

Review of Housing Conditions in the private rented sector in North Somerset – report of consultation responses

Introduction

In January 2018 North Somerset Council (NSC) consulted on its' review of housing conditions in the private rented sector (PRS) ('the Review'). In order to consult with interested parties and gauge reaction to the Review, it was placed on the council's consultation website for four weeks¹. A wide range of potential stakeholders were notified of the consultation. Consultees were invited to use an on-line questionnaire to give their views, though other options for responding were also available.

This report, the 'Consultation Report' summarises the views expressed in the consultation and the council provides a response (shown in italics).

Number of responses

There were 59 responses to the consultation. 56 of these were made using the on-line questionnaire², two were made by email and one was made by printing off the on-line form and completing it by hand.

Many of the Questions were 'open text' questions and a summary of the views expressed in these responses are set out in this report. The remaining questions were 'closed' questions and details of these responses are also provided. The summary of responses have been set out in the order in which they appear in the questionnaire with interpretation and commentary as necessary. A number of responses received were not made in relation to the actual part of the Review referred to in the questionnaire and have therefore been included in the responses to the question to which they most closely refer. In addition a number of responses included issues that are beyond the powers of the council to deliver and therefore we have not included them in this report.

¹ From 2 January until 30 January 2018

² One on-line response was followed up with an email with more detail

Question 1 - Do you have any comments or ideas arising from the description/ analysis of the PRS sector and efforts to tackle poor housing conditions to date in North Somerset (NS), as set out in Sections/Chapters 1, 2, 3 and 4 (Introduction, Background, Findings and Evaluation of Progress) of the Review?

Some respondents felt that the council lacked accurate information on scale of (housing) problem and the skills/resources to regulate the PRS and protect architectural heritage. The reluctance of some tenants to report disrepair problems (to the council) due to fear of retaliatory eviction was also raised (which could lead to an under reporting of housing problems). *In line with good practice the most recent Stock Condition Survey conducted by the Building Research Establishment in 2017 has been used as a key evidence base for the findings. The approach also used data relating to complaints and houses in multiple occupation from the past five years. The use of multiple data sources including the new stock condition survey results reduces the risks relating to the use of just one data source for example complaints*

There is a dedicated team dealing with regulating the private rented sector who are trained and experienced in relevant technical and legal procedures. It is acknowledged that there are resource constraints to the work that can be undertaken to regulate the PRS. The strategy however is designed to deliver the maximum outcomes possible from the resources available. Where Architectural heritage issues arise the team would liaise with the council's Planning service.

The lack of information about in deprivation NS, which is one of the criteria for introducing selective licensing was also raised as an issue in particular that there are high levels in Weston Central and South Wards. *It is also acknowledged that the report does not include information about deprivation. However this was because the purpose of the report was to analyse housing conditions in the private rented sector and how they could be improved and the presence of poor housing conditions is one of the criteria for declaring licensing schemes.*

It was also highlighted that in the table "Comparison of informal versus formal targeted area action" 'support from landlords' was acknowledged but there was no mention of the views of tenants'. *However there was a category included in the table entitled 'those living in the area' which include tenants and owner occupiers*

.Question 2 - Section 5 of the Review (What are the opportunities?) contains examples of good practice to improve the PRS. Do you have any comments, ideas or other examples of other good practice you think should be considered? This question was designed to get respondents to come forward with their good practice ideas.

A number of respondents felt more regulation of private landlords was required including requiring landlords to apply for a licence, greater use of enforcement

powers whilst charging landlords directly for the cost of any action, and a register of bad landlords and tenants.

The government has recently announced the mandatory licensing scheme will be extended to cover small houses in multiple occupation; this is likely to apply from October 2018. It is estimated an additional 294 properties will as a result need to be licensed in future and the council must ensure adequate resources are focused on ensuring landlords licence where the buildings fall into scope of the new requirements.

In relation to enforcement action and cost recovery the Review proposes that where landlords do not join an accreditation scheme offering a full complaints service; after allowing a reasonable time for the landlord to ensure their own compliance (following the communications set out), 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.

The government has laid regulations to create a national rogue landlord database, and the council will ensure full implementation of the new powers. Whilst it is for landlords to make the appropriate checks in relation to the behaviour of tenants prior to offering a tenancy and many landlords choose to ask for a reference; the council are working with Weston College to introduce a training course designed to help tenants better manage their tenancy.

