



**OVERVIEW AND SCRUTINY TACKLING ROGUE
LANDLORDS TASK AND FINISH GROUP**

Introduction

At the end of December 2013, the Government announced that funding was being made available to 23 councils nationally to tackle rogue landlords. The funding is part of a package of measures that will ensure millions of working and vulnerable tenants get a better deal when they rent a home.

Since 2011, more than 500 illegally-rented outhouses have been discovered and action taken against the owners, while 9 councils have already received £2.6 million to tackle the problem.

The funding is part of an ambitious package of proposals to ensure England's nine million private tenants:

- avoid hidden fees from unscrupulous letting agents
- can request long-term rental deals that cut costs and provide stability for their family
- feel confident to demand better standards and management of their property by landlords

In a briefing paper produced by 'Shelter' in 2011, they raised concern about the state of the private rented sector. Local authorities dealt with more than 86,000 complaints from private tenants in 2010/11, yet wider research found that over 350,000 private renters experienced housing problems in the same year.

When Rossendale Borough Council found out that they were successful in their bid and were granted £79,000, it was suggested that scrutiny was an ideal way of reviewing the subject of how the Council was going to tackle rogue landlords around the Borough. Therefore, a task group was established with the following membership:

Councillor Ashworth (nominated Chair at the first meeting)
Councillor Cheetham
Councillor Essex
Councillor Procter
Councillor Robertson

The Health, Housing and Regeneration Manager, Rebecca Lawlor and Laura Dewhurst, Rogue Landlords Co-ordinator, would be working with the group and updating them on progress of the project.

The funding from the Department for Communities and Local Government was also a welcome boost to the work the Council already does to support and encourage good landlords.

The main focus of Operation CARL (Co-ordination Against Rogue Landlords) would enable co-ordinated action across a number of agencies (DWP, Trading Standards, and HMRC etc) to target rogue landlords operating in Rossendale and would include prosecution where evidence exists of criminal activity.

The Portfolio Holder for Housing and Environmental Health indicated that “the Council takes the issue of poor housing standards very seriously. This scheme would provide the Council with the resources so we will be in a position to empower more tenants to come forward and help us to take action to stop the on-going, underlying abuse being perpetrated by rogue landlords.”

As the work looking at Rogue Landlords within the Borough was just commencing, the task and finish group agreed to undertake this piece of work in two phases. First to look at how they intend to commence the work and the second phase would look at how they have progressed.

TERMS OF REFERENCE FOR THE REVIEW OF ROGUE LANDLORDS

Definition of a Rogue Landlord is a person who persistently and consistently fails to comply with such things as maintenance of a property, health and safety and tenancy agreements.

Purpose:

- To identify and map illegal dwellings and improve those which can be made to comply with housing standards and planning requirements (Phase 2)
- To include and make recommendations for policies/strategies to support Officers in tackling rogue landlords across the Borough.

Objectives

- Improve housing standards by taking appropriate actions against illegal dwellings and rogue landlords.
- To work in partnership with key stakeholders to identify areas most affected and provide a joined up approach to deliver the project to ensure all residents live in a safe and sustainable home and community.
- Empowering/educating tenants across the Borough and wider community about their roles and responsibilities in the private-rented sector.

Functions

- Ensure the statutory and legal obligations of all stakeholders are adhered to.
- Receive and consider update reports from the Health, Housing and Regeneration Team in order to develop the project in light of their experience.
- Ensure all stakeholders are fully informed.

Witnesses

- Portfolio Holder for Housing and Environmental Health
- Rebecca Lawlor and Laura Dewhurst, Housing, Health and Regeneration Team
- Representative from Registered Social Landlords (GVH, St Vincent's)
- Amanda Maxim, Trading Standards
- Rachel Whippy, Citizens Advice Bureau
- Inspector Paul Leigh, Police
- Mick Hawke, Jenny Nangle and Mick Bingham, Lancashire Fire and Rescue Service

The task group will visit Hyndburn Council to look at how they manage Selective Licensing.

What does the law say?

- Harassment and illegal eviction are criminal offences. Local authorities can prosecute landlords who commit these crimes.
- Local authorities can serve an improvement notice or prohibition order where housing conditions fall below an acceptable standard. If the landlord fails to comply they can be prosecuted.
- Landlords and letting agents are legally obliged to protect tenants' deposits using an approved scheme, although this can only be enforced if a tenant takes them to court.
- Landlords are now obliged to obtain a licence from their local authority to rent out larger Houses in Multiple Occupation (HMOs), and need to meet certain standards in order to do so. Failure to obtain a licence is a criminal offence.

RECOMMENDATIONS

At the end of the report is a list of recommendations made by the Task and Finish Group and they ask that Cabinet respond to the recommendation within two months of receiving the report.

They would also ask that Lancashire County Council would respond to, or have regard to the recommendations relevant to them and would be grateful for a formal response to be sent to the Chair of the Task and Finish Group, via the Scrutiny Support Officer.

What we found out!

The task group were informed that locally the Council know who most of the rogue landlords are and that it was the same people over and over again who are known to be a problem. There are 10 landlords known to the Council who have around 300 properties between them.

The Council would be contacting those landlords who own more than 3 properties to give them fair warning/notification of the proposals being put forward.

The Council would also be writing to all tenants to inform them of what they are entitled to.

If properties were in a 'bad state of disrepair' the Council could serve notice on the landlord to do the works to a sufficient standard. If the landlord does not complete the works, the Council can do the work on the property (work by default) and charge the landlord for any work done. Benefits can be withheld to the landlord if houses are not up to a certain standard.

Trading Standards

The Manager of Lancashire County Council's Trading Standards indicated that they had been asked to work with the Council in order to help tackle rogue landlords.

It was noted by the members of the task group that whilst Trading Standards have no licensing powers in general, they had in place the Consumer Protection against Unfair Trading Regulations 2008 (CPRs) and the Unfair Terms in Consumer Contracts Regulations 1999. If a landlord was to breach CPRs, it would allow for potential prosecution.

Trading Standards work alongside the Illegal Money Lending Service who had different legislation to work with. It was not just about prosecutions, but also about providing information through leaflets to educate potential tenants of what to look out for and information was available on their website. Loan sharks can be reported via a 24 hour helpline – 0300 555 2222.

Rossendale Borough Council intends to use some of the information from Trading Standards and incorporate this into a document to educate potential tenants. The Manager of Trading Standards offered to provide input on any material if needed.

There had been one prosecution against a rogue letting agent in Rossendale within the last 5 years, which resulted in a conditional discharge.

Trading Standards receive a number of queries on rogue landlords, although this was quite low compared to other queries. In the first instance calls were reported through the Citizens Advice Consumer Helpline.

Fire Safety – Fire Safety Enforcement Team

Representatives from the Lancashire Fire and Rescue Service provided information to the group, indicating that the Fire Safety Enforcement Team were keen to work with partner organisations on such issues as rogue landlords, but these are only raised following a fire at a property.

The Fire Safety Enforcement Team have two approaches, the first being to enforce fire safety legislation, however there were only certain properties that the team could enforce legislation on. There was also the Community Fire Safety Team, who works throughout Lancashire, which is based around education on fire safety.

Other responsibilities of the Fire Safety Team are to check common areas along with doors to individual flats to ensure they are smoke sealed and self-closing, emergency lighting, fire exits and also the front doors to the property. Fixed wiring tests are also undertaken.

Rent-a-Room Scheme

Rent-a-room applies only to owner occupiers and tenants who receive rent from letting furnished accommodation in their only or main home and allows you to earn up to a threshold of £4,250 per year tax free. This is halved if you share the income with your partner or someone else.

There is scope for a rogue landlord to operate in an owner/occupier situation although it is less common and the Council hasn't had any reports of it so far, the reason might be because they aren't aware of ill doings and it hasn't been reported.

For further information on the Governments rent-a-room scheme follow the link below.

<https://www.gov.uk/rent-room-in-your-home/the-rent-a-room-scheme>

Citizens Advice Bureau (CAB)

The Acting Manager of Rossendale CAB provided statistical information from the last financial year on referrals to the CAB, indicating that 5% of enquiries which equated to 711 properties related to housing and two thirds of these enquiries referred to private properties. The main issues were related to actual homelessness or threatened homelessness.

Main enquiries areas:-

- 33% repairs/maintenance
- 14% possession action (not rent arrears) include landlord mortgage arrears
- 12% tenancy deposit queries
- 8% security of tenure (inc succession rights)
- 6% suitability of accommodation
- 5% landlord harassment
- 4% illegal eviction
- 4% cost of deposit/rent in advance
- 3% possession landlord mortgage arrears

Typical problems with landlords

- Refusing to return/disputes about deposits
- Disrepair – signposting to environmental health departments, housing option team, gas safety checks, boiler repairs, damp
- Harassment eg rent arrears, landlords not accepting housing payment paid in arrears
- Illegal eviction – incorrect notices being issued or none at all, incorrect grounds/issuing of section 21 notices
- Estate agencies –unfair fees, not taking responsibility for repairs, also guilty of incorrect notices/illegal evictions

The Acting Manager informed the group that more legislation was required to protect people in rented housing.

Legislation was coming out in October 2014 when all Letting/Estate Agents would need to sign up to an 'approved scheme'.

Lancashire Constabulary

Inspector Leigh outlined problems encountered by the Police indicating that whilst they were aware of the number of rented properties in Rossendale, they were unaware of the extent of the problems with rogue landlords. He suggested that it would be useful to share with them any information regarding rogue landlords as it was important to identify these perpetrators.

The Police had a database of victims and offenders, which may include tenants and rogue landlords. They also had a Vulnerable Persons Database however, this was not disclosable.

Inspector Leigh indicated that joint working was important, as it was possible that some of the properties in question could be linked to drugs and other criminal activity. Information sharing was important to help target these criminals. These properties could be targeted quicker by the Police if they were aware of certain addresses and joint visits between the Police/Council to properties may be a good way of joint working. Closure Orders could be done much quicker by the Police, which would make it easier for the Council, rather than having to go through the legal procedure.

Visit to Hyndburn Borough Council to discuss their Selective Licensing Process

All Members of the Task Group, along with two Officers from the Council, visited Hyndburn Borough Council and met with the Private Rented Sector Manager who provided the group with information on selective Licensing in Hyndburn.

Selective Licensing is intended to address the poor quality of private landlords and anti-social tenants. It has primarily been developed with the need to tackle problems in areas of low housing demand, although the Act also allows for selective licensing in some other circumstances, such as anti-social behaviour. Many of the provisions relating to selective licensing are similar to those relating to the mandatory and discretionary licensing of Houses in Multi Occupation (HMOs).

Selective Licensing of Private Residential Landlords in the West and East areas of Accrington was approved by Cabinet in 2010. Under the 2004 Act, an area can be designated for licensing if it is thought to be likely to become an area of low housing demand or that the area is experiencing significant and persistent problems caused by ASB.

In 2008 Hyndburn Council had carried out a consultation on the designation, but a judicial review was brought in 2010 which was landlord-led, because it was felt that the Council's consultation prior to designation was inadequate and failed to comply with the statutory obligations set out in the Housing Act 2014. The review was based on the grounds that the Council had not provided the consultees with enough information (cost, geography, where) and that they (the Council) had only consulted within the proposed areas of the selective licensing scheme and not adjoining areas.

Whilst Hyndburn Council was unsuccessful at the review, they were still keen to progress selective licensing in the Borough and they therefore undertook further consultation on a new designation including how it would affect everyone on the following 2 grounds:-

- Low housing demand
- ASB attributed to private rented sector

The Council met on numerous occasions with the landlord group who had undertaken the judicial review. Further work was undertaken including mapping all of the Local Super Output Areas in Hyndburn and then ranked them for low demand before translating this up into ward data, putting a local context to the data evidenced.

Following this consultation, the designation for selective licensing came into force on 1st December 2012. This meant that landlords renting properties within the designated area are required to obtain a licence from Hyndburn Council for each property they rent with the designation area.

The Hyndburn Licensing Scheme is for a five year period for 1400 properties (at the time of the visit they had received 1200 applications), with 700 licenses issued.

The consequences of letting a house without a licence in a Selective Licensing area when one is required include:-

- a) The 'Section 21' notice procedure for recovering possession on the termination of a short hold tenancy is not available whilst the house is unlicensed.
- b) A fine of up to £20,000 for each offence upon convictions in the Magistrates Court
- c) If found guilty the Council and/or the tenant can seek a rent Repayment Order requiring any rent that has been paid during any unlicensed period to be returned to whom paid it
- d) The Council may make an interim Management Order with regard to the dwelling and seize control of it from the owner

A conviction for failing to apply for a licence may also prejudice the chances of the person being considered 'fit and proper' to hold a licence.

Conclusion

Working with local partners is critical to addressing the serious problems that rogue landlords can impose on local communities and the hardship that can be suffered by tenants.

It is also very important that rogue landlords are brought to justice and that those contemplating tenant exploitation are aware of the penalties that they can receive. Better information for tenants and support for reputable landlords can also help to ensure that rogue landlords do not have the opportunity to exploit vulnerable people.

The Task and Finish Group would like to thank everyone for attending their meetings to provide information which will help both the Group and Officers in going forward with this piece of work.

Recommendations

1. That the Council produce a 'Fit and Proper Landlord Policy' which would allow the council to have something to measure landlords against.
2. That information be made available to the public which would allow them to know which landlords have been prosecuted. This could also be made available on the Council's website.
3. That there should be more publicity for tenants so that clearer information is made available on their 'rights'.
4. That publicity be produced for landlords to make them aware of penalties they can incur if they exploit their tenants.
5. Where the Council suspects that illegal activity is being undertaken within problem properties they should work closely with the Police and other agencies to address this.
6. Selective Licensing could be a future consideration of the Council, in partnership with other East Lancashire authorities, with additional funding being requested/made available from Central Government.

WHAT NEXT! – The information below will give you a brief idea of what we are looking at as part of Phase 2 work of the Task and Finish Group

1. On 1st October the Communities and Local Government will bring in the Letting Agents Redress Scheme, which means that all letting agents will have to sign up to the scheme or face a fine. This is being led by Lancashire County Council who will be the enforcing authority.

The Task and Finish Group will look at how this is working in Rossendale and how many have/have not signed up to the scheme.

2. The Group will give a brief overview of the outcome of the shadowing of Environmental Health Officers to properties within the Borough and this will be included in the final report.
3. To receive an update on whether funding would continue for the rogue landlord scheme.
4. To receive information on what has been successful, what barriers Officers have had to contend with and what additional information they have learned during the course of this work.