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# Houses in Multiple Occupation: Review & Evidence Gathering

Report of Findings



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# 1. Introduction

## Background to the study and overview of existing research

### Purpose of Study

- 1.1 This report examines the extent of concentrations of houses in multiple occupation (HMOs) in Wales and the issues associated with them, reviews the existing legislation and considers best practice in both Welsh and non Welsh authorities. It makes recommendations in respect of both local authority practice and potential changes to the regulatory framework.
- 1.2 The Welsh Government understands the contribution HMOs make to housing provision by offering accommodation to those unable to buy or rent larger accommodation especially at a time when demographic changes and reductions in the range of housing benefit are increasing demand for smaller accommodation. However, the study was commissioned because of concerns expressed to Ministers about the impact of HMO concentrations in certain areas, in particular, the effect on the stability of local communities. Concentrations have tended to grow notably in university cities/towns where the need to house large numbers of full time students acts as a powerful stimulus for family homes to be acquired and rented out as shared student houses.
- 1.3 The objectives of the research were to:
  - » Understand the extent of social, economic and environmental issues associated with HMOs, as well as being able to quantify information on individual towns/cities on which HMOs impact;
  - » Understand how current planning, housing, transportation and environmental health legislation relates to HMOs operation; to what extent they are effective; and what issues have been raised in respect of how they operate in practice;
  - » Review how current control/management mechanisms can be used to deal with problems associated with HMOs (looking at practice across Wales and England) and to consider potential control/management mechanisms;
  - » To look at good practice in control/management mechanisms across Wales, England and Northern Ireland and test whether wider application would be appropriate in areas where problems are being experienced;
  - » To provide the evidence on which the Welsh Government could base an HMO toolkit giving step-by-step guidance to Local Authorities on HMO control/management incorporating best practice from planning, housing, transportation and environmental health disciplines;
  - » To give clear recommendations on ways to improve control/management measures including potential legislative change.

## Understanding the Issues

- 1.4 It is accepted that HMOs can serve a useful purpose in providing accommodation for certain groups including students temporarily resident in a locality and individuals and/or small households unable to afford self-contained accommodation. It is generally accepted that, irrespective of concentration issues, concerns can arise with the management of HMOs because of the transient nature of many tenancies, many residents on low incomes and/or from vulnerable groups, the intensive use of shared facilities and lack of interaction between residents who may be complete strangers to each other. Harassment and illegal eviction can be more common. HMO use of a house will generally be more intensive than single household use.
- 1.5 This may have an impact not just on the residents in an HMO but on the wider neighbourhood and the likelihood of this increases where there are high concentrations of such properties. It was concerns over management issues and potential hazards in three storey higher risk HMOs that led to the introduction of mandatory licensing in Wales and England through Part 2 of the Housing Act 2004.
- 1.6 It was apparent prior to this study that HMO concentrations were focussed around the long established university cities and towns (Cardiff, Swansea, Aberystwyth and Bangor). It is clear from this study that the growth in recent years of both the established and newer universities has been a very substantial element in the major increase in HMO concentrations. In the period 2000/01, full time student numbers in the UK rose by 40.1%; in Wales over the same period the increase was 43.2%, with numbers having risen from 65,800 to 94,200<sup>1</sup>. This means that over 28,000 extra students would potentially be seeking accommodation. In the early years, much of the additional accommodation required came from HMO growth in residential areas; as considered in Chapter 3, there has been a significant growth in purpose built student accommodation<sup>2</sup> and this is now having an impact on the pattern of student housing.
- 1.7 There have been several studies which have looked at the problems associated with HMO concentration, in particular in university locations, referred to on occasions as “studentification”<sup>3</sup>. In particular, in 2008, the Department of Communities and Local Government study, “Evidence Gathering – Housing in Multiple Occupation and possible planning responses” (The ECOTEC Report), led to changes in the Town and Country Planning (Use Classes) Order 1987<sup>4</sup> to increase planning controls over smaller HMOs; the change, however, applied in England only.
- 1.8 The problems associated with high concentrations of HMOs are discussed in more detail at Chapter 3 of this report. They are generally accepted to be:
- » Damage to social cohesion with higher levels of transient residents and fewer long term households and established families, leading in the long term to communities which are not balanced and self-sustaining;
  - » Access to the area for owner occupiers and first time buyers becoming much more difficult because of increased house prices and competition from landlords, with a reduction in the number of family homes;
  - » Increases in anti-social behaviour, noise, burglary and other crime;

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<sup>1</sup> [www.hesa.ac.uk/stats](http://www.hesa.ac.uk/stats)

<sup>2</sup> Please see paragraphs 3.49 onwards

<sup>3</sup> Studentification was established by Darren Smith in 2002 (processes of studentification in Leeds, University of Leeds) and used to describe the growth of high concentrations of students living within localities close to universities or higher education institutes, often accommodated in HMOs

<sup>4</sup> 1987 No. 764 [www.legislation.gov.uk/ukSI/1987/764/made](http://www.legislation.gov.uk/ukSI/1987/764/made)

- » Reduction in the quality of the local environment and street scene as a consequence of increased litter, refuse and fly tipping, increased levels of disrepair and prevalent letting signs.
- » A change of character in an area through tendency for increased numbers of takeaways, discount food stores, letting agencies and so on;
- » Increased pressure on parking;
- » Reduction in provision of community facilities for families and children in particular pressure on schools through falling rolls.

<sup>1.9</sup> The high returns that can be generated and the rapid expansion of the availability of mortgage finance in the form of buy to let mortgages in the mid-nineties are factors which contributed to the growth of HMOs. In some cases, the yields have attracted landlords unable or unwilling to deal effectively with the additional management difficulties and responsibilities of multiple occupation.

<sup>1.10</sup> A small proportion of HMOs in a locality may not have a significant impact on the overall neighbourhood. However, when concentrations rise significantly, then there can be substantial concerns for both residents and the local authority. When the concentrations primarily house students, as described in Chapter 3 (planning issues) and 5 (best practice) of this report, this study found that complaints regarding anti-social behaviour, noise, refuse, etc. will rise along with burglaries targeting the laptops, tablets, mobile phones etc. found in higher numbers in student households.

<sup>1.11</sup> Joint working between local authorities, universities, Students' Unions, Police and community groups aimed at mitigating the consequences of student concentrations in residential areas is a constant feature in Welsh and non Welsh universities and/or other higher education institutions. This is explored in more detail in Chapter 5.

## Research Methodology

<sup>1.12</sup> In accordance with the brief issued by the Welsh Government, the research methodology included the following key elements:

- (i) The setting up of a steering group to inform and monitor the research project. The steering group included representatives from the Welsh Government, Welsh Local Government Association, local authorities, universities and a national landlord association. This group met three times with the first meeting helping to shape the study methodology. The subsequent meetings considered both emerging findings and the draft report, with responses helping to inform the final report.
- (ii) A desk based review of relevant studies, previous research and documentary evidence in connection with HMOs and their concentrations and in particular the phenomenon of "studentification".
- (iii) The use of secondary data from published national sources, including the Census 2011 as well as returns to the Welsh Government (StatsWales) to map the location and concentration of HMOs across Wales and identify the focus authorities and areas where there are significant concentrations of HMOs. This was supplemented by additional telephone research with specified local authorities to narrow down the choice of focus authorities. Six focus authorities were identified for primary study<sup>5</sup>.

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<sup>5</sup> Please see paragraphs 2.21 onwards

- (iv) A series of structured interviews with local authority housing, planning, environmental health, highways and waste disposal officers in the Welsh local authorities with high HMO concentrations (students or other social groups, such as migrant workers). These interviews provided evidence of the extent of concentrations including numbers, types and trends in respect of HMOs, the challenges they present and current control and management practices. In addition, the barriers to effective use of the existing legislation were examined along with possible ways in which the current legislative regulatory framework could be modified to restrict growth or to provide more effective controls. In some cases, there were also discussions with elected members.
- (v) Structured interviews with universities and other higher education institutions in the focus authority areas to establish the issues arising from HMO concentrations from their perspective. In particular, to determine how they respond to problems from external student housing and what their longer term plans are.
- (vi) Structured interviews with Students' Union representatives in each of the focus authorities to establish the issues arising from HMO concentrations from their perspective. In particular, the steps taken to guide students to good quality accommodation and to promote positive relations with neighbours in residential areas.
- (vii) Structured discussions with officers in 10 non Welsh authorities with known high concentrations of HMOs and where proactive steps have been taken using additional licensing, Article 4 directions and other control measures. To identify the extent of concentration issues dealt with by those local authorities, the effectiveness of the measures adopted and comments as to any other measure or approach they would wish to see adopted, including legislative changes. These included discussions with officers in the Northern Ireland Planning Service and Northern Ireland Housing Executive as well as Belfast City Council.
- (viii) Structured discussions with representatives of a national landlord association. In addition, structured discussions with a number of estate agents in selected areas were undertaken to provide a perspective on local housing market forces.
- (ix) Two focus groups were held, one in North Wales and one in South Wales, to provide an opportunity for representatives of all local authorities in Wales, universities and other higher education institutions, Students' Unions and national landlord organisations across Wales to make representations on the emerging findings of the study along with existing best practice and suggestions for potential changes to the framework in planning, housing and related areas. Responses given at the Focus Groups helped to inform suggested changes and comments on best practice in the final report.

<sup>1.13</sup> Details of the organisations and individuals involved in the interviews and focus groups are set out in Appendix B.

## Research Papers and Reports

1.14 The impact of growing numbers of residential students on their host communities became a subject for concern and also for study during the late 1990s. In his 1999 study<sup>6</sup>, Chatterton looked at the impact high student numbers could have on city/town centres. Studies by Kenyon<sup>7</sup> and by Rugg, Rhodes and Jones<sup>8</sup> looked specifically at the impact of student communities on residential neighbourhoods. It is interesting that in their 2000 study, Rugg, Rhodes and Jones identified student HMOs as a 'niche market' and also noted concerns:

- » A substantial impact on the local owner occupied market with prices being driven by investors and with first time buyers being excluded from areas traditionally associated with such households (a 'tenure competition');
- » The character of the neighbourhood changing;
- » Tensions between students and established residents;
- » Competition between landlords driving up property conditions; and
- » Evidence of markets becoming saturated and oversupply leading to voids which may be inaccessible to other tenant groups.

1.15 The term 'studentification' as shorthand for the phenomenon of high student concentrations in what were primarily residential areas was first used by Smith in 2002 in a report on the Headingley area of Leeds<sup>9</sup>. He identified four dimensions to the process:

- » *Social*: Displacement of established households with young, single, transient households;
- » *Cultural*: Concentrations of young people with shared lifestyles leading to changes in service and infrastructure provision;
- » *Physical*: Changes to the local environment, often negative with lack of property maintenance and unkempt gardens;
- » *Economic*: Inflation of property prices leading to private rented accommodation, especially HMOs, dominating the area with decreased levels of owner occupation

1.16 There have been a number of studies since, with a consistent theme being the displacement of established communities with remaining owner occupiers contending with significant changes in the character of their neighbourhood, increased levels of anti-social behaviour, petty crime, unkempt properties, a loss of overall community cohesion, and so on.

1.17 Local communities understandably sought to resist change with pressure frequently being applied to elected members of local authorities and Parliament. Lobby groups were established, the most notable being the National HMO Lobby<sup>10</sup> (NHL), now representing fifty community groups in thirty towns across the UK. The NHL have lobbied vigorously since 2000, including at ministerial level and their representatives were a factor in the ECOTEC<sup>11</sup> report that preceded the 2010 changes in England to the

<sup>6</sup> Chatterton, P. (1999) University students and city centres – the formation of exclusive geographies. The case of Bristol, UK. *Geoforum* 30 117-133

<sup>7</sup> Kenyon, E.L. (1997) Seasonal sub-communities: the impact of student households on residential communities. *British Journal of Sociology* 48: 286-301.

<sup>8</sup> Rugg, J., Rhodes, D. & Jones, A. (2000) *The Nature and Impact of Student Demand on Housing Markets*. Joseph Rowntree Foundation, York and Rugg, J., Rhodes, D & Jones, A. (2002) Studying a niche market: UK students and the private rented sector. *Housing studies*. 17 (2): 289-303.

<sup>9</sup> Smith, D.P. (2002) *Processes of Studentification In Leeds*. Report presented to the City and Regional Office, University of Leeds, Leeds

<sup>10</sup> [www.hmobby.org.uk](http://www.hmobby.org.uk)

<sup>11</sup> Evidence Gathering – Housing in Multiple Occupation and possible planning responses, CLG, ECOTEC September 2008

Town and Country Planning (Use Classes) Order 1987<sup>12</sup> Their 2008 statement, 'Balanced Communities & Studentification – Problems and Solutions'<sup>13</sup>, sets out a clear summary of their position

- <sup>1.18</sup> Concern at the tensions between students and established residents led to Universities UK, an umbrella organisation representing vice-chancellors/principals of many university institutions, publishing a report 'Studentification: a guide to opportunities, challenges and practice' in January 2006<sup>14</sup>. This guide gave a range of examples of good practice at both strategic and a very practical local level. The report acknowledged the responsibility of higher education institutions to seek to deal with the very legitimate concerns of local communities and urged effective working with local authorities at a strategic level. The appointment of student strategy managers/community liaison officers was recommended along with a range of measures to mitigate the impact of student populations at local level, both in residential neighbourhoods and city/town centres.
- <sup>1.19</sup> The question of student HMO concentrations was considered in the 2008 report 'The Private Rented Sector: its contribution and potential' by Rugg and Rhodes<sup>15</sup> which examined a range of private sector housing issues. This report acknowledged the difficulties associated with high HMO concentrations but overall came to the view that Census data demonstrate that intensive student habitation is not common: 'there are more than 8,000 wards in England, and of these just 59 had student densities where a student household reference person comprised ten per cent or more of all household reference persons in the ward'.
- <sup>1.20</sup> Accordingly, it was felt that many of the 'housing' problems associated with concentrations are in fact just 'policing' issues for local authorities and other agencies to deal with and given also the importance of higher education institutions to local economies, amendments to use classes would be a disproportionate response. Population sizes in electoral wards vary considerably in size (with wards in large urban areas generally more populous) but the Office of National Statistics indicate the average size is approximately 5,500<sup>16</sup>. The use of broad statistics drawn on a large scale to argue that planning changes were inappropriate overall, does seem at odds with the reality that difficulties can arise in very localised neighbourhoods, and the conclusion does seem to contradict the 2000 report referred to above<sup>17</sup>.
- <sup>1.21</sup> There was a further report in 2008 which acted as the precursor to the introduction of the changes to the use classes in England. This was the report prepared by ECOTEC on behalf of CLG: 'Evidence Gathering – Housing in Multiple Occupation and possible planning responses'<sup>18</sup>. This concluded there were four options – doing nothing, the use of non planning levers, positive action to mitigate the impact of concentrations and policing of standards and finally altering use classes to provide a definition of HMOs and allow tighter planning controls over houses in multiple occupation. The report recommended that the local authorities and higher education institutions be encouraged to engage in the approaches described in the second option but also said consideration should be given to legislative change, although it did caution that rapid adoption could lead to difficulties with challenges where decisions were not being made within an appropriate framework, pointing to experience with a similar change in Northern Ireland.

<sup>12</sup> Please see paragraph 3.4 onwards

<sup>13</sup> [www.hmolobby.org.uk/39articles.pdf](http://www.hmolobby.org.uk/39articles.pdf)

<sup>14</sup> Universities UK, ISBN 1 84036 127 1, January 2006

<sup>15</sup> Centre For Housing Policy, University Of York, 2008

<sup>16</sup> [www.ons.gov.uk/ons/guide-method/geography/beginner-s-guide/administrative/england/electoral-wards-divisions/index.html](http://www.ons.gov.uk/ons/guide-method/geography/beginner-s-guide/administrative/england/electoral-wards-divisions/index.html)

<sup>17</sup> Please see paragraph 1.14

<sup>18</sup> CLG, ECOTEC September 2008

## 2. HMOs in Wales

### Concentrations of Houses in Multiple Occupation in Wales

#### What is an HMO

- 2.1 Ideally there should be a straightforward definition of what constitutes a house in multiple occupation. In reality, the situation is not clear cut; there are different definitions for housing, planning and council tax purposes. The most clearly defined is the housing definition which is set out in Part 7 of the Housing Act 2004. The definition for planning purposes depends on whether the HMO is in Wales or England and whether it has seven or more unrelated tenants and that for council tax depends on the degree of adaptation and extent of sharing of facilities and can be very much a matter of judgment by the Valuation Office Agency<sup>19</sup>.
- 2.2 As discussed in Chapter 3, it was clear from the structured interviews that the different definitions for housing and planning purposes do cause confusion for property owners and difficulties for local authority officers especially in Welsh authorities where a proposal for an HMO containing, for example, 6 people may require licensing but not planning consent. The matter may be complicated further when the issue of council tax arises, although it may be noted that properties, including HMOs, occupied by full time students are exempt from council tax<sup>20</sup>. The consideration of the definition of HMO for council tax purposes is outside the scope of this study and will not be considered further, although it may be said that difficulties associated with yet a third definition were mentioned by local authority officers during the structured interviews.
- 2.3 Prior to the Housing Act 2004, for housing purposes the Housing Act 1985 essentially defined an HMO as “a house occupied by persons who do not form a single household<sup>21</sup>”. A body of case law has developed around this definition, notably the case of *Barnes v Sheffield City Council*<sup>22</sup> which set out broad indicators of what constituted an HMO.
- 2.4 The definition for housing purposes is now more extensive and is set out primarily in ss254 – 260 of the Housing Act 2004 together with related secondary legislation. This definition applied to HMOs in both Wales and England. A building or part of a building is an HMO if it satisfies one of the following tests – the standard test, the self-contained flat test or the converted building test<sup>23</sup>. Most HMOs are defined as such as a consequence of the standard test. To satisfy the standard test, six conditions must be fulfilled:
- » There are one or more units of accommodation which are not self-contained flats;
  - » The living accommodation is occupied by persons not forming a single household<sup>24</sup>;

<sup>19</sup> See for example [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/389853/BandingofHousesinMutliOcc.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/389853/BandingofHousesinMutliOcc.pdf)

<sup>20</sup> Schedule 4 Local Government Finance Act 1992 and the Council Tax (Discount Disregards) Order 1992 (as amended)

<sup>21</sup> S345

<sup>22</sup> (1995) 27 HLR 719

<sup>23</sup> Ss254(1)(a)-(c), Housing Act 2004

<sup>24</sup> S258 – the definition means that student use falls within the HMO definition even if they live as one household

- » It is occupied by those persons as their only or main residence (students occupying property for the purpose of undertaking a full time course of further or higher education fall within this definition<sup>25</sup>);
  - » Their occupation of the living accommodation constitutes the only use of that accommodation;
  - » Rents are payable or other consideration is provided in respect of at least one of the occupants; and
  - » Two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities.
- 2.5 The **self-contained flat test**<sup>26</sup> is concerned with flats in multiple occupation with the only difference with the flat test and standard test being that the relevant premises must be a self-contained flat. The **converted building test**<sup>27</sup> is concerned with buildings (or parts of buildings) which have been partly converted into self-contained flats but which in addition include living accommodation which is not within a self-contained flat, typically because there is no front door providing access to all parts of the living accommodation. A converted building is a building (or part of a building) consisting of residential accommodation in which one or more units have been created since the building was constructed<sup>28</sup>.
- 2.6 In addition, a building may also be an HMO<sup>29</sup>, if an “HMO declaration” is in force in respect of it or it is a converted block of flats. The definition under the three tests above includes a requirement for the sole use of a property as the only or main residence. The fluctuating nature of the occupancy of certain properties (for example bed and breakfast establishments) may mean that a property may move in and out of the definition. To remove doubt about the status of an individual property, a local authority may make an **HMO declaration**<sup>30</sup> where the occupation by persons who do not form a single household as their only or main residence amounts to a significant use of the relevant property. A **converted block of flats** is a building (or part of a building) which has been converted into and consists of self-contained flats<sup>31</sup>. Both converted houses and converted commercial premises may fall within the definition if the conversion works do not comply with the requirements of the former Building Regulations 1990 (essentially in respect of fire precautions). Such properties are often referred to as S257 HMOs.
- 2.7 In addition, certain properties are exempted from the definition of HMO<sup>32</sup> for the purpose of licensing and the application of local authority powers specifically aimed at HMOs alone, such as Management Regulations. Such exempted properties remain HMOs for the purpose of the Housing Health and Safety Rating System (HHSRS) dealing with hazards. These properties include many premises managed by public bodies including local authorities and Registered Social Landlords where accommodation is provided and specifically includes buildings occupied by full time students at specified educational institutions operated by educational bodies.
- 2.8 Whilst the definition is now exhaustive, it is at least fairly clear. It is this definition that has been used in the statistics relating to licensed HMOs and local authority estimates of HMO numbers<sup>33</sup>. As explained below<sup>34</sup>, Census 2011 data has also been used to give recent, fine grained analysis at local level. The

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<sup>25</sup> S259 Housing Act 2004

<sup>26</sup> Section 254 (3), Housing Act 2004

<sup>27</sup> Section 254 (4), Housing Act 2004

<sup>28</sup> Section 254 (8), Housing Act 2004

<sup>29</sup> Section 254 (1)(d) and (e), Housing Act 2004

<sup>30</sup> Section 255, Housing Act 2004

<sup>31</sup> Section 257, Housing Act 2004

<sup>32</sup> Section 254 (5) and Schedule 14, Housing Act 2004

<sup>33</sup> [www.statswales.wales.gov.uk/Catalogue](http://www.statswales.wales.gov.uk/Catalogue)

<sup>34</sup> Please see paragraph 2.21 onwards

Census does not expressly record the numbers of HMOs but does give numbers of 'multi person adult households' and this information, appropriately filtered, can be used as a proxy for HMOs. The position with the definition for planning purposes is far less clear cut and differs in Wales and England.

- <sup>2.9</sup> As explained at paragraph 3.4 onwards, until April 2010 there was no express definition of what constituted an HMO when considering the question of whether a material change of use had occurred. The Town and Country Planning (Use Classes) Order 1987<sup>35</sup> was then amended with effect in England only to create a revised Class C3 (dwelling houses) and introduced a new Class C4 (houses in multiple occupation occupied by 3 to 6 persons). The definition in the amended Order was tied expressly to that in Part 7 of the Housing Act 2004<sup>36</sup>.
- <sup>2.10</sup> As will be seen in Chapter 3<sup>37</sup>, when the change in use classes was first introduced, a requirement to seek consent for a change from C3 to C4 originally applied across the whole of England. A change to the Town and Country Planning (General Permitted Development) Order 1995<sup>38</sup> was effected in October 2010; this had the effect of making a change from C3 to C4 permitted development. However, after following prescribed procedures, English local authorities had the right to remove this permitted development right by making a direction under Article 4(1) of the 1995 Order and to date over 50 authorities have done so<sup>39</sup> in order to restrict the growth of HMO concentrations because of concerns over their impact.
- <sup>2.11</sup> Prior to the change in England, larger HMOs were regarded as 'sui generis' (of its own kind) and were taken to be larger HMOs occupied by seven or more unrelated residents, although this definition is not explicitly stated; both case law and planning decisions indicate that this is not simply a clear cut question of numbers but that factors such as the manner of occupation and the potential impact on neighbouring properties can have a bearing<sup>40</sup>. The sui generis category is used in respect of larger HMOs in England and is the only definition of HMO for planning purposes in Wales; a change of use to an HMO with six or less tenants is not subject to planning control.

## Who Lives in HMOs and Why?

- <sup>2.12</sup> The research focuses on high HMO concentrations, in particular concentrations associated with universities/higher education institutions. However, it must be borne in mind that HMOs are occupied by a diverse range of people. Many tend to be young and form single households. HMOs often house transient households present only for very limited periods. They tend to be low income households mainly because many are economically inactive, or full time students or working in low paid jobs<sup>41</sup>. However, dependent on the locality, HMOs may often be occupied by young professionals and recent graduates at an early stage in their career who may be unable or reluctant to rent or buy self-contained accommodation.
- <sup>2.13</sup> Often problems associated with high concentrations of HMOs are thought to arise from student occupation. However, there may be associations with benefits claimants, ex-offenders and other vulnerable groups. In coastal towns there is often a concentration of seasonal workers and a surplus of hotels and guesthouses no longer serving the tourist trade. In addition, new migrants are much more likely

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<sup>35</sup> 1987 No. 764

<sup>36</sup> Town and Country Planning (Use Classes) (Amendment) (England) Order 2010

<sup>37</sup> Please see paragraph 3.9 onwards

<sup>38</sup> 1995 No. 418

<sup>39</sup> Please see paragraph 3.17

<sup>40</sup> Please see paragraph 3.93 onwards

<sup>41</sup> The Nature and Impact of Student Demand on Housing, Rugg, Rhodes and Jones, Joseph Rowntree Foundation, 2000

to be in the private rented sector than in other sectors, and are more likely to be living in housing at the lower end of the market.<sup>42</sup>

- 2.14 Government changes to the way that Local Housing Allowance (housing benefit) is allocated have meant that since January 2012, the shared accommodation rate (that currently applies to single people under the age of 25 living in accommodation that they rent from a private landlord) was extended to people aged under 35. The great majority of single people under 35<sup>43</sup> will receive housing benefit only for HMO type accommodation; which is clearly a factor likely to promote the growth of HMOs.
- 2.15 The tables below set out the broad range of people commonly found in HMOs and secondly some of the reasons why people live in HMOs.

**Figure 1: Who lives in HMOs and the Reasons Why**

WHO Lives in HMOs	WHY People Live in HMOs
Students (including further education, undergraduates, postgraduates, overseas, language school)	Affordability (low cost)
Unemployed – single and couples	Personal development / right of passage
Those moving to the area for work, seasonal or transient/contract workers	Short term contracts / flexibility / work
Residents in hostels / refuges	Locality / convenience
People with special social needs – with live in carers or social workers	Lack of university accommodation
Migrant workers	Cultural / peer support
Older house sharers who cannot afford to buy or rent separately	Isolation / not wanting to live alone
Lodgers	Good transport links / travel costs
People on bail / domestic abuse / refugees	Only option – no longer welcome at home
Newly homeless / people being re-habilitated into the community	Provided by employers to allow immediate start on job
Local Housing Allowance (Housing Benefit) claimants under the age of 35	Housed in HMOs as a step back into the community or to receive support
Live in staff for example hotel workers (alternative use class)	Work commitments – live in HMO during week and at home during weekend
Trainee and recent qualified medical staff	
Young professionals and recent graduates	
Young non-professionals	

## The Housing (Wales) Act 2014 and HMO Concentrations

- 2.16 Whilst this report was being prepared, the Housing (Wales) Bill 2013-14 received Royal Assent (on the 17 September 2014) to become the Housing (Wales) Act 2014. The 2014 Act makes significant changes to legislation affecting public and private housing in Wales, including the regimes covering social housing and homelessness.
- 2.17 One provision particularly relevant to private sector housing generally is the introduction of a compulsory registration and licensing scheme for private rented sector landlords and letting and management agents. It is intended that the provisions will be introduced over the course of 2015 and 2016. The requirement for landlords and agents to register and become licensed is expected to come into force in autumn 2015 and this will create, in effect, a comprehensive register of the private rented sector in Wales. In addition, those

<sup>42</sup> UK migrants and the private rented sector, Joseph Rowntree Foundation 2012

<sup>43</sup> There are exemptions for couples living as partners, those with children or living with an adult dependent and foster carers. The rate does not apply in some circumstances to homeless persons or some people leaving prison.

persons who are directly involved in letting and managing rental properties will have to become suitably trained and declare themselves 'fit and proper' to do such activities.

- <sup>2.18</sup> This should improve standards of letting and management practice in the sector. Once in force, the registration system will allow local authorities in Wales to have an overview of where rented accommodation is located which will benefit both them and landlords by allowing them to disseminate information and, if and when appropriate, intervene strategically. Clearly local authorities already have regulatory powers in relation to the private rented sector. In future, if a complaint is received about a landlord or property on the register then the council can contact the landlord or agent quickly allowing speedier resolution. On occasions, the use of statutory procedures may be prolonged due to the need to establish contact details for landlords and agents, leading to unnecessary delay in actions being taken.
- <sup>2.19</sup> As indicated at paragraph 5.57, Newham London Borough Council has found that the introduction of additional and selective licensing on a Borough wide basis has had a very positive effect when dealing with complaints, simply because it takes much less time just to identify who is responsible for a property.
- <sup>2.20</sup> Part 2 of the 2014 Act also gives local authorities additional duties in respect of homelessness. It also amends the homelessness regime in Wales by permitting local housing authorities to discharge their full housing duty to applicants who are in priority need and unintentionally homeless (and in respect of whom action to relieve homelessness has been unsuccessful) by offering a six month assured shorthold tenancy in the private rented sector<sup>44</sup> whilst retaining their power to offer social housing to applicants. There will therefore no longer be a presumption that eligible applicants will be offered a secure tenancy or an assured tenancy in a house owned by a local authority or housing association, and this is likely to lead to greater use of privately rented accommodation including HMOs.

## Extent of HMOs in Wales and Identification of Focus Authorities

- <sup>2.21</sup> In order to identify the local authorities to be chosen as focus authorities where HMO concentrations were of significant concern and where structured face to face interviews would take place, existing secondary data on HMO incidence and concentration was examined. Direct telephone contact was made with local authority officers where analysis of the data was not conclusive.
- <sup>2.22</sup> The secondary data has been drawn from the Census results 2011 and StatsWales<sup>45</sup> (local authority housing returns). The Census data allows much more fine grained analysis as it goes down to Output Area level (minimum size 40 resident households and 100 resident people with target size of 125 households). Data from StatsWales is at local authority level only. Census data does not specifically show HMOs but does show multi person adult households (MPHs). Student households are clearly identified; a private rented sector filter was applied to remove large owner occupier families and allow use as a proxy for HMOs.
- <sup>2.23</sup> Figure 2 shows numbers of MPHs (Census) and actual and estimated HMOs (StatsWales) by authority, with elevated percentages highlighted.

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<sup>44</sup> S76(2), Housing (Wales) Act 2014

<sup>45</sup> [www.statswales.wales.gov.uk/Catalogue](http://www.statswales.wales.gov.uk/Catalogue)

Figure 2: HMO distribution by Local Authority<sup>46</sup>

Local Authority	Census 2011							LA Estimates 2013/14			
	Total Households	Private Rented	Multi-Person Households (MPH)			% Total HH	% PR	Known HMOs	Est'd Total HMOs	% Total HH	% PR
			Student	Other	Total						
Anglesey	30,594	5,073	41	183	224	0.7%	4.4%	116	260	0.8%	5.1%
Gwynedd	52,473	9,417	621	456	1,077	2.1%	11.4%	1,120	1,200	2.5%	13.8%
Conwy	51,177	9,352	3	307	310	0.6%	3.3%	1,165	1,300	2.7%	15.0%
Denbighshire	40,546	7,162	8	264	272	0.7%	3.8%	359	359	0.8%	4.5%
Flintshire	63,781	7,339	4	424	428	0.7%	5.8%	90	200	0.3%	2.7%
Wrexham	57,029	7,743	145	464	609	1.1%	7.9%	428	962	1.7%	12.4%
Powys	58,345	9,915	2	357	359	0.6%	3.6%	571	571	1.0%	5.8%
Ceredigion	31,562	6,933	803	366	1,169	3.7%	16.9%	880	880	3.6%	16.3%
Pembrokeshire	53,122	8,112	6	303	309	0.6%	3.8%	94	150	0.3%	1.8%
Carmarthenshire	78,829	10,653	69	402	471	0.6%	4.4%	406	406	0.5%	3.7%
Swansea	103,497	17,052	1,589	1,148	2,737	2.6%	16.1%	1,736	1,900	1.9%	11.7%
Neath Port Talbot	60,393	7,258	3	307	310	0.5%	4.3%	430	430	0.7%	5.9%
Bridgend	58,515	7,925	9	364	373	0.6%	4.7%	213	255	0.4%	3.2%
Vale of Glamorgan	53,505	8,379	3	375	378	0.7%	4.5%	245	308	0.7%	4.2%
Cardiff	142,557	33,282	3,025	4,026	7,051	4.9%	21.2%	4,760	7,000	4.9%	21.0%
Rhondda Cynon Taf	99,663	15,080	681	481	1,162	1.2%	7.7%	765	790	1.0%	6.6%
Merthyr Tydfil	24,264	3,261	3	170	173	0.7%	5.3%	48	48	0.2%	1.6%
Caerphilly	74,479	8,669	5	300	305	0.4%	3.5%	189	200	0.3%	2.2%
Blaenau Gwent	30,416	4,208	3	121	124	0.4%	2.9%	38	50	0.2%	1.2%
Torfaen	38,524	3,707	0	130	130	0.3%	3.5%	37	60	0.2%	1.6%
Monmouthshire	38,233	4,662	0	152	152	0.4%	3.3%	37	200	0.5%	4.3%
Newport	61,172	9,453	274	569	843	1.4%	8.9%	593	650	1.6%	10.6%
<b>TOTAL</b>	<b>1,302,676</b>	<b>204,635</b>	<b>7,297</b>	<b>11,669</b>	<b>18,966</b>	<b>1.5%</b>	<b>9.3%</b>	<b>14,320</b>	<b>18,179</b>	<b>1.5%</b>	<b>9.4%</b>

- <sup>2.24</sup> It is clear from the above table that Gwynedd (Bangor University), Ceredigion (Aberystwyth University), Swansea and Cardiff are all above the national average irrespective of the comparator used. There are a further three local authorities with notable concentrations of multi person households: Wrexham, Rhondda Cynon Taf (RCT) and Newport. In addition, Conwy has significantly more estimated HMOs than the proxy multi person households indicate. These authorities were contacted to establish whether they considered that they had a significant problem with HMOs and reflected what the statistical information indicated.
- <sup>2.25</sup> Rhondda Cynon Taf confirmed that although they were below the national average, there was a significant HMO problem in the Treforest ward. This was as a result of student accommodation being provided in close proximity to the Treforest Campus of the University of South Wales.
- <sup>2.26</sup> Wrexham County Borough indicated that although HMO numbers were lower than in other authorities, HMO concentration was recognised as a significant problem in localised pockets. The expansion of Glyndŵr University had added to this, although only just over a fifth of HMOs are occupied by students with many occupied by migrant workers.

<sup>46</sup> [www.statswales.wales.gov.uk/Catalogue/Housing/Hazards-and-Licences/housesinmultipleoccupation-by-area](http://www.statswales.wales.gov.uk/Catalogue/Housing/Hazards-and-Licences/housesinmultipleoccupation-by-area)

- <sup>2.27</sup> Newport City Council confirmed that they had a localised problem in a small number of streets. Cardiff University undertook an investigation to establish the extent of studentification within the inner city Stow Hill ward of Newport. This was to inform the development of the Newport Local Development Plan. The report concluded that although there was limited evidence of studentification within the Stow Hill ward, the potential for studentification to increase and become a concern did exist.
- <sup>2.28</sup> Conwy County Borough Council indicated that they had a concentration of HMOs predominantly in the Colwyn Bay and Llandudno area. The great majority of these properties were s257 HMOs (self-contained flats not meeting 1991 Building Regulations) as opposed to shared houses or bedsits. This reflected a previous local authority policy to discourage HMO growth.
- <sup>2.29</sup> Based on the above statistical information and local authority representations, the local authorities listed below were identified as the focus authorities. Because of the limited nature and concentration of HMOs in Newport and the extent and type of HMOs in Conwy, these two authorities were not included.
- » Cardiff City Council
  - » Swansea City Council
  - » Ceredigion County Council
  - » Gwynedd Council
  - » Rhondda Cynon Taf County Borough Council
  - » Wrexham County Borough Council

## The Welsh Focus Authorities

- <sup>2.30</sup> The information below contains material derived from the structured interviews and also secondary data including Census 2011, StatsWales, HESA student data and local authority information in the public domain. The maps showing geographical concentrations are drawn from Census 2011 data. Whilst there is significant evidence of the negative effects of HMO concentrations, it is generally recognised that there are positive effects too and the structured interviews sought to ensure these were reflected. The structured interviews also sought to elicit information on current practices, the practical impact of policies such as the introduction of additional licensing, the existing regulatory framework, barriers to effective and proportionate regulation and action and suggestions for useful reform.
- <sup>2.31</sup> The aim in the next section is to give a clear picture of the extent of HMO concentrations both in terms of numbers and geographical spread, an impression of the impacts (negative and positive) of the concentrations and a representation of current trends from the structured interviews.

### Cardiff

- <sup>2.32</sup> Cardiff is the largest city in Wales and was the county town of the historic county of Glamorgan (later South Glamorgan). It is the capital city of Wales. It has an estimated population of 346,100 and covers some 140km<sup>2</sup>. There are estimated to be in excess of 7,051 (Census 2011) HMOs in Cardiff, which are predominantly located in the Cathays, Plasnewydd and Gabalfa wards of Cardiff.
- <sup>2.33</sup> There were 40,900 undergraduate and post graduate students from Cardiff University and Cardiff Metropolitan University in 2012/13, a 45% increase from the 2000/01 figure of 28,300. There are also 2,235 further education students and a significant number of international students. In addition, there are a proportion of students that attend the University of South Wales, but commute from Cardiff. Only 19% of

students (7,771) are housed by the universities or private halls of residence and 28% live at home. Consequently, the vast majority live in the private rented sector predominantly in shared houses (HMOs).

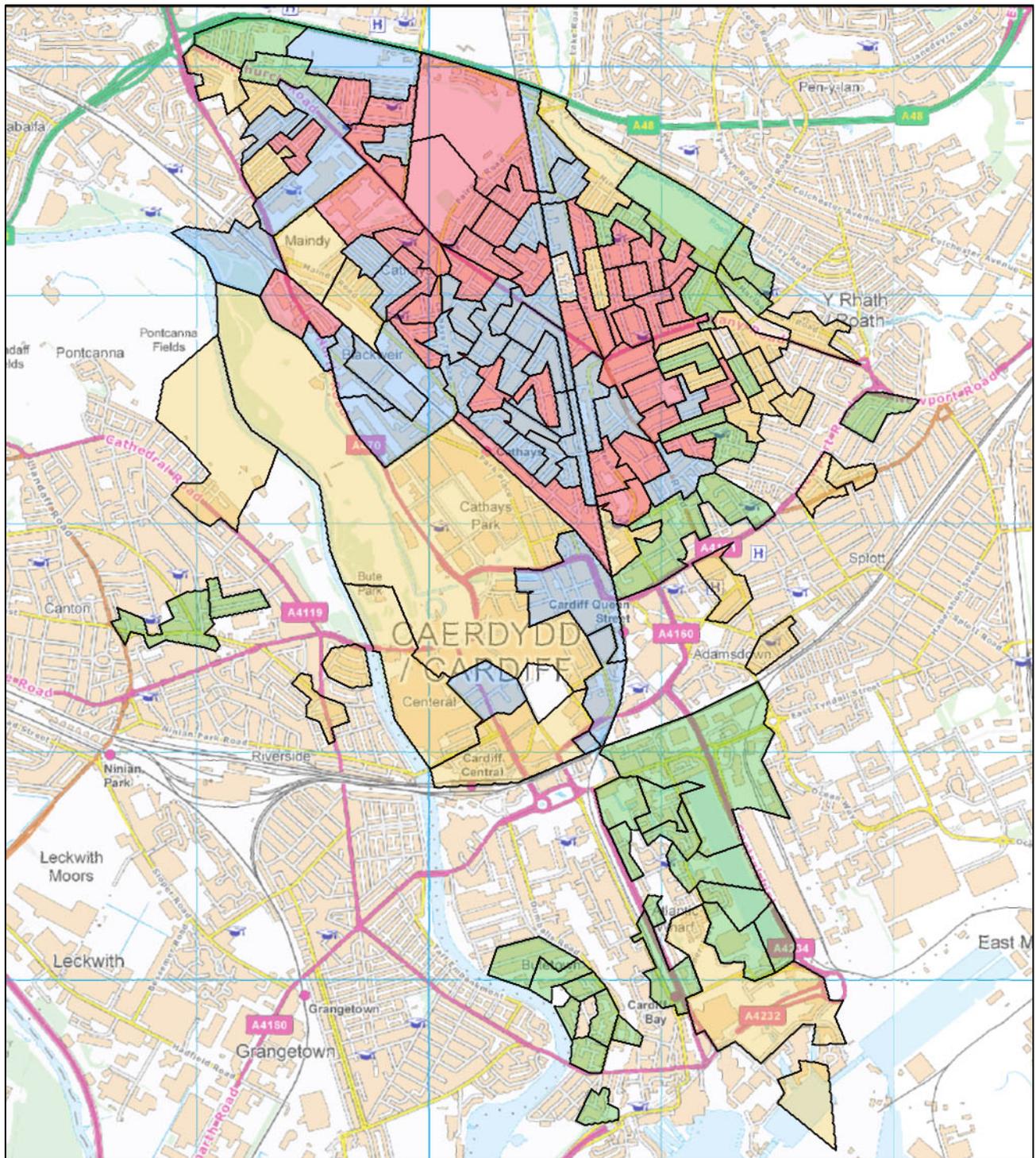
- <sup>2.34</sup> The Council introduced additional licensing for HMOs in the Cathays Ward in 2010 and this is due to expire in 2015. Further consideration will be given later this year as to whether to renew the scheme. In addition, a further additional licensing scheme has been implemented in relation to the Plasnewydd Ward (3<sup>rd</sup> November 2014).
- <sup>2.35</sup> There are currently 862 mandatory licensed HMOs in Cardiff (Cathays 498, Plasnewydd 294, Gabalfa 20 and other wards 50) and 1,500 additional licensed HMOs in Cathays. The local authority anticipated that there will be in the region of 1,500 licensable HMOs in the Plasnewydd Ward. Figures from the 2011 Census<sup>47</sup> were used to give a picture of HMO distribution and concentration and are set out in the table below. All three of these wards in Cardiff have HMO concentrations above 10%. The final row shows the figures overall for those wards.