A number of suggestions related to the professionalism of private landlords and that they should be required to be more contactable by tenants, carry out repairs in a timely manner, lodge deposits and not to evict tenants when they report problems in their home. *The council agree that landlords should operate in a professional manner, and where issues are brought to the attention of the council we would carry out investigations where legislation allows. When a tenant reports poor housing conditions to the council and we make contact with the landlord we are very clear about the consequences for the landlord of retaliatory evictions. We would advise tenants on their rights where landlords have not lodged deposits.*

A greater role for letting and estate agents was suggested by getting them to assist in reporting poor property conditions. *We are aware from conversations with landlord and tenant groups there is a need for an online reporting system to report poor conditions. Within the Review we make recommendations to develop an on-line rogue landlord reporting line which would be available to anyone with concerns and we recognise the important contribution that agents could make in informing the council of poor housing conditions. When the reporting line is established we will promote this widely including to agents*

Several respondents stated they felt licensing was the best way to improve housing conditions and did not feel self-regulation would be effective. Conversely other

respondents stated that not all landlords are non-compliant and resources should be targeted to the rogue element in the sector rather than all landlords. *The Private Sector Stock Condition survey demonstrated that 16% of the private rented stock contained serious hazards, whilst it is unacceptable that any tenant should live in poor conditions it does indicate that the majority of properties are safe to live in and therefore it is reasonable to assume those landlords are compliant and targeting poor landlords would be the most appropriate and efficient response.*

It was suggested there was a role for the council as a 3rd party mediator between landlord and tenant disputes. *The council does take on the role in mediator in a number of circumstances in particular in our duties towards preventing homelessness where council officers will mediate between parties to try and enable a tenant to remain in their home.*

Question 3 - Section 6 (Strategic Option Appraisal) sets out a comparison of the options for improving housing conditions in the private rented sector. Do you have any comments on our proposed option to target the poorest PRS conditions which are in 'central' Weston-super-Mare by designating an Action Area (AA) (map of AA on page 36 of the Review)?

Note: Option A was the AA and Option B was Targeted Selective and Additional Licensing schemes

There were wide ranging views on this section with no consensus for either of the options considered in the review. Whilst landlord/agents were the biggest group responding their responses were quite diverse with no uniform response. Conversely a substantial number of tenants supported greater licensing but often did not offer any reasons for this. A summary of the responses is provided below.

Comments relating to Option A (informal area approach)

Those that favoured this approach stated it would incentivise landlords to adhere to best practice and continuous personal development and that all landlords should belong to an accredited body. Respondents also stated it would be less resource intensive for the council and it was fairer to target rogue landlords rather than all landlords.

There were practical suggestions on how to operate this approach including the monitoring of accredited organisations, consideration of data protection requirements and the need to pilot the initiative initially and roll out across all of North Somerset. *It is acknowledged that there will be a need to monitor accrediting organisations and to review the progress of the proposed approach to ensure it is meeting the objectives of improving homes. If the Area Action approach on review was not found to be successful alternative options including discretionary licensing would be considered.*

Criticisms of this approach included unless it was mandatory for landlords to carry out works they would not do it and rogue landlords would see self-regulation as a

means to avoid enforcement action and good landlords already self-regulate. *It is recognised that this is a risk and to mitigate against this, as set out in the consultation document, spot checks will be carried out on accredited properties and any landlord who is found to be in breach of the Code of Conduct requirements of their scheme will receive targeted enforcement action by the council. In addition the results of spot checks will be considered as part of the regular scheme reviews.*

Comments relating to Option B (licensing)

Those that favoured this approach felt that licensing was the only way to improve property conditions, support for licensing ranged from just targeting the area proposed in the review to requiring all landlords to be licenced. It was suggested licensing could be self-financing and that other councils are declaring licensing schemes including district wide schemes for example London Borough of Newham with successful outcomes. *We were aware of the licensing schemes being undertaken in some other Local Authorities and this approach is referenced in the Review. This option was fully appraised as part of the option appraisal. Whilst this option is not the preferred option it will be reconsidered if the action area approach is not found to be successful.*

There were also a range of responses which opposed the greater use of licensing for a range of reasons including that licensing does not work as it stigmatises an area, that it results in increased rents for tenants and discourages investment in the area. It was suggested rogue landlords stay under the radar of licensing and do not licence their properties. Others felt much of the income generated from licensing would be spent on the administrative costs in delivering the scheme and the council would waste resources inspecting decent properties.

It was suggested the appraisal was biased toward the councils preferred approach and would affect responses to the consultation and a combination of both options would be better. *However when a licensing scheme is declared it covers a defined area and it would not be possible to exclude accredited properties and the council would still have to process the licence and carry out an inspection within 5 years. It is inevitable that that where an option appraisal is completed and a preferred option is established this will be clearly indicated as this is the purpose of such an appraisal. Out of 59 written responses only a small number of respondents uncritically accepted the Review demonstrating that 'bias' does not appear to be in evidence.*

Question 4 - Do you feel the area covered by the Action Area (AA) is:

This was a multiple choice question about the proposed AA, the results were as follows.

Proposed area is:	No. of responses
Too big	12
About right	18
Too small	9
Should include some other area	7

There were a wide range of conflicting views with the majority of respondents indicating the proposed area was about right. There were a similar number of respondents who felt it was too big and too small. Only 7 stated we should include some other area, respondents were then allowed to expand on their response, especially where they felt some other area should be included.

Of those who indicated the area was too small the most common response was that all of North Somerset should be covered whilst others stated it should be the whole of Weston-super-Mare. Some suggested this area should be used as a pilot and if successful rolled out further. Reasons for this included a concern that landlords outside of the area may become complacent and there should be education and training of landlords and tenants over all North Somerset and this could help the council to 'weed out' rogue landlords.

Those who indicated the area was too big were concerned the council would be unable to target the worst properties based on previous inspection levels.

The majority of respondents agreed with the proposed area, comments included it was a good starting point, it needed to be reasonable size due to the variety of properties in the area and it was asked what mechanisms were in place for reviewing the area.

Other comments included support for targeting Central Weston-super-Mare but also to target privately rented ex-council housing , the importance of the Heritage Action Zone and improving the external appearance of the properties.

On balance it is considered that the area proposed is of an appropriate size. Adopting a smaller area would run the risk of not achieving the improvements in housing conditions sought whilst increasing the size of the area would result in the poorest properties not being targeted. Resource constraints would prevent at this stage the adoption of proposed Action Area approach across the whole of North Somerset as it would require considerably more homes to be inspected.

However it is recognised that adopting a similar approach to advising all landlords in the Action Area of their responsibilities in relation to housing conditions and

highlighting the benefits of joining an accreditation scheme offering a full complaints service in relation to landlords of properties in North Somerset located outside of the Action Area would be beneficial and in response to the consultation this proposal will be implemented alongside the Action Area.

In addition in response to the consultation it is proposed a similar approach is taken outside of the Action Area as within it where properties are inspected as a result of a complaint (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 proposed approach also includes provisions for inspecting any properties across North Somerset owned by a landlord identified to be a 'Rogue Landlord'. These approaches will also be reflected in a revised Enforcement policy.

We agree the regeneration of the town is of importance and acknowledge that good quality housing contributes to this regeneration. Where the council is able to take action over poor external appearance of buildings we would do so as part of our inspection of the building.

Regular reviews will be undertaken of the progress of the approach as set out above and this will include the boundary of the Action Area

Question 5 - We have set out five priorities for inspecting private sector homes on page 37 of the Review. Please select the TWO priorities you feel are the most important from these five.

Priorities for inspection	No. of responses
Houses in multiple occupation (HMOs) with potential hazards	19
Complaints by tenants	25
Landlords removed from accreditation schemes due to non-compliance with scheme standards	20
Complaints referred to the council by an accrediting organisation	9
Houses/road with evidence of poor housing conditions	19

Several respondents felt all five priorities were equally important or too difficult to rank. Other comments included to start with the easy ones, inspections should be focused where there is greatest risk and all private rented housing should be inspected.

Question 6 - Do you have any comments on the strategic direction set out in the Review on page 43 (Section 7 Strategic Direction Summary)?

There were a number of suggestions relating to the strategic direction contained in the review. Responses included that: it will take too long to get results, the costs of any accreditation fee should not be more than a licensing fee, non-compliant landlords should be penalised, the council should define a rogue landlord, and there should be a requirement for all landlords to be fit and proper persons.

Many respondents used this section to reiterate their preference for one or other of the options.

