

BRIGHTON & HOVE CITY COUNCIL
SCRUTINY PANEL ON LETTING AGENTS

9.30am 13 JANUARY 2011

ANNEX OF THE BANQUETING SUITE, HOVE TOWN HALL

MINUTES

Present: Councillor Elgood (Chair)

Also in attendance: Councillor Randall and Simpson

Other Members present:

PART ONE

7. PROCEDURAL BUSINESS

7a. Declarations of Interest.

7.1 There were none.

7b. Declaration of Party Whip

7.2 There were none.

7c. Exclusion from the Press and Public

7.3 In accordance with section 100A(4) of the Local Government Act 1972, it was considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in section 100I (1) of the said Act.

7.4 **RESOLVED-** That the press and public are not excluded from the meeting.

8. MINUTES OF THE PREVIOUS MEETING

8.1 The minutes of the previous meeting held on the 17 December were agreed.

9. EVIDENCE FROM A WITNESS

9.1 The witness sent their apologies.

10. EVIDENCE FROM WITNESSES

- 10.1 John Maguire (Acquisitions and Accreditation Manager- Brighton & Hove City Council (BHCC)) introduced himself and answered questions.
- 10.2 The Panel were informed that :
- The section had approx 40 letting agents and independent landlords which they use very regularly and many other which they use less regularly.
 - The section was responsible for acquiring properties for housing people with housing needs and managing the Sussex Landlord Accreditation Scheme (SLAS)
 - The Landlords Accreditation Scheme involved a one day training course and also, in Brighton & Hove's case inspections of the properties to ensure that the properties were clean, in good repair, are structurally sound, self contained and compliant to health & safety regulations
 - An interactive website for landlords within the scheme was being set up for March 2011, whereby landlords could log in and download model tenancy agreements and other essential documents and have access to information which may help them to resolve any issues that they had
 - The aims of the scheme was to improve the standards, condition and management of properties that belonged to the scheme
 - A pack was in developed which from March 2011 would be used as a training, guidance and support resource for both landlords and tenants, advising them of their rights, responsibilities and giving advice on how to manage a tenancy from both the landlord and tenant's point of view.
 - In 2007/8 there were 200 landlords and 850 properties on the Council's books, however numbers have decreased and currently there were 150 landlords and 500 properties. This is in part, due to a decline in the benefits available to landlords.
 - In the past accredited landlords renting properties to students received an additional premium of £2-4 per bed per week; however this benefit had now ceased
 - The landlords within the scheme were specific about marketing their own properties as they wanted to select their own tenants rather than having their properties marketed by the council.
 - Portsmouth Council had a voluntary accreditation scheme for letting agents, which Brighton & Hove could look at as a basic model which could be developed to suit our needs.
- 10.3 In answer to a question on the feedback of letting agents from the landlords within the scheme, the Panel were informed that generally there was positive feedback and that letting agents needed to ensure that tenancies were lucrative.

It was imperative that the council ensured tenants' housing benefit was operating smoothly otherwise the tenancy could fail very early on.

- 10.4 In answer to a question on why the numbers of landlords had reduced, the Panel were advised that the benefits available for landlords had been reduced and that some landlords had retired and others had moved onto other business ventures. The market in Brighton is so robust that the award of accreditation does not provide the same attractiveness as it might in an area with lower private rented Sector (PRS) demand.

- 10.5 In response to a question on what proportion of landlords had tenants with housing benefits, the Panel were told that currently around 60% of accredited landlords were student landlords and nearly 99% of the letting agents who worked with the council accommodated housing benefit tenants.
- 10.6 The Panel were advised that the Council didn't want to be proscriptive about charges levied by landlords and letting agents, as the council's need for PRS properties was huge and it could be perilous for our objectives if we were seen to be heavy handed or over directive in our dealing. However, all letting agents who deal with the council are made starkly aware that funds are limited and that the council and its clients will not pay any unreasonable charges therefore agent's expectations are managed from the starting point. It is the ability to make money which attracts many people to become landlords. If that incentive is reduced, it would reduce the number of properties on the market and impact on the council's clients and the city as a whole.
- 10.7 Susanna McLaren (Housing Options Manager-BHCC) introduced herself and answered questions.
- 10.8 The Panel were informed that the service:
- Provided a comprehensive homeless prevention service
 - Faced barriers from landlords that had negative images of people who claimed housing benefit, households with children and pets.
 - In the financial quarter of October- December 2010 advice was given to 596 people, worked intensively with 362 households (who were in danger of losing their homes) and of these managed to prevent homelessness of 259 households, of which 75 households were helped into alternative private accommodation
 - Worked closely with the Acquisitions team, helped tenants apply for crisis loans, acquire references from previous landlords, work with housing benefits and refer to the Crisis Response Team.
- 10.9 The Panel were told that more accurate figures could be provided for the last quarter of 2010, that at the City Direct Centre the advice and assessment team triage and make a judgement on whether the Council has a duty of care for the person (and their family). Various people visit the Centre from people outside of Brighton walking in and wanting advice to Students who want copies of Household Multiple Occupancy regulations.
- 10.10 The Panel heard how the advisors worked holistically to maximise the chances of sustaining a tenancy, and that with the help of the Credit Union's extended services tenants could be offered the right support.
- 10.11 Further clarification was given on tenancy agreements and how the agreement was evidence of a fixed term agreement. However tenancy renewals were different and were over a statutory period and once these were signed the tenant and landlord were locked into the tenancy; a Break Clause could be activated to terminate the tenancy renewal. However tenants felt that agents were charging both the landlord and the tenant and that this was unfair and that landlords should incur the charge not tenants.

