

# Birmingham City Council

## Report to Cabinet



1 March 2022

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**Subject:** Private Rented Sector Strategy

**Report of:** Managing Director of City Operations

**Relevant Cabinet Member:** Councillor Shabrana Hussain, Cabinet Member for Homes and Neighbourhoods

**Relevant O &S Chair(s):** Councillor Carl Rice – Co ordinating Overview and Scrutiny Committee  
Councillor Kate Booth – Housing and Neighbourhoods overview

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: <b>009258/2021</b>		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:		

## **1 Executive Summary**

- 1.1 Birmingham City Council is responsible for regulation and enforcement of private rented sector residential property. This includes the protection of tenants from harm, be that in terms of the condition of their homes or potentially treatment by landlords.
- 1.2 These duties and powers are set out in a range of legislation including the Housing Act 2004, Landlord and Tenant Act 1985 and the Protection from Eviction Act 1977.
- 1.3 In addition, the Council is afforded powers to bring empty properties back into use, using a range of tools including as a last resort empty dwelling management orders and compulsory purchase orders.
- 1.4 The Private Rented Sector Strategy (the “Strategy” appendix 1) clarifies how the Council will support tenants and landlords to ensure the best outcomes for safe and secure housing and how we will influence the supply of privately rented accommodation of a suitable standard. The Strategy links in both the Council Plan and Birmingham’s Housing Strategy priorities.
- 1.5 To ensure the Strategy can be delivered the Private Rented Sector team require a new operating model with additional staff resources.

## **2 Recommendations**

- 2.1 That Cabinet approves the proposed Private Rented Sector Strategy contained in appendix 1.
- 2.2 That Cabinet approve the use of £191,000 of the New Burdens grant allocation (£2.46million) for 2022/23 to fund extra staff in the Private Rented Sector Team to support the delivery of the Strategy.

## **3 Background**

- 3.1 The total number of residential properties in Birmingham across all tenures is estimated to be 468,048. The private rented sector estimated to be 104,941 properties, a 50% increase since the 2011 census and now the second largest tenure after owner occupation (22.14%)
- 3.2 As part of the wider housing strategy it is important to ensure we identify our response to this growing private rented sector through an appropriate strategy. This will set out how as a Council we will ensure that it can create and sustain a diverse, high quality private rented sector that is safe, secure and energy efficient, in neighbourhoods that are diverse, sustainable and pleasant to live in.
- 3.3 The vision is to “Achieve long term and sustainable improvements in the quality of private rented sector through engagement and regulation”
- 3.4 The Strategy also seeks to clearly identify how it will build on the priorities of the City Plan and the Housing Strategy.

### 3.5 The key priorities are:

- **Increase the supply of safe and secure accommodation by bringing empty homes back into use** and delivery of our Empty Homes Strategy
- **Identify and implement local initiatives to address local issues** including consideration of selective and/or additional licensing, and issues relating to exempt accommodation
- **Tackle disrepair and criminality** – building on our partnership work, the role of the enforcement team, risk-based intervention (Housing Health and Safety Rating System), use of civil penalties, criminal prosecutions, proceeds of crime, rogue landlord database and providing private rented sector “Charter of Rights”
- **Prevent Illegal Eviction and Harassment** – to support the Councils early intervention and prevention priorities.
- **Improve the energy efficiency of Birmingham homes, tackle fuel poverty, and reduce carbon emissions** supporting grant schemes and advising/signposting both tenants and landlords to support organisations thus supporting improvements in some of the most energy inefficient homes in the city
- **Operate a high-quality mandatory Houses of Multiple Occupation licensing scheme** to ensure shared accommodation is safe and provides appropriate facilities to occupiers. Support a range of supportive accreditation, participate and facilitate landlord forums, offer training and website tools, tackling rogue landlords and joined up approach across the council and partners
- **Seek to influence Government and national regulatory agencies to enhance relevant legislation and regulation** by proactively engaging in the national conversation and seeking improvement to relevant legislation

The current operating model is shown in Appendix 4 and the proposed temporary operating model in Appendix 5. The proposed temporary operating model aligns teams with priorities within the Strategy and provides both frontline and managerial capacity to ensure adequate resources are in place for delivering the Strategy. The budget has been reviewed to ensure that a request to use the 2022/23 New Burdens grant allocation is made only where necessary.

### 3.6 The proposed additional resources required to deliver the Strategy are shown below:

- **HMO Mandatory Licensing Team** – an additional five x grade 4 Licensing Officers to provide new pre licence inspection visits, conduct compliance visits, identify illegal HMOs and take appropriate enforcement action.

Additional cost of £236,250 - to be met through a review of the licence fee which enables the cost of administering the licensing scheme to be recovered through the fee.