Of those who were supportive of the strategic direction, comments included that the proposals were very positive and will allow the council to focus on Rogue Landlords, that the main reason for poor management is because landlords have a lack of knowledge about what is required, that it would improve the relationship between the council and landlords and result in an increase in private rented stock. Some respondents focused on how the accreditation providers would exclude members from their scheme and that there should be fair warning, along with free property inspections. Other respondents were critical of licensing schemes as they believe they would result in rent being increased.

Those that were critical of the strategic direction generally reiterated their preference for licensing. There was concern that the proposals would still cost the council money as there would still be a need to inspect the properties not accredited and that accreditation would be used by rogue landlords to avoid regulation. A number of respondents felt it was important for the council to respond to tenants complaints.

We believe the approach outlined in the Review will produce an improvement in conditions in a timely manner, and is the best option for making the improvements sought. However we agree that there needs to be a clear system to review the extent of improvements and as set out above if such a review identified the Area Action approach was not successful alternative options including discretionary licensing would be considered. The council will be updating our enforcement policy to make it clear what it meant by the term rogue landlord, taking account of the statutory regulations and to ensure we make full use of the enforcement powers available to the council, including the use of civil penalties in appropriate circumstances. Any inspections carried out by the council where Category 1 hazards are found will result in enforcement action with associated costs incurred being recharged to the Landlord.

As set out above if spot checks identify a landlord who is found to be in breach of the Code of Conduct requirements of the accreditation scheme they will be removed from the scheme and will receive targeted enforcement action by the council.

Resource constraints would affect both a licensing scheme where a significant amount of the income would need to be spent on scheme administration and the proposed Action Area approach. On balance however the Action Area approach is considered to be the most cost effective option particularly as it will not incur the significant administration costs associated with licensing and will not require

landlords of compliant properties to be charged for a licence and will avoid the need for the council to inspect such homes.

The council will be unable to control the cost of any accreditation fee as this is the responsibility of the provider however it is for individual landlords to consider the benefits of joining a scheme. Some accreditation providers require their members to make fit and proper person declarations like the declarations used under licensing schemes and it will be the council's expectation that scheme providers are transparent in their membership terms, including the reasons for ejecting a landlord from the scheme.

Tenant's complaints will still continue to be dealt with and the council will become involved where the accrediting agency is unable to secure the improvements.

A number of questions were asked about the respondents' interest in the review .

Question 7

Is respondent landlord, tenant, other	Number
Landlord / managing agent	23
Private tenant	14
Support or advice provider e.g. provide tenancy support	2
North Somerset resident (other than landlord or private tenant)	8
Working or employed (but not resident) in North Somerset	0
Landlord Associations	2

Question 8 - If you are a landlord or managing agent do you own or manage property in: [N.B. question for landlords only]

Area property owned or managed	Number
The Action Area proposed in the Review	13
Elsewhere in the North Somerset council area	9
Outside North Somerset	8

Note: landlords could own properties in more than one of the three areas

Question 9

Where do you live, do you live in:	Number
The Action Area proposed in the Review	24
Elsewhere in the North Somerset council area	18
Outside North Somerset	8

Question 11 - We want to ensure that people who might be affected by the changes to services proposed in the Review, are not disadvantaged by what the Equality Act 2010 identifies as ‘protected characteristics’. These characteristics include: age / disability / gender reassignment / pregnancy and maternity / race / religion or belief / sex / sexual orientation. Does anything in the Review adversely affect you or anyone else in relation to the protected characteristics listed above? If yes, please let us know your reasons for this view

Only seven responses were received to this question all of which provided details of the respondents protected characteristics, rather than the impact that the Review might have on people with protected characteristics.

Question 12 - Are you responding as an individual or on behalf of an organisation?

Individual / organisation	Number
Individual	44
Organisation	7

Question 12a - If you are responding on behalf of an organisation, what is the organisation name?

The organisations which responded are listed at the end of this report.

Respondents were given the opportunity to give us contact details if they wanted to be kept informed of progress with the Review and findings from the consultation. Respondents were given an assurance that no details included in the consultation findings would allow individuals to be identified. Contact details have been added to our database of interested parties.

Organisations responding

ACORN Weston-super-Mare

Association of Local Landlords (Wessex)

Citizens Advice North Somerset

Plaister Properties

National Landlord Code of Excellence (Limited)

South West Landlords' Association

Weston Civic Society