

## **London Borough of Tower Hamlets**

### **2016-21 - Private Sector Housing Strategy Outline**

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## **Section 1 – Reasons for a Private Sector Housing Strategy**

The Council wants to raise the standard of private rented housing in the borough. Private sector housing – housing for home ownership and private renting – represents two large segments of the housing stock in Tower Hamlets. Whilst much new-build private housing in the borough is both expensive and well managed, some private sector homes are in poor condition and/or poorly managed. The private rented sector provides a significant amount of accommodation used by the council to meet housing need, enabling local people to stay in the borough. It is therefore important for the council to strike a balance between supporting landlords who are doing a good job and tackling those who are not.

A significant number of former council homes bought under the right to buy are now being let by private landlords. In some instances this has led to serious overcrowding and anti-social behaviour such as noise nuisance, fly-tipping, and drug-related criminal behaviour on estates owned by the council and its housing associations partners.

A minority of private landlords and agents deliberately profit from leaving their tenants to live in rundown, unsafe, or overcrowded properties, or intimidate and threaten tenants. The Council is committed to tackling these rogue and criminal landlords including by taking enforcement action. The council is also committed to working to professionalise the sector, supporting “amateur” and small landlords to provide well-managed homes to their tenants.

The private rented sector has become unaffordable for many Tower Hamlets residents. Median rents have increased by around a quarter in the last five years. As of 2013, very nearly half of all households in Tower Hamlets have an annual income less than £30,000. From autumn 2016 a workless family with children will receive benefits of no more than £384.62 per week to cover rent and living expenses – less than the median rent of a two bedroom flat in the borough.

The purpose of this document is to set out in more detail what options are being considered to raise the standard and affordability of private housing in the borough.

## Section 2 - Context

- The 2011 census revealed there were 67,209 private sector homes in Tower Hamlets; 41,670 (62%) of these were in the private rented sector.
- Private rented is now the largest tenure in the borough with 39% of the housing stock, far higher than the London average of 25%.
- Lower quartile rents in the borough are £365 per week for a two bedroom and £462 for a three bedroom flat. The weekly Local Housing Allowance rate for a family needing two bedrooms is £302.33, and for three bedrooms it is £354.46.
- The median rent for a room in a Tower Hamlets shared flat or House in Multiple Occupation is £147 per week. Single people under 35 have a weekly Local Housing Allowance of £102.99.
- Median rents have increased by around a quarter in the last five years, to £1430 pcm (£330 pw) for one bedroom and £1750 pcm (£403.85 pw) for two bedroom flats.
- As of 2013, nearly half of all households in Tower Hamlets have an annual income less than £30,000.
- From autumn 2016, government reforms mean that workless families with children will receive benefits of no more than £384.62 per week to cover rent and living expenses.
- In spite of market conditions, the Council's Housing Options and Assessment service were able to incentivise private landlords to let to 30 low-income households facing homelessness in 2015-16.
- 19,783 households are waiting for affordable housing on the housing register – all are either homeless or in unsuitable housing.
- 19,040 Tower Hamlets residents (7.5%) have a second address outside the borough.
- 4,595 properties in Tower Hamlets have been empty for more than a year. Of these 2,963 are residential properties; 1,632 are commercial.
- Around 16% of private properties are over-crowded; 39% are under-occupied.
- Approximately half the leasehold stock sold under right to buy is now privately rented.
- Approximately 37% of the private stock was built after 1990.
- 19% of the borough's stock failed the decent homes standard in 2011 compared with 35.8% nationally
- Approximately 350 Houses in Multiple Occupation (HMOs) are licensable under current statute.
- 30% of all category one hazards are in HMOs.

### Section 3 - The Council's Role

The Council's functions in relation to private sector housing are carried out by a number of different sections who cover enforcement, grant processing, procurement of temporary accommodation and housing advice.

The Council will work corporately to develop a coherent private sector housing strategy that captures all the work that takes place across the Council in relation to private housing across all sectors:

<b>Tenure</b>	<b>Intervention</b>	<b>Section</b>
Private ownership and unoccupied	Empty Homes	3.7
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## **Section 4 – Issues to be addressed**

### **4.1 Landlord Licensing Schemes**

The Council wants to use landlord licensing to tackle anti-social behaviour associated with private renting, deal with poor housing standards and assist in improving the overall management of private rented accommodation.

Alongside investing and enforcing health and safety standards in private sector housing (see below, 4.2), the Council's **Environmental Health and Trading Standards service** manages landlord licensing.

#### **4.1.1 Selective Licensing**

The Housing Act 2004 as amended by a 2015 Statutory Instrument gives Councils the power – subject to appropriate local consultation - to introduce a selective requirement for landlord licensing in areas with a high proportion of properties in the private rented sector, provided that the area covers no more than 20% of housing stock in a housing authority area.

Following successful consultation, the Council is introducing selective licensing from 1<sup>st</sup> October 2016 for all private landlords in the following wards:

- Spitalfields and Banglatown
- Weavers
- Whitechapel

The selective licensing scheme will require all private landlords in these wards to apply for a license. The application will be assessed by an environmental health officer, and the landlord's property may be visited and assessed. The licence holder and property manager will need to meet the 'fit and proper' person requirement. If a licence is issued its conditions must be followed. These relate to gas, fire and electrical safety, and proper management.

The current selective licensing scheme ends on 1st October 2021.

#### **4.1.2 Mandatory Licensing**

The Housing Act 2004 requires all landlords of larger Houses in Multiple Occupation (HMOs) to be licensed by the Local Authority. Mandatory licensing applies to HMOs that comprise three or more storeys with five or more occupants forming two or more households.

Mandatory conditions apply to these licences. These relate to gas, fire and electrical safety, and proper management.

250 HMOs in Tower Hamlets have been licensed under mandatory requirements. Between 50 and 100 HMOs are required to have a licence but do not.

The Department of Communities and Local Governments has consulted stakeholders and is now considering whether to extend the scope of mandatory licensing, either to HMOs with two storeys or to all HMOs containing five or more people. In November 2015 the CLG stated that they plan to introduce these changes during 2016.

#### **4.1.3 Additional Licensing**

Many HMOs in the borough do not fall under the current provisions of the mandatory licensing scheme. These include a significant proportion of former Council stock sold under Right to Buy and now let by the room to multiple families and to young people. With a lack of affordable homes, the impact of welfare reform, and increasing private sector rents, it is likely that many households will adopt this tenure in order to remain in Tower Hamlets.

The Housing Act 2004 allows Local Authorities to impose additional licensing on HMOs beyond the mandatory regime where the Local Authority believes that a significant proportion of HMOs are poorly managed and giving rise to problems for residents or the general public.

The use of additional licensing must be consistent with the Local Authority's housing strategy and should be co-ordinated with the authority's approach on homelessness, empty properties and antisocial behaviour.

The Act requires that any such scheme is approved by the Secretary of State: however, a general approval was issued in 2010, provided there is a minimum 10-week consultation period.

#### **4.1.4 Sanctions and Powers**

Licensing will improve the Council's ability to engage with private landlords, and to drive up standards in the sector without the need to take enforcement action.

However, where a landlord obliged to have a licence under any of these schemes either does not have a licence or does not comply with its requirements, the Council has powers to impose sanctions:

- A failure to licence a licensable property is an offence, and can result in a fine of up to £20,000
- A breach of licensing conditions is also an offence, and can result in a fine of up to £5,000
- Where a magistrate imposes sanctions, the fine can be unlimited
- Rent Repayment Orders require unlicensed landlords to repay up to 12 months' rent – in the case of rent paid through universal credit or housing benefit, this would be returned to the council. Detail on this is given below, at 4.2.2.

Unlicensed landlords who are required to have a licence lose the right to serve notice on tenants requiring possession under section 21 of the Housing Act 1988 until the property is licensed.

There is also potential for additional action against rogue landlords who avoid **council tax**, for example by fraudulently transferring liability to HMO tenants.

The Environmental Health and Trading Standards service is currently unable to access the council tax and housing benefit data it requires to identify HMOs and unlicensed landlords.

#### **4.1.5 LANDLORD LICENSING SCHEMES: ACTIONS**

- Keep the selective licensing scheme under comprehensive review and provide a full evaluation ahead of 2021.
- Develop an incentive package to engage licensed landlords and help them manage their properties more effectively. This might include e-bulletins, information and training sessions, energy efficiency schemes or a local landlords' forum and customer panel.
- Apply for an extension to the selective licensing scheme from October 2021 in either its initial or amended form.
- After the CLG reach a decision on whether to extend the scope of mandatory HMO licensing, the Council will consider introducing an additional licensing scheme for Houses in Multiple Occupation either across the borough or in specified areas; and to apply this either to all HMOs or to certain types of HMO.
- Appraise the options to provide additional resources on a cost-neutral basis in order to enforce Rent Repayment Orders, Banning Orders, Council Tax compliance, and licensing.
- Ensure that Council Tax and Housing Benefit data is readily available to the Environmental Health and Trading Standards service in order to facilitate the identification of landlords and HMOs.
- Carry out a stock condition survey of the private rented sector in order to better inform Council decisions and actions on improving the sector.
- Obtain data from East End Homes, Tower Hamlets Homes and Poplar Harca on leasehold properties; and on which of these are rented privately.
- Require landlords who breach licensing conditions to attend The London Landlord Accreditation Scheme.
- Develop regional and sub-regional partnerships on licensing, including in relation to enforcement.

