

Title of meeting:	Cabinet Member for Housing and Preventing Homelessness
Date of meeting:	23 March 2023
Subject:	Private Rental Sector Mediation pilot for Portsmouth
Report by:	James Hill - Director of Housing Neighbourhoods and Building Services
Reports Authors:	Clare Hardwick - Head of Private Sector 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 a summary of the performance of the Private Rental Sector mediation service pilot.
- 1.2. The report provides several measures of performance of the service including the number of referrals and the outcomes from cases for the pilot mediation scheme 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 information in this report regarding the demand for the mediation service and the outcomes of the cases that have gone through the system.
- 2.2. That the Cabinet Member for Housing and Preventing Homelessness agrees to end the Pilot scheme on 31st March 2023.
- 2.3. That the Cabinet Member for Housing and Preventing Homelessness reviews the situation if there is a need for this service in the future and demand supports it .

3. Background

- 3.1. Mediation is an established process where an independent and neutral person helps people in dispute to work together to 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 local landlord association (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.
- 3.7. On 22nd March 2022 the Cabinet Member for Housing and Preventing Homelessness agreed to the extension of the pilot scheme until 31st March 2023.
- 3.8. This extension was agreed on the basis of allowing officers to obtain more data on the impacts of the scheme including the following:
 - 3.8.1. The number of evictions prevented.
 - 3.8.2. The number of tenants that accepted or declined the service
 - 3.8.3. 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)
 - 3.8.4. How many cases of disrepair were resolved between landlord & tenant without escalation to the city council's Private Sector Housing team

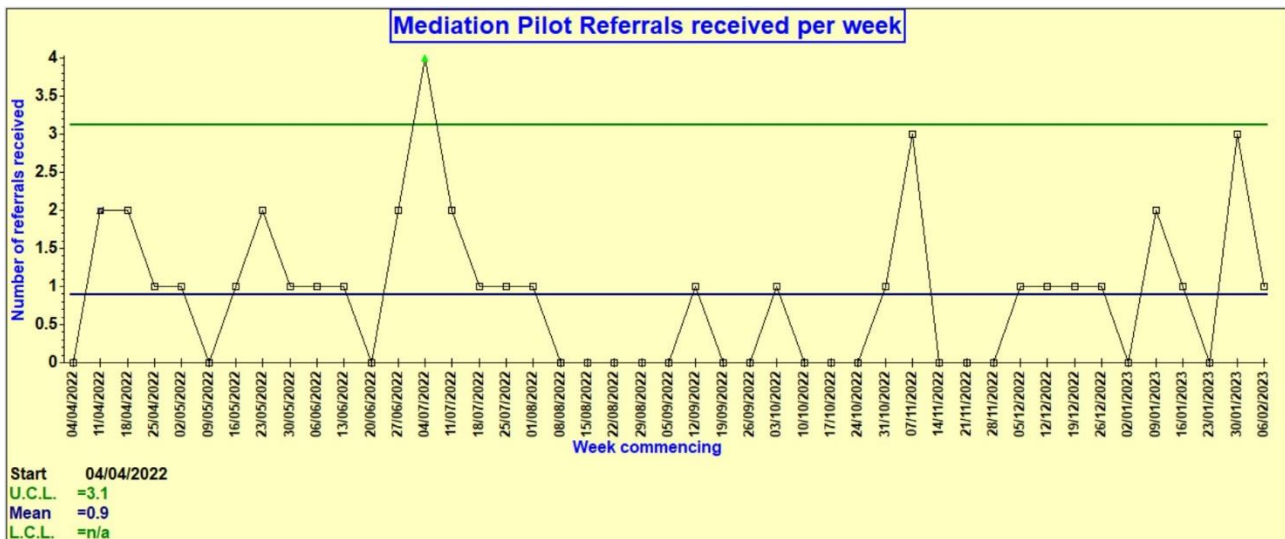
- 3.8.5. The growth in referrals over the period of the pilot
- 3.8.6. Participation by landlords
- 3.8.7. Financial analysis per case
- 3.8.8. The appetite for the service considering eviction cases emerging post pandemic
- 3.8.9. The breakdown of cases to assess impact

