

# Evidence for Cardiff Council's Community & Adult Services Scrutiny Committee

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## **ABOUT THE RESIDENTIAL LANDLORDS ASSOCIATION**

The Residential Landlords Association (RLA) represents 48,000 small and medium-sized landlords in the private rented sector (PRS) who manage over 1,000,000 properties across the UK. It seeks to promote and maintain standards in the sector, provide training for its members, promote the implementation of local landlord accreditation schemes and drive out those landlords who bring the sector into disrepute. Members also include letting and managing agents.

November 25th, 2016

Thank you for inviting the RLA to contribute to the forthcoming scrutiny session on Cardiff Council's commitments regarding the private rented sector and the 2016-2021 strategy. We note that in within the Housing Strategy 2016-2021, Cardiff Council intend to carry out a private sector stock condition survey by 2021, a move which we welcome and would be more than happy to assist in the shaping of. We do however have concerns about the direction some aspects of the strategy are taking, namely the evaluation of HMO Additional licensing with a view to extending it city-wide.

### **Consistent and effective private sector housing enforcement.**

The RLA has always argued the importance of consistent and effective enforcement of housing regulations and standards in Wales. Without the proper enforcement of the rules and regulations, their existence becomes helpless. This is often reflected in the rhetoric of an "unregulated private rented sector", when the PRS in Wales is regulated by over 140 Acts of Parliament (not including Welsh Assembly Acts) and over 400 different regulations. Many of these regulations, across the whole of the UK, are not consistently enforced, if enforced at all.

The RLA takes the approach that all legal requirements, enforced or not, should be upheld by landlords. We support and encourage landlords to fully comply with all of their legal responsibilities and liabilities, regardless of whether or not we agreed with them during the time that they may have been debated in Parliament or the Assembly.

However, this causes an issue when it comes to enforcement of the rules and regulations that exist Vs those landlords wilfully ignore such requirements. Where good landlords strive to comply with the rules and regulations, other landlords choose not to, because they are comfortable in the knowledge that it is unlikely that they will ever be enforced against. Inconsistent, or non-existent enforcement of rules and regulations, encourages more landlords to become comfortable breaking certain requirements, and undermines the message and ethos underpinning organisations such as the RLA who work to improve the sector.

Landlords do not become criminal landlords because they do not know the legal requirements, these people require education. Criminal landlords are criminals because they know the law and they choose to ignore it to exploit their tenants. These are the landlords that we would like to see greater enforcement of the rules and regulations of, and the criminal landlords that we do not want in our sector.

The RLA understands that local authorities have challenges of their own, and that housing enforcement can require a significant amount of resource to be effective. Without significant consideration of the

resources available to housing enforcement teams, it is difficult to imagine a future where the current rules and regulations are enforced to a standard where landlords do not become in the future comfortable ignoring certain requirements and responsibilities.

### **Rent Smart Wales Enforcement**

Although the enforcement deadline has only just passed (23<sup>rd</sup> November), we would reiterate that enforcement should focus on the landlords and agents who know the rules and regulations and choose to ignore them.

We have particular concerns with the communication campaign on the requirements of Rent Smart Wales, in particular that not enough people know about Rent Smart Wales and not enough people know the full details. For example, many landlords claim to have fully complied with the requirements under Rent Smart Wales, but have only registered their properties and have not completed the required training and licensing. Further, we believe that there has been an underestimation of the number of landlords who have property in Wales, but do not themselves reside in Wales. Many landlords could find themselves at the wrong end of an enforcement notice, not because they have wilfully flaunted the law, but because they haven't heard of it by virtue of not being located in the south east of Wales. As such we would like to see Rent Smart Wales adopt a policy of inform then enforce.

We would like to see Rent Smart Wales concentrate enforcement on those landlords and agents that are known to have a history of repeated non-compliance with their legal requirements, and who have clearly understood the requirements under Rent Smart Wales, but chosen not to comply under the belief that these rules will not be enforced.

Most of the public profile of Rent Smart Wales, its portrayal in the media, has been achieved in the final few weeks and days before the deadline due to a series of negative headlines. Although the tone of these headlines is perhaps not welcomed by Rent Smart Wales, it must be acknowledged that a series of negative headlines in the press have done more to communicate Rent Smart Wales in the past two weeks than the months before.

Rent Smart Wales cannot and should not suffer further negative press coverage going forward, however the communication strategy needs a complete overhaul. This is less of an issue within the Cardiff area as the communications focused here have been better than elsewhere, however we should be looking at areas away from the metropolitan centres that have not had the same exposure, and look at the ways small landlords communicate. For example, many landlords who attend the Cardiff Landlord Forum will have known about Rent Smart Wales well in advance, however, a landlord perhaps on the outskirts of Cardiff with 1 property who does not see themselves as a landlord, doesn't attend a forum, could have easily missed most of the communications over the last few months and be completely unaware that Rent Smart Wales exists.