## **4.2 Housing Conditions: Investigation and Enforcement**

### **4.2.1 Disrepair and poor housing conditions**

The Council has a duty to keep the housing conditions in its area under review in order to identify and remedy conditions that are a health hazard or a statutory nuisance.

This duty is discharged by the Council's **Environmental Health and Trading Standards service** through inspection, enforcement, regulation, advice, and education. These service works across areas including pest control, the enforcement of legislation dealing with

accumulations of rubbish and other statutory nuisances, noise nuisance enforcement and control, as well as housing safety and standards enforcement.

The Housing Act 2004 introduced the **Housing Health and Safety Rating System** (HHSRS), a risk assessment and methodology for Environmental Health Officers inspecting and assessing housing conditions. The principle of HHSRS is that any residential premises should provide a safe and healthy environment for any potential occupier or visitor.

Where Category 1 hazards exist the council is obliged to take action to ensure elimination of that hazard.

There are several enforcement options available where hazards are identified. In the first instance, in most cases the appropriate response is to give advice and inform. The Enforcement Officer takes formal action against landlords who deliberately operate outside the law. The Council charges a fee of £474 for each notice served.

The Housing and Planning Act 2016 has introduced new powers to apply for a **Rent Repayment Order** where a landlord has failed to comply with improvement notices or prohibition orders issued under the Housing Act 2004.

The **Deregulation Act 2015** aims to end the phenomenon of landlords carrying out “revenge evictions” where tenants complain about poor conditions – but only if the Council serves notice in relation to a category 1 or 2 hazard. This may increase the number of requests made to the Council to inspect premises using the HHSRS, further increasing demands on very limited resources.

**The Environmental Protection Act 1990** imposes a duty on every local authority to inspect its area for statutory nuisances, to investigate complaints of statutory nuisance, and to take action where statutory nuisance exists or is likely to occur. Statutory nuisance is defined as occurring where “any premises in such a state as to be prejudicial to health or a nuisance”.

Where the Council identifies statutory nuisance, the first formal step is an abatement notice giving a clear timescale within which the nuisance must be remedied. The Council can prosecute for contravention or non-compliance with the notice, or can carry out 'works in default' with costs recoverable from the person served with the abatement notice.

**The Defective Premises Act 1972** imposes a duty of care to see that people are reasonably safe from injury or damage to their property resulting from defects.

**The Prevention of Damage by Pests Act 1949** gives the Council a duty to try and keep the area free from rats and mice. The Council can serve notice on owners and occupiers specifying treatment and/or works. Under the Act, the Council has the power to enter premises to inspect or enforce notices, including the carrying out of treatment or works.

#### **4.2.2 Rogue landlords and agents**

A minority of landlords and agents deliberately profit from leaving tenants to live in rundown, unsafe, or overcrowded properties, or intimidate and threaten tenants. The Council is committed to tackling these rogue and criminal landlords.

**The Proceeds of Crime Act 2002** gives powers to seek confiscation orders against convicted individuals requiring payment to the state based upon the benefit obtained from their crimes. Successful actions resulting in very significant financial penalties have been

taken by other Councils for poor conditions, planning breaches, and failure to comply with improvement notices.

**Rogue landlords, tax and mortgages:** The conditions of many mortgages do not grant mortgagees the permission they need to let their property. Rogue landlords may be letting in breach of their mortgage conditions – which could lead to repossession. Rogue landlords may also withhold information about rental income from HMRC.

**Protection from Eviction Act 1977:** Local housing authorities can prosecute criminal offences of harassment and illegal eviction the Act. **The Local Government Act 1972** also empowers authorities to prosecute where landlords or agents have used violence to enter premises or committed harassment. Conviction under the Act can lead to an unlimited fine and up to two years in prison. However, Prosecutions are rare as they are complex and may not be in the Public Interest.

**Criminal Law Act 1977:** It is an offence for any person, including a landlord or agent, to use violence or the threat of violence to enter premises. A landlord or agent may be a trespasser on their own property where they have not followed correct legal procedures before entering; on this basis, a tenant who has been unlawfully evicted is a “displaced residential occupier” and is authorised under the Act to force entry back into the property.

Housing Advice help re-instate clients when they have been unlawfully evicted by applying to Court for an injunction and/or giving financial assistance to the client to pursue their right of re-entry as a lawful occupier.

