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Consultation Document

Renting Homes – Illustrative Model Contract

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Action required: Responses by 14 October 2014



Foreword

Last year, I published the White Paper 'Renting Homes: A better way for Wales' setting out proposals to improve an important but complex area of housing law. My goal is to achieve a fair, simple, and effective legal basis for renting a home; for landlords and for people who rent their home, now and in the future.

During the consultation on the White Paper, the proposals were presented at over 20 events across Wales reaching more than 1,000 people. The consultation ended on 16 August 2013.

Overall, the responses showed an overwhelming 95 per cent of respondents supported changing the legal framework for renting a home. A summary of the findings was published in December 2013.

For the legal framework to be effective, rental contracts must be easy to understand and use, for both tenants and for landlords. This helps in agreeing the rental arrangements in the first place and also in avoiding disputes later on. In short, clear contracts will make for more successful renting.

This document sets out, for public consultation, what the contracts under Renting Homes could look like, together with examples of the sort of supporting guidance that will be provided.

I want to hear your views on the structure and layout of these documents. This will help us to ensure the new arrangements work well for everyone.

A handwritten signature in black ink that reads "Carl Sargeant". The signature is written in a cursive style with a long, sweeping tail on the letter 't'.

Carl Sargeant
Minister for Housing and Regeneration



Overview

This Welsh Government consultation seeks your views on the Renting Homes illustrative model contract and supporting guidance. This consultation uses the periodic standard model contract to illustrate what a model contract would look like. Further consultation will take place on the other proposed model contracts, subject to the Renting Homes Bill being agreed by the National Assembly and receiving Royal Assent. Your responses will be taken into account in developing the final versions of the documents.

How to respond

Your views on the layout and format of the model contract and guidance are important. We want to hear from tenants, landlords and organisations that work in the field of housing or where housing is relevant to their work. Please respond to this consultation by answering the questions listed in Appendix 1. Comments can be submitted in a number of ways:

Online: <http://wales.gov.uk/consultations/housing-and-regeneration/renting-homes-illustrative-contract/>

E-mail: rentinghomes@wales.gsi.gov.uk

Post: Renting Homes,
Housing Policy Division,
Welsh Government,
Rhydycar,
Merthyr Tydfil
CF48 1UZ

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.

**Further information
and related
documents**

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



The Renting Homes proposals

1. The proposals in the Renting Homes White Paper, which received strong support, were based on extensive work carried out by the Law Commission. The proposals will improve the way the overall housing system works and its ability to meet people's different housing needs.
2. The Bill to implement the proposals, which is due to be introduced into the National Assembly for Wales in 2015, will establish new arrangements for renting a home. The purpose of the Bill is to replace what is currently a confusing and complex area of law with a clearer, simpler and more straightforward legal framework.

Two contracts

3. Instead of the complicated legal arrangements that currently apply, at the heart of the Renting Homes proposals are two types of contract:
 - i. a "secure contract" based on the current secure tenancy issued by local authorities; and
 - ii. a "standard contract" modelled on the assured shorthold tenancy that is used mainly in the private rented sector.
4. While detailed work is under way on drafting the Bill, taking into account the White Paper responses and other stakeholder comments, we also want to start developing the contract documents that will be needed. This is, of course, subject to the Bill becoming an Act. We hope this will also give people a better understanding of how the new arrangements will work in practice.
5. It is important to stress that this consultation is not about the detailed wording on the contract, as this will not be finalised until the Assembly has concluded its consideration of the Bill. Following that, further consultation will take place on all the proposed model contracts. For now, we want to know whether the overall structure and layout of the contract documents and accompanying guidance make sense.

Benefits of the new contractual arrangements

6. Renting will be more straightforward and rental contracts will be clearer and easier to understand. At present, landlords and letting agents frequently draft their own contracts, which means tenants can be faced with very different terms and a different looking contract whenever they move home. By providing model contracts, our proposals provide the basis for simpler, more standardised rental contracts with clearer terms. This will help avoid the disagreements and difficulties between



tenants and landlords that sometimes occur, and the potential legal costs of trying to resolve disputes.

7. Currently, there can also be confusion over whether an individual is occupying a property under a licence or a tenancy. This is important because it affects the rights of the landlord and the person renting the property. Landlords sometimes say they are giving a licence rather than a tenancy because a licence gives less protection to occupiers. However, this can be misleading for the occupier because the way in which they live in the property could mean it is a tenancy, no matter what the landlord has told them. This might only become clear, however, if a dispute came before the courts.
8. Under the Renting Homes proposals, the same contractual terms will apply irrespective of whether the underlying legal basis for the contract is a licence or a tenancy. This will therefore give much greater clarity on the terms of the contract to both the landlord and the occupier. The fact that the legal basis of the relationship can be either a licence or a tenancy is also why the agreement under Renting Homes will be called an “occupation contract”, and the individuals occupying the property referred to as “contract-holders”. While we understand that many will continue to use the terms “tenant” and “tenancy”, it’s important that, as a legal document, the Renting Homes contract is not misleading.
9. Whether a Renting Homes contract is a tenancy or a licence will be relevant only in certain situations. For example, and as applies currently, if a landlord dies then the landlord’s contractual rights and obligations under a tenancy will transfer under the normal laws of inheritance, whereas under a licence the contract would end.

