

Title of meeting:	Cabinet Member for Housing and Preventing Homelessness
Date of meeting:	22 March 2022
Subject:	Private Rental Sector Mediation pilot for Portsmouth
Report by:	James Hill (Director of Housing Neighbourhoods and Building Services)
Reports Authors:	Patrick Lee - Lead Business Manager Housing
Wards affected:	All
Key decision:	No
Full Council decision:	No

1. Purpose of report

- 1.1. The purpose of the report is to present an update on the Private Rental Sector mediation service pilot and to seek approval for an extension of the pilot until 31 March 2023.
- 1.2. The report provides the number of referrals to the pilot to date. The report also sets out the cost of the scheme to date.

2. Recommendations

- 2.1. That the Cabinet Member for Housing and Preventing Homelessness notes the referral information and approves an extension of the mediation pilot until 31 March 2023.
- 2.2. That the extension of the pilot is funded from the Homeless Prevention Grant in the sum of £10,000 for 2022/23.
- 2.3. That councillors are given the information they need to promote the pilot service to their constituents.
- 2.4. That officers arrange for the extension to the pilot to be publicised via social and other media channels and local representative groups including the Portsmouth & District Private Landlords Association (PDPLA).

3. Background

- 3.1. Mediation is an established process where an independent and neutral person helps people in dispute to work together find an agreement that works for both. In the context of the private rental sector the process aims to assist tenants and landlords to come to a shared understanding of their differences so that they can resolve issues. It can sometimes be difficult to sort out problems with private tenancies and using legal processes to solve these problems can be a long and expensive process and can result in unnecessary evictions and homelessness. It may be more appropriate to look at another way of solving problems in these cases such as mediation.
- 3.2. The Private Rental Sector (PRS) Strategy for Portsmouth 2021-2026 (Part 1) includes an action to create a mediation service between landlords/agents & tenants in the city. Action 2: Create a mediation service between landlords and tenants to help improve security of tenure. This may include a 'private sector housing court'. (76% of private renters compared to 65% of landlords who took part in the PRS strategy consultation survey (2020) gave a 72% rating of high or very high priority in support of this action).
- 3.3. The PRS strategy was approved by the Cabinet Member for Housing and Preventing Homelessness on 25 January 2021.
- 3.4. In May 2021, having taken views from the PDPLA, and the Portsmouth Mediation Service (PMS), officers proposed a pilot mediation scheme, using one-off funding provided by the Department for Levelling Up, Housing & Communities (DLUHC)'s Rough Sleeping Initiative funding for 2021/22. The aim was to measure the effectiveness and impact of a landlord and tenant self-referral mediation scheme, and to prevent homelessness and rough sleeping by reducing the number of evictions from the private rental sector.
- 3.5. It was further recommended that the PMS was used as the body to deliver the pilot as they are an established agency in the city and have already worked with the city council's Local Authority Housing service to deliver mediated solutions for council tenant disputes.
- 3.6. The pilot began in July 2021 and during July and August 2021 officers met regularly with the PMS to assess the progress of the scheme. As a result of these discussions it became clear that more time was needed to test the effectiveness of the pilot as initial referrals were low. An extension was approved until 31 December 2021 or until funding ended. The funding is such that the pilot can continue until the end of the March 2022.

4. Referrals to the scheme

- 4.1. Since the start of the pilot the PMS has dealt with 27 cases. These have been a mixture of city council, landlord, stakeholder (Portsmouth Hive/Citizens Advice



Bureau) and direct tenant referrals. There were a further two cases when contact was made but the tenant did not wish to take up the offer of mediation.

- 4.2. In the early stages of the pilot typical referrals were at an advanced stage of dispute and, in some cases, a Section 21 eviction notice had already been served. However, as the pilot scheme has become more established referrals have been received at a much earlier stage of disputes. This has provided the mediators with greater opportunities to engage with both parties.
- 4.3. Most referrals have been about a breakdown of communication between landlord and tenant and the team were able to bring the parties together in the majority of these cases. In other cases, shuttle mediation has been used with the mediator acting as a conduit between the parties. This is particularly useful when there is a high level of emotion or stress.
- 4.4. Of the 27 referrals, 21 have been completed and 6 are ongoing. Of those 21 completed cases, the outcomes are as follows:
 - 4.4.1. 15 have resulted in a positive outcome for the parties involved. These breakdown as follows.
 - 4.4.1.1. In 3 of these cases the intervention prevented the tenant from becoming homeless through eviction.
 - 4.4.1.2. 4 cases where the tenant has moved to a new home without eviction proceedings
 - 4.4.1.3. 1 case where behaviour in the home had been addressed.
 - 4.4.1.4. The remaining 7 cases resulted in improved understanding and communication between landlords/agents and tenants.
 - 4.4.2. Of the six completed that did not result in a positive outcome, this is because either the parties did not wish to proceed, or an amicable resolution was not possible. In one of these cases, the landlord proceeded with obtaining possession.
- 4.5. The six ongoing cases are progressing, but outcomes for these cases are not available at this point.
- 4.6. The cost of the pilot to date is £3,520. This equates to an indicative cost of £130 per case.
- 4.7. Although the pilot appears to have been successful, the scheme has not received enough use, or been given enough time, to fully identify the demand and outcomes from its work. Therefore, there is a desire for the pilot to continue into FY 2022/23.
- 4.8. To fund the continuation of the pilot, it is proposed that up to £10,000 of funding from the Homelessness Prevention Grant is allocated. At current costs this would fund approximately 75 cases. As the costs will be demand led it is difficult to predict the full amount to be spent, or if further funding is needed. Officers will monitor this service and consider allocating further grant if the service proves to be successful, pending a formal decision on the continued nature of the scheme.