- **Private Tenancy Unit** – an additional four x grade 4 Private Tenancy Officers to protect tenants from illegal evictions and harassment and to provide the new “Call Before You Serve” function that will assist landlords to find solutions to financial and other disputes with tenants rather than pursuing eviction. In the last 2 years there has been a doubling of requests for assistance to this service and we believe there will be a significant increase in evictions as the backlog from the moratorium on evictions has ended.

Additional cost of £191,000 – funded for 2022/23 only through New Burdens Grant

- **Empty Homes** – an additional one x grade 4 Empty Homes Officer to fully utilise legislative powers to bring property back into use. The post will build on current work with Housing Solutions to enhance the supply of private rented accommodation for discharging duty relating to rehousing homeless people through schemes such as “Help to Rent” and Empty Dwelling Management Orders.

Additional cost of £47,300 – funding to be identified from 2023/24

- **Environmental Health Team** – an additional four x grade 5 Environmental Health Officers to provide a reactive response to complaints of disrepair, overcrowding and other areas of noncompliance with housing legislation. The interventions (including enforcement) of these officers may prevent people exhibiting as homeless due to disrepair within the private rented property.

Additional cost of £236,614 – to be met through existing budgets

- **Management** – an additional 1FTE grade 6 service manager to manage the expanded Environmental Health team (covering both Section 82, Environmental Protection Act 1990 activity and PRS duties and responsibilities) and the Private Tenancy Unit. This post will provide capacity for policy and strategy development to further link PRS functions with opportunities to use PRS accommodation for vulnerable or at-risk households to prevent them exhibiting as homeless. The post to also ensure partnership working with internal and external partners is maximised to prevent homelessness.

Additional cost of £76,000 – to be met through existing budgets.

- 3.7 The table below shows the proposed increase in staffing subject to consultation. This is a net realignment of existing budgets and additional posts from the New Burdens grant.

Grade* and Job Title	Current FTE budgeted	Current actuals (including vacancies)	Proposed FTE budgeted	Proposed grant funded 22/23 only	Difference in budgeted
GR6	1	1	2		+1
GR5	8	7.8	10.8		+3
GR4	14	14.23	19.23	4	+5
GR3	5	5	4		-1
GR2	0	0	0		0
Total	28	28.03	36.03	4	+8

3.8 Additional funding of £47,300 is required for one x grade 4 officer within the Empty Properties team. Without short term or base budget funding the elements of the Strategy relating to maximisation of bringing empty properties back into use will not be deliverable until 2023/24 (subject to funding being available). The Strategy has therefore been amended to ensure that the reference to the use of “empty dwelling management orders” is removed as it is not deliverable without an extra officer. There is no statutory duty for this to be delivered.

3.9 The PRS team will continue to pursue opportunities to access grants and other funds to provide resources to accelerate and maximise activities to deliver the priorities within the Strategy. Additional Member’s Priorities funding of £590,000 is subject to approval as part of the Medium Term Financial Plan (MTFP) and Financial Plan proposals to be brought before Cabinet and Full Council in February 2022. The funds to provide a one-year campaign to improve conditions of HMOs and Exempt Accommodation, as detailed below:

- **High Risk Unlicensed HMOs**
  - Joint exercises with West Midlands Fire Service/ West Midlands Police to prioritise inspection of suspected illegal HMOs particularly above shops
  - High risk includes fire safety and category 1 hazards (e.g. damp/mould/overcrowding/dangerous electrics/gas)
  - Enforcement action against offenders
- **Improve Landlord Knowledge**
  - Provide a free training modules/events to all licensed HMO landlords and exempt accommodation providers to make them aware of their responsibilities
- **Exempt Accommodation**
  - Tackle registered providers who are not adhering to consumer standards in relation to cleaner streets and anti-social behaviour

- To be done through additional inspections and appropriate enforcement
- Reinforce current exempt accommodation pilot to be extended into 2022/23
- **Lobby for Change**
  - Promote further the Overview and Scrutiny Committee recommendations in respect of pursuing powers in relation to exempt accommodation
- **Introduce Mandatory HMO rating scheme**
  - Develop a rating scheme similar to that of the food hygiene rating scheme.
  - Score based on the new pre licence visit inspection
- **Cross Service Approach**
  - Fund a street scene team to tackle issues associated with exempt accommodation and high-density HMO areas
  - Work with Planning to maximise use of all regulatory regimes to tackle issues related to high density private rented sector accommodation

## **4 Options considered and Recommended Proposal**

- 4.1 It would not be reasonable to adopt a “do nothing” approach as it is essential that we ensure that landlords, tenants and all citizens are aware of where we will focus our resources to best improve accommodation in this sector and improve neighbourhoods.
- 4.2 This strategy could have formed part of the review of the overarching Housing Strategy, which is planned for review by 2022, however that would have led to an unnecessary delay. It is considered that this strategy will link into and enhance the current Housing Strategy (Birmingham- A Great Place to Live) and the future review.
- 4.3 It is proposed that Cabinet considers and approves this proposed strategy.

