

# Scrutiny Inquiry Panel - How do we get a better deal for private sector renters in Southampton?

Thursday, 16th November, 2023  
at 5.30 pm

## Contacts

Melanie Morley Democratic Services Officer  
02380 832198  
Democratic.Services@southampton.gov.uk

## PRESENTATIONS

### 8 INTRODUCTION, CONTEXT AND BACKGROUND (Pages 1 - 62)

Presentation - Generation Rent

Presentation - iHowz

Presentation - NRLA

Presentation - Professor Carr & Dr Jordan

Presentation - Private Housing Sector, Southampton City Council

Wednesday, 8 November 2023

Service Director, Legal & Governance

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**Generation  
Rent**

# Generation Rent

## Past, Present and Future of Campaigning for Tenants

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Conor O'Shea, Policy and Public Affairs Manager

Web: [www.generationrent.org](http://www.generationrent.org)

Twitter: @genrentuk

FB/Insta: generationrentuk

Agenda Item 8



**13m**

rent from a private landlord



**20%**

of UK population



**23%**

families live in private rented homes



**46%**

of under 35's rent from private landlord

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**£700**

per month - typical rent for 2 bed home



**£1,450**

per month - typical rent for 2 bed home in London



**41%**

of average couple's income is spent on private rental



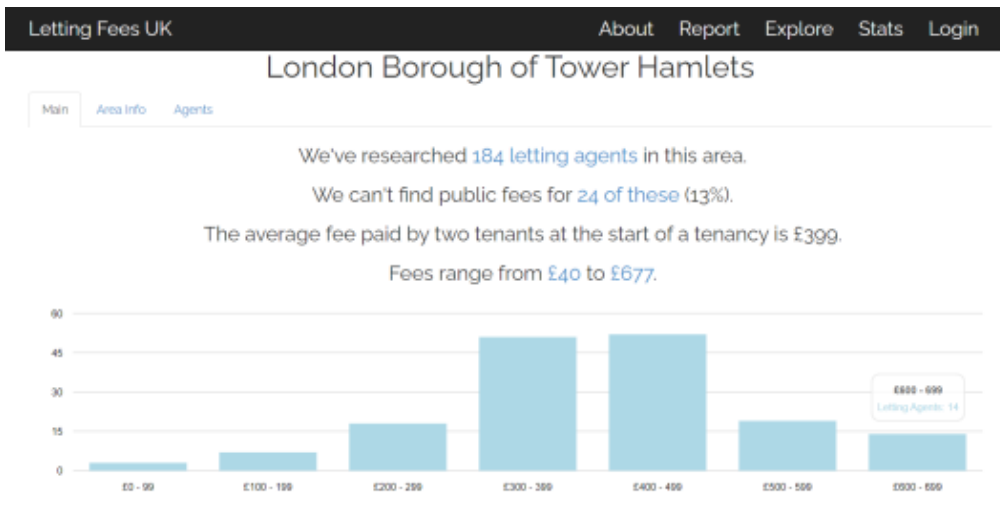
**619,000**

homes estimated to fail safety standards

# Previous Campaigns

- Outlaw revenge evictions (2014-15)
- Homes Fit for Human Habitation (2015-18)
- Letting Fees Ban (2014-19)
- Protections during the pandemic (2020-21)

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# Active Campaigns

- National Landlord Register (2014-present)
- Abolishing Section 21 evictions (2015-present)
- Regulate and tax holiday lets (2019-present)

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**Generation  
Rent**

# Private Renting Situation - Availability

- Post-covid Return to Cities
- Landlord Numbers
- Bidding Wars
- Gazumping
- Letting Fees Ban – Enforcement

# Private Renting Situation - Rents

- Affordability
  - Rents at peak unaffordability – highest % of incomes since records began
  - Interest rates changes
  - Supply issues
- Rent Control
- Holiday lets





# Private Renting Situation - Standards

- Energy Efficiency
  - One in four living in fuel poverty (1.19M), a higher rate than social housing and owner-occupation.
  - Poorly insulated homes are costing tenants an average of £570 more every year.
  - ECO Grants not used by tenants for fear of eviction.
  - MEES uplift cancelled - devastating



# Private Renting Situation - Standards

- Landlord Licensing
  - HMO exists in Southampton, scope for more?
- More local authority enforcement powers under amendments to the Renters (Reform) Bill

# Holiday Lets – The Situation

- There are nearly 300,000 holiday homes in Great Britain, equivalent to roughly 6 percent of the private rented sector
- Two thirds are classed for tax purposes as second homes and the remainder as commercial holiday lets. There are 115,000 individuals who declare holiday let income to HMRC.
- The growth in the holiday home sector has been fuelled by lack of regulation, tax advantages over residential lettings and a generally favourable tax system for property.
- COVID restrictions were a key driver but it only exacerbated an ongoing problem
- The number of holiday lets increased by 7,153, to 73,624. This is a total of 10,709 homes – **equivalent to 29 per day**. Those are homes that are lost to people who actually need them.