**Figure 3: Distribution of Multi-Person Households (MPH) in the Cathays, Plasnewydd and Gabalfa Wards in Cardiff**

Ward	Total Households	Private Rented	Student MPH	Other MPH	Total MPH	% MPH	% PR
Cathays	6,192	4,261	1,769	699	2,468	40%	69%
Gabalfa	2,426	928	216	253	469	19%	38%
Plasnewydd	7,565	4,171	785	890	1,675	22%	55%
<b>Total</b>	<b>16,183</b>	<b>9,360</b>	<b>2,770</b>	<b>1,842</b>	<b>4,612</b>	<b>28%</b>	<b>58%</b>

<sup>47</sup> Please see paragraph 2.8

Figure 4: Map Showing Distribution of Multiple Person Households in the Cathays, Plasnewydd and Gabalfa Wards in Cardiff



Red	Student and Non-Student both make up over 10% of the total HH's
Blue	Student above 10% Non-Student below 10%
Green	Non-Student above 10%, Student below 10%
Yellow	Both Student and Non-Student below 10% but combined are over 10% (i.e. Total MPH in PRS >10%)

- <sup>2.36</sup> Local authority officers indicated there were concerns over the substantial effect on communities caused by the displacement of families from what had been originally residential areas with house prices and rentals both being driven up by demand for student accommodation. HMO concentrations had reached very high levels in some wards and local authority officers cited the lack of planning controls as a factor in this. The appearance of the local environment had been degraded by the proliferation of letting boards (and are now taking steps to restrict this as indicated at paragraph 2.40 below) and the fact that many properties were in poor condition. Complaints about regular noise and anti-social behaviour had meant that the local authority, in partnership with three universities, had developed a Student Community Action Plan to mitigate the impact of student concentrations (please see paragraph 2.43 below). The Community Plan also seeks to tackle the higher rates of burglary in student properties.
- <sup>2.37</sup> The local authority also pointed out the many positive aspects of higher education institutions being in the city; they are vital to the local economy and are major employers. Student spending is very important in promoting the vibrancy of the city centre and the students themselves also provide a pool of flexible workers for local businesses. On graduation, they provide a supply of skilled workers for local employers. Access to the university sporting and cultural facilities benefits the community as a whole and many students give voluntary support to community projects.

### Recent Trends and General Comments

- <sup>2.38</sup> After a progressive rise from 2000/01, student numbers have been largely consistent since 2009 at around 41,000, apart from a slightly elevated number in 2011-2012.
- <sup>2.39</sup> The local authority has a planning policy to encourage diversion of students from the general housing market (in particular areas of concentration) by permitting the provision of purpose built student accommodation in appropriate locations, primarily within Central and Bay Business Areas. Policy K10 within the emerging draft Local Development Plan 2006-2026 reinforces the position<sup>48</sup>.
- <sup>2.40</sup> In addition, the local planning authority has made representations to the Welsh Planning Minister requesting that he makes a Direction under Regulation 7, Town & Country Planning (Control of Advertisement) Regulations 1992 to control the display of residential “letting boards” within the Cathays and Plasnewydd Wards<sup>49</sup>.
- <sup>2.41</sup> The local authority has found that the mandatory licensing scheme and Cathays additional licensing scheme have been effective in driving up property and management standards. They said that the existing regime of additional licensing was very onerous to establish and would support changes to simplify the procedure and also extend the maximum period to 10 years because of the work involved in ensuring compliance with conditions. Officers did not feel that the introduction of licensing for all HMOs would be appropriate as realistically it would be extremely difficult to implement this within existing resources. They also felt that a move to reintroduce the power to serve notices for breaches of HMO management regulations would be very useful as would the introduction of fixed penalty notices for breaches of such regulations and licence conditions.
- <sup>2.42</sup> Local authority officers were of the view that existing planning controls were not adequate to restrict further growth of smaller HMOs in Cardiff and were generally supportive of a change to use classes along English lines, in particular incorporating the Housing Act 2004 definition of HMO. If the change involved a

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<sup>48</sup> Please see paragraph 3.86

<sup>49</sup> Please see paragraphs 3.129 onwards

requirement to make Article 4 directions, then it would be important for the local authority to be able to charge for planning applications.

- <sup>2.43</sup> Since 2007, the local authority in partnership with the three universities has developed a Student Community Action Plan. The plan outlines the partnerships achievements since its inception and aims to deliver an agreed set of actions that address issues under the themes of accommodation, neighbourliness and community respect, health and safety, environmental sustainability and improved communication, with a view to improving the quality of life for students and residents alike. To help implement the plan a Student Liaison Officer has been funded through the partnership to coordinate many of the activities in the action plan. There is a strong online presence through [www.cardiffdigs.co.uk](http://www.cardiffdigs.co.uk) to support the aims of the action plan. This innovative partnership has been very effective and is considered in detail in Chapter 5<sup>50</sup>.

## Swansea

- <sup>2.44</sup> City and County of Swansea is a coastal city and county and lies within the historic county boundaries of Glamorgan. The City and County of Swansea is the second most populous local authority area in Wales after Cardiff, with an estimated population of 240,300 in an area of some 378km<sup>2</sup>. The urban area of the county is chiefly focused on Swansea and radiates to the west and north of the city centre. There are a number of secondary urban centres small towns. HMOs are predominantly located in Swansea in particular the Castle and Uplands wards.
- <sup>2.45</sup> There were 20,045 undergraduate and post graduate students in 2012/13, a 23% increase from the 2000/01 figure of 16,250. There are also significant numbers of further education students along with almost 5,000 nursing students.
- <sup>2.46</sup> The University has had very limited accommodation of its own, providing some 2,930 rooms. The Hendrefoelan site previously provided an additional 1,600 rooms but was recently sold to help fund the new Campus. However, the new Bay campus will have an onsite provision of 900 rooms available in September 2015 and a further 540 coming online in January 2016. Consequently, the vast majority of students are housed in the private rented sector (HMOs)
- <sup>2.47</sup> The University of Wales Trinity Saint David (UWTSD) (previously Swansea Metropolitan) was formed in 2010 through the merger of Wales Lampeter and Trinity University College, Carmarthen and the UWTSD Group include Coleg Sir Gar and Coleg Ceredigion. UWTSD has three main campuses based in Swansea, Carmarthen and Lampeter. Existing university accommodation accounts for just over 900 bed spaces.
- <sup>2.48</sup> University of Wales Trinity Saint David (UWTSD) has five halls of residence in Swansea based on two separate campuses, providing approximately 300 rooms for first year students. All Trinity Saint David accommodation at Carmarthen is located on the main campus and can accommodate approximately 631 students. Accommodation at Lampeter is located on the main campus and provided through halls of residences and houses and can accommodate approximately 623 students. In addition, UWTSD has earmarked SA1 Swansea Waterfront for the development for a new campus, which will combine education, research, sports, social facilities and student accommodation. A possible start date for the development is scheduled for 2016.
- <sup>2.49</sup> There are estimated to be in excess of 2,737 (Census 2011) HMOs in Swansea. In 2006, the Council introduced additional licensing for HMOs in the Castle and Uplands Wards, which was renewed in 2011. There are currently 1,507 licensed HMOs in Swansea (698 mandatory and 809 additional). Figures from

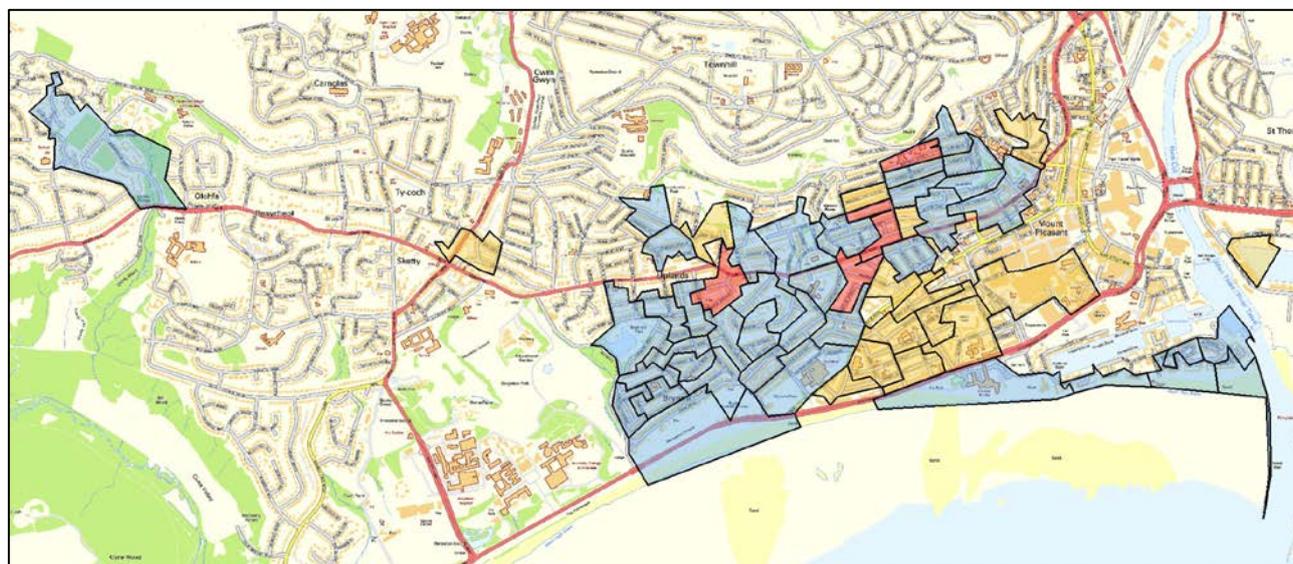
<sup>50</sup> Please see paragraphs 5.16 onwards

the 2011 Census<sup>51</sup> were used to give a picture of HMO distribution and concentration and are set out in the table below. Both wards have HMO concentrations above 10%. There is one street containing 71% HMOs and eleven streets with a concentration greater than 50%.

Figure 5: Distribution of Multi-Person Households (MPH) in Castle and Uplands Wards in Swansea

Ward	Total Households	Private Rented	Student MPH	Other MPH	Total MPH	% MPH	% PR
Castle	8,031	2,956	505	339	844	11%	37%
Uplands	5,888	2,406	967	313	1,280	22%	41%
<b>Total</b>	<b>13,919</b>	<b>5,362</b>	<b>1,472</b>	<b>652</b>	<b>2,124</b>	<b>15%</b>	<b>39%</b>

Figure 6: Map Showing Distribution of Multiple Person Households in Castle & Uplands Ward in Swansea



Red	Student and Non-Student both make up over 10% of the total HH's
Blue	Student above 10% Non-Student below 10%
Green	Non-Student above 10%, Student below 10%
Yellow	Both Student and Non-Student below 10% but combined are over 10% (i.e. Total MPH in PRS >10%)

<sup>2.50</sup> Local authority officers expressed concern about the significant impact on established residential communities of the displacement of families and long term residents and the increased house and rental values caused by the demand for investment properties. Student HMO concentrations are very high in parts of the Castle and Uplands wards. Major investment by Swansea University near the St Thomas area could lead to concentrations developing in those areas (with the possibility of limited destudentification in existing concentration areas). Officers indicated that there were significant problems in respect of noise and anti-social behaviour, refuse and litter, increased parking, elevated burglary levels in student areas and the general condition of many properties. The proliferation of letting boards has led the Council to adopt a voluntary code in an attempt to restrict the number of such boards (please see paragraph 2.55 below). Officers commented on the substantial costs incurred by the Council in dealing with HMOs and related problems. As elsewhere, the local authority has adopted a multi-agency approach with the universities, Students' Unions and Police to assist with mitigating problems.

<sup>51</sup> Please see paragraph 2.8

- 2.51 Council officers also recognised the very positive aspects of university growth to the city and also that HMOs do play an important role in the provision of affordable housing, especially in light of recent changes to housing benefit. The universities are major employers and make a vital contribution to the local economy. Revenue from students makes a significant contribution to the bars, restaurants, shops and many other types of business.

### Recent Trends and General Comments

- 2.52 There are a limited number of purpose built units provided by the University, some of which are due to come online in 2015/2016. UWTSU has five halls of residence in Swansea based on two separate campuses, providing approximately 300 rooms for first year students. However, the demand for student accommodation is likely to increase as a result of the new Swansea University Bay Campus on Fabian Way. This may encourage the development of HMOs in the St Thomas area of Swansea, which currently has very limited numbers. The new development may lead to some shift from the Castle and Uplands wards, but increasing student numbers will continue to ensure that there is demand around the Singleton campus, where there are established areas with good provision of facilities.



- 2.53 The local authority has found the mandatory and additional licensing scheme effective in driving up standards and ensuring that properties are better managed. Some licence conditions are specifically targeted at student HMO issues for example conditions relating to security, anti-social behaviour, waste management. Officers did comment that existing regime of additional licensing was time consuming and complex and would support changes to simplify the procedure. They also supported the possible reintroduction of the power to serve notices for breaches of HMO management regulations as well as fixed penalty notices for breaches of management regulations and licence conditions.
- 2.54 Officers felt that existing planning controls were inadequate to restrict further growth of smaller HMOs in the existing Uplands and Castle wards and in particular were concerned that they would be unable to manage any future developments of HMOs in the St Thomas area. They would welcome a similar position to that in England subject to being able to charge for planning applications.
- 2.55 In addition, the local authority has recently issued a voluntary code for advertisers in relation to letting boards to try to reduce the detrimental effect that such signs have on the local amenity.
- 2.56 A Community Liaison Officer has been funded in partnership with the Swansea University, Gower College Swansea, South Wales Police and Swansea City Council and looks after the concerns of the students and local residents. The Police were central to the creation of the post and many issues that the Community Liaison Officer deals with are linked to anti-social behaviour including instances of assault and hate crimes. The University ensures that only licensed properties are advertised through the University Student Pad facility.
- 2.57 The City Centre Strategic Framework encourages living and learning in the City Centre to support the regeneration of the city by increasing the footfall and vibrancy.

<sup>2.58</sup> Partnership working with the university, University of Wales Trinity Saint David (UWTSD) and other agencies in particular, Police in respect of anti-social behaviour, refuse and security has proved largely successful.

## Ceredigion

<sup>2.59</sup> Ceredigion County has a population of 75,900 and covers an area of 1,783 km<sup>2</sup>. The largest town is Aberystwyth, which is one of two administrative centres along with Aberaeron. HMOs are predominantly associated with Aberystwyth and to a lesser extent Lampeter.

<sup>2.60</sup> There were 11,615 undergraduate and post graduate students studying at Aberystwyth University in 2012/13, a 25% increase from the 2000/01 figure of 9,920. There are also significant numbers of further education students (3,900).

<sup>2.61</sup> There has been a significant increase in the provision of purpose built accommodation provided by the University and private halls. The University previously had the provision for 3,500 bed spaces, but this will increase to 4,200 in September 2015. This has further been supported by an additional 230 beds which were due to be decommissioned in 2014, but have continued to be used and will be reviewed on an annual basis. It is anticipated that the University will meet 47% of the demand for housing from students in 2015.

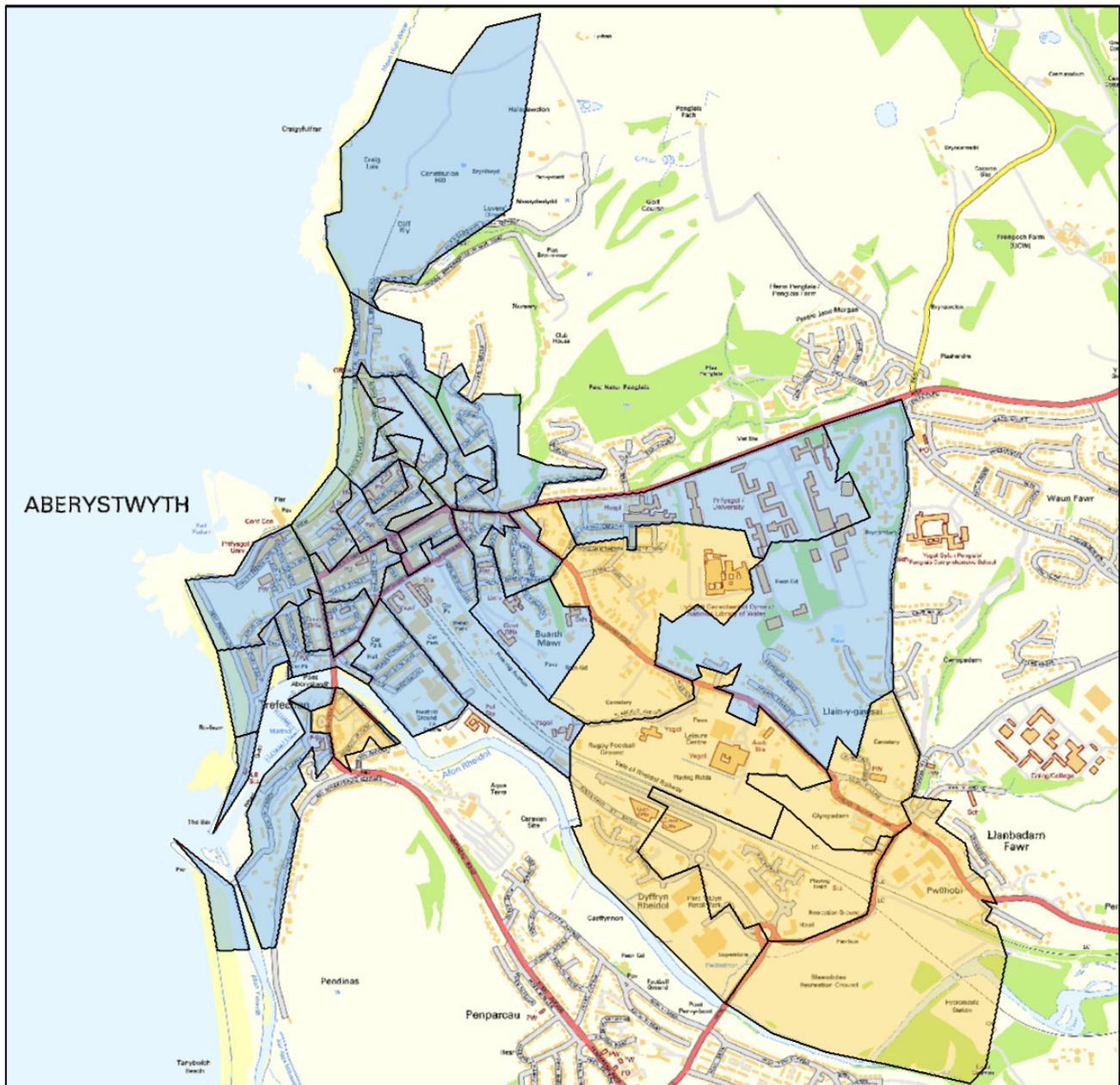
<sup>2.62</sup> In 2014, the Council renewed its additional licensing scheme for all HMOs including s257 HMOs (County wide). There are currently 627 licensed HMOs in Ceredigion (308 mandatory, 294 additional and 25 s257 HMOs). This is considered to be an under estimation of the total number of HMOs. Figures from the 2011 Census<sup>52</sup> were used to give a picture of HMO distribution and concentration and are set out in the table below. Of the ten wards in Aberystwyth, six have HMO concentrations above 10%. The final row shows the figures overall for Aberystwyth.

**Figure 7: Distribution of Multi-Person Households (MPH) in Aberystwyth, Ceredigion**

Ward	Total Households	Private Rented	Student MPH	Other MPH	Total MPH	% MPH	% PR
Aberystwyth Bronglais	604	238	64	25	89	15%	39%
Aberystwyth Central	1,022	724	265	54	319	31%	71%
Aberystwyth North	864	411	144	33	177	20%	48%
Aberystwyth Penparcau	1,282	159	17	17	34	3%	12%
Aberystwyth Rheidol	1,216	516	209	65	274	23%	42%
Borth	949	212	2	11	13	1%	22%
Faenor	742	101	27	5	32	4%	14%
Llanbadarn Fawr-Padarn	424	94	13	13	26	6%	22%
Tirymynach	764	116	1	3	4	1%	15%
Llanbadarn Fawr-Sulien	507	177	54	21	75	15%	35%
<b>Total</b>	<b>8,374</b>	<b>2,748</b>	<b>796</b>	<b>247</b>	<b>1,043</b>	<b>12%</b>	<b>33%</b>

<sup>52</sup> Please see paragraph 2.8

Figure 8: Map Showing Distribution of Multiple Person Households in Aberystwyth, Ceredigion



Red	Student and Non-Student both make up over 10% of the total HH's
Blue	Student above 10% Non-Student below 10%
Green	Non-Student above 10%, Student below 10%
Yellow	Both Student and Non-Student below 10% but combined are over 10% (i.e. Total MPH in PRS >10%)

<sup>2.63</sup> Local authority officers said their high density HMO areas especially in Aberystwyth town centre were an issue and cited lack of effective planning controls as a factor in this. Difficulties included the displacement of families and long term residents along with problems with anti-social behaviour and noise, parking, accumulations of refuse and litter, some properties in poor condition, elevated levels of burglary and so on. Officers said that the increase in rental properties on some newer estates had led to tensions, in particular over parking, waste collection and to a general concern by some residents that the 'balance' of the neighbourhood was changing adversely. Again, the local authority has adopted a multi-agency approach

with the universities, Students' Union and Police to mitigate problems in student concentration areas. Prices and rentals had increased as a consequence of the demand for investment properties; although there were clear signs the market was altering in anticipation of reduced demand for HMOs with a significant number of University built bed spaces about to become available.

- <sup>2.64</sup> Aberystwyth University is a major contributor to the economy of the town of Aberystwyth and has a significant influence on the economic vitality of Ceredigion and mid Wales. Aberystwyth has a vibrant night time economy. Highly ranked both in terms of teaching and research, the University occupies a niche in a highly competitive international market for students. The University is a major employer and also provides skilled worked for local businesses and organisations. Current students provide a pool of part time labour and also provide voluntary support to community organisations.

### Recent Trends and General Comments

- <sup>2.65</sup> The substantial increase in the provision of purpose built accommodation in 2015 (800-900 beds), will have a significant impact on the demand for shared houses (HMOs) in Aberystwyth Town Centre, possibly leading to some destudentification. This has already had an impact on property values in the area.
- <sup>2.66</sup> The local authority works closely with the University to ensure that only licensed properties are advertised to students.
- <sup>2.67</sup> The local authority has found the mandatory and additional licensing scheme effective in driving up standards and ensuring that properties are better managed. Some licence conditions are specifically targeted at student HMO issues, such as tenant declaration – good neighbour, management requirements, landlord details, bin storage, anti-social behaviour and compliance with management regulation.
- <sup>2.68</sup> Officers were of the view that existing regime of additional licensing put a heavy demand on resources and would support changes to simplify the procedure. They also supported the reintroduction of the power to serve notices for breaches of HMO management regulations as well as fixed penalty notices for breaches of management regulations and licence conditions.
- <sup>2.69</sup> Local authority officers were of the view that existing planning controls were not adequate to restrict further growth of smaller HMOs in Aberystwyth and were generally supportive of a change to use classes along English lines. If the change involved a requirement to make Article 4 directions, then the local authority should be able to charge for planning applications.
- <sup>2.70</sup> The Council has established the PRS Forum and PRS Forum Steering group to ensure arrangements are in place with landlords and agents for effective communication and co-operation. The forums assist in the development of a good working partnership between the Local Authority and Private Sector Landlords and Managing Agents, Tenants and Tenant Representative Groups.
- <sup>2.71</sup> There are a number of Town & Gown initiatives such as the Night Time Economy project, Sshh campaign and Purple Flag Award to address issues concerning Aberystwyth's night time economy, the safety of students and impact on local residents.

### Gwynedd

- <sup>2.72</sup> The administrative area of Gwynedd Council covers the former counties of Caernarfonshire and Merionethshire (2,548 km<sup>2</sup>) and the two largest population centres are Bangor and Caernarfon. HMOs are predominantly associated with Bangor, where the University received its charter in 1885. There were 11,360 undergraduate and post graduate students in 2012/13, a 30% increase from the 2000/01 figure of

8,735. There are also significant numbers of further education students along with nursing students. Until very recently the University had very limited accommodation of its own; it currently has around 2,300 places and will rise to around 3,000 places in 2015. The shortage of purpose built accommodation has led to high concentrations of student HMOs in the city.

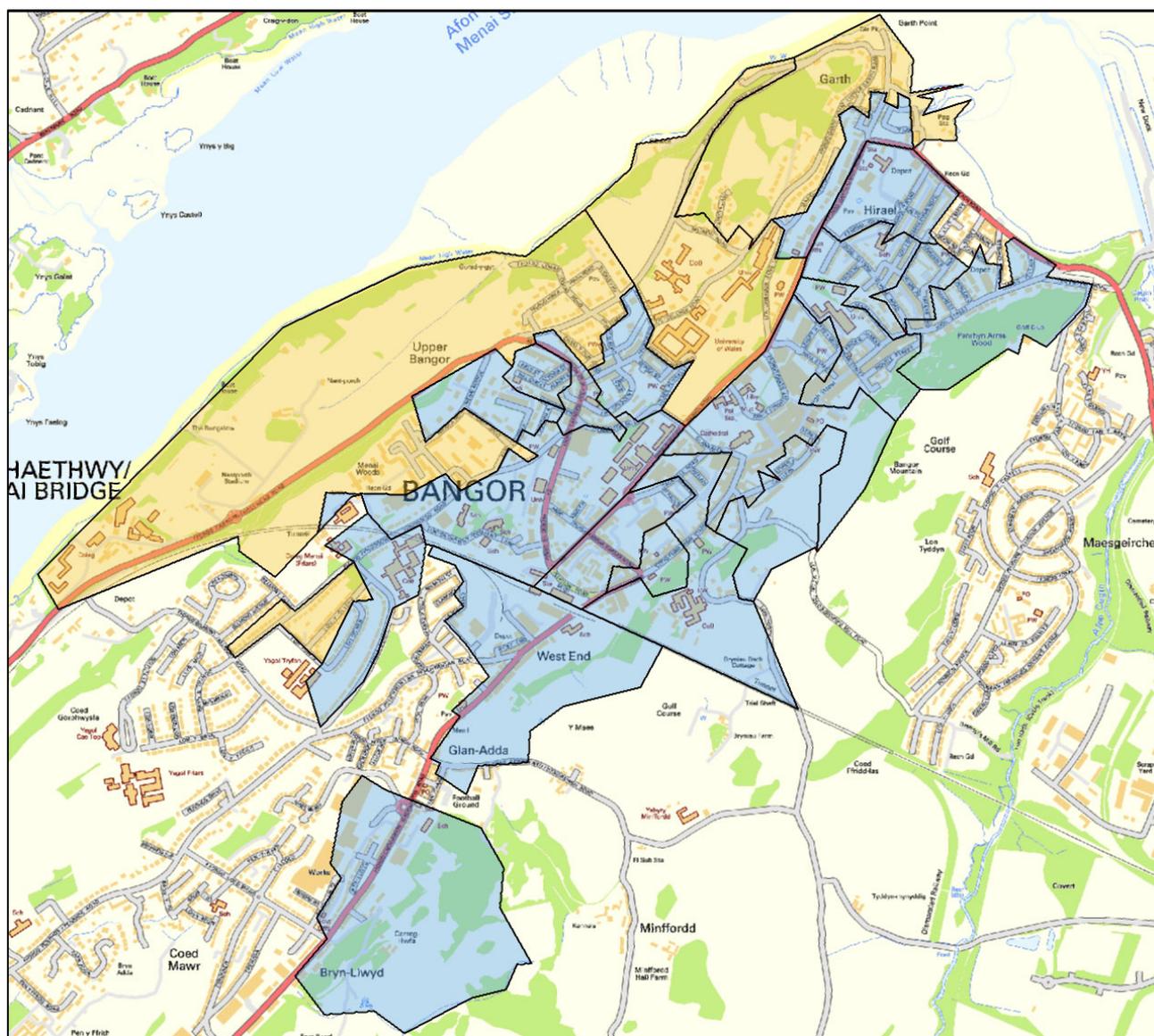
- <sup>2.73</sup> The Council introduced additional licensing for all HMOs, including s257 HMOs, in 2011 and there are currently 882 licensed HMOs in Gwynedd (278 mandatory and 604 additional). Figures from the 2011 Census<sup>53</sup> were used to give a picture of HMO distribution and concentration and are set out in the table below. Of the eight wards in Bangor, five have HMO concentrations above 10%. The final row shows the figures overall for Bangor. There is one street with 98% HMOs.
- <sup>2.74</sup> The Council has a positive working relationship with the University and there are regular meetings of a multi-agency group which includes representatives of the Police and Students' Union as well as local authority officers and university staff.

**Figure 9: Distribution of Multi-Person Households (MPH) in Bangor, Gwynedd**

Ward	Total Households	Private Rented	Student MPH	Other MPH	Total MPH	% MPH	% PR
Menai	697	405	214	58	272	39%	58%
Deiniol	553	316	141	40	181	33%	57%
Hirael	713	211	100	34	134	19%	30%
Garth	312	98	33	21	54	17%	31%
Hendre	622	159	53	22	75	12%	26%
<b>Total</b>	<b>5,319</b>	<b>1,455</b>	<b>614</b>	<b>213</b>	<b>827</b>	<b>16%</b>	<b>27%</b>

<sup>53</sup> Please see paragraph 2.8

Figure 10: Map Showing Distribution of Multiple Person Households in Bangor, Gwynedd



Red	Student and Non-Student both make up over 10% of the total HH's
Blue	Student above 10% Non-Student below 10%
Green	Non-Student above 10%, Student below 10%
Yellow	Both Student and Non-Student below 10% but combined are over 10% (i.e. Total MPH in PRS >10%)

- 2.75 Officers said the authority was particularly concerned about the displacement of long term residents and families, with a parallel being drawn with the impact of holiday homes. Some areas were now student 'enclaves'. The demand for HMO investment property had led to an increase in property prices and rentals although there were clear signs that this was now reversing with significant amounts of purpose built student accommodation having come on stream in the recent past. Officers experienced problems typical of student concentration areas with concerns over recycling and refuse collection, large numbers of letting boards, untidy and poorly maintained properties and higher burglary rates. Officers did refer to noise and anti-social behaviour complaints but felt these were limited. The University Students' Union, however, did say that they help to resolve complaints from neighbours on a number of occasions.

2.76 Officers said that the University was vital to the economy of Bangor; it is a major employer and also a provider of graduate/skilled employees. The ward with the highest student concentration also has thriving bars, restaurants and shops. The new mixed use student developments have helped to bring redundant buildings back into use. Students have actively engaged in community activities and a new Love Bangor Partnership is being developed.

### Recent Trends and General Comments

2.77 A number of purpose built units of varying types have been developed in recent years, and coupled with the increased number of university residential units, this has led to a lessening in demand for student HMO accommodation. In addition, there has been some slight reduction in student numbers. Some HMOs have been sold and some student HMOs are now being occupied by migrant workers. There is limited evidence of some going back into single household use. The local authority is trying to encourage some landlords to offer HMO accommodation for homeless households. Agents report a significant change in the market for HMO properties with values falling up to 25%.

2.78 The local authority is pleased with the impact of additional licensing. Licensing did not operate to restrict numbers but has proved very positive in terms of driving up standards and the local authority feels it is effectively policed. Some licence conditions are specifically targeted at student HMO issues for example, conditions relating to security and anti-social behaviour. They said that the existing regime of additional licensing was very time consuming and would support changes to simplify the procedure and also extend the maximum period to 10 years because of the work involved in ensuring compliance with conditions. They commented in particular on the difficulties associated with the renewal process because the work over the previous five years will have reduced management concerns making it more difficult to demonstrate the criteria for designating an area had been met.

2.79 Officers also felt that a move to reintroduce the power to serve notices for breaches of HMO management regulations would be very useful as would the introduction of fixed penalty notices for breaches of such regulations and licence conditions. Additional waste generated at HMOs is a concern, along with difficulties associated with recycling and the collection of waste.

2.80 Local authority planning policy does seek to restrict HMO growth where over concentration is present but this is not assessed against explicit parameters. The local authority has also sought to restrict growth of new accommodation where targeted at students. The existing policy is in the Unitary Development Plan formally adopted in July 2009<sup>54</sup>. It is anticipated that the forthcoming Local Development Plan (joint with Ynys Môn) will contain a more detailed policy dealing with HMOs.

2.81 The fact that different definitions of HMO are used for housing and planning purposes does create difficulties for both housing and planning staff; many HMOs that require licensing do not require planning consent. Officers could see the merits of a potential change to the English planning model for HMO change of use but said it was most important that fees could be charged.

2.82 The authority works closely with the University to ensure that only licensed properties are advertised through the University Student Pad facility. Partnership working with the University and other agencies in particular, Police and Students' Union in respect of anti-social behaviour, refuse and security has proved positive. There is some use of social media to convey messages for example, reminding of collection day.

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<sup>54</sup> Please see paragraph 3.86

## Rhondda Cynon Taf

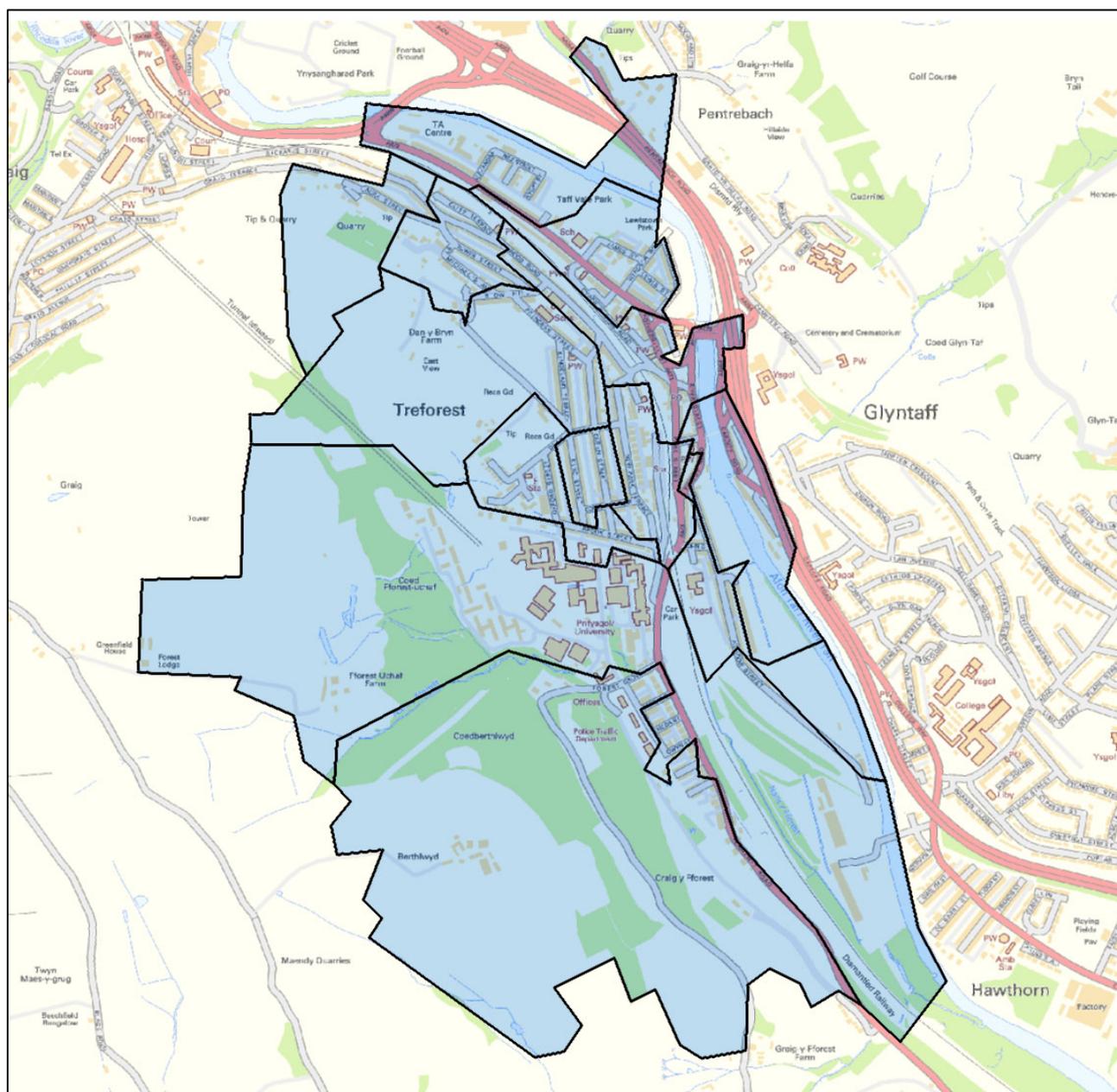
- <sup>2.83</sup> Rhondda Cynon Taf County Borough has a population of 234,400 and covers an area of 1,783 km<sup>2</sup>. In 2013, the University of Glamorgan merged with University of Wales (Newport) to form the University of South Wales. One of the main University of South Wales campuses is located in Treforest, where the main concentration of HMOs are located.
- <sup>2.84</sup> There were 20,350 undergraduate and post graduate students in 2012/13, a 16% increase from the 2000/01 figure of 17,535. In addition, there are 1,850 further education students. The University has limited accommodation of its own, which has led to the demand for student accommodation in close proximity to the Treforest campus.
- <sup>2.85</sup> In 2014, the Council renewed their County wide additional licensing scheme for all HMOs including s257 HMOs. There are currently 809 licensable HMOs in Rhondda Cynon Taf County Borough Council **Error! Hyperlink reference not valid.** (80 mandatory and 729 additional, including s257 HMOs). Figures from the 2011 Census<sup>55</sup> were used to give a picture of HMO distribution and concentration and are set out in the table below. The Treforest ward had an overall HMO concentration of 30%, with several streets in close proximity to the University having in excess of 80%.

**Figure 11: Distribution of Multi-Person Households (MPH) in the Treforest Ward in Rhondda Cynon Taf**

Ward	Total Households	Private Rented	Student MPH	Other MPH	Total MPH	% MPH	% PR
Treforest	1,665	770	421	79	500	30%	46%

<sup>55</sup> Please see paragraph 2.8

Figure 12: Map Showing Distribution of Multiple Person Households in the Treforest Ward in Rhondda Cynon Taf



Red	Student and Non-Student both make up over 10% of the total HH's
Blue	Student above 10% Non-Student below 10%
Green	Non-Student above 10%, Student below 10%
Yellow	Both Student and Non-Student below 10% but combined are over 10% (i.e. Total MPH in PRS >10%)

2.86 Whilst less marked than in the four cities/towns with long established universities, HMO concentrations in the Treforest area around the University of South Wales campus have caused displacement of families and long term residents. Property prices were affected by demand for investment properties. The authority has experienced the typical problems of accumulations of refuse/litter, some untidy and poorly maintained properties and proliferation of letting boards. As discussed below (paragraph 2.88 onwards), there has been a reduction in the numbers of students seeking accommodation in Treforest with many now commuting from Cardiff.

- <sup>2.87</sup> The authority recognises that the University is a major employer with a significant positive impact on the local economy. Student spending helps maintain local businesses, and they also provide a pool of part time labour.

### Recent Trends and General Comments

- <sup>2.88</sup> There has been a contraction in the number of students needing accommodation in Treforest, with many students now living in Cardiff and commuting by rail. There is a significant proportion of international students living in Treforest.
- <sup>2.89</sup> The housing market in relation to the provision of new HMOs has been fairly static over the last few years and there is likely to be an overall reduction in the demand for student HMO accommodation.
- <sup>2.90</sup> Mandatory and additional licensing schemes have been effective in driving up standards and in ensuring the properties are better managed. Some licence conditions have specifically targeted student HMO issues, including tenant declaration – good neighbour relations, management requirements, landlord details, bin storage, anti-social behaviour and compliance with management regulations including keeping the external condition of property well maintained.
- <sup>2.91</sup> Officers said they would support simplification in relation to the procedure and criteria used to introduce additional and selective licensing and also a move to reintroduce the power to serve notices for breaches of HMO management regulations along with the introduction of fixed penalty notices for breaches of such regulations and licence conditions.
- <sup>2.92</sup> In terms of possible changes to the planning regime regarding HMOs, officers were of the view that a change would be of limited value in their borough as the effect would not be retrospective and there were signs that market forces were leading to a contraction in the student HMO market regardless. They could, however, see it having value in authorities with high concentration areas.

