
PRIVATE RENTED SECTOR HOUSING

Purpose of Report

1. To provide Members with background information to inform their scrutiny of how the Council is working with landlords to improve homes in the private rented sector in Cardiff. This includes written submissions provided by Residential Landlords Association (RLA), Association of Letting and Management Agencies (ALMA), Cardiff Students Union and local Ward Councillors for Cathays and Gabalfa.

2. The following documents are attached as appendices:
 - a. **Appendix A** – RLA written submission
 - b. **Appendix B** – ALMA written submission
 - c. **Appendix C** – Cardiff Students Union written submission
 - d. **Appendix D** – Ward Councillors written submissions
 - e. **Appendix E** – Letter from Cllr Derbyshire, Cabinet Member – Environment, dated 30 June 2016
 - f. **Appendix F** – Rent Smart Wales – metrics.

Scope of Scrutiny

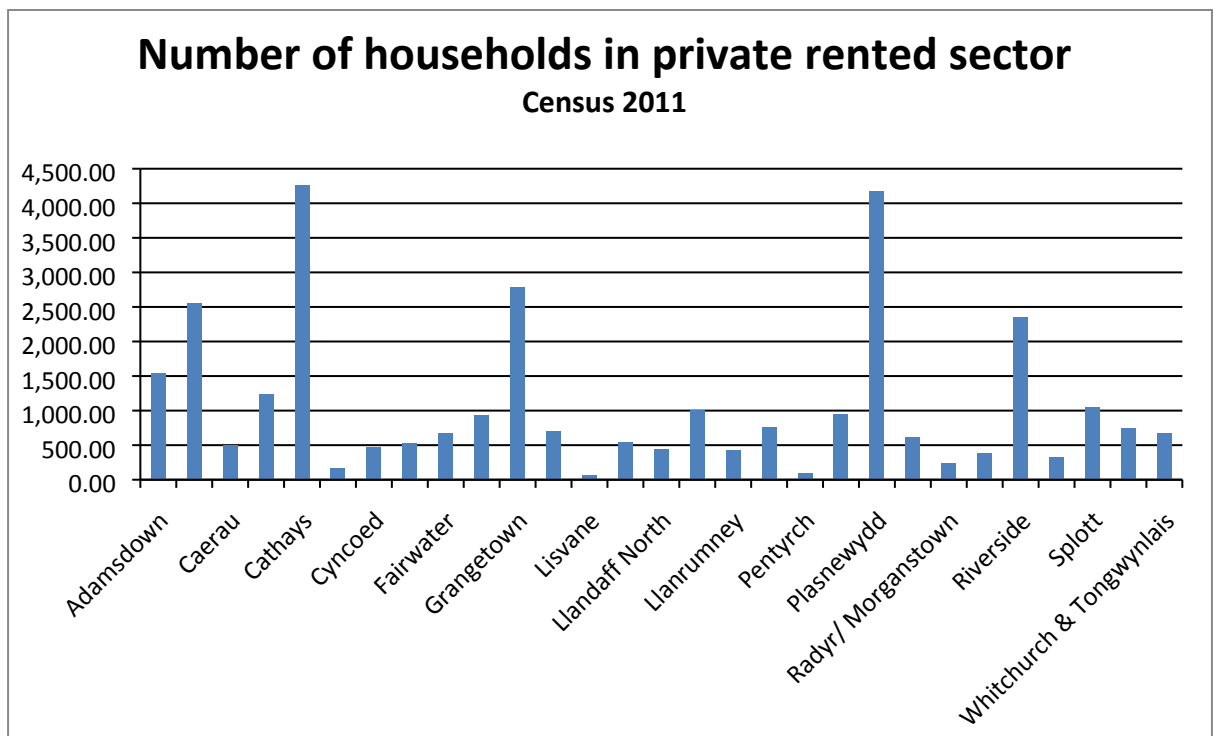
3. This scrutiny has a specific focus on the Council's commitments with regards to private rented sector housing, detailed in the Council's Housing Strategy 2016-2021 and the Cardiff Student Community Partnership Action Plan 2015-2018.

These cover housing enforcement (including Rent Smart Wales), Houses in Multiple Occupation (HMO) licensing (including Additional Licensing schemes), returning empty properties to use and the interface between these.

An Overview of the Private Rented Housing Sector in Cardiff

4. The 2011 Census data shows that the private rented housing sector in Cardiff almost doubled, from 11.1% to 21.9%, between 2001 and 2011. This is higher than the Welsh average of 14.2% households being in the private rented sector and equates to approximately 31,200 households in Cardiff living in the private rented sector in 2011.

5. Whilst there are private rented properties in every ward in Cardiff, the table below shows that the main areas of concentration are Cathays (4,260 households), Plasnewydd (4,168 households), Grangetown (2,792 households), Butetown (2,550 households) and Riverside (2,352).