# Political Impact of Renters in Southampton

- Private renters are 29.2% of households in Southampton
  - Up 4.3% from 2011
- For GE2019, one of the areas with the highest number of private renters **not registered to vote** according to our analysis.

# Renters (Reform) Bill 2023

- Abolish Section 21 and introduce open-ended tenancies
  - New eviction grounds, strengthening of existing
  - Change to anti-social behaviour grounds
- All landlords must register on the property portal
- Homes in the PRS must meet the Decent Homes Standard
- Rent increases limited to once a year
- Pets!

# Working on the Bill

- Fighting the delay
- Closing eviction loopholes
- Rent tribunal and Property Portal working for tenants
- Damp and Mould - Awaab's Law
- Ensuring effective enforcement
  - Including Rent Repayment Orders to directly benefit tenants
- Legislate against discrimination

# Solutions Beyond the Bill

- Affordability
  - How to bring rents down to a reasonable level, and keep them there
- Deposit passporting
- Holiday lets
  - Mechanisms to protect long-term homes and those who wish to live in communities
- Energy efficiency

- [www.generationrent.org](http://www.generationrent.org)
- Facebook: GenerationRentUK
  - Twitter: @GenRentUK



Peter Littlewood  
iHowz Landlord Association

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Agenda Item 8

Appendix 4



iHowz

# Facts

- Most landlords let property to earn a living.
- Most landlords are decent hard-working people who look on their tenants as their customers
- Most tenants are decent hard-working people who look after their properties.

iHOWZ

# Facts

- No government since 1970 has met the required 300,000 new properties per year
- Social and council housing has diminished since 1980.
- The PRS has expanded to meet the shortfall – at the landlord's risk.

# iHOWZ

# Facts

- Cost of building materials have nearly doubled since 2018
- Mortgages are at a 15 year high
- Affecting owner-occupiers and landlords alike.

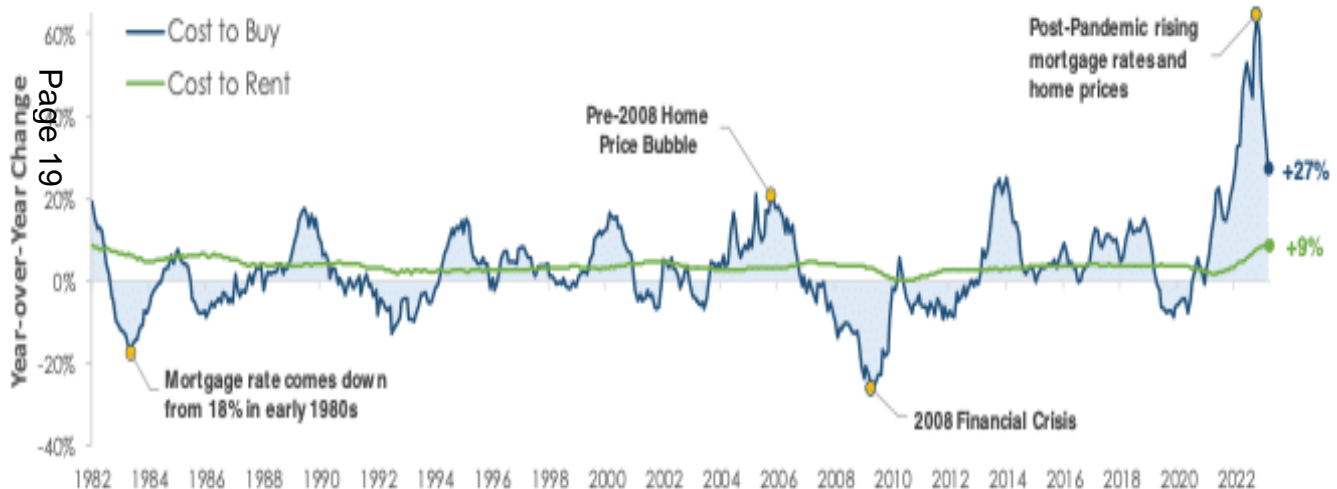
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iHOWZ

# Misnomer

- Rents have followed increased costs

FIGURE 1 – Year-Over-Year Change in Monthly Mortgage & Rent Payments



Source: MarketDesk, NAR, Department of Labor. Data from January 1982 to March 2023. Cost to Buy: Year-over-year change in the Housing Affordability Index Monthly Mortgage Payment, including principal and interest. Cost to Rent: Year-over-year change in Rent of Primary Residence component of Consumer Price Index.