**Protection from Harassment Act 1997:** the Act generally prohibits a person from “pursuing a course of conduct which amounts to harassment of another; and which s/he knows or ought to know amounts to harassment”. The Act creates an arrestable offence of harassment, and it is open to tenants to pursue compensation claims.

**Restoration of Utilities:** If the landlord is responsible for the supply of gas, electricity or water and causes it to be cut off the local authority can arrange reconnection with the suppliers with costs recoverable from the landlords.

**Injunctions:** An injunction is an order of a civil court directing somebody to do, or not to do, something. The court must be satisfied that the “balance of convenience” is in favour of granting an injunction, and breach of an injunction is an arrestable offence. The Housing Advice service assists in the application for injunctions.

**Compensation:** The Council’s Housing Advice service refers clients to community partners to pursue claims for compensation against criminal and rogue landlords.

**The Housing and Planning Act 2016** introduces a raft of new powers to take action against rogue landlords and agents:

Tenants or local authorities can apply for a **Rent Repayment Order (RRO)** where a landlord has committed offences such as unlawful eviction, harassment, failure to comply with improvement notice, or failure to license where it is required. If successful the tenant (or the authority if the tenant was receiving housing benefit or universal credit) may be repaid up to 12 months’ rent. The Secretary of State will make regulations as to how the money recovered will be spent. The Act puts local authorities under a *duty* to consider applying for rent repayment orders where a person has been convicted of an offence. The Act also gives local authorities the power to help tenants apply for rent repayment orders.

Though there are clear resource implications in enforcing RROs, these are likely to be offset by potential revenue gains from successful enforcement. Alongside resources, the Council needs to delegate clear responsibility for these applications.

The Act creates a new '**banning order**' concept enabling a First-tier Tribunal to ban a person for a minimum period of 12 months from letting or managing accommodation. The banning order can be requested by a Local Authority against a landlord or agent who has committed a banning order offence. The scope of what constitutes such an offence will be defined in regulations. The local housing authority can impose a financial penalty of up to £30,000 for breach of a banning order. The Secretary of State may by regulations make provision about how local housing authorities are to deal with financial penalties recovered.

**Database of rogue landlords and lettings agents:** The Act sets out that the Government will operate a database of 'rogue' landlords and letting agents. Councils will be responsible for updating the database when banning order offences have been committed and when banning orders are issued, and can use it to help exercise their functions.

#### **4.2.3 INVESTIGATION AND ENFORCEMENT: ACTIONS**

- Appraise the options to provide the resources aiming at a cost-neutral budget - to make applications for Rent Repayment Orders, Banning Orders, Proceeds of Crime confiscation orders, and Council Tax compliance.
- Work closely with HMRC and mortgage providers when taking action against rogue landlords.
- Develop closer partnership working with the Police to tackle harassment and unlawful eviction.
- Conclude a procedure with legal services for bringing more prosecutions against rogue and criminal landlords.
- Coordinate prosecutions and other enforcement work undertaken by and on behalf of the Housing Options and Advice service and The Environmental Health and Trading Standards service.
- Publicise actions against rogue and criminal landlords in local media, on the Council's website and in partnership with regional and sub-regional partners.

### **4.3 Letting and Managing Agents: Enforcement**

**The Environmental Health and Trading Standards service** carries out work to regulate letting and managing agents.

#### **4.3.1 Redress Schemes and Complaints against managing agents**

Since October 2014 all letting or property management agencies must belong to a consumer redress scheme. Agencies must display and publicise the name of the scheme they belong to. Information about the redress scheme should also be provided to new tenants. The Council is under a duty to enforce these requirements on the agencies in its area and can

impose a fine of up to £5,000 for non-compliance. Sums received by an enforcement authority may be used by the authority for any of its functions.

#### **4.3.2 Agency Fees**

The **Consumer Rights Act 2015** requires both letting agents and managing agents to display a list of relevant fees in a prominent position in their office and on their website if they have one. Local authority trading standards officers in the area where the agent's properties are located must enforce the Act. The Council can at its own discretion impose financial penalties of up to £5,000 for non-compliance.

#### **4.3.3 LETTING AND MANAGING AGENTS: ACTIONS**

- Advertise to the public and to agents the requirements for agencies to publicise fees and belong to a redress scheme. Publicity could include the Council website, pieces and adverts in Our East End, posters in public spaces, Ideas Stores, and Council offices, and engagement of community partners.
- Conduct a programme of publicised “spot checks” on agents.
- Set up and publicise clear and simple processes for the public to report non-compliant agents. These could include a web portal, email, SMS, and hotline.
- Appraise options for developing a Social Lettings Agency to drive up standards in the borough.
- Consider providing free or low-cost legal advice to private landlords wanting to end onerous contracts with rogue agents in order to incentivise either letting to Housing Options clients or through a Council Social Lettings Agency.