6. It is difficult to be certain how many private rented sector landlords and agents operate in Cardiff. The Welsh Government estimates that, across Wales, there are between 70,000 and 130,000 private landlords, of which approximately 15% operate in Cardiff. This equates to between 10,500 and 19,500 private landlords with properties in Cardiff. There are also estimated to be approximately 1,000 agencies operating across Wales. There were 5,344 Houses in Multiple Occupation (HMO) known to the Council in 2015/16, although overall it is estimated that there are approximately 8,000 HMOs in Cardiff.
7. The 2011 Census shows that, of the 31,200 households in Cardiff living in the private rented sector, 3,080 households consisted solely of students. The majority of these are located in Cathays, Gabalfa and Plasnewydd, where they constitute a significant proportion of the overall private rented market, as the table below illustrates:

Privately renting student households¹

Electoral Ward	Number of privately rented properties	% of all households	Number of full time student privately rented households	% of all privately rented properties
Cathays	4,260	68.8%	1,769	41.5%
Gabalfa	929	38.3%	216	23.5%
Plasnewydd	4,168	55.1%	785	18.8%

8. The last Private Sector House Condition Survey was carried out in 2005. This found that a quarter of the unfit properties in Cardiff were in the private rented sector.

¹ Information taken from Cardiff Student Community Partnership Action Plan 2015-2018

Council Commitments

9. The Council's Housing Strategy 2016-2021, approved at Council on 24 November 2016, contains the following commitments to improve homes in the private rented sector:

- *Undertake a private sector stock condition survey (March 2021)*
- *Work in partnership with Rent Smart Wales and other Councils to develop a consistent and effective private sector housing enforcement approach across Wales (November 2017)*
- *Evaluate the operation of the HMO Additional Licensing schemes and consider the case for extending city-wide (September 2018)*
- *Review the approach taken to tackling empty properties (September 2017)*

10. In addition, the Council is a joint signatory to the Cardiff Student Community Partnership Action Plan 2015-2018, which contains the following actions with regard to student accommodation:

- a. *Monitor any population changes of students*
- b. *Ensure student accommodation and impact are incorporated into planning policy*
- c. *Ensure adequate supply of Halls of Residence*
- d. *Maximise opportunities to provide information on accessing the private rented sector*
- e. *Reduce the level of properties below the legally required standard*
- f. *Educate and improve student knowledge of legal rights*
- g. *Review access to accommodation for disabled students in the private rented sector.*

Housing Enforcement

11. The Council has powers to address standards in the private rented sector which impact on the health and safety of tenants, progressing from informal action to statutory notices and ultimately prosecution. The Housing Health and Safety Rating System, introduced by the Housing Act 2014, is *'used to assess the degree and likelihood of harm from reported issues such as: dampness; excess cold; lack of space; and poor hygiene. Hazards are scored and classified as being Category 1 (mandatory action required) or Category 2 (discretionary action). Cardiff has decided to always act upon Category 2 hazards of fire, security, structural collapse and falling elements.'*²
12. Housing enforcement is undertaken by the Housing Safety section of Neighbourhood Services in Shared Regulatory Services. They work *'with private landlords and owners to provide warm, safe and healthy homes for tenants. They ensure that Houses in Multiple Occupation are licensed through Mandatory and Additional Licensing Schemes, inspecting HMO's and improving physical and management standards of privately rented accommodation. Complaints from tenants about their rented accommodation are investigated; these can include complaints about damp, mould, heating disrepair, nuisance and student housing issues. Problems with empty homes that have fallen into disrepair are addressed and immigration inspections undertaken.'*³
13. The Shared Regulatory Services Business Plan 2016-17 contains the following actions aimed at improving the quality of private rented sector housing accommodation:
- a. Quarter 1 – *'Review existing procedures across SRS for the inspection of properties in the private rented sector and identify areas of inconsistency and best practice in approach across the 3 authorities. Ensure effective implementation of HMO Licensing Schemes in Plasnewydd and Cathays through prioritised inspection schedules.'*

² Extract taken from Shared Regulatory Services Business Plan 2016/17

³ Extract taken from Shared Regulatory Services Business Plan 2016/17

- b. Quarter 2 – *‘Review scope of existing services provided within the SRS Neighbourhood teams, including response to waste/fly tipping and Pest Control enquiries and develop a standard response protocol within each local authority. Agree data sharing and enforcement protocols with Rent Smart Wales and carry out all necessary staff recruitment and training for the proper resourcing of those new enforcement duties.’*

- c. Quarter 3 – *‘Following implementation of Rent Smart Wales review and evaluate demand across SRS Neighbourhood teams in relation to regulation of the private rental sector to ensure staff resources are deployed in accordance with need.’*

- d. Quarter 4 – *‘Report of Joint Committee on regulation of private rental sector across SRS and the range of public health interventions undertaken by Neighbourhood teams.’*

HMO licensing

- 14. The Housing Act 2004 introduced licensing for HMOs. All private properties with 5 or more occupiers and 3 or more storeys must have a HMO licence; this is known as mandatory HMO licensing. As at June 2016, the Council had licensed 900 such properties in Cardiff.