# Misnomer

- Most rental properties are unsafe:
- ***In 2021, 14% of private rented sector homes were estimated to be unsafe according to the Housing Health and Safety Rating System (HHSRS).***

English Housing Survey 2021/22

# Misnomer

- Tenants have little protection
- There are over 170 pieces of legislation landlords must follow, covering:
  - Property conditions
  - Evictions
  - Unnecessary charges

and much, much more.

# Fact

- If a tenant stops paying rent, the landlord must continue supplying services, until a court intervenes.
- No other supplier has to do this

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iHOWZ



# English Housing Survey 2012/22

- Private renters had been in their current home for an average of 4.4 years.
- A small minority (4%) were evicted or asked to leave

iHOWZ

# Again

- We call upon tenant and landlord associations to work together to improve the PRS

iHOWZ

# What is it like being a landlord in Southampton?

Samantha Watkin  
Senior Policy Officer

The National Residential Landlords Association is the UK's largest membership organisation for private residential landlords, supporting and representing over **100,000** members

# What is the current backdrop to being a landlord?

Plenty of legislation and factors happening which will affect how a landlord in Southampton operates now and in the future:

- **Rentals Reform**
- **Demand and Supply issues**
- **Court Reform**
- **Leasehold and Freehold Reform**
- **Increased costs through higher interest rates and mortgage payments increasing**



# Student population in Southampton

- There is a huge demand for student accommodation in the city, to accommodate the two universities based locally
- Following the pandemic, there has been a surge in demand by students to get the full university experience and the opportunities it provides
- But with the limited student budget and rising living costs, students are having to be savvier to find suitable accommodation
- Southampton, Durham and Glasgow are amongst the ten cities with the lowest privately-owned Purpose-Built Student Accommodation available for 2023/2024 academic year  
(<https://www.pwc.co.uk/press-room/press-releases/increasing-demand-and-rental-costs-for-student-accommodation-create-barriers-to-higher-education.html>)
- Yet street housing is comparatively cheaper than PBSA- so what's the solution?

# Local authorities and the private rented sector

## The law and good practice

Professor Helen Carr  
and Dr Mark Jordan  
November 16<sup>th</sup> 2023

# Outline

Introducing ourselves

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The current regulatory context

The Renters (Reform) Bill

Local authorities and the regulation of the private rented sector



# Helen Carr

- Professor of Property law and social justice and Director of the Law School Research Centre, People, Property, Community
- History of practice, teaching, research and publications into housing and homelessness
- Part time judge with the FTT Property Chamber – housing leasehold and building safety jurisdictions
- Highlights
  - Seconded to Law Commission for its Renting Homes project
  - Advised Welsh Government on its Renting Homes legislation and on leasehold reform
  - Worked with Shelter to pass the Homes(Fitness for Human Habitation ) Act post Grenfell

# Mark Jordan

- Lecturer in Housing law at Southampton Law School and founding member of Law School Research Centre, People, Property, Community
- History of teaching, research and publications into housing and human rights in the UK, Ireland and Europe
- Highlights
  - Researcher on international research projects examining renting law and policy across Europe
  - Advised groups involved in international housing rights litigation at the Council of Europe
  - Worked with tenants' groups and local authorities in Ireland to develop a human rights-based tenant participation model

# Current regulatory context

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Law is voluminous and complex

Often shaped by historical roots

Neither comprehensive, coherent nor easy to locate

Ideologically driven with very limited consensus as to the proper balance between landlords and tenants

Reforms tend to be layered piecemeal onto existing legislation (cf Law Com reform project)

As a result limited access to justice

# Regulated deregulation



Housing Act 1988  
deregulated private  
renting

Market rents with limited ability  
to challenge these in the  
tribunal

AST – s.21 HA 1988 enabling  
eviction for ‘no fault’

Default tenancy from 1996

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Since 1997 increased regulation



