

Meeting of:	Cabinet
Date of Meeting:	Monday, 28 February 2022
Relevant Scrutiny Committee:	Homes and Safe Communities
Report Title:	Renting Homes Wales Act 2016 Implementation
Purpose of Report:	To consider what is required regarding implementation of the Renting Homes Wales Act 2016
Report Owner:	Cabinet Member for Housing and Building Services
Responsible Officer:	Miles Punter - Director of Environment and Housing
Elected Member and Officer Consultation:	Interim Head of Finance Committee Reports; Legal Services; Mike Ingram, Head of Housing; Nick Jones, Operational Manager, Housing Internal cross departmental TP working group & Tenants Working Group
Policy Framework:	This report is a matter for Executive decision by Cabinet
<p>Executive Summary:</p> <p>The Renting Homes Wales Act was first published back in 2016 and represents a significant change in housing legislation. The Act is intended to simplify and replace various pieces of housing legislation and address anomalies which existed between tenants. It introduces two main types of occupation contracts (secure and standard) and recognises two types of landlords (Community and Private).</p> <p>Welsh Government has advised the Act will come into force from 15th July 2022, which gives the Council five months to prepare. This report highlights the key changes included in the legislation and steps being taken to ensure all necessary actions are completed ahead of the deadline.</p>	

Recommendations

1. That Cabinet notes the details of the Renting Homes Wales Act (2016) which is due to come into effect from the 15th July 2022.
2. That Cabinet approves the implementation plan which sets out key actions over time.

Reasons for Recommendations

1. To provide more detailed information about important changes to Housing Law.
2. To ensure the Council fully compliant with the requirements of the new Act

1. Background

- 1.1. The Renting Homes Wales Act 2016 has been drafted to simplify housing law and make it easier to rent a home in Wales. A great deal of preparatory work was required to change existing Court and Legal processes before the law could be enacted, however the Welsh Government has now informed Councils, Social Landlords, and other stakeholders, that the Act comes into law from the 15th July 2022.
- 1.2. The Act introduces a number of important changes, including:
 - 1.2.1. Changes to tenancy types
 - 1.2.2. Most current tenancies and licences, including assured shorthold, assured and secure tenancies, will be replaced with either: a secure occupation contract or a standard occupation contract. The type of occupation contract will depend on whether the property is owned by a private landlord or a council or housing association.
 - 1.2.3. There will be some variations of occupation contract for specific types of housing, such as supported housing.
 - 1.2.4. Tenants will be known as 'contract holders'.
 - 1.2.5. Changes to landlord types
 - 1.2.6. Landlords will be grouped into one of 2 groups: community landlords (council and housing associations) private landlords (any landlord who is not a community landlord). Community landlords will generally provide secure occupation contracts. Private landlords will generally provide standard occupation contracts.

1.2.7. Introduction of standard terms within occupation contracts

1.2.8. Standard terms will be introduced which must be included in every occupation contract. Landlords must issue contract holders with a written statement within 14 days of moving in, clearly setting out the rights and responsibilities of the landlord and the contract holder. Any landlord who fails to provide a written statement in the required time, or provides an incomplete or incorrect statement, can face penalties.

1.2.9. Changes to the way occupation contracts end

1.2.10. The rules about how a landlord can end an occupation contract are changing. This applies to secure and standard occupation contracts. Some of the main changes include:

1.2.10.1. the notice period that a landlord has to give a contract holder under 'no fault' grounds (currently commonly known as a 'section 21 notice') will be 6 months

1.2.10.2. a landlord will not be able to give such a notice until 6 months after the contract starts

1.2.10.3. a landlord will not be able to give such a notice unless they have complied with certain obligations, including registration, licensing, deposit protection rules and health & safety provisions

1.2.10.4. landlord break clauses will only be able to be incorporated into an occupation contract if the contract has a fixed term of 2 years or more. A landlord will not be able to exercise a break clause within the first 18 months of occupation.

1.2.11. Introduction of a new fitness standard for rented homes based on HHSRS

1.2.12. All rented properties must be fit for human habitation. The fitness test will be based on the existing Housing Health and Safety Rating System.

1.2.13. Landlords must also keep the structure and exterior of the property in repair and keep installations for the supply of water, gas, or electricity, for sanitation, for space heating, and hot water in repair and proper working order. These obligations will be in all occupation contracts.

1.2.14. A landlord will not be able to evict a contract holder just because they have complained about the condition of the property (commonly known as a 'retaliatory eviction'). If a landlord applies to court for a possession order but it is refused on the grounds that it was a retaliatory eviction, the landlord cannot give a further 'no fault' notice until 6 months later.

1.2.15. New rules about joint contracts, successions which allow more flexibility and security for contract holders

1.2.16. A joint contract holder will be able to move out without the contract ending for the remaining joint contract holders.

1.2.17. New joint contract holders can be added without having to end the current contract.

1.2.18. It will be easier for certain groups of people, including some carers, to take over a person's occupation contract on their death ('succession'). This includes increasing the number of successions possible, to two (previously, only one was permitted).

