

Report to: Communities Committee, 13th March 2024

Report of: Corporate Director – Operations, Homes and Communities

Subject: PRIVATE SECTOR HOUSING ANNUAL UPDATE 2023

1. Recommendation

That the Committee:

- 1.1 Notes the contents of this report and in particular the work undertaken by the Private Sector Housing Team during the course of the past 12 months; and**
- 1.2 Notes the updated Worcester City Council HMO Standards Conditions and Management Document at Appendix 1.**

2. Background

- 2.1 This report sets out a summary of the work undertaken by the Private Sector Housing Team during the course of 2023 and follows on from the [annual report](#) presented to this Committee on 15th March 2023.
- 2.2 It outlines approaches taken to raise thermal comfort for tenants in the private rented sector with the Minimum Energy Efficiency (MEES) enforcement project as well as the work which the team have been undertaking to drive up property standards in rented accommodation.
- 2.3 In addition, it covers work undertaken through the proactive licensing of section 257 HMOs (conversion of building into self-contained flats) within the city and general private sector housing enforcement.
- 2.4 Finally, report will also provide information on the priorities of the Private Sector Housing team over the next 12 months.

3. MEES Project

- 3.1 The MEES regulations make it unlawful to let a private rented property with an EPC rating below E, subject to various exemptions which must be registered online.
- 3.2 The MEES project has therefore been undertaken to investigate landlords who are letting properties which have an EPC rating of F or G without having a valid exemption.
- 3.3 An exemption must be correctly lodged on the exemptions register and needs to evidence remedial measures which are over the cost cap of £3,500. Landlords are still required to spend up to the £3,500. Other exemptions also include, all

improvements have been made, wall insulation exemption, consent exemption, devaluation exemption and new landlord exemption.

- 3.4 457 properties were originally identified (from national EPC Register) as not complying with MEES. Following data cleansing 235 F and G rated properties were found to be non-compliant. Officers subsequently contacted those landlords to advise them of the requirements of the Regulations and those who did not comply following being made aware, were served with Compliance Notices.
- 3.5 Following these initial investigations 40 Compliance Notices have been served to landlords who were found to potentially be in breach of the Regulations. Non-compliance with an enforcement notice can result in a financial penalty notice up to the maximum fine of £5,000. Determination of this amount can be found on the Council [enforcement policy](#).
- 3.6 During the course of this project, 17 penalty notices have been served. These are less than the number of Compliance Notices served due to landlords complying, or additional Compliance Notices being served following new information on landlords contact details or managing agents.
- 3.7 Following service of a penalty notice a landlord may submit a request for a written review with evidence and their mitigation for consideration to withdraw, uphold or reduce the penalty notice fine. So far there have been 7 reviews and 7 final financial penalty notices being issued.
- 3.8 The total penalty amount which has been paid, as of 26th January 2024 is £6083.32. Even if a landlord has a final financial penalty notice they are still required to carry out the works to bring the property up to an E rating or to lodge a valid exemption. If they do not undertake this following a change in tenant, they can be investigated again.
- 3.9 Landlords are able to appeal the Council's decision of the final financial penalty notices at the First Tier Tribunal (Property Chamber – Residential Property). During this project there has been one landlord who has appealed the issue of three financial penalties. The outcome is pending.
- 3.10 In a few situations Officers are identifying properties which have expired EPCs and where landlords have not undertaken a new assessment prior to re letting. This isn't something which the Private Sector Housing Team can investigate but in these cases the Team refers this to Trading Standards, who are the enforcing agency.
- 3.11 As a result of this project many tenants are living in properties which have improved internal wall insulation, more energy efficient lighting and more energy efficient heating. Such outcomes not only enable tenants to keep their properties warmer, and reduce their heating bills, but it can also assist with a reduction in condensation mould growth. These measures assist in reducing the likelihood of excess cold within a property and reducing the risk of cardio-vascular illness/disease.
- 3.12 As of January 2024, there are four cases left to investigate and five cases mid investigation. It is aimed to have the project completed by Spring 2024.