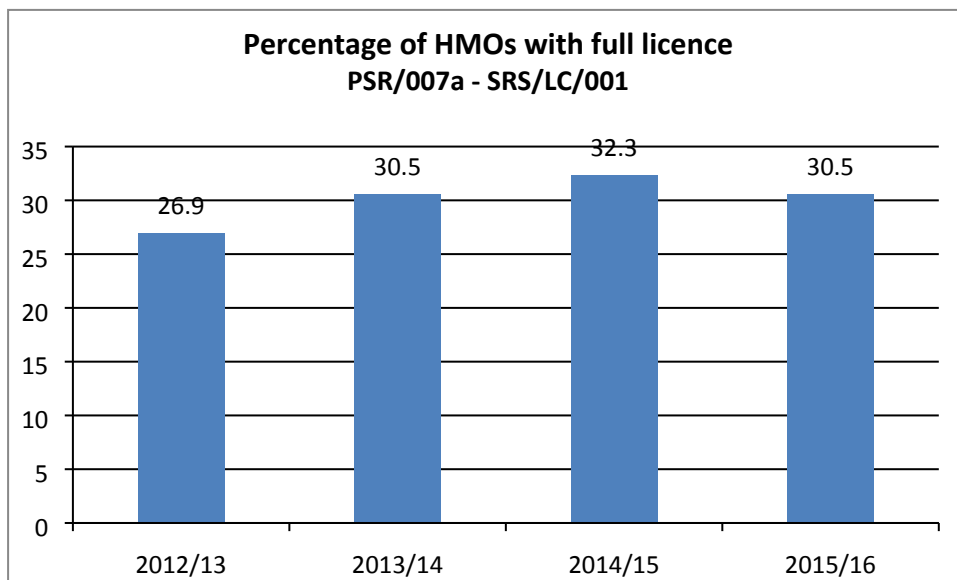
- 15. The Housing Act 2004 enables the Council to extend licensing to other HMOs, via additional licensing schemes. From 2010 to 2015, an Additional Licensing Scheme operated in Cathays, leading to an additional 1,664 properties being licensed. This scheme has been extended for another 5 years, commencing on 1 January 2016. An additional licensing scheme also operates in Plasnewydd, where in June 2016, an additional 375 HMOs had been licensed, with a further 310 HMOs in the process of being checked. The Cathays and Plasnewydd schemes should bring around 50% of the City’s 8,000 HMOs under effective licensing control.

HMO Performance Information

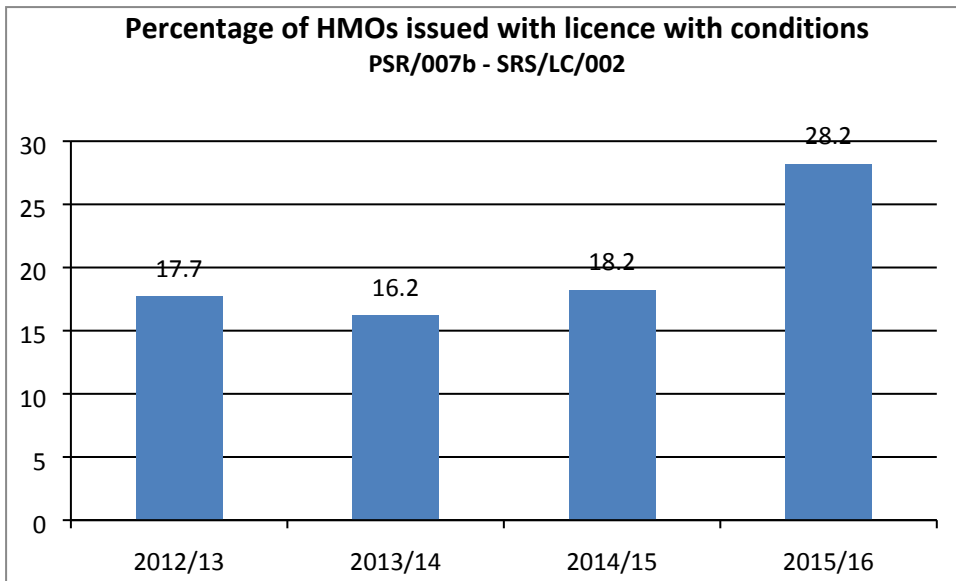
16. The Council keeps local performance indicators regarding HMOs, measuring the following:

- a. percentage that have a full licence;
- b. the percentage that have a licence with conditions attached; and
- c. the percentage where enforcement activity is underway as at 31 March of each year.

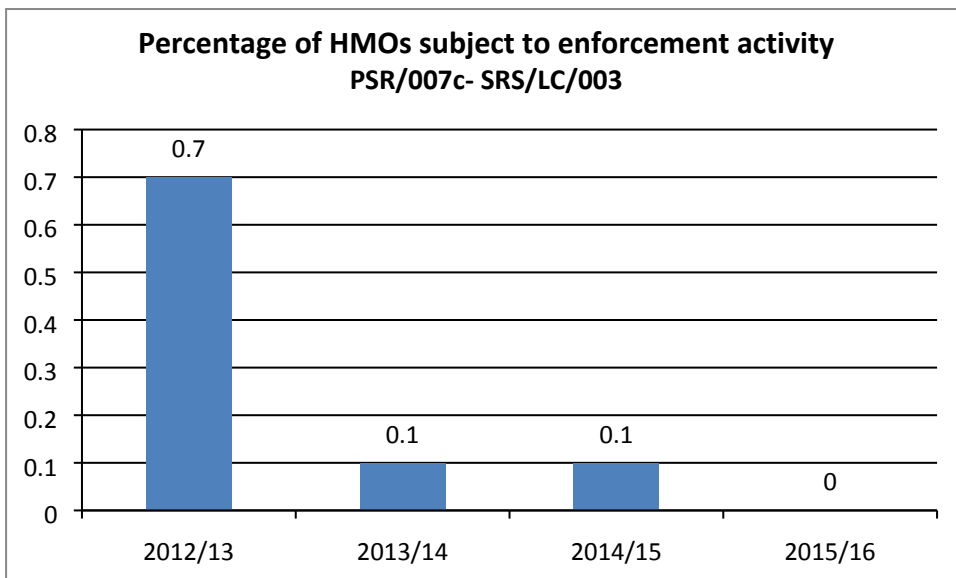
17. The chart over-page shows the results for the indicator now known as SRS/LC/001, previously known as PSR/007a: *Of the Houses in Multiple Occupation known to the local authority, the percentage that have a full licence:*



