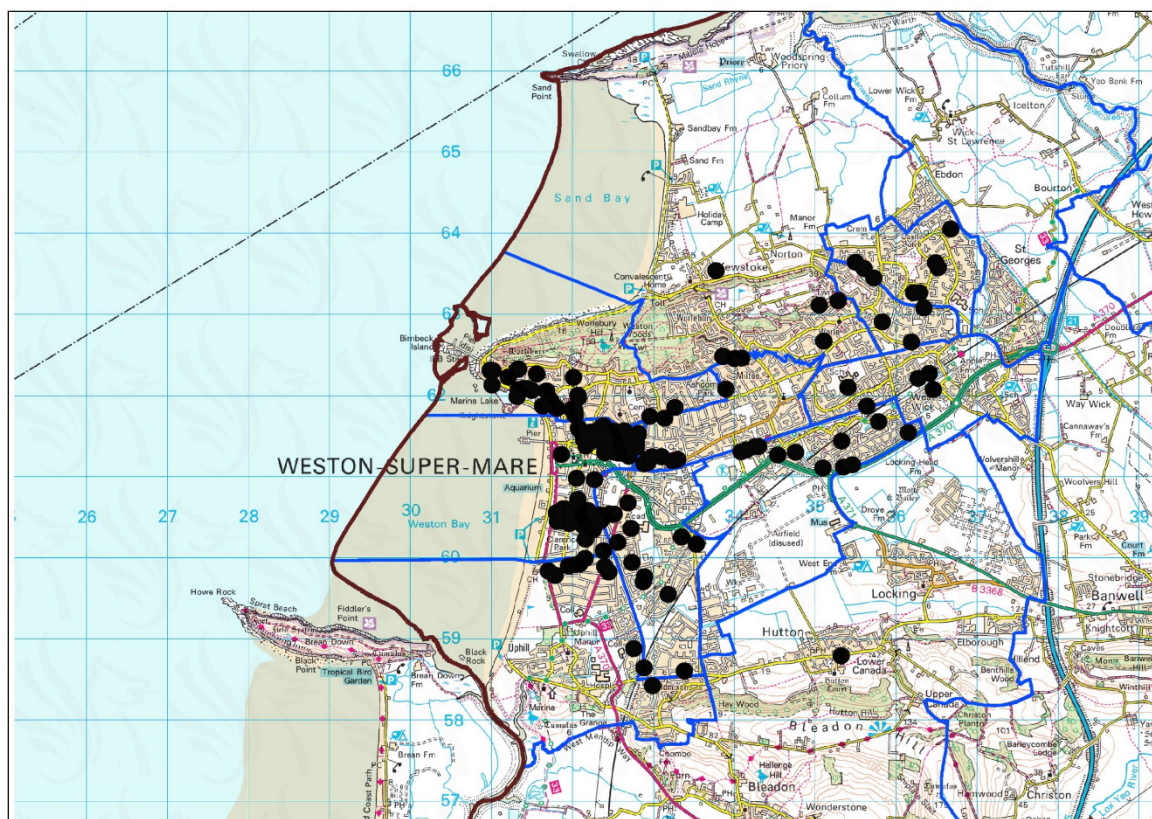
A thorough analysis of the complaint data for the calendar year 2016 has taken place and we can use this along with other data to draw conclusions relating to specific areas which may benefit from targeted action.

A total of 281 complaints were received about poor housing conditions or management by a private landlord. This data has been plotted and is shown as a hotspot map (Map 5) with green depicting that complaints have been received, the areas of red show the greatest concentration located within Weston-super-Mare.



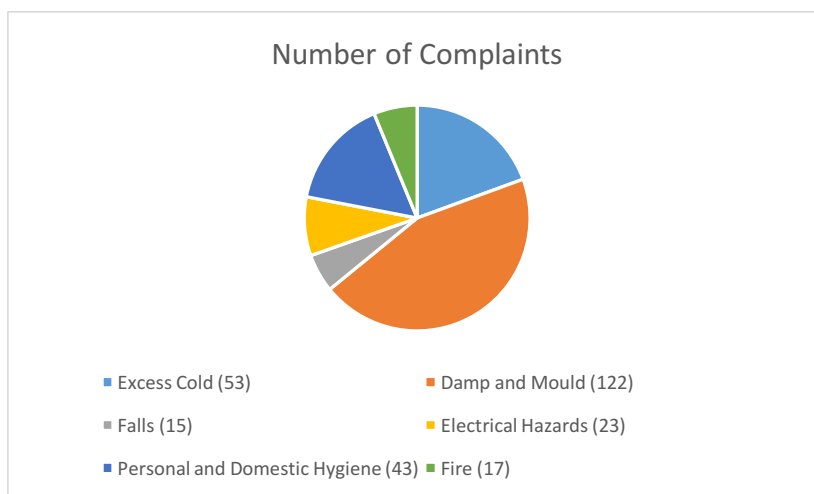
Map 5

Map 6 illustrates a closer view of Weston super Mare, it can be seen from this map the majority of complaints in Weston-super-Mare are about properties located in Central and Hillside Wards.



Map 6

Further analysis of the complaint data can provide useful information in terms of the nature of the complaint. The pie chart below shows the a most common hazards (out of the possible 29 types of health and safety hazards associated with a home) that tenants have complained about, these account for 88% of all complaints received during 2016. The most common hazards which tenants complained about were damp and mould and excess cold.

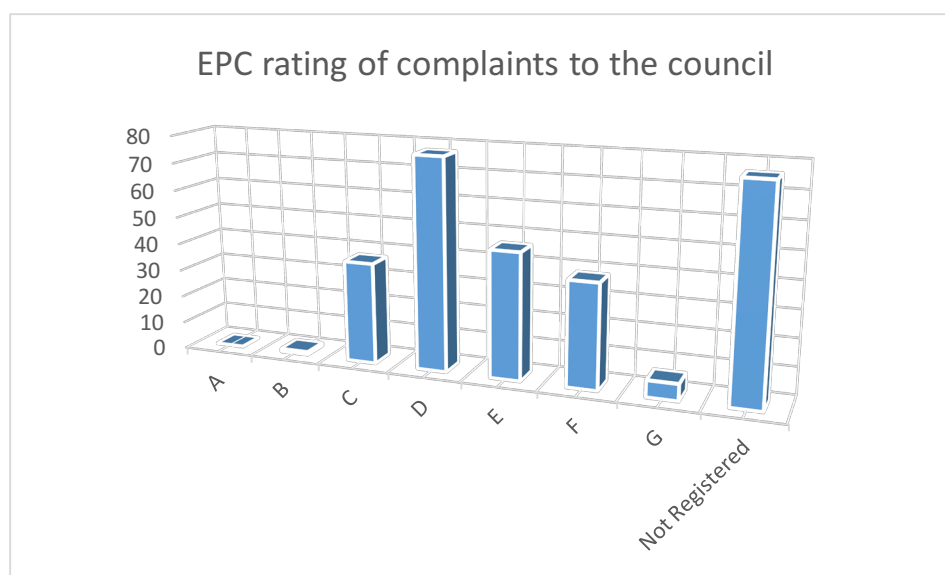


The remaining 12% of complaints cover a further 9 hazards including:

- Entry by Intruders (2.91% = 9 complaints)
- Structural Collapse (2.58% = 8 complaints)
- Asbestos (1.6% = 5 complaints)
- Crowding and Space (1.29% = 4 complaints)
- Food Safety (0.97% = 3 complaints)
- Water Supply (0.3% = 1 complaint)
- Carbon Monoxide (0.3% = 1 complaint)
- Explosions (0.3% = 1 complaint)
- Lighting (0.3% = 1 complaint)

These results reflect the types of hazard which are more obvious and will have a daily impact on the comfort of tenants. Condensation is a frequent type of complaint received. Whilst condensation can be caused through tenant lifestyle there are often other factors including inefficient and expensive heating, insufficient insulation, sub-division of buildings into flats resulting in no outside space to air laundry and overcrowding.

Of the complaints received by the council we carried out further research to identify the Energy Performance (Certificate) banding for each of the homes. Energy performance of homes is rated A-G with A being the most efficient and G the least.



The most common rating was band D with 77 homes falling into this band. It is of concern that 44 homes fell into bands F and G which will be unable to be rented out in the future unless appropriate exemptions apply.

There were a high proportion of homes (76) which were not registered on the public Energy Performance Certificate website. There could be a number of reasons for this, including:

- The tenant has not changed since October 2015
- The building does not require an EPC (e.g. listed building)
- The landlord is in breach of statutory requirement to have an EPC on change of tenancy

Summary

The majority of the complaints received by the council about conditions in privately rented homes relate to homes in Weston-super-Mare and the most common hazard which tenants complain about is damp and mould.

These results are consistent with the results from the house condition survey.

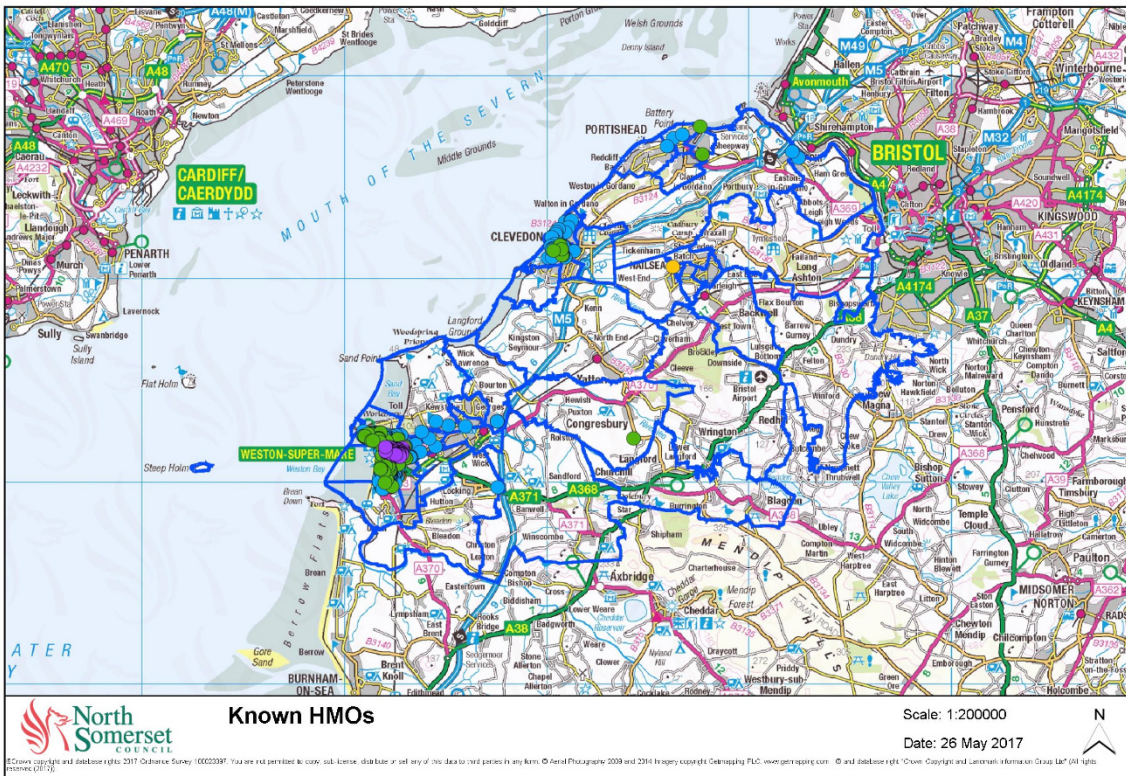
3.3 Analysis of Data Relating to HMOs

From a range of internal records we have gathered information about known HMOs and plotted them using mapping* software. This includes licensed HMOs and HMOs that have been prioritised and awaiting inspections. The HMOs plotted are all buildings which fall into the legal definition of HMO contained in the Housing Act 2004, which includes self-contained flats in poorly converted buildings.

Map 7 shows a concentration of HMOs in Weston-super-Mare, Clevedon and to a lesser extent Portishead.

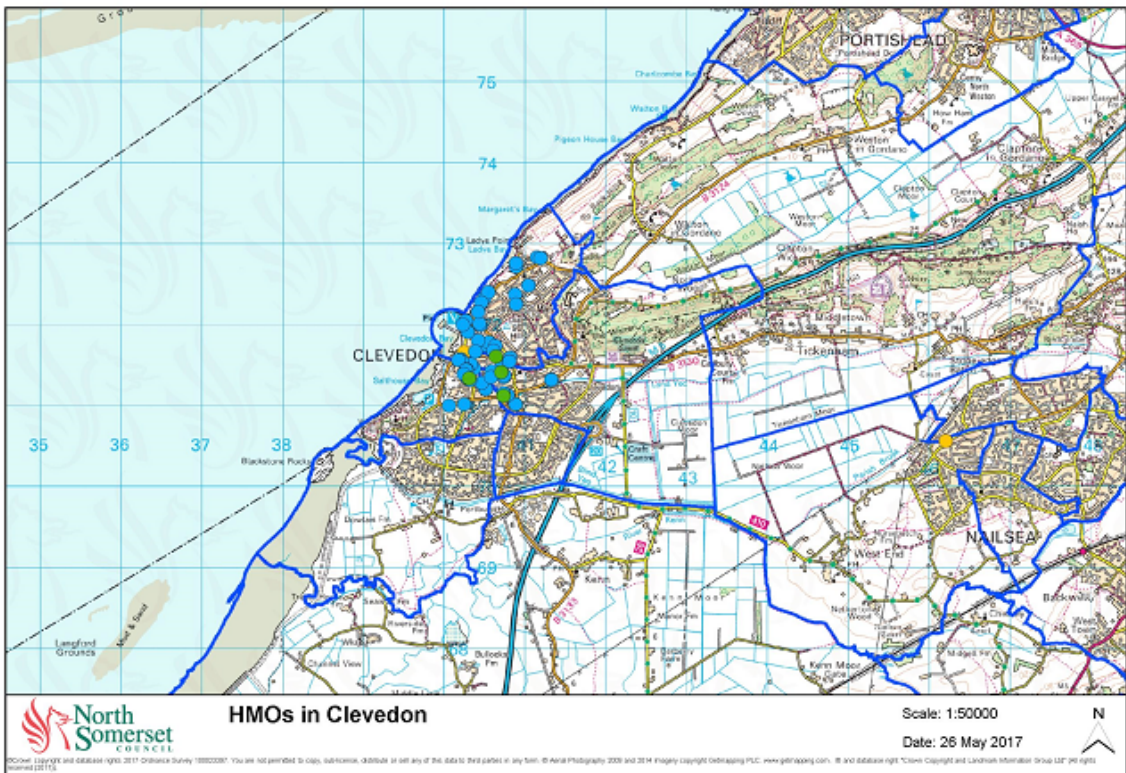
* Key

- blue = all known HMOs
- purple and pink = HMOs licensed under additional licensing scheme
- green = mandatory licensed HMO