## Wrexham

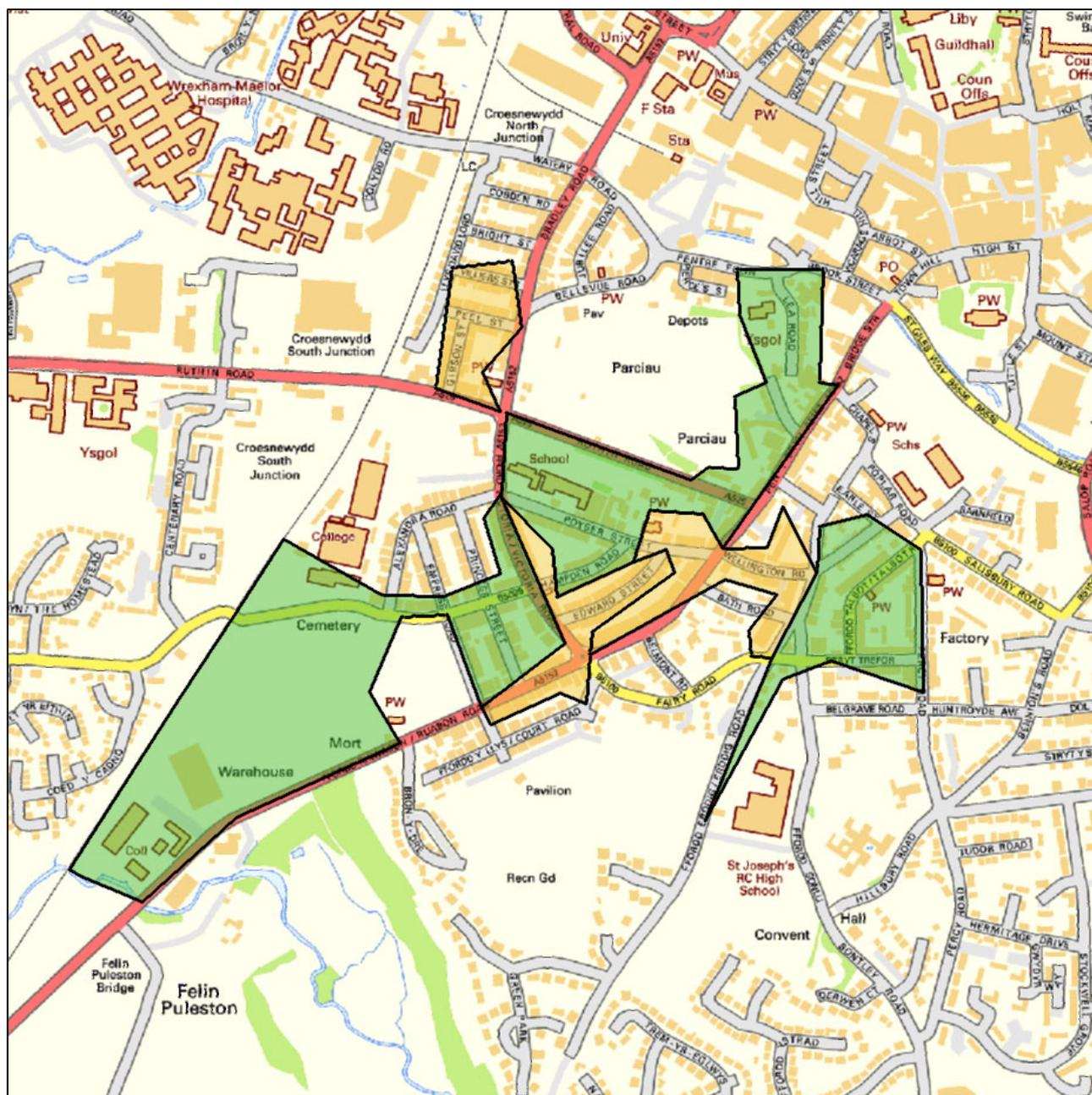
- <sup>2.93</sup> The administrative area of Wrexham County Borough Council covers 499 km<sup>2</sup> and the major population centre is the town of Wrexham. HMOs are predominantly associated with Wrexham, where the Glyndŵr University is based. However, Census figures indicate that students occupy only around 23% of HMOs, with the remainder largely occupied by households of a transient nature in particular, migrant workers.
- <sup>2.94</sup> Glyndŵr University was granted full University status in 2008; it was formerly known as the North East Wales Institute of Higher Education. It does have other campuses at Northop and St Asaph in Wales, and a site in London although its main home is Wrexham. The number of post graduate and undergraduate students has increased from 5,375 in 2000/01 to 8,520 in 2012/13, a rise of 58%. A recent suspension (July 2014) imposed by the Home Office on the recruitment of non EU overseas students was lifted in November 2014.
- <sup>2.95</sup> The Council introduced additional licensing for all HMOs on a County wide basis on the 1<sup>st</sup> November 2011. There are a total of 296 HMOs currently licensed with 40 applications pending. Of these, 28 are mandatory licences and 268 additional licences. The evidence base for the adoption of licensing did refer to noise and refuse complaints but property condition was a key factor with HHSRS hazards found in around 70% of properties. Officers say that it is too early to judge fully the effectiveness of the additional licensing regime but officers are of the view that the additional controls are proving very useful in dealing with HMO concerns and should drive up standards.
- <sup>2.96</sup> There are five wards where there are concerns about HMO concentrations: Offa, Smithfield, Erddig, Brynyffynnon and Grosvenor. Figures from the 2011 Census<sup>56</sup> were used to give a picture of HMO distribution and concentration and are set out in the table below.

**Figure 13: Distribution of Multi-Person Households (MPH) in Offa, Smithfield, Erddig, Brynyffynnon and Grosvenor Wards in Wrexham**

Ward	Total Households	Private Rented	Student MPH	Other MPH	Total MPH	% MPH	% PR
Offa	1,137	502	30	92	122	11%	44%
Smithfield	1,260	387	21	77	98	8%	31%
Erddig	822	138	15	40	55	7%	17%
Brynyffynnon	1,556	443	41	46	87	6%	28%
Grosvenor	1,125	347	10	47	57	5%	31%
<b>Total</b>	<b>32,059</b>	<b>4,227</b>	<b>146</b>	<b>483</b>	<b>629</b>	<b>2%</b>	<b>13%</b>

<sup>56</sup> Please see paragraph 2.8

Figure 14: Map Showing Distribution of Multiple Person Households in Offa, Smithfield, Erddig, Brynyffynnon and Grosvenor Wards in Wrexham.



Red	Student and Non-Student both make up over 10% of the total HH's
Blue	Student above 10% Non-Student below 10%
Green	Non-Student above 10%, Student below 10%
Yellow	Both Student and Non-Student below 10% but combined are over 10% (i.e. Total MPH in PRS >10%)

<sup>2.97</sup> As can be seen, the actual proportions of HMOs at ward level are relatively low; it appeared that the concerns stem to a degree from localised concentrations within wards. In addition, members were keen to stress that concerns did not relate simply to properties let as HMOs but with high overall proportions of privately rented accommodation.

<sup>2.98</sup> The problems reported are similar to those in other authorities and, although in more localised concentrations, cause significant concern nonetheless. It was felt that the greater degree of household

transience was damaging community cohesion with displacement of long term residents. Some properties were unkempt and in poor condition and noise, anti-social behaviour, refuse and litter were problems especially with non student HMOs. Again, the authority has adopted a multi-agency approach with the University, Students' Union and Police to promote harmonious relationships between students and the local community.

<sup>2.99</sup> With regard to positive aspects, again the contribution to the local economy of the University and its students was well recognised, as was the contribution from spending by the larger number of small, non-student, households associated with HMO growth. The authority was seeking to promote regeneration of the town centre and the growth of smaller households could be a factor in this. Officers also acknowledged the part HMOs play in catering for the growing demand for smaller accommodation arising from both long term demographic trends and recent changes to housing benefit.

### Recent Trends and General Comments

<sup>2.100</sup> About three years ago the local authority states there was a major problem with student accommodation (students were arriving at the railway station with nowhere to stay) but this has eased significantly with the building of purpose built student accommodation in phases over the past three years (estimated at around 700 units) and there is now some evidence of difficulty in ensuring these are fully let. Many students are also home based. There is a joint working group with the University to assist in improving relationships between students and residents.

<sup>2.101</sup> The local authority was concerned at the level of resources required to introduce additional licensing and would welcome any changes which make the process more straightforward. Proactive measures are being adopted to seek out unlicensed properties; the authority is of the view that there are clearly more HMOs than have been licensed and this is consistent with Census information. Officers supported the possible reintroduction of the power to serve notices for breaches of HMO management regulations as well as fixed penalty notices for breaches of management regulations and licence conditions.

<sup>2.102</sup> The planning team is keen to promote regeneration of the town centre and also see increases in appropriate smaller accommodation in a positive light. In effect there is a 'doughnut' around the town centre where change is occurring because of market forces; members are very concerned to protect existing communities within this area. Current planning policies do aim to restrict HMO growth where an application under the existing regime would lead to over concentration but there are no explicit criteria. Planning policy H4 states: "the proposal would not result in the over concentration of Houses in Multiple Occupation to the detriment of crime levels, the social fabric of the area, and the amenity of existing residents"<sup>57</sup>.

<sup>2.103</sup> Officers felt that the housing and planning HMO definitions should be unified and that the existing relationship between licensing and planning had not been properly thought through; the two regimes should complement each other. Officers could see the merits of a potential change to the English planning model for HMO change of use but said it was most important that fees could be charged.

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<sup>57</sup> Please see paragraph 3.86

# 3. Planning

## Change of use and other planning powers

### The Legal Framework in England and Wales

- 3.1 The system of development control in the UK stems back to the Town and Country Planning Act 1947. The owner of land will, in many cases, require planning permission in order to carry out development; the definition of development set out now in S55 of the Town and Country Planning Act 1990<sup>58</sup> includes making a material change of use. A “*material change of use*” has been described as comprising “... *activities which are done in, alongside or on the land, but do not interfere with the actual physical characteristics of the land*”<sup>59</sup>. A number of categories of minor development are classed as permitted development and accordingly can be carried out without planning consent. The overall purpose is to give local authorities the opportunity to manage development occurring in their area, with the framework giving others potentially affected by development the chance to express their views and for decisions made to be challenged, in certain circumstances, by those making planning applications.
- 3.2 The planning system seeks to control certain changes of use because of the potential effect on neighbouring properties. The question of change of use from dwelling house occupied by a single household to a house in multiple occupation has been the subject of significant debate because, as discussed in Chapter 1, such a change can have a significant impact on neighbouring residents. This is particularly the case when concentrations of HMOs develop.
- 3.3 In both Wales and England the definition of HMO for the purposes of enforcement of housing standards and HMO licensing has been clearly defined in Part 7 of the Housing Act 2004<sup>60</sup> and regulations made under the Act. It is very extensive; in broad terms it includes houses and flats where facilities are shared or are not self-contained and specifically includes premises shared by 3 or more unrelated persons not forming one household even though they may be living as a cohesive group. Section 257 of the Act further includes certain blocks of converted flats where conversion was not in compliance with the Building Regulations 1991. The definition for housing purposes was discussed in more detail in Chapter 2<sup>61</sup>.
- 3.4 The definition of HMO for planning purposes is not so clear cut. Prior to April 2010, both Wales and England had no express definition of what constituted an HMO when considering the question of whether a material change of use had occurred. The Town and Country Planning (Use Classes) Order 1987<sup>62</sup> (as amended) puts uses of land and buildings into various categories known as ‘use classes’. Class C covers residential uses. S52(2)(f) of the Town and Country Planning Act 1990 and Article 2 of the Order provide that changes of use within a specific class do not constitute development and so do not require planning permission (provided that the use subsists, the planning permission has been implemented and no

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<sup>58</sup> 1990 Chapter 8

<sup>59</sup> *Parkes v Secretary of State for the Environment* [1978] 1 WLR 1308 at 1311

<sup>60</sup> 2004 Chapter 34

<sup>61</sup> See paragraphs 2.1 onwards

<sup>62</sup> 1987 No. 764

restrictive condition is attached). In addition, the Town and Country Planning (General Permitted Development) Order 1995<sup>63</sup> permits certain specified changes of use between classes.

3.5 The Town and Country Planning (Use Classes) Order 1987 did define use class C3 as:

*Use as a dwellinghouse (whether or not as a sole or main residence)-*  
*(a) by a single person or by people to be regarded as forming a single household;*  
*(b) not more than six residents living together as a single household (including a household where care is provided for residents).*

3.6 In practice, HMOs were regarded as 'sui generis' (of its own kind) and were taken to be larger HMOs occupied by seven or more unrelated residents (although it may not be immediately apparent as to whether a particular house falls within this, as may be seen from the extract from guidance given in paragraph 3.7 below).

3.7 The position in England altered when the Town and Country Planning (Use Classes) (Amendment) (England) Order 2010 came into force on the 6<sup>th</sup> April 2010. This introduced a revised Class C3 (dwelling houses) and introduced a new Class C4 (houses in multiple occupation occupied by 3 – 6 persons). Larger HMOs are still considered sui generis, although it may be noted that Circular 08/2010<sup>64</sup> (which gave guidance on the revised C3 and C4 use classes) states in Annex A "Although the control limit of six persons defines the scope of the C3 (b) and (c) dwellinghouses and C4 houses in multiple occupation classes, this does not imply that any excess of that number must constitute a breach of planning control. A material change of use will occur only where the total number of residents has increased to the point where it can be said that the use has intensified so as to become of a different character or the residents in relation to C3 no longer constitute a single household."

3.8 The amended Class C3 and the new C4 are as set out below:

#### **Class C3. Dwellinghouses**

*Use as a dwellinghouse (whether or not as a sole or main residence) by—*

*(a) a single person or by people to be regarded as forming a single household;*

*(b) not more than six residents living together as a single household where care is provided for residents; or*

*(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).*

#### **Interpretation of Class C3**

*For the purposes of Class C3(a) "single household" shall be construed in accordance with section 258 of the Housing Act 2004."*

#### **Class C4. Houses in multiple occupation**

*Use of a dwellinghouse by not more than six residents as a "house in multiple occupation".*

<sup>63</sup> 1995 No. 418

<sup>64</sup> Circular 08/2010 Department for Communities and Local Government Nov 2010

### Interpretation of Class C4

*For the purposes of Class C4 a “house in multiple occupation” does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004”.*

- 3.9 When first introduced, this had the effect that a change of use from single dwelling house to HMO was no longer permitted development; an application for planning consent would have to be made. In addition, as the definition of HMO adopted was that set out in the Housing Act 2004 for housing purposes (including definitions relating to what did not constitute a single houses), in practice it meant that creating a shared dwelling with between three and six unrelated persons would require planning consent.
- 3.10 The Government elected in May 2010 amended the order with effect from 1<sup>st</sup> October 2010 through a further order<sup>65</sup> which amended the Town and Country Planning (General Permitted Development) Order 1995 to expressly give permitted development rights from C3 to C4 (and from C4 to C3). However, a local authority could elect to remove the permitted development rights for such a change by making an Article 4(1) direction under the General Permitted Development Order. English Ministerial guidance in Replacement Appendix D to Department of the Environment Circular 9/95<sup>66</sup> indicates that such directions should only be made “... where evidence suggests that the exercise of permitted development rights would harm local amenity or the proper planning of the area”. Sustainability of communities is a factor considered within this. As discussed in more detail below, some authorities have applied a direction across the whole of their district, some to part only (usually selected wards).
- 3.11 There are two main types of Article 4 directions:
- (i) Non-immediate directions (permitted development rights are only withdrawn upon confirmation of the direction by the local planning authority following local consultation); and
  - (ii) Immediate directions (where permitted development rights are withdrawn with immediate effect, but must be confirmed by the local planning authority following local consultation within six months, or else the direction will lapse).
- 3.12 Up until April 2010, confirmation by the Secretary of State was required. Now, confirmation is by the local planning authority in the light of local consultation. The Secretary of State does have the power to modify or cancel an Article 4 direction but will only do so if there are very clear reasons why intervention is necessary<sup>67</sup>. The RLA and NLA requested DCLG to revoke all 19 Article 4 directions then in existence on the 24<sup>th</sup> November 2011. The organisations argued that the directions encompassed substantial areas of land and they considered that in many cases the evidence justifying the directions was inadequate. Bob Neill, Parliamentary Under Secretary of State, DCLG responded on the 6<sup>th</sup> March 2012 saying that it would not be justified to revoke or modify them as they were supported by evidence and informed by local consultation.
- 3.13 Withdrawal of permitted development rights may lead to liability to pay compensation where the Article 4 direction leads to a refusal of permission or the imposition of more limiting conditions than would

<sup>65</sup> The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2010 No. 2134

<sup>66</sup> Replacement Appendix D to Department of the Environment Circular 9/95: General Development Consolidation Order 1995 June 2012

<sup>67</sup> RLA & NLA letter dated 24<sup>th</sup> November 2011 requesting SoS revoke all 19 Article 4’s, response dated 6<sup>th</sup> March 2012 confirming that it would not be justifiable to revoke or modify any direction as they were supported by evidence and informed by local consultation

otherwise apply. There is no liability to pay compensation with non immediate directions where 12 months notice of the direction coming into effect is given<sup>68</sup>.

- 3.14 The consultation procedure, which is set out in Annex A of the Replacement Appendix D referred to above, involves publishing notice by local advertisement (local newspaper), by site display in a minimum of two locations for a minimum of six weeks and by individual notification to every owner and occupier in the affected area unless impracticable. Notification must also be given at the same time to the Secretary of State. Any representations received must be taken into account by the local authority and any material changes as a consequence require reconsultation. The consultation process is relatively rigorous.
- 3.15 Making an Article 4 direction does potentially give a local authority significantly greater control. However, clearly an Article 4 direction does not mean that a change from dwelling house to HMO use is not permitted, just that planning consent is required and a local authority has the opportunity to make a judgement. The implementation of an Article 4 direction in itself is not sufficient; planning applications have to be adopted in accordance with an adopted local plan<sup>69</sup>. As indicated in the section below dealing the English experience, most local authorities have planning guidance against which applications are judged having regard to the local circumstances. This may involve a threshold approach based on percentages of existing HMOs, or 'areas of housing mix', and/or a focus on purpose built accommodation.
- 3.16 One issue that emerged from discussions with Welsh authorities relates to the difficulties caused by the different definitions of HMO for planning and HMO licensing/enforcement of housing standards. Officers related problems in particular with licensing enquiries; they would have to explain that a property for example with five non-related tenants may well fall within the definition of HMO for licensing purposes but be outside the HMO definition relevant to planning. Officers repeatedly said that they would prefer to be able to say that a property fell within a common definition of HMO or not. There is also the question of a third definition for council tax purposes, but that falls outside the scope of this study.

## Experience in Respect of Article 4 directions

- 3.17 There is no comprehensive register listing all authorities in England which have adopted an Article 4 direction in respect of HMOs. Research indicates that there are in excess of 50 authorities (out of 326 local planning authorities) which have done so and that the making of a direction is being actively considered or consulted on in a number of other authorities. The towns/cities that have made Article 4 directions are generally those with universities/HEIs and coastal resorts and/or high numbers of transient residents, for example migrant workers.
- 3.18 At the time this report is being prepared, authorities known to have made Article 4 directions include:

*Ashford, Barking & Dagenham, Basingstoke, Bath, Bournemouth, Brighton, Birmingham, Bristol, Camden, Canterbury, Charnwood, Cheshire West & Cheshire, Dacorum, Durham, Enfield, Exeter, Guildford, Hastings, Haringey, Harlow, Hillingdon, Hull, Leeds, Leicester, Manchester, Milton Keynes, Norwich, Newcastle, Newham, Northampton, Nottingham, Oxford, Ormskirk, Plymouth, Poole, Portsmouth, Preston, Reading, Redbridge, Sheffield, Southampton, Southwark, Tending, Thanet, Waltham Forest, Warwick, Welwyn Hatfield, West Lancashire, Worcester, York.*

<sup>68</sup> The Town and Country Planning (Compensation) (No.3) (England) Regulations 2010

<sup>69</sup> Please see paragraph 3.74 onwards

- <sup>3.19</sup> Eight of the nine English authorities interviewed have made Article 4 directions. The one authority that has not done so, Peterborough City Council, has high HMO concentrations housing migrant workers rather than students. Officers stated that the fact that no fee is payable was a significant factor against making a direction; it would have meant the authority potentially undertaking a substantial volume of work with no revenue being received. In practice, this would have imposed a significant burden and the local authority also envisaged difficulties with enforcement of any such direction given the extent of the issue and the practicalities of enforcement. A previous study had shown a high proportion of tenants (47%) without tenancy agreements<sup>70</sup>.
- <sup>3.20</sup> Of the eight authorities that have made Article 4 directions, the following have made directions covering part of their area only:
- Brighton & Hove City Council:** *Hanover and Elm Grove, Hollingdean and Stanmer, Moulsecoomb and Bevendean, Queen's Park and St. Peters and North Laine (April 2013)*
- Bristol City Council:** *Lawrence Hill, Ashley, Cabot, Cotham, and Clifton East wards (June 2011), Clifton and Redland wards (October 2012)*
- Charnwood Borough Council:** *All ten wards within Loughborough (March 2011)*
- Leeds City Council:** *Adel and Wharfedale, Armley, Beeston Hill and Holbeck, Bramley and Stanningley, Burmantofts and Richmond Hill, Chapel Allerton, City and Hunslet, Gipton and Harehills, Headingley, Horsforth, Hyde Park and Woodhouse, Kirkstall, Moortown, Roundhay and Weetwood (February 2012)*
- Newcastle City Council:** *Parts of Heaton, High West Jesmond, Jesmond, South Gosforth, Sandyford and Spital Tongues (November 2011), Parts of High West Jesmond and North Jesmond (December 2012), Saint Gabriel's' Estate, Heaton (August 2013)*
- <sup>3.21</sup> Nottingham City Council (March 2012), Oxford City Council (February 2012) and Newham Council (July 2013) have made directions which apply across the whole of their district (with the exception of that part of Newham that remains the responsibility of the London Legacy Development Corporation).
- <sup>3.22</sup> In Belfast, up until the 1<sup>st</sup> April 2015 the City Council did not have planning powers; these were vested in the NI Department of the Environment. A transfer of these powers to local authorities has now taken place. In addition, the legal framework is different; the use classes in Northern Ireland were changed in 2004 as a direct response to problems associated with very substantial student HMO concentrations in parts of Belfast (especially South Belfast). Under the amended Planning (Use Classes) Order (Northern Ireland) 2004<sup>71</sup>, HMOs are expressly stated to fall outside the use classes and accordingly consent is required for change of use. Furthermore, the definition of HMO adopted by the Order is that given in the Housing (Northern Ireland) Order 1992<sup>72</sup> as amended<sup>73</sup> which essentially makes any property occupied by more than 2 'qualifying persons' (which expressly includes full time students during term time) an HMO. In short, change of use to any HMO regardless of size requires consent, and, as discussed later, within the Belfast HMO Subject Plan, 22 areas with concentrations exceeding 30% have been designated as HMO Policy Areas where further consents for change to HMO use will not be granted.
- <sup>3.23</sup> Local authorities reported variations in the extent of concentrations, but all had some very limited areas, generally immediately adjacent to higher education institutions, where the proportion of HMOs could

<sup>70</sup> A study of migrant workers in Peterborough, Lisa Scullion and Gareth Morris, Salford Housing & Urban Studies Unit June 2009

<sup>71</sup> 2004 No. 458

<sup>72</sup> 1992 No. 1725 (N.I. 15)

<sup>73</sup> 2003 No. 412 (N.I. 18)

reach 80-90% or higher. The table below shows the proportions of the HMOs in the English authorities from the 2011 Census (NB as explained previously, multi-person households (MPH) have been used as a proxy for HMOs):

Figure 15: Multi-Person Households (MPH) in the Interviewed English Authorities

Local Authority	Total Households	Private Rented	Student MPH	Other MPH	Total MPH	% MPH	% PR
Brighton and Hove	121,500	35,960	2,680	5,980	8,660	7.1%	29.6%
Bristol, City of	182,700	43,030	3,310	7,430	10,740	5.9%	23.5%
Charnwood	66,500	9,400	1,170	740	1,910	2.9%	14.1%
Leeds	320,600	57,460	4,530	7,250	11,790	3.7%	17.9%
Newcastle upon Tyne	117,200	22,320	4,370	3,520	7,890	6.7%	19.1%
Nottingham	126,100	29,100	4,470	4,150	8,620	6.8%	23.1%
Oxford	55,400	15,630	1,740	2,990	4,720	8.5%	28.2%
Peterborough	74,000	14,170	40	1,850	1,890	2.5%	19.1%
Newham	101,500	34,570	1,640	8,410	10,050	9.9%	34.1%
<b>England</b>	<b>22,063,400</b>	<b>3,715,920</b>	<b>112,360</b>	<b>411,700</b>	<b>524,060</b>	<b>2.4%</b>	<b>16.8%</b>

- 3.24 As can be seen, the overall percentages are higher than the national average. With regards to individual wards, two wards in Leeds had concentrations exceeding 40%, one in Nottingham 38% and one in Newcastle 32%. Localised concentrations exceeding 90% were found in a number of authorities.
- 3.25 The decision as to whether a direction should apply in limited areas or across the whole of a district appears to depend very much on local circumstances. The interviews with those authorities who have adopted a limited approach indicated that they did so because the problem was considered to be confined to particular localities and they did not want to devote more resources than necessary to applications generated by the direction(s). It was usual for the area defined to be the area with significant concentrations with a surrounding margin so as to prevent growth of HMOs just outside the limits of the existing concentration areas. In Newcastle, for example, additional directions were made later to counter possible displacement.
- 3.26 Those adopting a whole district approach either felt that the issue of the loss of single household dwellinghouses to HMO use affected the whole area and/or were concerned about the displacement effect, with the shift into areas not covered being unmanaged. Two examples from Nottingham and Newham respectively :

*“This city wide approach would avoid the likely distortion that would be caused by a direction only covering a selected geographical area, and in particular, the unmanaged shift and expansion of HMOs into those parts of the city that immediately adjoined any such selected area.”<sup>74</sup>*

*“This option was not followed as it was considered that the issue of the loss of single dwelling houses to HMOs is a Borough wide problem requiring a borough wide approach to tackling it.”<sup>75</sup>*

- 3.27 The interviews with the English authorities making Article 4 directions showed the reasons why they chose to do so were remarkably consistent and in essence were the factors referred to in Chapter 1 of this report

<sup>74</sup> Report to Nottingham City Council Executive Board 22 February 2011 - Article 4 Direction in Relation Houses in Multiple Occupation

<sup>75</sup> Report to Cabinet London Borough of Newham 21 March 2013 - Confirmation of an HMO Article 4 Direction

and in the ECOTEC report. These are discussed further at paragraph 3.35 below. With the exception of Newham, all the authorities had high student concentrations. In Newcastle, for example, the total full time student population (two universities) is just under 42,000 of a total population estimated by ONS at over 286,000<sup>76</sup>. In Charnwood, the fulltime student population is estimated at 16,000 out of a total estimated population of approximately 171,000<sup>77</sup>. In Oxford, there are approximately 38,000 full time students out of a total population of approximately 155,000, which is the second highest proportion of students in the country after Cambridge.

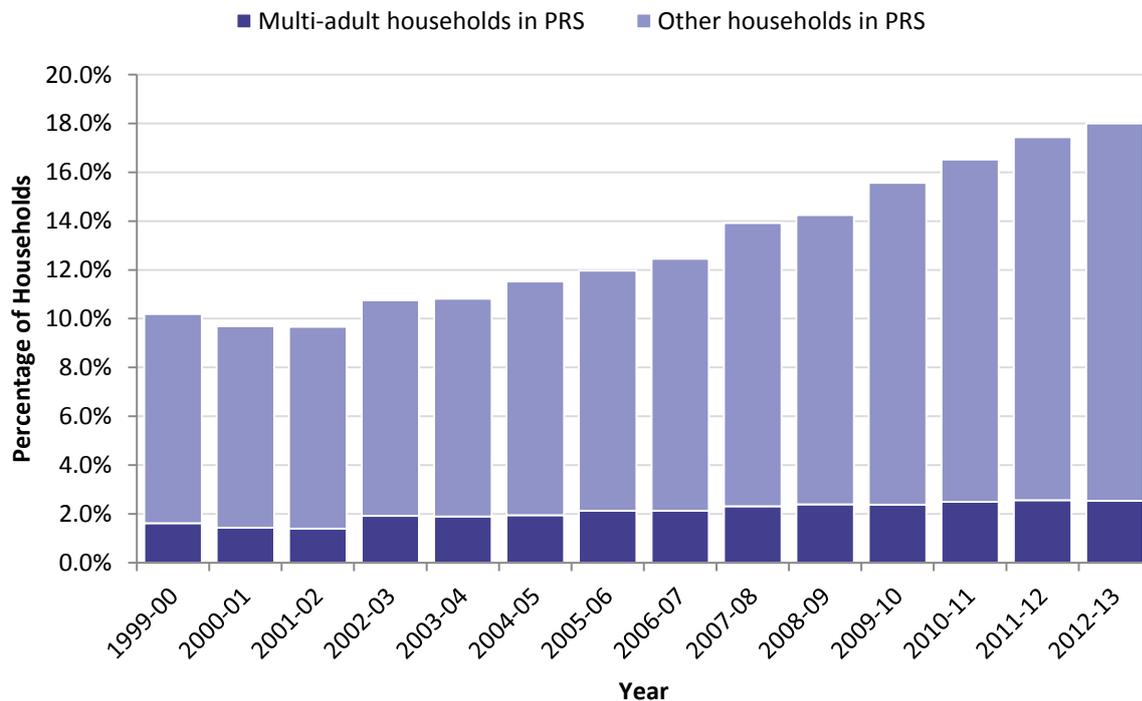
- 3.28 The authorities with high student populations reported that there had been a growth in student numbers during the 1990s but that this had accelerated with very substantial growth in student numbers since 2000/2001. This was regarded as a significant factor in the increased HMO concentrations. In the late 1990s, the previous UK Government had set a target of 50% of school leavers participating in higher education and universities and higher education institutions responded by significantly expanding courses. For example, with the authorities quoted above, full time student numbers increased by 16,600 (37%) between 2000/01 and 2012/13 in Newcastle, by 2,500 (23%) in Charnwood and by 5,420 (21%) in Oxford.
- 3.29 The significant increase in student numbers was not matched by a corresponding increase in the amount of accommodation provided by higher education institutions. The reality in the authorities identified was that the shortfall in accommodation for resident students was made up by the growth of student HMOs in residential areas close to universities/higher education institutions. Many of those areas already had significant numbers of student HMOs but the concentrations tended to increase substantially and also the areas expanded outwards.
- 3.30 The increase in buy-to-let investment had been progressing through the 1990s and many landlords recognised that significant returns could be obtained by changing the use of single household dwellings to multiple occupation for students, where rentals are by person per week. Overall rentals achieved can easily be up to double that of a comparable dwelling let to a single household (and higher dependent on the number of rooms) although that is offset to a degree by the additional management and maintenance costs. The quarterly industry index, Mortgages for Business, reported in January 2015<sup>78</sup> that the average yields for HMOs during 2014 varied from 8.9% to 9.6% (9.0% in last quarter), generally more than one third higher than with standard buy-to-let investments.
- 3.31 All the non Welsh authorities reported that the demand for accommodation suitable for HMO use had driven up prices in the neighbourhoods affected. This was echoed in the structured interviews with the focus authorities and also in the interviews with estate agents in the focus authority areas. As referred to in paragraph 3.54 below, however, in both focus authorities and most of the non Welsh authorities (Newcastle was an exception) it was noted that demand for HMOs had either plateaued or fallen and prices had reduced by as much as 25% as a consequence.
- 3.32 Until the change in the use classes in 2010, the only control in terms of planning was reliance on the sui generis class. Additional licensing, available post 2006, was introduced by some authorities perhaps motivated to a degree to seek to restrict numbers. Nevertheless, as discussed in Chapter 4, some local authorities did not adopt additional licensing because of the significant resources required to generate the evidence base to substantiate adopting the regime and then to consult; with failure to do this with sufficient rigour could leave the authority open to a possible challenge by judicial review.

<sup>76</sup> Population Estimates for UK, England and Wales, Scotland and Northern Ireland, Mid-2013, ONS

<sup>77</sup> Ibid

<sup>78</sup> [www.mortgagesforbusiness.co.uk/media/1430/mfb-complex-buy-to-let-index-q4-2014.pdf](http://www.mortgagesforbusiness.co.uk/media/1430/mfb-complex-buy-to-let-index-q4-2014.pdf)

**Figure 16: Growth of Private Rented Sector and HMOs in England (Source: English House Condition Survey and English Housing Survey)**



<sup>3.33</sup> Core Strategy policies during this period would generally make reference to granting permission for residential development that achieves a balanced mix, sustainable communities etc. or indeed setting targets for the numbers of students 'living out' for example by restricting university development unless matched by a corresponding increase in purpose built living accommodation (as in Oxford). Other policies would encourage the development of purpose built accommodation whether by the universities or by private sector suppliers. In reality, however, all authorities observed that control to limit HMO concentrations prior to the use class changes was ineffective as the great majority of new HMOs had less than seven residents.

<sup>3.34</sup> As discussed in Chapter 1 of this report, there was pressure both directly from individual communities affected by the changes associated with high HMO concentrations and from umbrella lobby groups such as the National HMO Lobby representing community groups and this led to the ECOTEC report which, in turn following consultation, led to introduction of the changed use classes.

<sup>3.35</sup> As indicated above, all authorities with high HMO concentrations gave consistent reasons in the structured interviews and in reports to council bodies to support the making of Article 4 directions. These may be summarised as:

- (i) Displacement of established communities and reductions in family accommodation;
- (ii) Difficulties with young households being able to buy homes because of competition with buy-to-let investors;
- (iii) Difficulties with young households being able to rent homes because of competition with properties let on a room by room basis;
- (iv) An increase in transient households with no long term stake in the area combining with (i) and (ii) above to reduce community cohesion and social interaction;

- (v) Changes in the character of neighbourhoods, with shops and services orientated towards incoming groups in particular students, with increases in fast food takeaways, off-licences, budget shops, letting agents etc.;
- (vi) The local environment and street scene being degraded by litter, increased refuse (and bins being left to the front of properties), unkempt front gardens, poorly maintained frontages, increases in fly posting etc.;
- (vii) Proliferation of letting signs making areas look untidy and giving an impression of transience;
- (viii) Increases in anti-social behaviour (often at unsociable hours) in particular, noise from parties and unruly behaviour with students returning at night from city centre entertainment;
- (ix) Increases in crime especially burglary shortly after the start of new academic years;
- (x) Problems with parking (although not present in all areas);
- (xi) Reduced demand for community facilities and school places because of the falling numbers of families; and
- (xii) Areas becoming 'ghost towns' during university/higher education institution holidays, often with a reduction in services available to remaining residents.

<sup>3.36</sup> All authorities that have made Article 4 directions said in structured interviews that there had been pressure from local communities to introduce the direction reflecting the above factors.

<sup>3.37</sup> The increased anti-social behaviour issues along with increased theft have led authorities with high concentrations of student HMOs to adopt a range of mitigation measures. Although the detail of provision varies, these in practice generally follow a similar model with a multi-agency approach linking local authority representatives, the Police, the university and Students' Union, community volunteers, etc. This is discussed in more detail in Chapter 5 of this report, but has involved at an imaginative level services such as the Cardiff Students' Union Bus taking home intoxicated students found in the city centre and the part funding of street pastors by Charnwood, to the more mundane funding of night time noise teams and moves to target refuse accumulations. Belfast City Council actually put figures to the costs of managing and mitigating the impact on the community; for 2010, these were estimated at £3m, with 53% borne by the Police Service and 28% by the City Council and government housing and planning agencies. The universities and colleges bore 19% of the cost.<sup>79</sup>

<sup>3.38</sup> Whilst the increase in HMO concentrations has been a negative aspect to the growth in higher education, the structured interviews with local authorities also demonstrated the huge importance of higher education institutions to the cities/towns they are situated in ('the knowledge economy'). In practice, many institutions are the major employer in the locality, especially in areas where large manufacturing industries have disappeared, and the spending by local students contributes to the economy and vibrancy of their host towns and cities. Local authority policies seek to actively promote the higher education institutions; Belfast City Council is a case in point with its Belfast Learning City concept<sup>80</sup>.

<sup>3.39</sup> In all of the structured interviews, local authority officers referred to the tangible benefits of thriving shops, restaurants and bars in student areas; in Leeds officers noted the difference in prosperity between those local centres in student areas and those out of student areas. References were also made, without express

<sup>79</sup> Belfast: A Learning City, Holyland and Wider University Area Strategic Study, Final Independent Consultant's Report March 2012 Louise Browne Associates

<sup>80</sup> [www.belfastcity.gov.uk/business/developmentplans/belfastmasterplan.aspx](http://www.belfastcity.gov.uk/business/developmentplans/belfastmasterplan.aspx)

supporting evidence necessarily being offered, to the development of retail parks/entertainment venues and the retention of High Street brands being supported by high student numbers. From the housing perspective, local authority officers in some of the non Welsh authorities were of the view that investment in student properties, in later years in tandem with licensing, had helped to drive up the condition of many dwellings and also had helped to bring empty properties back into use.

- 3.40 All the English authorities having made an Article 4 direction were content that making the direction had significantly restricted HMO growth in concentration areas, and had given the authority greater control. What they did experience during the 12 months notice period prior to the directions coming into force was a surge in acquisitions and change to HMO use. The effect of an Article 4 direction is not retrospective; investors sought to put in place a change of use which did not require consent at that time and which the property would continue to have the benefit of after the direction had been introduced. The numbers of applications for change of use after the direction had been implemented were generally limited; experienced landlords were aware of the changed situation and tended not to make applications in concentration areas and less experienced investors would receive advice which would point out the realities of a likely refusal. One planning officer observed that some existing landlords were of the view that the restriction served to protect the value of their existing properties as new consents in the area had become unlikely.
- 3.41 All authorities said that local communities had welcomed the Article 4 directions when made; a number of planning officers said that it was their impression that residents could at least see that the concentrations would not increase (or at least not significantly) and were then more prepared to work positively to deal with concerns in the area and to foster community relations.
- 3.42 The context set by local authorities against which applications for C4 use were judged are referred to from paragraph 3.73 onwards. All authorities did say that there had been a limited number of appeals against C4 refusal; it has not been possible to locate all such decisions, but from the restricted number seen, dismissals have just been in the majority.
- 3.43 One issue that does need to be considered is the question of 'flipping'. If an Article 4 direction is in place, a change from C3 to C4 requires consent, but a reversion back to C3 does not by virtue of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2010. Occasions may arise where, because of a change in market conditions which may be temporary, a landlord may wish to rent an HMO with a C4 consent to a family. That letting would not require consent but there are conflicting views as to whether C3 use for a period mean that an application to move back to C4 use would again require consent. Several authorities mentioned this issue; there was some concern that landlords might choose to ride out a dip in the HMO market perceived as temporary by leaving a property empty rather than potentially take the risk of losing C4 status (especially as any possible reduction in value, as would occur if the C4 status were to be lost, would have implications for any mortgage or other loan arrangement used to acquire the property).
- 3.44 The issue was raised during the examination into the Leeds City Council Core Strategy<sup>81</sup>. The Council acknowledged the advantages of 'flipping', not least reducing the risk of HMOs potentially lying empty when they could house a family. A modification to the overall policy H6A, which seeks, amongst other things, to avoid the loss of housing suitable for families in areas with high concentrations of HMOs was proposed and noted with approval by the Inspector. Paragraph 5.2.25 of the Core Strategy contains the following statement:

<sup>81</sup> [www.leeds.gov.uk/SiteAllocationMaps/Core%20Strategy/Adopted%20Core%20Strategy%20Nov%202014%20Final.pdf](http://www.leeds.gov.uk/SiteAllocationMaps/Core%20Strategy/Adopted%20Core%20Strategy%20Nov%202014%20Final.pdf)

*“In order to encourage landlords to experiment with lettings of HMOs to non-HMO occupants, the Council will consider granting flexible C3/C4 permissions for new and existing C4 HMOs. This will enable a C4 HMO to convert to a C3 dwelling house without losing the potential to revert back to C4 use within a fixed period (normally 10 years). If a property has a lawful C4 use when applying for a flexible permission this will then be a material consideration when the Council considers the planning application. The permission will enable flexibility to let a property between C3 and C4 uses during the specified period. On expiry of the dual use period, the use of the property at that time would become the permitted use of the property.”*

- 3.45 Whilst not one of the interviewed authorities, Southampton City Council have adopted a similar provision<sup>82</sup> by attaching a planning condition to new C4 planning permissions to allow the flexible use of the dwelling to change in either direction between a C3 and C4 use without the need for planning permission. The provision does apply only to new applications but the Council does state it will be possible to obtain a flexible permission if the property was occupied as a C4 HMO prior to the Article 4 direction effective date. The condition has a life of 10 years; after this time the occupied use becomes the lawful use. However, the Council states that applicants can reapply for a new flexible permission to continue flipping the use.
- 3.46 A concern mentioned by all focus and non focus authorities was the inability to levy fees for a planning application for change of use to C4 as a consequence of the Article 4 direction procedure. As mentioned above, this was a factor in Peterborough City Council officers opting not to recommend that an Article 4 direction be considered. The fee for change of use to a sui generis HMO is currently £335. The National HMO Lobby have argued strongly that the absence of a fee penalises local authorities seeking to control concentrations and draw attention to the fact that the planning fee would typically amount to around one month’s rent for an HMO room<sup>83</sup>. Discussions with a number of Planning Officers indicated that the cost associated with processing a sui generis application is substantially higher than the fee income generated.
- 3.47 The counter argument is that if a permitted development right is removed, it would not be equitable to then charge for an application in respect of a change of use where previously no application was required. At the heart of the issue is the debate as to whether planning control should exist for the change of use from C3 to C4 or not. A simplistic view might be to say that if control should exist because of the potential impact on a neighbourhood, then a charge is reasonable, and if such control is considered inappropriate as the impact of HMOs is not thought substantial or significant, then charging for an application arising from a policy decision by a local authority is not reasonable.
- 3.48 In addition to the views expressed by the English authorities, as discussed below both focus and non focus authorities in Wales (the latter confined to those attending the Focus Groups) were strongly of the view that if applications were to be introduced and an Article 4 direction was required, then charging should be possible.