4. Home Upgrade Grant 2 (HUG2s) Project

- 4.1 The Council is currently delivering the HUG2 (Home Upgrade Grant Phase 2) scheme. This scheme follows on from the LAD1 A/B, LAD2, HUG1 and LAD3 schemes in previous years. HUG2s is grant funded from central Government with up to £1,012,000 of available funding. Regular reporting against this project is provided as part of Environment Committee Quarterly Performance Reports, in addition to an Annual Update Report.
- 4.2 Several changes have been made to how the council manages the HUG2 project based on learning from LAD3/HUG1. Most significant of these is the way in which the council engages with contractors with the install contractor providing the design of the measures which is then checked by the retrofit coordinator. This will help to streamline the process and make decisions more transparent to residents.
- 4.3 A contractor has been procured that is accredited to install all available measures. This means the install contractor appointed will also be delivering external wall insulation (EWI) measures in addition to the other measures. This is anticipated to reduce the time needed if the measures proposed for a property are found not to be technically viable. A specific contractor was procured for EWI in LADS3, who was unable to complete any work, significantly reducing the council's final spend and leaving a tight turnaround time to implement other options.
- 4.4 Promotion of this scheme has, and is planned to take place through press releases, social media, attending community events, direct mailing and the landlord's forum. Act on Energy and the contractors will attend Community Events. The team has directly written to the 1,524 properties which are believed to meet the eligibility criteria.
- 4.5 This scheme is aimed at reducing fuel poverty and improving energy efficiency in 'off gas' properties (properties which don't use gas for central heating). In addition to being 'off gas', eligibility to the scheme requires the property to have an EPC rating of D – G, and a household income of less than £31,000 (inc. any benefits received). If a valid EPC is not found for the property, an assessment will be provided free of charge. It is available to owner occupiers as well as private rented properties. House boats are not eligible as they are unable to have an EPC assessment carried out.
- 4.6 Some of the more deprived areas of the city (IMD income decile areas 1-3) are exempt from the income criteria. However, the majority of 'off gas' properties are not located in our more deprived areas and as such would not be eligible for this pathway onto the scheme. The scheme is also available to landlords who provide a contribution to the costs and whose tenants meet the income or area criteria, where their properties are off gas, have an EPC of D - G, but still comply with the MEES regulations, and where they do not have more than 4 properties in their portfolio, including those owned by companies and spouses
- 4.7 Applications are taken and processed by Act on Energy and the scheme is due to run until April 2025. There are currently 3 applicants for the scheme and due to its criteria, there is the risk that approaches for assistance are not as high as first hoped.