Model Contracts

10. To make it easy for landlords and occupiers to agree a contract that fits their situation and complies with the law, we will issue model contracts based on the two contract types. The terms of the model contracts will differ only to the extent that is necessary to meet the different situations, and will include:
 - a community landlord secure contract – for use by a housing association or local authority;
 - a fixed term standard contract – to grant occupation for a set number of months or years;
 - a periodic standard contract – an occupation contract that runs from week to week or month to month, dependent on the rental period; and



- a supported standard contract – for use in supported housing.
11. As at present, in cases where a fixed term standard contract ends and the contract-holder remains in occupation, a periodic standard contract will automatically arise if no further fixed term is agreed.
 12. The model contracts may well be longer than some contracts are at present, but this is because they will include all the relevant statutory rights and obligations. However, since the majority of the terms will not vary between contracts, the intention is to enable the model contract to be provided to the tenant as a separate document, with all of the specific information, such as the landlord and contract-holder details, address of the premises and the rent, being entered into a separate 'Key Matters' document. It will be the Key Matters document and the relevant model contract together that form the contract between the landlord and the contract-holder.
 13. For the purpose of this consultation, which is on the structure and layout of the documentation only and not the terms of the contract, we are using as the example the periodic standard contract. This has been adapted slightly from the illustrative contract that was developed by the Law Commission and included in 'Renting Homes: The Final Report, published in 2006. A copy of this report is available at www.wales.gov.uk/rentinghomes, together with the Law Commission's versions of the periodic standard contract and the secure contract.
 14. In developing our proposed approach to contracting, we have paid attention to recommendations made by Consumer Focus Wales in 'Their house, your home'. This was a report based on research into the private rented sector and is available at www.wales.gov.uk/rentinghomes. The recommendations included making it clear where the landlord had included any additional terms in the contract, such as relating to the keeping of pets. Under our proposals, such terms can be added but they cannot reduce the statutory protection given to occupiers. A further recommendation was to provide a summary of what the terms of the model contract mean in practice.
 15. The documents that are the subject of this consultation are, therefore:
 - the Key Matters document;
 - the Model Contract – for the purposes of this consultation the periodic standard contract is used;
 - the Model Contract Summary – intended to explain the contents of the contract but legally not part of the contract; and
 - an example of an easy read guide to an occupation contract.



Key Matters document (Annex 1)

16. This includes the information that is specific to the particular situation, such as the details of the landlord and contract-holder, the address of the premises and the rent payable. Space is also provided for the any additional contract terms to be included. The document also includes a space for the landlord to enter the licence number that will be issued under the rental property registration and licensing requirements, which will be introduced by Part 1 of the Housing (Wales) Bill.
17. Some people now prefer to have electronic copies of documents, rather than paper copies. Therefore, the Key Matters document also includes a box for the contract-holder to tick if he or she is happy to receive the contract and related documentation electronically. We believe it may also be convenient for the landlord and contract-holder to communicate electronically through the life of the contract, for example for the contract-holder to be able to email the landlord to request a repair be carried out. We would like to know whether you agree with this proposal.

The Model Contract (Annex 2)

18. For the purpose of this consultation, we are using the periodic standard contract as an example of what the model contracts will look like. As mentioned above, we recognise it is probably longer than many contracts currently, but this is because it includes all of the relevant rights and responsibilities, some of which may not be included in current contracts.
19. While every attempt will be made for the wording of the contractual terms to be as accessible as possible, the need for the contract to satisfy the requirements of a legally-binding document means that some additional explanation will be useful. This is why we think a summary of the model contract document, and also an easy-read guide, should be available (see below). Taking this into account, we would welcome comments on the overall layout and format of the model contract; for example, the information boxes on the front page, the layout of the contract terms on subsequent pages, the style and size of the text used for headings and terms, and the use of text boxes and colours.
20. For the new arrangements to work most effectively, we recognise that the model contracts will need to be easily available. We therefore want to know which of the ways a contract-holder or landlord could obtain a copy of the contract will be most useful.