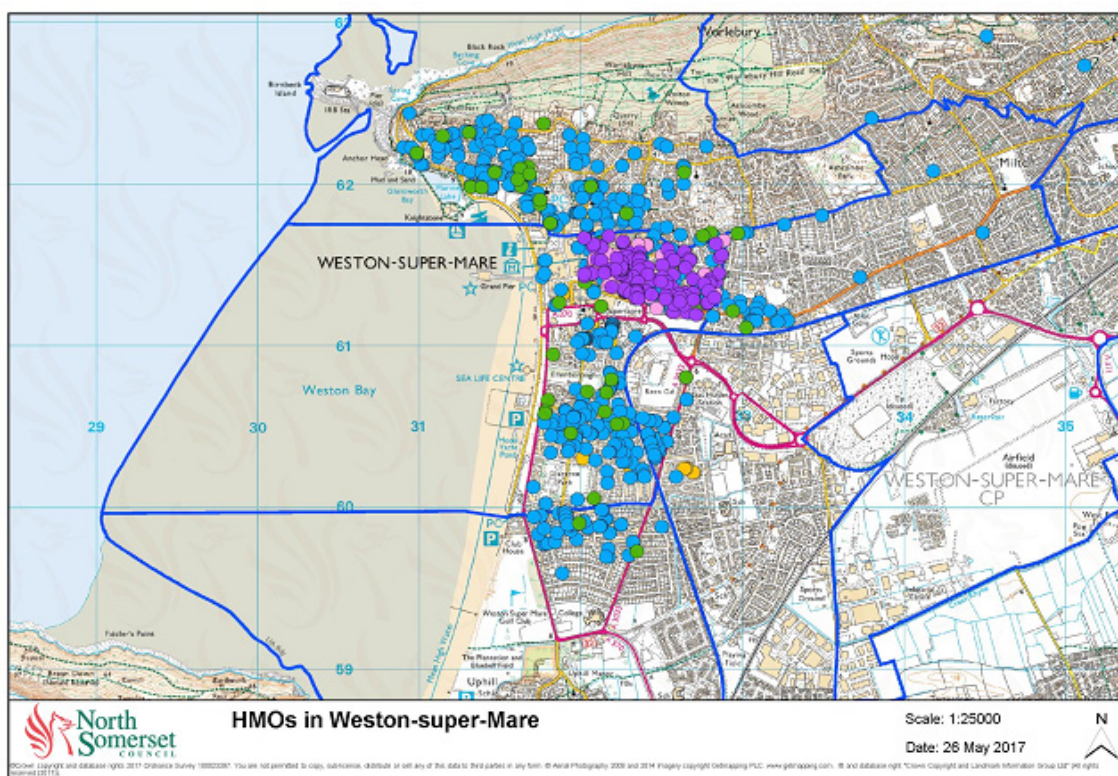
Map 7

HMOs in Clevedon are located within the main town and spread across the three wards of Clevedon Walton, Clevedon West and Clevedon East (Map 8). There are approximately 54 known HMOs in total.



Map 8

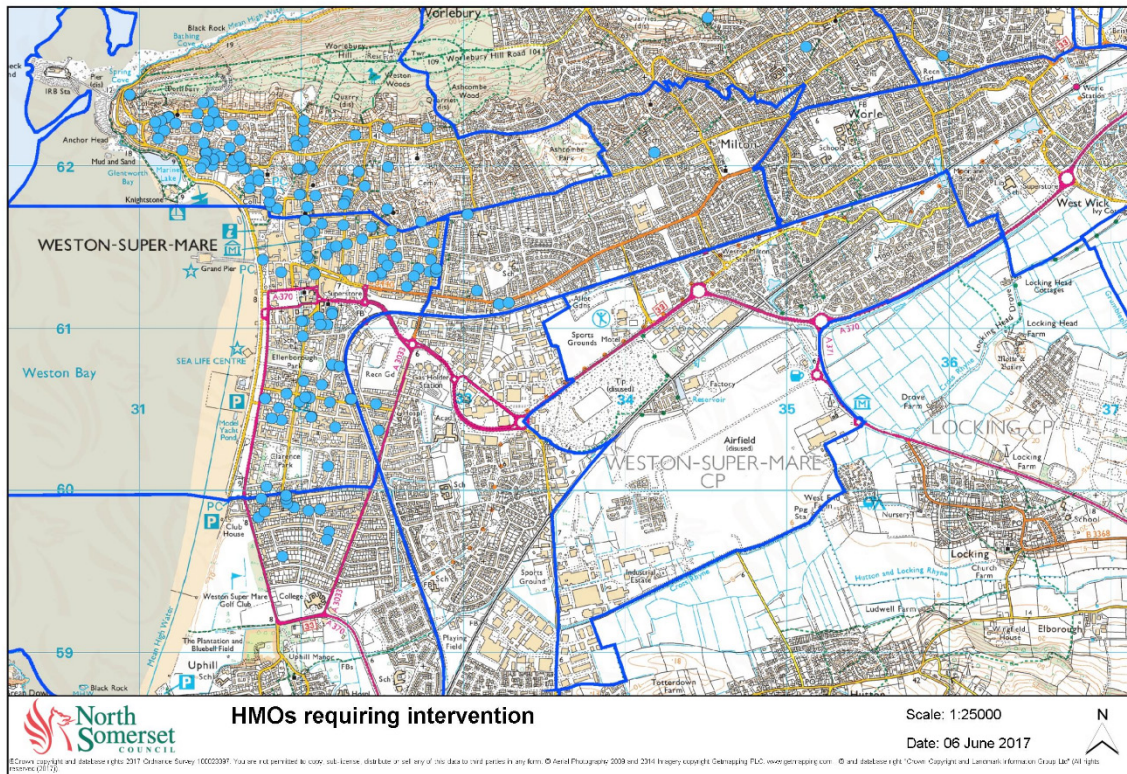
There are significantly more HMOs within Weston-super-Mare. These are predominantly located within the main town and across Weston-super-Mare Central and Hillside Wards and to a lesser extent Uphill, South and Milton Wards.