4. Approach

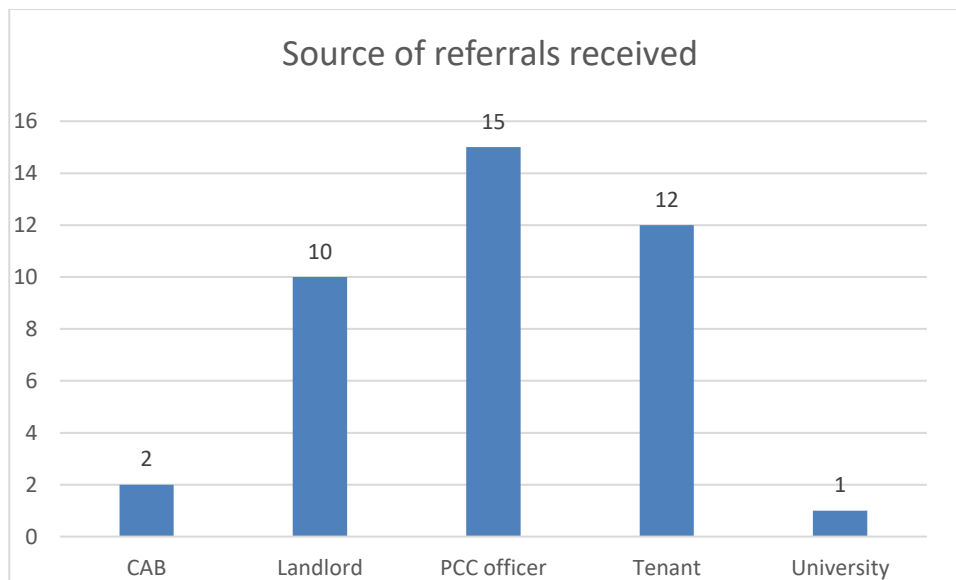
- 4.1. The PMS offers mediation through the use of restorative practice and as the pilot has developed a clear pathway has been emerging with a 'twin track' approach.
 - 4.1.1. Track one: Building the capacity in the PRS to use restorative practice to tackle disputes early. This has been facilitated by a series of training sessions initially provided to landlords/agents but are also being offered to tenants and stakeholders.
 - 4.1.2. 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.
 - 4.1.3. Track two: Dealing with direct referrals from agencies, landlords and tenants as set out in section 5 of this report.
- 4.2. The service has been promoted through social media channels, through the Councils website and landlord newsletters. It has been promoted to a number of stakeholders including various teams within the Council, the university, Advice Portsmouth and Citizens Advice Bureau, and the local landlord association (PDPLA).

5. Data and Measures obtained since the pilot was extended

- 5.1. Since the pilot scheme was extended at the end of March 2022 the PMS has received 40 referrals. The rate of referrals into the service has been a mean average of 0.9 per week.