18. The chart over the next page shows the results of the indicator now known as SRS/LC/002, previously known as PSR/007b: *Of the Houses in Multiple Occupation known to the local authority, the percentage that have been issued with a licence with conditions attached.*



19. The chart below shows the results for the indicator now known as SRS/LC/003, previously known as PSR/007c: *Of the Houses in Multiple Occupation known to the local authority, the percentage that are subject to enforcement activity at 31 March.*

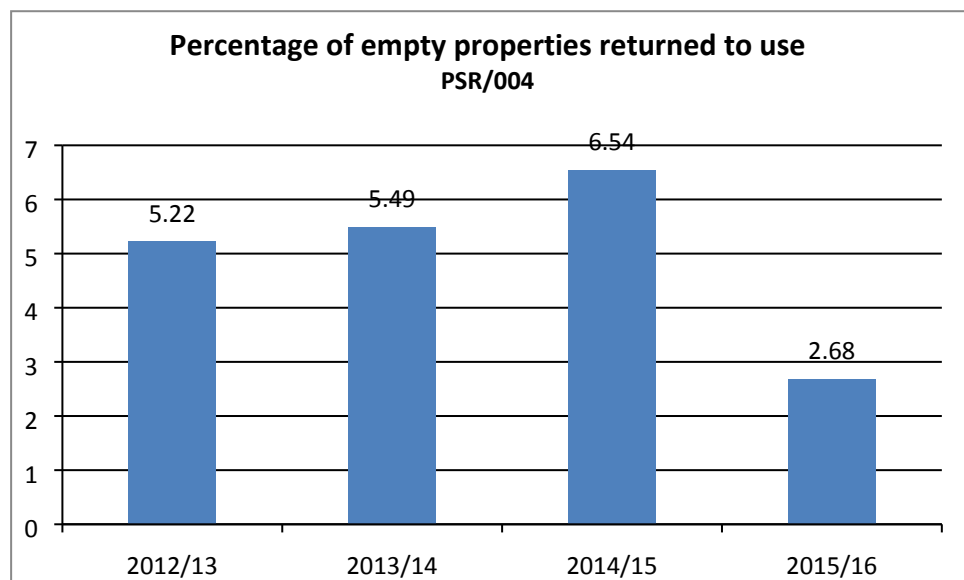


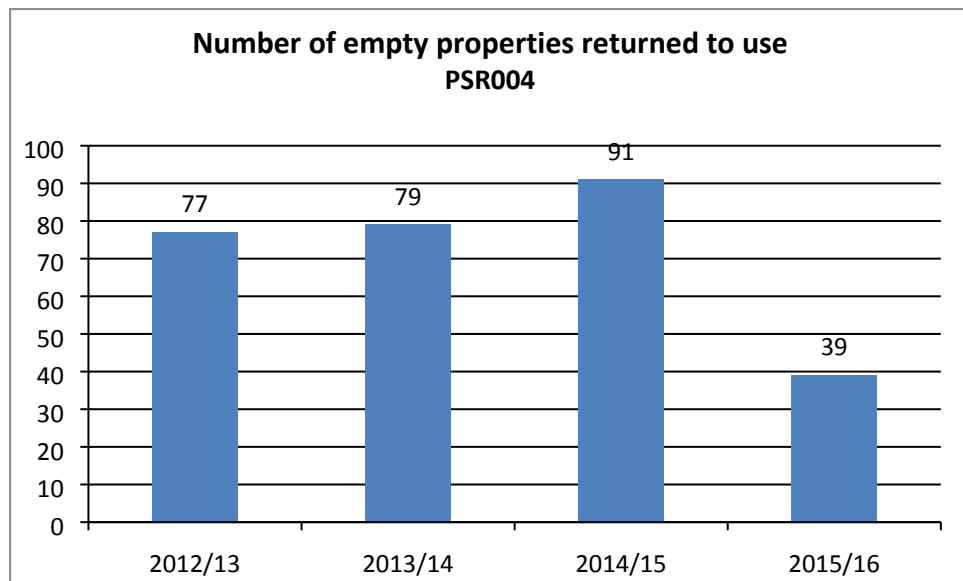
Returning Empty Properties to Use

20. The Council also has powers to return certain empty privately owned properties to use. There are approximate 4,000 privately owned empty dwellings in Cardiff, of which 1,300 have been vacant for over 6 months. The Council works with owners to help bring their properties back into use, focussing on those that have been empty the longest. However, when this approach fails, consideration is given to Compulsory Purchase, Enforced Sale or other enforcement measures.

Empty Properties Performance Information

21. The Council also collects a national strategic performance indicator, PSR004, which is: *The percentage of private sector dwellings that had been vacant for more than 6 months at 1 April which were returned to occupation during the year through direct action by the local authority.* The charts below shows the Council's performance from 20012-2016, with the first chart showing the results for PSR004 and the second chart showing the number of properties this involved.





