

DCLG – Review of property conditions in the private rented sector

Response from the City of York Council, endorsed by the Cabinet Member for Health, Housing and Adult Social Service.

Introduction

The City of York Council recognises the vital and growing role that the private rented sector plays in the provision of accommodation and, through this, its contribution to the economic wellbeing of the city, in addition to its support to the community and educational establishments.

Census 2011 tenure data shows the proportion of households renting from a private landlord or letting agent in York is 18%, representing 13,687 households.

A comprehensive household survey in 2008 showed that many PRS households exhibited evidence of socio-economic disadvantage, as well as a younger more mobile household structure. Multi-occupancy was high, dominated by the student market, with single occupancy lets tending to be associated with younger working households or the elderly. There is national evidence that, in the intervening period since this survey was carried out, the sector has expanded at a greater rate and that a wider variety of people now rent properties. The survey itself concluded that the PRS within the City was significant and growing.

Although, in general, housing stock in York is of a good standard compared to the national picture, the City of York Council's Private Sector Survey of 2008 found that households within the sector in general exhibited higher levels of economic vulnerability. Rates of fuel poverty were twice the City average. Housing conditions within the sector were also worse than the City average. 37.2% of shared houses were estimated to fail the Decent Homes Standard compared to 19.3% of all occupied dwellings. Category 1 hazard rates within the sector were also significantly higher at 21.1% as were energy efficiency failures at 17.2%. This points to the need to introduce a minimum decent homes standard for private renting perhaps funded through equity share repair loans to achieve the standard.

Census figures also tend to show a relationship between the proportion of properties in the private rented sector in an area and higher levels of properties without central heating.

The increase of the size of the private rented sector has meant that a high percentage of those living in this tenure are in fuel poverty with the low energy performance of properties creating issues for the following reasons –

There is a conflict regarding who benefits from energy performance improvements, the tenant or the landlord;

The nature of properties in the private rented sector (older Victorian / Edwardian terraces for example) tends to mean that they are harder to improve, particularly with regards to insulation;

With at least three quarters of landlords operating on a small scale, there are low resources / investment potential available to fund works;

Energy efficiency is not seen as a priority by the majority of tenants whose focus is more around rent levels and location of properties.

York's new voluntary accreditation scheme, YorProperty requires landlords to supply details of the EPC for their properties to enable tenants to reach a judgement with regard to energy costs as part of their consideration of suitable properties. Potential tenants are advised to seek properties with an E rating or above.

The City of York Council has undertaken a broad dialogue with the sector and stakeholders in the sector as part of the development of this scheme which has now been established. Take up amongst landlords is currently slow but steady.

Working with the sector to develop a code of management practice and property standards for the scheme has enabled the authority to form a number of opinions on the future requirements of the sector, in order to support both landlords and tenants.

A step towards this, the Tenants Charter, published in October 2013, does a good job in detailing the rights, responsibilities and expectations for tenants and serves as a commitment from the Government to have

safeguards in place for them, particularly from the minority of poor and amateur landlords operating in the sector. The standards that are contained in the Charter need to be reflected in this review of property conditions, for example minimum standards for assured short term tenancy agreements should be based around those proposals included in the Charter or advice to landlords for addressing the damp and mould issues that evidence shows are more prevalent in this sector than in others.

In developing an accreditation scheme, we have had difficulties in contacting landlords to consult with, outside of the main landlord organisations and those who have already become licensed through mandatory schemes. This makes it hard to consult on standards and support.

A national register of landlords would assist the promotion of standards and best practice and would equal standardisation across the country for tenants. It would enable authorities to ensure the maximisation of the contribution of the sector towards tackling their area's housing issues in addition to contributing to achieving savings in health, education and benefits budgets. Although we note the comments made regarding the negative issues relating to a national register, particularly with regard to the costs involved, it would bring significant savings in the increased efficiency of the operation of local authority housing standards teams and would enable local authorities to proactively support the 77% of amateur landlords the report refers to.

Poor housing conditions can also contribute to the costs of service provision outside of the housing sector, for example the impact on health provision. The impact of poor housing on health may be complicated, taking in a number of factors, but evidence suggests that living in poor housing can lead to an increased risk of cardiovascular and respiratory disease as well as to anxiety and depression. Problems such as damp, mould, excess cold and structural defects, the majority of which are found to be more prevalent in the private rented sector, increase the risk of an accident and also present hazards to health.

In addition, the increasing number of families with children living in the sector is exposing more people to the poor housing conditions which can

increase the risk of severe ill-health or disability by up to 25% during childhood and early adulthood. *Shelter – “Chance of a Lifetime : the impact of bad housing on children’s lives.” 2006.* Action taken to improve housing conditions can therefore have a positive knock-on effect on other services.

Key Message 1: The City of York Council supports the creation of a self financing national register of landlords.

Question 1: In addition to the production of the Tenant’s Charter, is there any further action that could be taken to raise awareness amongst tenants and landlords of their rights and responsibilities? Who needs to take this action?

The Charter is a sound start. There should be a duty on landlords to raise the existence and contents of the Charter with tenants at the start of new tenancies and to include reference in tenancy agreements about where further advice and information about their rights and responsibilities can be found.

Consideration should also be given to the development of a national tenant signposting service, possibly web based such as the “ first stop for seniors and carers” , backed by ongoing national publicity and linked to relevant teams within local authorities etc. This could be carried out by national government or an umbrella organisation such as the Local Government Association. Alternatively, national landlords’ associations could support their members by providing the information to tenants.

Key Message 2: The City of York Council supports the production of a tenants’ charter as a first step towards a comprehensive national web based sign posting service for tenants.

Question 2: What is best practice in raising awareness amongst tenants of their right to seek help and advice from their council and how can this be shared between local authorities?

The role of the local authority can be publicised through organisations that have contact with tenants or potential tenants. For example in York, working with university accommodation offices and student unions, we have circulated guidance and contact details to students who will be looking for properties. The role of the relevant teams and guidance for

tenants is given on the Council website and leaflets are available on request.

We recognise that some information on raising awareness is not getting to hard to reach groups / tenants. Knowing which properties are actually in the private rented sector would assist in the dissemination of relevant information. Information for tenants is also to be circulated with future housing benefit information.

Requiring landlords to provide a copy of the Tenants Charter with relevant local authority contact details, as part of the tenancy agreement procedure for example, would assist in reaching a wider tenant audience.

Key Message 3: The City of York Council supports the creation of a national register of landlords to help disseminate information as well as using existing networks and partnerships.

Question 3: What is best practice in dealing with requests for help and advice from private sector tenants and how can this be shared between local authorities?

Our response

There is an argument to be made for a national information network / website for the sharing of good practice between authorities working in this field. Regional networks exist on an ad-hoc basis, but if central government were to define the duties of local authorities, including clear measures / indicators for actions such as enforcements, guidance for enforcement policies focussing on property condition etc., it would enable a more uniform response for tenants, whilst still acknowledging that each area's rental market is unique. This could be linked to incentives for good performing authorities.

Key Message 4: The City Of York Council supports the creation of a central network/website for councils to access /share best practice and other relevant information.

Question 4: Should the guidance for landlords be updated and widened to include information for tenants, to help them understand whether a property contains hazards?

Our response

We feel it would be beneficial to all parties to expand the guidance for landlords to include information for tenants regarding property hazards and to place a duty on landlords to bring this to a tenant's attention. In addition to providing useful information to both parties, as a result of its inclusion, we would hopefully see an impact on property standards in the sector.

Key Message 5: The City Of York council supports the updating of guidance for landlords including information for tenants.

Question 5: Do you think restrictions should be introduced on the ability of a landlord to issue or rely on a section 21 possession notice in circumstances where a property is in serious disrepair or needs major improvements?

Our response

As stated, it is unlikely that any reputable landlord would resort to this action in response to a reasonable request for repairs or improvements, nor would they be affected by the introduction of such a restriction. However, its introduction would address the concerns of tenants and prospective tenants, whether based on anecdotal evidence or experience, and might serve to promote a more professional approach amongst the minority of landlords to whom this might apply.

Key Message 6: The City Of York Council supports the restriction of section 21 possession notices in these circumstances.

Question 6: What would be an appropriate trigger point for introducing such a restriction?

Our response

We believe the appropriate trigger point to be the serving of a formal notice by the local authority.

Question 7: How could we prevent spurious or vexatious complaints?

Our response

There is very little evidence to support that this is happening or is likely to happen.

Question 8: *Do you think Government should introduce Rent Repayment Orders where a landlord has been convicted of illegally evicting a tenant?*

Question 9: *Should this be in addition to, or instead of, any damages the tenant may have received, or action taken by the local authority, for example a prohibition on renting out the property?*

Question 11: Should a Rent Repayment Order be issued automatically where a landlord has illegally evicted a tenant?

Our response

Assuming an error in question numbering with regard to question 10, with regard to questions 8, 9 and 11 we believe that the Government should introduce Rent Repayment Orders where a landlord has been convicted of illegal eviction and this should be in addition to any damages received or action taken. It should follow on automatically from a conviction for illegal eviction. However, it is recognised that this is a very cumbersome action to undertake, and it is not necessarily a realistic option for tenants to follow. If not an automatic result of a conviction, or undertaken by the local authority, consideration should be given to simplifying the process for tenants. We consider it should be a duty for local authorities to do the work in these circumstances as part of getting the tenant back into the property. The guidance to landlords should outline best practice including Rent Repayment Orders.

A preference to the introduction of Rent Repayment Orders would be for local authorities to take more enforcement action including looking at the application of the Proceeds of Crime Act as we consider this is more likely to have effective results.

Key Message 8: The City of York Council supports the introduction of a new duty for councils to tackle eviction and harassment issues under the Protection of Eviction Act 1977 with appropriate supporting guidance.

Question 12: Do you think a landlord should be subject to a Rent Repayment Order if they rent out a property that contains serious hazards?

