

Equality Briefing
Renting Homes (Wales) Act 2016
and Equality Considerations
September 2016



This paper has been produced as supplement to the briefing event Tai Pawb held on the 26th September 2016. We recognise that currently there is significant additional work being undertaken in relation to Renting Homes by Welsh Government. The information in this paper refers primarily to the Act itself. Where additional work is ongoing this has been highlighted. We have also indicated our involvement with this work and how our members can be engaged.

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Background

The overall aim of the Act is to simplify current tenancy law in Wales. It has replaced several complex pieces of legislation with one, overarching, and simplified legal framework. The Act has been granted Royal Assent but an implementation is yet to be formally announced. It is envisaged this will happen in the Autumn of 2018.

Implementation

As mentioned above the implementation for the Act is likely to be Autumn 2018. The implementation will probably be accompanied by the production of following documents:

- Guidance for landlords
- Guidance for tenants/contract holders
- Model contracts (see below for more information)

It is worth knowing that:

- Existing contracts will be automatically converted on a specific date
- New contracts can be issued at a suitable point – this might be when there is an applied change to the terms

Equality Considerations: This is the biggest change to tenancy law in several generations. There is going to be a really big task ahead to ensure that your existing tenants know and understand these changes. While all existing tenancies will automatically convert on a set date – you will still need to consider how these fit in with the new model. There will be different or new elements which will impact on your tenants and we have outlined these below. It's going to be really important that you think about how you can communicate these messages to all your tenants. If you have tenant profiling information which is up to



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date this will be really useful to ensure that you communicate with your tenants in a way which is accessible to them.

There will be a communications strategy developed by Welsh Government to help you with that element, but you will likely need to think about staff training as well as your own communication strategy. We would recommend that you begin to think about a 'Renting Homes Implementation group or Lead' and begin programming this work into your plans, including meeting your staff training needs. You can contact Tai Pawb on helpline@taipawb.org to talk about how we can help you with ensuring your implementation plan fully takes into consideration the needs of people from diverse backgrounds.

Detail

Occupation Contracts and a new name for Registered Social Landlords:

The Act replaces most current tenancies and licences with **Occupation Contracts**. There are two main types of contract – one for the Private Rented Sector and one for Social Housing, anybody who isn't a private landlord is considered a **Community Landlord** (this will apply to all social housing providers).

There are two types of **Occupation Contracts**:

- Secure Contracts
- Standard Contracts

Secure Contracts – these have been based on the current Local Authority secure tenancy agreement, they are periodic. In most cases this will be the default contract type for **community landlords**. It is possible for a community landlord to issue a standard contract in limited circumstances

Standard Contracts – these are like the current Assured Shorthold Tenancy. These can be either secure or fixed term.



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Exemptions: There are some exemptions from the occupation contracts including: supported housing (there is a specific contract for this), shared ownership leases, hostels (direct access), care institutions and accommodation supplied by the armed forces – this list is not exhaustive and highlights those most likely to be of interest to you.

Equality Considerations: This is going to be a huge change for your tenants/residents. They may need time and help to adjust to the new language. When you write to people in the coming months it will be important to make sure that people understand what the term **occupation contract** refers to. This will be particularly important from a housing management perspective when you are enforcing terms of the new occupation contract.

Where a community landlord is deciding not to use the default secure contract we would recommend that records are kept in relation to the circumstances and reasoning for this.

Written Statements

The Act places an obligation on the landlord to provide the contract holder a **written statement of contract**. This must be provided no more than 14 days from the day the contract-holder is allowed to live in the property. The date from which the contract holder can live in the property is called the **occupation date**.

Model Contracts:

To help with the contracts the Welsh Government will be providing free to access model contracts. You will not have to use these, however if you choose not to, any other contract has to be fair and transparent. It will be possible for a contract holder to challenge unfair contractual terms.

Occupation contracts will have a number of different types of terms, these are:

- Key Terms
- Fundamental Terms
- Supplementary Terms



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- Additional Terms

Key Terms: These have to appear and **MUST** include details such as the Rent, Property Address, and an overview of details which are unique to the contract. In effect this should list the most important pieces of information.

Fundamental Terms: these are essential terms which lay out the rights and obligations of both contract parties (landlord and contract-holder(s)). Some can be left out or changed but only if both parties agree. Any changes can only favour the contract holder

Supplementary Terms: These are likely to be around such things as maintenance – they can be left out or changed with agreement. Changes can be made with, agreement to favour either the landlord or the contract holder.

Additional Terms: These are terms for things which are not covered in statute – for example pets.

Equality Considerations: One of the most important considerations is the ability for your tenants/contract holders to understand their contracts. If you have tenant profiling data or information relating to the need of your current tenants this is going to be really useful.

We would recommend you consider how you will be able to explain contracts to people with low literacy levels, those who do not speak English or Welsh, people who have a learning disability. You might want to consider if all your occupation contracts are going to be the same – so will all your occupation contracts have the same **Fundamental Terms**? If they will then consider using standard easy read formats, audio explanation or ready translation into a community language which you have regular requests for.

It is also worth noting that as people's needs or circumstances or the housing management needs change you may wish to **vary their occupation contract**, this is possible without the need to end one contract and begin another. So for example you may want to include or exclude pets – you can alter the contracts, however if this amendment will reduce the rights of the contract holder we would recommend that you seek legal advice.

The Welsh Government has a Renting Homes implementation stakeholder group which Tai Pawb is part of. During the period between now and (approximately six months before implementation) there will be a series of meetings and several public consultations. One of the areas which will be addressed is model contracts and terms – Tai Pawb will seek to



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engage with its members in relation to the proposals and equality considerations in due course.