Map 9

The previous maps show which areas of North Somerset contain the majority of HMOs, and it should be noted that not all HMOs are in poor condition. All HMOs which fall under either the mandatory or additional licensing schemes will have received a full inspection and a schedule of improvements where necessary. All schedules are monitored for compliance. Some HMOs will be well managed and offer good quality accommodation without the need for council intervention.

From our system of prioritising HMOs we also know the location of some HMOs which contain hazards and/or may be poorly managed. Map 10 shows the location of these HMOs. The map is focused on Weston-super-Mare town as there are 183 HMOs in poor condition located in this area compared with only 5 in the rest of North Somerset.



Map 10

The majority of these types of properties are located within the town and predominantly in Hillside, Central and Uphill and Clarence wards. There are some HMOs located within the current additional HMO licensing area and these are currently in the process of receiving inspections and schedules of improvement.

Additional HMO licensing scheme

On 2nd January 2014 the additional HMO licensing scheme covering a small part of central Weston-super-Mare, came into force for a maximum period of 5 years. A progress review was undertaken in 2015 which showed at that time 51 formal licences had been issued, 43 buildings were identified with breaches in management practice, representing an 84% failure rate. 36 buildings were found to contain Category 1 hazards under the Housing Act 2004 demonstrating a high level (70%) of HMOs with poor conditions within the scheme area. All Category 1 hazards will be removed from these premises by either working with co-operative landlords or using the range of enforcement powers available.

Summary

The data demonstrates that the majority of HMOs are located in Weston-super-Mare with a smaller number in Clevedon. Those known HMOs which are in poor condition or

have ineffective management practices are largely also located in Weston-super-Mare town. The licensing scheme has allowed us to focus resources on a small area with a high concentration of poor quality HMOs.

4.0 Evaluation of progress

This section analyses the data collected over the past 5 years to establish what has been achieved and the overall impact on housing conditions within North Somerset.

Taking figures from the stock condition survey as a basis for estimating levels of serious hazards within North Somerset we start with a figure of 2973 dwellings in the private rented sector which contain Category 1 hazards.

4.1 Reactive Complaints Service

	12/13	13/14	14/15	15/16	16/17
Number of requests for service (poor housing conditions only)	557	423	518	310	378
Number of inspections	80	114	90	7	17
Number of properties improved	33	34	25	35	49
Number of notices served	1	3	15	9	15
Charges for enforcement activity	£0	£0	£712	£303	£4,500

In 2015/16 the council changed how it dealt with complaints about poor conditions in privately rented housing because few homes were being improved despite much time being spent inspecting properties and carrying out detailed HHSRS assessments. This was because some properties inspected were found not to contain serious hazards and due to difficulties in managing the high demands of initial contact resulting in insufficient time to follow up cases and ensure works were completed. Tenants often moved out or changed their mind about wanting the council to intervene on their behalf.

These changes have brought about an increase in the number of properties improved along with a greater emphasis on enforcement action resulting in increased recharging of the landlord/manager for the cost to the council for undertaking enforcement action. However, the resources required to process the high level of service requests versus the number of properties improved still results in a small number of properties improved relative to the number of complaints received and the number properties in poor condition. It is useful to examine why so many service requests do not result in any property improvements.

For the year 2016 the council received 281 requests for service relating to poor housing conditions of these 219 resulted in advice only for the following reasons.

- Tenant did not respond after making the initial complaint to the council
- Tenant had not contacted their landlord to resolve the disrepair
- Tenant wanted advice only on options but did not want the council to intervene

The level of technical and legal knowledge required to deal with these enquiries is extensive as knowledge of the structure and failure of buildings is required along with detailed understanding of the Housing Health and Safety Rating System.

In summary the provision of this service is resource intensive with limited impact.

4.2 Mandatory and Additional Licensing of HMOs

	12/13	13/14	14/15	15/16	16/17	Total
Mandatory scheme – HMO licences issued	9	4	9	8	18	48
Mandatory scheme – HMO improvements (number of HMOs/ number of units)	11(79)	0	8(27)	3(9)	2(11)	24(126)
Additional scheme – HMO licences issued	N/A	N/A	32	29	22	83
Additional scheme – HMO improvements (number of HMOs/ number of units)	N/A	N/A	5(9)	17(31)	18(30)	40(70)

The above table demonstrates that high proportions of the HMOs licensed have required works to be undertaken to meet minimum standards. The cost to the council to improve those properties which fall under the ‘additional’ HMO licensing regime has been high due to the resources required to ensure applications are submitted and the need to provide clarification to landlords on what circumstances a licence is required. The income received as part of the licence fee only makes a contribution to the costs of running the scheme as some costs could not be recovered through the charge.

Following recent case law it would be possible for future schemes to recover a greater proportion of the costs incurred however there would still be an overall cost to the council to introduce such schemes. In addition the scale of fee increase is unlikely to be unacceptable to landlords resulting in a knock on effect on rents and affordability of the homes.

Licensing is also resource intensive as considerable resources need to be expended on administering the licensing process with only limited time being available for visiting homes to enable improvements.

In summary, significant amount of the time involved in the licensing process is spent administering the licensing process rather than inspecting and improving homes and only a proportion of the costs may be recovered.

4.3 Pro-active Inspections of HMOs

As discussed in 2 section this system was introduced to prioritise team resources to focus on the HMOs in the worst condition. The table below shows the inputs and outcomes for each financial year from 2012.

		12/13	13/14	14/15	15/16	16/17
1	Number awaiting prioritisation visit	414	189	179	182	158
	Number visited and prioritised	0	225	10	0	24
2	Number of Inspections carried out of Band A high risk HMOs	8	20	3	4	0
	Number of Band A HMOs outstanding	64	120	124	125	126

The table shows that the number of HMOs awaiting prioritisation has reduced from 414 HMOs in 2012/13 to 158 in 2016/17.

Row 2 shows the number of inspections of Band A HMOs carried out in each of the financial years. In 13/14 resources were focused on prioritisation and reduced the number outstanding considerably. During 13/14 20 HMOs were inspected and improved. From 14/15 to date there has been very limited intervention in these high risk premises. This is due to a significant increase in the teams work in dealing with other reactive work.

In summary the system was introduced to better manage and prioritise those HMOs in the worst condition and although we now know where the poorest quality HMOs

are located the conflicting demands on the team has resulted in limited capacity being available to make improvements to those properties which are in the worst condition.

Summary

The reactive service for responding to tenant's complaints results in the limited resources available being used to deal with a high number of customer contacts relating to housing which is generally not in the poorest condition and with limited outcomes. Due to the demand led focus of the service staffing resources are accessed by those tenants who are aware of the service rather than targeted on those properties in the poorest condition. Due to the high volumes of reactive work limited improvements can be made to high risk HMOs. The Additional Licensing scheme whilst resulting in the improvement of HMOs is resource intensive, the charges raised are unable to cover the service costs and the process is time consuming and with a high administrative burden. It is clear that if the council were able to be more proactive using more efficient processes greater improvements could be made to conditions in the sector.

5.0 What are the Opportunities?

This section discusses a range of different options, new opportunities and ideas for the council to improve conditions in the private rented sector.

What do other councils do to improve housing conditions?

Research has been carried out to investigate best practice from other local authorities to establish innovation and any successful models.