5. Section 257 HMO Investigations

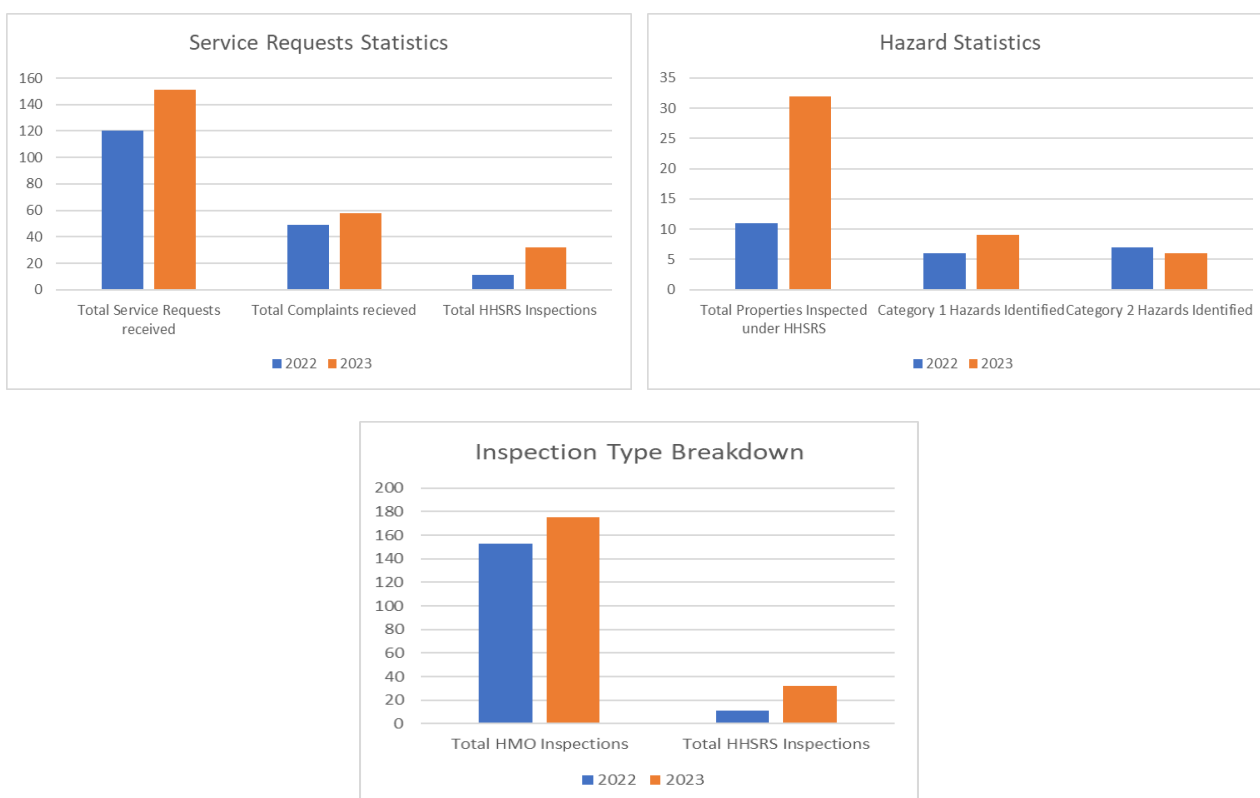
- 5.1 Section 257s are properties which have been converted into self-contained flats, which are more than 2/3rds private rented, and where such conversion did not comply with the 1991 Building Regulations or, if after this date, the Building Regulations at the time.
- 5.2 These are often higher risk properties as they often have poor fire safety measures, especially lack of appropriate fire separation between flats, are less likely to have fire doors protecting escape routes, and in addition inappropriate fire detection. This lack of fire warning and protection decreases the likelihood of all occupants being alerted of a fire and able to safely escape. Section 257 properties are also more likely to have insufficient amenities and insufficient heating provision, resulting in tenants being exposed to excess cold and mould and damp in their properties.
- 5.3 As part of the Additional HMO Licencing Scheme, which has been in place since 2015, properties which are section 257 HMO's are also required to have a HMO licence. The Private Sector Housing Team has been promoting the requirement for licencing of s257 HMO's during this period through press releases, at landlord forums and has licenced those which have come forward. The 2023/24 project is a focused piece of work to try and locate other properties which are in the City and do not have a licence.
- 5.4 To comply with the Additional HMO Licensing Scheme, landlords must either licence the property as an Additional HMO or must be able to provide a Building Regulation Certificate to show that the property meets 1991 standards or the Building Regulations relevant to the time of the conversion.
- 5.5 Following investigations, the team have so far identified 153 potential section 257 properties and have been working with landlords to licence these properties or provide evidence that the property is not a s257 HMO. The team will continue to proactively identify properties in the areas of the City yet to be covered by this work.
- 5.6 The Worcester City Council HMO Standards Conditions and Management Document has been updated to reflect the slightly different standards for s257s. This document is included as **Appendix 1** for noting.

6. Property Standards Enforcement

- 6.1 The Private Sector Housing Team also respond to complaints made by tenants as well as undertaking proactive HMO investigations.
- 6.2 During the 2023 calendar year, the team received 151 service requests, with 58 escalating to property standards complaints. Not all property standards complaints received will result in an inspection; the tenant may be just looking for some advice and assistance, or the tenant may not provide their landlords contact details or information which the Officers have asked for to enable a legally compliant inspection to occur.
- 6.3 Officers have undertaken 32 property inspections under the Housing Health & Safety Rating Scheme (HHSRS) and assessed 9 properties to have Category 1 hazards. These are severe deficiencies in the property which can adversely affect occupiers' health such as lack of heating, disrepair to staircases and broken windows. In these

cases, officers undertook formal enforcement action and issued Improvement Notices or Hazard Awareness Notices. Some of these cases were owner occupiers and the hazards were identified following an application for Home Repair Assistance through the Promoting Independent Living Service to remedy the disrepair to their property.

- 6.4 Officers also identified 6 Category 2 hazards at properties. These are less severe hazards such as electrical faults, fire safety concerns and overcrowding.
- 6.5 In some of these properties there were no category 1 or 2 hazards identified and the tenants were provided with advice and assistance.
- 6.6 The Graphs below illustrates the 2023 figures discussed above and compares them to 2022, and it confirms an increase in the number of service requests received, the number of complaints received and the number of formal HHSRS inspections undertaken. Furthermore, the number of category 1 hazards identified has increased, although the number of category 2 hazards identified are slightly down. The total number of HMO inspections has increased.



- 6.7 During 2023, 29 statutory enforcement notices were served and a breakdown of these notices is included within the table below:

Enforcement Notice Served	Number Served	Outcome
Prohibition Order	1	Works undertaken Order revoked.
Improvement Notice	11	Works undertaken included new heating, new windows, repairing windows and improved fire safety measures.

				Two notices are at the First Tier Property Tribunal pending decision and two notices are still within their timescale for compliance.
Hazard Awareness Notice		7		Landlords have been notified of the hazards at their properties and the potential works which they can undertake to remove them.
Smoke Detector Remedial Notice		4		All properties have had smoke alarms installed
Electrical Safety Remedial Notice		6		Landlords have supplied copies of their new electrical safety certificate and/or carried out remedial electrical works.

- 6.8 Following investigations as an alternative to prosecution the Council can determine whether it is appropriate to issue a civil penalty. This is a financial penalty to the maximum of £30,000. Determination details of this can be found in the Councils Enforcement Policy. During the last 12 months, 2 civil penalties have been issued to landlords. The total financial value of these penalties is £18,000.
- 6.9 The property standards and HMO investigations have resulted in some landlords appealing the council's decision at the First Tier Tribunal. Over the last 12 months, 3 appeals have been lodged. These include:
- An appeal against a requirement to install emergency lighting in a three storey HMO
 - An appeal against a civil penalty charge issued to a landlord for allowing occupation of an uninhabitable basement
 - An appeal against a requirement to resolve issues relating to a category 1 hazard for excess heat
- 6.10 In addition to the reactive work that the team undertakes, there was a well-attended landlord forum held in May 2023, tenants right information advertised in the City Life Magazine, 2 rounds of press releases and social media promotion highlighting risks around damp and mould, and the publication of a landlord and tenant newsletter in Spring 2023. There is also a tenant's rights and responsibilities leaflet available on the Council's website and at the Trinity Street Housing Advice Centre. Councillors have also been provided with a Members Briefing on Private Sector Housing which can be used to assist with residents questions.
- 6.11 During 2023, The Secretary of State required all Councils to produce a Damp and Mould action plan. This was developed and is available to view on the council's webpage. The council's response on this can also be found in the March 2023 Communities Committee Report. As expected, since Christmas the number of damp

and mould cases have been increasing due to the colder weather experienced in January. Property Standards Officers are visiting and assessing properties where the tenants have provided the information required to enable this to occur.

7. Empty Homes

7.1 There are many reasons why properties are empty and some of these can be very challenging to bring back into use especially where there are sentimental attachments to inherited properties. Other reasons that properties are empty include probate, owner is in a care home, waiting sale or DIY refurbishment.

7.2 The number of empty properties advised by Revenues as of January 31st are 774, and the table below shows the breakdown of these properties by 'number of years empty'.