22. Members explored their concerns with performance in this area at their Committee Meeting in June 2016. Members heard that there were resource issues as a result of the negotiations to set up the Shared Regulatory Services and that officers would be meeting to try to resolve these. A copy of the letter regarding this, from Councillor Derbyshire, Cabinet Member – Environment, is attached at **Appendix E**.

Rent Smart Wales

23. The Housing (Wales) Act 2014 placed new obligations on private landlords and/or agents to register themselves and the addresses of their rental properties and to obtain a licence, in order to secure better protection for private tenants through improved property management practices. In order to obtain a licence, applicants must be deemed 'fit and proper' and undertake approved training. Once licensed, they must comply with a Welsh Government approved letting and management Code of Practice.

24. A licensing authority was established for the whole of Wales, known as Rent Smart Wales, which is run by Cardiff Council with funding from the Welsh Government. A new team was established, consisting of 49 Full Time Equivalent

posts; Welsh Government meets the costs associated so that there are no financial implications for Cardiff Council in being the host authority.

25. At this Committee's Call-In held in October 2015 (on the re-declaration of the additional licensing scheme in the Cathays ward), Members heard that *'under the Rent Smart scheme landlords will be required to register and to take training in order to get their licence. The licence will have conditions that landlords will have to comply with. If a lot of complaints are received about a landlord then that landlord could have their licence revoked. Licences could also be revoked if a landlord is convicted of certain criminal offences. Rent Smart will be in operation across Wales and sharing information with local authorities. This will assist them to deal with poor standards of rented accommodation. Fixed penalties can be used for registering and for failure to comply with certain provisions of the Housing Act (2004)' ... 'Rent Smart will not have a property by property, area by area approach ... and it will not focus on things like environmental health and fire safety. Also, it will not have officers knocking on doors and following up work with tenants and landlords.'*⁴

26. Rent Smart Wales is only responsible for the licensing of landlords and agents; the housing enforcement role remains with each local authority. In Cardiff, the housing enforcement role sits with Shared Regulatory Services. Their Business Plan 2016-17 contains the following actions in relation to Rent Smart Wales, in addition to those detailed at Point 13 of this report:

- a. Quarter 1 - *Support Rent Smart Wales by collating databases of landlords and agents from Cardiff, Vale of Glamorgan and Bridgend from existing databases of housing enforcement records across SRS to assist with implementation of scheme.*
- b. Quarter 2 - *Review and allocate resources in Neighbourhood Management teams to reflect additional enforcement demand as a result of Rent Smart Wales introduction.*

⁴ Extracts from minutes of Community & Adult Services Scrutiny Committee 7 October 2015

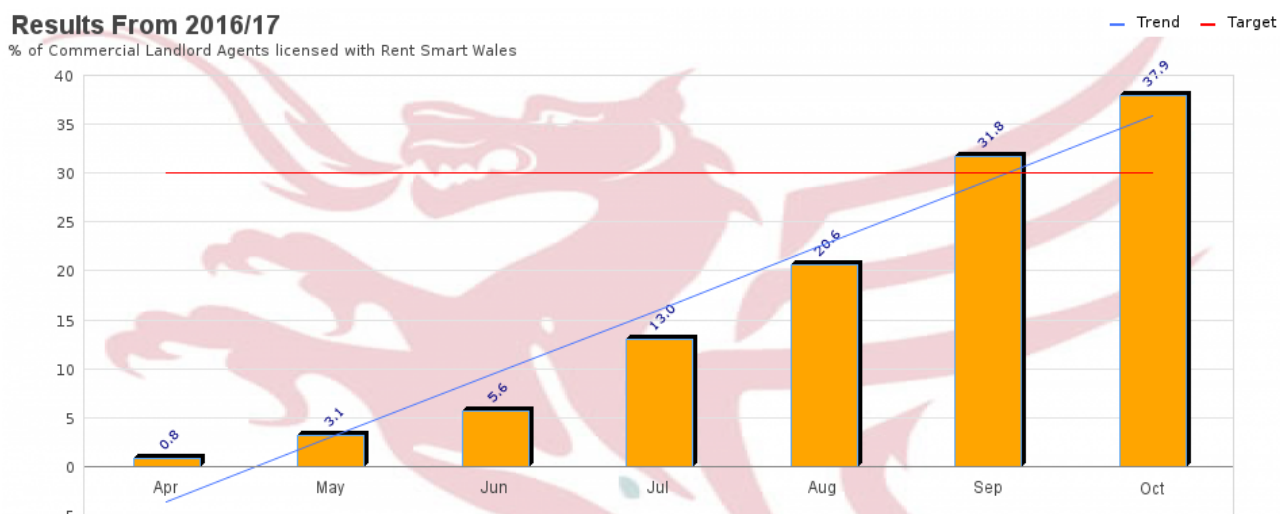
- c. Quarter 3 - *Continue to promote Rent Smart Wales through stakeholder liaison groups such as Cardiff Students Union, Landlord Forum, tenant groups and local authority partnerships.*

- d. Quarter 4 - *Together with Rent Smart Wales review take up of scheme within the SRS and prioritise enforcement work and resource allocation required for 2017/18.*

