

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



Public Consultation

On the proposal to Re-declare Cathays 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 Cathays 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 expired in December 2020 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 Cathays Survey
- Other residents of Cathays Survey
- Other interested parties can submit comments in writing to HMOLicensingConsultation@Cardiff.gov.uk

The consultation closes on 22 March 2022

Date of issue: 7 February 2022

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 2010 operated an Additional Licensing Scheme in the Cathays ward. The Cathays 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 initial declaration of the 'Additional Houses in Multiple Occupancy Licensing Scheme' in Cathays in 2010, the Scheme has been successful in capturing an additional 1779 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 expired at the end of 2020 and the Council is considering the re-declaration of the Cathays 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 Cathays. For an explanation of the definition see appendix 2 - "Is my property a HMO?". In basic terms however, the following definition applies:-

A **Mandatory HMO Licence** applies to houses in multiple occupation that have 3 storeys or more <u>and</u> 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 anti-social 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 Cathays 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 (i.e., 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.
- 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 under the previous scheme charged each landlord a licensing fee in the region of £475 to £630 per property for a licence which was valid for a period of 5 years depending on whether the property was mandatory or additional and whether renewal or new application. A lower fee of either £50 or £330 (where inspection required) was available to new owner applications where existing licensing conditions and term were used. The fee structure was set to cover the cost of administration, issuing of licences, accompanying documents, inspections, enforcement and monitoring of properties.

A recent review of the fee structure has been implemented since the expiry of the scheme based on an initial application fee of £160 with the second fee payable on licensing depending on the size and type the property and compliance. The second part of the fee varies from £200 up to £800 and the licence would not be issued until this second part of the fee is paid. The change to the fee for non-compliant properties covers the cost of additional enforcement and monitoring required for these properties.

Benefits of Additional Licensing in the Cathays Ward

The "Additional Houses in Multiple Occupancy Licensing Scheme" was first introduced in Cathays in July 2010 and expired in 2015. The scheme was again re-declared on the 1 January 2016 and expired on the 31 December 2020.

The purpose of the Additional Licensing Scheme is to improve the standard of rented property within the Cathays Area whilst also aiming to tackle wider community issues such as waste, anti-social 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 Cathays area in general and other Council services.

- Improvements to accommodation by licensing conditions including means of escape from fire, amenities and space standards and by using other methods such as the Housing Health and Safety Rating System to secure improvements in relation to excess cold and security.
- **Improvements to health and safety standards** by ensuring gas and electrical installations are safe;
- Sustainable improvements to the Cathays area through licensing conditions to improve the "street scene" by requiring suitable waste storage facilities;
- Better value for money secured by a proactive approach in one area by making a
 concerted effort in one area, increasing presence and regularly visiting HMOs, more
 long term sustained improvement to overall property conditions will occur;
- Consistent approach to Tenancy Management and Property Conditions for tenants living within the area. Licensed properties will abide by a common set of conditions controlling property maintenance and tenancy management including:-
 - Fire safety management;
 - Condition and appearance of communal areas, gardens and forecourts;
 - Control of rubbish and waste;
 - Maintenance of gas and electricity installations;
 - Provision of a written tenancy agreement to each tenant.
- Improvements made through landlord training The conditions attached to each Licence at that time required that the licence holder attend appropriate training on the legal requirements relating to private renting 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.
- Reducing anti-social behaviour by making landlords more accountable for the behaviour of their tenants and tackle anti-social behaviour;
- Availability of information Licensing allows the Council to maintain a public register of licensed landlords allowing the Council to share information with other Council services. E.g. waste management with the resulting efficiency in services and enforcement activity. Also, members of the public will have access to the information.

Evaluation and research findings for the Cathays Ward

An evaluation of the Additional Licensing Scheme has been undertaken to evidence what has been achieved during the course of the scheme and to provide background to the issues within the area.