4.9. If as a result of a successful pilot it is identified that further financial resources are required a report will be brought back for decision that sets out the initiative, the costs associated with it and a funding source.

5. Approach

5.1. The PMS offers mediation through the use of restorative practice and as the pilot has developed a clear pathway has been emerging with a 'twin track' approach.

5.1.1. Track one: Building the capacity in the PRS to use restorative practice to tackle disputes early. This has been facilitated by a series of training sessions initially provided to landlords/agents but are also being offered to tenants and stakeholders.

5.1.2. There are two potential outcomes to track one. Firstly, to enable tenants & landlords to avoid even having to use mediation in the first place. And secondly to enable both parties to be able to make a good referral. Future potential developments could also include inserting a 'restorative paragraph' in tenancy agreements.

5.1.3. Track two: Dealing with direct referrals from agencies, landlords and tenants as set out in section 4 of this report.

6. Reasons for recommendations

6.1. That officers can examine financial models for the service. This to include seeking to identify a self-funding or cost neutral solution.

6.2. That officers investigate the potential of this work being integrated into an accreditation scheme for landlords and agents in the city. Including having discussions with the PDPLA and others.

6.3. That officers can obtain accurate data on the success or otherwise of the pilot scheme. It has become apparent that the pilot has not been running for long enough for this to be possible so far. Experience has shown that in some cases it can take up to three months to get the parties to talk to each other.

6.4. Data and measures that officers would seek to obtain include:

6.4.1. The number of evictions prevented

6.4.2. The number of tenants that accepted or declined the service

6.4.3. The number of evictions that occurred even after this intervention (and whether eviction was ever considered by the landlord, or if it was never a likely outcome)

6.4.4. How many cases of disrepair were resolved between landlord & tenant without escalation to the city council's Private Sector Housing team

6.4.5. The growth in referrals over the period of the pilot

6.4.6. Participation by landlords

6.4.7. Financial analysis per case

6.4.8. The appetite for the service considering eviction cases emerging post pandemic

6.4.9. The breakdown of cases to assess impact

7. Integrated impact assessment

7.1. An Integrated Impact Assessment can be found at Appendix 1.

8. Legal implications

8.1. Mediation is a mainstream arm of legal practice often being a mandatory requirement prior to being able to institute proceedings before a Court of Tribunal. Mediation is something that a judge will always expect to have been considered and initiated whether by way of voluntary scheme or direction. The fact that PCC has a process in place has the adjunctive benefit of lessening the impact of eviction upon PCC in the sense of avoiding a potential homelessness housing requirement and additionally means that landlords and tenants have an alternative avenue to consider without recourse to proceedings with the problems of cost and uncertainty that come with any Court or Tribunal case. A mediated settlement is very much less likely to fail as opposed to a Court or Tribunal imposed solution.

9. Director of Finance's comments

9.1 The recommendation within this report extends the mediation pilot until 31 March 2023, the cost of this will be met by allocating up to £10,000 of available funding from the Homelessness Prevention Grant.

9.2 The service is demand led and this budget would fund approximately 75 cases. Additional funding would need to be identified, if the service proves to be successful and the original allocation is not sufficient.

9.3 If, as a result of a successful pilot, a report will be brought back that sets out the costs associated with running the service and a funding source will be identified.

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Signed by: **Director of Housing, Neighbourhood and Building Services**

Appendices:

Appendix 1 - Integrated Impact Assessment

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Portsmouth Private Rental Sector Strategy 2021 to 2026	https://www.portsmouth.gov.uk/wp-content/uploads/2021/05/10.513-PRS-strategy_Accessible.pdf
Portsmouth City Council website information on the mediation service	Landlord and tenant mediation service - Portsmouth City Council

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: