

“Re-declaration of an Additional Licensing Scheme in the Cathays Ward of Cardiff” – consideration of called-in Cabinet Decision CAB/15/34

Statement of Shared Regulatory Service – Housing Enforcement

Background to Declaration

A Council Motion dated 20 November 2008 called upon officers to take a holistic approach to tackling the impact of private rented student housing on certain inner City Districts and in particular for officers to explore how the provision in the Housing Act 2004 for extending licensing of HMO's might be applied to Cardiff, in particular the use of Additional Licensing of HMOs.

A task and finish group consisting of officers and members considered the evidence relating to the ineffective management of HMOs in a number of Wards and concluded that the most pressing case was for Cathays, which had received no concerted area based action from the Housing Enforcement Service because of the unhelpful HMO definition at the time which placed most student houses outside of effective regulatory control.

The first Cathays designation was made in March 2010 with the scheme going live in June 2010 and running for 5 years, the maximum permissible in law.

The impact of student houses on neighbourhoods continues to be a focus of local and national concern. A recent Welsh Government task and finish group has been considering changes to the Planning and Housing Enforcement regimes; there is currently an ongoing Welsh Government consultation on proposals to change the Planning framework relating to HMOs.

HMOs and student housing continue to be a live topic which give rise to frequent enquiries and complaints from local Councillors to the Housing Enforcement Service regarding the quality of accommodation and the impact on neighbourhoods.

The Housing Enforcement Team has published a full evaluation of the Cathays Scheme and this is included at appendix 3 of the Cabinet Report. Notably, 2,174 HMOs have been licensed in Cathays alone – significantly more than in the whole of Swansea (in the region of 1590).

Should the scheme not be re-declared, 1,664 of the Cathays licences will lapse and any licence conditions requiring works of improvement to those properties will cease to have effect. The remaining 510 are mandatory HMO licences and will continue.

Valuable checks relating to gas, electrical and fire safety will no longer be made other than on an ad hoc reactive basis. Occupancy limits will no longer apply. Statutory notices relating to excess cold, security and other health and safety risks will not be enforced.

The Council will stand alone in Wales as the only authority without an additional licensing scheme to control its student HMO stock.

It is notable that no part of the call in questions the case for additional licensing. It doesn't argue that the scheme has been ineffective or indeed that there is no ongoing need for the scheme.

The reasons for the call in are:

- a. That there has been insufficient stakeholder consultation.
- b. That there has been insufficient Council consultation – the matter has not been considered by scrutiny
- c. That there is a changing legislative landscape – that the report makes no reference to the Housing (Wales) Act 2014

Insufficient Stakeholder Consultation

The issues around the adequacy of the consultation on the re-designation of the Additional Licensing Scheme in Cathays were aired extensively during the Cabinet discussions prior to a decision being taken and Officer advice was given to Cabinet on the process and how and why it was conducted in the way that it was. The decision made by Cabinet was fully informed. The methodology is fully explained in the appendices to the report and the responses are fully detailed and addressed point by point.

The Housing Act 2004 does not specify how we must consult. It says:

Section 56(3) Before making a designation the authority must-

- (a) Take **reasonable steps** to consult persons who are likely to be affected by the designation;
and
- (b) Consider any representations made in accordance with the consultation and not withdrawn

We would argue that we have taken reasonable steps to consult and considered any representations made.

The consultation ran from 1 to 26 June 2015. The surveys were made available online via the Ask Cardiff website in English and Welsh, with paper copies available on request.

Letters and/or emails were sent to 1,430 landlords and letting agents and 2,450 tenants and residents living in Cathays inviting them to complete the surveys. A total of 143 responses were received – 97 from landlords/agents, 16 from private tenants and 30 from other residents.

Written submissions on the proposal were also received from landlord and letting agent representative bodies and other stakeholders. These submissions are considered within a separate Schedule of Consultation Responses.

Members of the Citizens Panel were also consulted and are included within the 2,450 tenants and residents figure. The Research Centre filtered their list of Panel members by postal address and identified 217 living within Cathays. Emails were then sent direct to these people inviting them to complete the survey. It is also worth highlighting that **all** known HMO properties in Cathays and their respective landlords were contacted.

Responses were received on behalf of the Landlord Forum and other bodies representing landlords so the argument that a separate meeting with specific representative groups to ensure their voice was heard does not seem robust.

The extent to which we have consulted satisfies the legislative requirements in that we wrote individually to all HMO properties and landlords in the area requesting their views and that the

responses received from them and other representative bodies were considered and responded to as part of the Cabinet Report.

As part of previous consultation on issues such as the Cardiff Student Community Partnership Action Plan the Universities and Student Union have actively supported Additional Licensing Schemes and Environmental Scrutiny has recently reviewed the effectiveness of the work associated with the Plan and Additional Licensing to attempt to combat some of the detrimental effects of having a high density of multi occupied student occupation in areas of the city.

The following people were specifically consulted:

Councillor	Elizabeth Clark	Cathays
Councillor	Daniel De'Ath	Plasnewydd
Councillor	Mohammed Javed	Plasnewydd
Councillor	Sam Knight	Cathays
Councillor	Sue Lent	Plasnewydd
Councillor	Mary McGarry	Plasnewydd
Councillor	Sarah Merry	Cathays
Councillor	Christopher Weaver	Cathays
Councillor	Susan Elsmore	For info
Councillor	Bob Derbyshire	For info
AM	Jenny Rathbone	Cardiff Central
AM	Vaughan Gething	Cardiff South and Penarth
MP	Jenny Willott	Cardiff Central
MP	Stephen Doughty	Cardiff South and Penarth
Waste	Jane Cherrington	
Sustainability	Liz Lambert	
Planning	Gerry Lynch	
Fire Service	David Lozano	
Police	Mike Neate	
Planning	Phil Williams	
Regeneration	Don Davidson	
Students Union	Jane Harding	
Cardiff Uni	Tracey Austin	
Cardiff Met	Sarah Spencer	
Students Union	Zandra Pitt	
Uni of South Wales	Nick Hennessy	
Cardiff Landlord Forum	Douglas Haig	
ALMA	Kate Sergeant	
Tai Pawb	Mair Thomas	
Housing Options Centre		
Shelter	JJ Costello	
RLA	Douglas Haig	
NLA	Vince Botham	
ARLA	Angela Davey	

They were contacted by way of an email from Cllr Bob Derbyshire.

The response rate from tenants is disappointing; however the timing of the consultation is of little significance. Cardiff University term ended on 12 June and Cardiff Met on 19 June, but it has become common practice for students to stay through June until the expiry of their tenancy, with changeover on 1 July.

That there has been insufficient Council consultation

The authors of the report have determined that the re-declaration of Cathays is not a priority for Scrutiny. In doing so they have noted the advice of Angela Holt in an email dated 25 June 2014 in relation to the Report to declare an additional licensing scheme in Plasnewydd. Scrutiny had at that point determined that they would not consider the Plasnewydd report, partly because of the weight of items coming to CAASC but also because:

“The Chair (Councillor Groves) is also aware that the HMO scheme is substantially the same as the existing schemes, which CASSC Members have previously expressed their contentment with.”

That there is a changing legislative landscape

The Housing Act 2014 introduces the new Rent Smart Wales scheme. The RENTSMART scheme has been modelled to a large extent on the success of the voluntary Welsh Landlord Accreditation Scheme which has existed since 2008 and was in place well before the original designation of Cathays. In that sense it is entirely complimentary, rather than an alternative to, Additional Licensing.

Rent Smart Wales will not have any focus on property standards and given the comprehensive All Wales coverage of the scheme it is not suited as a tool to bringing about a concerted area based improvement to a district containing a high density of HMOs.

While both schemes involve obtaining a licence, with some duplication in the fit and proper test, the focus of the two schemes is distinct and indeed complimentary with Rent Smart focusing on fitness and training/competence with HMO licensing ensuring decent property conditions, means of escape from fire and management standards. Cabinet are well aware of the focus of RENTSMART WALES as we are designated to administer the scheme and they have considered reports on it within the last 6 months.