



## HOUSING AND REGENERATION SCRUTINY COMMITTEE

### MINUTES OF THE MULTI-LOCATIONAL SPECIAL MEETING HELD AT PENALLTA HOUSE AND VIA MICROSOFT TEAMS ON THURSDAY, 9TH JUNE 2022 AT 5.30 P.M.

#### PRESENT:

Councillor A. Whitcombe - Chair  
Councillor P. Cook - Vice-Chair

#### Councillors:

D. Cushing, G. Ead, C. Forehead, A. Hussey, A. McConnell, B. Owen, L. Phipps, J. A. Pritchard, S. Williams, W. Williams and J. Winslade.

#### Cabinet Members:

Councillor P. Leonard (Planning and Public Protection), Councillor J. Pritchard (Prosperity, Regeneration and Climate Change), Councillor S. Cook (Housing) and Councillor E. Forehead (Social Care).

#### Together with:

N. Taylor-Williams (Head of Housing), F. Wilkins (Housing Services Manager), Rhian Evans-McLean (Principal Housing Officer - Communities), Julie Reynolds (Landlord Services Manager), Kerry Denman (Housing Solutions Manager), Lesley Allen (Principal Group Accountant - Housing), Sandra Isaacs (Rents Manager), C. Forbes-Thompson (Scrutiny Manager), S. Hughes (Committee Services Officer) and R. Barrett (Committee Services Officer).

### RECORDING ARRANGEMENTS

The Chair reminded those present that the meeting was being recorded and would be made available to view following the meeting via the Council's website, except for discussions involving confidential or exempt items – [Click Here to View](#). Members were advised that voting on decisions would be taken via Microsoft Forms.

Due to technical difficulties this meeting was not live-streamed.

#### 1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors L. Jeremiah, C. Mann and Mrs D. Price.

## 2. DECLARATIONS OF INTEREST

Councillor D. Cushing declared a personal and prejudicial interest in relation to Agenda Item No. 3 – Enforcement and Compliance of the Minimum Energy Efficiency Standards in Private Rented Domestic Properties (MEES) Procedure, Agenda Item No. 4 – The Renting Homes Wales Act 2016 and Agenda Item No. 5 – Housing Revenue Account Rent Policy Review, as a private landlord of a property in the Caerphilly county borough, and as such left the meeting during consideration of these items. Details are also minuted with the respective items.

Councillor A. McConnell declared a personal and prejudicial interest in relation to Agenda Item No. 5 – Housing Revenue Account Rent Policy Review, as a Council tenant, and as such left the meeting during consideration of this item. Details are also minuted with the respective item.

Councillor J. A. Pritchard sought advice from the Scrutiny Manager, as a private landlord of a property in Cardiff, and was advised that there was no requirement to make a declaration of interest.

During the course of the meeting Councillor J. Pritchard (Cabinet Member for Prosperity, Regeneration and Climate Change) declared a personal and prejudicial interest in relation to Agenda Item No. 5 – Housing Revenue Account Rent Policy Review, as family members are Council tenants, and as such left the meeting during consideration of this item. Details are also minuted with the respective item.

## REPORTS OF OFFICERS

Consideration was given to the following reports.

## 3. ENFORCEMENT AND COMPLIANCE OF THE MINIMUM ENERGY EFFICIENCY STANDARDS IN PRIVATE RENTED DOMESTIC PROPERTIES (MEES) PROCEDURE.

Councillor D. Cushing declared a personal and prejudicial interest as a private landlord of a property in the Caerphilly county borough, and as such left the meeting during consideration of this item.

The Cabinet Member for Housing introduced the report for Members of the Housing and Regeneration Scrutiny Committee to consider and take a view on the adoption of the enforcement approach and protocol set out in Appendix 1 to satisfy the requirements under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, as amended, regarding rented domestic properties, prior to its presentation to Cabinet on 13<sup>th</sup> July 2022. The Committee was advised that the Energy Efficiency (Private Rented Property) (England and Wales) Regulation 2015 sets out the legal obligation for landlords to provide energy performance certificates of E or above to existing, new and prospective tenants in most rented homes unless they are exempt. The Regulations impose a minimum energy efficiency standard to help reduce fuel poverty and carbon emissions. A landlord could be liable to a penalty notice if a property is privately rented which either does not have a current EPC or the EPC is rated energy bands F or G. It was highlighted that a large proportion of landlords have already engaged and/or taken the required action without the need to take enforcement action. Members were informed that there are also several third-party companies that offer financial support for private sector landlords to help

improve the energy efficiency of their rented property such as LA ECO Flex, Nest Wales, and Rent Smart Wales Warm Homes funding.