Background

- The number of households in privately rented accommodation in Cathays has increased from 45.69% to 64.2% between 2001 and 2011 (Census data 2011 2021 census data not yet available). The current estimate of the population of the area is 23,605 of which 64.5% are students. Since implementation in 2010 the scheme has captured some 1779 properties in additional licensing. There are records of some 2490 HMO licensed properties within the Cathays area. With some 7803 households in the area this information suggests that nearly a third of the households in the area are HMO's.
- The Cathays and Plasnewydd areas of the City consistently report the highest number of private sector housing condition complaints across the whole of the City. While this remains the case, the number of complaints in the Cathays area has seen a decline during the term of the scheme, representing approximately 14% of complaints received across the City. 2020 was the exception to this, where a significant increase of over 50% of complaints was observed, across the whole of Cardiff. Within Cathays complaint numbers rose from 142 in 2019 (lowest level of complaints for 5 years) to 219 in 2020. It should be recognised that the Coronavirus pandemic clearly attributed to this increase due to its impact on tenants and landlords as well as the ability of Enforcement Officers to investigate complaints. (See Figure 1 in appendix 2 Housing Complaint by Ward area).
- The Cathays ward has continued to be area with the highest proportion of noise complaints in the City and this can be attributable to lifestyle issues, such as a high proportion of students, younger people and the density of housing stock, e.g. number of flats, proportion of terraced properties. The playing of amplified music and parties is the major cause of noise complaints in the Cathays area and across the City. This also peaked during the pandemic in 2020 with some 19.5% of complaints in the Cathays area.

What the Scheme has achieved:-

Improvements to accommodation

• During the period of the latest Scheme, 1362 additional licences were issued to properties that would otherwise be exempt. Prior to the original scheme's implementation, only 323 properties were licensed under the mandatory scheme in the area. These 1362 additional properties would not have been subject to any requirements to address standards, without the Additional Licensing Scheme being in place, but all have been inspected and many are now up to standard or are in the process of becoming up to standard.

NB. At the close of the scheme there were a further 366 applications in progress awaiting inspection, issue of licence or were invalid or under investigation. This was largely as a result of the pandemic which prevented officers undertaking inspections.

- Of the 1362 Licences issued, 907 were renewals by the existing landlord and 455 were new applications. With over a third of applications being new rather than renewals, the scheme ensured new owners were aware of HMO standards and their management responsibilities.
- HMO additional licensed properties are subject to requirements to comply with minimum standards. While most have been inspected and many are now up to standard or in the process of becoming up to standard, 85% (1156) of Licences issued contained specific works as a condition of the Licence requiring improvements to be made to the property.
- Currently 46% 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.
 - NB. This figure has reduced since the last redeclaration from 63% but this is largely as a result of the pandemic which affected officers' ability to undertake inspections and re-visits to check compliance during 2020.
- Of those properties identified as requiring improvement, 36% (418) have been revisited and confirmed as improved. The evaluation of the previous scheme in 2015 indicated this figure to be 31%. Whilst this is an improvement on the previous evaluation, the impact of the pandemic on officers' ability to undertake re-visits to ensure compliance has resulted in 748 properties requiring revisit inspections at the time of this current evaluation.
- The table below provides an overview of Licences issued and improvement outcomes.

Table 1 – Cathays Additional licensing scheme outcomes

Year	Licences Issued	No. Conditional	(%)	No. Improved	%	No. improved/ compliant	%
2016	371	353	95%	62	18%	80	22%
2017	380	332	87%	136	29%	184	35%
2018	259	220	85%	145	38%	184	44%
2019	205	185	90%	43	35%	63	42%
2020	147	66	45%	32	36%	113	46%
Total	1362	1156	85%	418	36%	624	46%

- During the course of the scheme 4911 potential HHSRS hazards were identified during property inspections. Of these 1702 (35%) have been removed or reduced.
- Potential HHSRS hazards are identified as Category 1, the highest risk hazards and Category 2 lower risk hazards. Category 2 risks are further categorised as significant or lower risk and the following table highlights the numbers identified during the course of the Scheme and those that have since been removed or reduced.

Hazard cateogry	No. identified	No. removed or reduced	% removed or reduced
Category 1	396	112	28%
Category 2	4515	1590	35%
Total	4911	1702	35%

NB. One property may have multiple hazards identified.