	6 months to 2 years	2 years to 5 years	5 years to 10 years	Over 10 years
Number	689	58	17	10

7.3 Work to bring empty homes back in to use can be challenging and resource intensive. Empty homes work is undertaken across a small number of services and is coordinated through a problem property working group. Planning Enforcement lead on looking at untidy land, Council Tax monitor unpaid empty home premiums, Worcestershire Regulatory Services will become involved if there are issues with pests and nuisance and the Private Sector Housing Team will send advice letters to owners who have properties which have been empty for over a year and send a further letter after the property has been empty for over 2 years. Of those contacted, 10% respond to the Team to update them with their situation and 19% of those who have had a letter sent come back into use.

7.4 Officers also visit empty properties which are reported to the Team due to issues of overgrown gardens, ASB or disrepair. These properties are assessed and prioritised. Complaints which are received regarding overgrown gardens, or regarding the detriment of the local area are referred over to colleagues in Planning Enforcement who have powers to intervene and enforce. The Councils internal 'Problem Property Group' discuss these long-term empty properties encouraging a more holistic approach to tackling the issues that the property is causing as well as how best to address these including opportunities to bring them back in to use.

7.5 The Council can undertake formal enforcement action on empty homes. However, empty homes work is not a statutory function. Powers available include Empty Dwelling Management Orders (EDMO's), Enforced Sales and Compulsory Purchase Orders. However, it is to be noted that these actions will only fit specific properties and are resource intensive and slow to resolve.

7.6 EDMOs require authorisation from the First Tier Property Tribunal for an Interim and subsequently a Final Order. If granted these will require an Organisation to undertake any repairs and manage the property once it has been taken over as well as pay any excess rent onto the owner. The Council does not have any properties under an EDMO.

- 7.7 Enforced Sale requires works in default having been undertaken at a property following non-compliance with an enforcement notice and the owner not paying the debt owed. The Council has undertaken two Enforced Sales in recent years, one through Housing and one through Council Tax.
- 7.8 Compulsory Purchase Orders require capital funds to buy the property and take on the responsibility of the property until its disposal. The Council has not undertaken these in recent years in relation to residential property.
- 7.9 In addition to enforcement work, the council applies additional premiums on long term empty properties to encourage them to be brought back into use. For those properties which have been empty for over 2 years this is set at 150% of the Council Tax amount, over 5 years 200% and over 10 years 300%.
- 7.10 Agencies such as Act on Empty Homes (formally the Empty Homes Agency) are trying to campaign for urgent investment and a review of the powers available to the local authorities and are calling for a National Empty Homes Program to deliver government investment to tackle the growth in empty homes and bring wasted empty homes back into use. To change the planning rules and Government incentives to housebuilders and for Local Authorities to support community led projects to refurbish empty homes to meet the local housing needs.
- 7.11 Opportunities to address empty homes will be considered as the part of the new Private Sector Housing Strategy.

8. 2024/25 Priorities

- 8.1 The private sector housing stock condition survey is currently being undertaken with the final report due in Summer 2024. The results and recommendations from the survey will be presented to this Committee at the earliest possible opportunity.
- 8.2 The outcome of the survey will assist the team in identifying any future needs and informing the Private Sector Housing Strategy which will be being presented to Communities Committee later this year.
- 8.3 The next 12 months will also involve the evaluation of the current HMO Additional Licensing Scheme and subsequent consultation on whether to implement a future scheme once these end on the 31st August 2025. A further report will be brought to Communities Committee for presentation on this subject.
- 8.4 The Promoting Independent Living contract which delivers Disabled Facilities Grants and a range of other services to support households to live independently is currently under review with a proposal to re-tender the contract due to be presented to Communities Committee later this year.
- 8.5 The Private Sector Housing team will continue to undertake proactive work to improve the standards of the private housing sector in the City as well as responding to reports of property standards complaints. Promotion of the service, how to contact the team and advice around proactive steps that tenants can take will continue throughout the course of the year also.

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Background Papers: Appendix 1 – Worcester City Councils Standards
Conditions and Management Document