#### **4.4 Housing conditions and affordability: engagement and support for landlords**

As a means of improving the quality of private rented housing across the borough, the Council wishes to improve the quality and professionalism of private landlords.

The Council also wishes to increase the supply of affordable privately rented accommodation for the borough’s low and middle income residents.

##### **4.4.1 Landlord Accreditation**

The Council is committed to supporting the **London Landlord Accreditation Scheme (LLAS)**. LLAS awards accreditation to reputable landlords who undergo training and comply with a code of conduct. It was set up in 2004 as a partnership of landlord organisations, educational organisations and 33 London boroughs. Being accredited means that landlords meet the London Rental Standard.

Accreditation is a condition of access to **Empty Property Grants** (see below, 4.7.4).

##### **4.4.2 Private landlords and homelessness prevention**

The Housing Options and Assessment service works with private landlords who agree to let to their homeless prevention clients at Local Housing Allowance rates in return for a package of benefits. This allows the Council to facilitate access to the private rented sector for residents who are reliant on benefits or low incomes.

In spite of market conditions, the Housing Options and Assessment service were able to incentivise private landlords to let to 30 low-income households facing homelessness in 2015-16.

In return for - and as a condition of – partnership, the Housing Options and Assessment service pay for landlords to gain LLAS accreditation.

The Council has a financial incentive scheme operating through Tower Hamlets Homefinder to reward landlords letting to their clients for at least two years.

#### **4.4.3 ENGAGEMENT AND SUPPORT FOR LANDLORDS: ACTIONS**

- Develop an enhanced offer to landlords and property owners in order that more will let to low-income residents nominated by the Council. In particular:
  - Appraise options for developing a Social Lettings Agency, including focussing it on letting and managing accommodation provided by the private sector to residents presenting as homeless to Housing Options.
  - Reinstate the landlords' forum.
  - Provide landlords with e-bulletins, information and training sessions, energy efficiency schemes and customer panel.
  - Incentivise landlords to join the The London Landlord Accreditation Scheme by developing a wider accreditation condition for access to other council services, benefits and grants for landlords.
  - Provide a priority Housing Benefit service to accredited landlords.
  - Require landlords who breach licensing conditions to attend The London Landlord Accreditation Scheme.

#### **4.5 Promoting the rights of private tenants**

In a fast-changing regulatory and legislative context, the Council should take steps to improve private tenants' understanding of their rights and empower tenants to improve conditions in their own homes.

##### **4.5.1 Housing Options and Assessment Service**

The private housing advice service, accredited by the Legal Services Commission, offers a free, confidential and independent service to people who live in private sector accommodation in Tower Hamlets. The Housing Advice team deal with issues including rent arrears, disrepair, deposits, and threats of illegal eviction. In addition, the team's The Money Advisers can help to look at the best way to manage debt or direct customers to a partner organisation to assist.

##### **4.5.2 Key legislative change affecting private tenants**

**The 'Right to Rent':** The Immigration Act 2014 introduced the concept of a 'right to rent' and therefore the concept that certain people have no right to rent a home.

Landlords and lettings agents are under a duty to check whether their tenants and prospective tenants have the 'right to rent'.

Currently, only British citizens, EEA nationals, Commonwealth Citizens with right of abode, and people with indefinite leave to remain have an unlimited right to rent.

Certain people have a time-limited right to rent. Where an existing occupier's time-limited right to rent expires, the landlord must report this to the Home Office.

People with no valid leave to enter or remain in the UK – including people whose leave has expired – have no right to rent.

Failure to conduct the often complex checks on immigration status, to report to the Home Office the expiration of an occupier's limited right to rent, or to provide accommodation to a person with no "right to rent" can all lead to a fine of £1,000 per tenant and £80 per lodger, rising respectively to £3,000 and £500 for repeated non-compliance.

There are widespread fears and emerging evidence that some landlords and agents avoid the complexities of checking immigration papers by turning away prospective tenants who they believe may not be British citizens.

**The Equality Act 2010** imposes a duty on people when letting or managing premises not to unlawfully discriminate against people on the basis of race, religion or belief. A landlord or agent who refuses to let premises to, or check only individuals they think might not be British or EEA nationals, or not having a right to rent because of their colour, ethnic or national origins will unlawfully discriminate.

The government has published codes of practice to provide statutory guidance to landlords and agents on how to operate non-discriminatory lawful checks.

**Recent changes have extended tenants' rights in the following areas:**

**Retaliatory evictions:** Where a tenancy has been granted after 1 October 2015, the Deregulation Act 2015 states that a landlord cannot serve notice under section 21 – the notice allowing landlords to carry out simple "no fault" evictions – if that notice is served following a written complaint from the tenant about the condition of the property *and/or* the local authority serves either an improvement notice in relation to a hazard.

**Deposit protection:** Deposit protection schemes effectively ensure that landlords cannot unfairly retain tenants' deposits at the end of the tenancy. A landlord must protect their tenant's deposit. Landlords who do not do this are liable to a claim from the tenant for full and immediate return of the deposit plus a penalty, payable to the tenant, of between one and three times the deposit's value. In addition, those landlords cannot use the section 21 notice possession procedure to evict the tenant.

**4.5.3 PROMOTING THE RIGHTS OF PRIVATE TENANTS: ACTIONS**

- Work with community partners and programme a regular publicity campaign to promote awareness of private tenants' rights - including on the Council website, in Our East End, and through posters in public spaces, Ideas Stores, and Council offices.

- Publish and publicise expectations of how landlords should carry out the 'Right to Rent' checks consistently and fairly to avoid discrimination.
- Engage private tenants including through forums.
- Provide tenancy training to homeless households moving into the private rented sector.

#### **4.6 Housing Conditions: Private Sector Housing Renewal Policy**

The Council has a duty under the Housing Act 2004 to review housing conditions in their district. Where housing conditions are found to require improvement, assistance can be provided under the terms of Article 3 of the Regulatory Reform (Housing Assistance) Order 2002; however a local authority is also required to have adopted a Private Sector Renewal Policy. The Private Sector Housing Renewal Policy 2016 – 2018 forms a subset of this document.

The Council's Private Sector Housing Renewal Policy 2016 – 2018 is attached to this document and sets out the Council's position on direct grant funding to owner occupiers and private sector landlords and tenants.

##### **4.6.1 Disabled Facilities Grants and the Better Care Fund**

See 5.1, Private Sector Housing Renewal Policy 2016 – 2018.  
Disabled Facilities Grant is now contained within the Better Care Fund (BCF).

##### **4.6.2 Home Repair Grants - owner-occupiers**

See 4.2 Home Repair Grants, Private Sector Housing Renewal Policy 2016 – 2018.

##### **4.6.3 Tower Hamlets Home Improvement Agency**

See 5.4, Other Assistance, Private Sector Housing Renewal Policy 2016 – 2018.

##### **4.6.6 PRIVATE SECTOR HOUSING RENEWAL POLICY: ACTIONS**

- Refresh the Council's private sector housing renewal policy to set out the approach, including to partnership working and the Better Care Fund, over the 2016-21 years.

#### **4.7 Empty Homes**

##### **4.7.1 Identifying Empty Homes**

As of May 2016, **4,595** properties in Tower Hamlets have been empty for more than a year. Of these **2,963** are residential properties; **1,632** are commercial.

69.8% of the empty residential properties have been empty for more than two years. 39% have been empty for more than five years.

The Council identifies empty homes through council tax and Land Registry records and by facilitating reports from the public, property owners and developers.

A complex range of reasons lead to buildings being left empty. Many are in a neglected state and have a damaging impact on their local area. At the other end of the spectrum, Council Tax records show that nearly half are second homes (1,264 of the 2,963 empty homes).

#### **4.7.2 'Buy to Leave'**

There are increasing public and political concerns about "Buy to Leave" properties: properties bought by international investors in order to maximise their return on capital growth and then left empty. It is typically associated with buying off-plan in large developments, with significant representation of overseas investors.

Anecdotal reports suggest that a high proportion of these properties are kept empty, though currently in Tower Hamlets quantitative evidence is lacking.

The GLA's November 2015 economic analysis of London's housing market suggests that international investment is responsible for only a small share of transactions and is likely to have had only modest effects on house prices; on the other hand, it is a phenomenon concentrated in small areas, and international buyers as a proportion of sales in prime central London and Canary Wharf have increased from 23 per cent in 2005 to 40 per cent in 2014.

#### **4.7.3 Short term holiday lettings**

London had 23,000 Airbnb listings in 2015: after Paris and New York, the highest in the world. Cities across including New York, Amsterdam, Paris, and Berlin - have taken steps to regulate the market on the basis that it diminishes housing stock, disrupts social cohesion, and strains relationships between landlords and tenants. The Council has no data on the extent of the market in Tower Hamlets, or on whether it has a negative impact on local housing supply or communities.