Rent Smart Wales Performance Information

27. There are a four performance indicators that the Council reports on in relation to Rent Smart Wales, which are shown below. All of these are cumulative⁵:

a. % of Commercial Landlord Agents licensed with Rent Smart Wales

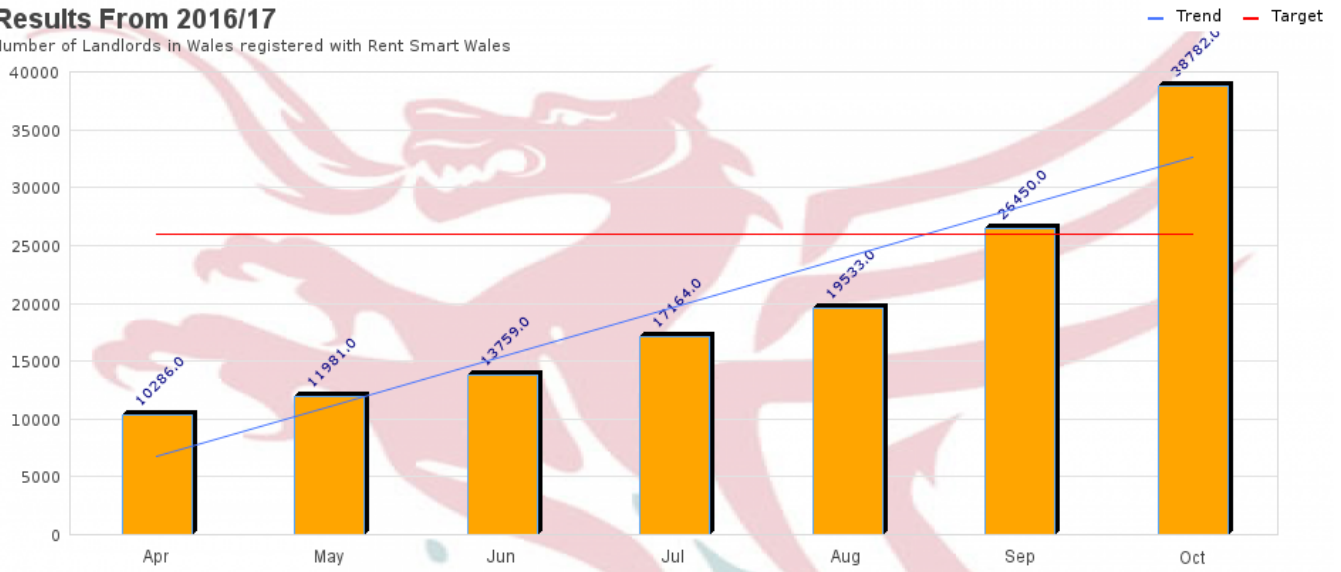


⁵ All graphs downloaded from Cardiff Council Improvement System (CIS) on 29 Nov. 16

b. Number of Landlords in Wales registered with Rent Smart Wales

Results From 2016/17

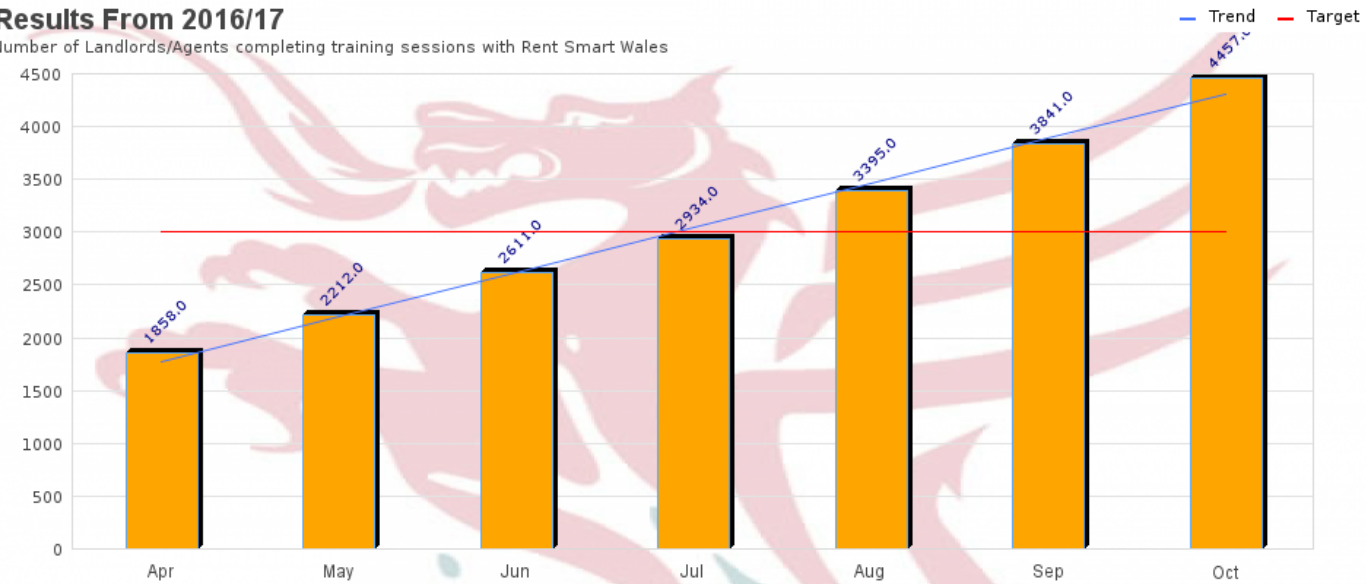
Number of Landlords in Wales registered with Rent Smart Wales



c. Number of Landlords/ Agents completing training sessions with Rent Smart Wales

Results From 2016/17

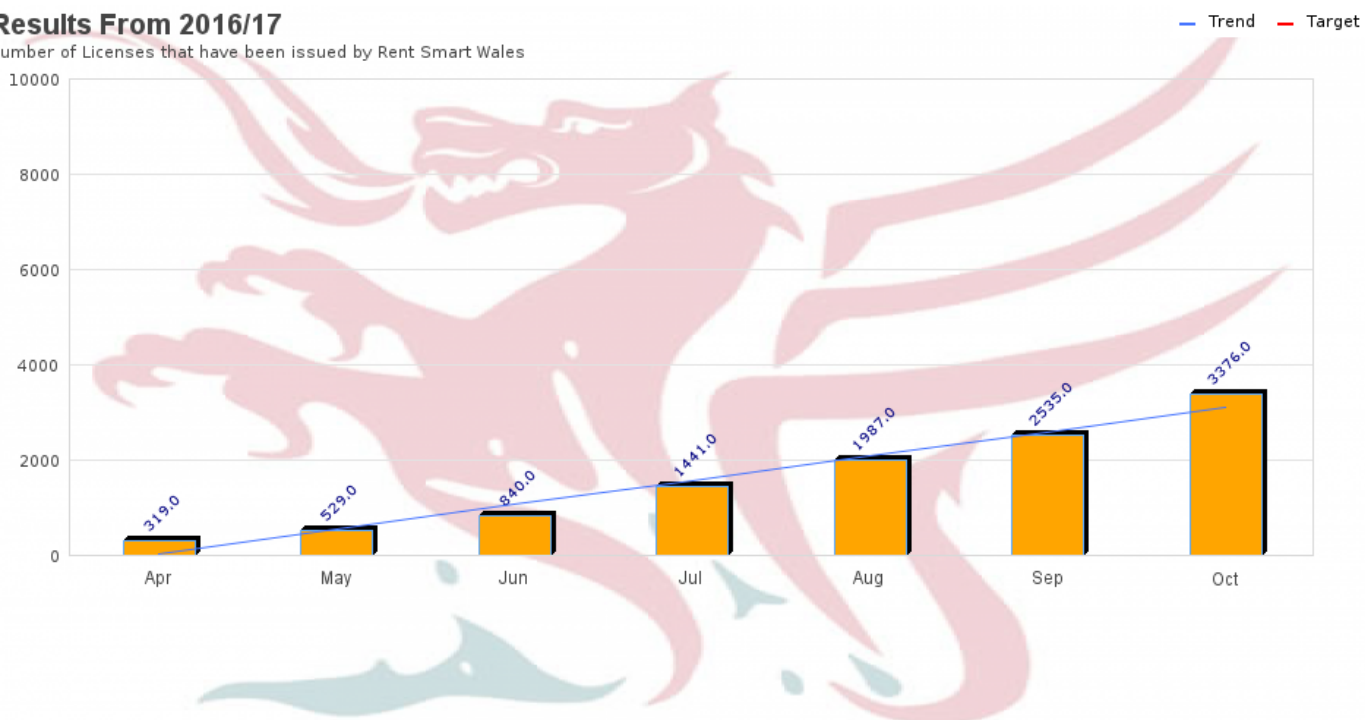
Number of Landlords/Agents completing training sessions with Rent Smart Wales



d. Number of Licenses that have been issued by Rent Smart Wales

Results From 2016/17

Number of Licenses that have been issued by Rent Smart Wales



28. Rent Smart Wales regularly publish progress reports on their website

(<https://www.rentsmart.gov.wales/en/>) and the latest of these are attached at Appendix F. These provide metrics regarding how many landlords and agents have registered and have been licensed as well as how many registrations and licenses are in progress and how many properties these cover. Also attached at Appendix F is a summary of the feedback received from those who have undertaken Rent Smart Wales training courses.

29. The 23 November 2016 marked the start of the powers which mean enforcement action can be taken against landlords and agents who are unregistered or unlicensed. A statement from the Welsh Government Communities Secretary Carl Sargeant, released on 22 November 2016⁶, stated that:

'By midnight on Monday November 21st over 55,000 private landlords had registered, another 12,000 had started the registration process and over 81,000 users had created accounts and are involved in the process of complying.'

⁶ Downloaded from Welsh Government website 23 November 2016

'96% of those attending the training sessions have said it would make them better landlords, which is precisely what we are trying to achieve.'

'Rent Smart Wales has said that those who have started the process to comply will not face enforcement action if they have done all they reasonably can to comply.'

Previous Scrutiny

30. Over the previous three years, this Committee has undertaken several scrutinies covering various aspects of private rented sector housing in Cardiff, including: the implementation of Rent Smart Wales; a Call-In on the re-designation of additional licensing in Cathays; work underway with private sector landlords in response to the Housing (Wales) Act 2014 and the ability to discharge homelessness duties using the private rented sector.
31. At their Committee Meeting 4 March 2015, Members carried out pre-decision scrutiny of the draft report to Cabinet titled *'Cardiff Council Designation as Single Licensing Authority for powers contained in Part 1 of the Housing (Wales) Act 2014 – Welsh Agent and Landlord Licensing Scheme'*. Following the meeting, the then Chair Councillor Groves wrote to Councillor Derbyshire, Cabinet Member Environment, stating that *'Overall, Members are supportive of the proposal that Cardiff Council becomes the Single Licensing Authority, with a Memorandum of Understanding to set out roles, responsibilities and funding arrangements across Welsh local authorities. Members appreciate the need to improve the private rented sector, from both a landlord and tenant perspective and recognise the benefits that flow from the licensing scheme. With regard to the funding for the Single Licensing Authority, Members note that officers have submitted bids to the Welsh Government to ensure that costs that cannot be met by the fees charged will be met by the Welsh Government. We agree that the response from Welsh Government to these bids must be available to Cabinet before they take a decision on this matter. Members recommend that, if necessary, the item be delayed from the proposed Cabinet meeting on 19th March to a later date when*