Our response

Yes, however, for the most part this requires the resources at local authority level to undertake proactive inspections. Rent Repayment Orders might not be the best instrument to address this, as prevention and an advisory approach, through the publication of guidance and best practice might be better accepted by the majority of landlords.

Key Message 9: The City of York Council feels that the creation of a national register of landlords would enable local authorities to support landlords in understanding their rights and obligations.

Question 13: *What should the trigger point be?*

Our response

We consider that the trigger point for a Rent Repayment Order with regard to serious hazards should be once a notice has been served regarding the hazard.

Question 14: *Should a Rent Repayment Order be in addition to, or instead of, any damages that the tenant may also be awarded, or other action taken by the local authority, for example a prohibition on renting out the property?*

Our response

We consider this should be in addition to any damages received or action taken.

Question 15: Is there a need to review the sanctions currently available to local authorities when dealing with less serious housing condition breaches?

Our response

The City of York Council believes there is a need to review the sanctions available for less serious housing condition breaches to enable more effective enforcement at a local level. For example the introduction of fixed penalty notices based on an expansion of management regulations

for large houses in multiple occupation to other forms of private rented properties. A possible example of this would be the serving of a fixed penalty notice for not producing a gas safety certificate within a specified period.

Question 16: Should private sector landlords be required to install and maintain carbon monoxide alarms in their properties or would a non-regulatory approach be a better option?

Our response

Evidence shows incidents in privately rented property occurs more frequently than would be expected in other occupancy types , and those renting from a private landlord have five times the risk of experiencing a carbon monoxide incident than other occupancy types. A requirement to install detectors could have a potential savings in terms of deaths and serious injuries.

In working with private rented sector representatives to design an accreditation scheme, the City of York Council came across little resistance to the inclusion of a condition requiring the installation of a carbon monoxide detector in properties. In fact, this requirement was raised and supported by landlords. It has also been accepted as a condition of mandatory HMO licensing without issues being raised.

A more non- regulatory approach might involve landlords being required to outline in tenancy agreements what safety protection/devices are installed so tenants can take account of this in their search for suitable properties.

Key Message 10: The City of York Council supports minimum safety standards and the installation of a carbon monoxide detector in rented properties.

Question 17: Does the Landlord & Tenant Act 1985 cover the right areas, or should it be broadened to cover other issues?

Our response

We consider that the Act covers the right areas.

Question 18: Do you think that the current approach strikes the right balance or should there be a statutory requirement on landlords to have electrical installations regularly checked?

We feel that there should be a statutory requirement on landlords to have a regular electrical inspection, if only to protect themselves and their properties in addition to tenants. The current guidance is open to wide interpretation and should, at the very least, contain more specific guidance for both landlords and tenants on responsibilities with regard to the condition and operation of electrical installations.

Key Message 11: The City Of York Council supports minimum safety standards and the mandatory requirement to have electrical installations checked.

Question 19: How effective is voluntary accreditation as a way of driving up standards?

Our response

In York a new accreditation scheme was put in place at the end of 2013. Although too early to comment on its effectiveness at the moment, the authority would be looking at alternative means to improve standards and support and promote good landlords, if it proves not to be effective.

Whilst we are developing voluntary accreditation we would be interested in a wider debate about national register/regulation given the growing importance of the sector and the increasing number of families living within it. It is paramount that the sector plays its role in safeguarding the health and wellbeing of all and provides a sound basis from which young and old can flourish.

A code of practice in place for student accommodation in the City has had mixed results in that it provides a list of properties and landlords who have signed up to meet a set of conditions. Compliance visits carried out at a small sample of code properties last year found that 85% didn't fully meet the code and several actually contained Category 1 hazards. This indicated the need for a more robust scheme, hence the development of an accreditation scheme.

Key Message 12: To ensure minimum safety standards are introduced and adhered to, the City of York Council supports the creation of a national register for landlords complemented by a local accreditation scheme

Question 20: Should we consider introducing tighter restrictions on the use of selective licensing to avoid putting unnecessary burdens on good landlords?

Our response

The authority has no experience of the impact of selective licensing on landlords.

Question 21: Should we consider introducing an approach which would enable local authorities to focus any licensing scheme solely on rogue landlords?

Our response

Whilst in general this approach could have some merit, it does raise a number of issues such as the definition of a rogue landlord; how it would work in practice and how could the conditions of the licensing scheme be drafted specific to the requirements of each landlord. Consideration could be given to whether the Proceeds of Crime Act could be applicable to rogue landlords.

Question 22: How can we balance the need for short-term holiday accommodation with seeking to ensure that sufficient accommodation is available for longer term letting?

Our response

We are unclear regarding the origin of this question and feel that the authority cannot comment without further information.

Question 23: Do you think the methodology that underpins the Housing Health and Safety Rating System and/or the accompanying operational guidance need to be updated?

There is a need to update both the methodology and operational guidance of the HHSRS. This could include linking into other, more

updated information for use in assessments and taking account of additional issues such as energy efficiency and security.

Key Message 13: The City of York Council supports the need to update the HHSRS methodology and guidance.