Advisors would negotiate for the tenancy renewal charge to be paid over a longer period of time eg. £5 a month.

- 10.12 Sylvia Peckham (Head of Temporary Accommodation & Allocations- BHCC) introduced herself, informed the Panel that another responsibility her team had was to lease properties for up to 10 years providing a stable unit for households.

In answer to question on the new changes to the Local Housing Allowance (LHA) which would be implemented in April 2011, the Panel were informed that a Working Group had been set up to look at the impact of the changes to the benefits system on the city. Rates for temporary accommodation wouldn't be subjected to the new LHA rates for 2 years.

The Panel were told that the greatest pressure would be for 2 bedroom accommodation. It was more than likely that tenants would need to move eastwards towards Peacehaven to find more affordable properties which would limit support from their friends and family who lived in Brighton & Hove.

11. EVIDENCE FROM A WITNESS

- 11.1 Mike Stimpson (Chair of the Southern Landlords Association (SLA)) presented himself and answered questions.
- 11.2 Mr. Stimpson started by informing the Panel that the landlords in the association did not recommend that landlords issued new agreements following expiration of the initial fixed term renewal. However Mr. Stimpson was aware that some tenants and landlords requested a new fixed term agreement as reassurance of their tenancy agreement period.
- 11.3 The Panel heard how Mr. Stimpson had been a landlord in the city for 54 years, had no financial support from the Council and that he felt the Council's planning department caused barriers when putting forward ideas to create affordable housing for the city.

The city needed more affordable housing. Landlords had to purchase properties at the market rate, rather than at a cheaper rate which meant their rents reflected this and therefore this didn't help the city.

Mr. Stimpson sat on a number of national committees and circulated 400 landlord members about their views on the letting agents. Mr. Stimpson received 15 responses.

The Panel were informed that the tenants that moved into properties that were owned by landlords in the SLA may have just one charge to pay which was under £100 to obtain references and provide an agreement.

The majority of landlords with the SLA would work without using letting agents. Of those that did use letting agents, landlords would use their services to find a tenant, deal with the agreement, collect their deposit and secure the deposit into one of the schemes; of which the landlord would be charged two weeks rent.

- 11.4 Feedback from the SLA :
- was that the vast majority of landlords in the SLA were not aware of and did not ask whether letting agents charged tenants fees or at what level. There were

only 3 landlords who were aware of charges made to tenants and one landlord who agreed with the letting agents that there should be no charges to the tenant. Most agents charge a fee of £100 to landlords for a finder fee

- was that the average charge to landlords was between 6% -10%, some landlords were satisfied with the service as others felt that other than collecting the rent and completing tenancy renewals the agents did not provide any other services
- was when a tenant was 2 or 3 months in arrears the letting agents would notify the landlord; if the landlord managed their own property then they would have known straight away of any arrears
- if a letting agent goes bankrupt, then the landlord could be liable to compensate for loss of rent/deposit if the agent did not have money protection
- would support a common logo that the public would understand rather than different logos that may have no merit
- inexperienced letting agents do not have good knowledge of the housing acts, other agents who are experienced and understand the regulations have high fees that reflect their service quality
- that landlords should take an interest in what letting agents were charging tenants and for landlords not just to accept letting agents with the cheapest landlord rates
- tenants tended to go to letting agents to find accommodation
- some landlords used Gumtree to link up with tenants who are seeking accommodation

11.5 The Panel heard how landlords that belonged to the SLA could own any number of properties with the minimum being one property. It was usual that landlords made a reasonable return on their lettings to ensure that they earned a reasonable return. Generally student accommodation / shared housing are more profitable and produces a return of around 5% gross. Additional to this properties were purchased as capital investments and these property owners were more than likely to use letting agents to manage their properties.

11.6 In answer to a question on how local landlords would feel about a local accreditation scheme, the Panel were told that the majority of landlords within the association would manage their own properties; however they would probably support a local accreditation scheme.

11.7 Mr. Stimpson informed the Panel that the Housing Benefit changes being introduced in April 2011 had meant that the SLA had advised their landlords not to accept housing benefit tenants from 25-35 years who were single and were applying for single self contained accommodation as they may not be able to pay their rents when the changes come into operation in April 2012. The city's rents were nearer to the 50% percentile.