A Member sought clarification in relation to G rated properties and the Head of Housing confirmed that any size property can be G rated, depending on the construction type and energy efficiency provisions. The Member noted Rent Smart Wales offer part funding for first-time gas central heating in properties with EPC bands F and G and it was clarified that plans to enforce the move away from gas central heating applies to new build properties and will not apply to existing properties. In response a query, it was explained how the £60,000 awarded to the Council, following a successful application for funding, will be used. The Committee was also informed how the Head of Housing is in the process of agreeing additional resources to further the work.

A Member asked if the financial cap that only requires landlords to spend a maximum of £3,500 to improve the property will be sufficient, particularly when the rise in building materials costs is considered. It was clarified that a lot of the measures to improve energy efficiency are quite cost effective and examples were provided, such as using LED light bulbs. The Principal Housing Officer for Communities explained that landlords will need to spend the £3,500 in the first instance and then they can access grants to carry out additional works, the cap is proposed to be increased to £10,000.

A discussion took place regarding the enforcement approach and protocol to satisfy the requirements under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 across the 22 unitary authorities. Concerns were raised in that there would be many different approaches across Wales and reference was made to a staged approach adopted by another authority. The Principal Officer for Communities explained that a task group has been established with colleagues in other authorities to share and learn from good practice and to develop a toolkit which includes templates for the procedures, so that there is more consistency throughout Wales. Members were informed that the staged approach criteria set out in another local authority had been looked at but it was decided against as the main aim of the policy is to encourage compliance by landlords. It was highlighted that landlords are given every opportunity, advice and guidance to comply with the legislation and receive three letters before being issued with a penalty. The Housing Services Manager emphasised the responsibilities that come with being a landlord and their legal obligations to meet the requirements and highlighted that by not complying they are contributing to the fuel poverty of their tenants. It was further emphasised that there are products and loans available to landlords if they are struggling and this policy is there to target those landlords who are wilfully non-compliant.

Following consideration of the report it was moved and seconded that the recommendations be approved. By way of Microsoft Forms this was unanimously agreed.

**RECOMMENDED to Cabinet:**

- (i) To agree and adopt the Enforcement Protocol in Appendix 1 as the Council's approach to dealing with identified non-compliances, including the use of Compliance Notices and Penalty Notices where appropriate.
- (ii) The Enforcement and Compliance of the Minimum Energy Efficiency Standards in Private Rented Domestic Properties (MEES) procedure be periodically reviewed and updated in line with Welsh Government Legislation to reflect the maximum values of penalty permitted and the minimum Energy Performance Rating required under the regulation.

#### **4. THE RENTING HOMES (WALES) ACT 2016**

Councillor D. Cushing declared a personal and prejudicial interest as a private landlord of a property in the Caerphilly county borough, and as such left the meeting during consideration of this item.

The Cabinet Member for Housing introduced the report to inform the Committee of The Renting Homes (Wales) Act 2016, which is new legislation the provisions of which affect all rented homes in Wales from 15th July 2022 and to advise Members of the statutory changes that Caerphilly Homes is required to make to comply with The Renting Homes (Wales) Act 2016 and the implications of those changes on the service. The Committee was informed that from 15<sup>th</sup> July 2022, the Act will change the way by which all landlords in Wales rent their properties and it is intended to improve the way in which rented homes in Wales are managed and lived in. The Act aims to make it simpler and easier to rent a home, intending to replace the various and complex pieces of existing legislation with one clear legal framework and gives greater clarity on the rights and responsibilities of both tenants and landlords through written contracts. The Act will also have an impact on how the Local Authority via its Statutory Homelessness functions provides emergency temporary accommodation and access to supported accommodation to those households who are threatened with/or who are homeless and without suitable accommodation to occupy. The Cabinet Member for Housing placed on record his thanks to all the Officers and the team who have worked on the Act.

The Head of Housing advised the Scrutiny Committee that notification has been received from Welsh Government that the implementation date, for the new legislation, of 15<sup>th</sup> July 2022 has been delayed until 1<sup>st</sup> December 2022. It was highlighted that this will enable more time to be spent on some of the background procedures and guidance policies and also provide extra resource time to ensure that new contracts are managed appropriately. A query was raised regarding the impact of the delayed start and the Head of Housing advised Members that he was confident it was not going to change the work done to date or substantially change any of the contracts already received in draft form. It was noted that there has been a recognition by Welsh Government that more time was needed.

A Member referred the Committee and Officers to section 5.6.17 of the report and concerns were raised in that contract holders will no longer be automatically liable for the behaviour of anyone he/she has living with them, and criminal behaviour in the locality and immorality are no longer able to be included within the contract. In response, the Scrutiny Committee was advised that, initially, it will be more difficult to take action for the behaviour of other residents and visitors. However, it was recognised that additional support will need to be provided to work with those tenants to resolve the issues. Members were informed that Welsh Government has issued some guidance in relation to provision of support to tenants where there have been instances of anti-social behaviour. In response to a Member's question, the Committee was informed that immorality can relate to drug use, prostitution, etc. which is currently included in the Tenancy Agreement. In response to a query regarding the potential impact on neighbours, Members were advised that it is a matter of concern and the importance of strong anti-social behaviour policies and procedures were highlighted.

Clarification was sought in relation to the ability for the landlord to temporarily exclude the contract holder from the dwelling for up to 48 hours, a maximum of three times in six months, to ensure the safety of residents and staff or to prevent an eviction and a question was raised in relation to the provision of alternative accommodation during that time. The Scrutiny Committee was advised that Welsh Government has been asked to provide clarity on this and Officers are committed to working with others on this issue to support tenants.

Clarification was sought in relation to the enhanced succession rights outlined in 5.6.15 of the report. Members were advised that guidance has been issued and the legislation sets out who qualifies. It was explained that a reserve successor now has the same entitlement as the main successor, with two rights of succession overall. This will enable homes to be retained by families for another generation.

A Member raised concerns regarding the significant impact on the provision of temporary accommodation by the Local Authority in meeting its homelessness duties and the capital and revenue resource implications associated with implementation of the Act. In response the Scrutiny Committee was provided with an explanation on the financial impact and consequence to the authority.

Following consideration of the report, the Housing and Regeneration Scrutiny Committee discussed and noted the contents.

## **5. HOUSING REVENUE ACCOUNT RENT POLICY REVIEW**

Councillor D. Cushing declared a personal and prejudicial interest as a private landlord of a property in the Caerphilly county borough, and as such left the meeting during consideration of this item.

Councillor A. McConnell declared a personal and prejudicial interest as a Council tenant, and as such left the meeting during consideration of this item.

Councillor J. Pritchard declared a personal and prejudicial interest as family members are Council tenants, and as such left the meeting during consideration of this item.

The Cabinet Member for Housing introduced the report which sought the views of the Housing and Regeneration Scrutiny Committee on the new Rent Policy prior to its presentation to Cabinet. Members were informed that the HRA is funded by rental income received from Council tenants, rather than the Council taxpayer. It was noted that whilst there is a clear separation of these funds, a significant proportion of Council tenants rent is funded from financial support in the form of Housing Benefit or Universal Credit, which is derived from the taxpayers' purse, therefore value for money must always be sought. 75% of tenants receive financial assistance towards their rent. It was highlighted that the key recommendations from the Affordable Housing Supply Review, which was published in April 2019, was that there should be a focus on landlords considering Value for Money alongside affordability. Welsh Government will note favourably where social landlords have used an established affordability model such as the Joseph Rowntree Foundation. The Head of Housing raised a number of points to supplement the introduction and highlighted that Caerphilly is one of the most affordable landlords across the eleven Stockholm landlords, and in terms of affordability the policy does demonstrate that a very affordable rent would be maintained for residents, Council tenants and contract holders.

A question was raised in relation to methods of consultation, particularly in relation to those who are digitally excluded. The Principal Group Accountant for Housing acknowledged that it has been very difficult to engage with all tenants because not all of them have access to online facilities. It was confirmed that online methods have been used but other methods such as telephone calls have been undertaken. Members were also informed that a dedicated group of tenants are regularly being engaged with and they do pass on the information to other tenants.

Clarification and further information were sought in relation to homes with additional bedrooms (bedroom tax). The Rents Manager advised the Scrutiny Committee that the

Council has made use of the Discretionary Housing Payments to assist tenants and offset the shortfall in benefits. Members were informed that last year £720,000 was available to fund this, however central government reduced this figure to £340,00 for this year, which was of concern. However, Cabinet has agreed to increase the amount by £390,00 to allow tenants to be supported for this year.

A Member of the Scrutiny Committee asked if the Council is exploring opportunities to develop new manufactured housing. The Head of Housing advised that the authority has actively been looking at component assembled housing and will also look at other methods, especially where they have energy efficient and time saving benefits. The Committee also heard how prefabricated steel frame construction techniques are already being used in two of the first new schemes built by the Council.

Following consideration of the report it was moved and seconded that the recommendations be approved. By way of Microsoft Forms this was unanimously agreed.

RECOMMENDED to Cabinet:

- (i) To include the JRF Living Rent model as part of our existing rent policy, using the JRF model to benchmark at least every 2 years against our current rent policy to ensure affordability levels are evidenced.
- (ii) Any variances outside of the benchmark Living Rent model to be reported to members as part of the annual rent increase report with appropriate recommendations.
- (iii) To adopt an average household earnings approach to the JRF model rather than based on earnings over 24 Middle Super Output Areas in Caerphilly County Borough. This would maintain the current basic 14 property rent types as opposed to 336 basic property rent types.

The meeting closed at 6.40 p.m.

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes of the meeting held on 13<sup>th</sup> September 2022, they were signed by the Chair.

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CHAIR