Under the Greater London Council (General Powers) Act 1973, short-term rentals are subject to a planning restriction making the use of residential premises as temporary sleeping accommodation a "material change of use" for which planning permission is required. The Deregulation Act 2015 introduced an exception to this restriction allowing residential premises to be used for temporary sleeping accommodation for up to 90 nights a year. Owners of properties used for more than 90 days can be fined up to £20,000.

#### **4.7.4 Engagement with owners of empty homes**

The Private Housing Investment Team records empty properties on the Empty Homes database and manages casework through the database.

The Private Housing Investment Team contacts owners of empty property to broker the reuse or conversion of empty properties. In many cases this initial dialogue is enough to confirm the owner's plans for the property, and to encourage those plans to be concluded in a timely manner. The owner is offered information and assistance including:

- **Reduced or zero rate VAT.**
- **Empty Property Grants:** See 4.3 Empty Property Grants, Private Sector Housing Renewal Policy 2016 – 2018.

#### **4.7.5 Enforcement action against owners of empty homes**

Where the Council remains unsatisfied that the property will be returned to use as efficiently as possible, consideration is given to enforcement options.

Where there is a public nuisance, or a recurring or potential statutory nuisance, the Council has a duty to issue an Abatement Notice under s80 of **the Environmental Protection Act 1990**. Responsibility for this action rests with the Environmental Health Team. An Abatement Notice requires the owner to carry out specified works and take any steps necessary to abate the nuisance within specified time limits. The Council can prosecute where an abatement notice has not been complied with, or can carry out works in default and recover costs from the owner.

Where an empty building is dangerous or dilapidated, verminous or unsecured, **the Building Act 1984** gives the Council powers to require the owner to make the property safe or to address the external appearance of the building, or to take emergency action to make the building safe.

**Section 215 of the Town & Country Planning Act 1990** provides a local planning authority with the power to take steps requiring land to be cleaned up when it is adversely affecting the amenity of an area. The Council can serve a notice on the owner requiring that the situation be remedied. The Council can commence prosecution proceedings for non-compliance with any Section 215 notice, resulting in a fine not exceeding £1,000. Additionally, or in the alternative, the Council can carry out works in default and seek recovery of costs from the landowner.

The Council has the power to enforce a **Compulsory Purchase Order (CPO)** on a vacant residential property under the Housing Act 1985. The powers do not cover commercial properties. However, this is a power that can only be used as a last resort. The Council must demonstrate that it has taken all steps to encourage the owner to bring the property back into acceptable use, and that the reasons for making a CPO justify interfering with the human rights of anyone with an interest in the property.

A full valuation, a financial appraisal, and risk assessment are carried out wherever CPO is considered. Cabinet approval is needed to initiate formal compulsory purchase of a property. There is currently no budget for Compulsory Purchase Orders.

Chapter 2 of the Housing Act 2004 enables the Council to take possession of an empty property and then place tenants in it through an **Empty Dwelling Management Order (EDMO)**.

The threat of an EDMO is intended to put pressure on the owner to enter into constructive dialogue. The first stage in the process is application to a Residential Property Tribunal for an interim order. The tribunal must be satisfied that the property has been empty for at least two years, as well as being vandalised or actively used for "antisocial" purposes, and that there is local support for the use of an EDMO. An EDMO cannot be granted if the owner proves the properties are in the process of being sold.

Once an interim EDMO has been granted, it lasts for up to twelve months, during which the authority works with the owner to try and agree a way to put the property back into use. If no agreement is reached during this time, the authority may make a final EDMO, which lasts for up to seven years. A final EDMO differs from an interim EDMO in that the authority is not required to obtain the owner's consent before finding a tenant for the property.

When a tenant has been found under the EDMO, the rent is paid to the local authority, which is able to recover any costs they may have incurred by taking possession of the property and making it habitable. Any money over and above these costs is to be paid to the owner of the property.

A full valuation, a financial appraisal, and risk assessment are carried out wherever an EDMO is considered, and Cabinet approval is needed to apply to a Residential Property Tribunal for an EDMO. There is currently no budget for EDMOs.

#### **4.7.6 The New Homes Bonus**

The New Homes Bonus was introduced in order to provide a clear incentive to local authorities to encourage housing growth in their areas. The Bonus rewards local authorities for each additional new build and conversion. Long-term empty properties brought back into use are also. Each year's grant is paid for 6 years. The Bonus is not ring-fenced.

#### **4.7.7 EMPTY HOMES: ACTIONS**

- Put in place clear casework procedures, targets and timescales aimed at reducing the number of empty properties in Tower Hamlets.
- Appraise options for developing a Social Lettings Agency, including focussing it on bringing empty homes back into use by letting and managing empty properties to Housing Options clients at no cost to the owner.
- Develop an evidence base on "Buy to Leave" properties including through the use of Council Tax and electoral roll data. Against this, assess the viability and desirability of responses including Planning Obligations under Section 106 of the Town and Country Planning Act 1990, and revising Council Tax rates for empty homes.
- Explore the viability of working with a social enterprise in clearly defined circumstances to facilitate the letting of empty private sector properties on a short-term basis to property guardians.
- Gather data and evaluate the impact of short-term rentals.
- Publicise and enforce existing legislation on Airbnb lettings made for more than 90 nights a year.
- Develop a budget to fund Compulsory Purchase Orders and Empty Dwelling Management Orders from 2017/18, potentially working with Registered Providers to fund this work, and consider incorporating revenues from the New Homes Bonus.

#### **4.8.1 The Right To Manage**

##### **4.8.1 Private and Housing Association Leaseholders' Right to Manage**

The Commonhold and Leasehold Reform Act 2002 provides a right for leaseholders to force the transfer of the landlord's management functions to a special company set up by them – the Right to Manage company. The right was introduced not just as a means of wresting control from bad landlords, but also to empower leaseholders to take responsibility for the management of their block.

The right to manage does not apply where the landlord of any qualifying tenant is a local housing authority: council leaseholders' rights are set out below, 3.8.2.

Leaseholders of a housing association have the right to manage as long as all the other qualifying conditions can be met. This also applies where shared ownership leaseholders have acquired a 100% share from the housing association.

Private leaseholders' right to manage is only applicable if tenants with a lease of 21 years or more comprise at least two-thirds of the total number of flats in the premises. The right to manage is not applicable if different people own the freehold to different parts of the building, there is a resident landlord.

The landlord's consent is not required, nor is any order of court. However, either the landlord or another leaseholder may object by serving a counter-notice: but the right to manage application will be defeated only if a qualifying condition is not met.

#### **4.8.2 Council Leaseholders' Right to Manage**

Local authority leaseholders have a collective right to take on the management of the council housing where they live since 1994. Right to Manage Regulations provided for by s27 Housing Act 1985 were introduced in 1994 and revised in 2008 and 2012.

This Right to Manage is exercised by forming a Tenant Management Organisation (TMO) in order to take over housing management services such as repairs, caretaking, and rent collection. Four TMOs manage 880 homes in the borough on behalf of the Council. The Council has a duty to facilitate the exercise of the Right to Manage by their tenants.

#### **4.8.3 THE RIGHT TO MANAGE: ACTIONS**

- Provide more targeted advice to leaseholders on the right to manage.

#### **4.9 Institutional Private Sector Landlords**

The Council supports the emergence of institutional investment and management into the private rental sector, through converted stock and in particular through the development of purpose-built private-rental stock.

The Council will actively explore new partnerships and delivery models to develop high quality market rent housing, especially where it gives opportunities for renting at below median market rent levels.

#### **4.9.1 INSTITUTIONAL PRIVATE SECTOR LANDLORDS: ACTIONS**

- Actively explore new partnerships and delivery models to develop new, high quality market rent housing, especially where it gives opportunities for renting at below median market rent levels.
- Consider instituting a separate use category for "Build to Rent" developments
- Encourage Build to Rent schemes that are accessible and attractive to residents and the wider community.

#### **4.10 Improving Joint Working**

The council will improve its joint working with internal and external stakeholders to deliver this private sector housing strategy.

#### **4.10.1 IMPROVING JOINT WORKING: ACTIONS**

- Develop a biannual PRS forum, internal joint-working, and information-sharing protocols between Trading Standards, Environmental Health, Home Improvement Team, Housing and Council Tax Benefits (including home visits team), Corporate Anti-Fraud Team, Housing Options and Advice, Planning Compliance, Building Control and Tower Hamlets Homes leasehold services, in particular in relation to:
  - - HMO enforcement
    - “fit and proper person” tests
    - subletting of social housing
    - ASB in council leaseholder lettings
    - Rogue landlords database
    - Short-term lets
    - Sham lettings
- Develop shared rogue landlord database for Trading Standards, Environmental Health, Housing and Council Tax Benefits (including home visits team), Corporate Anti-Fraud Team, Housing Options and Advice, Planning Compliance, Building Control and Tower Hamlets Homes leasehold services.
- Develop joint-working and information-sharing protocols with registered providers in relation to subletting of social housing, leaseholder lettings, short-term lets, and sham lettings.
- Work with universities to prevent sham lettings and social housing fraud.
- Establish annual PRS forum bringing together key internal services and external partners.

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