## **5 Consultation**

### **5.1 Internal**

- 5.1.1 Consultation work has been carried out with City Operations Directorate, City Housing Directorate, Inclusive Growth Directorate and Legal Services to ensure the strategy is compliant with all relevant legislation and reflects the corporate views of the administration and Directorates in both policy direction and complementing existing strategies.

Sharon Thompson, Cabinet Member for Vulnerable Children and Families including homelessness has been consulted on the use of funding from the 2022/23 New Burdens grant to support the delivery of this Strategy and has given her approval.

## 5.1 External

- 5.1.1 Whilst there is no statutory requirement to consult on a Private Rented Sector Strategy it is good practice to test our assumptions on the priorities for this sector and strategic direction for our work, with key stakeholders including the public.
- 5.1.2 The strategy was consulted on through BeHeard for a period of 4 weeks commencing on 12 November 2021 and ending on 2 December 2021. Key partners and stakeholders were emailed to make them aware of the consultation. These organisations were: Landlord Steering Group, Midland Landlord Accreditation Scheme, West Midlands Police, West Midlands Fire Service, National Residential Landlords Association.
- 5.1.3 30 responses were received via BeHeard. Those responses can be seen in appendix 2. The majority of responses were supportive of the vision and priorities of the proposed Strategy.
- 5.1.4 Appendix 3 shows Birmingham City Council's consultation analysis and response to the issues raised during the consultation.

## 6.0 Risk Management

- 6.1 The Private Rented Sector service has sought legal advice in respect of the proposed Private Rented Sector Strategy to ensure it is compliant with legislation and Birmingham City Council's constitution. Advice has been received confirming that compliance.

## 7 Compliance Issues

- 7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?
- 7.1.1 The proposals within the policy support the delivery of the Council Outcome "Birmingham, a great, clean and green city to live in" as set out in the Birmingham City Council Plan 2018 – 2022.
- 7.1.2 Specifically, the Strategy will contribute to priorities 2 and 3 of the eight priorities to achieve this outcome:
- Priority 2** - We will have the appropriate housing to meet the needs of our citizens
- Priority 3** - We will work with partners to tackle rough sleeping and homelessness.
- 7.1.3 The proposals within this policy support the delivery of the priorities of the Housing Strategy (Birmingham- A Great Place to Live) which are:
- A strong supply of new high-quality homes;
  - Citizens are able to find, access and sustain housing that meets their needs;

- Neighbourhoods are enhanced and the quality of existing housing is improved.

## 7.2 Legal Implications

7.2.1 The Council's main powers in relation to private rented sector properties are contained in the Housing Act 2004 and the Landlord and Tenant Act 1985. In relation to the protection of tenants from harassment and illegal eviction the Protection from Eviction Act 1977 applies.

7.2.2 The primary homelessness legislation – Part 7 of the Housing Act 1996 – provides the statutory underpinning for action to prevent homelessness and provide assistance to people threatened with or actually homeless. The Homelessness Reduction Act 2017 places duties on local authorities to intervene to prevent homelessness in their areas .

7.2.3 In addition to activities authorised expressly under the above legislation, the Council may also do whatever is reasonably incidental to that power. This is given statutory effect in Section 111 (1) Local Government Act 1972 which states:

- “Without prejudice to any powers exercisable apart from this section but subject to the provisions of this Act and any other enactment passed before or after this Act, a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.”

## 7.3 Financial Implications

7.3.1 Delivery of the proposed Strategy in appendix 1 will cost an additional £0.740m in 2022/23 increasing to £0.788m on an ongoing basis from 2023/24. Funding of the £0.740m is primarily within existing budgets however requires approval to utilise £0.191m of the New Burdens grant as per the report recommendation. Proposed increases to Mandatory HMO Licensing Fees account for £0.236m and are subject to approval by Licensing & Public Protection Committee 9<sup>th</sup> March 2022.

7.3.2 As the New Burdens funding of £0.191m is one year only and an additional £0.047m is required from 2023/24, ongoing funding arrangements will form part of the rolling MTFP process.

## 7.4 Procurement Implications (if required)

7.4.1 Not applicable

## 7.5 Human Resources Implications (if required)

7.5.1 Not applicable

## 7.6 Public Sector Equality Duty

7.6.1 The public sector equality duty drives the need for equality assessments (Initial and Full). An initial assessment was conducted on 4 November 2021. The assessment does not show a need to proceed to full assessment.



## **8 Appendices**

- Appendix 1 - Proposed Private Rented Sector Strategy 2022-2027
- Appendix 2 – Consultation Feedback
- Appendix 3 – Consultation Analysis and response
- Appendix 4 – Current Operating Model
- Appendix 5 – Proposed Operating Model

## **9 Background Documents**

- 9.1 Housing Act 2004
- 9.2 Prevention from Eviction Act 1977
- 9.3 Birmingham City Council's Housing Strategy 2017 "Birmingham- A Great Place to Live"
- 9.4 Birmingham City Council Plan 2018 – 2022.