It was uncertain what landlords were going to do as they were unwilling to drop their rents to accommodate the housing benefit changes. Currently there were 10 people after every property which meant that landlords did not need to accept housing benefit tenants. The Panel were made aware that towns such as Hastings, Folkestone & Margate had more affordable housing and it maybe that such towns would end up accommodating more people on housing benefit which would affect these towns' infrastructure and economy.

- 11.8 The Panel were informed that Mr. Stimpson didn't ask for references and that tenants had a 15 minute face to face interview.
- 11.9 Many landlords in the city don't accept housing benefit tenants, which may have been due to the benefits process and landlords not being able to have direct payments (rents being paid normally to the tenant).
- 11.10 Recently Mr. Stimpson said that there was non-payment of rent from a housing benefit tenant which was normally paid direct to the landlord, however the landlord was not notified that payments had ceased which meant the landlord had to raise the issue with the Council. This can have a negative impact on the landlord which could lead to a detrimental effect on the landlord accepting future housing benefit tenants.

Other problems experienced were around housing benefit tenants who couldn't manage their finances and ended up getting into arrears, even though the rental benefit had been paid into the tenants' bank account.

The Panel were informed that the Credit Union would charge £5 to the landlord for each payment of rent paid.

The Panel were advised that the restoration of direct payments would be beneficial to landlords, which in turn were prepared to accept housing benefit tenants.

The Department for Work and Pensions (DWP) were relaxing regulations and giving local authorities more flexibility with the payment of housing benefit rents directly to landlords.

Mr. Stimpson told the Panel that Brighton & Hove's Housing Benefit team did their utmost to help landlords with any issues in relation to Housing Benefit tenants.

- 11.11 Ms. McLaren clarified that by the end of next March any tenant housed with the assistance of Housing Options would be automatically termed as being "vulnerable" and so could have their housing benefit paid directly to the landlord.

Ms. McLaren also informed the Panel that there was the potential for a perfect storm type effect with mortgage repossessions. Although there would be some help available through the Mortgage Rescue Scheme as the Government had confirmed funding for the next two years, this could result in increased pressure on the private sector.

Mr. Stimpson told the Panel that housing benefit tenants would sometimes display anti-social behaviour; which would leave advice agencies such as the Brighton Housing Trust (BHT) in a difficult situation as they were working with both the tenant and landlord to solve housing issues for the city. (These landlords worked with BHT to accept housing benefit tenants, who couldn't provide any references. Most landlords would not accept tenants without references).

12. EVIDENCE FROM A WITNESS

- 12.1 Jo Player (Acting Head of Trading Standards, BHCC) introduced herself and answered questions.
- 12.2 The Panel were informed that Trading Standards enforced a range of criminal protection law by advising businesses and vulnerable consumers of their rights.
- 12.3 In relation to letting agents in 2005 the Office of Fair Trading (OFT) gave guidance on unfair terms of tenancy agreements. To date Brighton & Hove City Council has not received very few if any complaints regarding unfair terms in tenancy agreements.
- 12.4 The Panel were informed that the Council's Trading Standards team would not advise on housing law as they were not experts, and would advise enquirers to contact other relevant council departments and external organisation eg. BHT.
- 12.5 The Panel were informed how over a period of two years letting agents agreements were checked to see if they were complaint with the OFT guidance. The findings were that:
- 72% of the letting agents agreements were found to be fair to consumers or required minor amendments.
 - 13% were reasonably complaint
 - 15% were found not to be satisfactory and that Trading Standards were working with these letting agents to comply with the regulations
 - Many agents used agreements issued by the Institute of Chartered Surveyors (RICS) And the Association of Residential Letting Agents (ARLA)
 - Unlike estate agents, letting agents did not have to be registered, but could be struck off by ICS or ARLA

The Panel asked for further information on the findings and Ms. Player told the Panel a link to the OFT terms could also be provided.

- 12.6 In answer to whether Trading Standards would support a local accreditation scheme, the Panel were advised that on their website the "Buy with confidence" webpage initially provided for accredited tradesmen could be also advertise any local accreditation schemes for letting agents.
- 12.7 In answer to a question on whether Trading Standards could advice/ regulate letting agents on pricing legislation the Panel were told that Trading Standards were only authorised to work on whether letting agents contractual terms were fair. The service was not involved in the delivery of contracts, as this is a civil matter between the two parties involved. Current Price Marking legislation only requires goods to be price marked, the regulations do not apply to services.

Trading Standards only received 1 or 2 enquiries a month on letting agents.

- 12.8 In answer to how many letting agents the service surveyed the Panel were told that 82 agreements were checked, as there was no requirement for agents to register it was difficult to know the actual number of letting agents in operation.

12.9 Mr. Stimpson informed the Panel that they should look at the agreements between the agent and the landlord and in particular any extra clauses.

13. EVIDENCE FROM WITNESS

13.1 The witness sent their apologies.

The meeting concluded at 12.00pm

Signed

Chair

Dated this

day of