



Llywodraeth Cymru
Welsh Government

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Welsh Government
Consultation – summary of responses

Renting Homes (Wales) Act 2016

Renting Homes (Wales) Act 2016: improving security of tenure by
increasing the period of notice

November 2022

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

Overview

This document summarises the responses to the consultation on Renting Homes (Wales) Act 2016: improving security of tenure by increasing the period of notice

Action Required

This document is for information only.

Further information and related documents

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

Contact details

For further information:

Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Email: Rentinghomes@gov.wales

Additional copies

This summary of response and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website.

Link to the consultation documentation: <https://gov.wales/renting-homes-wales-act-2016-improving-security-tenure-increasing-period-notice>

Introduction

This consultation sought to gather views on the following proposal relating to converted periodic standard occupation contracts:

- that the minimum period of notice given when a landlord's notice is issued under section 173 of the Renting Homes (Wales) Act 2016 ('the 2016 Act') is increased from two months to six months
- that this proposed increase takes effect six months after the 2016 Act is brought into force on 1 December 2022

A converted periodic standard contract is one that converts from an existing periodic assured shorthold tenancy (AST) or licence when the 2016 Act comes into force. The proposed change would align the minimum notice period required in relation to converted contracts with that applying to new periodic standard contracts that are agreed on or after 1 December.

The consultation ran from 20 September until 24 October and consisted of a consultation document published online, which described the proposal, set out rationale for it and invited responses to a series of questions. The consultation document was drawn to the attention of a wide audience of key stakeholders including private landlord representative groups, social landlords, tenant representative groups and housing charities. Separate, on-line consultation events were held for landlords and tenants and the consultation was flagged in national media. Private landlords were alerted to the consultation by a direct email issued by Rent Smart Wales.

Responses Summary

This document summarises the responses to the six consultation questions. Whilst it cannot capture every comment, it tries to convey the key messages. Several matters were raised that did not have a direct bearing on the subject of the consultation. We have noted these matters but not considered them in any detail within this summary. Most consultation responses were received from people or organisations based in Wales.

The Welsh Government received 1409 responses to the consultation. Individuals could submit their responses by online questionnaire, email or post. 1380 were received via the online platform.

The vast majority of responses were from private landlords or letting/management agents (1277) with far fewer from tenants (77). Amongst the others who responded, there were both landlord and tenant representative bodies, local authorities, charities, housing lawyers and the Property Ombudsman.

The breakdown by sector was as follows¹:

¹ As some respondents fell into more than one category, this breakdown is only approximate.

Private landlords	1200
Tenants	77
Representative Bodies	11
Local Authorities	6
Letting/Management Agents	77
Other/not declared	38

Key Findings

Landlords, property agents and their representative bodies were overwhelmingly opposed to the proposal set out in the consultation. Most felt that it would have a negative and unfair impact on the interests of landlords, with many considering that this would have a detrimental impact on the private rented sector. On the other hand, tenants and those organisations representing their interests overwhelmingly supported the proposal because of the greater security it was considered to provide to tenants. However, many of those supporting the proposal wanted the change to be implemented earlier, on 1 December, rather than on 1 June 2023 as proposed.

Overall, because most responses were from landlords, a large majority of the respondents were opposed to the proposal

Responses to individual consultation questions

The content of responses varied greatly, though most respondents addressed the majority of the key policy questions asked in the consultation. Some respondents gave very detailed replies, for which we are grateful. Whilst it is not possible to reflect fully all matters raised, the key themes raised in response to each question are summarised.

Question 1 – *Are you a:*

Tenant
Landlord
Letting / Management Agent
Representative Body
Local Authority
Other (please state)

Of the respondents, approximately:

1200 were landlords
77 were tenants
77 were letting / management agents
11 were representative bodies
6 were local authorities
38 were from other categories or did not say

Welsh Government response to Question 1

The Welsh Government notes the high level of engagement in the consultation from landlords and letting/management agents. In addition, we note there was a significant level of response from a wide range of representative bodies and interested organisations that provided a useful range of views. Tenants were relatively unrepresented amongst the responses reflecting the greater difficulty there is in reaching this group, particularly those in the private rented sector.

Question 2 – *In the case of converted periodic standard contracts, do you support increasing the notice period required under section 173 of the 2016 Act from two months to six months?*

Of the responses received, around:

17% answered 'yes'
81% answered 'no'
2% answered don't know

Welsh Government response to Question 2

The Welsh Government notes that a very large majority of respondents were opposed to the proposal. Nearly all of those opposed were landlords, letting/management agents and their representatives. Tenant respondents and those organisations representing their interest were overwhelmingly in favour of the increasing the notice period.

Question 3 – *If ‘yes’ to Q2, when do you think this change should take effect?*

- a) As soon as Renting Homes (Wales) Act 2016 comes into force*
- b) 6 months after the 1 December implementation date*
- c) Other (please specify)*

Of the responses received, around:

46% answered ‘As soon as Renting Homes (Wales) Act 2016 comes into force’
31% answered 6 months after the 1 December implementation date
23% answered Other

Welsh Government response to Question 3

The Welsh Government notes that because this question was only intended to be answered to those respondents who supported the proposal, only a minority of respondents replied to it and that most of these were tenants or those representing their interests. Of these, a plurality favoured the change coming into force on 1 December rather than on 1 June as was proposed. A number of responses called for the extended notice period to come into force at a later date – 12 months or two years after implementation of the 2016 Act. A number of responses incorrectly answered the question and used the text box to disagree with the proposal.

Question 4 – *If you are a tenant and have answered ‘yes’ to Q2, which of the following benefits below are most important to you?*

- a) Increased confidence and feeling of wellbeing*
- b) Added security as a result of having six rather than two months to find alternative accommodation*
- c) Greater likelihood of being able to find alternative accommodation within the same community or area*
- d) More time to save up for a move (e.g. deposit or future rent)*
- e) Other (please specify)*

The responses were split as follows:

12% - Increased confidence and feeling of wellbeing

48% - Added security as a result of having six rather than two months to find alternative accommodation

14% - Greater likelihood of being able to find alternative accommodation within the same community or area

6% - More time to save up for a move (e.g. deposit or future rent)

20% - Other

Welsh Government response to Questions 4

Of the responses received (99), the added security as a result of having six rather than two months to find alternative accommodation was the most frequently chosen option. However, the Welsh Government notes that one of the comments within the “other” option highlighted that the reasons listed were all valid and are inseparable from one other.

Question 5. *If you are a landlord and have answered ‘no’ to Q2, which of the following are most important you:*

- a) Easier / quicker to gain possession of property*
- b) Short term rental is preferred*
- c) Other (please specify)*

The responses were split as follows:

70% - easier / quicker to gain possession of property

9% - short term rental is preferred

21% - other (please specify)

Welsh Government response to Questions 5

Over 1000 respondents replied to his question. Of these a substantial majority indicated that a two-month notice period was important as it made it easier and quicker for a landlord to gain possession of their property. However, a large range of related reasons were given by those who chose the ‘other’ option. For example, the timescale is too long given a landlord’s circumstances may change at any time due to bereavement, redundancy, etc. or that in order to sell a property, a landlord needs vacant possession but no one will wait six months between contract exchange and completion.

Question 6: *Please provide any further thoughts on the proposals set out in this consultation including the impact that the current 2 month notice period has had on you as a landlord or tenant, positively or negatively.*

Nearly 1000 respondents provided comments in response to this question. Whilst it is not possible to include the responses in full, a summary is provided below. This summary also includes those who provided more detailed responses in answering questions 2 -5.

The responses contained contrasting views on the proposal.

Although there was some support for the proposal from landlords and letting agents, the vast majority were opposed. Most of those opposed to the proposal said that a two-month existing notice period made it easier and quicker to regain possession of a property and many were concerned that increased notice periods would result in longer periods over which rent went unpaid, or anti-social behaviour occurred etc. Many consultees suggested that the proposal would encourage landlords to leave the private sector and felt that this would exacerbate issues stemming from an undersupply of homes for rent (including the number of people in temporary accommodation – and a further expansion in demand for such accommodation) and might also lead to increases in the cost of renting. There were also concerns expressed about the impact on the justice system if an increase in possession claims were to occur. In its response, the National Residential Landlords Association (NRLA) concluded ‘that a combination of further regulation on the PRS and pressures on the court system will increase the likelihood of landlords exiting the PRS and raise costs on the courts’. It argued that ‘at this late stage, it would be inappropriate to introduce further changes to the Renting Homes Wales legislation. The legislative framework is weeks away from introduction and both landlords and tenants would benefit from an extended period where the initial legislation can be assessed before further rounds of changes are introduced’.

Some landlords, whilst accepting that longer notice periods should apply to new contracts, thought that it was wrong in principle to alter the terms of existing tenancies. The NRLA, for example, said that it did ‘not believe it is appropriate to set a time limit on using the shorter converted contract notices. In the NRLA’s view, ‘the original terms should, as far as is, possible remain the same until either a new contract is agreed or the agreement is brought to an end’. However, overwhelmingly, those opposed to the proposal disagreed with the principle of removing two-month notice periods for reasons that would apply equally in relation to both new and converted contracts.

Of the tenants and tenant representatives who responded, most were in favour of the proposal to increase notice periods, the most common reason being that this provided added security as a result of having more time to find alternative accommodation. Shelter Cymru, for example, noted that longer notice periods allow ‘more time to find alternative accommodation locally in our pressurised housing market, for moves to be planned and disruption to family life and finances to be minimised’. Shelter Cymru argued that ‘It is only by making this retrospective

change that the commendable objective of the Act – to give renters greater security – can be realised for the majority of tenants in Wales in a timely way’.

However, many of those in favour of the proposal wanted the change implemented when the 2016 Act came into force on 1 December, including bodies representing the interests of tenants. Shelter Cymru, for example, argued that providing landlords with six months’ notice of the change would be ‘excessive in the circumstances’ as the introduction of a six-month notice period is a key element of the 2016 Act and the ‘move to protect existing tenancies is a logical and predictable step’. It was also argued that ‘During the pandemic, landlords were given just a day’s notice of extended notice periods being implemented once the relevant regulations of the Coronavirus Act 2020 had been passed’ and on that basis challenged why a longer lead-in time was required in what it described as the ‘current national housing emergency’. Delaying implementation of the proposed change until 1 June 2023 was said to create a two-tier system with new tenants afforded far greater security. It was argued that minimising complexity is a beneficial aim for landlords and tenants.

A few consultees proposed that implementation of the change should take place at a later date (e.g. between one and four years after the 2016 Act comes into force) in order to allow a gradual transition to longer notice periods.

Welsh Government response to Question 6 and to the consultation overall

The Welsh Government is very grateful to everyone who gave the time and effort to respond to the consultation. We recognise that this is a matter on which there are a range of sincerely held but strongly contrasting views and that there are legitimate arguments both for and against the proposal.

We recognise the concern voiced by a considerable number of landlords and others that there are many instances where it is entirely appropriate that a landlord is able to regain possession of their property more promptly than a six-month notice would allow (many landlords referenced various breaches of contract in this context). That is why much shorter notice periods apply under the Renting Homes Act where there are rent arrears, or anti-social behaviour is taking place, or there are other breaches of contract. Given the existence of these other possession routes, the Welsh Government is not persuaded that the application of a six-month no-fault notice to periodic standard contracts is harmful to the interests of landlords to the extent that it outweighs the benefits it would bring to those contract-holders who would otherwise continue to be subject to a two-month notice. Under the current arrangements, it is likely that some years from the date of implementation, a significant number of contract-holders with a periodic standard contract would still remain subject to two-month notice periods. As the consultation document noted, this would have ‘the practical disadvantage of rendering the Renting Homes system less effective in terms of improving security of tenure for ASTs that convert, especially in the short to medium term given that the vast majority of occupation contracts will initially continue to be subject to two-month notices. It also means that for a considerable time to

come, homelessness and other support services will continue to incur pressure as a consequence of contract-holders facing no-fault evictions at relatively short notice and with little time to make alternative arrangements of their own'. It remains our strongly held view that where a contract-holder is not at fault, two months is too short a period of notice to expect them to find and move into alternative accommodation.

The Welsh Government is acutely aware of pressures that are currently being experienced by local authority homelessness services. We therefore take seriously the possibility highlighted by many respondents that further increasing the no-fault notice period may lead landlords to leave the private rented sector, thus diminishing the supply of available homes for rent whilst at the same time making current tenants liable to eviction and homelessness. However, there will be multiple factors that underly any such decision to leave the market and we think it unlikely that this particular change, bearing in mind shorter notice periods are available where there are breaches of contract, will be a critical determining factor.

Since the passing of the 2016 Act, the Welsh Government has been committed to giving at least six months' notice to the sector of its implementation in order to allow landlords to prepare for the change. Whilst we acknowledge, and to some degree accept the validity of the arguments expressed by consultees who favour in introduction of the increased notice period at the same time that the 2016 Act comes into force, in the light of the commitment we have given, we consider it important that landlords and agents are provided with appropriate notice of this change. We note, in particular, the concerns expressed that this change is being made very close to the implementation of the 2016 Act. Therefore, we think it right that the changes take effect six months after the implementation of the 2016 Act. This will also correspond with the date by which written statements of converted contracts need to be given to contract-holders.

Next steps

The Welsh Government will now bring forward regulations that seek to amend the 2016 Act so that a six-month no-fault notice period applies to converted periodic standard contract from 1 June 2023. The regulation making this amendment will be subject to approval by the Senedd.