The RLA has recently called for an extension to the Rent Smart Wales deadline, due to some of the issues expressed above. This extension would also be teamed with a reset on the expiry of all licences, so that all landlord licences start and expire on the same date (the new enforcement date). Licences have a 5-year limit, must be renewed at the end of each 5-year period, and begin the moment the licence is issued. We believe that this was a critical failure of the Rent Smart Wales campaign, as many landlords have left licensing until the last minute to gain the most amount of time once enforcement begins. i.e. those landlords who became licenced in November 2015 must renew a year earlier, despite no enforcement taking place during most of 2016. Allowing landlords to license under Rent Smart Wales, but delaying the date the licence is valid from, would have encouraged more landlords to sign up earlier.

The Rent Smart Wales stakeholder group, has largely been an exercise in information dissemination, rather than a constructive conversation as to how to take Rent Smart Wales forward. Some members of the group have commented that it is being treated as little more than a ‘tick-box’ exercise where virtually none of the industries concerns are taken forward or seriously considered. Although we are thankful for the stakeholder group existing, it almost epitomises what many landlords feel when submitting consultation responses.

### **HMO Licensing and Additional HMO Licensing**

HMO licensing is one of the more controversial aspects of landlords regulation as we believe that the scheme at present does not offer value for money for landlords, consistency in its approach, or results in better quality accommodation for tenants. Many of our objections to HMO additional licensing were set out in our consultation response earlier this year to the renewal of the Cathays and Plasnewydd schemes.

#### **Cost**

The standard fee to obtain an Additional HMO license in Cathays is currently between £560 and £770, and over the last 5-year period the full amount must be paid each time regardless of the standard of the property. The scheme also licensed an additional 1,664 properties during this 5-year period. Many landlords feel that the cost for a 5-year licence is too high for too little, and simply join the dots between the cost for a licence and the number of properties licensed – concluding that the scheme is taking in a six-figure sum for little in return.

During the consultation earlier this year, no financial assessment of the scheme was published alongside its review, simply a section titled “Better value for money secured by a proactive approach in one area”. Transparency of the scheme is a major issue and source of friction between landlords who feel that additional licensing is a stealth tax and the objectives of the scheme – leading many landlords to view additional licensing with resentment.

#### **Enforcement**

The enforcement narrative can be told two ways. On one hand, the evaluation of the additional licensing scheme shows that 70% of HMOs inspected were non-compliant upon first inspection. These first inspection statistics are unhelpful for a number of reasons. Many landlords do not have properties re-inspected after the notice is given to improve aspects of the property, with the licence being granted on the understanding that the works will be done. This means that the headline figure of non-compliance is artificially higher than reality, and many landlords will have carried out the required works, but still be statistically classed as having non-complied. Secondly, some of the requirements under additional licensing were completely new and so many landlords were identified as having non-compliant HMOs simply because the scheme was introduced. They had not broken any previous law or standard, but had been identified as non-compliant by the very scheme existing. Finally, the consistency of the additional HMO regulations has considerable variance from EHO and period to period (this will be discussed in more detail in the next section), meaning a property may be fully compliant during one period and under the eyes of one EHO, and non-compliant 5-years later or under the eyes of a different EHO.

Landlords understandably feel frustrated when the goalposts are moved, and even more so when they are lambasted for non-compliance despite all efforts being made to be so.

## Standards

Consistency in the standards required of HMOs is paramount to establishing better relationships between the scheme and PRS landlords. Between the first period of additional HMO licensing and since its renewal, some landlords who had fully compliant properties during the first period are now being asked to spend thousands making menial changes to meet the requirements of the new scheme. In some cases, a property that was fully compliant 6 months ago now needs alteration because of a new set of standards for additional HMO licensing or a different EHO had identified different issues that weren't identified during the first licensing period.

It is understandable that over time improvements will need to be made and the conditions of licensing change, however these alterations should be done with a full cost benefit analysis with a demonstrable benefit to the property. Otherwise, landlords may rightly feel as though the goalposts are being moved for no reason other than to justify a new scheme.

One common theme that emerges when discussing HMO licensing and additional licensing with landlords is trust. Landlords do not, at the moment, trust that the scheme is being run effectively or fairly. Instead they often perceive the scheme as being anti-landlord, inconsistent, heavy handed and even a stealth-tax. The scheme could go a lot further in working to improve relationships with landlords than it currently does.

### City-wide Additional Licensing

Although we would expect such a move to be considered for its own independent full and proper public consultation, we most nonetheless express some of our concerns here briefly. Additional HMO licensing is already seen by landlords in a highly negative light, due to some of the reasons mentioned above. Extending it city-wide will do nothing to alter the perception held by many landlords that the scheme is nothing more than an expensive exercise in bureaucracy.

We would strongly suggest that Cardiff Council look at opening the transparency of the schemes that currently exist, to help negate some of the views, and seriously review and address the issue of the current schemes before extending it city-wide. Additional HMO licensing does nothing to build relationships with landlords, extending it city-wide could do more damage to the relationships between landlords and the council.

The introduction of Rent Smart Wales must also be included when considering the necessity of city-wide additional HMO licensing. With much of the data collected under Rent Smart Wales available to local authorities, would it be sensible for the Council to duplicate the licensing requirements and use its resources for minimal gain, or could better use of the existing information be both effective and economical.

## **Returning Empty Properties to use**

Estimates show that Wales has over 30,000 empty homes, which could, with some work, be used to provide housing and help alleviate the housing crisis. Empty homes can also lead to a number of problems, such as; illegal squatting, vandalism, waste, pest infestation. All of which can cause further issues and require much greater local authority resources later.

Houses into homes

In 2012 the Welsh Government launches the Houses into Homes scheme, which offered loans to help bring empty properties back into use for sale or rent. The scheme had the right intentions and the Welsh Government beat its target with over 7,500 houses brought back into use. However, there are still an estimated 33,000 empty homes across Wales, and there remains work to be done to bring these assets back into use.

#### Investment

Many of the properties currently sitting empty require substantial works to bring them to a standard where they can be let or sold. The Houses into Homes fund provides an incentive and resource for owners of these properties to begin improving the standard, however we remain in a situation where, despite the fund, too many properties are left empty.

The Houses into Homes scheme has significant shortfalls, especially in securing significant equity on a property that is empty to qualify for the loan. Many empty properties have mortgages which take up most of the required funding to improve the property. However, it is very difficult to secure a Houses into Homes loan where a mortgage above 50% of the property value exists. This is especially difficult for those properties which may have fallen into negative equity. To bring more empty homes back into use, the Houses into Homes scheme must be willing to take more financial risk in the properties it invests in, and see the bigger picture. Too often the scheme looks at the repayment window (2/3 years) and makes an assessment based on the likelihood of that debt being repaid. The scheme should however take a longer-term view of bringing more properties back into use, be less conservative and consider longer repayment periods to better reflect long term market changes.

#### Council Tax

From April 2017, local authorities can charge council tax premiums on long-term empty homes and second homes, up to 100% of the standard rate of council tax. For the purposes of charging a premium, a long-term empty home is defined as a dwelling which is unoccupied and substantially unfurnished for a continuous period of at least 1 year. A second home is defined as a dwelling which is not a person's sole or main home and is substantially furnished. Local authorities are also required to issue a number of exemptions so that additional council tax is not charged in circumstances where it would be unreasonable or unfair to do so.

We believe that, where the exemptions are correctly written, this policy can work in conjunction with the Houses into Homes scheme to act as a 'carrot and stick' to help bring empty properties into use. Ideally, we would like to see a situation where someone with an empty property is encouraged to bring it back into use, perhaps via the Houses into Homes scheme, before additional council tax is charged. But where there is a refusal to do so, and no mitigating circumstances exist, the council should be able to charge higher rates of council tax on that property.

It is imperative however, that any additional income generated from council tax premiums on empty homes is put back into projects which can help solve the housing crisis.

Although we have tried to be brief on these matters, we would very much welcome any opportunity to explore some of these issues further. At the centre of Cardiff Council's approach with private sector landlords between now and 2016 should be about beginning to build good relationships with the sector. The PRS can help solve the housing crisis, but this will only happen if local authorities and landlords work together. It is fair to say that the relationship between Cardiff Council and landlords has, previously, been rather divisive and at times, highly charged. The Council has often adopted a two-tone approach in their interactions with landlords. On one hand recognising the benefits that the PRS can bring to Cardiff and our part to play in solving the housing crisis, but on the other hand, using the PRS as a political football. Although it may be politically popular, many landlords feel alienated from Cardiff Council and often feel as though they are "doing battle" whenever the PRS is used for such purposes. At the same time, housing options teams are doing all they can to establish good working relationships with the landlord community, and should be praised for their hard work in doing so. However, the constant tone of resentment does little to encourage landlords to see Cardiff Council as anything more than an adversary. We hope that from here we can begin exploring more effective solutions to the issues, and create a good working relationship between landlords and the Council, as it is only from this position can we genuinely begin to fix the housing crisis.

Yours faithfully,

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