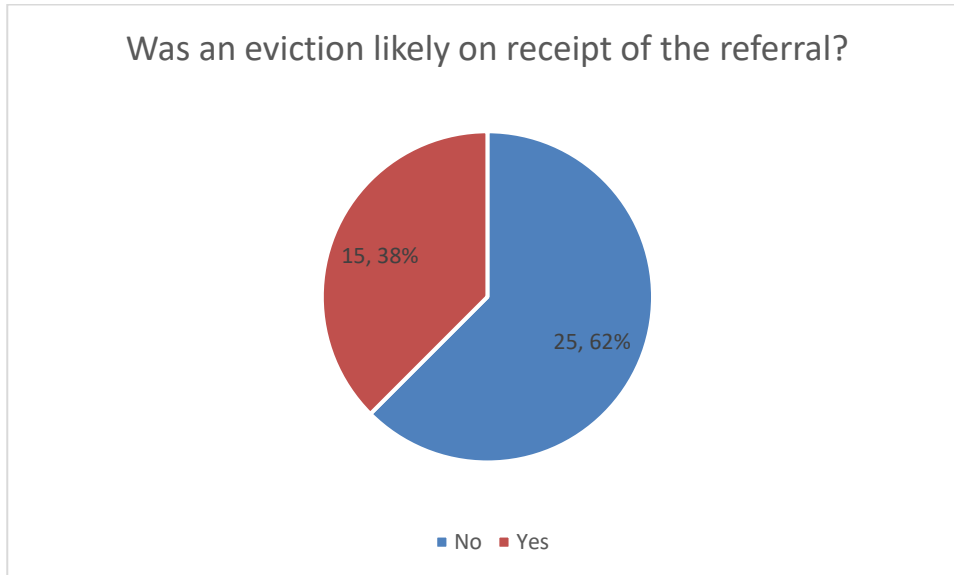


- 5.2. The reasons for referral vary significantly from case to case, but all generally centre around a breakdown in communication between parties, usually between the landlord and tenant. In some cases the PMS team have been able to bring the parties together to discuss their issues. In other cases, 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. However, in 20% of cases either the landlord or tenant has chosen not to engage in the process at all or has withdrawn from the process after initial communication and therefore mediation was not possible.
- 5.3. There have been a mixture of referral sources from council officers, landlords, other stakeholders (the University/Citizens Advice Bureau (CAB)) and direct contact from tenants. Whilst the hope had been from the outset of the pilot that this would be a service for landlords and tenants to access directly, the largest referral source has been from Council officers.



- 5.4. At the point of referral the majority of cases (62%) did not present as likely to result in eviction. This includes some cases where the landlord and tenant were struggling to communicate to agree when access could be allowed to the property to carry out repairs, but there was no suggestion that eviction would occur. A number of referrals were seeking assistance between PRS neighbours regarding noise or disputes over guttering which were not putting tenancies at risk. There were a few cases of tenants making contact about disrepair to the property, which then required the input of the Council's Private Sector Housing team. There were also a significant proportion of cases where tenants made contact with the service having already been evicted to seek help with reclaiming deposits, where assistance could have been sought from Advice Portsmouth or one of the government approved deposit protection schemes. In one case a landlord requested assistance to evict their tenant; misunderstanding the purpose of the service (they were unwilling to consider continuing with the

tenancy). There were also two cases where student tenancies were coming to the end of their tenancy period, in one case the landlord requested help with the student tenants being in rent arrears, and in the other case the students made contact regarding a disrepair issue. Neither of these cases were likely to result in an eviction as the tenancies were ending imminently anyway.



5.5. Of the cases where eviction was likely at the point of referral (38%) there were only three cases where the eviction appears to have been prevented, two of which were as a result of the input of the mediation service.