Reactive service plus mandatory licensing

Many local authorities still operate on a re-active basis responding to complaints and carrying out their statutory duties relating to enforcement and regulation of houses in multiple occupation. Some councils prioritise their resources by focusing on specific parts of their district depending on local priorities (e.g. ASB or refuse). Others target rogue landlords and prioritise resources to work with other partners (e.g. the Police) to tackle the wider issues associated with poor management and property conditions or focus on the health of the tenants and prioritise resources around deprivation type issues.

Often councils are still supporting 'forums' and providing training to help professionalise the sector and some still operate accreditation schemes.

It is clear there is no one model being used across the country and it is very much dependant on understanding local demands and priorities and using resources appropriately.

Discretionary licensing schemes

In 2015 the criteria to declare a licensing scheme for rented accommodation was expanded. The initial criteria were limited to either an area suffering from low housing demand or a significant and persistent problem caused by anti-social behaviour. The new criteria expanded the scope of the licensing schemes to include:

- Poor property conditions
- High levels of migration
- High levels of deprivation
- High levels of crime

Since the change to the criteria there has been an increase in the number of local authorities who are making use of the powers. Generally the schemes tend to be large in the light of the legislative burden in making a declaration.

There are few additional HMO licensing schemes currently being declared, this may well be due to the anticipated extension to the mandatory licensing regime.

Co-regulation with private landlords

Working with private landlords to improve housing conditions and management is a relatively new concept, it allows the professional landlords to self-regulate and allows the council to focus on the rogue element.

Southend-on-Sea

Local landlords in opposition to a proposed selective licensing scheme developed an accreditation scheme named SEAL. Four years following on from conception 70% of local landlords and agents are members. The council made a financial contribution to initially help with the start-up costs but no longer financially support the scheme. All complaints from tenants regarding SEAL members are directed to the scheme co-ordinator who generally resolves the problem. This has been of benefit to the council as they no longer spend time dealing with the general 'minor repairs' complaints and are able to focus resources on the rogue element of the sector.

MLAS – Midland Landlord Accreditation Scheme

The Midland Landlord Accreditation Scheme is managed by the Homestamp Consortium with the primary focus of accrediting professional landlords. Accreditation lasts for a 5 year period, during which time, Accredited Members must attend an accreditation day seminar and undertake continuous professional development to keep up-to-date with the latest legislation, advice and guidance on renting and letting property. There are 13 local authority partners, along with the Police, Fire Brigade and University. Partner organisations offer benefits to incentivise landlords to join the scheme, for example Birmingham City Council offer a reduction of £150 on HMO licence applications. University of Birmingham only advertise accommodation to students from MLAS accredited landlords.

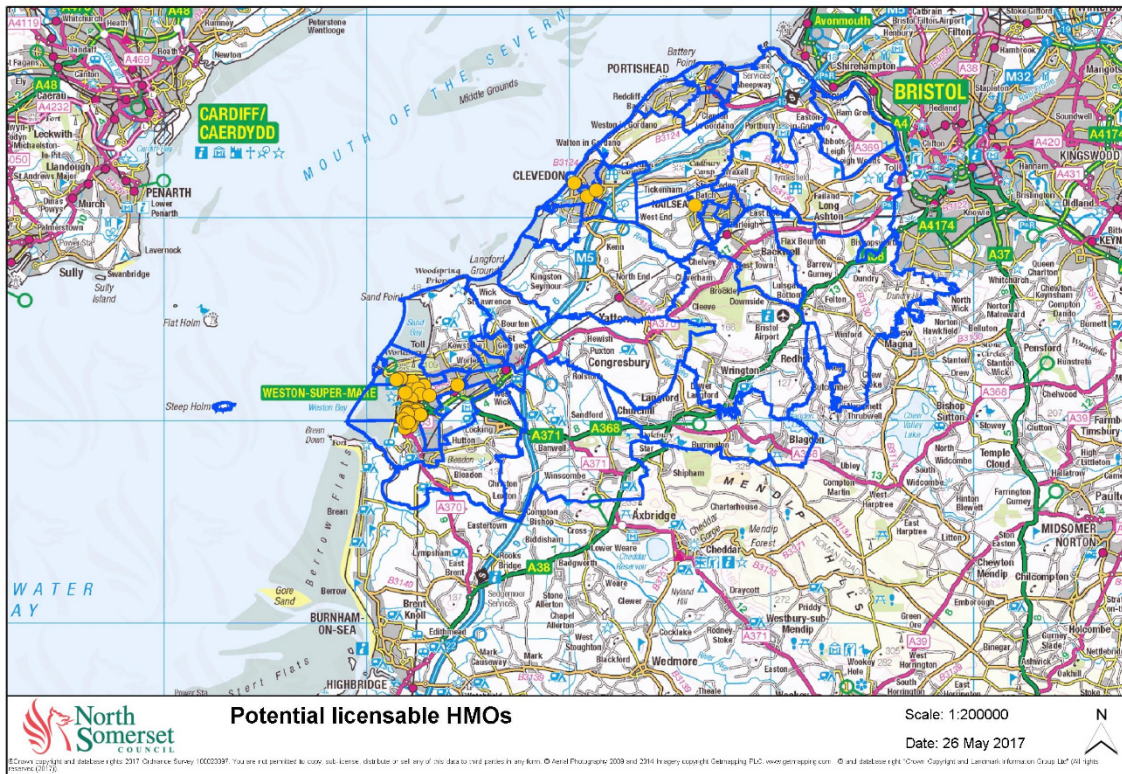
Legislative change

The Housing and Planning Act 2016 has introduced a number of new provisions associated with combating rogue landlords, these include:

- Banning orders for most prolific offenders
- Database of rogue landlords/property agents
- Civil penalties of up to £30,000 (now enacted). A civil penalty is a financial penalty imposed by the council on landlords as an alternative to prosecution for certain housing offences under the Housing Act 2004. For example failure to comply with an Improvement Notice (section 30) or failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234).
- Extension of Rent Repayment Orders (now enacted)
A rent repayment order is an order made by the First-tier Tribunal requiring a landlord to repay a specified amount of rent to either the local authority or the tenant. The Housing Act 2004 introduced rent repayment orders to cover situations where the landlord of a property had failed to obtain a licence for a property that was required to be licensed. Rent repayment orders are being extended for example where. Landlord fails to comply with an Improvement Notice under section 30 of the Housing Act 2004; or illegally evicts or harasses a tenant.

In addition the government have consulted on proposals to extend the mandatory licensing regime to remove the '3 storey' requirement. The anticipated date for the roll out of the scheme is April 2018.

Research has been carried out to establish how many HMOs are likely to fall under the extended licensing regime using data from housing complaints, Local Housing Allowance claims and tenancy deposit scheme data. Initial calculations indicate it will be in the region of 50 HMOs, with the majority located in central Weston-super-Mare, as plotted overleaf.



Map 11

Rent with Confidence

Rent with Confidence is a voluntary accreditation scheme that aims to protect tenants by setting out a benchmark for landlords and letting agents in the private rented sector. The scheme is administered by Bristol City Council in conjunction with Bath and North East Somerset, North Somerset and South Gloucestershire councils and has also been supported by Plymouth City Council.

The scheme helps tenants rent with confidence, knowing that their landlord or agent is a member of an approved organisation and the accommodation and management practices should meet minimum acceptable standards. One of the requirements of the scheme is for the organisation to have a clear complaints procedure relating to the conduct of their members. Some of the member organisations go further than this and allow tenants to complain direct to the member organisation who will then intervene on their behalf if the individual landlord does not resolve the problem.

Seven organisations have been approved and their accredited agents and landlords will be able to use the scheme logo and marketing material.

The approved organisations are:

- Bristol Association of Letting and Managing Agents
- National Landlords Code of Excellence
- Bristol University Student Union Lettings
- South West Landlords Association
- National Landlord Association (accredited members only)
- Residential Landlords Association (accredited members only)
- Consider Rate

Advantages to supporting accreditation schemes

- Improved relationship with 'good' landlords and agents
- Encourages professionalism in the sector
- Good landlords regulate themselves
- Channel shift of minor complaints along with 'nudge' principles
- Allows council to focus resources on the 'worst' with formal action
- May increase supply of private rented sector accommodation to the councils homelessness service

In response to the local proposal in 2016 for a selective licensing scheme local landlords formed the National Landlords Code of Excellence. The scheme is founded on continued training and education of landlords and based on the MLAS scheme operating in the Midlands. It aims to target those landlords who are unaware of their responsibilities. They operate their own complaints procedure for tenants living in an accredited home where a problem with housing conditions arises; which to date appears to be effective. When landlords apply to join the scheme they must self-declare they meet fit and proper persons requirements (the same requirements as for licensing requirements), in addition they must commit to carry out continuing professional development.

All accredited landlords are named on the scheme website and as at June 2017 there are 47 accredited landlords within North Somerset who between them own 1194 properties.

6.0 Strategic Option Appraisal

6.1 Strategy

To summarise a number of key conclusions may be drawn:

- the poorest housing conditions in North Somerset are to be found in the older (pre-1919) privately rented housing stock
- there are high concentrations of privately rented housing including HMOs located in Weston-super-Mare town centre
- a variety of data sources confirm there is a concentration of poor quality privately rented housing, including HMOs, in Weston-super-Mare town centre
- whilst the Additional Licensing scheme for HMOs is resulting in HMOs being improved the administration of the licensing scheme is resource intensive and a significant element of the cost of running the scheme cannot be recovered through licencing fees
- the reactive service provided to respond to complaints from tenants about poor housing conditions is resource intensive, results in significant staff time being spent dealing with housing which is generally not in the poorest condition and only results in small numbers of homes being improved in comparison to the number of complaints received
- there is a large number of known HMOs which are likely to be in a poor condition and are located primarily in Weston-super-Mare town centre
- there is an opportunity to improve the efficiency of the service and release resources to proactively tackle poor housing conditions in the private rented sector by working in partnership with those Rent with Confidence accrediting agencies who offer a full tenants complaints services
- the introduction of new legislation will result in more HMOs being required to be licensed and will provide additional tools which can be used to improve the poorest rented housing
- using the additional new powers in future will enable the council to recover the cost of enforcement action and to issue civil penalties where necessary and this income could be used to resource the enforcement service to enable a more proactive approach to be taken

- There are new opportunities to work with the sector through the 'Rent with Confidence' accreditation schemes to encourage self-regulation of members

Options available

Continuation of the current approach will result in limited progress continuing to be made in improving conditions in the Private Rented Sector, in summary it would result in:

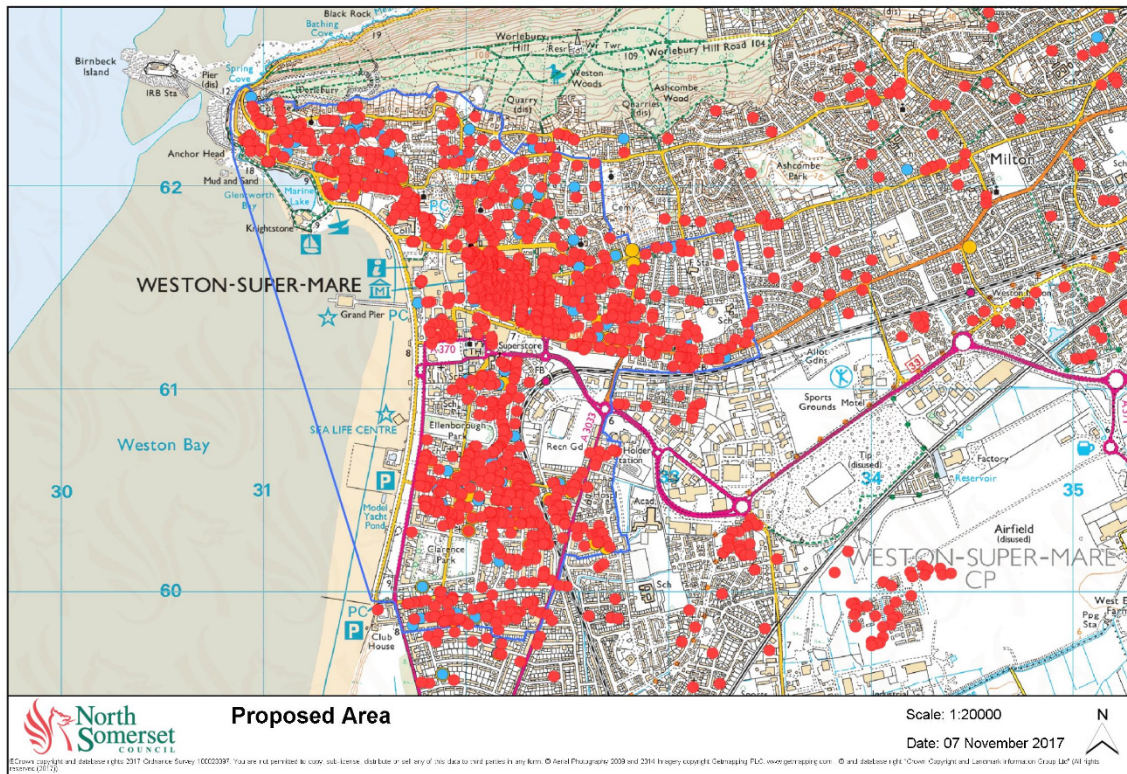
- the council being unable to respond to increasing demands placed on the service
- housing conditions in a relatively low number of privately rented homes being improved in response to complaints but these generally not being the worst properties
- the backlog of uninspected HMOs where there is likely to be poor housing conditions continuing to grow.
- housing conditions in the private rented sector being unlikely to significantly improve in the medium to longer term
- a failure to improve properties in the Weston-super-Mare town centre which would have a negative impact on the regeneration plans for the town
- the council being unable to manage the need to regulate an increase in the number of HMOs linked to the expansion of Weston College

On this basis it is recommended that the council pursue a new strategy based on the option appraisal outlined in this report to enable existing and additional (self-funding) resources to be targeted on proactively improving conditions in the private rented sector in central Weston-super-Mare.

The proposed area

All of the evidence would suggest the focus should be on parts of Central, Hillside and the edge of Uphill and Clarence Ward and Milton Ward. The map below shows poor housing conditions data from the 2017 Stock Condition Survey, known HMOs in poor conditions along with HMOs which may become licensable in the future.

A blue line has been drawn around the area which contain the highest levels of poor conditions, this is the area which it is recommended should be targeted in the future.



Map 12

There are ways in which resources could be targeted on improving housing conditions in the PRS in Weston-super-Mare:

- by introducing an 'Action Area' approach
- by introducing Selective and Additional licensing schemes.

6.2 Option Appraisal

An appraisal of both options is set out below

a) Action Area

Using this approach all landlords renting property in the defined area would be advised of their responsibilities in relation to housing conditions and in addition highlighting the benefits of joining an accreditation scheme offering a full complaints service. For landlords who join an accreditation scheme that meets with our requirements (these schemes will be individually named) a sample number of inspections will be carried out in conjunction with the accreditation provider. This will help to ensure credibility in this approach and to ensure 'rogue' landlords are not using accreditation to avoid council intervention. Any landlord who is found to be in breach of the Code of Conduct requirements of their scheme and is removed by the accreditation scheme will be

considered a 'rogue' landlord and will receive targeted enforcement action by the council.

Where landlords do not join such a scheme; after allowing a reasonable time for the landlord to ensure their own compliance (following the communications set out above), council officers will carry out an inspection of the building. Any hazards or failures in relation to management practices identified will be remedied through the use of enforcement powers with appropriate costs being recharged directly to the landlord.

This may result in a large number of properties which require inspection by the council and these will be prioritised in the following ways:

- HMOs with potential hazards
- Complaints by tenants
- Landlords removed from accreditation schemes due to non-compliance with scheme standards
- Complaints referred to the council by an accrediting organisation
- Houses/roads with evidence of poor housing conditions

This approach would ensure compliance with Statutory Code of Regulators on the basis the council has directly provided information to ensure properties offer a safe environment, and given an opportunity for landlords to improve their properties before any inspection is carried out.

Advantages

- Targets limited resources to a defined area containing the highest proportion of properties in poor condition
- Accredited properties would be excluded from any inspection regime allowing the council to target resources to landlords who are not making attempts to improve and stay up to date.
- Funds the inspection of the properties which fall within the area through charging for enforcement action but without the high volume of legal paperwork required through a licensing regime
- Would offer a different approach to improving conditions in an area which would target rogue landlords and would be likely to be supported by good and well intentioned landlords. If this approach were to fail it would be a clear indication that the council should pursue licensing in the future.
- Fits with government agenda to focus resources on rogue landlords and agents

- Will help to reduce the backlog of HMOs in poor condition either through direct inspection by the council or through accreditation scheme membership
- Rogue landlord reporting line to allow tenants and other interested stakeholders to report poor practice (this has been requested by both landlord and tenants representatives)
- Allows the greatest flexibility to the council to focus on those properties in the poorest condition and/or to target rogue landlords
- Expectation that accreditation schemes self-regulate their members freeing up council resources currently dealing with low level complaints
- Legal advice indicates this is an appropriate use of our powers to keep housing conditions under review and duties to inspect properties which may contain a Category 1 hazard
- Tenants of accredited landlords do not have to complain directly to the council which many tenants do not want to do for fear of eviction
- Flexible scheme – boundaries can be changed as and when necessary without going through a legal process

Disadvantages

- Landlords outside the area may not carry out improvements if they think the council is focused on a specific part of the area
- Not all accreditation schemes require fit and proper person declarations, however there are other powers available to the council e.g. 'management orders' for the most serious cases of poor management practices
- The council would need to identify every rented property in the area, establish ownership and if they are accredited and then arrange an inspection

Budgetary Impact

- Cheaper and quicker to implement than a licensing regime
- Cost of inspections recoverable if hazards present, including use of civil penalties for management failures in HMOs
- Would require extra resource to implement the proposals and carry out initial inspections whilst waiting for channel shift of complaints direct to accreditation providers, at a cost of £40k (1 FTE for one year)
- Could be delivered within existing resources after implementation of proposals

Risks

- The number of complaints direct to the council do not reduce resulting in limited staff resource to carry out inspections within existing budget
- Accreditation scheme organisations do not robustly deal with landlords who are non-compliant with their own scheme standards

Time to implement

- Enforcement Policy to be updated to allow use of civil powers – 2 months
- Up to 6 months, to send out mailshot and provide a reasonable time frame for landlords to make improvements without council intervention

b) Targeted Selective and Additional Licensing schemes

This approach would involve the council declaring additional and selective licensing schemes in the proposed area.

Advantages

- It is the landlords responsibility to apply for a licence which provides the council with a list of rented properties in the area
- Compliance with a set of licensing conditions offers increased regulation to the sector
- Partly funds the inspection of the properties which fall within the area
- Public Register of all licensed premises
- Will help to reduce the backlog of HMOs in poor condition through direct inspection
- Tenants do not have to complain directly to the council which many tenants do not want to do for fear of eviction
- 'Fit and Proper' persons powers can be applied

Disadvantages

- Extension to the Mandatory licensing regime will in any event encompass all shared HMOs with 5 or more tenants
- Penalises good and well intentioned landlords unless heavy discounts are offered
- Requires all homes to be visited including those which already meet standards

- May impact on rent levels for tenants
- Rogue landlords will avoid applying for a licence which requires intensive resources to ensure compliance which are not covered by the scheme costs, although Civil Penalties will offer an alternative to prosecution
- Costly to implement and administer; the fees would not fully cover the administration of every part of delivering the scheme
- Cost to defend a scheme if faced with judicial review
- Tenancy Deposit data is now available which will allow the council to access details on most rented properties
- Much of the income generated from the licence fee is spent on the administration of the scheme
- Lack of flexibility, as all properties must be licensed and inspected as part of the legality of the scheme and scheme cannot be varied once declared without going through a long consultation and legal process
- Discounts would need to be offered to accredited landlords which may make any proposals unviable and result in the scheme being delivered at a significant cost to the council

Budgetary Impact

- Collation of evidence to justify a scheme, production of consultation documents, legal designation and publicity are resource intensive
- Approximate Costs to declare a scheme
 - Officer salary costs to implement £50,000
 - Legal Costs £4,000
 - Consultation/Publicity £8,000
- The majority of the licence fee income goes towards meeting the cost of processing the licence which is a lengthy and bureaucratic process
- If a scheme were to be declared we would need to consider offering high discounts to accredited landlords which is likely to mean the council has to invest council reserves to deliver the scheme outcomes.
- Most property improvements would have to be carried out using other enforcement powers (HHSRS).

