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Consultation Document

**Designation of Licensing authority
under Part 1 of the Housing (Wales)
Act 2014 and the intention of the training
regulations which will govern the training
requirements of landlords and agents**

Date of issue: **19 December 2014**

Action required: Responses by **6 February 2015**

Overview

This consultation is to gather views on the designation of a single licensing authority for the whole of Wales to manage the registration of private rented sector properties and the licensing of landlords and agents who let and manage properties under Part 1 of the Housing (Wales) Act 2014.

It also seeks views on the requirement of the designated licensing authority to stipulate the training requirements necessary for a licence for landlords and agents licensed under the Act and to be given the power to approve trainers and training courses.

How to respond

Please respond by completing the questionnaire at the back of this document and sending it to Privatesectorhousingmailbox@wales.gsi.gov.uk

Or

Private Sector Housing Team
Housing Policy
Welsh Government
Rhydycar Business Park
Merthyr Tydfil
CF48 1UZ

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

More details about the Act can be found on the Welsh Government website:

www.wales.gov.uk/legislation/programme/assemblybills/housing/?lang=en

www.wales.gov.uk/legislation/programme/assemblybills/housing/?lang=cy

Also additional information about the Act, including amendments laid by the Government and other Assembly members throughout the scrutiny process, can be found on the National Assembly website:

www.senedd.assemblywales.org/mgIssueHistoryHome.aspx?Ild=8220

Contact details

For further information:

Private Sector Housing Team
Housing Policy
Welsh Government
Rhydycar Business Park
Merthyr Tydfil CF48 1UZ

Email: Privatesectorhousingmailbox@wales.gsi.gov.uk

Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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Summary

The Housing (Wales) Act 2014 was passed by the National Assembly for Wales in July 2014 and received Royal Assent on 17 September 2014. Part 1 of the Act introduces a mandatory registration scheme for private landlords and a requirement for private landlords and letting agents to be licensed if they let or manage properties. Part 1 allows for Welsh Ministers through subordinate legislation to:

- Designate a licensing authority or authorities.
- Authorise the designated licensing authority/authorities to specify requirements in relation to the training of licenced landlords and agents.
- Authorise the designated licensing authority/authorities to authorise persons to carry out the required training.

The purpose of this consultation is to seek views on the intention to appoint a single licensing authority for Wales, and for that authority to be Cardiff Council. It also seeks views on the intention for the licensing authority to specify the core syllabus for courses for landlords and agents, and for the licensing authority to authorise providers to deliver such training courses.

Consultation responses

Your views are welcomed and a response form is provided at the back of this document. The questions ask for your views on the intention to create Regulations which will designate a single licensing authority and give that authority the power to authorise training providers and course content for landlord and agent training.

Introduction

Housing (Wales) Act 2014

The National Assembly for Wales passed the Housing (Wales) Act 2014 in July 2014 and Royal Assent was granted in September 2014. Part 1 of the Act relates to the regulation of private rented housing. The intention of the legislation is to improve standards of letting and management in the private rented sector and raise awareness of the respective rights and responsibilities of landlords, agents and tenants.

The main features of Part 1 of the Act are:

- All private landlords must register themselves and the addresses of their rental properties in Wales with a designated licensing authority.
- Landlords who undertake defined letting or property management activities at a rental property in Wales must become licensed. If a landlord instructs an agent to do such work on their behalf, it is the agent who must become licensed.
- In order to get a licence a person must either be, or become, adequately trained and deemed a 'fit and proper' person by the licensing authority.
- The licensing authority/authorities and individual local authorities where rental properties are located will be responsible for any necessary enforcement action against non compliance.
- The licensing scheme will replace the existing voluntary 'Landlord Accreditation Wales' scheme currently administered by Cardiff Council.
- The licensing authority/authorities will establish a comprehensive database of all private landlords and agents that operate in the sector.

Legislative Background

Designating a Licensing Authority

Under Section 3, Part 1 of the Housing (Wales) Act 2014 Welsh Ministers must:

- designate one person as the licensing authority for the whole of Wales;
- or designate different persons as licensing authorities for different areas of Wales.

The designated licensing authority/authorities will manage the registration scheme for landlords and the licensing scheme for landlords, and letting and management agents who operate in the private rented sector in Wales.

The licensing authority/authorities must establish and maintain a register of landlords and properties and a register of licensed landlords and agents.

Licensing Authority Training Requirements

Under Section 19, Part 1 of the Housing (Wales) Act 2014 before a licensing authority grants a license the requirements in relation to training specified in or under regulations made by Welsh Ministers must, or will be met.

Welsh Ministers may, among other things, authorise a licensing authority/authorities to specify requirements in relation to training in respect of:

- The statutory obligations of a landlord and tenant
- The contractual relationship between a landlord and a tenant
- The role of an agent who carries out letting work or property management work
- Best practice in letting and management dwellings, subject to, marketed, or offered for let, under a domestic tenancy

Welsh Ministers may also make provision for the licensing authority to:

- Authorise persons to carry out training courses
- Approve training courses

Welsh Ministers may make provision for the licensing authority/authorities to charge a fee for authorisation or approval of an application for approval of training courses and providers.

Requirement for a landlord to be registered

A landlord of a property offered to let under a domestic tenancy (as defined under Section 2, Part 1 of the Act) must be registered in respect of that property, subject to the exceptions in section 5 of the Act.

Requirement for landlords to be licensed to carry out letting and management activities

Once registered, if a landlord of a property, let under a domestic tenancy, carries out certain letting or management functions they must be licensed to do so, subject to the exceptions in section 8 of the Act. Such functions are:

- Arrange or conduct viewings with prospective tenants
- Gathering evidence for the purpose of establishing the suitability of prospective tenants e.g. confirming character references. Undertaking credit checks, interviewing prospective tenants
- Preparing or arranging the preparation of a tenancy agreement
- Preparing, or arranging the preparation of an inventory for the property
- Collecting rent
- Being the principle point of contact for the tenant in relation to matters arising under the tenancy
- Making arrangements with a person to carry out repairs or maintenance
- Making arrangements with a tenant or occupier of the property to secure access to the property for any purpose
- Checking the contents or conditions of the property, or arranging for them to be checked
- Serving notice to terminate a tenancy.

Requirements for agents to be licensed to carry out letting and management work

A person acting on behalf of a landlord of a property, let under a domestic tenancy, must be licensed to carry out letting and management work, subject to the rules in sections 10 and 11 of the Act. Such work activities are:

- Finding a tenant
- Issuing a tenancy agreement
- Collecting rent
- Being the principle point of contact for the tenant in relation to matters arising under the tenancy
- Making arrangements with a person to carry out repairs or maintenance
- Making arrangements with a tenant or occupier of the property to secure access to the property for any purpose
- Checking the contents or conditions of the property, or arranging for them to be checked
- Serving notice to terminate a tenancy.

Licence Applications

A licence may be granted subject to conditions set by the licensing authority/authorities. Before granting a licence the licensing authority/authorities must be satisfied the applicant is a 'fit and proper' person and has met, or will meet, the necessary training requirements. .

Licences will last for 5 years and must then be renewed if the licensee wishes to continue to be licensed. The licensing authority can charge a fee for the licence and any renewal.

Next Steps

To enable Part 1 of the Housing Act (Wales) 2014 to come into force the Welsh Government must designate a licencing authority/authorities. It must also make regulations in relation to the power of the licencing authority/authorities to stipulate the training requirements necessary for licences to be granted.

This consultation paper seeks views on the policy intention of the designation order and the training regulations.

Designation of a licensing Authority

It is the intention that a Designation Order will specify that there is to be one licensing authority for the whole of Wales and this will be Cardiff City Council.

Licensing Authority Training Requirements

It is the intention of the Private Rented Housing (Licensing Authority Training Requirements) (Wales) Regulations 2015 to require different courses for landlords and agents to reflect the differing requirements of their roles. The intention is for broad areas of training to be stipulated in regulations but the specific course content within these areas will be a matter for the licensing authority to determine and publish. It is also the intention that the licensing authority will be given the power to approve training courses and course providers and to charge a fee for this approval.

Response Form

Name:	<input type="text"/>
Email:	<input type="text"/>
Telephone:	<input type="text"/>
Address:	<input type="text"/>
Postcode:	<input type="text"/>
Organisation (if applicable)	<input type="text"/>

Returning this form

The closing date for replies is **6 February 2015**

Please send this completed form to us by email to:

Privatesectorhousingmailbox@wales.qsi.gov.uk

Or by post to:

Private Rented Sector
Housing Policy
Welsh Government
Rhydycar Business Park
Merthyr Tydfil
CF48 1UZ

If you are sending your response by email, please mark the subject of your e-mail **Designation Order and Training Regulations Consultation**

Publication of responses

Responses to consultations may be made public – on the internet or in a report. Normally the name and address (or part of the address) of its author will be published along with the response, as this helps to show the consultation exercise was carried out properly.

If you would prefer your name and address not to be published, please tick here:	<input type="checkbox"/>	<input type="checkbox"/>
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Designation of Licensing Authority

The intention of the Designation Order is to appoint a single licensing authority for the whole of Wales to manage the registration and licensing scheme for landlords and letting agents. It is felt that appointing a single licensing authority will be beneficial for the following reasons:

- Cost effectiveness of operating a single database and website (as opposed to operating one in each local authority area)
- The requirement for landlords and agents to only have to register once and only pay one fee (rather than multiple times if they have properties in more than one authority area)
- Consistency in the service provided and the interpretation and application of the legislation set out in the Act
- A single central database for data collection (rather than a landlord having to have numerous registrations to reflect properties in different areas.)
- Cost benefits and marketing benefits of promoting a single “national” registration and licensing scheme.

1. Do you agree that the Welsh Government should appoint a single licensing authority for the whole of Wales?

Yes
No

If not, why not?

It is the intention for the single licensing authority to be Cardiff Council. During the development of the Housing (Wales) Bill, Cardiff Council confirmed its offer to manage the registration and licensing scheme for landlords and letting agents. Due to Cardiff Council’s experience of administering the current voluntary Landlord Accreditation Scheme for all 22 local authorities in Wales it is felt they have the knowledge and experience necessary to implement the new legal regime.

2. Do you agree that the single licensing authority appointed should be Cardiff Council?

Yes
No

If not, why not?

Training Requirements

Before granting a licence the licensing authority must be satisfied that the relevant training requirements are met, or will be met.

It is the intention that the designated Licensing Authority will determine and publish the specific core syllabuses for training courses so that course content can be updated when necessary to reflect changes in legislation and best practice.

Training regulations will though, stipulate that the content of the specific course syllabuses must relate to one of the following:

1. The statutory obligations of a landlord and tenant
2. The contractual relationship between a landlord and a tenant
3. The role of an agent who carries out letting work or property management work
4. Best practice in letting and management dwellings, subject to, marketed, or offered for let, under a domestic tenancy
5. Roles and responsibilities in respect to letting work or property management work.

3. Do you agree that all 5 broad subject areas noted above should be specified in the training regulations ?

Yes
No

If not, which of the 5 should not be included in the training and why not?

4. Do you consider any other broad subject areas should be included in the training regulations as statutory requirements in a training course?

Yes
No

If not, what also needs to be included and why?

Approved training courses will primarily cover the roles and responsibilities of a landlord or agent in relation to the tenant and their legal obligations. The policy intention is for these regulations to require different courses for different persons to reflect the differing requirements of their roles. The intention is that it will be for the designated Licensing Authority to determine and publish the required core syllabuses for each of the required courses and make clear who the course is appropriate for. As there are differences in these between landlords and agents it is intended that the regulations will require the licensing authority to develop different core requirements for the courses to reflect the differing requirements of the role of landlord and agent.

5. Do you agree that the licensing authority should stipulate the core training content of courses for landlord and agent should be different?

Yes
No

If not, why not?

It is also the intention that in order to receive approval/authorisation, training providers must apply, submitting the required details of their training courses, to the licensing authority for approval. An application to the licensing authority for authorisation to deliver training courses must be made in line with licensing authority guidelines.

For example, a training provider creates a one day landlord course and a one day agent course. For approval to deliver the landlord course they would approach the Licensing Authority and submit an application for approval (and pay one fee). For approval to deliver the agent course they would be required to submit a separate application for approval (and fee). It would not be appropriate to approve only a training course or only a person to run a course in isolation; it will be necessary to consider and approve them both as a whole.

This formal approval requirement will ensure that landlords and agents who wish to become licensed can readily identify suitable training courses that will be recognised by the Licensing Authority as being of the required standard.

6. Do you agree that the licensing authority should approve/authorise training courses and training providers to deliver training?

Yes
No

If not, why not?

Authorisation may be refused if the applicant fails to meet the requirements set by the local authority, or if the application is not made in the appropriate form. Where a licensing authority decides to refuse an application the decision should be given in writing and the applicant will have the right to make written representations to the Licensing Authority if they wish.

7. Do you agree that the Licensing Authority should provide reasons for their decision and that applicants should have the right to make written representations if they so wish?

Yes
No

If not, why not?

It is the intention that the licensing authority will have the power to withdraw authorisation of a training provider for the following reasons:

- If the provider has failed to observe a condition imposed on their authorisation by the licensing authority
- Ceased to be an appropriate provider

The licensing authority will have to provide, in writing, the reason for the withdrawal of authorisation and the training provider will have the right to make written representations to the Licensing Authority against such a decision.

8. Do you agree that the licensing authority should have the power to withdraw the authorisation of a provider to deliver a training course in these circumstances?

Yes
No

If not, why not?

9. Do you agree that the Licensing Authority should provide reasons for such a decision and that the training provider should be able to make written representations against such a decision?

Yes
No

If not, why not?

Fees

It is the intention that the licensing authority will be able to set a fees policy for approval of training courses and training providers. The intention is that before charging any fee, the licensing authority must prepare and publish a fees policy and will only be able to charge such fees in line with their fee policy. The licensing authority may fix different fees for different cases or descriptions of cases but these must be clearly shown in their policy.

10. Should the licensing authority be required to prepare and publish a fees policy before being able to charge a fee to approve a training course and a course provider?

Yes
No

If not, why not?