Joint Contracts

One of the most significant changes in relation to joint contracts is that the Act allows the addition and removal of a joint contract-holder without the ending of the contract. This means that one person can leave the contract but the occupation contract and all its terms remain. This is also the case for adding a person to an occupation contract. To end a joint contract all joint contract holders must notify the landlord.

Equality Considerations: This is predominantly a really positive change which will help protect victims of domestic abuse, vulnerable elderly people and vulnerable disabled people. Further it has the potential to help protect joint contract holders where only one speaks English or Welsh. It may also make a substantial impact on reducing some elements of coercive and controlling behaviour.

From an organisational viewpoint it will be really important that neighbourhood teams, letting teams, ASB teams, support workers and others who might provide advice, information or take notices within your organisation are aware of these changes.

Your staff involved with receiving and acting on notices given may need training or consider tools to help identify if joint contract holders have been coerced into giving notice.

With an ageing population, consideration may need to be given to how you manage in situations where one contract holder is no longer functionally or intellectually capable of giving notice and power of attorney has not been applied for. This may also apply in a small number of cases with younger people related to acquired disability or significant ill health.

Succession

The Act provides a two tier approach to succession. Contracts can only have a limited number of successors before this right is ended. It allows for two types of successors:

- Priority Successors



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- Reserve Successors

Priority Successors: as the term suggests are the ‘first line’ of those who are eligible to succeed an occupation contract. These include people living in the home who are:

- Spouse
- Civil Partner
- Those living together as spouse or civil partners

Reserve Successors: these are the ‘second line’ of successors and it includes people who are living in the home who are:

- Other family members
- Carer

Where there are several successors from the same group if those involved cannot decide who should benefit then the Community Landlord can choose. You may take into consideration any local lettings policies within your decision making process.

Equality Considerations: The inclusion of carers is a very positive step. We would recommend that to help you manage succession at a very difficult time, tenant profiling data and household information you collect include questions related to caring from the start. There is also the difficult consideration of properties which have been adapted for an individual who has passed away. There is legislation in place in relation to this, and your approach will likely change dependent on household circumstances. As the Act now allows for a number of successors we would recommend that where a property has had adaptations in place, the housing provider (Community Landlord) tries to find out if any of the potential successors have need of the adaptations.

Where a community landlord exercises their right to choose who is to be the successor we would recommend that decisions follow a clear and transparent process. We would recommend that all decisions of this nature are reviewed on a regular basis, and equality information relating to both the successful and unsuccessful successors is examined to ensure that decisions have not been unintentionally discriminatory.



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Tai Pawb is happy to assist with a review of policy or procedure you develop in relation to succession. For more information and advice on the support we can provide please contact helpline@taipawb.org

Abandonment

You no longer need to go to court to enter and retake possession of an abandoned property. There is a set procedure which you will need to follow to regain possession of your property. This includes providing a notice of intention to repossess, asking the contract holder to notify you if they haven't abandoned the property and undertaking reasonable endeavours to ascertain if the property really has been abandoned.

Equality Considerations: It is our understanding that the rights conferred on landlords under this Act do not remove or supersede your legal obligations under either the Human Rights Act or the Equality Act. Therefore, it will be very important that you can fully show that in the process you have taken to regain possession of the property you have had due regard for 'matters arising from disability'. That is to say you have ensured that the property is truly abandoned and not, as an example, been left in a poor condition and the contract holder has not contacted you (despite your notice) due to a mental health problem or disability which you are aware of. You would also, likely, need to show that the notice you have provided to the contract holder, has also been provided in a format accessible to them where you are, or could reasonably be expected to be, aware of their needs.

Anti Social Behaviour

Every contract will have a term which 'prohibits anti-social behaviour'. You will be able to gain possession of a property on the grounds of ASB, and you will also be able to apply to the courts for an occupation contract to be 'demoted' and replaced with a 'prohibitive conduct standard contact'. This will convert the contract to a periodic standard contract with associated reduced occupation security.

Equality Considerations: Similar considerations apply to the above. We would recommend that you ensure your contract holder and household information is up to date and you are



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fully aware of the needs and circumstances of those within the home. We would recommend that in any application to either regain possession of the property or to demote a contract there is a clear process followed which evidences consideration of any equality implications, in particular those which could be influential in the issue of anti-social behaviour.

Fitness for Human Habitation

This is a completely new element of the Act and it makes changes from the previous category one and two hazards. It has been included to help ensure there is a good and consistent standard for all properties both at the time of letting and throughout the contract period. Welsh Government is currently drafting regulations related to this aspect. There may be equality considerations in relation to these but until the regulations are either published or consulted upon it is difficult to comment. Where Tai Pawb has the opportunity to engage with its members on these and feedback your comments we will be doing so.

Contact Information

As an organisation we have been involved with Renting Homes as a key stakeholder on Welsh Government's Renting Homes Stakeholder Group and now their Renting Homes Implementation Stakeholder Group. We understand that this legislation marks a sea change in tenancy (now occupation contract) law for Wales. If you have any questions, concerns, or would like help in relation to Renting Homes and equality you can either contact Emma Reeves-McAll who has been leading on this area of work (emma@taipawb.org or 029 2053 7634) or contact us via our members helpline helpline@taipawb.org. Please contact us to discuss how we can help you.

This briefing paper has been produced as part of the 'Renting Homes Briefing Event' held at our offices on 26th September 2017.



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