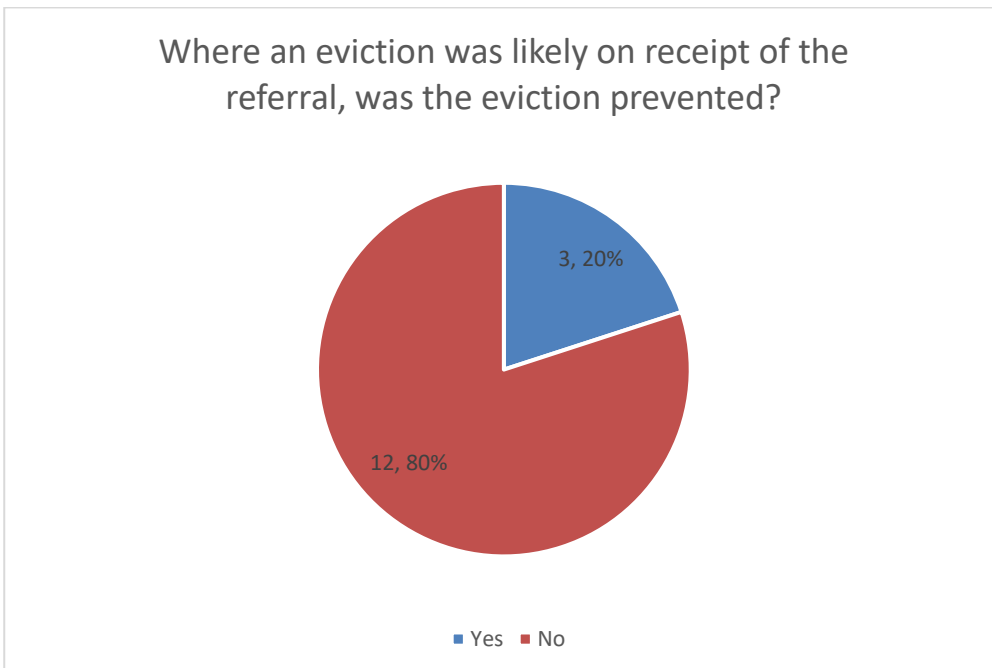
5.5.1. The first case was referred by the tenant who described having a dispute with their landlord which resulted in the landlord serving a section 21 notice a few hours after the dispute occurred. The notes from the PMS team state *"Initial conversation with tenant who spoke with her landlady and resolved the issue. Tenant does not wish me to make any contact with her landlady"*. Although eviction appears to have been prevented, the case was closed without the need for mediation.

5.5.2. The second case was referred by a Council Officer who stated "I work in the Private Rented Sector Access Team. We have a tenant who is putting their tenancy at risk due to noise issues being reported by the neighbours, it's a complicated case. Would you have time for a meeting to discuss the case and the possibility of mediation?" the notes from the PMS team state "Initial conversations with both parties and a mediation booked for beginning of September. Joint meeting held 06/09/2022 an agreement was reached for noise management moving forward. Monitoring case and if noise levels stay reduced landlady will renew tenancy of party who she had intentions to evict." This case is still open as there are still ongoing noise issues from the tenant, but for now it appears the tenancy will be maintained.

5.5.3. The third case was referred by a tenant who said "Our landlord has decided to issue a no-fault eviction to us, this co-indices with recent

complaints to the council about disrepair and we are devastated to be losing our home. It was also advertised for new tenants the day after the eviction notice was sent to us." The notes from the PMS team state "Initial conversation with tenant and contact made with landlord by email he expressed a wish to go forward and have a meeting with his tenant, awaiting him to pass me his phone number and availability for a conversation to discuss details. Tenants' eviction date 5/2/23 so urgency to hold a meeting before this date. Contact now made with Landlord and an agreement to mediate, meeting booked for 2/03/23. Mediation held which resulted in clearing up many issues around miscommunication which led to notice served...Estate Agents were effectively 'in the middle' and mismanagement which landlord is dealing with through his legal team. Landlord revoked eviction and intending a new contract for tenants, also an agreement between parties to be in direct contact going forward. Outstanding maintenance date agreed. CASE CLOSED 03/02/2023." This is a real success story, where the mediation service have been able to bring both parties together to discuss the issues and agree to save the existing tenancy.

- 5.5.4. There is one further case that has recently been referred to the PMS by the tenant directly. The notes for this case state "Tenant got our details from PCC web site and left message on the phone, she has complained to her landlord about noise from building works and now he is trying to evict her." It is unknown at the time of writing this report whether the landlord will be willing to engage in mediation or if the eviction will be prevented.