1.2.19. Changes to the way abandoned properties are dealt with

1.2.20. There will be a new procedure for landlords to obtain possession of a property that has been abandoned, to make it simpler and quicker for landlords to recover possession of properties when the contract holder has left,

1.3. The Council now has five months to prepare and plan for the new Act to come into force on 15th July 2022, so a number of tasks must be completed prior to that date. These actions are highlighted in an Implementation Plan at Appendix A.

2. Key Issues for Consideration

2.1 The wording of the Council's new Occupation Contract

2.1.1 As stated in section 1.2.7, there are a range of contractual terms that must be included in all new occupation contracts. These include key matters, which set out the address of the dwelling, occupation dates, amount of rent etc. Fundamental terms, which cover the essential rights and obligations and cover anti-social behaviour, grounds for eviction, repairs etc. These terms can be modified but only if that improves the position of the contract holder. Supplementary terms provide a basis for Welsh Ministers to prescribe supplementary provisions which become incorporated into occupation contracts. Supplementary terms deal with more practical issues such as requirement to pay

rent, landlords right of access to the dwelling etc. Landlords and Contract holders can agree to modify supplementary terms and the changes can benefit either the contract holder or the landlord. Finally, there are additional terms, which cover anything not included in the other terms. Any additional terms not compatible for the fundamental or supplementary terms will have no effect. Additional terms are agreed between the Landlord and the Contract holder and address specific issues such as keeping a pet.

2.1.2 Welsh Government has made it clear that existing tenancy rights must be protected during this exercise. Whilst additional benefits or flexibility can be granted, this will be done with agreement of the Council and contract holders.

2.2 Consulting tenants and publicising the changes being made

2.2.1 There is a need to make tenants aware of the changes and to consult regarding the clauses adopted in the new occupation contracts. Clearly, these changes must be implemented and there is no scope for individual tenants to opt out. There is however, scope to vary the supplementary and additional terms if it can be demonstrated that appropriate consultation has taken place.

2.3 Issuing new contracts to all existing Council tenants

2.3.1 When finalised, a copy of the new Occupation Contract must be issued to all existing Council tenants. For existing contracts, the Council will have until 14th January 2023 to issue and for new tenants/contracts, it will be 15 days from the commencement of the tenancy. From the 15th July 2022 it will be deemed that the new occupation contract applies to all Council tenants, regardless of what agreement was in place previously and how long they have been a tenant.

2.4 Updating tenancy management policies and procedures to reflect the changes

2.4.1 Given the changes to the rights and responsibilities of contracts holders, there is a need to review and update existing policies and procedures. This will mainly be the existing Tenancy Management Policy and Procedure which covers a broad range of issues including succession, exchanging homes, creation of joint tenancies, ending a tenancy etc. This work will be completed as part of the implementation plan but there will also be a need for Cabinet to approve the revised Policy in due course.

2.5 Advice and assistance provided to Private Sector tenants and Landlords

2.5.1 The Housing Solutions team works closely with private sector tenants and landlords to prevent homelessness and to maximise the number of homes made available for private renting. There is therefore a need to ensure that staff, private sector tenants and landlords are aware of the changes, know their rights and responsibilities and can prepare appropriately. The Communication part of the Implementation Plan takes account of this and includes several important actions designed to raise awareness and signpost parties towards the information, advice and support needed.

2.6 Implementation Plan

- 2.6.1 A staff working group has been established to prepare and plan for the changes. This includes staff from different teams, mainly within the Housing section but with important input from colleagues in Legal and Communications. The Implementation Plan, which is included as Appendix A covers a range of key actions including drafting the new Occupation Contracts, consultation with tenants and partners, communicating the changes etc.

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

Long term

- 3.1** The changes reflect legal requirements. The new occupation contracts will however simplify existing processes and make it easier to rent a home in Wales.

Prevention

- 3.2** The approach taken will protect the rights of tenants and minimise risks of contract holders being evicted and made homeless through no fault of their own. The length of the notice period required and stipulation this can not be served until six months of the contract has passed, will extend the length of the contract to at least one year. Specific provision is also made to prevent retaliatory evictions where landlords maybe taking action if the tenant raises repairs or asks for improvements to the property. This will reduce the threat of homelessness.

Integration

- 3.3** Consolidation and simplification of the system should mean contract holders are treated equality in law and have a stronger security of tenure. However, the contracts are far more complex than those held previously so this may cause some confusion and may lead to new case law as the changes are challenged and clarified in the court system.

Collaboration

- 3.4** Detailed training will be offered to all housing staff on the changes arising from Act and there is a requirement for the Housing team to work with other teams including Shared Regulatory Services to coordinate responses to issues or concerns.

Involvement

- 3.5** The changes are designed to offer greater protections to tenants but any changes to supplementary or additional terms will have to be done in agreement between landlord and contract holder. There is also a need to communicate and explain the changes to existing tenants and part of this will be using existing mechanisms such as Residents Boards.

4. Resources and Legal Considerations

Financial

- 4.1** The Strategy is being delivered within existing departmental resources. There will possibly be some grant funding available from Welsh Government to assist towards the increased costs, however this is yet to be confirmed.

Employment

- 4.2** There are no direct employment implications arising from this report.

Legal (Including Equalities)

- 4.3** This is the biggest change in Housing Law since the 1996 Act and will change the legal landscape for tenants and a great deal of training and clarification will be needed in order to ensure we are legally compliant.

5. Background Papers

None .