Always preserving the market rent

# Increased regulation from 1997

## Regulatory framework

- Gas Safety (Installation and Use) Regulations 1998
- The Smoke and Carbon Monoxide Alarm (England) Regulations 2015
- The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
- Energy efficiency regulation

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## HA 2004

- Housing Health and Safety Rating System
- Licensing of HMOs
- Other possibilities for licensing 'challenging' rental properties
- Introduced Rent Repayment Orders
- Tenancy deposit protection
  - S.21 not available to landlords where there are breaches See Nearly Legal flowchart [s21updatedOctober21.docx \(live.com\)](#)

# Since 2004

- Acceptance by Conservative administrations that the housing market is ‘broken’
  - Deregulation Act 2015
    - ‘Retaliatory’ evictions banned
  - Housing and Planning Act 2016
    - Banning orders
    - Database of rogue landlords and property agents
    - Extended availability of RROs
  - Homes (Fitness for Human Habitation) Act 2018
    - Extended scope of landlords responsibilities to fitness for human habitation
  - Tenants Fees Act 2019

# Snapshot of private renting in England

Since 2000s, the private rented sector has doubled in size to 19% of households (4.4 million people)

## Profile of tenants

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- Diverse but growing numbers of families with children (30%) & low-income households
- Demand driven by unaffordability of ownership and undersupply of social housing

## Profile of landlords

- Prevalence of ‘small’ landlords – ‘82% of landlords owned between 1 and 4 properties
- Supply driven by Buy-to-let mortgages, tax reliefs, rent subsidies

# ‘Crisis’ in the private rented sector

Deregulation created favourable investment conditions for private landlords but contributed to precarity for many tenants:

- Insecurity: ‘no fault’ evictions linked to rising homelessness and ‘unethical’ practices by Government (2019)

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Unaffordability: Private renters spend 32% of their income on housing, more than owners (18%) or social renters (27%) and signs of acute rent inflation(!)

- Housing conditions: 23% homes fail the Decent Homes Standard and 13% have at least one category 1 hazard

Growing recognition that tenants have a right to better, more secure and affordable homes



# The Renters (Reform) Bill 2023

- Manifesto pledge by Conservatives in 2019 – a better deal for renters
- Five years of consultation
- Bill introduced May 2023 second reading November 2023
  - Abolishes s.21 of Housing Act 1988
  - All assured tenancies to be periodic (exception for PBA student accommodation)
  - More comprehensive possession grounds
  - Private rented sector ombudsman
  - Privately rented property portal
  - Right to request a pet
  - Measures to improve standards

# The abolition of s.21

## Benefits for tenants

- Increases security
- Taking action against poor housing conditions becomes more plausible
- Reduces the costs of renting

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## But there is a quid pro quo

- ‘Comprehensive fair and efficient grounds for possession’
- New persistent rent arrears ground
- Expedited grounds for ASB
- Consequences for intentional homelessness?

# Money – New procedures for rents

- Rent review clauses will be banned
- Rent increases only once a year
- Amends s.13 of HA 1988
  - two months notice must be given of rent rises
  - Challenge market rents at tribunal
- Rent in advance must be returned if tenancy ends earlier than tenant has paid for
- Power to limit amount of rent in advance cf Scotland where only
- Ban on excluding tenants on benefits



# The Property Ombudsman

- Single government approved Private Rented Ombudsman
- To provide fair, impartial and binding resolution more quickly, cheaper and less adversarial than the courts
- Scheme will cover all private landlords
- Redress scheme for tenants to make complaint against a landlord which will be quickly investigated
- Remedies
  - Apology
  - Information
  - Remedial action
  - Pay compensation up to £25,000

# The Property Portal

- Designed to inform landlords of their obligations and demonstrate compliance
- Better information for tenants enabling them to make informed decisions
- Local authorities will have access to better data
- Will build on database of Rogue Landlords mandating the entry of all eligible offences and making them publicly visible



# Some key questions....

- Illegal evictions are likely to rise
  - New financial penalty for illegal eviction
    - But outdated and clunky law
  - Promise of new investigatory and enforcement powers for local authorities
    - But very uneven use of those powers
- Effect on student accommodation ....
  - Student landlords lobbying for fixed terms
- Continued regulation of a deregulated market
  - Market rents will still apply
  - Tribunal may well be overwhelmed with challenges

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# Local authorities and private renting

Local authorities have an important regulatory role that is underpinned by legislation that requires authorities to:

- keep housing conditions (incl. overcrowding) under review
- take enforcement action where a category 1 hazard is identified
- promote equality and respect human rights

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Renters (Reform) Bill includes a duty that local housing authority shall ‘enforce the landlord legislation in its area’

# Local authorities' enforcement powers

To fulfil legal duties, local authority have wide enforcement powers including:

- formal “deterrence–focused” regulation i.e. statutory notices, civil penalty notices (up to £30K fines), banning orders, criminal penalties, rent repayment orders
- other approaches i.e. surveys, licencing, informal actions

BUT many local authorities are not proactive but rather operate a ‘reactive’ enforcement service that responds to individual complaints

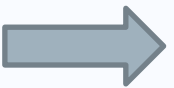


# What does good enforcement look like?

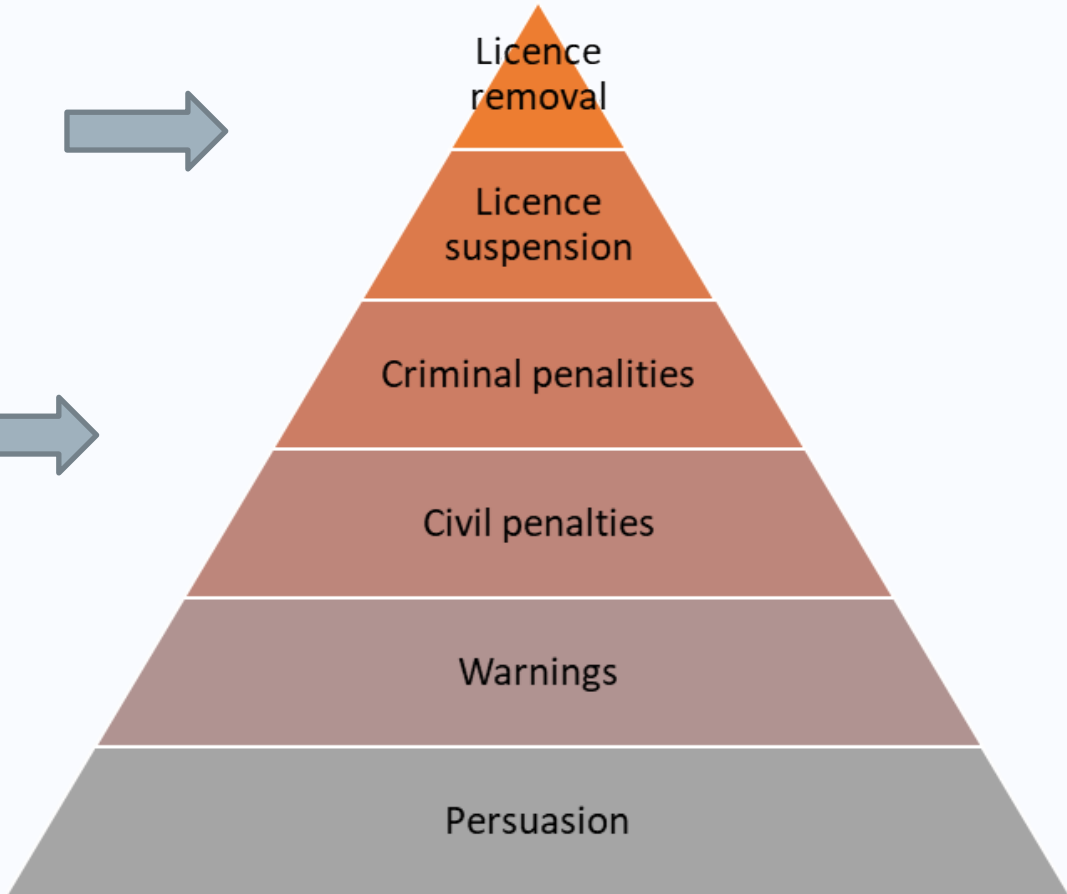
Full use of licencing & enforcement powers



Following lack of compliance, response should escalate to formal action



Advice, support as strategies of first choice



*Pyramid of responsive regulation – Harris et al (2020)*

# Drivers and barriers to good enforcement

## Drivers

Capacity of local enforcement teams

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Experience and expertise of enforcement teams

Political will, strategic commitment, and support of legal teams

## Barriers

Issues relating to the legal framework

Lack of meaningful data about private renting

DLUHC, *Local authority enforcement in the private rented sector* (2021)

# YOUR QUESTIONS

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# Private Sector Housing

Steven Hayes-Arter – Service Manager

# Private Sector Housing

Private rented sector accounts for approx. 28,000 properties spread across the city. Mixed tenure and property types. From bedsits to large HMOs.

The private rented sector provides an integral part of the housing market ensuring there is accommodation for the needs of the population.

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As such accommodation standards vary.

My service areas predominantly deal with the standard & safety of the private rented accommodation in the city.

Our statutory powers under the Housing Act 2004 (& other regulations) require the LA to act as the enforcing authority.

# Private Sector Housing

Our service tries to ensure that all properties meet the minimum standards, are safe and free from significant hazards.

This includes having sufficient fire detection and means of escape, the right amount of amenities, are not overcrowded, and meet minimum energy efficiency standards

Under the Housing Act our officers assess properties using the Housing, Health & Safety Rating System (HHSRS) to determine what hazards are present and how significant they are.

There are 30 Hazards, ranging from excess cold to structural collapse.

Hazards are assessed as Category 1 or Category 2

# Private Sector Housing

Where Category 1 hazards are identified the LA is duty bound under the Housing Act to enforce.

This will generally result in an Improvement notice, but could lead to prohibition of part or whole of a property.

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Prosecution and or issuing of Civil penalty notices can then follow on the landlord and or owner.

Category 2 hazards lead to 'advisory' action. But can if left become more serious and ultimately lead to enforcement.



# Private Sector Housing

The service receives around 500 service requests per year relating to disrepair

Issues include, damp and mould, excess cold, leaks and lack of fire detection

Service currently has 3.5FTE responding to these complaints and dealing with other private sector housing work, which currently includes dealing with high rise buildings (post Grenfell) in which we are currently working closely with Fire Authority and DLUHC on several buildings within the city.

Demand for service is very high & always increases during the colder months, generally due to heating related issues & damp & mould.

# HMO licensing

- There are approximately 6000-7000 HMOs in the city.
- The majority of the HMOs are situated within the central wards of the city, predominantly in Bevois, Bargate & Portswood.
- As a city with two universities, we have a high proportion of students, many of which live in the private rented sector & in HMOs.
- Statutory duty to licence all HMOs with five or more persons in residence.
- In the city we have approx. 2500 of these Mandatory HMOs, which require licensing every five years.
- All Licensed HMOs must meet certain conditions concerning safety and amenities and be properly managed so as to ensure that they do not impact negatively on the local neighbourhood.

# HMO Licensing

- Currently SCC has a HMO licensing team of 6.5FTE responsible for inspecting and enforcing conditions and standards within the licensed HMOs in the city.
- SCC have local conditions/standards relating to the room sizes, level of amenities and fire safety standards.
- Failure to licence & failure to comply with conditions are offences which can result in enforcement.
- Work closely with the PSH officers in relation to complaints about conditions in HMOs.

# Additional HMO Licensing

- Southampton City Council has also operated additional HMO licensing in certain wards within the city.
- Additional licensing schemes allow SCC to licence smaller HMOs, and 'cluster flats within purpose-built student blocks not captured by the Mandatory scheme.
- Schemes have covered the four central wards of Bevois, Bargate, Portswood & Swaythling and also the western wards of Shirley, Freemantle, Bassett & Millbrook.
- The most recent scheme covering the central wards ended on September 30<sup>th</sup>.

# Additional HMO Licensing update

- Previous additional licensing has captured another 2500 HMOs across the city.
- Licence conditions imposed are same for Mandatory & Additional HMOS within the city.
- Additional schemes can only run for five years & run on a 'cost recovery' basis.
- Schemes cannot be 'renewed'. If a further scheme is designated this will require public consultation & Cabinet approval.
- Plan for new scheme in Spring 2024

# Partnership working

- SASHH – Southampton accreditation scheme for student housing
- SCC has helped develop standards
- Ensures properties let through the Universities to students meet certain standards
- iHowz, National Residential Landlords Association – SCC HMO team have developed strong links and good working relationship with these groups to improve standards in the sector.
- The Environment Centre (TEC) – Southampton Healthy Homes
- Manage contract/partnership to provide a warm home/fuel poverty advice and guidance service to residents
- Help to facilitate improvements and measures in private homes through national grants and SCC funding

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# Any questions?

Thank you. If you have any issues relating to HMOs please contact

[HMO@Southampton.gov.uk](mailto:HMO@Southampton.gov.uk)

for other housing issues email

[private.housing@southampton.gov.uk](mailto:private.housing@southampton.gov.uk)

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