## The Changing Pattern of Student Accommodation

- 3.49 Before looking at the various criteria adopted by English authorities when considering applications for C4 change of use, the broader planning framework needs to be considered. Even prior to the changes to the use classes, local authorities with student concentrations had been seeking to control growth and to promote balanced communities. The fact that applications were required only for change of use for HMOs

<sup>82</sup> [www.southampton.gov.uk/modernGov/mgConvert2PDF.aspx?ID=7999](http://www.southampton.gov.uk/modernGov/mgConvert2PDF.aspx?ID=7999)

<sup>83</sup> [www.hmobby.org.uk/HMO%20Consultation%202010.pdf](http://www.hmobby.org.uk/HMO%20Consultation%202010.pdf)

within the sui generis category was obviously a major limiting factor in terms of existing property but the authorities interviewed had generally adopted policies looking at student housing in the round. Encouraging the development of purpose built accommodation was a clear theme; whether by the higher education institutions themselves (for example the Oxford policy referred to at paragraph 3.33) or specialist private sector providers.

3.50 Clearly planning and development matters have long lead times and from the consultation with both non Welsh authorities and the Welsh focus authorities it does seem that the policies relating to purpose built student accommodation have been coming to fruition in the recent past with significant amounts of such accommodation coming on stream. The provision of purpose built student accommodation (PBSA) has become attractive to investors over recent years, notwithstanding the fact that the Opal Property Group which was a major provider in the purpose built student



market went into administration in 2013. Savills report that a very significant growth in investment has occurred over the last two to three years, with £2.7 billion invested in 2012 to create just under 45,000 bed spaces<sup>84</sup>. The figure dropped to just under £2 billion (30,000 beds) in 2012 but in the first quarter alone of 2014 transactions had amounted to £950 million (17,000 beds).

3.51 PBSA takes two main forms:

- (i) Leasing – higher education institution enters into long term agreement on privately owned accommodation with either direct or third party management.
- (ii) Direct let – students take 12 month tenancies usually managed by third party on behalf of the investor.

3.52 A November 2014 report by CBRE Global Research and Consulting<sup>85</sup> showed that the surge in investment predicted by the Savills report was accurate with at least £2.37 billion of capital invested at that time. A particularly striking feature of the CBRE report was that figure showed a substantial shift towards multinational institutional buyers (pension funds including LaSalle, Henderson, Blackrock and Pramerica). In addition, the report noted a significant move to the purchase of directly owned assets rather than long leased schemes. This does suggest a substantial vote of confidence in the PBSA market. The marked trend toward private suppliers was also noted in the 2012/13 survey of purpose built accommodation survey by the National Union of Students/Unipol<sup>86</sup>:

*“The current survey round points up a dramatic swing in the balance of supply between institutional and private providers: in 2012-13 the private sector now forms 39 per cent of supply (up from 22 per cent three years ago). This surge has been led by a new species of provider and investor and these operators are often geared to do business successfully without reliance on institutional partnership arrangements.”<sup>87</sup>*

<sup>84</sup> Spotlight - UK Student Housing, 2014 Savills World Research May 2014

<sup>85</sup> UK Student Housing – Market View, CBRE Global Research and Consulting, November 2014

<sup>86</sup> [www.nus.org.uk/Global/Campaigns/Accommodation%20Costs%20Survey%20V6%20WEB.pdf](http://www.nus.org.uk/Global/Campaigns/Accommodation%20Costs%20Survey%20V6%20WEB.pdf)

<sup>87</sup> Page 6 NUS/Unipol Survey 2012/13

- 3.53 The report contrasted the above figure with that for 2003/04<sup>88</sup> when 96% of purpose built accommodation was institution owned. A cautionary note was struck in the NUS survey; they pointed out that much of the new investment was geared towards the top end of the market and that planning policies should also seek to ensure the provision of affordable student purpose built accommodation. However, the survey also noted that competition had led to private sector suppliers being cheaper than institutions for the first time on average by £0.48p per week (the survey has been running at intervals for almost 30 years).
- 3.54 All the non Welsh authorities reported that this was having some impact on demand for student HMOs and the phenomenon was particular marked in several focus authorities especially Ceredigion. A complicating factor however, is the question of rentals. The general consensus when speaking to Students' Union representatives in the focus authorities and to university representatives was that rentals for purpose built accommodation are generally higher than HMO rents, especially for accommodation on campus, and such accommodation tends to be favoured more by postgraduate and overseas students. There were some references to some students wanting to spend at least some time in a shared house (generally in years two and three for undergraduates) and this was also mentioned in interviews with Students' Union representatives in the focus authorities.
- 3.55 The NUS/Unipol survey also did a comparison with rents in the private sector (although the information gathered was less extensive) and found that whilst its previous survey in 2010/11 showed that generally HMO rentals were cheaper (after making adjustments for the different charging structures), in 2012/13 there were a number of instances in cities like Nottingham and Leeds where purpose built accommodation was cheaper than street accommodation.

*"In Leeds there are several options available in purpose built accommodation which are cheaper than living in an off-street property, when allowance is made for inclusivity. This contrasts with the position shown in the last survey, when living in an off-street property was the cheapest option. It is possible to rent an ensuite room in two developments for less than the average cost of a room in an off-street property."<sup>89</sup>*

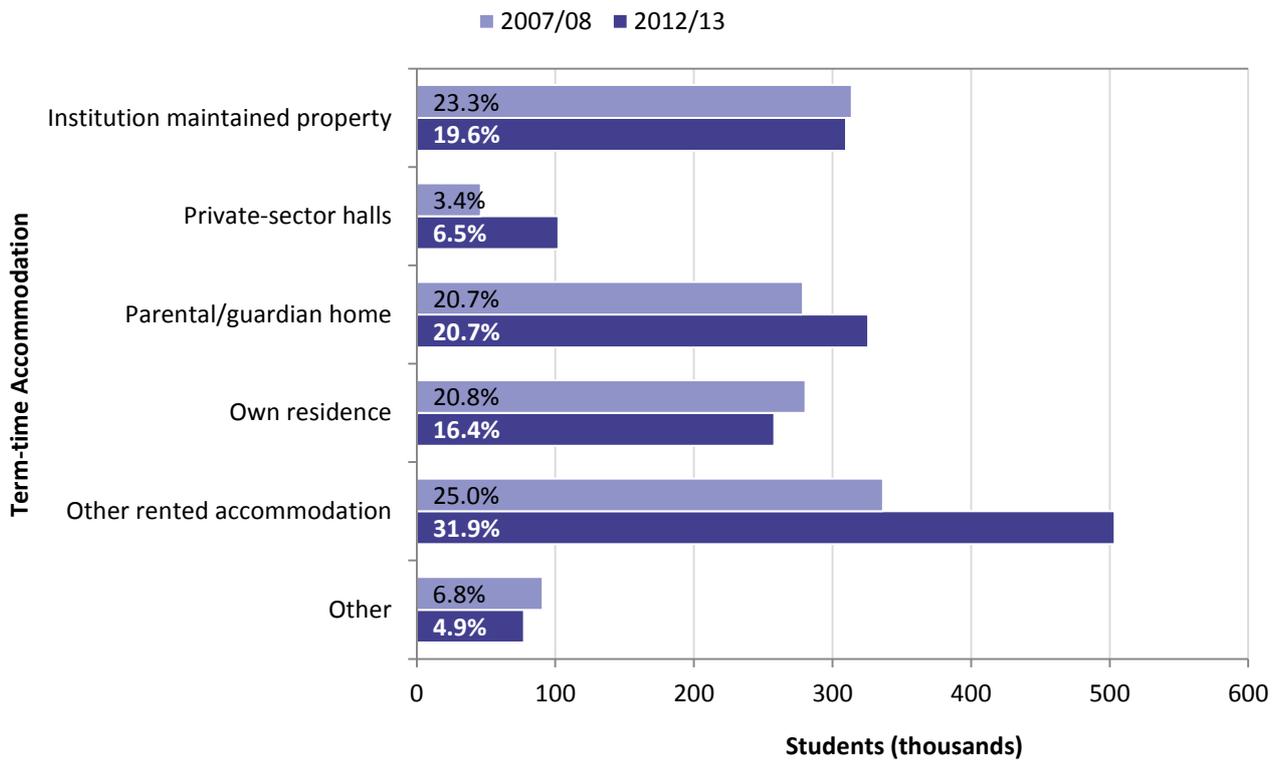
- 3.56 The table below shows the overall changes in percentage terms in the overall types of term time accommodation between 2007/08 and 2013/14 using HESA figures for the highest rate in the UK<sup>90</sup>. By far the biggest growth in terms of proportion has been the private sector flats ('private sector halls'), which has almost doubled from 3.4% to 6.5%. 'Other rented accommodation' (which will have been predominantly HMOs) has increased from 25.0% to 31.9% (just over a quarter). The proportions of institution maintained property and 'other' have both fallen and whilst the proportion of students living in their parental/guardian home has remained the same in terms of actual numbers it has increased as total student numbers have increased.

<sup>88</sup> Accommodation Costs Survey, NUS (2002), p8

<sup>89</sup> NUS/Unipol Survey 2012/13, page 31

<sup>90</sup> [www.hesa.ac.uk/stats](http://www.hesa.ac.uk/stats)

Figure 17: Change in Term Time Accommodation Between 2007/08 and 2012/13



3.57 The table below<sup>91</sup> shows the figures on a year by year basis:

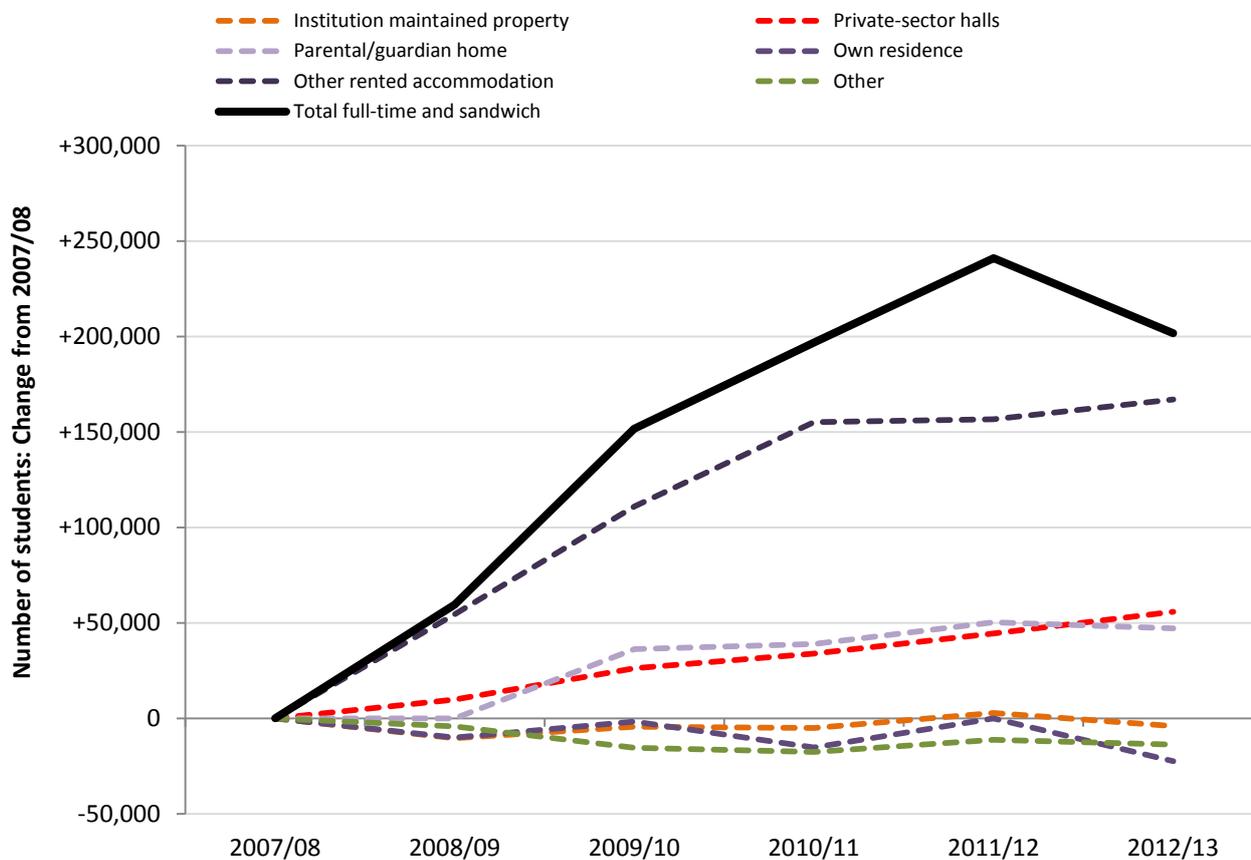
Figure 18: Term Time Accommodation for Full-time and Sandwich Students: Change from 2007/08 baseline

Term-time accommodation	2008/09	2009/10	2010/11	2011/12	2012/13
Institution maintained property	-10,300	-4,300	-5,000	+2,800	-4,100
Private-sector halls	+9,900	+26,200	+33,900	+44,500	+55,900
Parental/guardian home	-100	+36,300	+39,000	+50,300	+47,200
Own residence	-10,100	-1,800	-15,300	0	-22,400
Other rented accommodation	+54,500	+111,100	+155,200	+156,700	+167,100
Other	-4,200	-15,400	-17,500	-11,300	-13,700
Unknown / not in attendance	+19,900	-300	+6,700	-1,900	-28,300
<b>Total full-time and sandwich</b>	<b>59,600</b>	<b>151,800</b>	<b>197,000</b>	<b>241,000</b>	<b>201,800</b>

<sup>91</sup> Ibid

3.58 The chart below shows the changes in term time accommodation set against total student numbers in graphical format:

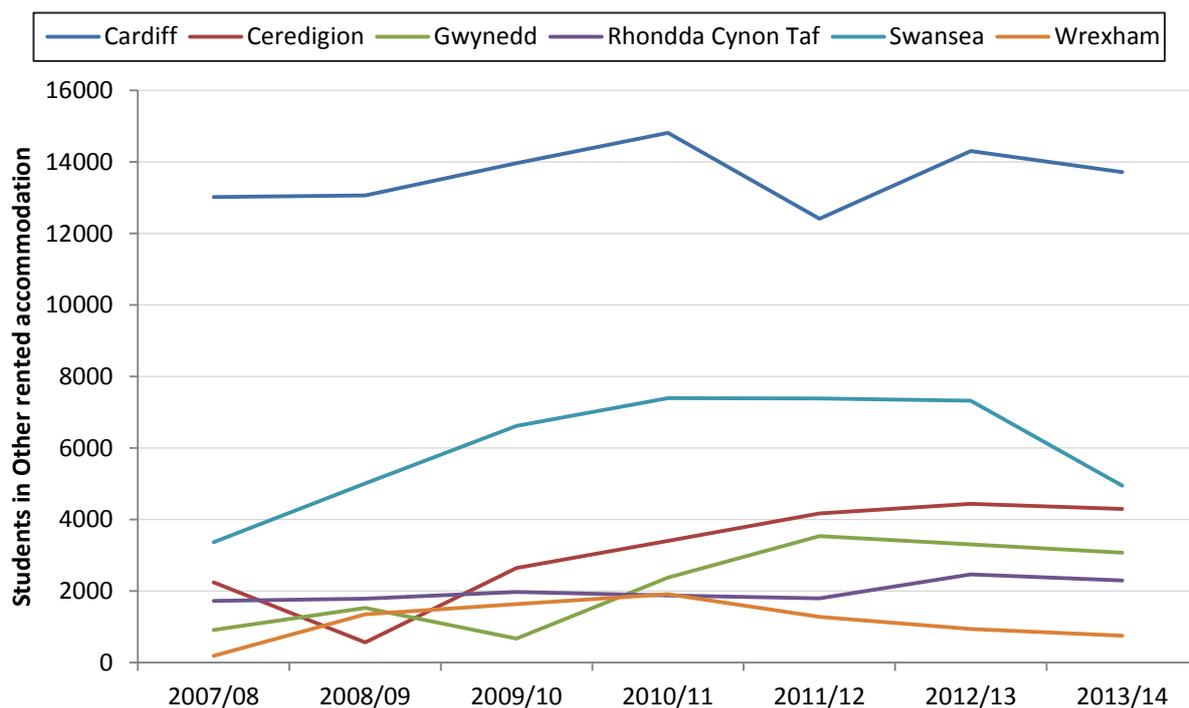
Figure 19: Term Time Accommodation for Full-time and Sandwich Students: Cumulative change from 2007/08 baseline



3.59 The HESA statistics bear out trends referred to earlier; it is clear that the rise in PBSA is progressive and that there has been a significant increase post 2007/08. The numbers in 'other rented accommodation' have also continued to rise but appear now to have plateaued.

3.60 The chart below shows the overall numbers of students in other rented accommodation for the six focus authorities in Wales between 2007/08 and 2013/14.

Figure 20: Number of Students in Other Rented Accommodation: 2007/08 to 2013/14 (Source: HESA)



<sup>3.61</sup> The HESA statistics indicate that the numbers in 'other rented accommodation' have generally continued to rise since 2007/08, but appear now to have plateaued. A more detailed breakdown of the change in term time accommodation for full-time and sandwich students since 2007/08 for each of the Welsh focus authorities is provided in Appendix C.

<sup>3.62</sup> When looking at student figures, a number of non-Welsh and focus authorities referred to some evidence of the numbers of university/higher education institution places at least plateauing or indeed falling in some cases. Significant growth in student HMOs appeared post 1990 onwards and then accelerated rapidly from the late 1990s but in many cases recently stalled or tailed off to a degree, dependent on the location. HESA figures indicate that overall UK student numbers fell by 2.3% in 2012/13<sup>92</sup> (0.2% in Wales and 2.7% in England) corresponding with the lifting of the cap on student fees to £9,000 per annum (although for students from Wales the Welsh Government limits the amount payable by the student to £3,685). The drop in first year admissions (undergraduate and postgraduate) for the UK was 8.2% and for Wales and England 3.8% and 9.6% respectively.

<sup>92</sup> [www.hesa.ac.uk/stats](http://www.hesa.ac.uk/stats)

3.63 The table below show total student numbers in the UK, Wales and England since 2000/01.

**Figure 21: Full Time Student Numbers 2000/01 – 2013/14**

	UK		England		Wales	
	Post-graduates	Under-graduates	Post-graduates	Under-graduates	Post-graduates	Under-graduates
2000-01	172,300	1,037,900	144,500	839,700	7,800	58,000
2001-02	186,300	1,069,200	155,400	862,700	8,700	58,700
2002-03	206,800	1,111,300	173,600	898,600	9,900	60,500
2003-04	220,400	1,141,900	186,600	925,000	9,700	62,400
2004-05	226,100	1,165,400	190,700	945,100	9,800	63,800
2005-06	234,200	1,198,800	196,700	976,800	10,200	64,800
2006-07	243,100	1,208,600	201,800	985,800	11,200	66,000
2007-08	248,400	1,232,000	206,900	1,012,000	11,400	66,800
2008-09	268,000	1,272,000	223,000	1,044,700	12,500	68,400
2009-10	298,300	1,333,900	249,900	1,095,800	14,300	73,800
2010-11	310,000	1,367,300	257,200	1,125,400	16,100	75,700
2011-12	309,400	1,412,000	257,300	1,166,600	15,500	77,700
2012-13	296,500	1,385,700	244,700	1,140,600	15,900	77,100
2013-14	304,400	1,391,600	250,600	1,142,900	16,600	77,600

3.64 The table below shows the number of new admissions each year between 2009/10 to 2013/14

**Figure 22: New Admissions 2009/10 to 2013/14**

	UK	England	Wales
2009-10	717,395	594,550	40,605
2010-11	716,560	598,240	41,055
2011-12	729,225	611,690	40,620
2012-13	669,315	552,860	39,075
2013-14	714,110	592,180	40,755

3.65 Whilst the total numbers do indicate a plateauing in recent years following the substantial surges in numbers during the first decade of this century (borne out by the structured interviews with the universities in the focus authorities), a number of recent reports by leading property and investment houses all suggest that the UK demand for accommodation will remain strong because demand for university education is oversubscribed and numbers are starting to rise again. The latest UCAS figures<sup>93</sup> show that almost 500,000 new undergraduates entered higher education in 2014/15 which is the highest ever intake notwithstanding the rise in student fees, and post graduate numbers continue to grow. The UK remains the second most popular destination after America for overseas students<sup>94</sup>.

3.66 Examination of possible trends in higher education is beyond the scope of this report (clearly such trends are dependent on a range of factors, for example course fees, the pending abolition of the cap on student numbers with all grades at A level, demographic changes with reducing numbers of eighteen year olds, border controls, etc) but it is clear from the structured interviews that such trends do have a noticeable

<sup>93</sup> Ibid

<sup>94</sup> OECD and UNESCO Institute for Statistics – "Education at a Glance 2013", June 2013

impact and it is important that local authority planning teams work closely with the local higher education providers when considering policy on student housing provision in the round. A particularly direct example was in one focus authority; Glyndŵr University's licence to recruit foreign students was removed in July 2014 (with reinstatement in November 2014). Local agents report that both events did have an immediate impact on the investment property market. The trends in the existing and potential new HMO concentration areas will be interesting as the new Swansea campus develops.

<sup>3.67</sup> The question of the consequences of reduction in demand for student HMOs does need to be considered. As has just been described, there has been a substantial growth in PBSA and market indications are quite clear that this is highly likely to continue. All non Welsh and the focus authorities referred to this having reduced demand for student HMOs (leading to the phenomenon of destudentification). It does seem inevitable that, provided that the price differential for such accommodation is not substantially greater (and, as described above, the NUS report some evidence of purpose built rentals falling below HMO rentals when compared like for like in some locations) that this trend will continue.

<sup>3.68</sup> The impact of some cooling in demand was evidenced itself in several ways:

- (i) Some authorities referred to increased competition between landlords – 'upping their game' was used by several, referring to higher standards being adopted to attract students as tenants;
- (ii) Some references were made to lowering of rents; several officers referred to under occupation or being vacant entirely occurring in some HMOs;
- (iii) Whilst demand remained buoyant in areas close to institutions, drops in demand in areas more distant from HEI campuses had led to some alternative uses/tenant groups being found; most authorities referred to take up by migrant workers with some evidence (albeit very limited) of reversion to single household dwellings.
- (iv) A drop in the sale price of houses where demand had cooled.

<sup>3.69</sup> A detailed study of the circumstances in Leeds was carried out by Unipol in 2012<sup>95</sup>. This showed that since 2006 the number of bed spaces in purpose built accommodation has risen from 12,500 to over 18,500, obviously taking demand out of the HMO sector. In addition, the number of students living in city centre apartments had increased almost tenfold to 4,800, again having an impact (a phenomenon reported in other cities including Newcastle). The report predicted a drop in the HMO sector, 26,500 to 23,000 by 2014/15 and noted that already the number of vacant lets and empty properties had increased in the areas that had become less popular for students.

<sup>3.70</sup> There has been a significant increase in the provision of purpose built accommodation provided by the University and private halls in Ceredigion. The University previously had provision for 3,500 bed spaces, but this will increase to 4,200 in September 2015. This has further been supported by an additional 230 beds which were due to be decommissioned in 2014, but have continued to be used and will be reviewed on an annual basis. It is anticipated that the University will meet 47% of the demand for housing from students in 2015.

<sup>3.71</sup> Making fully evidenced links between national policy on higher education and the development of private sector student HMOs is not directly within the scope of this report. However, it does seem, in general terms, that national policy from the 1990s onwards did boost significantly the provision in higher education courses but did not at the same time adopt policies to either stimulate the provision of PBSA

<sup>95</sup> Assessment of Housing Market Conditions and Demand Trends in Inner North West Leeds, re'new Unipol August 2012

and/or restrict the use of surrounding residential accommodation as student HMOs. The long lead times for PBSA, whether through the university or private sector, meant it took an extended period before such provision began to catch up.

- 3.72 It is difficult not to come to the conclusion that the additional demand was met by change of use to student HMOs in areas close to higher education institutions and the structured interviews have borne this out. Such areas already had student HMOs but the concentrations increased significantly and the areas increased in size. The private sector providers of purpose built accommodation have seen a clear opportunity and are now catching up; assuming the trend continues, then market forces alone may be significant drivers of destudentification.

## Supplementary Guidance

- 3.73 Notwithstanding the obvious trends in respect of PBSA and actual or likely contractions in HMO demand, and notwithstanding the fact that it has no effect in terms of reducing existing concentrations, as stated earlier over 50 English authorities have now made Article 4 directions and other authorities are still in the process of doing so. It might be said that the change in use classes that occurred in England was very belated; had it been in existence from the time when the provision of higher education was significantly expanded change might have occurred in a more controlled fashion and the reality is that many neighbourhoods have been changed dramatically as a consequence of market forces. The National HMO Lobby describe a number of attempts to raise the issue of use classes at ministerial level from 2001 onwards.<sup>96</sup>
- 3.74 Planning applications have to be determined in accordance with the development plan “*unless material considerations indicate otherwise*”<sup>97</sup>. The criteria against which the non Welsh authorities make decisions in respect of change of use to C4 varies significantly by authority but fall broadly into area based and threshold approaches. One of the potential concerns raised in the ECOTEC report was that any change of use classes should not be seen as a rapid solution; it was important that “local authorities should have in place the adopted planning policies to enable them to adequately control where HMO developments should be located and areas where they will be resisted”<sup>98</sup>. Policy mechanisms should be sufficiently robust to withstand challenge whether at planning appeal or public inquiry. Difficulties in this respect were encountered in Northern Ireland when the use classes were changed to identify HMOs clearly and planners sought to restrain HMO growth in Belfast concentration areas (see paragraph 3.82 onwards below).
- 3.75 Leeds City Council endeavoured to control the development of student housing in the Headingley area by creating in its draft Unitary Development Plan on policy H15 Areas of Student Housing Restraint (ASHORE) where (prior to the changes in the use classes) in the more limited circumstances where planning consent was required, such application would be resisted because of existing concentrations. Following a public inquiry, the ASHORE approach was criticised by the Planning Inspector, who acknowledged the problems created by concentrations in Headingley but said such problems were diverse in nature and could not or should not be dealt with through a planning approach. Such an approach would not ameliorate existing problems to any extent and “... *would also be unreasonably inflexible, problematical to implement, and discriminatory in the way that it would impose particular restrictions on one group within the general population, namely students*”. The Inspector recommended a criteria-based policy on proposals for student accommodation recast as an ‘Area of Housing Mix’.

<sup>96</sup> [www.hmolobby.org.uk/natuseclassesorder.htm](http://www.hmolobby.org.uk/natuseclassesorder.htm)

<sup>97</sup> S.38(6) Planning and Compulsory Purchase Act 2004

<sup>98</sup> Evidence Gathering – Housing in Multiple Occupation and possible planning responses, CLG, ECOTEC at p. 44

- 3.76 A modified policy H15 is still used as the basis for assessing applications for change of use to C4. Whilst this does not contain any references to specific concentration levels, it does refer to unacceptable reduction in the quantity and variety of the stock of housing accommodation (including for families), impact on neighbours' living conditions, car parking and the proposal improving the quality or variety of the stock of student housing.
- 3.77 Newcastle City Council originally sought to adopt an ASHORE approach but following the comments of the Planning Inspector opted instead for Areas of Housing Mix (which later were essentially the boundaries of the first Article 4 direction, later extended). Criteria against which C4 applications are assessed are contained in a Supplementary Planning Document<sup>99</sup> which follow similar lines to those in Leeds – loss of family dwellings, harm to the amenity of neighbouring residents (traffic, parking, noise, disturbance, etc). The SPD emphasises in particular that within Article 4 areas the loss of family housing is a very significant factor, unless the subject property has become no longer suitable for family accommodation for example as a consequence of *“the general quality and character of the area immediately around the dwelling”*. Interestingly, the policy also refers to the installation of noise insulation where applications are approved to protect amenity.
- 3.78 More commonly, a threshold approach is adopted, where supplementary planning guidance will refer to HMO concentration levels and other specific criteria. A notable example is that adopted by Charnwood Borough Council. The relevant guidance remains that in the 2005 Supplementary Planning Document ‘Student Housing Provision in Loughborough’<sup>100</sup> which predates the Article 4 direction. It is understood a new SPD will be produced as part of the review of the Core Strategy. The approach is founded upon an assessment of the proportion of households within the ‘neighbourhood’ surrounding an application as informed by information gathered from the Council Tax records. ‘Neighbourhood’ is defined by reference to a cluster of contiguous Output Areas as used by the Office of National Statistics for Census information. The approach factors in occupancy by students for example in University halls (numbers divided by six).
- 3.79 The policy goes on to acknowledge that the only mechanism to restore balanced communities over time is the development of purpose built student accommodation and several policies seek to encourage that, including for example, town centre development above ground floor level subject to not increasing difficulties in existing residential areas. The guidance then adopts a matrix approach taking into account three threshold levels – above 20% student households, 10-20% student households and below 10% student households. Different parameters then apply for each of the three threshold levels but the policy does indicate refusals for change of use (to sui generis as C4 not in existence when drafted) when student households exceed 10%.
- 3.80 Nottingham use a threshold approach. Areas with ‘significant student household concentrations’ are those where the percentage exceeds 25% (again council tax records are used). The methodology is two stage; firstly it is ascertained whether the property is in or adjacent to an output area comprising 25% student households or above and then, if so, a more detailed analysis is undertaken which will include purpose built student accommodation in all contiguous output areas and information relating to anti-social behaviour issues caused by students. The application will generally be refused unless the applicant can demonstrate that community balance will not be adversely affected. Applications by owner occupiers seeking change of use to C4 in areas of existing very high concentration have been refused and appeals have generally upheld that decision. One interesting point mentioned by Nottingham was a recent trend to use the May 2013

<sup>99</sup> [www.newcastle.gov.uk/sites/drupalncc.newcastle.gov.uk/files/wwwfileroot/planning-and-buildings/planning/maintaining\\_sustainable\\_communities\\_spd\\_25nov2011.pdf](http://www.newcastle.gov.uk/sites/drupalncc.newcastle.gov.uk/files/wwwfileroot/planning-and-buildings/planning/maintaining_sustainable_communities_spd_25nov2011.pdf)

<sup>100</sup> [www.charnwood.gov.uk/files/documents/student\\_housing\\_in\\_loughborough\\_spd/studenthousinginloughboroughspd.pdf](http://www.charnwood.gov.uk/files/documents/student_housing_in_loughborough_spd/studenthousinginloughboroughspd.pdf)

changes to the General Permitted Development Order which allow change of use from Class B1(a) (offices) in the Use Classes Order to a use falling within Class C3 as an opportunity to provide studio flats targeted at the student market.

- <sup>3.81</sup> Brighton & Hove City Council also use a threshold approach, and draw data from planning and HMO licensing records as well as council tax (Policy CP21<sup>101</sup>). A circle of 50m radius is drawn around the property and consent will not be given where more than 10% of residential properties within the circle are already in HMO use. The policy also includes encouraging the development of purpose built accommodation subject to, inter alia, such accommodation not adversely affecting residential amenity and being close to sustainable transport corridors.
- <sup>3.82</sup> As discussed earlier<sup>102</sup>, the planning framework in Northern Ireland is different, with planning powers currently vested in the NI Department of the Environment (DoE NI Planning) and with the use classes having changed as a direct response to concerns over HMO concentrations in South Belfast. The Houses In Multiple Occupation Subject Plan for Belfast City Council Area 2015<sup>103</sup> adopted in 2008 defines 22 HMO Policy Areas where existing concentrations are above 30% and in these areas no further HMO development is permitted until the percentage of HMOs falls below 30%. Certain exceptions are made provided they do not lead to further intensification of use (for example an existing eight bedroom HMO being converted to two, four bedroom HMO flats).
- <sup>3.83</sup> The Subject Plan goes further with policies specifically aimed at promoting the development of PBSA and at dispersing HMO concentrations by permitting HMO development in certain areas designated as HMO Development Nodes along certain arterial routes. The Plan recognises the importance of HMOs in particular in providing accommodation for single person households and migrant workers, and allows HMO development along the frontages of Nodes provided it does not impinge on ground floor commercial or shopping use. In identifying Node areas, regard was had to the presence of good public transport links, availability of services and access to facilities. Outside Policy Areas and Development Nodes, consent for HMO development is permitted if the number of HMOs does not exceed 10% of the dwelling units on that road or street, with a further proviso limiting street length to 300m either side of the proposal site. This is intended to 'protect the amenity of residential areas and promote balanced communities'<sup>104</sup>.
- <sup>3.84</sup> These policies were developed after there had been initial difficulties with challenges when the changes to other use classes were first introduced<sup>105</sup>. DoE NI Planning indicated that with the current policy there has been some success in sustaining decisions where there is a clear breach of permitted thresholds. However, they have been less successful where the issue has been whether a change of use has occurred or not because of some disparity over the interpretation of the HMO definition between the Planning Service and the NI Housing Executive. Nonetheless, it is felt that the policy has been successful in managing concentrations in the Policy Areas.

## Planning and HMOs in Welsh Authorities

- <sup>3.85</sup> As discussed in earlier sections of this Chapter, the change in use classes by introducing the C4 class did not occur in Wales. Accordingly, in terms of planning the legal framework provides only for HMOs in the sui generis category (seven or more unrelated persons). This means that throughout the period of major

<sup>101</sup> [www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/CP21.pdf](http://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/CP21.pdf)

<sup>102</sup> Please see paragraph 3.22

<sup>103</sup> [www.planningni.gov.uk/index/policy/dev\\_plans/devplans\\_az/houses\\_in\\_multiple\\_occupation\\_subject\\_plan-2.pdf](http://www.planningni.gov.uk/index/policy/dev_plans/devplans_az/houses_in_multiple_occupation_subject_plan-2.pdf)

<sup>104</sup> Page 35

<sup>105</sup> See for example 'Belfast warns over student house rule', Planning Resource, 18 April 2008

expansion in university places, there was little effective planning control on change of use with small HMOs. Chapter 2 of this report has detailed the impact of this, and the substantial concentrations found in the larger university sites.

<sup>3.86</sup> All have general policies aimed at maintaining sustainable communities. Existing policies relevant to HMOs include for example:

- » *City of Cardiff Local Plan*<sup>106</sup>: This Local Plan dates back to 1996 and makes no specific reference to HMO concentrations. However, Policy H5 of the proposed Cardiff Local Development Plan<sup>107</sup> permits conversion providing, inter alia, that the proposal would not cause material harm to the amenity of existing neighbouring residents because of noise, disturbance or overlooking, the cumulative impact of such conversions will not adversely affect the amenity and/or character of the area and no adverse effect on local parking. Cardiff has just completed consultation on draft Supplementary Planning Guidance which includes provisions which could restrict HMO conversion.
- » *Swansea City Council Unitary Development Plan*<sup>108</sup>: Policy H5 – Conversion of HMOs is permitted provided there would be no significant adverse effect upon residential amenity because of noise, nuisance and/or other disturbance, no contribution to harmful concentration or intensification of HMOs, no adverse effect on the external appearance of the property and the character of the neighbourhood, no adverse effect on car parking/traffic safety and appropriate refuse arrangements are in place.
- » *Ceredigion County Council Local Development Plan*<sup>109</sup>: Policy LU07 – Conversion of residential units to HMOs requiring planning consent will not be permitted. (Note: Policy adopted in April 2013)
- » *Gwynedd Council Unitary Development Plan*<sup>110</sup>: CH14 - Applications for change of use to HMO will be approved “provided there is no negative impact on the social and environmental character of the area”.
- » *Wrexham County Borough Council Unitary Development Plan*<sup>111</sup>: Policy H4 – The subdivision of existing dwellings only permitted where the proposal would not result in the over concentration of HMOs to the detriment of crime levels, the social fabric of the area, and the amenity of existing residents. There is also a 2005 Guidance Note<sup>112</sup> on the conversion of dwellings to HMOs but this is primarily concerned with parking and amenities in the rear garden.
- » *Rhondda Cynon Taf County Borough Council*<sup>113</sup>: The Local Development Plan adopted in March 2011 does not appear to contain any express references to HMO use.

Note: Cardiff, Swansea, Gwynedd and Wrexham are all part way through the process of adopting new Local Development Plans.

<sup>3.87</sup> The structured interviews with the focus authorities showed that in Cardiff, Swansea, Ceredigion and Gwynedd, there had been substantial concern by both local communities and elected members about HMO

<sup>106</sup> [www.cardiff.gov.uk/ENG/resident/Planning/Planning-Policy/Documents/City%20of%20Cardiff%20Local%20Plan.pdf](http://www.cardiff.gov.uk/ENG/resident/Planning/Planning-Policy/Documents/City%20of%20Cardiff%20Local%20Plan.pdf)

<sup>107</sup> [www.cardiff.gov.uk/ENG/resident/Planning/Local-Development-Plan/Deposit-Plan/Pages/Deposit-Plan.aspx](http://www.cardiff.gov.uk/ENG/resident/Planning/Local-Development-Plan/Deposit-Plan/Pages/Deposit-Plan.aspx)

<sup>108</sup> [www.swansea.gov.uk/udp](http://www.swansea.gov.uk/udp)

<sup>109</sup> [www.ceredigion.gov.uk/index.cfm?articleid=21843](http://www.ceredigion.gov.uk/index.cfm?articleid=21843)

<sup>110</sup> [www.cartogold.co.uk/gwynedd/](http://www.cartogold.co.uk/gwynedd/)

<sup>111</sup> [www.wrexham.gov.uk/assets/pdfs/planning/udp/written\\_statement\\_e.pdf](http://www.wrexham.gov.uk/assets/pdfs/planning/udp/written_statement_e.pdf)

<sup>112</sup> [www.wrexham.gov.uk/assets/pdfs/planning/lpg/guide5e.pdf](http://www.wrexham.gov.uk/assets/pdfs/planning/lpg/guide5e.pdf)

<sup>113</sup> [www.rctcbc.gov.uk/en/relateddocuments/publications/developmentplanning/localdevelopmentplan2006-2021/adoptedldp2011.pdf](http://www.rctcbc.gov.uk/en/relateddocuments/publications/developmentplanning/localdevelopmentplan2006-2021/adoptedldp2011.pdf)

concentrations. In Rhondda Cynon Taf and Wrexham, whilst numbers were lower, nonetheless there had been significant concern expressed by affected communities and elected members.

- <sup>3.88</sup> Planning officers in Cardiff, Swansea and Ceredigion indicated clearly during the structured interviews that they felt that existing planning controls were inadequate and would support a change to the use classes. Swansea staff were particularly concerned about the potential for HMO concentrations to develop in the St Thomas area with the development of the new campus. All favoured changes to the use classes with Cardiff and Ceredigion officers favouring the England model with the requirement for an Article 4 direction subject to planning fees being payable. Officers in Gwynedd and Wrexham were more equivocal about a potential change, but could see the merits of a change subject to fees being payable. In Rhondda Cynon Taf, officers were of the view that a change would be of limited value in their borough as the effect would not be retrospective and there were signs that market forces were leading to a contraction in the student HMO market regardless. They could, however, see it having value in authorities with high concentration areas.
- <sup>3.89</sup> Officers in all authorities commented on the practical difficulties associated with the different definitions in particular, explaining this to applicants in respect of HMO licensing.
- <sup>3.90</sup> At the Focus Groups, which were attended by officers from non focus authorities as well as focus authorities along with representatives of universities, Students' Unions and landlord organisations, there appeared to be a broad measure of support for a change to use classes and for harmonisation of HMO definitions for planning and housing purposes. However, concerns were expressed about resource implications with regard to processing applications, preparation of any Article 4 directions and enforcement. There was a general consensus that if Article 4 directions were necessary, planning fees should apply and also that the notice period for avoiding compensation liability should be reduced to six months rather than twelve months. The importance of any changes forming part of a wider strategic approach encompassing both housing and higher education were stressed by the Focus Groups.

## Possible Changes to the Regulatory Framework

### Defining an HMO for Planning and Housing purposes

- <sup>3.91</sup> In forming a view as to possible changes to the regulatory framework, it is necessary to take into account a number of factors, the first of which is the question of whether the definitions for planning and housing should be harmonised, if so, the way this should be achieved.
- <sup>3.92</sup> All focus authorities commented on the difficulties created by having two definitions (and indeed a third for council tax purposes) and this concern was reiterated at Steering Group and Focus Group meetings (by focus and non focus authorities alike). All the English authorities indicated that they welcomed the greater clarity that came from the alignment of the C4 definition with that in the Housing Act 2004. This would appear to be a clear factor supporting a potential change in the Welsh use classes with C3 and C4 classes being created following the definition in the amended Town and Country Planning (Use Classes) Order 1987<sup>114</sup>.
- <sup>3.93</sup> A complication is the question of sui generis HMOs. The English authorities interviewed were generally of the view that seven unrelated persons in a house constituted a sui generis HMO and this view has been reiterated by Cardiff in consultation in recent guidance<sup>115</sup>. However, the key question is whether a material

<sup>114</sup> Please see paragraph 3.5

<sup>115</sup> Please see paragraph 3.79

change of use has occurred and this is a matter of fact and degree in individual cases. Both case law and planning decisions indicate that this is not simply a clear cut question of numbers but that factors such as the manner of occupation and the potential impact on neighbouring properties can have a bearing.

- 3.94 It does seem anomalous that issues which are not relevant to determining the status of an HMO of 3 to 6 people are considered relevant to the definition for planning purposes of a potential HMO with 7 or more residents. There could be two properties side by side, one with six unrelated tenants and one with seven. The property with six residents would clearly be an HMO for housing and planning purposes but a property with seven might be an HMO for housing purpose only. Accordingly, it is recommended that for the purposes of clarity that the Welsh Government does consider a statutory clarification of the planning definition for larger HMOs which could well be achieved by the creation of new C5 class. Such a class would logically adopt the Housing Act 2004 HMO definition in the same manner as the English C4. One issue that any new definition would need to take into account would be intensification of use through creation of additional lets within existing HMOs; several authorities reported that some landlords have responded to changing conditions by increasing the rooms let within existing HMOs.
- 3.95 If the planning definition and Housing Act 2004 definition are aligned, this could have an impact at the margins where there is little or no material change in planning terms. An example could be where there are three unrelated graduates living together as two households or where a family rents out rooms to two lodgers. In planning terms these would have little impact but would be brought within the definition and place a burden on those parties. In reality, there would probably be considerable non compliance at this level and such HMOs would tend to be ‘under the local authority radar’ in planning terms – and, in reality, in terms of housing enforcement. There is further comment on this point at paragraph 3.128.

## Do HMO Concentrations Cause a Problem in Wales?

- 3.96 The first issue is whether HMO concentrations give rise to problems in Wales. It is very clear from the secondary data that was used to select the focus authorities and from the structured interviews with those authorities that very high concentrations exist around the long established universities and that lesser concentrations have developed around the newer universities. The data for these conclusions is set out in Chapter 2 of the report. It is also very clear that these concentrations have caused changes to local communities which have led to major concerns in those communities with the problems in the high concentration areas mirroring precisely those found in the non Welsh authorities (displacement of established communities, exclusion of first time buyers, anti-social behaviour, degrading of the general environment and street scenes, parking problems, etc) summarised in more detail at paragraph 3.35 above.
- 3.97 It should be noted, however, that the Census data showed that the only wards where the percentage of multi person households is 10% or above are in the six focus authorities<sup>116</sup>. The only wards where the percentage is 5% or above are in the six focus authorities plus Newport (3 wards), Flintshire (1 ward) and Isle of Anglesey (1 ward). Whilst it could be argued that these figures suggest that change in the regulatory framework is not warranted in a number of authorities, it should be borne in mind that external drivers can lead to very rapid and unforeseen change.
- 3.98 Accordingly, it would appear appropriate to say HMO concentrations have given rise to significant problems in relatively limited areas of around a third of existing Welsh authorities. The issue is therefore not ubiquitous. Equally, it must be borne in mind that circumstances can change in a rapid and unexpected manner, for example as happened in Peterborough where residential neighbourhoods changed very

<sup>116</sup> Please see paragraph ## (chapter 2)

substantially in a relatively short timescale following the accession of several eastern European nations to the EU. External drivers such as the building of the Wylfa Newydd power station on Anglesey could well prompt significant and rapid change in neighbourhoods as a consequence of an influx of workers.

## Should a Change of Use to an HMO with Fewer than Seven Residents be Controlled in Wales?

- 3.99 Will the introduction of enhanced planning controls in Wales have a positive effect in respect of the issue of HMO concentrations? The structured interviews with non Welsh authorities did indicate that requiring consent for change of use to HMO use does significantly restrict future growth of concentrations. There are complications; the matters of both owner occupiers trying to sell when ‘marooned’ in very high concentration areas<sup>117</sup> and ‘flipping’<sup>118</sup> between single and multiple household use are concerns which need to be considered carefully in any local authority where planning restrictions on smaller HMO use are applied. There is also the question of the criteria against which applications for change of use are judged; any changes to both overall and specific supplementary guidance involve long timescales. Nonetheless, over 50 English authorities have made Article 4 directions, notwithstanding the difficulties, with the specific aim of restricting future growth of HMO concentrations.
- 3.100 What did emerge was that restrictions were well supported by both affected local communities and elected members. There was evidence that some communities felt relief when an Article 4 direction was made; they knew that at least concentrations would not grow and they could now work constructively with partners including those in higher education institutions, Students’ Unions and other agencies such as the Police to make the best of the situation for all parties. There were also comments that not all landlords resisted change; many recognised that restricting future growth protected the value of properties with existing established lawful use.
- 3.101 Is change necessary as market forces appear to be restricting future HMO growth regardless? There is clear evidence<sup>119</sup> that the pattern of student housing provision is changing; private sector providers have recognised both the significant, reliable yields available and the prospects for future growth. Purpose built student accommodation is now a major mainstream investment for substantial investment houses as well as specialist providers. The growth in purpose built accommodation, including that built by the higher education institutions themselves, has resulted in lessening of demand for student HMOs. This has led to market changes with reduced rents and capital values, increased competition on standards and some moves away from student use (‘destudentification’), leading to lettings to migrant workers.
- 3.102 The private sector was the lead player taking up the slack when rapid university growth created a huge demand for accommodation; the private sector is now leading the way as a range of factors including overall planning policies have promoted a move to purpose built student accommodation. However, HESA figures on term time accommodation do not yet indicate the drop in provision through student HMOs although they are available only up until 2012/13 and the structured interviews indicate that destudentification has increased significantly in the very recent past.
- 3.103 Whilst this might point to future changes of use to HMOs reducing irrespective of planning controls, an interesting theme in a number of structured interviews was the fact that there is some sort of attachment by students to living in a local community in a less structured environment than in particular student halls. In addition, there is the question of rental values; whilst data from the NUS surveys indicates that in some

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<sup>117</sup> Please see paragraph 3.80

<sup>118</sup> Please see paragraphs 3.43 onwards

<sup>119</sup> Please see paragraphs 3.49 onwards

limited cases the cost of purpose built accommodation has dropped below that that of student HMOs, interviews have indicated that generally HMOs remain significantly less costly to rent, although the differential has lessened. There is also the question of geographical alterations in demand; as discussed earlier, the extensions of university campuses in Swansea are likely to lead to a growth in demand for accommodation in the St Thomas and SA1 areas<sup>120</sup>. Whatever may be said, HMO concentrations were well established in England before the change in use classes occurred but nonetheless over fifty authorities have made Article 4 directions and more are in the process of doing so.

- 3.104 Will universities continue growing? Consideration of future higher education policy is beyond the scope of this study. However, it is striking that student numbers have recovered following the tripling of the maximum tuition fee in England and Wales (although the impact on students from Wales was softened by a significant grant from the Welsh Government) and also that large investment houses have sufficient confidence to continue large scale investment in purpose built accommodation, with continuing growth in overseas students being one factor.
- 3.105 The views of the local authorities themselves are of course highly relevant; planning officers in three focus authorities with large, long established universities were clearly of the view that existing planning controls were inadequate and wanted to see a change to the use classes (with Cardiff staff content to see all HMOs requiring planning consent), officers in two authorities were more equivocal but could see the merits of a change subject to fees being payable and in only one of the focus authorities were officers of the view that a change would be of limited value in their borough but could see the value in other authorities<sup>121</sup>. At the Focus Groups, there was broad support for changing the use classes and for harmonising the definition of HMO for planning and housing purposes.
- 3.106 Taking all these factors into account, it would appear there is a clear argument that the use classes in Wales should be amended to allow local authorities powers to manage the development of HMOs with fewer than seven residents.

### Would a Change in Use Classes Deal with HMO Concentration Problems?

- 3.107 Any change in the use classes would not be retrospective. All properties with existing lawful use would retain that although there would be issues of proof on occasions and if a property with established use were to revert to single household occupation then any subsequent move to the equivalent of C4 use would require express consent under the new regime. The fact that the operation is not retrospective clearly means that any change would not lead to any immediate change in the makeup of communities. It does, however, mean that a local authority would have the opportunity to restrict future growth in a concentration area (within the context of an overall policy and supplementary guidance dealing with HMOs and student housing in particular, and adoption of new policies is a relatively lengthy process). Any such policy would need to take reasonable account of both owner occupiers seeking to sell in very high concentration areas where there would be no demand from investors unable to secure C4 use<sup>122</sup> and the question of 'flipping'<sup>123</sup>.
- 3.108 As discussed earlier, the pattern of student housing is changing regardless because of planning policies that have sought to promote PBSA in appropriate locations and large scale investors having recognised the major opportunities presented by the student housing market. The structured interviews with local

<sup>120</sup> Please see paragraph ## (chapter 2)

<sup>121</sup> Please see paragraph 3.89

<sup>122</sup> Please see paragraph 3.80

<sup>123</sup> Please see paragraphs 3.44 onwards

authorities and estate agents and the secondary data all point to evidence of destudentification because of market forces having begun and possibly beginning to accelerate.

- 3.109 What will happen to concentration areas if destudentification increases? The structured interviews suggest that there will always be high concentration areas close to higher education institution centres (in effect long standing student quarters). Destudentification, where present, is occurring in the outer concentration areas and a theme noted in the interviews was the use of former student HMOs by migrant workers. There was minor evidence of reversion to single household use; several authorities referred to evidence of this commonly being through properties being let to larger migrant families of Eastern European origin.
- 3.110 If it is accepted that high HMO concentrations have ‘damaged’ what were traditional residential areas (which in effect is the basis for the making of Article 4 directions by English authorities), can authorities take steps to ‘heal’ such damage if future growth is curtailed and market forces lead to a reduction in student use? Although there has been only limited time since the demand driving studentification has slackened, the structured interviews with authorities did suggest that any significant rebalancing is unlikely to follow as a direct consequence of market forces. Could local authority intervention have any positive effect? Experience with the Houses into Homes programme has shown that with long term empty homes, local authorities using a mix of support for investment through loans and targeted intervention using statutory powers can produce very positive effects, in particular with increasing affordable homes with long term empty properties<sup>124</sup>. The scheme has been pivotal in helping bring almost 4,500 homes back into use<sup>125</sup>.
- 3.111 However, the position with areas potentially rebalancing from surges in recent years in HMO use would appear to be less straight forward. Landlords having invested, in many cases, significant sums in both acquiring properties and then ensuring compliance with statutory and licensing standards will understandably be reluctant to let go of a property use which can potentially generate a yield above single household use and significantly above returns in most forms of capital investment.
- 3.112 In several structured interviews, reference was made to graduates often remaining in their university town/city; as young professionals they then seek to move away from their former student locality. It is possible that encouraging such new households, already with an established link to the area, could provide a key impetus to stimulate the restoration of HMO concentration neighbourhoods to a more traditional family balance.

## Options for Changes to the Regulatory Framework

- 3.113 Options open in respect of smaller HMOs (outside sui generis) could include:-
- (i) Maintaining the status quo;
  - (ii) Adopting the modified use classes used in England as originally enacted (in practice all new changes of use to HMO would require planning consent, unless a local authority makes an appropriate Local Development Order);
  - (iii) Adopting the modified use classes used in England but maintaining permitted development rights so that an Article 4 direction is necessary to bring requirement for planning consent for change of use into effect. This would involve a 12 months notice

<sup>124</sup> [www.wales.gov.uk/docs/caecd/research/2014/141112-houses-into-homes-third-interim-evaluation-summary-en.pdf](http://www.wales.gov.uk/docs/caecd/research/2014/141112-houses-into-homes-third-interim-evaluation-summary-en.pdf)

<sup>125</sup> [www.wales.gov.uk/newsroom/housing-and-regeneration/2014/141112-dramatic-increase-in-the-number-of-houses-turned-into-homes/](http://www.wales.gov.uk/newsroom/housing-and-regeneration/2014/141112-dramatic-increase-in-the-number-of-houses-turned-into-homes/)

period and consultation to avoid compensation being payable; in addition, local authorities could not charge a fee to deal with relevant planning applications;

- (iv) As (iii) above but modifying the Article 4 procedure so that the notice period would be reduced to, for example, six months and allowing local authorities to charge for planning applications.

<sup>3.114</sup> In addition to the above, there is also the option of clarifying the sui generis definition for example, by creating an additional use class.

<sup>3.115</sup> Adopting option (i) would mean that changes in concentration areas would simply be driven by market forces with no real option for effective control or management open to local authorities. This report has highlighted that HMO concentrations have been and remain a serious concern in parts of Wales. HMO growth may slacken or reverse because of the apparently accelerating development of PBSA, but there are factors which militate against this, for example rental differentials and the apparent desire of many students to spend at least some time in a local community. Furthermore, changes in concentration areas may occur because of the creation of a new university campus (for example, as in the St Thomas & SA1 area of Swansea) or external drivers such as changes in border controls or the development of major infrastructure such as the Wylfa Newydd power station. Acknowledgement of the potential benefits of a change in the use classes to at least some local authorities was noted in all structured interviews and at the Focus Groups. Accordingly, retention of the status quo is not recommended.

<sup>3.116</sup> Adopting the modified use classes used in England without the subsequent amendment<sup>126</sup> to the Town and Country Planning (General Permitted Development) Order 1995 (option (iii)) would be a clear and relatively straight forward option. This definition employs the Housing Act 2004 definition of HMO used for housing purposes<sup>127</sup>. Once operative, it would require consent for change of use with immediate effect. One advantage would be the consistent definition of HMO for housing and planning purposes, at least for smaller HMOs. A particular advantage for those authorities with significant concerns over HMO concentrations would be the immediate application. There would be no consultation period and no statutory notice period of one year to avoid payment of compensation. In addition, fees would be payable to the local authority.

<sup>3.117</sup> An argument against this approach is that it could be said to be disproportionate; as noted earlier the Census data showed that the only wards where the percentage of multi-person households is 10% or above are in the six focus authorities and the only wards where the percentage is 5% or above are in the six focus authorities plus Newport (3 wards), Flintshire (1 ward) and Isle of Anglesey (1 ward). Within the focus authorities the concentrations are in limited areas. Should a blanket requirement for consent be applied to all authorities even though there is no direct evidence of a concern in the majority of them, and only in limited areas where they have significant concentrations? There would also be the issue of the local authority resources involved. Against this, it might be said that if HMO concentrations are not an issue in a particular authority, then an application is less likely to be of concern and presumably less likely to be resisted. If refusals did occur in such authorities, any appeal would inevitably focus on the circumstances of the particular property and the local environment without consideration of broader concentration issues.

<sup>3.118</sup> One possible way in which the impact could be ameliorated would be the use of the power given to local authorities to make Local Development Orders (LDOs) under the amended s61 of the Town and Country

<sup>126</sup> The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2010 No. 2134

<sup>127</sup> Please see paragraph 3.8

Planning Act 1990<sup>128</sup>. When made, LDOs grant planning permission for the type of development permitted in the LDO provided that stipulated conditions are met. In effect they amount to an extension of permitted development but are extensions decided locally in response to the circumstances in the authority. They are normally used in respect of small scale and non contentious development issues and may apply across the whole of a local authority area or be limited to specific areas. Typical uses in England, where 65 such orders have been made, have been to assist regeneration of an employment area or to guide development to particular areas, although two have been made to ease restrictions on residential extensions.

<sup>3.119</sup> As with the procedure governing Article 4 directions, a stringent procedure involving significant consultation applies<sup>129</sup>. Whilst approval by the Welsh Government is not required in all cases, the local authority does have to send the draft LDO and Statement of Reasons to the Welsh Government who have the power to direct that a draft LDO is submitted for its approval or to be modified. The issue as to whether an LDO could be used by a local authority to in effect create permitted development rights to move from what would be C3 to C4 has not arisen before but there does not appear to be any manifest reason why they could not be.

<sup>3.120</sup> It may be noted that at the time this report was being prepared, no Welsh authorities had made any LDOs, notwithstanding steps taken by the Welsh Government to promote their use as a tool to simplify the planning process, including both practical guidance and the offer of limited financial assistance. This may reflect concern over the loss of income from planning fees, the cost in preparation and administration of LDOs and the perceived democratic deficit<sup>130</sup>. If the Welsh Government does proceed with this option, it may wish to consider what further steps might assist local authorities in adopting LDOs, such as possibly creating template documents or further financial assistance to support the process.

<sup>3.121</sup> If the modified use classes were adopted with no permitted development rights being granted at national level (as in England when first introduced) and LDOs were to be used as described above, in effect it would create the English position in reverse; instead of a local authority having to take a proactive step to control change of use to small HMOs, it would have to take a proactive step to take such change of use out of planning control. In effect, local authorities would be required to 'opt out'.

<sup>3.122</sup> Option (iii) would be a straight adoption of the current English framework. It was clear from the structured interviews with English authorities that they were content that the making of the Article 4 direction had achieved the intended effects of giving control and restricting the growth of HMOs in the areas covered by the direction<sup>131</sup>. However, it was equally clear that authorities were concerned that no fees were then payable in respect of applications and also that there was generally a surge in acquisitions and change of use during the 12 months notice period.

<sup>3.123</sup> Adopting option (iii) would mean that local authorities with HMO concentrations could target the requirement for consent to appropriate areas having regard to the to local circumstances and local authorities who perceived there to be no need for control would have to take no action. This would mean that the level of control would be proportionate to the level of the problem. However, it would take significantly more than 12 months to come into effect (after consultation and 12 months notice to avoid compensation being payable) and this could trigger a 'last chance' surge of acquisitions to acquire lawful use. The extended time before implementation could be of significant concern where drivers for change

<sup>128</sup> Sections 61A (local development orders), 61B (intervention by National Assembly) & 61C (permission granted by local development order) were inserted into the Town and Country Planning Act 1990 by section 40(1) of the Planning and Compulsory Purchase Act 2004. Section 61D (Effect of revision or revocation of development order on incomplete development) was inserted by section 41 of the 2004 Act.

<sup>129</sup> Welsh Government Circular Number 003/2012 April 2012, paragraphs 1.16-1.26

<sup>130</sup> Local Development Orders: Impacts and Good Practice, January 2014, Welsh Government (Peter Brett Associates)

<sup>131</sup> Please see paragraph 3.40

are imminent, for example in the St Thomas area of Swansea<sup>132</sup>. In addition, local authorities would be not be able to charge application fees and concern over the burden this could impose was expressed by Welsh authorities in both structured interviews and the Focus Groups. This option, in effect, would require local authorities to 'opt in'.

- 3.124 The scope of this study cannot include detailed consideration of the extent of the legislative powers of the Welsh Assembly. However, the provisions relating to the notice period are contained in regulations<sup>133</sup> which set prescribed periods for the purposes of s108 of the Town and Country Planning Act 1990. No fee is payable where permitted development rights are removed by any Article 4 direction, not just those relating to HMOs, again as set out in regulations<sup>134</sup>.
- 3.125 Option (iv) would be a modified version of the current English framework. Assuming that the powers of the Assembly do extend to amending the relevant legislation as necessary with effect in Wales, the notice period would be shortened and application fees would be payable. A notice period of six months is recommended; such a period is arguably equitable to investors who might have just bought (or be buying) a property whilst at the same time being sufficiently short enough to discourage the speculative purchase of properties. This option would deal with the issue of targeting and proportionality but would also reduce concern over the cost burden on local authorities and surges of change of use. This option would also require local authorities to 'opt in'.
- 3.126 However, the Welsh Government would need to consider carefully potential drawbacks with option (iv); as indicated in paragraph 3.18 above, it is beyond the scope of this study to consider the detail of the legislative competence of the National Assembly For Wales. Any review of the regulatory framework would need to look carefully at the potential compensation implications as well as possible challenges as to competence including challenges under the Human Rights Act 1998. As a consequence, realistically adoption of option (iv) would take longer and be less straightforward than either option (ii) or (iii), and there would also be the question of the timescale through the consultation period. As with option (iii), there would be implications for areas where a growth in concentrations can be predicted in the near future, for example the St Thomas area in Swansea as referred to in paragraph 3.123 above.
- 3.127 However, it must be borne in mind that, as indicated in the ECOTEC report<sup>135</sup> and from early experience in Belfast<sup>136</sup>, any change of the use classes at national level should not be regarded as a 'quick fix' solution; local authority adopted planning policies will need to be sufficiently robust to withstand challenge at appeal or inquiry and the experience in Belfast does need to be considered. Having said that, a clear case for powers to manage the development of HMOs in existing and potential concentration areas can be made out; there may be issues to be resolved if change is effected but equally failure to take action will obviously mean that problems associated with the lack of control will continue. As indicated earlier<sup>137</sup>, over 50 English authorities have made Article 4 directions in the few years that the option to control small HMOs has existed. The evidence from the structured interviews does indicate that they are restricting growth in concentration areas and more authorities are seeking to make directions.
- 3.128 One minor note is the question of the actual definition of an HMO within the Housing Act 2004 and related regulations. Essentially if there are three or more unrelated persons in two or more households then, subject to other stipulations, an HMO can be created. The issue of three or more persons was raised at a

<sup>132</sup> See paragraphs 2.50 and 2.51

<sup>133</sup> The Town and Country Planning (Compensation) (No.3) (England) Regulations 2010

<sup>134</sup> The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012

<sup>135</sup> Please see paragraph 3.74

<sup>136</sup> Please see paragraph 3.84

<sup>137</sup> Please see paragraph 3.17

Focus Group meeting and was mentioned by estate agents. A particular sub group of HMO tenants are young professionals or other workers; landlords may be reluctant to let to three young workers as HMO obligations arise. This is of some importance in housing terms as additional requirements may arise where the additional risk is low. The matter is perhaps of greater significance in planning terms; there is a clear need for smaller housing units and HMOs with young workers are less likely to give rise to the concerns associated with students or use by other transient groups. Any review of the Welsh use classes should consider the C4 definition covering 4 to 6 residents rather than 3 to 6 residents, although this would not harmonise with the Housing Act definition applicable in both Wales and England.

3.129 A further point is the matter of HMOs considered sui generis. There is no automatic application of the Housing Act HMO definition; decided cases and planning appeal decisions are not wholly consistent on what constitutes a material change of use. A review of the use classes could usefully look at this issue; if the planning definition of smaller HMOs aligns with that for housing then it would appear logical that the planning definition applicable to larger HMOs should do so too, not least as, realistically, larger HMOs are more likely to give rise to concerns which warrant planning intervention. The creation of a further use class (C5) is a way that this might be achieved.

3.130 In summary, it is recommended that the Welsh Government consider either option (ii) or (iv) taking into account the relative merits and potential criticisms of each, in particular the potential issues around legislative competence and timescales. In addition, the Government should consider whether any revision for planning purposes should start with a minimum of 4 unrelated persons and also whether there should be a statutory definition for larger (7 persons or more) HMOs, for example by introducing an additional use class.

3.131 A summary of recommendations is given at paragraph 3.150.

## Control of Letting Boards

### The Legal Framework

3.132 The display of outdoor advertisements is controlled by the Town and Country Planning (Control of Advertisements) Regulations 1992. This legislation permits adverts relating to the letting of residential property to be displayed without requiring the Council's consent, provided they conform with a number of conditions and limitations (Class 3A).

3.133 Whilst under the normal circumstances the regulations are adequate to keep the impact of outdoor signage within acceptable control, in certain areas such as those containing high concentration of HMOs the excessive number of letting signs can have a significant adverse impact on the character and appearance of the area. As well as creating clutter and looking unsightly, they give an air of transience to a neighbourhood which may also lead to increased risk of crime; intervention may well be appropriate where the impact on visual amenity is substantial.

3.134 Local planning authorities can apply to the Minister or Secretary of State for a direction under Regulation 7 of the Town and Country Planning (Control of Advertisements) Regulations 1992 that deemed consent for



the display of letting boards relating to residential property should not apply<sup>138</sup>. If a direction is approved, all letting boards within the defined area would require advertisement consent. Unauthorised boards (those that do not conform to specific guidance) could then be removed effectively through normal enforcement procedures.

- <sup>3.135</sup> Before a direction is made, the local planning authority will have to show that it would improve visual amenity and that there is no other effective way of controlling the display of that particular class of advertisement. As part of this process, local planning authorities have to submit a fully reasoned statement demonstrating the unsatisfactory environmental impact of the particular deemed consent provisions in the area or place for which the direction is proposed. The statement has to set out the adverse effects on visual amenity, the remedial steps already taken to minimise these effects, details of prosecutions for any illegal displays and the likely consequences of making the direction. The comments of organisations and individuals whose interests would be affected by the making of a direction have to be sought as part of the process to decide whether a direction is appropriate.

## Experience in England and Wales

- <sup>3.136</sup> Councils including Leeds City Council, Newcastle City Council, Nottingham City Council, Charnwood Borough Council and Brighton and Hove City Council have all secured approval for a Regulation 7 direction in relation to letting boards. Swansea City Council has introduced a voluntary code for advertisers and Cardiff City Council has recently submitted an application to the Welsh Planning Minister for a Regulation 7 direction.
- <sup>3.137</sup> Leeds pioneered the use of a direction to restrict letting boards with the first restriction in 2006 covering the Headingley, Hyde Park and Woodhouse wards in response to high concentrations of letting boards. Rather than imposing a blanket ban, the council allows boards to be displayed where they comply with a locally agreed code. The council also operates a voluntary code in adjacent areas, enforced mainly by community groups and landlord associations. The code stipulates maximum board sizes, black and white text, logo size, display flat to frontage, all letting boards to be removed by November, removal once tenancy granted, etc. Enforcement action is taken where the code is not followed.
- <sup>3.138</sup> Newcastle adopted a voluntary code of practice in 2008 but found the impact was only limited. Accordingly, it began an extensive consultation process in 2011 and submitted its draft direction in July 2013. With three objections, a public inquiry was held in May 2014 prior to approval being issued in August 2014 in respect of a direction covering seven areas of the city. The Council does not follow the Leeds model, no sign is permitted without express consent. The planning officers are pleased with the impact of the direction, they estimate that around 80% of the signs have now gone.
- <sup>3.139</sup> Brighton and Hove City Council has also made a Regulation 7 direction but this is targeted at all estate agency boards including 'for sale' notices and applies in conservation areas. Again, any board in the areas covered requires consent.
- <sup>3.140</sup> The direction is time limited (usually 5 years) and local authorities apply for renewals.
- <sup>3.141</sup> In practice, the need for letting boards to advertise properties has largely gone, with most people seeking a move using online property search sites. Students generally use Student Pad. In interviews with estate agents, they generally acknowledge that the main purpose of lettings boards is to market their services to landlords not tenants. It is quite common to see boards advertising student lets for forthcoming academic years.

<sup>138</sup> Advertisements within Schedule 3, Part 1, Class 3A of the Regulations

<sup>3.142</sup> A number of both Welsh and English authorities did comment on the complexity of the consultation process involved in making a direction. Given the substantial changes that have occurred in the way properties are now marketed, it is recommended that the Welsh Government consider reviewing the regulations as they apply to letting boards rather than ‘for sale’ notices with a view to possibly reducing complication in the consultation process. The duration could also be considered; the life of a direction could perhaps be extended to 10 years or even made indefinite until revoked.

## Miscellaneous Planning Powers

### S215 Town and Country Planning Act 1990

<sup>3.143</sup> Section 215 (s215) of the Town and Country Planning Act 1990 (the Act) provides a local planning authority (LPA) with the power, in certain circumstances, to take steps against requiring land to be cleaned up when its condition adversely affects the amenity of the area. If it appears that the amenity of part of their area is being adversely affected by the condition of neighbouring land and buildings, they may serve a notice on the owner and occupier requiring that the situation be remedied. Section 215 of the Town and Country Planning Act 1990 allows local authorities to deal with unsightly land or the external appearance of property<sup>139</sup> (Section 336, Town and Country Planning Act 1990 defines land as to include buildings).

<sup>3.144</sup> The notice must specify remedial steps and a compliance period. The owner can appeal against the notice within 21 days but only on specified grounds laid out in the Act: the authority must allow a period of at least 28 days after service before the notice takes effect. Failure to comply with the notice within this time is an offence, which may lead to prosecution in the Magistrates Court (maximum level 3, currently £1,000)<sup>140</sup>. Non-compliance is a continuing offence and any subsequent conviction carries a fine not exceeding one-tenth of a level 3 fine.

<sup>3.145</sup> Section 219 (1) states that if any steps required by the notice have not been taken in due time, the local planning authority may enter the land to take those steps and recover “*from the person who is then the owner of the land*” any expenses reasonably incurred by them in doing so.

<sup>3.146</sup> However, section 219 (5) gave powers for regulations to provide for charging on the land of any expenses recoverable by local planning authority under Section 291 (1). The power under Section 219 (5) was exercised by the Town and Country Planning General (Amendment) Regulations 1997. This inserted a new regulation 14(3), which states:

*“where a notice is served under section 215 of the 1990 Act, any expenses recoverable by a local planning authority under section 291(1) of the Act, are until recovered, a charge that is binding on successive owners of the land to which the notice relates, and the charge shall take effect as from the date of the completion of the works”.*

<sup>3.147</sup> This definition reflects that of a local land charge in section 1 (1)(a) of the Local Land Charges Act 1975 and does not give priority over previously created charges. Accordingly local authorities do have to be cautious when considering undertaking works in default if the owner is in negative equity or is heavily mortgaged. Some revision of the priority of such a charge might be considered in any future legislation; this could allow

<sup>139</sup> Best Practice Guide: Section 215, Town & Country Planning Act 1990, ODPM

<sup>140</sup> Section 216, Town and Country Planning Act 1990

a local authority enforcing a charge to have all the same powers and remedies under the Law of Property Act 1925 as mortgagees.

<sup>3.148</sup> The structured interviews suggested that there are indeed HMOs whose appearance “*adversely affects the amenity of the area*”; a common theme was the prevalence of properties with an unkempt appearance and poorly tended gardens in concentration areas. However, one impediment commented upon was the fact that on occasions it would be difficult to differentiate between properties, with a number in a similar condition.

<sup>3.149</sup> In most authorities, the power to take enforcement action under s215 is delegated to planning teams only; in some it is delegated to planning and environmental health teams jointly. The structured interviews suggested that delegation to environmental health teams (who generally are regularly involved in enforcement) was more likely to lead to s215 powers being used. This mirrors advice given in the Welsh Government toolkit sent to local authorities in respect of empty homes and it is recommended that this practice is adopted by local authorities.

## Summary of Recommendations

### Change of Use

<sup>3.150</sup> The points below set out recommendations for change to the regulatory framework both in terms of broad principle and specific recommendations:

1. As a broad principle, the regulatory framework should be changed to align the definition of HMO for planning and housing purposes; the definition within Part 2 of the Housing Act 2004 is comprehensive and the definition for planning purpose should reflect that.
2. The present situation is unsatisfactory and, as a broad principle, the Town and Country Planning (Use Classes) Order 1987 should be amended to give local authorities in Wales the power to manage the development of HMOs with fewer than seven residents.
3. Paragraphs – 3.116 - 3.126 set out the potential merits and concerns in respect of the various options for changes to the framework for management of development of smaller HMOs and it is recommended that that the Welsh Government explore further the arguments for and against both option (ii) and option (iv) and then adopt one or other of the two options.
4. The Welsh Government should consider whether any revision of the definition of HMO for planning purposes should start with a minimum of 4 unrelated persons.
5. The Welsh Government should consider making a statutory definition for larger (7 persons or more) HMOs for example by introducing an additional use class.

### Control of Letting Boards

<sup>3.151</sup> The points below set out brief recommendations in respect of the regime for managing the display of lettings boards under the Town and Country Planning (Control of Advertisements) Regulations 1992:

6. The Welsh Government should consider amending the Regulations as they apply to letting boards (not sale boards) with a view to reducing the complexity of the consultation process.

7. The Welsh Government should consider amending the Regulations so that any direction made under the Regulations either has a minimum life of 10 years or is of indefinite direction until revoked.

## Miscellaneous Planning Powers

<sup>3.152</sup> The points below set out brief recommendations in respect of section 215 of the Town and Country Planning Act 1990:

8. The Welsh Government should consider amending the Regulations governing the provisions for the charging of land where local authorities have exercised their powers to carry out works in default where a s215 notice has not been complied with to ensure that any expenses and interest accrued on completion of the works is a charge on the premises and on all estates and interests in them (in effect taking priority over other charges).
9. As a matter of good practice, local authorities should delegate the power to take enforcement action under s215 to both planning and environmental health teams jointly.

# 4. Housing

## Licensing and Other Enforcement Powers

### Additional Licensing of HMOs

#### The Legal Framework

- 4.1 Part 2 of the Housing Act 2004 introduced licensing schemes for HMOs, which are operated by local authorities. There are two types of licensing scheme: the mandatory scheme, which all local authorities must operate and additional licensing, which is discretionary. Mandatory licensing is aimed at controlling housing standards in higher risk HMOs i.e. those with the highest risk of death or injury by fire. Mandatory licensing covers HMOs which are those with three or more storeys occupied by 5 or more residents forming 2 or more households<sup>141</sup>.
- 4.2 Part 2 of the Act gives local authorities a discretionary power to designate the whole of their district or areas within as an additional licensing area for specified types (or all types) of HMO if certain conditions are met<sup>142</sup>. Part 3 of the Act also gives local authorities selective licensing powers to deal with accommodation where there are concerns over low housing demand or a need to take measures to improve the social or economic condition because of significant and persistent anti-social behaviour with some private sector landlords failing to take action to combat such behaviour<sup>143</sup>.
- 4.3 HMO licensing regimes (whether mandatory or additional) are intended to secure satisfactory management and physical standards. The mechanisms are explained shortly. In order to adopt additional licensing, a local authority must consider that a significant proportion of the relevant type of HMO in the whole or specified area of their district “are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public”<sup>144</sup>. Accordingly, the authority may take into account not only housing conditions of the occupiers of HMOs but also the effect of HMOs on the community at large, e.g. antisocial behaviour of occupiers and their visitors.
- 4.4 In addition, there are requirements to take reasonable steps to consult persons likely to be affected by the designation and the local authority must consider any representations made by the consultees<sup>145</sup>. Authorities must ensure that any exercise of their power to require additional licensing is consistent with their overall housing strategy<sup>146</sup>. They must adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector. The local authority must also demonstrate they have considered alternative courses of action for dealing with HMO management for example, injunctions restraining anti-social behaviour under the Housing Act 1996, or with other steps which may be taken by others for example, voluntary accreditation schemes. Before making a

<sup>141</sup> Section 254, Housing Act 2004

<sup>142</sup> Section 56, Housing Act 2004

<sup>143</sup> Section 80, Housing Act 2004

<sup>144</sup> Section 56(2), Housing Act 2004

<sup>145</sup> Section 56(3), Housing Act 2004

<sup>146</sup> Section 57(2), Housing Act 2004

designation, the local authority must be of the opinion that it will assist them significantly in dealing with the problems, whether or not any other action is taken<sup>147</sup>.

- 4.5 Whilst approval from the Welsh Government is no longer required (General Consent<sup>148</sup>), challenge by application for judicial review is possible by any person or group affected and aggrieved by an additional licensing designation. An additional licensing designation has a life of up to 5 years<sup>149</sup> after which a local authority must consider whether they wish to repeat the designation process to maintain the additional licensing area.
- 4.6 The study has shown both Welsh and English authorities find the consultation requirements very onerous, placing heavy demands on resources, and it has to be repeated at the end of the maximum five year life. Furthermore, if at the end of the five year period the effect of the additional licensing regime to date has been to drive up standards significantly, a local authority may have difficulties in terms of meeting the criteria for adoption described at paragraph 4.3 above. Three of the English authorities cited the resource implications of the evidence gathering and consultation processes and the subsequent resource implications of implementation and enforcing as reasons for not adopting additional licensing. Officers at one of the authorities said that adopting a simplified trigger such as a concentration threshold would mean that designation might be considered.
- 4.7 The statutory regime applicable to both mandatory and additional licensing requires the owner of a relevant property to make an application containing a range of specified information and then for the local authority to consider the application having regard to three stipulated tests. It is an offence to operate an unlicensed HMO where licensing is required punishable on conviction with a fine not exceeding £20,000<sup>150</sup> (and the Residential Property Tribunal<sup>151</sup> may make a Rent Repayment Order<sup>152</sup>).
- 4.8 The three tests stipulated are:
- (i) The fit and proper person test<sup>153</sup>; and
  - (ii) The building test<sup>154</sup>; and
  - (iii) The management test<sup>155</sup>.
- 4.9 The licensing framework is very involved and the local authority has to make reasoned decisions on the three tests. If they decide to issue a licence they are obliged to attach statutory conditions relating to gas, fire and electrical safety together with a statement of occupation terms. They may also (and generally do) attach discretionary conditions which may relate to issues such as taking reasonable and practicable steps to prevent anti-social behaviour, restrictions on the use of part of a property or numbers occupying, undertake any remedial works to bring the property up to standard, etc. The study has highlighted a number of licence conditions specifically aimed at potential issues related to student housing. These include provisions imposing requirements on landlords in respect of anti-social behaviour by tenants, appearance of properties and also security (including for example locking to windows and internal doors).
- 4.10 If the premises lack amenities or facilities, provision of such may be stipulated as may a mandatory requirement for attendance by licence holders or managers on relevant training courses. There are

<sup>147</sup> Section 57(4), Housing Act 2004

<sup>148</sup> The Housing Act 2004 (Additional HMO Licensing) (Wales) General Approval 2007, which came into force on 13th March 2007

<sup>149</sup> Section 60(2), Housing Act 2004

<sup>150</sup> Section 72, Housing Act 2004

<sup>151</sup> In England, the Residential Property Tribunal has been replaced by the First-tier Tribunal (Property Chamber)

<sup>152</sup> Section 73 & 74, Housing Act 2004

<sup>153</sup> Section 66, Housing Act 2004

<sup>154</sup> Section 65, Housing Act 2004

<sup>155</sup> Section 66, Housing Act 2004

detailed provisions relating to procedures and appeals to the Residential Property Tribunal. In addition, breach of licensing conditions are punishable on conviction by a fine not exceeding £5,000.

- 4.11 If a local authority has serious concerns as to whether a person is a fit and proper person and/or whether management arrangements are satisfactory, they may seek to negotiate management by a more suitable person or company. Ultimately, if the local authority consider that there is no reasonable prospect of granting a licence for the property they must make an Interim Management Order whereby they take over responsibility for managing the property themselves (initially for a year, and then potentially proceeding to a Final Management Order).
- 4.12 The purpose of the interim order is twofold: to secure immediate steps which the authority considers necessary to protect the health, safety and welfare of persons occupying the house, or persons having an estate or interest in the vicinity and to secure any other appropriate steps with a view to the proper management of the house pending the grant of a licence or the making of a final management order. A final management order lasts for a maximum of 5 years and is made for the purpose of securing the proper management of the house on a long term basis in accordance with a management scheme contained in the order.
- 4.13 Such orders are resource intensive and require considerable work to enable an application to be made; these costs are non recoverable from the owner. In addition, there is often difficulty in finding suitable management partners or a reluctance to take over management of the property in house. It has been suggested that the costs of making the application should be recoverable through the management order and amendment of the regulatory framework to achieve this is recommended.
- 4.14 A licence whether issued under a mandatory or additional scheme typically lasts for a 5 year period (although a shorter time may be specified if the local authority has concerns over the application). Some local authorities such as Oxford City Council initially issue licences for a year, particularly if the landlord is not known to the local authority. Subsequent licenses will then be issued for longer periods. Where local authorities reduce the term of the licence (normally 5 years), it is good practice to specify the criteria for such an approach within their enforcement or licensing policy.

## Experience in Focus Authorities and Non Focus Authorities

- 4.15 All local authorities in Wales have properties falling within the mandatory licensing scheme, with the highest number of licences being issued in Cardiff (929), Swansea (727), Ceredigion (323) Gwynedd (261) Newport (158) and Rhondda Cynon Taf (82),. A total of 2,678 licences in Wales have been issued under the mandatory Licensing scheme<sup>156</sup>.
- 4.16 Only 12 out of the 22 (55%) local authorities in Wales operate an additional licensing scheme, covering the whole of their area or specified wards. These include all of the focus authorities. The highest number of licenses issued under additional licensing provisions include Cardiff (1,403), Swansea (867), Gwynedd (518), Ceredigion (326) and Newport (324). A total of 4,480 licences have been issued in Wales under the discretionary additional licensing provisions<sup>157</sup>.
- 4.17 When considering the accumulative licences issued under the mandatory and additional licensing scheme, Cardiff (2,332) and Swansea (1,594) have the highest figure, followed by Gwynedd (779), Ceredigion (649),

<sup>156</sup> [www.statswales.wales.gov.uk/Catalogue/Housing/Hazards-and-Licences/dwellingslicensed-by-area-licencetype](http://www.statswales.wales.gov.uk/Catalogue/Housing/Hazards-and-Licences/dwellingslicensed-by-area-licencetype)

<sup>157</sup> Ibid

Rhondda Cynon Taf (533) and Newport (482). A total of 7,158 licences have been issued in Wales under the mandatory and additional licensing schemes<sup>158</sup>.

