



**Public Consultation**  
**On the Proposal to Re-declare**  
**Plasnewydd as an Additional Licensing**  
**Area**



# Public Consultation

## On the proposal to Re-declare Plasnewydd as an Additional Licensing Area

The Council is keen to ensure that all tenants in the city live in properties that are well managed, dry, safe, warm and secure. Within the private rented sector, the Council has powers to ensure that shared houses meet certain standards and can make the landlords/agents comply with specific requirements.

The Council has powers to license certain types of properties across the City known as HMOs (Houses in Multiple Occupation) and has used these powers to extend the types of dwellings that can be licensed in the Plasnewydd Ward under an Additional Licensing Scheme. The Scheme runs for a period of 5 years, after which the Council must re-declare the area as an Additional Licensing area. The current Scheme expires in 2019 and the Council are now considering whether to re-declare the area for a further 5 years (See Appendix 1 for the area concerned). In doing so, the Council is asking a variety of people living in the area for their views.

This document explains the Council's intentions with regard to the proposed Scheme, the relevant legislation, the research undertaken to inform the proposals and also how the Scheme has worked in practice and the benefits it can bring.

The Council therefore invites comments in response to this consultation from tenants, residents, local businesses, landlords and agents. This can be done by completing one of the online surveys below.

### Surveys

- [Landlords and Agents Survey](#)
- [Tenants of private rented properties in Plasnewydd Survey](#)
- [Other Residents of Plasnewydd Survey](#)
- Other interested parties can submit comments in writing to [PlasnewyddConsultation@Cardiff.gov.uk](mailto:PlasnewyddConsultation@Cardiff.gov.uk)

The consultation closes on **14 February 2020**.

Date of issue: 16 December 2019

**This document is available in Welsh / Mae'r ddogfen hon ar gael yn Gymraeg**

## Introduction

Cardiff Council has a duty to enforce Part 2 of the Housing Act 2004 which regulates standards in private sector rented accommodation and has, since its implementation in 2006 undertaken a Mandatory Licensing Scheme for all HMOs across the City, and since 2014 operated an Additional Licensing Scheme in the Plasnewydd ward. The Plasnewydd Scheme extended the scope of the legislation to cover a wider range of property types.

Physical and management standards in HMOs can often be low and the aim of the licensing regime is to ensure that the poorest and highest risk properties in the private rental market meet the legal standards and are properly managed to provide greater protection to the health, safety and welfare of the occupants of this type of property.

The Council acknowledges the contribution that the private rented sector makes to the authority's housing stock and recognises that most landlords want to co-operate with the Council and that many properties are well managed and in a satisfactory condition. However, some landlords are unaware of standards required and tenants live in unsafe accommodation. The Council's licensing powers provide greater protection on issues of health, safety and welfare of the people living in HMOs.

Since the declaration of the 'Additional Houses in Multiple Occupancy Licensing Scheme' in Plasnewydd in 2014, the Scheme has been successful in capturing an additional 841 properties that otherwise would not have been licensed and inspected. Furthermore a large number of these properties have been improved and brought up to standard. The current Scheme will expire in 2019 and the Council is considering the re-declaration of the Plasnewydd Scheme for a further 5 years.

## Legislation

The Housing Act 2004 changed and improved the way in which Houses in Multiple Occupation (HMOs) are regulated. It came into force on 30 June 2006 and introduced a Mandatory Licensing Scheme for certain Houses in Multiple Occupation.

The definition of a HMO is technically complex and varies between those licensable under the Mandatory Scheme and those licensable under the Additional Licensing Scheme in Plasnewydd. In basic terms however, the following definition applies:-

A **Mandatory HMO Licence** applies to houses in multiple occupation that have 3 storeys or more and 5 or more occupants who do not form a single household.

This applies across the whole of Cardiff and can include shared houses and houses split into bedsits, or a mixture of flats and bedsits.

Mandatory licensing requires that these larger HMOs must be licensed with the aim of ensuring that they have the amenities and facilities for the number of occupants and to ensure they are well managed by "fit and proper persons". A licence specifies the maximum

number of people who can live in the HMO and includes specific standard conditions which apply to every licence including fire safety, space standards and amenities.

The aim of the legislation is to improve management, amenity, safety standards and tackle antisocial behaviour improving living standards and communities and gives local authorities discretionary powers to extend the scope of HMO Licensing by way of implementing an Additional Licensing Scheme to meet the needs of their locality if there is considered a need. Recognising that certain areas of the City were not adequately protected by the Mandatory licensing regime and were displaying a range of common problems, the Council used these additional powers to extend the licensing regime to other categories of property in the Plasnewydd area.

An **Additional Licensing Scheme HMO** extends the scope of licensing to cover most rented property with 3 or more occupiers who form 2 or more households regardless of how many storeys the property has. Each Scheme runs for a period of 5 years, at the end of which, the Council are required to re-declare the Additional Licensing Scheme.

This currently applies to the Cathays area and Plasnewydd area and can include shared houses and houses split into bedsits, or a mixture of flats and bedsits.

Additional Licensing does not apply to or affect properties that are licensable under the Mandatory Licensing Scheme above and does not include owner occupiers with up to 2 tenants living in their property

The following property types are classed as HMOs under the Additional Licensing Scheme.

- An entire house or flat which is let to 3 or more tenants who form 2 or more households and who share a kitchen, bathroom or toilet.
- A house which has been converted entirely into bedsits or other non self-contained accommodation and which is let to 3 or more tenants who form two or more households and who share kitchen, bathroom or toilet facilities.
- A converted house which contains one or more flats which are not entirely self-contained (ie the flat does not contain within it a kitchen, bathroom and toilet) and which is occupied by 3 or more tenants who form two or more households.
- A building which is converted entirely into self-contained flats if the conversion did not meet the standards of the 1991 Building Regulations and more than one-third of the flats are let on short-term tenancies.
- In order to be an HMO the property must be used as the only or main residence of the tenants and it should be used solely or mainly to house tenants. Properties let to students and migrant workers will be treated as their only or main residence and the same will apply to properties which are used as domestic refuges

The Council has the right to obtain information to identify and target any HMOs that pose the greatest risk to safety. The Housing Health and Safety Rating System (HHSRS) enables the local authority to take action to reduce the likelihood of death and serious injury from fire and other hazards within the private rented sector.

## How Additional Licensing Works

Anyone who owns or manages a HMO that falls within the Additional Licensing Scheme needs to apply to the Council for a Licence. The Council must give a licence if it is satisfied that:-

- The HMO is reasonably suitable for occupation by the number of people allowed under the proposed licence.
- The proposed licence holder is a “fit and proper” person
- The proposed licence holder is the most appropriate person(s) to hold the Licence.
- The proposed manager, if not the licence holder is a “fit and proper” person.
- The proposed management arrangements are satisfactory.
- The person involved in the management of the HMO is competent.
- The appropriate licensing fee is paid.

The Council can refuse to issue a Licence if the above requirements are not met. Landlords can appeal against decisions by the Council to refuse a licence, to attach conditions to a licence, to revoke a licence or to vary a licence. Appeals will be heard by the Residential Property Tribunal, and must be lodged within 28 days of the Council’s decision.

## Fees

The Council currently charges each landlord a licensing fee in the region of £475-£550 per property for a licence under the Scheme which is valid for a period of 5 years. This is to cover the cost of administration, issuing of licences, accompanying documents, inspections, enforcement and monitoring of properties. In line with best practice the Council regularly reviews its fee structure and a review of all licensing fees is scheduled for 2020.

## Benefits of Additional Licensing in the Plasnewydd Ward

The “Additional Houses in Multiple Occupancy Licensing Scheme” was introduced in Plasnewydd in November 2014 and expires in 2019.

The purpose of the Additional Licensing Scheme is to improve the standard of rented property within the Plasnewydd area whilst also aiming to tackle wider community issues such as waste, antisocial behaviour, energy efficiency and property security by implementing licence conditions for each property and using the Housing Health and Safety Rating System. When introduced it was anticipated that the following benefits would be secured for tenants, the Plasnewydd area in general and other Council services.

- **Improvements to the quality of accommodation** will be secured by licensing conditions including means of escape from fire, additional security measures and improved energy efficiency.

- **Improvements to Health & Safety** will be secured by ensuring gas and electrical installations are safe and there are no hazards in the property.
- **Improvements to the management** of HMOs by ensuring that landlords are aware of their responsibilities through training and that ongoing management standards are maintained.
- **Sustainable improvements to the “street scene”** by requiring suitable waste storage facilities.
- **Targeted localised action** by increasing presence and regularly visiting HMOs, it is likely that a more long term sustained improvement to overall property conditions and neighbourhood environments will occur.
- **Consistent approach to Tenancy Management & Property Conditions** for tenants living within the area. Licensed properties will abide by a common set of conditions controlling property maintenance and tenancy management.
- **Eradication of bad landlords** – Those landlords who are not “fit and proper”, e.g. with a criminal record or bad housing track record cannot hold a licence.

## What the Scheme has achieved

### Improvements to the quality of accommodation

- The Scheme has successfully licensed an additional 841 properties that would otherwise be exempt. Prior to the Scheme’s implementation, only 232 properties were licensed in the area under the mandatory scheme. These additional properties would not previously have been subject to any requirements to address standards.
- All properties are inspected and 84% of properties had specific works required as a condition of the licence with many now up to standard or are in the process of becoming up to standard. Currently 37% of the additional properties are confirmed as up to standard including those that were compliant on application and those as a result of the licensing process.
- During the duration of the scheme 1458 notices were served on rental properties in the Plasnewydd ward, compared to only 596 issued in the 5 years prior to its implementation. This reflects not only the increase in properties falling within the remit of the scheme but the level of improvements required.
- Additional levels of security are required for properties licensed under the Scheme which has resulted in 521 notices being served in relation to security since the Scheme was implemented, 17% of which have been confirmed as complied. Reported crime statistics for burglary in the area show some decline with figures of 148 in 2018 compared to 208 in 2013 and 264 in 2012.
- 379 notices have been served in relation to excess cold since the Scheme was implemented, 14% of which have been confirmed as complied.
- 402 properties required improvements in relation to amenities since Scheme began.
- During 2014 to 2018, 86% of landlords with licensed HMOs across the city who responded to requests for customer feedback indicated that they felt that licensing

improves standards in the private rental sector. Furthermore during 2018 to 2019, 100% of landlords who provided customer feedback following an inspection, indicated that they thought the inspection had helped them improve standards of compliance.

#### **Improvements to health and safety**

- All applications made for a Licence must be accompanied by up to date gas and electrical certificates showing that appliances and electrical installations are in a satisfactory condition.
- Inspections undertaken following receipt of applications include checks against the Housing Health and Safety Rating System (HHSRS) which enables action to be taken to improve or remove hazards in the property. 498 category 1 HHSRS hazards have been identified with 31% relating to excess cold and 14 % relating to falls.
- 743 properties required improvements in relation to fire since Scheme began.
- A total of 34 prohibition orders that have been served in the area during the scheme to address the most serious hazards and unsafe accommodation. The majority of the orders served related to problems with unsafe inner room layouts in HMO properties converted to flats
- 445 significant HHSRS hazards have been reduced or removed in licensed properties since the scheme began.

#### **Improvements to the management of HMOs**

- When the Plasnewydd Additional Licensing Scheme was introduced, landlords were required as a condition of the licence to complete training and accreditation under the Landlord Accreditation Scheme. Since November 2015, this Scheme was replaced by requirements under the Housing (Wales) Act 2014 which required certain landlords and agents to be trained as part of the licensing process administered by Rent Smart Wales. This has ensured the continuation of training on management and legal requirements relating to private renting. Furthermore checks are made on application for a HMO Licence to establish if applicants are appropriately licensed or registered to ensure compliance.

#### **Sustainable improvements to the “street scene”**

- Standard licence conditions contain comprehensive requirements regarding the landlord and tenant’s responsibility for storing and presenting refuse and recycling waste. Specific improvement requirements are also included on the licence conditions where a property is found not to comply with these waste management standards.
- Joint initiatives between the Council and the Students Unions such as “Love when you leave” campaigns encourage proactive personal responsibility for students when dealing with their end of term waste.
- The Council’s Waste Management Team has a constant presence in the Plasnewydd area and participate in a number of student campaigns and events to promote responsible presentation of waste. Furthermore, the team undertake enforcement activities to tackle those that don’t comply with waste management requirements.

### **Targeted localised action**

- The increased presence within the Plasnewydd area has assisted in identifying additional properties that require licensing such as those licensed under the mandatory scheme which has increased from an initial 232 in 2014 to 258 currently.
- Licence conditions contain requirements for the licence holder to take reasonable steps to control noise and antisocial behaviour arising from their property and to co-operate with the Council in order to eradicate such behaviour.
- The number of licensable properties in Plasnewydd that require improvement has dropped to 41% compared to 94% at the early stages of the Scheme.
- 37% of licensed properties are currently up to standard.
- The Scheme has secured the licensing of 1100 properties. Prior to the Scheme's implementation this was estimated to be 2000 properties.
- As part of licensing investigation process some 430 properties have been identified as exempt because of the number or type of occupancy or compliance with the appropriate building standard. A further 129 cases are subject to on-going investigations
- There are just over 100 valid licensing application in progress or pending licensing.

### **Consistent approach to Tenancy Management and Property Conditions**

- Each Licence issued contains a set of licence conditions that control property maintenance and tenancy management which landlords must abide by.

### **Eradication of bad landlords**

- One licence has been refused following the issue of a Prohibition Order on a property. This property was subject to joint action with South Wales Fire Rescue Service and prosecution for breaches of the Regulatory Reform (Fire Safety) Order 2005.
- 8 prosecutions have been instigated on landlords of properties in the Plasnewydd area for failure to license a property, breach of management regulations and failure to comply with notices.
- Landlord training mentioned above assists in educating landlords and improving standards.

## **Summary**

The Council would like to re-declare the Additional Licensing Scheme in Plasnewydd for a further 5 years in order to build upon the positive improvements already achieved and further improve and maintain the quality of smaller HMOs and safety and security of tenants. Specifically this will:-

- Continue to ensure that effective management arrangements are in place
- Further reduce the risk of fire and excess cold and other hazards in shared HMOs and poorly converted self contained flats by enforcing licence conditions against those landlords who are yet to comply with those requirements.
- Further strengthen the partnership with South Wales Police which is effectively to further drive down burglary rates in Plasnewydd.
- Develop joint working arrangements with Waste Management and Pest Control for the improvement of hygiene and street scene in targeted streets.

- Improve the standard of HMOs relating to amenities, repair and security.
- Support inexperienced landlords and make all landlords/property owners more accountable.
- Create a fairer and more equitable situation where landlords of all HMOs invest in better standards.
- Improve the quality of housing to benefit both tenants and wider community.



## Is my property a HMO?

It will be a HMO if it is one of the following:	Housing Act 2004 section and schedule numbers
<b>A house or building</b> lived in by people who belong to more than one family* and who share one or more facilities**	S254(2) 'the standard test'
<b>A house in bedsits</b> lived in by people who belong to more than one family* and who share one or more facilities**	S254 (4) 'The converted building test'
<b>An individual flat</b> lived in by people who belong to more than one family* and who share one or more facilities**	S254(3) 'The self contained flat test'
<b>A building of self contained flats</b> that do not meet 1991 Building Regulation standards.	S 257
<p>Exemptions:</p> <ul style="list-style-type: none"> <li>• If it is occupied by only two people.</li> <li>• If it is occupied by the owner (and their family if any) and one or two lodgers.</li> <li>• If it is occupied by a religious community</li> <li>• If the occupiers have their own residences elsewhere***</li> <li>• If no one in the property is required to pay rent</li> <li>• If the owner or manager is a public body</li> <li>• If the owner or manager is an educational institution</li> <li>• A building of self contained flats if two thirds or more of the flats are owner-occupied</li> <li>• If the property is part of a guesthouse or hostel (unless an 'HMO Declaration' is made).</li> </ul>	<p>Sch 14, 7</p> <p>Sch 14, 6(c) Sch 14, 5 S259 (S) 254(2)(e) Sch 14,2 Sch 14, 4 S257 (2)(b) S254 (2)(d)</p> <p>S255 (1)</p>
<p>* Family – husband, wife, co-habitee, child, stepchild, foster-child, grandchild, parent, stepparent, foster-parent, grandparent, brother, half-brother, sister, half-sister, aunt, uncle, niece, nephew, cousin.</p> <p>** Facilities – basic amenities: wc; wash hand basin, shower, bath, cooking facilities</p> <p>*** Accommodation used by full time students while they are studying is taken to be their main residence.</p>	<p>S258</p> <p>S254 (8) S259(2) (a)</p>
Some of these HMOs will need a Licence – Which ones?	
<p>A HMO must have a licence under the <b>Mandatory Scheme</b> if all of the following apply:</p> <ol style="list-style-type: none"> <li>a. It is an HMO and</li> <li>b. It is three storeys or more (includes basements) and</li> <li>c. It is occupied by five people or more people.</li> </ol> <p>Exemptions:</p> <ul style="list-style-type: none"> <li>• If the whole property is in self contained flats (subject to any further regulations).</li> <li>• If the basement is in commercial use and there are only two residential storeys above.</li> </ul> <p>A HMO must have a licence under the <b>Additional Licensing Scheme</b> if all of the following apply:</p> <ol style="list-style-type: none"> <li>a. It is an HMO, and</li> <li>b. It is occupied by 3 or more people who form 2 or more households.</li> </ol>	Regulations made under s55