5.6. Of the 40 referrals received since the pilot was extended, feedback has been received from 4 cases. When asked what was the best thing about the service one responder said *"The care & attention that [the PMS team] gave me when listening & dealing with my query. I felt like she actually cared about my wellbeing & I wasn't just a number."* Another responder said in response to the same question *"Someone interested in my problem and trying for a long time to contact my ex-landlord"*. Another responder said when asked if they had a good outcome to their situation *"Early days yet. I'm not sure that the truce will last."* When asked what the most negative thing was about the service another responder said *"If it didn't work they said they can't enforce anything"*. Although feedback has only been received from 10% of service users, there were common themes from this feedback. Service users expressed appreciation for the support received and spoke positively about the PMS team, albeit that the outcomes to their cases were not necessarily what they had hoped for. The service has provided support for residents through situations which have been emotionally difficult or stressful.

5.7. The cost of the pilot scheme to date equates to £195 per case, so for the 40 referrals received since the end of March 2022 would be a total cost of £7,800. However, when considering the aim of the service was to try to help prevent evictions, and only three evictions do appear to have been prevented this equates to £2,600 per case that has successfully prevented an eviction.

6. Reasons for recommendations

6.1. The scheme has been running since July 2021 and over this period the PMS has received 67 referrals in total. Of these the majority did not appear to present as a risk of eviction from the outset, and only a very small proportion of those that did present as a risk of eviction appear to have resulted in the tenancy continuing at the time the case was closed.

6.2. To fund the continuation of the service, a source of funding for this would be required. No such funding source has been identified. No identified funding is available to continue with the scheme beyond the current period of 31st March 2023.

6.3. Portsmouth City Council's Housing Needs Advice and support service are progressing plans with local voluntary sector partners to collaborate and provide a 'Prevention Hub'. The rationale for this is to be able to intervene at the earliest point to prevent escalation to eviction. This will enhance the work that already takes place by taking a more cohesive and co-ordinated approach. The team will continue to work with tenants and landlords with the aim of sustaining existing tenancies wherever possible, to prevent evictions and subsequent homelessness.

6.4. The impact of withdrawing this service is expected to be minimal. On reviewing the referrals received into the service since the end of March 2022, the majority did not pose a risk of eviction, and of those that did very few resulted in the tenancy continuing. The referrals could be dealt with through one of the following alternative services:



- 6.4.1. Advice Portsmouth (tenancy advice for tenants, support to communicate with landlord)
- 6.4.2. Portsmouth City Council Private Sector Housing team (Support with disrepair problems)
- 6.4.3. Portsmouth City Council Housing Needs Advice and Support team (Support with rent arrears, communication with landlords, advice on maintaining tenancy)
- 6.4.4. Charitable services such as Shelter and Citizens Advice
- 6.4.5. Landlords and Tenants could also engage the services of trained mediators either through the Portsmouth Mediation Service, or local private mediation services
- 6.4.6. Landlords could access support from national landlord support groups such as the NRLA or local landlord support group such as the PDPLA.
- 6.4.7. Letting agent redress schemes (support for landlords or tenants in resolving disputes with their agents)
- 6.4.8. The government have also indicated plans to introduce a Private Renters Ombudsman as part of the upcoming Renters Reform Bill.

7. Integrated impact assessment

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

8. Legal implications

8.1. The City Council has no statutory duty to provide the mediation services as described in this report. Whilst mediation and alternative dispute resolution services are often the most cost effective and speedy forms of resolving disputes, there are a number of existing alternative means by which landlords and tenants can access such services.

8.2. It is within the Cabinet Member's powers to make the recommendations proposed.

9. Director of Finance's comments

9.1. The extension of the mediation pilot until 31 March 2023, was to be met from an allocation of £10,000 of available funding from the Homelessness Prevention Grant. Since the extension was agreed at the end of March 2022, 40 referrals have been received. The total cost to date of £7,800 is well within the budget set. As the recommendation is to end the pilot scheme, no further funding will need to be identified at this time.

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Signed by: **James Hill - 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
March 2022 report for the extension of the Mediation pilot scheme	https://democracy.portsmouth.gov.uk/documents/s37407/PrivateRentalSectorMediationPilotforPortsmouth.pdf

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

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Signed by: