

CABINET MEETING: 19 DECEMBER 2019

IMPROVING ENERGY PERFORMANCE OF PRIVATE RENTED
PROPERTIES ACROSS WALES

HOUSING & COMMUNITIES (COUNCILLOR LYNDA THORNE)

AGENDA ITEM: 9

Reason for this Report

1. To update Cabinet on the approach being taken across Wales to secure improvements to the energy performance of the poorest performing private rented sector homes and the role Rent Smart Wales is taking in the delivery of this plan.

Background

2. Rent Smart Wales is the brand name for a Welsh national registration and licensing scheme for landlords and agents. Cardiff Council has been designated by Welsh Government as the single licensing authority for Wales to deliver the scheme in partnership with all Welsh Councils. This partnership is underpinned by a Memorandum of Understanding setting out the role and responsibilities of each partner.
3. The main objective of Rent Smart Wales is to improve the condition of property and standards of management of the sector through a variety of approaches, these include:
 - A robust regulatory framework which prevents those who are not fit and proper to hold a licence
 - Improvement plans and warning notices where reports of poor standards are received
 - Provision of training some of which is obligatory in order to secure a licence
 - Regular information to ensure landlords and agents are aware of their current obligations and changes to legislation

Issues

4. Research shows that Wales has a significant fuel poverty problem:
 - 12% of all households are fuel poor (155,000 homes)
 - **20% of all private rented households are fuel poor**
 - **39% of households without central heating** are fuel poor
 - **43% of households in EPC bands F and G** are fuel poor

5. One of the key benefits of the Rent Smart Wales is that data is readily available to assist with targeting resources, particularly important when local authority resources are stretched. This data is available to assist local authorities to develop strategic plans to improve the sector.
6. The first significant all Wales project has involved comparing publically accessible EPC data with Rent Smart Wales data. This allows the identification of properties which are F& G rated for energy performance or without an EPC, which are also rented privately. With the assistance of Cardiff University, all local authorities have been provided with maps highlighting issues in their areas.
7. The Minimum Energy Efficiency Standard (MEES) legislation requires all private rented property to meet a minimum Energy Performance level of band E or above by April 2020.
8. Local authorities have the ability to enforce the legislation, where there is a failure to comply. But, enforcement alone is a challenge given the number of properties involved. An improvement strategy has therefore been agreed with Public Protection Expert Panels across Wales to:
 - Promote MEES and all financial help available to all landlords / tenants. This can be easily done using the landlord database held by Rent Smart Wales.
 - Specifically target all those landlords where data shows that the property is F or G rated.
 - Seek to identify additional funding mechanisms to support improvements. Specifically, Warm Homes funding has been identified to address properties with no or limited central heating systems.
 - Final warning communication leading to enforcement action.
9. Rent Smart Wales has been asked to lead on the Warm Homes Fund All Wales bid and to co-ordinate this strategic approach. This bid was submitted on the 26th September 2019 to meet the bid closing date. The bid application includes for installation of 275 central heating systems by Cardiff Council across 16 local authority areas (with scope for extension). The main focus is to address E, F and G rated property. Landlord and tenant consent will be required, in addition landlords will be required to make a £750 (on average) contribution towards the cost of the work and install loft and cavity wall insulation if they are also required.
10. Approval of the funding bid has been indicated subject to Cardiff Council being able to meet the requirements of the funding agreement.
11. The Memorandum of Understanding setting out the role and responsibilities of each partner now requires refinement to reflect operational experience over the last four years and to recognise the extended role Rent Smart Wales is taking in co-ordinating All Wales initiatives to improve the private rented sector.

Consultation

12. No local member consultation is required. Consultation has taken place with the 22 Welsh local authorities as part of the ongoing operational and strategic partnership framework in place for Rent Smart Wales. 16 authorities have already confirmed their intention to participate in the application for Warm Homes Funding, but the scope of the bid will allow others to participate.

Equality Impact Assessment

13. During the development stages of the Housing Act 2014 and prior to the designation of Cardiff Council as the Single Licensing Authority for Wales, a comprehensive equality impact assessment was undertaken. This identified the range of stakeholders involved in the private rented sector and the evidence demonstrating the benefits of Rent Smart Wales and the impact of the legislation (whether positive or negative) on the protected groups as identified under the Equality Act 2010. No negative impacts were identified through the introduction of the legislation, however issues were identified to ensure that access to the service was available to all protected groups. Cardiff Council has since developed specific equality impact assessments for elements of the service and will now need to review these equality impact assessments in relation to service delivery matters for the extended scope of the service detailed in this report.

Reasons for Recommendations

14. To ensure that Cabinet has visibility of the work being undertaken by Rent Smart Wales and local authorities to improve property conditions in the private rented sector and specifically the lead role being taken by Rent Smart Wales
15. To ensure that the correct delegations are in place to
 - vary the MoU (Memorandum of Understanding) between Cardiff Council and the local authorities to ensure it is fit for purpose
 - seek and administer additional funding sources to assist with improving the private rented sector across Wales.

Financial Implications

16. RentSmart Wales will be administering and facilitating 275 installations to improve energy performance of properties across Wales of an 18 month period. There is just over £1m available in the Warm Home Fund for the work. RentSmart's role along with its partner will be to procure the contractor to do the work and to sign-off energy efficiency installations.
17. Welsh Government has awarded RentSmart £40,000 in financial year 2019/20 to assist with the development of this strategic approach and a further £24,000 is available from the Warm Homes Fund to assist with the administration of the programme.

18. When accepting the grant, consideration needs to be given to the associated terms and conditions that need to be met in order to ascertain any impact on the Council. No financial implications are expected with the proposed amendments to the MoU

Legal Implications

19. Legal Services are instructed that a grant application has been submitted and these legal implications do not deal with the specific powers in relation to the same. If the grant is approved then a separate decision will be done to accept the grant and the terms and conditions of such grant.
20. It is noted in the report that further grant funding may be sought. Further advice should be sought in relation to additional grant funding.
21. The report also sets out details on how the grant funding obtained will be used, including but not limited to procurement of contractors by the Council to undertake such energy improvement works. Legal Services understand that the consent of the landlord, tenant and other Local Authorities will be sought prior to undertaking such improvement works. Further legal advice should be sought prior to the procurement and undertaking such work to ensure that any risks and liabilities to the Council are minimised (as much as possible). Generally any procurement should be carried out in accordance with the Council's Standing orders and procurement rules.
22. The report also recommends delegating authority to vary the MoU. Further legal implications will be set out in the officer delegated report and legal advice should be sought on the specific amendments to the current MoU. It should be noted that the current MoU is not a legally binding document.

Equality Duty

23. The Council has to satisfy its public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties) – the Public Sector Equality Duties (PSED). These duties require the Council to have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of 'protected characteristics'. The 'Protected characteristics' are: • Age • Gender reassignment • Sex • Race – including ethnic or national origin, colour or nationality • Disability • Pregnancy and maternity • Marriage and civil partnership • Sexual orientation • Religion or belief – including lack of belief.
24. As noted in the report, consideration has been given to the requirements to carry out Equality Impact Assessments ('EIA') as set out in the report so that the decision maker may understand the potential impacts of the proposals in terms of equality. This assists the decision maker to ensure that it is making proportionate and rational decisions having due

regard to the public sector equality duty. The decision maker must consider and have due regard to any Equality Impact Assessment prior to making the decisions recommended in the report.

25. Where a decision is likely to result in a detrimental impact on any group sharing a Protected Characteristic, consideration must be given to possible ways to mitigate the harm. If the harm cannot be avoided, the decision maker must balance the detrimental impact against the strength of the legitimate public need to pursue the recommended approach. The decision maker must be satisfied that having regard to all the relevant circumstances and the PSED, the proposals can be justified, and that all reasonable efforts have been made to mitigate the harm.

Well Being of Future Generations (Wales) Act 2015

26. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.
27. In discharging its duties under the Act, the Council has set and published wellbeing objectives designed to maximise its contribution to achieving the national well-being goals. The well-being objectives are set out in Cardiff's Corporate Plan 2019-22. When exercising its functions, the Council is required to take all reasonable steps to meet its well-being objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the well-being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.
28. The well-being duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:
 - Look to the long term
 - Focus on prevention by understanding the root causes of problems
 - Deliver an integrated approach to achieving the 7 national well-being goals
 - Work in collaboration with others to find shared sustainable solutions
 - Involve people from all sections of the community in the decisions which affect them
29. The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

General

30. The decision maker should be satisfied that the proposal is in accordance within the financial and budgetary policy and represents value for money for the council.
31. The decision maker should also have regard to, when making its decision, to the Council's wider obligations under the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards.

HR Implications

32. There are no HR implications for this report. No additional staff resources are anticipated at this stage.

Property Implications

33. There are no property implications for this report. No additional resources are anticipated at this stage.

RECOMMENDATIONS

Cabinet is recommended to:

1. endorse the role Rent Smart Wales is taking in co-ordinating the initiative to improve the energy performance of private rented stock across Wales; including administration of the Warm Homes Funding.
2. delegate authority to Corporate Director for Resources in consultation with the Cabinet Member for Housing and Communities to seek new funding sources to assist with improving the private rented sector and to accept and administer the funding on behalf of Welsh authorities.
3. delegate authority to the Corporate Director for Resources in consultation with the Cabinet Member for Housing and Communities to vary the Rent Smart Wales MoU in place with local authorities to reflect changes required as described in the report.

SENIOR RESPONSIBLE OFFICER	Chris Lee Corporate Director Resources
	13 December 2019