21. Landlords, contract-holders and others will also need easy access to information and advice on the contracts; for example, to better understand what a particular term in the contract means. We would like to know how useful you would find the different ways in which such information and advice can be obtained.
22. The model contract comprises three types of contractual terms: fundamental terms which must be in every contract, such as the prohibited conduct term; fundamental terms which can only be left out if that benefits the contract-holder; and supplementary terms which can be left out or changed. We wish to know how well you think each of these three symbols indicate the status of the contractual terms:



a fundamental term which cannot be left out of the contract or changed.



a fundamental term which can be left out of the contract or changed, but only if that gives greater protection than the contract-holder is entitled to by law.



a supplementary term which can be left out of the contract or changed.

Model Contract Summary (Annex 3)

23. The Model Contract Summary is intended to provide landlords and contract-holders with a non-legalistic explanation of what the different sections of the contract mean in practice. It should help with identifying which section of the contract might be relevant to a particular query and with the understanding of that section. We would like to know if you think such a summary would be useful.

Example of an easy read guide (Annex 4)

24. In addition to the Model Contract Summary, we believe it would be helpful to provide an easy read guide to the Renting Homes contract. To help you understand what this might look like, we have provided an example (created by Housing Solutions, a housing association based in England). We believe this is a good example of an easy read document and is similar to what we envisage producing for Renting Homes. We wish to know if you think this would be helpful and would welcome any other comments you may have.
25. Finally, we are interested to learn about any other matters that you think are important for us to address in enabling the new contracting



arrangements under Renting Homes to work as effectively as possible. We would also be interested in any other comments you wish to make.

26. We look forward to receiving your response to this consultation and in particular the questions set out in Appendix 1.



Appendix 1: List of consultation questions

The Welsh Government would like to hear your views; we want the new contracts to be easily accessible and provide landlords and tenants with clearer information on their rights and responsibilities. We are particularly interested in responses to the following questions but welcome comments on all aspect of the consultation.

Name:					
Organisation (if applicable)					
E-mail address:					
Telephone:					
Address:					
Please tick to indicate if you are:	Tenant:	<input type="checkbox"/>	Landlord:	<input type="checkbox"/>	Other (please specify):
Question 1 – Key Matters document					Please tick
Is the 'Key Matters' document clearly laid out and easy to understand?					Yes <input type="checkbox"/> No <input type="checkbox"/>
Question 2 – Electronic contracts					Please tick
Subject to the contract-holder's prior agreement, do you support enabling the contract and any notices required to be issued electronically?					Yes <input type="checkbox"/> No <input type="checkbox"/>
If 'no', please briefly explain your answer.					
Question 3- Copy of contract					Please Tick
How useful would you find these ways of getting a copy of the model contract?					Very Useful <input type="checkbox"/> Quite Useful <input type="checkbox"/> Not very useful <input type="checkbox"/> Not at all useful <input type="checkbox"/>
• Download copy from website					<input type="checkbox"/>
• Electronic copy on DVD					<input type="checkbox"/>
• Printed paper copy					<input type="checkbox"/>
• Other – please specify:					<input type="checkbox"/>



Question 4 – Information and advice on contract.	Please Tick			
How useful would you find these ways of getting information and advice on the contract?	Very Useful	Quite Useful	Not very useful	Not at all useful
• Website using computer				
• Website using smartphone				
• DVD				
• Paper guidance; booklets				
• Telephone				
• Face to face e.g. Citizens Advice Bureau / Shelter Cymru				
• Other – please specify:				
Question 5 – Model Contract format			Please tick	
Is the layout and format of the Model Contract easy to understand?			Yes	No
If no, please briefly explain your answer.				
Question 6- Model Contract symbols	Please Tick			
How well does each symbol indicate the status of a term in the contract?	Very well	Quite well	Not very well	Not at all well
 a fundamental term which cannot be left out of the contract or changed.				
 a fundamental term which can be left out of the contract or changed, but only if that gives greater protection than the contract-holder is entitled to by law.				
 a supplementary term which can be left out of the contract or changed.				
Question 7 – Model Contract Summary			Please tick	
Is the Model Contract Summary helpful in explaining what the sections of the contract mean in practice?			Yes	No
If 'no', please briefly explain your answer.				



Question 8 – Easy Read guidance	Please tick	
Is providing guidance like the example in Annex 4 “An easy read guide to your Tenancy Agreement” helpful in understanding the contract?	Yes	No
If ‘no’, please briefly explain your answer.		
<p>Question 9</p>		
What do you consider is most important in helping landlords and contract-holders use and understand the contract?		
Answer:		
<p>The box below is provided for any additional comments you may have.</p>		
Responses to consultations may be made public – on the internet or in a report. If you would prefer your name to be kept confidential, please tick the box:		
If you are responding on behalf of your organisation, please tick the box:		
If you are prepared to be contacted in relation to the development of the Renting Homes Bill, please tick the box:		