- 8% (396) of hazards identified were Category 1 hazards, while 92% (4515) were Category 2 hazards. Of the Category 2 hazards 63% (3092) were significant hazards while 29% were classed as lower risk category 2 hazards.
- Follow up visits and checks have confirmed that 1702 hazards have been removed or reduced of which 112 were category 1 hazards and 1590 were category 2 hazards.
- Of the hazards identified, 944 entry by intruder hazards were identified, of which 351 (37%) have been improved.
- 498 excess cold hazards were identified to improve the energy efficiency of the property of which 174 (35%) have improved. This is a reduction in excess cold hazards identified of just over 20% compared to the earlier scheme.
- 1215 hazards for fire safety were identified of which just over a third (404) were removed or improved. Only 3% of these hazards were Category 1 hazards compared to 22% when compared to the previous scheme which indicates an overall reduction in higher fire safety risk in the HMOs inspected.
- 488 hazards were identified in relation to amenities which includes personal hygiene, sanitation, drainage and food safety (including hot surfaces) hazards. Of these 28% (139) have been removed or improved. Comparisons with hazards identified during the earlier scheme indicate a reduction in this type of hazard of 32%. Furthermore only 3% were category 1 hazards, a significant reduction from the 78% identified in the earlier scheme suggesting significant improvement in this area.
- 58 significant overcrowding hazards were identified, 35 relate to category 1 hazard requiring the restriction on the use of a room as habitable bedroom.
- 317 hazards were recorded in respect of repair issues causing damp and mould growth, structural collapse and falling elements of which 74 (25%) were repaired.
 - A breakdown of the type of various hazards identified can be found in Appendix 3.

Improvements to health and safety

- Where an inspection of a property prior to licensing identifies hazards relating to the gas
 or electrical installation, the corrective action required is incorporated into licence
 conditions. Of those licences issued 120 (9%) included such work.
- 722 hazards relating to falls (on the level, on stairs and between levels) and the risks from collision/entrapment or poor ergonomics injuries were identified of which 40% (291) have been improved. There has been an increased focus on these types of hazards compared to the previous scheme inspection which has seen the numbers increase from only 88 related hazards identified compared to current figures.

Sustainable improvements to the Cathays area

- Standard licence conditions contain comprehensive requirements regarding the landlord and tenant's responsibility for storing and presenting refuse and recycling waste. Specific works to remove waste or improve the storage and management of waste have been included in 37%(508)of licence conditions. Follow up visits and checks have confirmed 41% (206) have completed the works.
- Joint initiatives between the Council, and the Students Unions such as "Love when you leave" campaign 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 Cathays 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. The highest level
 of waste enforcement activity is within the Cathays and Plasnewydd ward areas.

Better value for money secured by a proactive approach in one area

- 46% of licensed properties are currently up to standard or improved. The number of licensable properties in Cathays that require improvement has increased from 36% at the end of 2015 scheme to 54%. Despite this increase, evidence suggests that the level of higher risk category 1 hazards has improved dropping from 26% in the original scheme to only 8%. The lower level Category 2 hazards, however, have increased from 13% to 32% which suggests that while hazards are found to be present, they are less significant than those identified during the first Scheme.
- The Scheme has secured the licensing of 1779 properties. Prior to the Scheme's implementation this was estimated to be 1400 properties.
- During the period of the scheme, the number of mandatory licences has increased to 522 from the earlier figure of 323. While some of these mandatory properties were previously additional licensed properties (24), it is evident that the focus on Cathays for additional licensing has ensured any licensable properties under the mandatory scheme have been identified and licensed, and are now required to address standards through the licensing regime.

During 2008/09, 274 burglaries were recorded in the Cathays Community Ward area, representing 12.09% of all burglaries in Cardiff. At the end of the previous scheme in 2014/15 this figure dropped to 98 and has continued to decline to only 45 in 2020/21. Partnership arrangements have been maintained with agreed minumum security standards and referrals made where the police identify an area of concern in HMO properties. (See appenxdix 2 – Figure 4 Table of Cathays ward burglary reports).

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.

Improvements made through landlord training

• When the Cathays 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 applications for a HMO Licence to establish if applicants are appropriately licensed or registered to ensure compliance

Eradication of bad landlords

- Although no licences have been refused where an owner is identified as not fit and proper, agreements have been reached where concerns have been raised to ensure the appointment of an appropriate licence holder and manager.
- Two prosecutions have been carried out on landlords in relation to four different HMO properties in the Cathays area where there were breaches of conditions of licence and management regulations.
- Three properties have been served Prohibition orders to close unsafe accommodation in relation to unsuitable flat conversions which have since been addressed and the orders revoked.
- 17 HMO's received follow up formal improvement notice action where works included in licensing inspections has not been completed. Of the notices served 13 have been complied with.
- Other enforcement actions include breach of HMO management regulations in 12 HMO properties, 8 of which have currently been complied with.

Reducing anti-social behaviour

• Licence conditions contain requirements for the licence holder to take reasonable steps to control noise and anti-social behaviour arising from their property and to co-operate with the Council in order to eradicate such behaviour.

• The licence conditions also include HMO Tenant declarations that landlords are requested to ask tenants to sign to ensure they are aware of their obligations and acceptable behaviour.

Availability of information

• The Council maintain an online register of licensed properties which is shared with other Council services and members of the public who can check if a property is licensed.

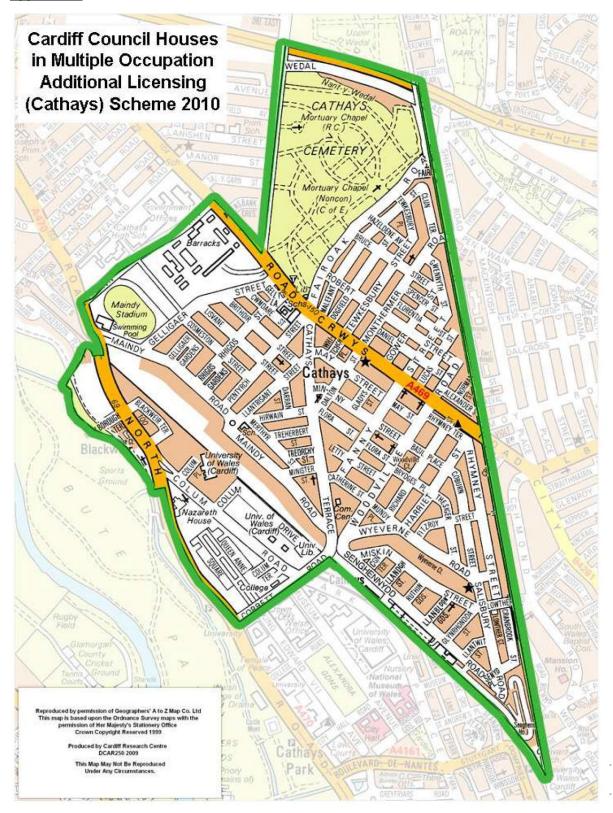
Support of planning controls

 Since the re-declaration of the Cathays Additional scheme the introduction of the C4 use class for smaller HMO (3 to 6 occupiers) and Supplementary Planning Guidance on HMO put in place greater planning control since February 2016. The additional HMO licensing requirement helps to monitor and support use of the control.

Summary

The Council would like to re-declare the Additional Licensing Scheme in Cathays for a futher 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 strenghten the partnership with South Wales Police which is effectively driving down burglary rates in Cathays.
- Improve joint working with Noise Enforcement and Police to address noise and antisocial behaviour issues associated with HMO's
- Further 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 new and 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 and those with poorly managed or maintained properties receive more targeted enforcement.
- 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
A house or building lived in by people who belong to more than one family* and who share one or more facilities**	S254(2) 'the standard test
A house in bedsits lived in by people who belong to more than one family* and who share one or more facilities**	S254 (4) 'The converted building test'
An individual flat 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'
A building of self-contained flats that do not meet 1991 Building Regulation standards.	S 257
If it is occupied by only two people. If it is occupied by the owner (and their family if any) and one or two lodgers. If it is occupied by a religious community If the occupiers have their own residences elsewhere*** If no one in the property is required to pay rent If the owner or manager is a public body If the owner or manager is an educational institution A building of self-contained flats if two thirds or more of the flats are owner-occupied If the property is part of a guesthouse or hostel (unless an 'HMO Declaration' is made). * 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.	Sch 14, 7 Sch 14, 6(c) Sch 14, 5 S259 (S) 254(2)(e) Sch 14,2 Sch 14, 4 S257 (2)(b) S254 (2)(d) S255 (1)
** Facilities – basic amenities: wc; wash hand basin, shower, bath, cooking facilities *** Accommodation used by full time students while they are studying is taken to be their main residence.	S254 (8) S259(2) (a)
Some of these HMOs will need a Licence – Which ones?	Regulations made under s55
A HMO must have a licence under the Mandatory Scheme if all of the following apply: a. It is an HMO and b. It is three storeys or more (includes basements) and c. It is occupied by five people or more people. Exemptions: • If the whole property is in self-contained flats (subject to any further regulations). • If the basement is in commercial use and there are only two residential storeys above. A HMO must have a licence under the Additional Licensing Scheme if all of the following apply: a. It is an HMO, and b. It is occupied by 3 or more people who form 2 of more households.	Trogulations made under 500

Figure 1 - Graph of private sector housing enforcement complaints by Ward

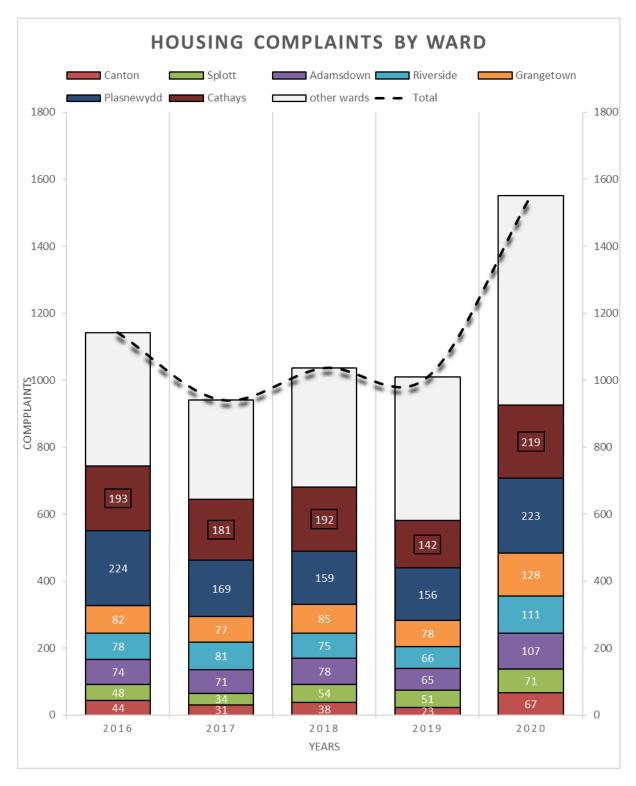


Figure 2 - All Hazards Identified as part of Cathays Additional licensing inspections

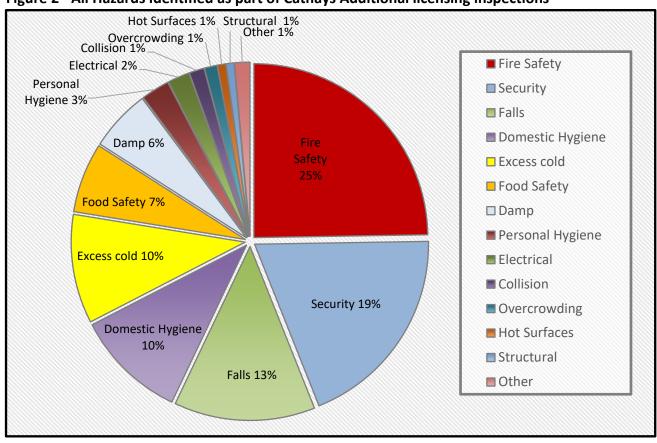


Figure 3 - Hazards addressed following Cathays additional licensing revisit and checks

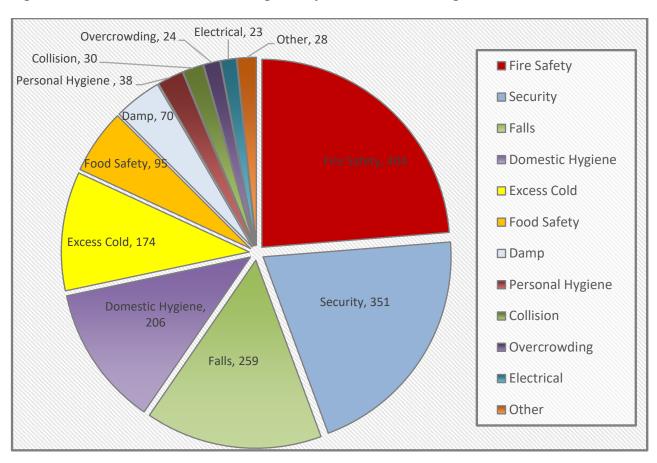


Figure 4 – Table of Cathays ward burglary reports

Cathays Burglary Figures	2016/17	2017/18	2018/19	2019/20	2020/21
Aggravated burglary of residential	1	0	1	2	0
Attempted burglary of residential	11	4	9	8	9
Attempted distraction burglary of residential	0	0	0	0	0
Burglary of residential	78	50	43	52	34
Distraction burglary in a dwelling	1	0	0	0	0
Theft of mail	1	0	2	0	2
Grand Total	92	54	55	62	45