- 4.18 Neath Port Talbot County Borough Council have operated a selective licensing scheme in Wales (Aberavon Ward). This designation was approved by the Council on the 30<sup>th</sup> January 2009 and came into force on the 5<sup>th</sup> May 2009 and lasted for 5 years. In addition, Carmarthenshire County Council on the 3<sup>rd</sup> March 2014 confirmed the designation for a selective licensing scheme for the Tyisha Ward of Llanelli, with landlords required to licence their properties from the 3<sup>rd</sup> July 2014.

Figure 23: Dwellings licenced by local authority area and licence type (Source: StatsWales 2013-14)<sup>159</sup>

Year 2013-2014	HMO licences			Selective licences	Total licences
	Mandatory HMO licences	Additional HMO licences	Total HMO licences		
Isle of Anglesey	12	29	41	0	41
Gwynedd	261	518	779	0	779
Conwy	29	168	197	0	197
Denbighshire	32	92	124	0	124
Flintshire	7	0	7	0	7
Wrexham	28	257	285	0	285
Powys	4	40	44	0	44
Ceredigion	323	326	649	0	649
Pembrokeshire	7	0	7	0	7
Carmarthenshire	33	0	33	0	33
Swansea	727	867	1,594	0	1,594
Neath Port Talbot	6	0	6	63	69
Bridgend	20	0	20	0	20
Vale of Glamorgan	7	5	12	0	12
Cardiff	929	1,403	2,332	0	2,332
Rhondda Cynon Taf	82	451	533	0	533
Merthyr Tydfil	1	0	1	0	1
Caerphilly	9	0	9	0	9
Blaenau Gwent	3	0	3	0	3
Torfaen	0	0	0	0	0
Monmouthshire	0	0	0	0	0
Newport	158	324	482	0	482
<b>Wales</b>	<b>2,678</b>	<b>4,480</b>	<b>7,158</b>	<b>63</b>	<b>7,221</b>

- 4.19 All focus authorities have applied additional licensing to the whole of their area or specified wards where there were significant HMO concentrations. Swansea, Ceredigion and Rhondda Cynon Taff have renewed their additional licensing schemes. Cardiff have recently declared a new additional licensing scheme (November 2014) covering the Plasnewydd Ward and will be considering whether to renew their existing scheme in Cathays, which is due to expire in 2015. Gwynedd are currently considering whether to renew their existing schemes and Wrexham introduced a County wide additional licensing scheme in 2011.

<sup>158</sup> [www.statswales.wales.gov.uk/Catalogue/Housing/Hazards-and-Licences/dwellingslicenced-by-area-licencetype](http://www.statswales.wales.gov.uk/Catalogue/Housing/Hazards-and-Licences/dwellingslicenced-by-area-licencetype)

<sup>159</sup> Ibid

- <sup>4.20</sup> Several focus authorities with significant HMO concentrations have indicated that a 5 year period is insufficient to ensure all licenced properties are compliant with licence conditions and that appropriate enforcement action is taken to deal effectively with both breaches of licence conditions and unlicensed properties. Most non focus authorities interviewed also indicated that a 5 year period was insufficient, with Bristol City Council being an exception with officers considering that 5 years was appropriate. However, it should be noted that the additional licensing areas in Bristol are based on super output areas (relatively small geographical areas designed for the collection and analysis of statistics enabling the Office of National Statistics to compare like sized areas across the country) and therefore are more limited in extent.
- <sup>4.21</sup> The local authority may charge a reasonable fee for dealing with applications and these typically range from £250 to a sum in excess of £1,000 (covering the whole of the licence period). Again, challenge by judicial review is possible (and indeed has occurred in the Westminster case referred to below). Licence fees may not be used for funding enforcement against non licensed premises<sup>160</sup>. At the Focus Group meetings it was suggested that further clarification should be sought on the ability of local authorities to recover some element of enforcement through the application fee. In *Hemming v Westminster City Council*<sup>161</sup> the Queen's Bench Division of the High Court ruled that only the costs associated with processing a licence application are chargeable (as a consequence of a European Services Directive). The decision was appealed and the Court of Appeal upheld the judgement<sup>162</sup>, whilst clarifying that the costs of compliance monitoring against licensed operators are recoverable. The matter came before the Supreme Court on the 13<sup>th</sup> January 2015 and a judgement is expected within the next few months.
- <sup>4.22</sup> The question of licence fees is beyond the scope of this report. However, the issue is of significant concern to many authorities and the Welsh Government may wish to review guidance on this point once the decision of the Supreme Court is handed down.
- <sup>4.23</sup> As indicated above, all the focus authorities have introduced additional licensing, as have the majority of English authorities with significant HMO concentrations. This study has not included a detailed, quantitative analysis of the efficacy of additional licensing against indicators such as Housing, Health and Safety Rating System (HHSRS) compliance, crime rates, management issues, waste control, etc; such work would not have been possible in the timescale of this study and could possibly constitute a study in its own right. Landlord organisations have suggested that resources devoted to administering licensing regimes might be better spent in direct enforcement provision; that poses complex questions which are again outside the scope of this report.
- <sup>4.24</sup> However, comments gathered during the structured interviews indicated that, where additional licensing has been in place for a time (with only one exception) whilst the introduction does not necessarily restrict HMO growth, it does have a very positive effect in terms of driving up standards and dealing with unsatisfactory management. Additional licensing assists greatly in ensuring that HMOs are actually identified, that standards<sup>163</sup> are met and that management arrangements are effective. The only authority that was not of this view was Peterborough City Council, who did not seek to extend their additional licensing regime as they felt it did not warrant the resources necessary, not least because of the lack of cooperation from residents. The local authority officers there indicate that they regularly resort to prosecution.

<sup>160</sup> *Hemming and Others v Westminster City Council* [2012] EWHC 1260 (Admin)

<sup>161</sup> *Ibid*

<sup>162</sup> [2013] EWCA Civ 591

<sup>163</sup> Please see paragraph 4.25

- 4.25 Without additional licensing, the primary control of HMOs not subject to mandatory licensing is the Housing Health and Safety Rating System (a statutory system under Part 1 of the Housing Act 2004 for dealing with hazards which affect health in properties) and the Management Regulations. Where additional or mandatory licensing is in place, the local authority is able to assess standards in the property in respect of space, amenities and management against clearly specified, locally determined standards rather than simply using the general risk assessment procedures in the Housing Health and Safety Rating System. These give greater clarity for both local authorities and landlords. In addition, the application of licence conditions (mandatory and discretionary) gives greater ability to regulate matters which may give rise to concern to residents and the local community.
- 4.26 A criticism of the existing regime that might be made is that a local authority has to go to some lengths to demonstrate that a private sector management problem exists before being in a position to make a designation that would allow the local authority to take measures to control the problem i.e. it is more reactive in nature than proactive. In addition, as stated earlier, a local authority has to go to considerable lengths to assemble evidence to substantiate adopting additional licensing; it does not have to secure ministerial approval before adopting a licensing scheme but if the evidence base is not adequate or consultation is not properly followed<sup>164</sup>, then it may be at risk of an application for judicial review. In the structured interviews both focus authorities and English authorities expressed considerable concern about the resources and time involved in doing this. This was echoed at the Focus Group meetings, including by non focus authorities.
- 4.27 A further potential concern is the need to repeat the process if an authority wants to extend additional licensing in a particular area. There is in essence a 'catch 22' situation; a local authority may wish to extend licensing as it has proved successful in dealing with HMO standards and poor management but if matters have improved are the qualification criteria for additional licensing still met? Some authorities were concerned that where the regime has proved successful because of the close attention to management and property standards inherent in the licensing process, once the scrutiny required within the regime is no longer applied that a return to previous problems and ineffective management would occur.
- 4.28 It can be argued that the need to meet criteria, in which by definition significant problems have to be demonstrated and furthermore having to go to significant lengths (inevitably taking appreciable time) to secure robust evidence of such problems, is not a constructive approach. The licensing system is an imposition, but one which is mandatory in some cases and is applicable to properties where the likelihood of problems both to residents within a dwelling and in the neighbourhood is demonstrably greater. The responses given in structured interviews indicated clearly that the likelihood of problems to neighbouring residents is greater in concentration areas and that licensing helps to drive up standards and improve management.
- 4.29 One of the focus authorities suggested that licensing could apply to all HMOs irrespective of type and location. However, at both the Steering Group and at Focus Groups this was resisted by other authorities, in particular those with high HMO numbers because of the additional burden on resources. It would also most probably be viewed as a disproportionate, not least by landlord organisations. As with the matter of planning consent, a targeted approach could be advocated, but with a less onerous trigger. One straightforward option could be the adoption of a concentration threshold; in addition to evidence from structured interviews there is significant external evidence of concerns from the local community increasing once HMO households rise above 10%. As for planning purposes, a local authority can readily

<sup>164</sup> Regas, R (On the Application of ) v London Borough of Enfield [2014] EWHC 4173 Admin

determine the numbers of HMOs in a locality by reference to council tax, licensing and enforcement records.

- 4.30 At the Focus Groups, a hybrid approach was suggested; adoption by a local authority could be triggered either by exceeding a threshold concentration and/or by reference to evidence of poor conditions/management.

## Possible Changes to the Regulatory Framework

- 4.31 The study does indicate that there are concerns about the present legislative framework for additional licensing, in particular in respect of the criteria for adoption and the duration of additional licensing where there are significant numbers of relevant HMOs.
- 4.32 Accordingly, a number of options are proposed for consideration. It is again stated that the study has not undertaken a detailed, quantitative appraisal of the efficacy of additional licensing nor has a 'value for money' exercise been carried out for the reasons explained at paragraph 4.23, and the Welsh Government may wish to look at exploring these matters in more detail as part of any consideration of the options below. The various options open, which are not mutually exclusive, include:

### (i) Maintaining the status quo

- 4.33 This option would not deal with either the criteria for adoption or duration of the scheme. Local authorities will have to continue to review their scheme on a 5 yearly basis, expending considerable resources to provide adequate justification for their continuation of the scheme. Local authorities would continue to be at risk from Judicial Review in regard to that decision.
- 4.34 To enable the scheme to be renewed the local authority would have to show that a significant proportion of the relevant type of HMO "are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public"<sup>165</sup>.
- 4.35 If the existing scheme has significantly improved the condition and management of HMOs in the area but the local authority considers that failure to renew the additional licensing scheme would result in the area deteriorating or the problems would continue to exist, so that the fundamental aim of the scheme has not been fully achieved, then it places the local authority at risk of challenge, if renewal takes place.

### (ii) Extending the maximum life of a designation beyond 5 years

- 4.36 It was evident that most focus and non focus authorities considered that 5 years was inadequate to enable an effective long term solution to be implemented for any given area. Any intervention policy has to be adequately resourced and sustained in the longer term to be effective. Local authorities considered that a longer licensing period of 10 years would be more appropriate. This was especially relevant for Cardiff City Council which has very significant numbers of HMOs. A longer period would also avoid the heavy commitment of local authority resources required to evidence a renewal.
- 4.37 The idea of an indefinite scheme was not supported in consultation responses and the scheme should be subject to periodic review to ensure that it remained appropriate for the area.

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<sup>165</sup> Section 56(2), Housing Act 2004

4.38 As with the existing legal framework a local authority would be entitled to revoke the designation, if they considered appropriate to do so, subject to complying with the publicity requirements<sup>166</sup>

**(iii) Relaxing the criteria for designation of an area (for example basing a designation on objective evidence of HMO concentration such as threshold percentages)**

4.39 As indicated above (paragraph 4.34) the existing criteria for adoption does appear to be very prescriptive and involves local authorities having to commit substantial resources to minimise the risk of challenge. In addition, local authorities have to demonstrate that a problem has arisen before being able to take steps to deal with the problem, which seems counterproductive.

4.40 The redesignation of an additional licensing scheme may be difficult having regard to the existing criteria on the basis that a proportion of the issues that arose may have been dealt with during that initial term.

4.41 There is clear evidence from previous studies<sup>167</sup> and this study that large concentrations of HMOs have a significant impact on the community. It may therefore, be appropriate to consider whether a simple percentage threshold of HMOs in any given area, could be used as a proxy to designate an additional licensing area. This could be based on locally held statistics (including council tax records) or based on Office National Statistics Census data (Output Areas) using data such as multiple person households. As discussed in Chapter 3, thresholds are already used by a number of local authorities when setting policies in supplementary planning guidance and when determining individual applications<sup>168</sup>. A proportion of 10% HMO households has been used in some planning policies as a benchmark for significant impact on communities.

4.42 The Census data for Wales showed that the only wards where the percentage of multi person households was 10% or above were in the six focus authorities<sup>169</sup>. The only wards where the percentage is 5% or above were in the six focus authorities plus Newport (3 wards), Flintshire (1 ward) and Isle of Anglesey (1 ward). Further consideration to the setting of the trigger threshold could be given (for example 5% in a very limited area) but 10% is suggested.

4.43 This approach would only be suitable where a local authority wanted to designate part of their area as an additional licensing scheme. It would be difficult to exceed such a threshold trigger for the whole of a local authority area.

4.44 In addition to the use of thresholds, it is suggested that the existing criteria would be retained in tandem; a local authority would still have the option to designate an area on the basis of evidence of ineffective management of HMOs although the criteria might be drafted in a more straightforward manner for example, referring directly to evidence of unsatisfactory property conditions (such a HHSRS hazards) and specific matters affecting the neighbourhood for example, noise, accumulations of refuse, general anti-social behaviour and so on.

4.45 In both cases, a consultation mechanism should be retained although the scope for challenge by judicial review would be significantly reduced with the threshold approach and possibly so with more objectively defined criteria relating to ineffective management.

<sup>166</sup> Section 60(4), Housing Act 2004

<sup>167</sup> For example Evidence Gathering – Houses in Multiple Occupation and possible Planning Responses, CLG 2008 (ECOTEC)

<sup>168</sup> Please see paragraphs 3.74 onwards

<sup>169</sup> Please see paragraph ## (chapter 3)

#### (iv) Extending the mandatory licensing regime beyond the current criteria based on storey height and occupation to a wider group of HMOs or to all HMOs

- 4.46 This approach has the administrative benefit of avoiding any qualifying criteria for adoption but could impose a very significant burden on local authorities where there are high numbers of HMOs, such as Cardiff.
- 4.47 It would clearly be argued that this approach was not proportionate. Licensing does have implications for landlords in respect of cost, resources and time. Licensing has proved beneficial in driving up standards and improving management and it is very clearly appropriate in many cases, but not so in others.
- 4.48 Given the potential concerns, this approach is not recommended.

#### (v) Management Orders

- 4.49 A management order is a means by which an authority can take over the management of an HMO. Most commonly, a management order will be made because the authority consider that there is no reasonable prospect of being able to grant a licence for the property.
- 4.50 The general effect of a management order is that the local authority takes over control of the property, although they do not acquire any legal interest in it. Existing tenancies and licences are binding on the local authority and, in some circumstances, the local authority is able to grant tenancies or licences.<sup>170</sup>
- 4.51 There are two forms of management order: interim and final. An interim order lasts for a maximum of 12 months. The purpose of an interim order is twofold:
- (i) to ensure any immediate steps which the local authority considers necessary to protect the health, safety and welfare of persons occupying the house, or persons having an estate or interest in the vicinity are taken; and
  - (ii) to ensure that any other appropriate steps are taken with a view to the proper management of the house (primarily poor housing conditions but enables them to seek to ensure the behaviour of residents are properly controlled) pending the grant of a licence or the making of a final management order.
- 4.52 A final management order lasts for a maximum 5 years. It must be made for the purpose of securing the proper management of the house on a longer term basis in accordance with the management scheme contained in the order<sup>171</sup>.
- 4.53 Actual management of the HMO during the period of an order can be very difficult; the property will have become subject to the order because of management concerns. Local authorities commonly contract the work to specialist agents' typically social landlords. The Housing Act 2004 requires any surplus after expenditure to be paid to the landlord<sup>172</sup>. In the structured interviews with both the focus authorities and English authorities, a number of local authority officers were clearly of the view that any surplus should be retained by the local authority (ideally ring fenced for housing purposes) and this was supported at Focus Group meetings.
- 4.54 At the end of an order period, the property will be returned to the landlord and will have been brought into much better order as a consequence of the local authority management; as such it would appear

<sup>170</sup> Part 4, Housing Act 2004

<sup>171</sup> Section 119, Housing Act 2004

<sup>172</sup> Section 110 & 119, Housing Act 2004

reasonable that the local authority should retain the benefit of any surplus above management costs achieved by more effective management. Handing any surplus to the landlord responsible for the original management problems would arguably reduce the incentive to allow a property to deteriorate the point where an order is becomes necessary. All local authorities indicated clearly that such orders are not made lightly because of the substantial problems the authority generally takes on; they are generally a matter of last resort.

- 4.55 As a counter argument, it might be said that a local authority could seek to maximise the term of an order in order to generate income; it is a matter of judgement but there are significant practical problems with management of such properties. An appeal mechanism to the Residential Property Tribunal<sup>173</sup> could be built in to protect against unreasonable conduct by a local authority.
- 4.56 The costs of making an Interim Management Orders, which is often resource intensive, is borne by the local authority and are not recoverable from the landlord. It would be appropriate and equitable for the local authority to be able to recover all their costs in making such an application. This would be in line with the 'polluter pays' principle.
- 4.57 In addition, it would be appropriate for the local authority expenditure through an Interim or Final Order to be a legal charge, which would be a local land charge on completion of the works. Currently, the charge only takes effect on the termination date of the order. This will provide the local authority with a greater ability to recover their monies in priority over any mortgagee<sup>174</sup>.

## HMO Management Regulations & Enforcement of Licence Conditions

### The Legal Framework

- 4.58 The Management of Houses in Multiple Occupation (Wales) Regulations 2006 apply to HMOs in Wales but do not apply to converted blocks of flats defined as HMOs as a consequence of Section 257 (s257) of the Housing Act 2004. The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007, were brought in to cover s257 HMOs and focus primarily on common parts only.

*The Regulations impose duties on a person managing an HMO in respect of:*

*Reg 3: Providing information to occupiers*

*Reg 4: Taking safety measures, including fire safety measures*

*Reg 5: Maintaining the water supply and drainage*

*Reg 6: Supplying and maintaining gas and electricity services, including regular inspections*

*Reg 7: Maintaining common parts, fixtures, fittings and appliances*

*Reg 8: Maintaining living accommodation*

*Reg 9: Providing waste disposal facilities*

*Reg10: Duties of occupiers of an HMO to co-operate or for the purpose of ensuring that the person managing the HMO can effectively carry out the duties imposed on the manager by the Regulations.*

<sup>173</sup> In England, the Residential Property Tribunal has been replaced by the First-tier Tribunal (Property Chamber)

<sup>174</sup> Section 129 (7) to (10), Housing Act 2004

4.59 Often one of the main concerns from the local community relates to the poor external appearance of the property. Regulation 7 (4) does require the manager to ensure that:

- (a) outbuildings, yards and forecourts which are used in common by two or more households living within the HMO are maintained in repair, clean condition and good order; and*
- (b) any garden belonging to the HMO is kept in a safe and tidy condition; and*
- (c) boundary walls, fences and railings (including any basement area railings), in so far as they belong to the HMO, are kept and maintained in good and safe repair so as not to constitute a danger to occupiers.*

4.60 One option would be to extend the Management Regulations to cover the external appearance of the property to ensure that it is maintained and in good decorative repair. This would give the local authority a fairly straightforward way to deal with a common concern for neighbours at the time of an inspection.

4.61 When a licence is issued either under the mandatory or additional licensing regime, it may include such conditions as the local authority consider appropriate for regulating all or any of the following:

- » The management, use and occupation of the house concerned; and
- » Its condition and contents.

4.62 Those conditions may be mandatory in nature as set out in Schedule 4, Housing Act 2004 or discretionary as set out in section 67 (2) (a) to (f).

#### **Mandatory Conditions**

- » Require the licence holder to produce gas safety certificate to the local authority annually for their inspection, obtained within the last 12 months;
- » To keep electrical appliances and furniture provided in safe condition;
- » To supply on demand a declaration to the safety of such appliances and furniture;
- » To ensure that smoke alarms are installed and to keep them in proper working order;
- » To supply on demand a declaration as to the condition and position of such alarms;
- » Condition requiring the licence holder to supply to the occupiers of the house written statement of terms on which they occupy it.

#### **Discretionary Conditions**

- » Conditions imposing restrictions or prohibitions on the use or occupation of particular parts of the house by persons occupying it;
- » Conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the house;
- » Conditions requiring facilities and equipment to be made available in the house for the purpose of meeting standards prescribed under section 65;
- » Conditions requiring such facilities and equipment to be kept in repair and proper working order;
- » Conditions requiring, in the case of any works needed in order for any such facilities or equipment to be made available or to meet any such standards, that the works are carried out within such period or periods as may be specified in, or determined under, the licence;

- » Conditions requiring the licence holder or the manager of the house to attend training courses in relation to any applicable code of practice approved under section 233.

- <sup>4.63</sup> Currently, enforcement in respect of breaches of both licence conditions<sup>175</sup> and HMO Management Regulations<sup>176</sup> is limited to prosecution (maximum fine currently £5,000 in both cases). Bringing in prosecutions does place a significant demand on local authority resources. Consequently, prosecutions are often limited to the more serious offences where the evidence clearly meets the public interest test. Local authorities are also mindful of not pursuing cases where there is a risk the courts may consider them to be trivial in nature. In addition, local authorities are often discouraged from taking prosecutions due to the low level of fines handed down by magistrates' courts.
- <sup>4.64</sup> Consequently, lower level or less serious offences tend not to be prosecuted and the only option available to the local authority is an informal approach, often resulting in the issues not being resolved. The structured interviews with both focus authorities and the English authorities showed that many authorities were concerned at the change in the regulatory framework following the Housing Act 2004. Under the previous Housing Act 1985 (as amended), it was possible for a local authority to serve a management notice in respect of breaches of Management Regulations. Failure to comply with the terms of the notice was a criminal offence. In addition, the local authority had the option to undertake the works in default and recover the costs from the relevant party.
- <sup>4.65</sup> The structured interviews indicated that local authorities generally supported the reintroduction of the notice regime for breaches of the Management Regulations, which would make the enforcement to deal with limited but persistent breaches of both Management Regulations more effective. These views were endorsed at the Focus Group meetings.
- <sup>4.66</sup> In particular, the possible use of fixed penalty notices (FPNs) was favoured by many interviewees. The use of FPNs has become more widespread especially in environmental legislation as a way of showing that lower level offences do affect the lives of people and proportionate sanctions can be applied to offenders. They tend to be issued in circumstances where, for a range of reasons, a local authority might be reluctant to undertake a full prosecution. However, it has to be remembered that they need to be issued within a framework that assumes offenders will be prosecuted, should they choose not to pay the fixed penalty notice that has been offered to them. A right for a recipient to seek adjudication as an alternative to paying (in effect an appeal mechanism) is an integral part of the FPN process.
- <sup>4.67</sup> In addition to the enforcement issues mentioned above, there are also several technical concerns with provisions in the Housing Act 2004 that relate to works in default and recovery of expenses. In the event that the Welsh Government does review any primary housing legislation relating to housing enforcement, then it is recommended that points (i) to (iii) in paragraph 4.69 below should be considered.

## Possible Changes to Regulatory Framework

- <sup>4.68</sup> The recommendations below set out possible changes to the regulatory framework:
- (i) The re-introduction of notices for breaches of Management Regulations with the power to do works in default. It was considered that the service of a notice would be more likely to lead to a more positive response from the landlord when compared to the threat of a prosecution for breach of the regulations.

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<sup>175</sup> Section 72(3), Housing Act 2004

<sup>176</sup> Section 234(3), Housing Act 2004

- (ii) Fixed penalty notices as an additional option have been introduced in a number of other local authority enforcement regimes, including the Housing (Wales) Act 2014. The introduction of fixed penalty notices for breaches of both the Management Regulations and licence conditions would allow local authorities to deal with offences in a cost effective and efficient manner, while restricting the level of penalty for any landlord or manager.
- (iii) The Management Regulations also impose duties on occupiers of an HMO for the purpose of ensuring that the person managing it can effectively carry out the duties imposed on the manager by these Regulations<sup>177</sup>. If introduced, fixed penalty notices could be issued to occupiers where there is evidence of persistent abuse.
- (iv) In line with the general provision under s49 Housing Act 2004, if the power to serve a notice for breach of the Management Regulations is introduced, it is recommended that a local authority should have the power to make a reasonable charge for service of such a notice.

<sup>4.69</sup> The recommendations below were not covered directly in the structured interviews but relate to references made in interviews to technical difficulties experienced by housing practitioners with apparent shortcomings in the Housing Act 2004. If the primary legislation is amended, it is recommended that the following matters be considered:

- (i) Throughout the Housing Act 2004, reference is only made to a “charge being on the premises”, for instance s50, Recovery of Charge (power to charge for certain enforcement action) or undertaking works in default in relation to an Improvement Notice and recovering expenses in accordance with Part 3 of Schedule 3 of the Housing Act 2004. Reliance has to be placed on case law<sup>178</sup> to support the view that any such charge takes priority over any mortgagee or other interest. It would be beneficial if the Housing Act were amended to state specifically that any sum until recovered is a charge on the premises and on all estates and interests in them, as is the case in relation to the Building Act 1984 and Prevention of Damage by Pests Act 1949. However, it would be appropriate to provide a formal demand procedure with the right of appeal to ensure that the rights of the person having control or manager are adequately protected. This would be in line with the existing procedure where the local authority has undertaken works in default in relation to an improvement notice<sup>179</sup>.
- (ii) In addition, it is recommended that the warrant to authorise entry under Section 240, Housing Act 2004 be extended to enable the local authority to undertake works in default in relation to an improvement notice and to undertake works in default in relation to any management notice, if they were introduced.
- (iii) The notices requirements of Section 239, Housing Act 2004 (which generally require 24 hours notice to owners and occupiers) should be reviewed to take proper account of circumstances where emergency action may be required or, for example, where the local authority is investigating a substantial fire hazard or serious overcrowding.

<sup>177</sup> Regulation 10, The Management of Houses in Multiple Occupation (Wales) Regulations 2006

<sup>178</sup> Bristol Corporation – v – Virgin [1928] 2.K.B.622, Paddington Borough Council – v – Finucane [1928] Ch567 and Westminster City Council – v – Haymarket Publishing Ltd [1981] 2 ALL ER 555

<sup>179</sup> Schedule 3, Part 3, Housing Act 2004

## Charging for Collection and Disposal of Waste

### Additional Waste at HMOs

- 4.70 The question of the collection of waste of HMOs came up repeatedly during structured interviews with both focus authorities and the non Welsh authorities. All focus authorities and all non Welsh authorities described difficulties, both in terms of major accumulations when student HMO premises were cleared at the end of academic years and with regular collections. Many references were made to students failing to put out bins for collection on the appropriate day and with student households often being said to be poor at meeting recycling requirements.
- 4.71 The question of good practice to encourage students (and other HMO residents) to recycle and to put bins out on appropriate days is considered in Chapter 5. Gwynedd Council officers made the point that the additional refuse collected (and the additional difficulties in ensuring collection) did incur extra costs. A report<sup>180</sup> undertaken by Swansea City Council has suggested that the cost of providing permanent teams in the two wards with high concentration of HMOs was around £130,000 per annum, which is five times the typical resource allocated to other wards. Further additional end of term refuse and recycling collections costs were an estimated £5,000 per annum, exclusive of disposal costs.
- 4.72 Gwynedd officers pointed out that some English authorities had sought to charge authorities for the additional waste on the basis that HMOs could be considered to be 'domestic property premises used in the course of a business' within the meaning of the Controlled Waste (England and Wales) Regulations 2012. English Ministers from DEFRA and DCLG wrote to all local authority chief executives on the 29 July 2013<sup>181</sup> advising clearly that additional charges were not appropriate. The regulations were not intended to permit charging in this manner, and such charges could 'create an incentive for fly-tipping and backyard burning'.
- 4.73 The Ministers made it clear that if the practice were not discontinued, they were prepared to amend secondary legislation as necessary. They also referred to the potential for legal challenge of local authority action, complaints to the Local Government Ombudsman and complaints to the localised area auditor in respect of ultra vires charging. They advised local authorities to 'seek to work constructively to promote recycling and responsible waste management by student households'.
- 4.74 Arguments can be made out either way as to whether HMOs generate additional waste. Landlord representatives argue that four residents in an HMO will generate no more waste than four residents in a family. In some HMOs there may be a number of council tax payers (although not in student HMOs because of their exemption). Local authorities pointed out in the structured interviews that HMO residents even in shared student houses tended to lead individual lives and generate more waste; a higher proportion of takeaway containers was referred to in a number of interviews. Quantified costs in a Swansea report are set out above at paragraph 4.71.



<sup>180</sup> HMOs in the City of Swansea: An Assessment of their Number, Type and Location and Community Impacts, Planning Policy Team 2014

<sup>181</sup> [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/225657/20130711\\_CWRs\\_letter\\_to\\_LAs\\_template.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/225657/20130711_CWRs_letter_to_LAs_template.pdf)

<sup>4.75</sup> It is recommended that that the Welsh Government look at this issue in more detail; it did appear from the structured interviews that local authorities did incur additional costs with HMOs, particularly in concentration areas. If further investigation confirms that this is the case then the Welsh Government may wish to consider a country specific amendment to the existing regulatory framework so that local authorities can recover at least some of the additional cost (possibly only in HMOs where a student council tax exemption applies) through reasonable and proportionate charges. Obviously any such change would need to incorporate a mechanism to challenge unreasonable charges. This view was generally endorsed at Focus Group meetings.

## Summary of Recommendations

### Licensing Regime, HMO Management Regulations and Enforcement

<sup>4.76</sup> The points below set out recommendations for change; the regulatory framework should be amended so that:

1. A local authority can designate an area as an additional licensing area for a period of between five to ten years, with revocation, if appropriate, possible at any time during the period.
2. The threshold for designation as an additional licensing area should continue to include the existing criteria relating to concerns arising from ineffective management but should also include (in respect of part of their area only) a criterion based on the proportion of properties occupied as HMOs exceeding a stipulated threshold (10% is recommended). In both cases, a consultation mechanism should be retained;
3. A local authority should be able to recover the costs of making an Interim Management Order.
4. Where an Interim Management Order or Final Management Order ends and a financial surplus remains after the costs incurred, the local authority should be able to retain any such surplus.
5. The regulatory framework should be amended so that the local authority can secure a statutory charge against the premises that binds all estate and interests in respect of expenditure during the lifetime of an Interim or Final Management Order having immediate effect on completion of the works not on the termination of the order.
6. The HMO Management Regulations include a requirement to maintain the exterior of properties in good repair and in good decorative order.
7. A local housing authority has the power to serve a notice in respect of breaches of the HMO Management Regulations with the power to do works in default; the local housing authority should also have the power to prosecute for non-compliance.
8. A local authority has the power to issue fixed penalty notices in respect of breaches of both HMO Management Regulations and licensing conditions by HMO owners and managers, and, where appropriate, for breaches of the HMO Management Regulations by occupiers.
9. If the opportunity arises, to consider amending the matters set out in points (i) to (iii) in paragraph 4.69, so that:

- (i) Where a local housing authority places a charge on a property to protect costs incurred as a consequence of enforcement action, the charge takes priority over that of any mortgagee or other interest (binding all estates and interests);
- (ii) Where necessary, a local authority may apply for a warrant to enter a property to execute works in default following enforcement action;
- (iii) The requirement for local housing authorities to give 24 hours notice to owners and occupiers of statutory inspections in respect of the Housing Health and Safety Rating System should not apply where emergency action may be required or prior notice would defeat the purpose of the entry for example inspection to assess over crowding

## Charging for Collection and Disposal of Waste

4.77 It is recommended that the Welsh Government:

10. Investigate the costs associated with recycling and the collection of waste at HMOs and,
11. If appropriate, should consider amending the Controlled Waste (England and Wales) Regulations 2012 so that a local authority in Wales can recover a proportion of additional costs at HMOs found through reasonable and proportionate charges, with the amended regulations incorporating a mechanism to challenge unreasonable charges.

## 5. Good Practice / Toolkit

### Street-level Initiatives and Other Examples of Good Practice

- 5.1 It was evident from the structured interviews that local authorities in both Wales and England who had experienced significant problems arising from HMO concentrations had worked in partnership with higher education institutions, Students' Unions and other stakeholders (including local communities) to find ways to mitigate the concerns. In many cases, these were innovative; the increasing use of social media for effective communication was notable.
- 5.2 The majority of the practice referred to in this part of the report has been drawn from the structured interviews with both Welsh and non Welsh authorities. However, information on good practice at both strategic and local level is widely disseminated and reference is also made to innovation from authorities and higher education institutions not included in the structured interviews.
- 5.3 The toolkit to be published with this report will set out more information on best practice issues.

### Initiatives Relating to Students

#### University Accommodation and Housing Strategies

- 5.4 There have been a number of studies since 2000<sup>182</sup> highlighting the important role that Higher Education Institutions (HEIs) can play in helping to alleviate the negative impact that high concentrations of student HMOs have on the community.
- 5.5 In 2006, Universities UK published 'Studentification: a guide to opportunities, challenges and practice'<sup>183</sup>. The guide outlines the key issues and the nature of the challenges and is aimed at HEIs and local authorities as well as other stakeholders including Students' Unions and local residents' groups.
- 5.6 To be effective it is critical that local authorities work in partnership with their HEI partners and to that effect, many have produced joint University Accommodation and Housing Strategies that complement the strategies produced by the local authority.

#### University of Brighton Student Accommodation Strategy 2010-2015 (Brighton and Hove City Council)

- 5.7 The University of Brighton acknowledges that it has a major responsibility in the way its students are housed in the city. The University endeavours to ensure that the provision of student accommodation is safe and well managed and they will continue to take account of and respond to the concerns of other stakeholders, in particular the residential communities within which this type of accommodation is provided, through regular reviews of the Accommodation Strategy".

<sup>182</sup> The Nature and Impact of Student Demand on Housing, Rugg, Rhodes and Jones, Joseph Rowntree Foundation, 2000

<sup>183</sup> 'Studentification': a guide to opportunities, challenges and practice has been published by Universities UK in partnership with the Standing Conference of Principals (SCOP) and in association with the Department for Education and Skills (DfES), the Office of the Deputy Prime Minister (ODPM) and the Local Government Association (LGA).

- 5.8 The main objectives of the University of Brighton Accommodation Strategy<sup>184</sup> are:
- » To work in partnership with landlords, letting agents and other stakeholders to ensure the supply of high-quality and well-managed private rented housing for students, and the effective integration of students into established residential neighbourhoods.
  - » To meet demand for university managed student bed spaces through partnership arrangements with the private rented housing sector, via the current Unihomes model of student housing.
  - » To closely work with other stakeholders for the development of new purpose-built student accommodation away from existing neighbourhoods with students, and to continue with the accelerated plans for the refurbishment of university owned and managed accommodation.
- 5.9 The University monitors and reviews the implementation of the Accommodation Strategy against its objectives and publishes the outcomes. It also makes formal reports to the university management group and to the Strategic Housing Partnership (facilitated by the local authority).

## Student / Community Liaison Officer

- 5.10 The Universities UK Studentification Guide recommended the appointment of a permanent officer to liaise between HEIs, the local authority and other stakeholders, especially local communities. The partners of the Cardiff Student Community Plan jointly fund a Student Liaison post, to assist in the implementation of the plan with a view to strengthening partnerships between the Council and Universities and creating a single point of contact on student housing and lifestyle issues. These include waste management, health and safety, crime prevention, parking, community cohesion, anti-social behaviour and accommodation.
- 5.11 In addition, Swansea City Council, in partnership with their Higher Education Institutes and South Wales Police, also operate a Community Liaison Officer who is the first responder to any student or community concerns. This approach is also undertaken by number of other local authorities/HEIs such as Loughborough, Nottingham, Leeds and Oxford.

## Community Wardens

- 5.12 The Community Wardens in Exeter are all students employed by the University. They encourage the integration of students as active citizens and promote greater community cohesion in residential areas with high student numbers. They facilitate the work of the Community Liaison Officer and work closely with the Students Guild, the local Police and the City Council to support fellow students living off campus. The team of Community Wardens work across the ward areas where most students live: St James, Polsloe, Newtown, St Davids and Pennsylvania.
- 5.13 Wardens undertake 'walkabouts' in their area, signposting students with community queries, attending community meetings and developing their own termly community projects. Wardens also facilitate ongoing campaigns and initiatives, including the 'Students on the Move' refuse removal scheme, noise-awareness, security marking valuables and gathering information on community issues.
- 5.14 The University of Exeter support projects that enhance the relationship between students and permanent city residents. The StreetWise fund offers grants of up to £500 for projects linking students, local residents, community organisations and local agencies. The remit is very broad and could cover environmental projects, community events, and improved communication between parties.

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<sup>184</sup> [www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk)

- 5.15 Bangor Students' Union is about to start operating a similar Community Warden Scheme with three 50 hour paid internships<sup>185</sup>. "The scheme will proactively deal with problems and will act as a link between permanent residents and the Students' Union through sitting on community groups and residents' associations to build positive relationships. The aim is to bring two communities together as one in Bangor".

## Student Community Partnerships

- 5.16 Most Universities and HEIs with high concentration of students have developed Student Community Partnerships to promote better relationships between Higher Education (HE) students and other members of the local communities. The Student Community Partnership provides a framework for joint working between the Universities Student Unions and Councils, on matters which affect the relationship between students and the local community.
- 5.17 The purpose of the Partnership is to create a long-term strategy of various projects to tackle issues that impact upon the relationship of students and the wider community, and to better communicate the positive work already completed by students in the wider community.

## Cardiff Student Community Plan 2014-17

- 5.18 The Cardiff Student Community Plan 2014 - 2017 is a partnership document developed by the City of Cardiff Council and the three Universities, namely Cardiff University, Cardiff Metropolitan and the University of South Wales.
- 5.19 The Plan provides a collective strategy for delivering improvements that address the housing and lifestyle issues associated with high levels of students living in small geographical areas of the City. The Plan recognises that only through joint working and collaboration can any improvements be progressed. They have therefore developed the following joint mission:-

### ***Working together to improve the quality of life for students, residents and the wider community***

- 5.20 To do this, the Partnership has adopted the following outcomes that concisely describe what the Plan and the Partnership set out to deliver, namely:-

#### **Improve community relations by working with partners to:-**

- ***Secure better accommodation in student areas;***
- ***Encourage neighbourliness and community respect;***
- ***Improve community health and safety;***
- ***Promote environmental sustainability;***
- ***Develop communications to create better informed communities.***

- 5.21 The Action Plan is reviewed and progress monitored by the Student Housing Working Group.
- 5.22 One of the main methods of achieving the above outcomes is through their dedicated website [www.cardiffdigs.co.uk](http://www.cardiffdigs.co.uk).

<sup>185</sup> .bangorstudents.com/lovebangor/wardens.php.en



**Secure better accommodation in student areas**

**Supporting the Landlord Accreditation Wales and University Housing lists** – only accredited & Licensing HMOs are advertised.

**Housing Weeks** –helping students make an informed decisions about renting.

**Halls to House** informing students about living in private rented.

**Encourage neighbourliness and community respect**

**Regular Partnership and Communities Together (PACT) meetings** across the main student wards provide an opportunity for residents to highlight community issues.

**You're In. Now What?** annual campaign aims to inform students of their tenant responsibilities in the private rented sector - information on issues such as community relations, rubbish and recycling, security and health and safety - moving in checklists given to students & landlords as part of campaign.

**Local resident volunteers** work alongside students, joining and supporting crime and waste awareness walkabouts and education drives - Community postcards and Unity News bridge the gap between student and non student residents by creating communication channels between the two groups.



**Community cohesion events** such as community fun days run by South Wales Police, allow the public to engage with the student population.

**Partnership working** between the City of Cardiff Council's Noise Pollution team, Police Student Liaison Officer, Universities and Students' Unions to discipline students creating problems in the community, utilising the University Disciplinary process & noise pollution powers.



**Improve community health and safety**

**Lock it. Hide it. Keep it.** Joint campaign with the Police aimed at students to increase safety and reduce/prevent burglaries. The Police Student Volunteer Initiative educates students of key safety and security information. Campaigns, door to door advice, property marking initiatives.

**Operation Saturn** - Police led operation held annually to coincide with the return of the university students after the summer vacation - initiative aims to deter crime and anti-social behaviour & increase safety & security of community & student population - increased Police resources & Council Noise Officers are available throughout the evenings for noise complaints.

**A Student Safety Bus** provided by Cardiff Students' Union and managed by South Wales Police identifies students who may be





vulnerable due to their intoxication, location or time of night and takes them to a place of safety - wristbands introduced in 2013 delivering the message 'How did you get home?'

**Burglary partnership** work between the City of Cardiff Council Housing Enforcement and South Wales Police resulted in an 80% reduction in burglaries across the top five streets for burglary in Cathays between 2012 and 2013.

### Promote environmental sustainability

**Waste and recycling collections** are now collected on the same day in the student wards to avoid confusion and reduce the risk of waste being put out for collection on the wrong day.

An **annual education and enforcement drive** is conducted to ensure new students understand their social responsibilities. "Tidy Text" to remind them of rubbish days.

**Get It Out For Cardiff** is a joint, award winning campaign that helps students to clear out their rubbish at the end of the academic year with the aim of re-using and recycling as much as possible.

**Charitable recycling side of the Get It Out scheme** – resale of kitchen equipment.

**Environmental Champions** a voluntary action group made up of students and community members.

**Cardiff Digs sustainable travel pages** encourages students to leave their cars behind and not bring them into Cardiff.

**Develop communications to create better informed communities**

**Cardiffdigs.co.uk**, the one stop shop website for all student housing and living advice.

**Unity newsletter** is a partnership publication where universities and student unions of Cardiff engage with the community.



### Bath Student Partnership ([www.townandgown.org.uk](http://www.townandgown.org.uk))

- 5.23 The majority of the current activity in Bath is led by the Student Community Partnership, which brings together the Council, both Universities, the Students' Unions for both Universities and City of Bath College set up in 2010/2011. The Partnership funds a Students Action Line. This is open to all long-term residents and students so that any issues can be reported, logged and investigated.
- 5.24 The Partnership also funds a Community Liaison Co-ordinator who works with local residents, the Police and other organisations to promote positive relations between students and the local community. The Partnership also works with Avon and Somerset Police, encouraging attendance at PACTs (Partners and Communities Together) meetings. These are public meetings that are open to residents and students where members of the public can raise key concerns and there is a vote on which issues should be prioritised.
- 5.25 The Students' Unions at both universities employ Volunteer Co-ordinators who facilitate a number of volunteering opportunities for students in the city that serve to encourage good relations with the local community.

## Student Charter and Anti-Social Behaviour Disciplinary Procedures

- 5.26 A Student Charter is an agreement on rights and responsibilities between a student and their Higher Education Institution (HEI). A number of Universities across the country have implemented these, but their effectiveness is hard to define as they are largely unenforceable. However, they are useful in alerting students to the rules and regulations in a less formal manner.
- 5.27 Students at many Universities or HEIs are already held accountable for their actions and can face disciplinary action, including fines or prejudice their chances of completing their course if their behaviour in the community is found to be unacceptable. As a typical example, students will be disciplined where they have "behaved in such a way as would be deemed to amount to a criminal offence or otherwise conducted himself or herself in the University or elsewhere, in a manner calculated or likely to bring the University into disrepute (on or off campus)".

### University of Portsmouth – Code of Student Behaviour and Student Charter

- 5.28 The University of Portsmouth has a Code of Student Behaviour<sup>186</sup> to outline acceptable behaviour of students of the University, both on and off campus, in order to secure the proper working of the University.
- 5.29 The expectations of students' behaviour are set down in the University of Portsmouth Student Charter<sup>187</sup> and in particular, students give a commitment to the University to:
- » Act as members of an inclusive community that supports equality, diversity, ethical and responsible behaviour.
  - » Behave responsibly and respectfully towards their neighbours and the local community and do nothing that might damage the University's reputation.
  - » Consider the environment and support the University's green initiatives.
  - » Adhere to the University's rules and regulations and comply with relevant external regulations.

- 5.30 Whilst student disciplinary action was referred to in all the structured interviews, it appeared that robust sanctions against students were relatively uncommon. However, it was interesting to note that in Belfast, the agreed policy of the local authority automatically referring every incident to the University (on a weekly basis) had a very significant deterrent effect. Students would actually ask local authority officers not to report them to the University.

## Town & Gown Initiatives

- 5.31 Tensions between 'town' and 'gown' are well documented and became more prominent as expansion of higher education occurred starting in the 1990s. It is only in relatively recent times that HEIs, Students' Unions, local authorities and national policymakers have sought to address the issue as the negative effects of studentification became more widely known and commented on.
- 5.32 Institutions are continually looking for new ways of responding to the issues as well as trying to harness the benefits that students bring and ensure that these are felt by the wider community.
- 5.33 As mentioned earlier, Universities UK published their guide on studentification<sup>188</sup> in 2006. In 2010, the National Union of students, HEIs and GuildHE (a representative body for principals) published 'Living

<sup>186</sup> University of Portsmouth, Code of Student Behaviour September 2014

<sup>187</sup> University of Portsmouth Student Charter 2014,

[www.port.ac.uk/accesstoinformation/policies/teachingandlearning/filetodownload,162599,en.pdf](http://www.port.ac.uk/accesstoinformation/policies/teachingandlearning/filetodownload,162599,en.pdf)

<sup>184</sup> UUK, Studentification: a guide to opportunities, challenges and practice, 2006, [www.universitiesuk.ac.uk](http://www.universitiesuk.ac.uk)

Together, Working Together'<sup>189</sup>, to illustrate the many creative initiatives across the UK that are addressing issues relating to students in the community.

- 5.34 One way that helps is allowing the wider community to access campus and institutional facilities, or through institutions' involvement in local partnerships and projects to break down barriers in their local community. There has been an increasing commitment from HEIs and Students' Unions to this goal. These are often referred to as "Town and Gown Initiatives".
- 5.35 Many Universities and HEI are making their campuses and spaces more accessible to the local public. Many institutions encourage wider community engagement through public lectures, sharing libraries and sporting facilities and providing access to archives. These all aim to help the wider community take advantage of the huge benefits of higher education. Through these initiatives institutions also aim to tackle the perceptions of 'inaccessible' university campuses.
- 5.36 Universities and Students' Unions increasingly run a range of projects to increase positive student visibility in the local community.
- 5.37 Lifelong learning and the constant development and exchange of skills and ideas are embedded in the culture of higher education and can be a positive influence within the wider community. This culture is extended through the work of university staff and students who contribute hundreds of volunteering hours to projects as well as specific skills including expertise in their academic fields. This approach can also be a way of ensuring that information is being communicated to students about the area they live in and what is acceptable, and what is not.
- 5.38 It is estimated that over 725,000 students, 31% of the higher education student population have taken part in volunteering, on average they provide 44 hours a year (based on a 32 week return) and contribute some £175 million per year to the UK economy. Volunteer involving organisations place great value on higher education students<sup>190 191</sup>.
- 5.39 Volunteering activities are diverse and include volunteering with children and young people, often those with disabilities or other special needs; environmental and conservation work; face-to face or e-mentoring; charity shops; website design, IT and administrative roles for charities; museum interpretation; campaigns and appeals; help for churches and religious groups; sports coaching and organising events.
- 5.40 In addition, volunteering can also be directed towards the benefits of other students. This might include activities such as Nightline, mentoring other students, running clubs and societies, or being on a Students' Union committee.
- 5.41 Some examples of the above approaches are illustrated below:

### [Ceredigion County Council / Aberystwyth Night Time Economy Project](#)

- 5.42 Ceredigion County Council's Night Time Economy team work with partners such as Aberystwyth Town Council, Aberystwyth University, the Police, the Licensed Trade, Community Groups and other Town and Community Councils throughout Ceredigion to improve the quality of life which ultimately impacts on people's health and wellbeing. The night time economy is also essential for the local economy and in maintaining the vibrancy and sustainability of Ceredigion as a whole.

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<sup>189</sup> [www.nus.org.uk/PageFiles/12238/02-07-10\\_Living\\_Together\\_Working\\_Together.pdf](http://www.nus.org.uk/PageFiles/12238/02-07-10_Living_Together_Working_Together.pdf)

<sup>190</sup> Students, Volunteering and the Community, Research Summary, Institute for Volunteering Research 2010

<sup>191</sup> The Student Volunteering Landscape, Fiona Ellison & Helen Kerr, National Union of Students 2014

- » **Purple Flag**<sup>192</sup> is a national accreditation scheme that recognises excellence in the management of town and city centres at night. Town centres such as Aberystwyth that achieve a Purple Flag will be those that are: safe, vibrant, appealing, well-managed and offer a better night out.
- » **Night Light Scheme**<sup>193</sup> - volunteers from St Michael's Church offer assistance or support to those who may get into difficulty whilst out at night in Aberystwyth. This is based on a national scheme which has worked well in other areas of the country and is seen to diffuse tension and contribute to a significant reduction in street problems. Over 40 volunteers receive training and have a strong presence in Aberystwyth on busy nights. In addition, the University has student volunteers, "Street Angels", that accompany Students' Union party nights to look after the welfare of the students and the community at large.
- » **Aberystwyth Private Student Living Guide** is a one stop shop guide to help students get to grips with their housing experience in the private rented sector (after halls of residence) and provides a wide range of guidance from tenancy deposit schemes to which day to put your bin out.
- » **SSHH Campaign (Silent Students Happy Homes)** the aim of the Sshh campaign is to heighten awareness of the impact of street noise and to encourage those enjoying a night out in the town to pause for thought and consider how their behaviour may be affecting local residents.
- » **Best Bar Non Scheme** the scheme operates throughout the UK with premises in over 100 counties, towns and cities and recognises and rewards businesses which are concerned about customer care, customer safety and offer a quality venue. In addition, certain parts of Aberystwyth, Lampeter and Cardigan town centres have restrictions on public drinking through Designated Public Place Orders (DPPO).

### Cambridge Student Community Action (SCA)

<sup>5.43</sup> Cambridge SCA (Cambridge University and Anglia Ruskin University) exists to encourage the involvement of students in voluntary community work, providing services to disadvantaged groups within the community and giving students a valuable learning experience. They offer more than 70 volunteering opportunities. Ten of these projects are internally managed and known as "internal projects" since they cater specifically to the interests of Cambridge students; the other projects are run by a wide range of external organisations which SCA recruit for.



<sup>5.44</sup> They aim of SCA is to encourage every student to be involved in volunteering at least once during their Cambridge careers. Activities include:

- » **Big Sibs** – This project aims to provide a volunteer befriender for vulnerable children. They may have suffered a bereavement, be on child protection plans, be socially excluded, have disabilities, learning difficulties or behavioural problems, or have family members who have disabilities, learning difficulties or behavioural problems. Volunteers act as an "adopted" older brother or sister to the child, visiting the child about once a week. Big Sibs often take their Little Sib out to the local playground, go bike riding, go to the cinema, do arts and crafts, cooking, or even just watch TV with them. About once or twice a term group activities are arranged as well, such as our termly children's parties, zoo trips, pantomime trips etc. Only activities approved by

<sup>192</sup> [www.atcm.org/programmes/purple\\_flag/WelcometoPurpleFlag](http://www.atcm.org/programmes/purple_flag/WelcometoPurpleFlag)

<sup>193</sup> [www.ceredigion.gov.uk/index.cfm?articleid=11184](http://www.ceredigion.gov.uk/index.cfm?articleid=11184)

the parent/guardian/carer are undertaken. Reliability is crucial as children and parents get very upset if they are let down.

- » **Coffee mornings** are held in an assisted living facility for the elderly, volunteers are needed to help out, as well as just chat with residents.
- » **Bounce!** is a free club for disadvantaged children for vulnerable and disadvantaged children. It is an hour and a half of manic fun-filled sports games, board games, and crafts. It is an opportunity for the children to let off some steam and have fun with the enthusiastic volunteers.
- » **Parklife** taking vulnerable children to the park and enjoying the outdoors.
- » **Musical Entertainment Groups:** Volunteers entertain in the form of sing-alongs, group performances, solos and occasional readings. They also have refreshments and chat with the residents during the evening – an aspect as important as the entertainment.
- » **Homework Help, Learning Buddies, Revision buddies** - The aim is to help children from mainstream schools who are having difficulty with their academic work, reading or maths. This is typically in the form of an after school club.
- » **Children's University** - SCA volunteers meet at a local school to run a session for the Children's University. During this time the whole school stops normal activities and the children get to attend a course of their choice offering them exciting and innovative learning activities and experiences such as gardening, school radio, calligraphy, Lego construction and creative cooking.
- » **Taskforce Project: Examples of requests include:**
  - Anyone else that gets in touch with SCA to ask for a volunteer will be considered under the Taskforce project. Helping physically disabled people to get out of their homes (for walking, shopping, exercise classes, to the library etc.)
  - Befriending young adults with physical and learning disabilities.
  - Gardening for elderly people.
  - Teaching English as a Second Language for adults.
  - Befriending people suffering from depression or other forms of mental health problems.

## Landlord Accreditation Schemes

- 5.45 Local Authorities recognise the important role that the private rented sector plays in helping meet local housing demand. Many local authorities work in partnership with private sector landlords and letting agents through their landlord's accreditation scheme and landlord forum.
- 5.46 Landlord accreditation schemes are voluntary schemes with the aim of encouraging good practice amongst landlords and agents and can either be property based, in that each individual property is accredited or the individual landlord or agent is accredited. The scheme recognises and reward landlords who manage their properties to a good standard. A successful accreditation scheme can help to increase the supply of good quality accommodation to the benefit of existing and potential tenants. It also helps to foster better landlord/tenant relationships and reduces the need for intervention by local authority officers.
- 5.47 One of the unfortunate realities of accreditation schemes is that they tend to attract good landlords but have little impact on poor landlords.

5.48 Accreditation schemes may be run on an individual local authority, regional or national basis or run independently by the major landlord associations (NLA/RLA). The boxes below illustrate the Welsh and London schemes. Most accreditation schemes have some or all the following elements:

- » Landlord or letting agent must be fit and proper.
- » The physical condition of all properties they own or manage must meet minimum legal standards.
- » That management practices are fair and reasonable and they work to an agreed code of practice.
- » Successfully complete a one day professional development course and continue with Continual Professional Development.
- » Promote good community relations.
- » Have agreed a response rate to deal with tenant complaints.
- » Agents must be a member of a recognised professional scheme for managing or letting agents.
- » Provide a marketing advantage, discount on training, HMO licensing fees or other suppliers, guidance manual on good practice in the private rented sector and regular news letters.

## National Scheme

### Landlord Accreditation Wales



[www.welshlandlords.org.uk](http://www.welshlandlords.org.uk)

## What is Landlord Accreditation Wales?

The Landlord Accreditation Wales (LAW) Scheme is a national scheme, incorporating all 22 local authorities in Wales. It recognises good landlords and helps them differentiate themselves from less reputable landlords who give the rental market a bad name. It also allows tenants to seek out professional landlords who offer good, well managed accommodation.

It works by accrediting the landlord, not the property, therefore identifying the participants as competent and professional in their dealings with their properties and tenants, and with the skills necessary to run a successful business.

3,144 landlords are accredited under the scheme, which represents some 16,985 properties.

This scheme will now be subsumed into the compulsory registration and licensing scheme for private rented sector landlords and letting and management agents introduced by the Housing (Wales) Act 2014.

## Regional Scheme

### London Landlord Accredited Scheme (LLAS) and UK Landlord Accreditation Partnership (UKLAP)



[www.londonlandlords.org.uk](http://www.londonlandlords.org.uk)

## The London Landlord Accreditation Scheme (LLAS)

The London Landlord Accreditation Scheme awards accreditation to reputable landlords who undergo training and comply with a code of conduct. Accredited landlords are able to display the LLAS logo as a badge of good practice and access a range of products and incentives including local authority grants, leasing schemes and discounts on fees for licences and other charges.

It was set up in 2004 as a partnership of landlord organisations, educational organisations and 33 London Boroughs. Since out-of-London Boroughs have joined the partnership, it is now also known as UK Landlord Accreditation Partnership (UKLAP).

It is now looking to expand significantly, as the central part of the Mayor's rental standard - working with its member local authorities and the GLA to take on new members from its current base of 13,000 landlords (and 1000 letting & managing agents) in London to reach 100,000 landlords & agents by 2016.



## ‘Rate Your Landlord’ Schemes

- 5.49 In recent years, a number of Students’ Unions have begun to run Rate Your Landlord surveys to find out more about their members’ experiences of housing, and to rank local landlords and agents.
- 5.50 One example is that operated by The University of Sussex Students’ Union. The University is able to house approximately 5,000 of its 13,000 students in both on-campus and off-campus university accommodation. The vast majority of the remaining students at Sussex however live in the private rented sector in nearby Brighton and Hove and the surrounding areas, and the Sussex Advice and Representation Centre<sup>194</sup> reports that over a third of enquires relate to poor housing conditions. The Sussex Students’ Union publishes an annual ‘Rate Your Landlord’ report<sup>195</sup> and, as well as reporting on issues such as repairs, rents, deposits, etc. it also produces weighted tables showing satisfactory in several areas with both landlords and letting agents.
- 5.51 Bangor Students’ Union used to operate a Rate Your Landlord scheme but has recently moved to a system of annual landlord awards covering a range of categories including responsive landlord, value deal, large landlord, small landlord etc. The Students’ Union says that it finds encouragement a better route.

## Partnership Working – Selective Licensing London Borough of Newham

- 5.52 Newham’s private rented sector is estimated to comprise of 38,000 dwellings making it the largest tenure in the borough (35%). HMOs are increasing in number due to the lack of affordable housing and high levels of immigration, it is estimated that 25% of the private rented sector are now HMOs<sup>196</sup>.
- 5.53 Newham was the first English local authority to introduce additional and selective licensing across the borough in 2013<sup>197</sup>. Private Sector Housing and Environmental Health teams have developed an enforcement strategy based on the discretionary rented property licensing and multi-agency enforcement to deal poor living conditions and rogue landlords.
- 5.54 Newham initially started with a pilot area covering some 580 dwellings, 43% of which were in the private rented sector. The two year pilot saw all properties inspected and licenced. More than 30 landlords were prosecuted for a range of Housing Act and Town & Country Planning Offences, including failing to licence, breaches of HMO Management Regulations and breaches of planning notices.
- 5.55 Since the designation of the selective licencing scheme, it is thought that 99% of properties that required a license have now been licenced. The priority over the first two years of the scheme has been to identify those that need to be licenced and the next few years will concentrate on ensuring that properties and management meet the required standard.
- 5.56 Property licensing was found to offer two key advantages.
- 5.57 Firstly, it helps the local authority identify landlords. A significant amount of local authority resources go into finding the owner or person having control. Having direct access to the person’s contact details enables the local authority to avoid this element of the work and ensure that they are dealing with the correct person. Compliant landlords are first to come forward and most others come forward after a

<sup>194</sup> [www.sussex.ac.uk/students/support/](http://www.sussex.ac.uk/students/support/)

<sup>195</sup> [www.sussex.ac.uk/webteam/gateway/file.php?name=rate-your-landlord-2013.pdf&site=327](http://www.sussex.ac.uk/webteam/gateway/file.php?name=rate-your-landlord-2013.pdf&site=327)

<sup>196</sup> Effective Strategies and Interventions: environmental health and the private housing sector, Jill Stewart 2013

<sup>197</sup> Reforms to Selective Licensing from 1<sup>st</sup> April 2015, will require Councils to seek Government approval before implementing a Licensing scheme, if they plan to licence a large area of proportion of the market (likely to be above 20% of either geographical area covered by the Council or the local private rented sector)

warning letter. There is a minority of 15-20% of non compliant landlords that do not engage and this allows the local authority to prioritise their resources on this rogue element.

- 5.58 It was indicative from the pilot scheme that those landlords that evaded licensing tended to be in breach of other requirements. Those landlords that failed to licence were 4 times more likely to be responsible for properties that had serious health and safety concerns. In addition, anecdotal evidence suggests that such landlords often did not pay the correct amount of income and council tax, failed to comply fully with planning and building regulations, were likely to be involved with immigration offences and in some cases had a history of harassment and illegal eviction.
- 5.59 Secondly, the additional powers that come with additional and selective licensing, including the higher level of fine associated with non licensing (max level) £20,000, have a deterrent effect. Where such a criminal offence had been committed, this also provided the option of using the Proceeds of Crime Act 2002 (POCA) provisions or rent repayment orders.
- 5.60 Licensing helps identify criminal landlords and provide additional sanctions and powers, it is unable to deal with the wider criminality associated with the worst run private rented properties. Consequently, to deal with this element of the market a multi-agency enforcement team was initiated incorporating the Police, Private Sector Housing, Planning Enforcement, UK Border Agency, Fire Brigade and others.
- 5.61 Newham's strong links with the Police has helped deliver sustainable solutions to problems that give rise to crime and anti-social behaviour. Newham, as part of this work, directly employs some 40 Police Officers to deal with these issues across the Borough (not exclusively on licensing scheme).
- 5.62 The Police have widely adapted the VOLT model to help drive down community safety problems arising from a combination of four key elements: Victim, Offender, Location and Time. This approach has been successful in reducing crime associated with pubs, clubs and other licensable premises. This model has enabled better intelligence sharing, joint problem solving and the ability to look at the problem from a range of approaches, enabling a more effective solution to be found. This has resulted in better outcomes, less bureaucracy and savings on officer's time when compared to a single agency approach.
- 5.63 Newham have also introduced a Fair Letting Project to ensure letting agents are complying with current consumer protection and housing legislation and ensuring that tenants are not being exploited, as well as encouraging better standards in the industry.
- 5.64 The Government (England) has recently announced amendments to the general approval, with effect from the 1<sup>st</sup> April 2015, local authorities will have to seek confirmation from the Secretary of State for any selective licencing scheme which would cover more than 20% of their geographical area or would affect more than 20% of privately rented homes in the local authority area. This is to ensure that local authorities focus their activity on areas with the worst problems.
- 5.65 In addition, regulations have been laid in Parliament that will expand the criteria for selective licensing. This is in response to concerns expressed by many local authorities have suggested that the current criteria are too restrictive and do not give local authorities enough discretion to take account of local circumstances. Subject to parliamentary approval, the criteria will be extended to :
- » To cover areas experiencing poor property conditions
  - » Large amounts of inward migration
  - » A high level of deprivation or
  - » High levels of crime

5.66 The following local authorities operate a selective licensing scheme:

Newcastle, Liverpool City Council (whole area), Thanet District Council, Blackpool, Wolverhampton, Stoke on Trent, Gateshead (extended), Salford (extended), Southampton, Coventry, Bristol, Portsmouth, Hull, Brent Council, London Borough of Waltham Forest, Blackburn and Darwen Council, Hull, Oldham, Hyburn, Reading, Northampton, Sheffield, Carmarthenshire, Bolton, Durham, Gateshead, Hartlepool, Leeds, Middlesbrough and Sunderland.

## Initiatives to Deal with Anti-Social Behaviour

### New Anti-Social Behaviour Powers

5.67 The Anti-social Behaviour, Crime and Policing Act 2014 received Royal Assent in March 2014, many of the key provisions came into effect on the 20th October 2014. Many local authorities are still putting in place their procedures to take advantage of the new powers.

5.68 Anti-social behaviour is a broad term used to describe the day to day incidents of crime, nuisance and disorder that can have dramatic negative impact on the lives of people in the community. It covers such things as litter and vandalism, public drunkenness or aggressive dogs, to noisy and abusive neighbours. Such a wide range of behaviour means that responsibility for dealing with anti-social behaviour is shared between a number of agencies, particularly the Police, local authorities and social landlords.

5.69 The Act replaces 19 anti-social behaviour powers previously set out in the Anti-Social Behaviour Act 2003, which governed previous responses to anti-social behaviour. The new Act provides just 6 tools, including Civil Injunction, Criminal Behaviour Orders, Dispersal Powers, Public Space Protection Orders, Closure Notice / Closure Order, Community Remedy / Community Protection Notices.

5.70 Particularly relevant in concentration areas are the following elements:

**Figure 24: New Anti-Social Behaviour Powers**

<p><b>Community Trigger</b></p>	<p>Requires the Police, local authorities and registered providers of social housing who are co-opted into this group to take action against recurring anti-social behaviour when a certain number of complaints have been received. Threshold for this trigger is defined by the local agencies but must not be more than 3 complaints of anti-social behaviour in the previous 6 months period. A qualifying complaint is where anti-social behaviour was reported within one month of the alleged behaviour taking place and the application to use the Community Trigger is made within 6 months of the report of anti-social behaviour<sup>198</sup>.</p> <p>The relevant bodies must publish a community remedy document, which sets out a number of informal remedies to deal with anti-social behaviour without the need to go to Court, such as mediation, a written or verbal apology, the perpetrator signing an Acceptable Behaviour Contract, paying an appropriate amount for damage to be repaired or stolen property to be replaced or reparation to the community (local unpaid work to the benefit of the community).</p>
<p><b>Community Protection Notices (CPN)</b></p>	<p>Police, local authority and registered social landlords (if designated by Council) can issue a Community Protection Notice (CPN) against anyone to stop a person (over 16), business or organisation committing anti-social behaviour where their conduct is having a detrimental effect on the quality of life of those in the locality. Their behaviour must be persistent or of a continuing nature and unreasonable.</p>

<sup>198</sup> The Community Trigger was piloted in Manchester, Brighton and Hove, West Lindsey and Boston, and Richmond upon Thames. The Home Office report 'Empowering Communities, Protecting Victims: summary report on the community trigger trials', published in May 2013 ([www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/207468/communitytrigger-trials-report-v4.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207468/communitytrigger-trials-report-v4.pdf))

	<p>Initially a written warning is issued informing the perpetrator of the problem behaviour, requesting them to stop and setting out the consequence of continuation. Breach of a CPN is a criminal offence that can be dealt with by way of a fixed penalty notice (up to £100) or a fine up to level 4, £2,500 (for individuals) or £20,000 for businesses. The terms of the CPN can be appealed by the perpetrator within 21 days of issue. Works can be undertaken by the council in default and the cost recovered from the perpetrator. There is the right to be challenged if the perpetrator considers the costs to be disproportionate to the level of work undertaken. The CPN can deal with a wider range of behaviours such as noise nuisance and litter on private land open to the air.</p>
<p><b>ASB Mandatory Ground for Possession</b></p>	<p>The Act introduces a new absolute ground for possession of secure (local authority and registered social landlords) and assured tenancies (private landlords), where anti-social behaviour or criminality has already been proven by another Court.</p> <p>Can be used where the tenant, a member of the tenant's household or a person visiting the property has met one of the following conditions:</p> <ul style="list-style-type: none"> <li>» convicted of a serious criminal offence (Schedule 2A to the Housing Act 1985).</li> <li>» found by a court to have breach of civil injunction.</li> <li>» convicted for breaching a criminal behaviour order (CBO).</li> <li>» convicted of breaching a noise abatement notice or court order under Environmental Protection Act 1990.</li> <li>» The tenant's property has been closed for more than 48 hours under a closure order for anti-social behaviour.</li> </ul> <p>As mentioned, most local authorities are at an early stage in developing their policies and procedures. However, the use of the Community Trigger may provide victims of anti-social behaviour the ability to demand action, starting with a review of their case where the locally defined threshold is met. This is likely to be invoked in concentration areas – indeed Charnwood Borough Council have just received their first Community Trigger notwithstanding substantial efforts made to mitigate the impact of student behaviour.</p>

## Neighbourhood Helplines

### Exeter University

- 5.71 The Exeter University StreetWise Helpline and email service has been set-up to help direct enquiries from Exeter residents who wish to share any thoughts, news, feedback and concerns they might have about living with students in the community.
- 5.72 The StreetWise Helpline is a 24 hour answerphone service and email service permits residents to highlight issues at any time of the day or night. Some of the key issues that are dealt with tend to be noise, rubbish and parking. The StreetWise Helpline and email will help develop a better picture of how and why such issues may be occurring. However, the service is not just for logging complaints, it is also to highlight good news, improvements in local areas or to suggest ideas for future projects.

### Leeds Neighbourhood Helpline

- 5.73 Noise and anti-social behaviour are the primary issues raised within the local community and this is backed up by data from the Neighbourhood Helpline operated by the University of Leeds, Leeds Metropolitan University, Leeds Trinity University and colleges. The Helpline is a 24 hour dedicated voicemail and email service. Whether the issue involves noise, waste, parking or playing ball games, the Helpline partnership work with service users, Police and



Leeds City Council to educate and correct negative behaviour amongst students.

- 5.74 Noise concerns tend to peak with the end of exams and the start of terms. The Helpline has been effective in dealing with individual cases but it is recognised that it is the number of different sources of noise within a defined area that exacerbates the problem. The University is working closely with the Noise Nuisance Service, Leeds Antisocial Behaviour Team and Police to combine resources to tackle this on-going problem.
- 5.75 To ensure a consistent approach to all issues raised, each institution follows the procedures detailed in the Neighbourhood Helpline Code. The Code has been developed and adapted since 2007 to ensure that students have an opportunity to correct their behaviour before disciplinary action is taken. An annual report<sup>199</sup> is produced to track the number and nature of the cases investigated by the Helpline each year. This data is used to guide proactive work in partnership with Leeds University Union, Leeds City Council and Police to actively address neighbourhood issues. Neighbourhood Helpline has a standard procedure<sup>200</sup> on how to deal with complaints.

### Get to Know Your Neighbour

- 5.76 The Leeds University Union initiative aims to make students aware that they are living amongst an already established community as well as fostering a greater sense of community for all residents.
- 5.77 At the start of the year, student volunteers are accompanied by officers from the University, Leeds University Union, Leeds City Council, and Police in visiting households in the areas which are most populated by students. This year 895 households were visited in target areas of Hyde Park and Headingley that were identified through the Neighbourhood Helpline as requiring additional education.
- 5.78 Student households are provided with a postcard<sup>201</sup>, upon which there is space for residents to write a small introductory message to their neighbour<sup>202</sup>. In addition, messages were given on property and personal safety, waste management, getting involved in the local community and how to avoid causing a noise nuisance. At the heart of the initiative is the belief that dialogue between neighbours is the most effective method to address any social issues.

### Dealing with Noise

- 5.79 Students commonly study, work and socialise at different times and this varying lifestyle as well as poorly insulated properties in dense areas of housing can cause significant noise concerns in the community. In addition, in areas of high concentration of student accommodation the frequency of parties can be an issue.
- 5.80 The most frequent night time complaints usually involve:
- » noise made by students going out/coming home – talking loudly, shouting, chanting/singing, banging house and taxi doors;
  - » loud music or noisy computer games with windows open;
  - » late night gatherings in gardens which disturb neighbours trying to sleep;
  - » noisy parties, loud music, guests shouting in the street or in gardens.

<sup>199</sup> [www.leeds.ac.uk/sustainability/downloads/Community/Helpline%20Report%202013.pdf](http://www.leeds.ac.uk/sustainability/downloads/Community/Helpline%20Report%202013.pdf)

<sup>200</sup> [www.leeds.ac.uk/sustainability/downloads/Community/Neighbourhood%20Helpline%20Procedure.pdf](http://www.leeds.ac.uk/sustainability/downloads/Community/Neighbourhood%20Helpline%20Procedure.pdf)

<sup>201</sup> [www.leeds.ac.uk/sustainability/downloads/Community/get%20to%20know%20your%20neighbour%20leaflet.pdf](http://www.leeds.ac.uk/sustainability/downloads/Community/get%20to%20know%20your%20neighbour%20leaflet.pdf)

<sup>202</sup> [www.leeds.ac.uk/sustainability/downloads/Community/Resident%20Letter.pdf](http://www.leeds.ac.uk/sustainability/downloads/Community/Resident%20Letter.pdf)

- 5.81 Most Universities provide guidance on how to minimise the risk of complaints when holding a party<sup>203</sup>. Bristol City Council provide the following guidance:
- » Give plenty of advance notice with your contact details to your neighbours. Let them know what (reasonable) time you expect the party to finish and stick to this. An all-night party is not reasonable – if this is what you are planning then find a venue in town more suited to this.
  - » Don't advertise your party on social networking sites; you could end up with far more guests that you can cope with.
  - » DJ decks, amplifiers or other extremely loud noise making equipment are not acceptable. The music should not be loud enough to be heard outside your property.
  - » Keep doors and windows closed to stop noise carrying.
  - » Ask guests to arrive/leave your property quietly and try to keep everyone inside as neighbours are often kept awake by partygoers screaming and shouting in gardens or on the street. If complaints are received about noisy guests, you will be held responsible.
  - » Avoid week night parties.
  - » Respond politely to requests by neighbours to either end the party or turn the music down (and keep it down).
  - » Clear up any mess left outside your house the next morning.
- 5.82 If Universities receive complaints and unacceptable behaviour has been substantiated, sanctions/and or fines may be imposed under the rules and regulations for student behaviour in the community (Student Charter /disciplinary procedure)<sup>204</sup>.
- 5.83 Many local authorities offer an out-of-hours service in relation to noise; some restrict such services to the weekend or during term time, when complaints are likely to be at their highest. In addition, some local authorities offer a mediation service<sup>205</sup> to try and deal with some noise complaints.
- 5.84 Charnwood Borough Council has set up a Scrutiny Panel which covers planning, housing and community partnership including dealing with anti-social behaviour. They have adopted an incremental approach in respect of anti-social behaviour/noise complaints (words of advice, verbal warning, written warning, acceptable behaviour contract, any complaint leads to a visit) and this has proved very effective, largely eliminating the need for formal legal action.
- 5.85 In comparison, Leeds City Council has adopted very robust interventionist line with noise in the Headingley and Hyde wards with over 100 notices served under s80 of the Environmental Protection Act 1990 around the Freshers Week this year. Equipment has been seized from at least two student houses<sup>206</sup>. The Leeds Antisocial Behaviour Team actively monitors social media (where parties are often advertised) to target action effectively and where possible to pre-empt complaints (as a statutory nuisance is 'likely to occur').
- 5.86 Consideration has been given by some local authorities to allow measuring and reporting of noise nuisance through a "noise app" mobile application. For users the app is free to download and to use. Once registered they are able to make recordings of noise instantly and are prompted to enter some simple information by tapping a few icons. After submission the information and sound file are forwarded to local

<sup>203</sup> [www.bristol.ac.uk/accommodation/community/living/](http://www.bristol.ac.uk/accommodation/community/living/)

<sup>204</sup> Please see paragraphs 5.26 onwards

<sup>205</sup> [www.bristol-mediation.org/](http://www.bristol-mediation.org/)

<sup>206</sup> [www.yorkshireeveningpost.co.uk/news/latest-news/top-stories/police-raid-over-leeds-noisy-student-neighbours-1-6957230](http://www.yorkshireeveningpost.co.uk/news/latest-news/top-stories/police-raid-over-leeds-noisy-student-neighbours-1-6957230)

authority or housing association automatically. They can then review the recording and will enable them to assess what steps or actions should be pursued ([www.thenoiseapp.com](http://www.thenoiseapp.com)).

## Legislative Options

- 5.87 Local authority teams across England and Wales regularly use the statutory nuisance provisions under Part III of the Environmental Protection Act 1990 for dealing with noise complaints and the detail of the powers will not be considered here. When abatement notices have been served, the authority has the option of prosecuting for non-compliance of the notice (maximum level 5) and/or the local authority may carry out the works in default to abate the nuisance, including confiscation and temporary removal of articles such as audio equipment.
- 5.88 Some authorities have adopted the provisions of the Noise Act 1996 (as amended by Anti-Social Behaviour Act 2003 and Clean Neighbourhoods and Environment Act 2005). S2 of the Act allows a local authority to deal with complaints from an individual present in a dwelling during night hours where excessive noise is being emitted from another dwelling. Night hours are defined as from 11pm to 7am the following morning<sup>207</sup>.
- 5.89 Where upon investigation the officer is satisfied that noise is being emitted from the offending premises during night hours and the noise if measured within the complainants dwelling would or might exceed the permitted level<sup>208</sup>, s/he may serve a warning notice<sup>209</sup>. The period specified in the warning notice must not be less than 10 minutes. Once a warning notice has been served, if the noise emitted from the offending dwelling is in excess of the permitted level as measured from within the complainant dwelling, any person responsible is guilty of an offence and a fine not exceeding level 3. As an alternative s/he may serve a fixed penalty notice. The provisions of the Noise Act 1996 allow the local authority to seize equipment for up to 28 days and the local authority can make an application to the Court for a forfeiture order in respect of any related equipment, if the person has been convicted of a noise offence.
- 5.90 Belfast City Council make very regular use of the power in the student concentration areas and issue many fixed penalty notices. They have found the power extremely useful and students tend to limit noise after the first visit as they become very well aware of the consequences if they do not. The use of the power is coupled with the policy of reporting all complaints to the relevant HEI described at paragraph 5.30.
- 5.91 In addition, the local authority, Police and housing associations now have the ability to use Community Protection Notices as set out in Figure 24.

## Dealing with Refuse/Street Scene Concerns

- 5.92 One of the main concerns for local communities and local authorities was the issue of waste and street cleanliness, both in terms of major accumulations when student initially move into the property and when the HMO premises are cleared at the end of the academic year.
- 5.93 In addition, there is the ongoing issue of HMO tenants failing to put their bins out for collection on the appropriate day, resulting in refuse being left out for long periods of time with in turn bags being torn and their contents spread around the street.
- 5.94 In all the structured interviews it was said that HMO tenants are generally poor at recycling. Leeds University Union undertook a waste research project in 2009 to establish student behaviour and attitudes

<sup>207</sup> Section 2, Noise Act 1996

<sup>208</sup> Permitted levels will be set by SOS in directions made under Section 5

<sup>209</sup> Section 2(4), Noise Act 1996

towards waste and recycling<sup>210</sup>. The research found that students were not well informed about the waste service offered including bin collection days, frequency of bin collection, where to keep wheelie bins if there is no space on the property and where the sorting sites are.

- 5.95 The research suggests that students require more information from the local authority, especially during the start of term and for those who have moved into new rented accommodation for the first time. It also shows that student areas, especially houses that have a high occupancy rate, require more from the Council in terms of larger or more bins based on the number of people living in the house and increased frequency of collection.
- 5.96 Predominantly, local authorities' have a policy of educating and raising awareness of social responsibility and correct waste presentation in the student and landlord community. The annual changeover of students requires that such programmes need to be focussed at the start of each academic year and regularly reinforced.
- 5.97 Local authorities have various methods of increasing awareness such as attending fresher fairs, use of innovative media like podcasts and videos, work closely with the universities and Students' Unions on communications through mailing lists, what's on guides, social media, websites and community news letters. However, a policy of education alone will not always adequately resolve the matter and local authorities have employed a range of approaches and initiatives to try and mitigate the problem.
- 5.98 Oxford City Council adopted a new Waste and Recycling Strategy<sup>211</sup> in 2013, which introduced a policy for flats and HMOs, where the local authority will collect no greater quantity of waste from domestic refuse bins than from domestic recycling bins (1 recycling bag = 1 domestic waste bag). The policy is to encourage a greater level of participation in their recycling scheme. It is at an early stage of implementation and too early to establish the effectiveness of the policy.

**Flat Recycling Project**

The flat recycling project aimed to provide every council tenant who lives in a communal building with access to recycling infrastructure. This involved providing additional recycling bins, adapting and building new bin stores to ensure they were user friendly and running an intensive education campaign.



The project included a number of tower blocks and has resulted in a significant increase in the amount of material generated for recycling. Oxford City Council has recently revised our Recycling Collection Policy for Flats and Houses of Multiple Occupation. The new policy says that at all relevant sites, the Council shall seek to collect no greater quantity of waste from domestic refuse bins than from domestic recycling bins. Oxford City Council will seek to enforce the new policy following an implementation period.

## HMO Licensing

- 5.99 Most local authorities as part of their discretionary HMO licence conditions, have provisions to inform tenants of their responsibilities in relation to anti-social behaviour, good neighbourly conduct and waste. As an example, Swansea City Council have the following condition within their licence conditions: Waste Arrangements & Street Scene.

<sup>210</sup> [www.leedsuniversityunion.org.uk/pageassets/brandguidelines/resources/wasteresearchreportJan10.pdf](http://www.leedsuniversityunion.org.uk/pageassets/brandguidelines/resources/wasteresearchreportJan10.pdf)

<sup>211</sup> [www.oxford.gov.uk/Library/Documents/Policies%20and%20Plans/Waste%20and%20Recycling%20Strategy%202013-20.pdf](http://www.oxford.gov.uk/Library/Documents/Policies%20and%20Plans/Waste%20and%20Recycling%20Strategy%202013-20.pdf) – Oxford City Council Waste and Recycling Strategy 2013-2020

*“The licence holder shall ensure that suitable and sufficient storage facilities are provided for household waste and recycling pending disposal. Ordinarily this would involve the provision of bins in the ratio of 1 bin (of at least 80 litre capacity) per 2 persons.”*

*“The Licence holder shall ensure that an explanation is given to tenants at the beginning of their occupancy regarding the storage and disposal arrangements in place in respect of household waste and recycling. Following the receipt of such explanation, the Licence holder shall ensure that each tenant signs the Declaration of Understanding.”*

*“The Licence holder shall ensure that any building works or improvements are carried out with the minimum of disruption to the occupants, neighbours and the wider community and that, wherever possible, any waste arising from building works or improvements to the house, does not accumulate in the curtilage of the property or near to it. Where such accumulations are unavoidable they shall be removed as soon as reasonably practicable to a suitably licensed waste disposal facility.”*

*“No other waste such as old furniture or appliances shall be allowed to accumulate in the curtilage to the property. If arrangements have been made for the removal of such items they may only be placed at the front of the property on the date of collection.”*

- 5.100 Nottingham City Council, Gwynedd Council, Cardiff City Council and a number of other local authorities operate an innovative “Tidy Text” service, where students and residents can sign up for a free text, which reminds them when recycling/waste will be collected. They are required to text ‘Tidy’ with their house number and postcode to 60066 for their FREE reminder of waste and recycling collection days. Waste Management and the Keep Cardiff Tidy group are looking into ways of sharing data on students so that they are automatically signed up for the service.



- 5.101 **Get it Out for Cardiff** is the annual end of term waste, recycling and charity collection scheme which operates between May and September each year. The initiative is in partnership with the City Council, Cardiff University, Cardiff Met and University of South Wales and Unions which helps Students to clear out their rubbish at the end of the academic year. The aim is to reuse and recycle as much of it as possible. The 2010 campaign saw 225 tonnes of waste and unwanted items collected with over 62 tonnes recycled and over six tonnes re-used by students donating them to charity collections. There is a provision of additional rubbish and recycling collections on three Saturdays in June and July each year, which coincides with the end of academic year.

- 5.102 **Environmental Champions Scheme:** In preparation for the start of the academic year Waste Management, cardiffdigs.co.uk, Cardiff Students’ Union and Student Volunteering Cardiff (SVC) come together to recruit volunteers to look at sustainability issues. They have a number coordinators and volunteers who will adopt a street or area to help raise the education and awareness of waste responsibilities as well as broader sustainability issues.

- 5.103 A significant number of local authorities offer a free or low cost (£17-£30) bulky waste collection. The Council will generally collect a limited number of items (3-6) of large, bulky domestic waste from a resident’s property. This service allows residents to keep their front gardens free of rubbish for little or no cost. Usually the service does not collect DIY or building waste for free. In addition, many local authorities operate civic amenity sites, where local residents can dispose of waste and furniture.

5.104 Where guidance and advice does not resolve the matter and a more robust approach needs to be taken by the local authority, there are a number of statutory approaches that can be pursued. The suitability of each approach will depend on the individual circumstances of the case.

### Legislative Options

5.105 A summary of relevant powers is given below:

» **Section 215 of the Town & Country Planning Act 1990** provides a local authority with the power, in certain circumstances, to require the owner of land of which the condition adversely affects the amenity of the area to take steps to remedy its condition. Please see paragraph 3.140.

» **Part III Environmental Protection Act 1990** deals with statutory nuisances which include:

- any premises in such a state as to be prejudicial to health or a nuisance (Section 79(1)(a))
- any accumulation or deposit which is prejudicial to health or a nuisance (Section 79(1)(e))

Where the local authority is satisfied that a statutory nuisance exists, is likely to occur or likely to recur, then it can serve an abatement notice requiring:

- the abatement of the nuisance or prohibiting or restricting its occurrence
- requiring the execution of such works or steps as necessary for this purpose
- specify the times or times within which the notice is to be complied with

The local authority has the option of prosecuting for non compliance with the notice (maximum level 5) and/or the local authority may carry out the works in default and recover their costs.

» **Section 80ZA of the Environmental Protection Act 1990** provides local authorities with the power to serve fixed penalty notices for contravention or failure to comply with the requirements imposed by an abatement notice.

» **Section 4, Prevention of Damage by Pests Act 1949** provides a local authority with the power to require action, if in the case of any land it appears to the local authority, that steps should be taken for the destruction of rats or mice on the land or otherwise for keeping the land free from rats and mice. They may serve on the owner and/or occupier of the land a notice requiring him to take, within such reasonable period as may be specified in the notice, reasonable steps for the above purpose. The local authority has the option of prosecuting for non compliance (maximum level 3) and/or the local authority may carry out the works in default and recover their costs.

» **Section 34, Public Health Act 1961**, provides a procedure to deal with any rubbish which is in the open air and which is seriously detrimental to the amenities of the neighbourhood. The notice provides 28 days' notice to the owner and occupier of the local authority's intention to remove the rubbish. The procedure allows the party to serve a counter notice or appeal against the terms of the notice to the Magistrates Court within the 28 day period. There is no power for the local authority to recover their costs.

» **The Management of Houses in Multiple Occupation (Wales) Regulations 2006** apply to HMOs in Wales. Regulations impose duties on a person managing an HMO in respect of maintaining common parts, fixtures, fittings and appliances (Reg 7), providing waste disposal facilities (Reg 9) and duties of occupiers of an HMO to co-operate or the purpose of ensuring that the person managing the HMO can effectively carry out the duties imposed on the manager by the regulations (Reg 10).

Currently, enforcement in respect of breaches of HMO Management Regulations is limited to prosecution (maximum fine level 5) but amendments to the enforcement provisions are recommended in Chapter 2 of this report<sup>212</sup>.

- » **Community Protection Notices**<sup>213</sup> in addition, a local authority, Police and housing associations have the ability to use CPNs.
- » **Section 92A, Environmental Protection Act 1990**, this procedure allows a local authority to serve a litter clearing notice where there is a need to clear litter and refuse from land in the open air and they are of the view that it is causing defacement so as to be detrimental to the amenity of the area. The notice can be served on the occupier or where unoccupied, on the owner<sup>214</sup>. There is a right of appeal to the magistrate's court within 21 days, if there is no appeal or the notice not complied with, the PLA can either prosecute for non-compliance (maximum level 4) and/or can remove the litter or refuse and recover their costs and/or may issue a fixed penalty notice<sup>215</sup>.
- » **Fixed Penalty Notices:** the use of fixed penalty notices are discretionary powers given to authorised officers in some enforcement procedures as an alternative to prosecutions and fine. The local authority may specify the amount of the fine to be collected within statutory bands as detailed in the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations 2007. Where the local authority does not take this option, a default amount is specified in the regulations.

5.106 The Clean Neighbourhoods and Environment Act 2005 provided authorities with an extended range of fixed penalty notices to tackle the environmental crime and anti-social behaviour that can blight the local neighbourhood. Fixed penalty notices send an instant and direct message to the minority, who persist in damaging the local environment<sup>216</sup>.

Figure 25: Index of Legislation for Fixed Penalty Notices

<b>Litter</b>	Environmental Protection Act 1990 – Section 87 & 88 as amended by the Clean Neighbourhoods and Environment Act 2005 – guilty of an offence that can also be dealt with by way of a FPN.
<b>Street Litter control notices and litter clearing notices</b>	Environmental Protection Act 1990 – Section 94(8) & 92C(2)
<b>Unauthorised distribution of literature on designated land</b>	Environmental Protection Act 1990 – Schedule 3A(1), para 1(1) & (2)
<b>Nuisance Parking</b>	Clean Neighbourhoods and Environment Act 2005 Section 3 (1) & (4)
<b>Graffiti and fly-posting</b>	Anti-Social Behaviour Act, Section 43

## Initiatives to Tackle Crime

5.107 A large student population means that each year there is a new intake of potential burglary victims with student houses often providing a rich source of electronic equipment such as mobile phones, tablets and laptops. The student lifestyle of terms and vacations means that this group is more vulnerable to criminal

<sup>212</sup> Please see paragraph 4.68(i)-(iii)

<sup>213</sup> Please see Figure 24

<sup>214</sup> Section 92(4), Environmental Protection Act 1990

<sup>215</sup> Section 94A, Environmental Protection Act 1990

<sup>216</sup> Local environmental enforcement – guidance on the use of fixed penalty notices Defra 2007

activities. Furthermore, as the student population changes from year to year offenders can return to the same address due to their previous knowledge and experiences.

- 5.108 The student population often have less well established links with the community, which provides a degree of anonymity to offenders who can move about with a greater degree of freedom than might otherwise be the case. In all the structured interviews where concentrations were due to students, a range of initiatives to combat such crime were adopted in a multiagency partnership approach.

### Leeds Universities and Colleges Crime Reduction Partnership

- 5.109 Addressing student vulnerability issues is a priority for the Police, Leeds City Council and the universities and colleges of the city. The Leeds Universities and Colleges Crime Reduction Partnership work collaboratively to deliver and coordinate a number of crime reducing and safety initiatives headed through the Knowledge<sup>217</sup> campaign.

- » Immobilise a free property register that helps Police trace any stolen items and return them back to the owner.
- » Know How: Which covers Top tips on how to avoid becoming a victim of crime in Leeds
- » In the Know: Local Crime Statistics.
- » Know Who: Information who to contact for further help and support and advice.
- » Know why: Real life stories showing why avoiding crime and staying safe in Leeds is important.

- 5.110 The University also contributes to the funding of a University Police Officer to specifically reduce student vulnerability to crime with an emphasis on burglary reduction in inner North-West Leeds. Local crimes have fallen due to effective local partnership working, between 2004 and 2010, burglaries in the student areas of Leeds decreased by 40%.

### Cardiff Police Student Volunteer Initiative

- 5.111 The Police Student Volunteer scheme involves Cardiff students working with officers from South Wales Police on crime reduction and prevention initiatives in the local area. The aim of the initiative is to develop stronger community links and to enhance the lives of students and local people to make them feel safer in their communities.



- 5.112 The initiative has given students valuable experience of working with local residents, students and South Wales Police. Their involvement has improved community relations whilst also making a positive impact on reducing crime figures within Cathays.

- 5.113 Volunteers work alongside officers and carry out a range of activities. These can include delivering door to door awareness about crime prevention campaigns (property marking initiative), safe policing at major events such as the Varsity match, giving high visible support to Police Community Support Officers and Police Officers at events, on patrols and supporting fellow students through local initiatives such as:

- » **A Student Safety Bus** provided by Cardiff Students' Union and managed by South Wales Police, identifies students who may be vulnerable due to their intoxication, location or time of night and takes them to a place of safety. Wristbands were introduced in 2013 delivering the message 'How did you get home?' The QR code or unique URL link on the wristband, takes them

<sup>217</sup> [www.knowledge-leeds.co.uk/](http://www.knowledge-leeds.co.uk/)

dedicated (non public) page on the [www.studentdigs.co.uk](http://www.studentdigs.co.uk) website, which provides them with advice and guidance. The purpose of this initiative is to try and change student behaviour.

- » **Operation Saturn** – Police led operation held annually to coincide with the return of the university students after the summer vacation. The initiative aims to deter crime and anti-social behaviour and increase safety & security of the community and student population. Increased police resources and Council Noise Officers are available throughout the evenings for noise complaints.
- » **Burglary Partnership** work between the City of Cardiff Council Housing Enforcement and South Wales Police resulted in an 80% reduction in burglaries across the top five streets for burglary in Cathays between 2012 and 2013. This approach included the Police entering houses when the front door was not locked and the insertion of balloons into open windows, with message cards attached highlighting the risk from burglary.

5.114 In Charnwood, Operation Umble occurs every year with door to door visits by community and Students' Union volunteers, Police Community Support Officers and local authority staff giving advice on crime prevention matters.

5.115 In Bangor, in addition to the introduction of security provisions into licence conditions, all newly licenced premises now get a visit from Police and a window sticker to say that it has been inspected by Police. Provide inventories which go on national database and also security marker pens.

## Safer Walking Route

5.116 A number of Universities such as Wolverhampton and Bradford in partnership with the Students' Union and the Police devise a Safer Walking Route to use from the accommodation to the main academic buildings. Often these routes are provided with additional or enhanced lighting.

5.117 Charnwood have part funded the provision of street pastors to help reduce problems in Loughborough town centre and are seeking to extend this to the defined routes from town centre to student areas.

5.118 Other partnerships provide information on their local area including crime, the best ways to get home at night including night buses or safe taxi firms (women drivers).

## Initiatives for Street Parking / Transport

5.119 In residential neighbourhoods with limited parking it is recognised that multiple occupancy properties can cause or exacerbate existing parking problems. In addition, students driving into a HEI will try to park as close to the facility as possible, resulting in streets in close proximity becoming saturated. Many local authorities have encouraged students to limit their use of private vehicles through the strategic deployment of car parking permit schemes, double yellow lines and civil enforcement (fixed penalties).



- 5.120 In addition, HEI campuses are increasingly restricting the level of parking available to discourage students from bringing their car as well as encouraging considerate parking. Estimates suggest that bringing a car to University costs in the region of £2,500 a year<sup>218</sup>.
- 5.121 Many HEIs recognise the need to promote student use of public transport, cycling and walking as an alternative. In this way, HEIs and local authorities can work in partnership and encourage negotiation with providers of local public transport to ensure that there is an adequate service and if possible to justify funding for dedicated public transport routes that could require subsidy to operate.
- 5.122 Leeds University has implemented a range of measures to encourage more sustainable transport choices by both staff and students and reduce car usage. This includes disincentives such as preventing any student parking on campus, but is complemented by a range of incentives including the Velocampus<sup>219</sup> bike hire scheme. Investment has gone into cycling infrastructure on campus and University residences, including safe bike storage and shower facilities. A comprehensive website provides public transport advice and support, and the Velocampus Bike Hub offers staff and students cycle training, bike buddying, safety and route advice, as well as bike maintenance.
- 5.123 Good quality Velocampus Leeds bikes, including lock and lights, are available to hire from the University for one week up to 12 months over an academic year. A hire agreement needs to be signed and the hire fee and deposit paid (semester £35, up to a year £50, deposits £100)
- 5.124 Cardiff Met Rider Pass is a good choice for Cardiff Metropolitan students. The service is provided by Cardiff Metropolitan University in partnership with Cardiff Bus and connects all three Cardiff Met University campuses, student halls and residential areas, and the city centre. Students and staff can purchase a Met Rider pass, subsidised by the University, allowing unlimited travel throughout the academic year on the entire Cardiff Bus network.
- 5.125 Exeter University offers a free minibus service for Exeter St Davids railway station to Streatham Campus for staff and students.
- 5.126 City Car Club offers a cost-effective and more ecologically sound alternative to car ownership and traditional vehicle hire in 17 UK cities. City Car Club vehicles are located in designated parking bays across the city and can be reserved by the hour, day or as long as required. In addition, many universities offer a car share scheme for both staff and students.

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<sup>218</sup> [www.cardiffdigs.co.uk](http://www.cardiffdigs.co.uk)

<sup>219</sup> [www.leeds.ac.uk/velocampus](http://www.leeds.ac.uk/velocampus)

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# Appendix B

## Stakeholder Organisations Interviewed

**Welsh Focus Local Authorities:**

Cardiff City Council  
Swansea City Council  
Ceredigion County Council  
Gwynedd Council  
Rhondda Cynon Taf County Borough Council  
Wrexham County Council

**Non Welsh Local Authorities:**

Belfast City Council  
Brighton & Hove City Council  
Bristol City Council  
Charnwood Borough Council (Loughborough)  
Leeds City Council  
Newcastle City Council  
Nottingham City Council  
Oxford City Council  
Peterborough City Council  
London Borough of Newham

**Universities:**

Cardiff University  
Cardiff Metropolitan  
Swansea University  
The University of Wales Trinity Saint David  
University of South Wales  
Aberystwyth University  
Bangor University

**Landlords:**

Residential Landlords Association  
National Landlords Association

**Government:**

Welsh Government representatives  
Department of Environment, Northern Ireland  
Assembly Members – National Assembly Wales

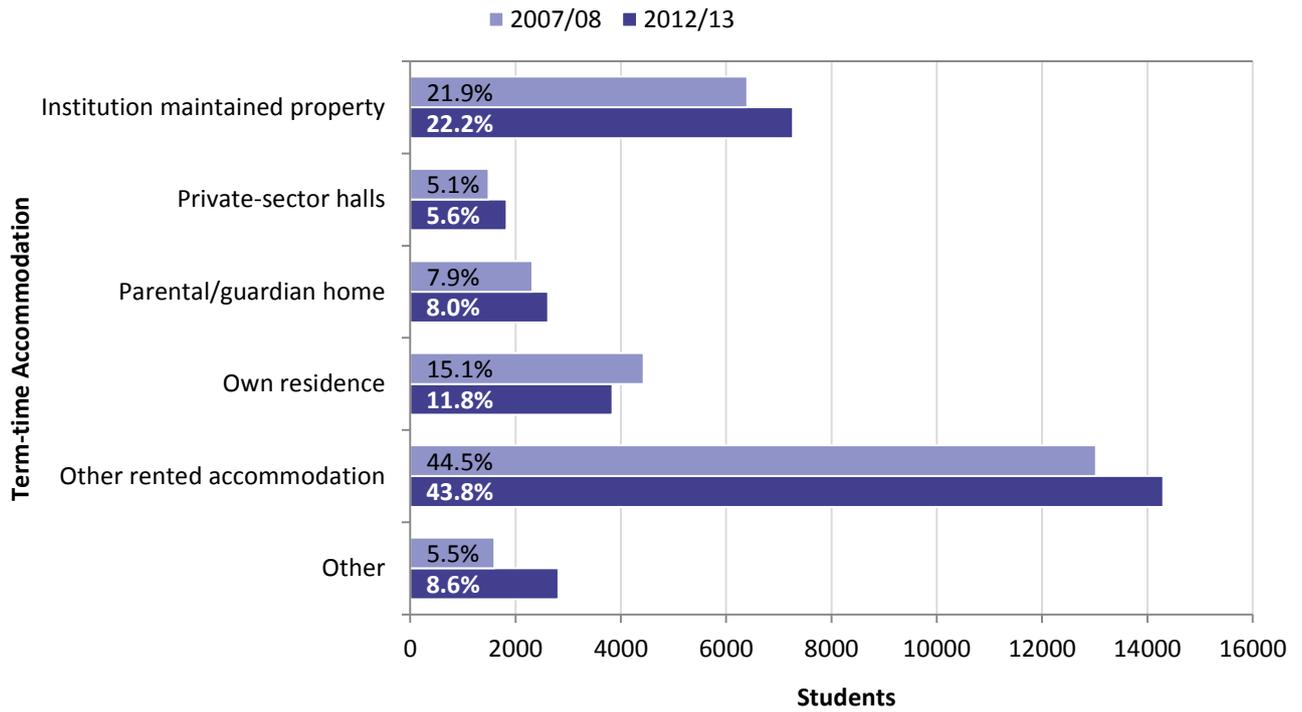
# Appendix C

## HESA Statistics Welsh Focus Authorities 2007/08 -2013/2014

### CARDIFF

Cardiff Term Time Accommodation for Full-time and Sandwich Students: Change from 2007/08 baseline

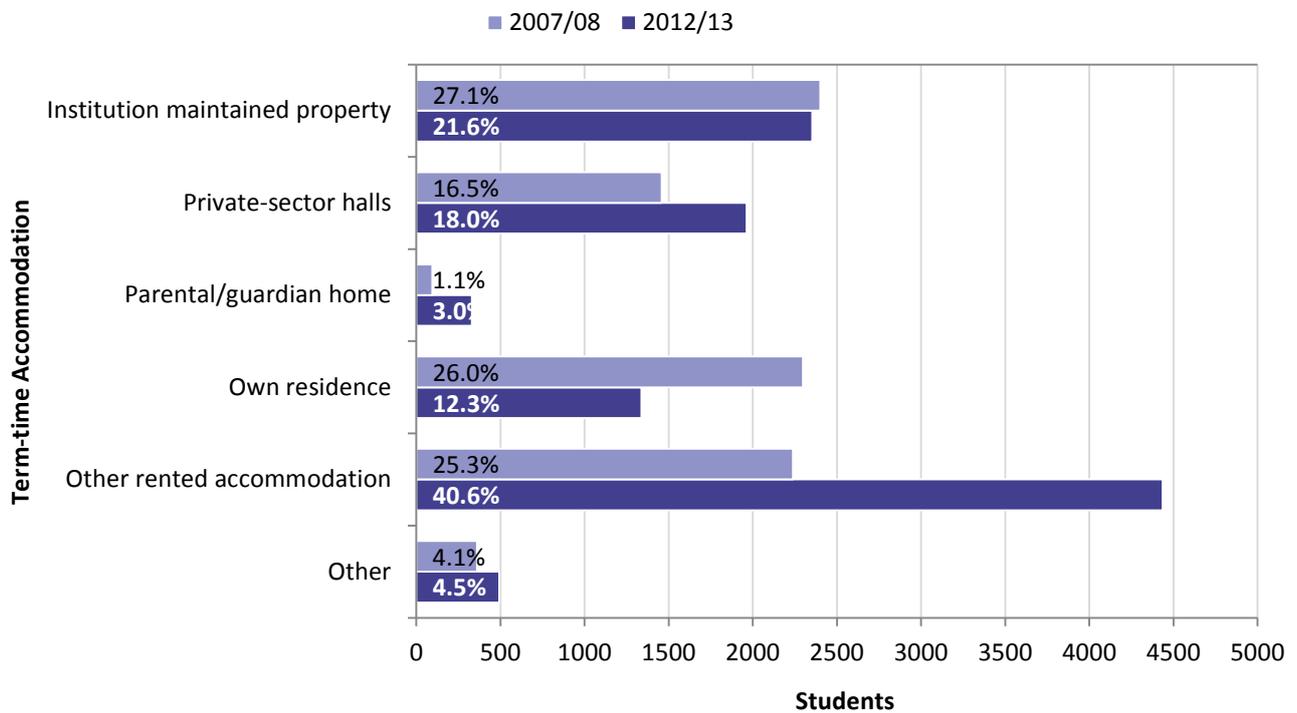
Term-time accommodation	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
Institution maintained property	+21	-47	+885	-469	+477	-279
Private-sector halls	+264	+197	-157	+119	-80	+405
Parental/guardian home	+172	+80	+189	-433	+291	+144
Own residence	-389	+784	+512	+744	-2,242	+1,491
Other rented accommodation	+44	+901	+849	-2,404	+1,890	-583
Other	-16	-8	+268	-174	+539	-69
Unknown / not in attendance	-155	+139	-137	+11	0	-10
<b>Total full-time and sandwich</b>	<b>1,016</b>	<b>2,329</b>	<b>3,436</b>	<b>-3,988</b>	<b>621</b>	<b>1,164</b>



## CEREDIGION

Ceredigion Term Time Accommodation for Full-time and Sandwich Students: Change from 2007/08 baseline

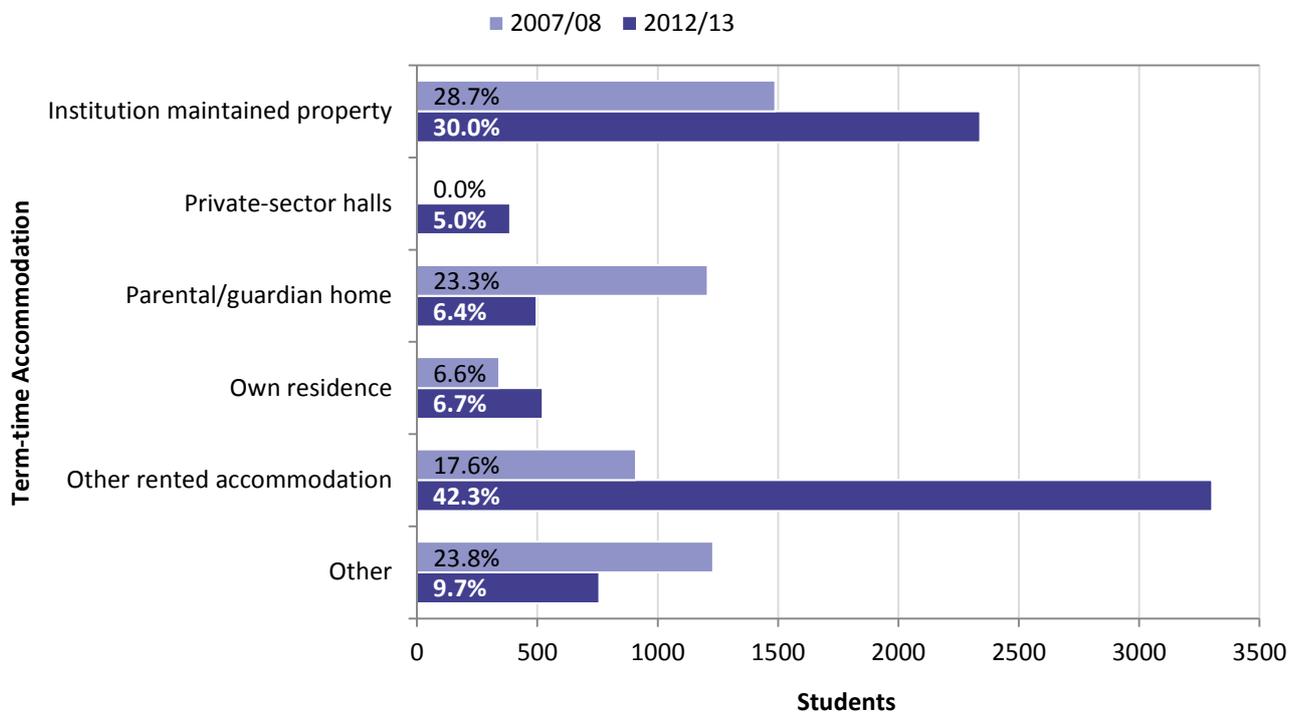
Term-time accommodation	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
Institution maintained property	+176	-209	-181	+276	-111	-216
Private-sector halls	+247	+250	-10	+256	-238	-147
Parental/guardian home	+17	+112	+59	+4	+42	-85
Own residence	+1,458	-1,631	-519	-201	-66	+59
Other rented accommodation	-1,672	+2,074	+759	+767	+270	-137
Other	-21	+136	-22	-8	+85	+80
Unknown / not in attendance	-52	-5	-8	+4	-7	+5
<b>Total full-time and sandwich</b>	<b>244</b>	<b>673</b>	<b>182</b>	<b>1,094</b>	<b>-132</b>	<b>-461</b>



## GWYNEDD

Gwynedd Term Time Accommodation for Full-time and Sandwich Students: Change from 2007/08 baseline

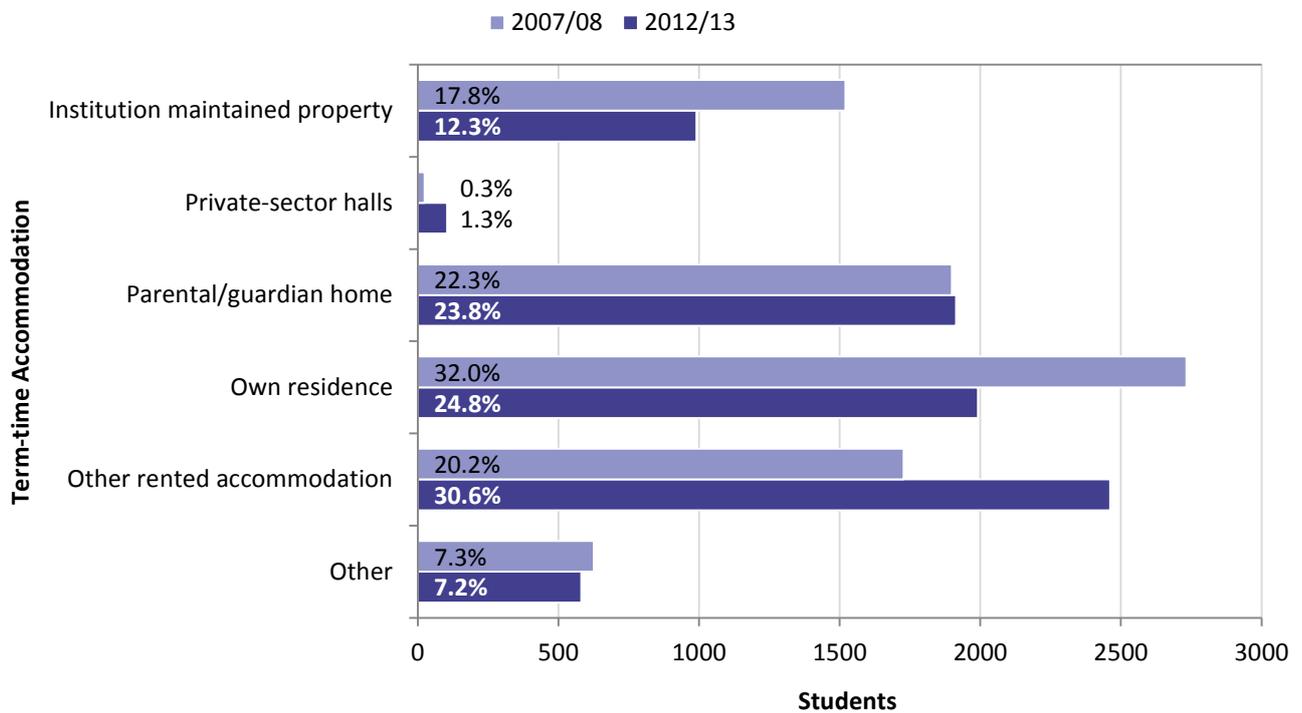
Term-time accommodation	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
Institution maintained property	-685	+2,188	+711	-1,182	-180	-69
Private-sector halls	+80	-10	+132	+102	+82	+44
Parental/guardian home	-1,051	+109	+302	-91	+20	+15
Own residence	+122	-22	+399	-231	-87	+170
Other rented accommodation	+613	-856	1,709	+1,164	-237	-229
Other	+22	-5	+51	+5	+29	+13
Unknown / not in attendance	-107	-2	-2	+2	+3	-3
<b>Total full-time and sandwich</b>	<b>-225</b>	<b>1,422</b>	<b>1,938</b>	<b>-35</b>	<b>-473</b>	<b>-106</b>



## RHONDDA CYNON TAFF

Rhondda Cynon Taf Term Time Accommodation for Full-time and Sandwich Students: Change from 2007/08 baseline

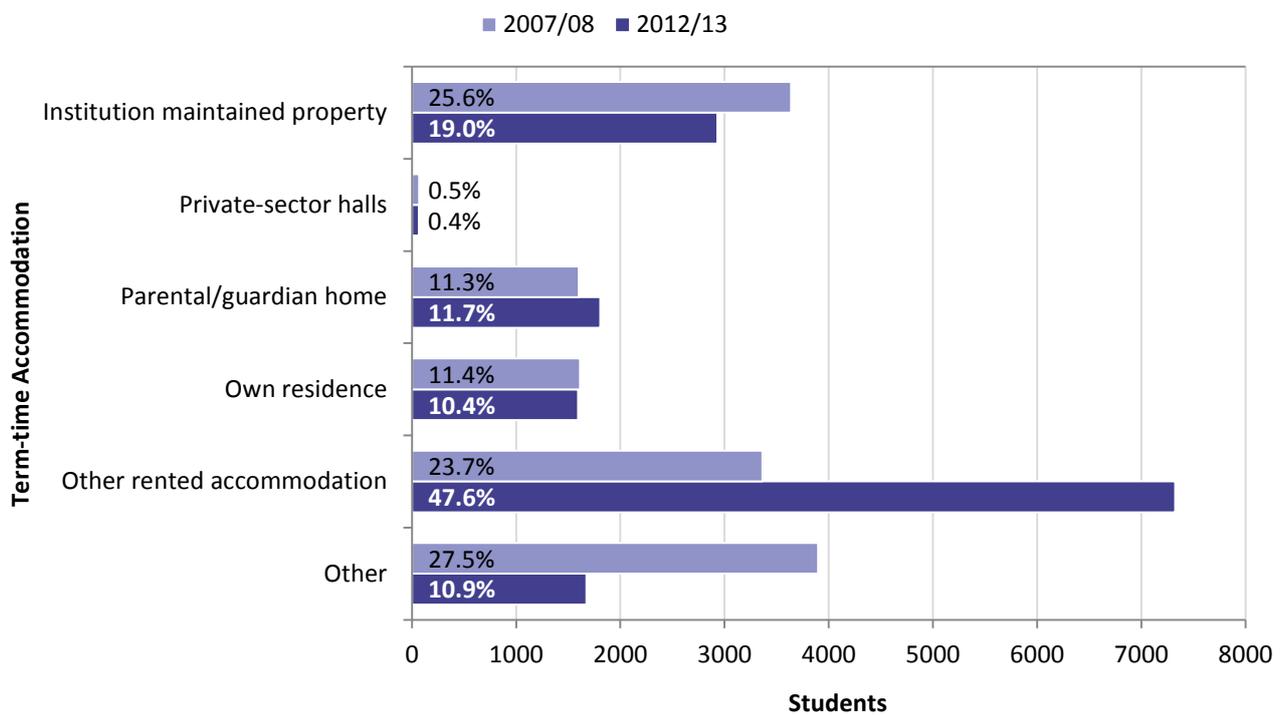
Term-time accommodation	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
Institution maintained property	+324	-546	-661	+427	-74	+298
Private-sector halls	-2	+9	+34	+20	+20	+39
Parental/guardian home	-168	+132	-56	+19	+88	+96
Own residence	-519	+183	+179	+505	-1,089	-2
Other rented accommodation	+59	+191	-106	-74	+665	-167
Other	-11	+34	+3	+43	+97	+54
Unknown / not in attendance	-212	-10	-5	-8	-22	0
<b>Total full-time and sandwich</b>	<b>-308</b>	<b>-128</b>	<b>-446</b>	<b>835</b>	<b>-438</b>	<b>344</b>



## SWANSEA

Swansea Term Time Accommodation for Full-time and Sandwich Students: Change from 2007/08 baseline

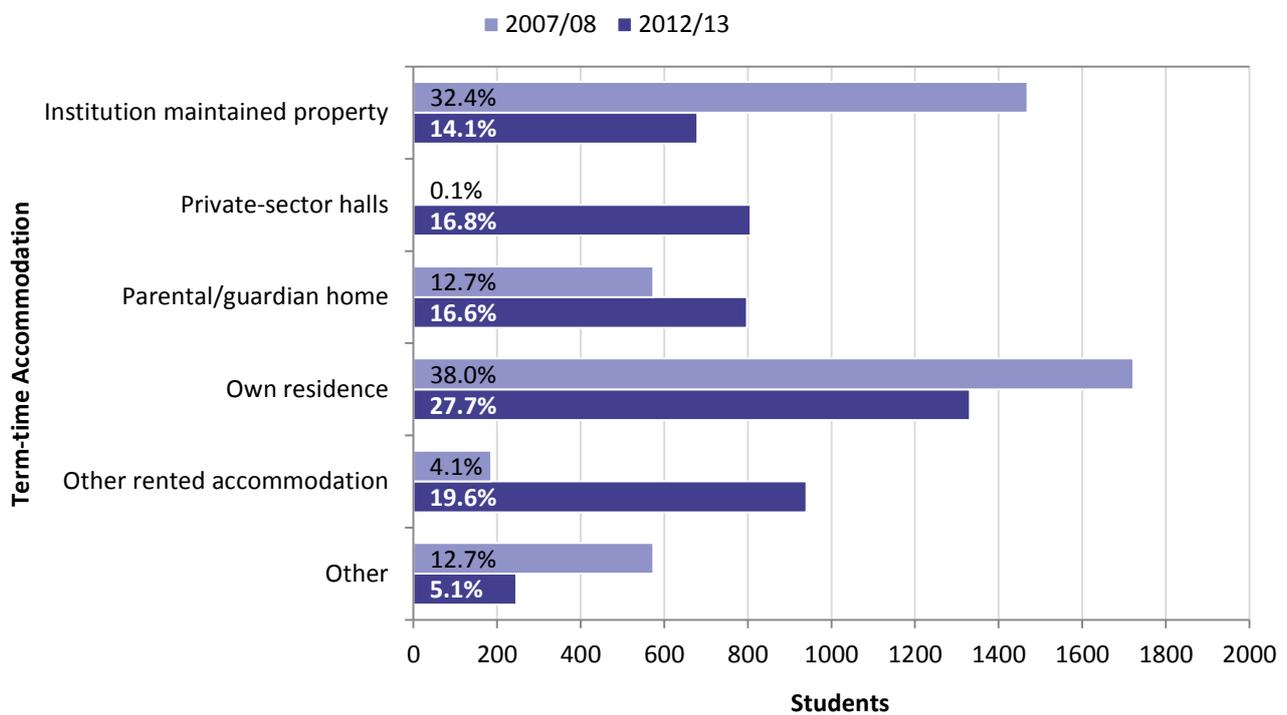
Term-time accommodation	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
Institution maintained property	+83	-496	-88	-23	-183	+884
Private-sector halls	-27	+9	+8	+15	-8	+59
Parental/guardian home	+134	+239	-135	-166	+136	-117
Own residence	-266	+704	-316	+21	-161	+105
Other rented accommodation	+1,642	+1,613	+778	-16	-57	-2,375
Other	-1,514	-486	-161	-15	+45	+2,499
Unknown / not in attendance	-135	-1	-7	-4	-12	1
<b>Total full-time and sandwich</b>	<b>655</b>	<b>837</b>	<b>155</b>	<b>-56</b>	<b>-374</b>	<b>425</b>



## WREXHAM

Wrexham Term Time Accommodation for Full-time and Sandwich Students: Change from 2007/08 baseline

Term-time accommodation	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
Institution maintained property	-342	-308	-116	+125	-149	-79
Private-sector halls	+379	+42	+54	+287	+40	-78
Parental/guardian home	-33	+129	+95	-23	+56	-14
Own residence	-576	+30	+107	+22	+26	+58
Other rented accommodation	+1,166	+280	+277	-631	-338	-186
Other	-68	+75	-43	-16	-20	+5
Unknown / not in attendance	-6	+1	+2	-1	-1	0
<b>Total full-time and sandwich</b>	<b>421</b>	<b>218</b>	<b>332</b>	<b>-246</b>	<b>-454</b>	<b>-316</b>



# Appendix D

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# Appendix E

## Local Authority Questionnaire

Local Authority:

Date of Interview:

Lead Officer Name:

Designation/ Department:

Telephone No:

Email address:

Aspect: Env Health / Planning / Street Scene / Highways / Other specify .....

Officer Name:

Designation/ Department:

Telephone No:

Email address:

Aspect: Env Health / Planning / Street Scene / Highways / Other specify

### **Questions**

To what extent are concentrations of HMOs present in your local authority and are there any difficulties or benefits associated with such concentrations? – If yes, please describe the nature and extent of any such issues, including social impact, environmental and physical impact and economic impact

- Approx. total number HMOs in local authority area
- Approx. number mandatory HMOs in local authority area
- Number additional licensing HMOs in local authority area
- Specify wards where they suffer from concentrations of HMOs
  - Approx. number/percentage mandatory HMOs in relevant wards/areas
  - Approx. number/percentage additional licensing HMOs in relevant wards/areas
  - Indication of percentage HMOs in relevant wards/areas

Has the local authority undertaken any research on the current and future demand for HMOs in their area and is this reflected in their current policies

Are there any established resident groups within the HMO area i.e Police and Communities Together (Pact)

Is the local authority concerned mainly with issues stemming from the concentration of HMOs or from the management of individual HMOs or a combination of both?

Has the local authority introduced additional HMO licensing or selective licensing and has this had an impact in respect of HMOs?

What measures has the local authority or other agencies (in particular educational institutions, police, voluntary groups or local authority agencies) introduced to try to deal with HMO concentrations and the associated problems?

Have these measures been successful and how have these been measured?

Looking at the role of each local authority department have they either used or considered the following measures?

### **Environmental Health/ Private Sector Housing**

Do they operate a landlord accreditation scheme?

If HMO additional / selective licensing scheme introduced (whole district or certain wards only)?

HMO mandatory / additional / selective licensing tend to deal with property condition, standards and management rather than concentration. Since their introduction:

- Have they seen a reduction in HMOs in the area
- Has it led to unsatisfactory landlords leaving the area and/or authority?
- Has it improved the condition of the properties and are they better managed?
- Do you think the existing criteria for additional / selective licensing is appropriate?

What Conditions do the local authority typically attach to their HMO license?

- Tenants sign a declaration that they understand their responsibilities concerning rubbish, noise
- Require landlords to have effective management system in place to deal with complaints
- Provide the contact details of the landlord
- Provide adequate bin storage for the property
- Comply with the management regulations and ensure external of property maintained.

### **Planning**

Has the local authority adopted (or considered adopting) any planning policies specifically targeted at the issue of HMO concentration? If yes:

- (a) Please give details of the policy and how it is implemented
- (b) How long has this been in operation?
- (c) What has been the impact?
- (d) Has the policy been regarded as successful?

Does the local authority use Section 215 Town & Country Planning Act 1990?

Has the local authority introduced any policies to control the proliferation of letting boards?

Do you believe that the current Planning controls are adequate to meet the needs of the local authority in dealing with high concentrations of HMOs.

### **Street Scene / Refuse**

Has the local authority adopted any of the following? If yes, please give details:

- Designated Public Places Order
- Fly Posting Initiative
- Targeted cleaning including Graffiti
- Flyer Control Zone
- Skips at the end of the academic year or free or low cost bulk collection by local authority
- Fixed Penalty Notices under the Environmental Protection Act 1990

### **Highways / Parking**

Has the local authority adopted any of the following? If yes, please give details:

- Residents parking
- Increased public transport
- Free Bike Use

### **Non Statutory Options (Street Level initiatives)**

#### **University / HEI and Student Unions**

Is there active collaboration working between the local authority, private sector, residents and community groups, the police or other stake holders?

Are any of the following initiatives in operation?

- University Accommodation and housing strategies:
- Student/Community Liaison Officers
- Neighbourhood help lines
- Anti-social behaviour – disciplinary Procedures
- Landlord Accreditation scheme
- University Letting Agent / Housing Awareness Week
- Town & Gown Initiatives
- Student Unions Initiatives

### **Police / Community Safety**

- Target Walk Safe Scheme

- Advice on theft from properties
- Alcohol Toolkit
- Anti-social Behaviour, Crime and Policing Act 2014

### Overall Position

Do you think the legislation or controls available to the local authority and other agencies are adequate to restrict further growth in HMO concentration in your area?

Do you think the legislation or controls available to the local authority and other agencies are adequate to resolve the problems associated with HMO concentrations in the existing area

Do you want to make any additional comments?