Risks

- Landlords will be opposed to the scheme and may challenge any proposals resulting in expensive legal costs
- Local landlords have put forward an alternative to licensing and may argue they have been given insufficient time to demonstrate success
- Whilst there is evidence of poor housing conditions in the sector, declaration of a scheme must be considered in relation to a range of options

Time to implement

- The time to evidence and follow legislative requirements to implement the scheme would equate to 11 months involving a dedicated resource for the duration (this funding would not be fully recoverable)

Comparison of informal versus formal targeted area action

	Informal area action	Formal action (Licensing)
Speed of implementation	✓	
Most cost effective to implement	✓	
Delivers improvements to sector	✓	✓
Inspects all properties		✓
Targets the worst	✓	
Support from those living in the area	✓	✓
Support from landlords	✓	
Delivers a public register of properties		✓
Likely to be self-financing	✓	
Requirement for all landlords to be fit and proper persons		✓
Focus on rogue landlords	✓	
Supports accreditation schemes	✓	
Tenants do not have to complain to the council about poor conditions	✓	✓

Conclusions

Based on the above evaluation it is clear that an area action approach will ensure resources are targeted on those properties in the worst condition in a significantly more efficient way than through licensing, presents fewer risks and provides greater flexibility. Staff resources would be redirected from complaints work by working with accreditation providers to nudge landlords where tenants make low level complaints to ensure landlords self-regulate in the first instance.

7.0 Implementation and Review

Strategic Direction Summary

- To improve private rented sector housing conditions in an area of Weston-super-Mare set out in Map 12 with a clear focus on rogue landlords by:
 - Supporting accreditation providers to increase membership with an aim of directing low level complaints to the accreditation provider freeing up council resources to focus on those landlords and properties which are non-compliant.
 - To target inspections and legal action on all non-accredited properties and Rogue Landlords
- Properties will be inspected where the landlord is not a member of an accreditation scheme which offers a full complaints procedure and appropriate levels of training.
- All inspections by the council will result in formal enforcement action where Category 1 hazards are identified along with full use of powers contained in the Housing and Planning Act for any breaches in management arrangements. Full cost recovery would be applied.
- The resources used to implement the approach would be those previously dedicated to responding to tenant complaints as it is likely there will be a shift in complaints from the council to the accreditation providers alongside additional resources which would be funded through any income received.
- The accreditation provider(s) must have robust systems in place to deal with landlords who are in breach of their terms and conditions and any landlords removed from the scheme would be defined as a rogue landlord. The council would then inspect the whole of the individual's portfolio regardless of whether the properties were all located within the action area.
- Sample checks will be undertaken of accredited properties
- Any landlord who is found to be in breach of the Code of Conduct requirements of their scheme and is removed by the accreditation scheme will be considered a 'rogue' landlord and will receive targeted enforcement action by the council.

Draft implementation plan

Action	When
Civil penalty and rent repayment policies and procedures produced	January 2018
Production of HHSRS checklist, updating of website and publicity relating to the new approach	February 2018
Mail drop to all properties setting out detail of scheme and landlord/agent responsibilities.	April 2018
External inspections to help prioritise future inspection regime	April 2018
Support to accreditation providers to raise profile of scheme and benefits to landlords of joining	Ongoing
Inspection regime planned	May 2018
Rogue landlord reporting system put in place	April 2018
Charging regime for enforcement action reviewed to ensure full cost recovery.	February 2018
Liaison with external stakeholders to raise profile	Meetings, attending events, social media
List from accreditation providers of all properties in the area belonging to accredited members.	March 2018
Inspections commence including target setting and monitoring arrangements	April 2018

Resourcing

In order to undertake the necessary work to introduce the scheme and resource the initial inspections an additional post of enforcement officer will be required for a period of 1 year. This will be funded through the use of reserves held for the purposes of property surveys. Additional staffing funded through income received are likely to be required to enable the scheme to progress quickly.

Review

Regular reviews will be undertaken, initially annually to ensure that the approach achieves the aims of the scheme. If the schemes outcomes are not being achieved through the approach it will be necessary for the council to re-consider the introduction of licensing schemes.

In addition, performance management measures will be put in place including; target setting for homes visited and improved, monitoring the number of complaints received about accredited landlords, membership levels of accreditation schemes and any impact on improved management practices, tracking performance compared to improvements achieved historically.

Additional procedures will be put in place to ensure targeting of rogue landlords, this would include an on-line reporting system for residents and other interested stakeholders. The definition of a rogue landlord will be set out within the enforcement policy along with the subsequent actions which may be taken, including inspection of all properties within the same ownership regardless of location.

8.0 Recommendations

The content and recommendations of this report should go through a consultation period for comments on the proposed approach and priority areas.

The public consultation period should last for a minimum of 4 weeks.

Appendix A – HMO Banding System

Band A

Properties potentially containing Category 1 hazards based on the initial prioritisation visit.

Band B

Properties in this band have evidence that there are failings in all three categories relating to management, external appearance and insufficient levels of fire precautions.

Band C

Properties in this band have either one or two indications of poor practice in the categories of management, fire precautions or external appearance.

Band D

All HMOs in this section have no indication they contain Category 1 hazards or any evidence of poor management, external appearance or insufficient fire precautions. At the point of initial prioritisation there are no serious risks evident, however over time conditions and management can deteriorate and properties in this section may move into a higher banding.

Appendix B – Glossary of Terms

Accreditation Scheme

An accreditation scheme is an arrangement under which landlords and agents of rented housing voluntarily agree to meet a set of benchmark standards relating to:

- the physical condition of the accommodation
- housing management
- the relationship between landlord and tenants
- levels of continuous professional development

Accreditation is a way of specifying standards in order to promote best practice. It is also about landlords making themselves accountable to scheme operators and, ultimately, to tenants.

Houses in Multiple Occupation (HMOs)

Broadly speaking, a HMO is one of the following:

- A shared house
- A house divided into bedsits
- An individual flat; lived in by three or more people who belong to more than one family and who share one or more facilities
- A building of self-contained flats that should have but does not meet 1991 Building Regulation standards where less than two thirds of the self-contained flats are owner occupied

Please refer to the Housing Act 2004 and associated statutory instruments for the legal definition of a HMO.

Housing Act 2004

Gave councils greater duties and powers to regulate the private sector through the introduction of a new system to identify hazards, introduction of HMO licensing for the largest buildings, discretion to introduce licensing schemes for small HMOs and other residential buildings. A range of enforcement powers were introduced including

improvement notices, prohibition orders, emergency remedial action and hazard awareness notices.

Housing Health and Safety Rating System (HHSRS)

The Housing Act 2004 introduced a new system for assessing housing conditions, known as the Housing Health and Safety Rating System (HHSRS), which is used in the enforcement of housing standards in all types of residential accommodation. This new system replaced the fitness for human habitation standard as contained within section 604 of the Housing Act 1985. The new system is structured around an evidence based risk assessment procedure, which considers those hazards that may be present in a dwelling from a list of 29 classified hazards.

Improvement Notice

One of the enforcement options available to the council under the Housing Act 2004 where we identify a hazard in a residential building. The notice would require the person in control to carry out improvement.

Statutory Code of Regulators

The Regulators' Code came into statutory effect on 6 April 2014 under the Legislative and Regulatory Reform Act 2006 and provides a clear, flexible and principles-based framework for how regulators should engage with those they regulate. Nearly all regulators, including local authorities and fire and rescue authorities, must have regard to it when developing policies and procedures that guide their regulatory activities.

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