*the Welsh Government response has been received. Members request that they be informed when the Welsh Government response is received.*⁷

32. Councillor Derbyshire responded to the above, in a letter dated 11 March 2015, stating *'I am pleased to be able to advise that written confirmation has been received today from Welsh Government outlining its commitment to the project and the financial support available for 2015/16. This will be given proper consideration by Cabinet prior to any final decisions being taken.'*
33. This Committee held a Call In on 7 October 2015 regarding the re-declaration of the additional licensing scheme in Cathays Ward. Following this meeting, Members amended their 2015/16 work programme to include an update on HMO additional licensing schemes in Cathays and Plasnewydd, which came to the June 2016 committee meeting. The update report highlighted that there had been a recalculation of HMO licensing fees following an activity based costing exercise. The new fee structure allows for a discount of £150 for landlords who are re-licensing HMOs first licensed during 2010/11 and where properties are fully compliant with HMO standards.
34. Members also considered the work underway with private sector landlords in response to the Housing (Wales) Act 2014 and the ability to discharge homelessness duties using the private rented sector at their meeting on 2 March 2016, which included an update on the implementation of Rent Smart Wales.
35. Following the meeting, the Chair Councillor McGarry wrote to Councillor Derbyshire, Cabinet Member Environment, stating *'Overall, Members are pleased with the progress made to date and reassured by the answers provided at the meeting, which demonstrated that officers understood the dynamics operating in the private rented sector and were responding to these to ensure that Rent Smart Wales is implemented successfully. Members note the following points:*

⁷ Letter dated 9* March 2015 from Cllr Groves, Chair CASSC, to Cllr Derbyshire, Cabinet Member

- *Fewer landlords have been licensed to date than was estimated in the original business case but this is due to landlords now having a year's grace before they have to apply;*
- *In order to try to avoid a spike in applications (and subsequent renewals), officers are working on incentive schemes to encourage early applications;*
- *Welsh Government has provided each local authority with approximately £13,000 to meet the costs of promoting Rent Smart Wales and data cleansing;*
- *Welsh Government has provided Cardiff Council with £400,000 to cover the set up costs for hosting Rent Smart Wales, which means there will be no costs to Cardiff Council;*
- *Recent case law means that the Rent Smart Wales fees can be used to cover the enforcement costs, including administration costs, borne by individual local authorities.'*

36. The response from Councillor Derbyshire included additional information that Members requested on the milestones and metrics that are in place to measure progress in implementing Rent Smart Wales and for information on the actual proportion of money that comes in from fees and goes out to each Local Authority to cover enforcement costs.

37. With regard to the milestones and metrics, Members were provided with a copy of the Core Data set which is sent monthly to Welsh Government, and a list of the relevant Performance Indicators, as detailed at Point 26 of this report.

38. The response from Councillor Derbyshire also explained that *'In the business model over the next five years there is £5,459,552 assigned to Local Authority Enforcement (this also includes enforcement for City of Cardiff Council.) This is out of the total 5 year costs of £25,690,073, therefore 21.15% of the total fees.'*

39. Members also scrutinised the draft Shared Regulatory Services Business Plan 2016/17 at a joint meeting with the Environmental Scrutiny Committee on 3 March 2016 and scrutinised performance trends regarding returning empty properties to use at their meeting in June 2016, as detailed earlier in this report.

Way Forward

40. At the meeting, Councillor Bob Derbyshire, Cabinet Member for Environment, and Councillor Dan De'Ath, Cabinet Member for Skills, Safety, Engagement and Democracy, may wish to make a statement. Members will have the opportunity to ask questions of the following officers:

- Andrew Gregory – Director of City Operations and the Council's representative on the Shared Regulatory Services Management Board
- David Holland – Head of Shared Regulatory Services
- Will Lane – Operational Manager, Neighbourhood Services
- Bethan Jones – Operational Manager, Rent Smart Wales.

41. As part of the scoping exercise for this scrutiny, Members identified that they particularly wished to ask witnesses questions on the following:

- a. Their views on: what is working well, what needs to improve and how improvements could be achieved?
- b. How enforcement activity and licensing activity is being managed
- c. Specific questions on Rent Smart Wales – including the level of registrations and how enforcement activity will be undertaken in Cardiff
- d. Whether the staffing resources issues have been resolved between Shared Regulatory Services and Communities, Housing and Customer Services with regard to bringing empty properties back into use.

Financial Implications

42. There are no direct financial implications arising from this report. However, financial implications may arise if and when the matters under review are implemented with or without any modifications.

Legal Implications

43. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

RECOMMENDATIONS

The Committee is recommended to:

- I. Consider the information provided in the report, appendices and at the meeting
- II. Agree any comments and observations Committee wishes to make to the Cabinet.

DAVINA FIORE
Director of Governance and Legal Services
01 December 2016