

Report to the Cabinet

Report reference: C-036-2020/21
Date of meeting: 16 November
2020



Portfolio: Housing & Community Services – Cllr Holly Whitbread

Subject: Fitness for Human Habitation Act 2018 – Obligations

Responsible Officer: Deborah Fenton
Director – HRA Functions (01992 564221).

Democratic Services: Adrian Hendry (01992 564246).

Recommendations/Decisions Required:

- (1) To adopt a 5-year bin store replacement programme, to meet our requirements under the Fitness for Human Habitation Act 2018. Funded from the HRA**
- (2) To note the improvements to our estates and the opportunity for increasing our recycling thus supporting the climate emergency.**

Executive Summary:

The Fitness for Human Habitation Act 2018 came into place in 2019. This resulted in a large change for Local Authorities with retained stock. Until the change, enforcement action around non-compliance with the Housing Health and Safety (England) Regulations 2005 (HSSR) was not applicable to Local Authorities, because the Local Authority will not serve Notices on itself.

The Act serves to overcome this and enables Tenants to seek redress themselves for breach of contract through the court.

The paper sets out the reasons and benefits for introducing a 5-year bin store replacement programme. Specifically, the details of the Act and the potential risks of not meeting the requirements of the legislation.

As well as the community health benefits of living in a clean, safe environment, the Council has signed up to the Climate Emergency. As such we need to be working towards becoming carbon neutral. In addition, there is the environmental cost of not providing adequate facilities for disposing of rubbish. The costs for removing excess rubbish last year was £39K. In addition to this there is the cost for pest removal, and fly tipping. There is evidence that fly tipping leads to more fly tipping. This also has an overall detrimental impact on local areas as individuals begin to lose the sense of being proud of the area they live in.

Furthermore, the paper highlights the challenges the District has in terms of meeting its target for recycling, thus supporting the climate change agenda.

Appendix A shows examples of the challenges the district faces and examples of the proposed new bin stores

Reasons for Proposed Decision:

This report sets out our requirements under the Fitness for Human Habitation Act 2018 and our recommendations to meet the requirements of the legislation.

Other Options for Action:

Not to adopt the 5-year improvement plan. This may leave us in breach of the legislation and subject to possible legal challenges from residents.

Report

The Fit for Human Habitation legislation (2018) sort to ensure that if a landlord fails to comply with the Act, tenants may have the right to take court action for breach of contract.

As such the court has the power to:

- make the landlord pay compensation to their tenants
- make the landlord do the necessary works to improve their property

In making the decision the court will decide whether a property is fit for human habitation by considering the matters set out in section 10 of the Landlord and Tenant Act 1985. These are whether:

- the building has been neglected and is in a bad condition
- the building is unstable
- there's a serious problem with damp
- it has an unsafe layout
- there's not enough natural light
- there's not enough ventilation
- there is a problem with the supply of hot and cold water
- there are problems with the drainage or the lavatories
- it's difficult to prepare and cook food or wash up
- or any of the 29 hazards set out in the Housing Health and Safety (England) Regulations 2005

The HSSR system was set up to assist Local Authorities to tackle poor housing conditions. The system works on a basis of risk of harm to an actual or potential occupier of a dwelling which results from a deficiency that can give rise to a hazard.

It is the landlord's responsibility to look after a) The exterior of the dwelling and structural elements of the dwelling, and b) The inside facilities which are part of the dwelling. Hazards arise from faults or deficiencies in the dwelling which could cause harm.

One hazard in the rating is: *Domestic hygiene, pests and refuse (by providing access and breeding places for pests, which are a source of infections).*

This is proving particularly difficult for the District to adhere to, on our housing estates. Our

current bin stores are not fit for purpose and lend themselves to allowing fly tipping and residents in nearby blocks to dump rubbish in our bin areas.

This leads to a specific area of concern across some of our bin stores which are:

- Inadequate and unhygienic provision for storage and disposal of household waste.

Recycling and fly tipping

The proposed replacement programme facilitates the opportunity for the District to improve on its target to recycle refuse. The current target is 60% , although we are not far away from that figure at 57% the amount of recycling carried out is disproportionate when looking at owner occupier housing, compared to Council housing. This is largely because our bin stores on our estates are not always suitable for recycling and therefore all refuse is put in the general waste.

Going on the areas with the most council properties – Waltham Abbey, Loughton and Chigwell – we can get up to 26% waste in the recycling bins whereas other areas are a low of 6%.

There is far more contamination on housing estates and the larger the number of flats that use a certain bin area the larger the contamination is.

Furthermore our waste team report that when bins are left in the open such as is the case with some of our bins on housing estates the type of waste particularly chemical waste to animal carcasses increase further. This increases our risk of not meeting our obligations under the 2018 Act

Environmental Factors

Given we have declared a climate emergency it would be prudent to use this opportunity to reduce the amount of waste going to landfill, by developing further recycling options together with a media campaign which will help us to educate residents and thus improve our estates

Furthermore, if we can reduce the number of businesses and non-residents using our bins, we can, over the medium term reduce costs, both directly in terms of the amount of additional pick ups and indirectly by reducing the number of calls to the Council to deal with vermin.

We currently have 50 areas which need replacement bin/recycling stores. We propose to split the programme over 5 years at a cost of £154,000 per year. A total of £770,000 over 5 years.

Resource Implications:

5-year programme £154,000 per year, a total of £770,000 over 5 years. This programme will be funded from the HRA account.

Legal and Governance Implications:

Fitness for Human Habitation Act 2018

Housing Health and Safety (England) Regulations 2005

Safer, Cleaner and Greener Implications:

Increased recycling, reduced rubbish, creating places where people want to live

Consultation Undertaken:

None

Background Papers:

Risk Management:

The business would need to recognise that should we not choose to adopt a 5-year plan, we may be in breach of the 'Fit for Human Habitation Act 2018'

Appendix A

Current Bin Stores



Proposed bin stores

