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Welsh Government

RESEARCH, DOCUMENT

# Renting Homes (Wales) Act 2016 evaluation: Phase 1 report (summary)

This report provides findings from phase 1 of the evaluation and focuses on awareness and implementation of the Act.

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# Contents

[Research aims and methodology](#)

[Main findings](#)

[Footnotes](#)

[Contact details](#)

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# Research aims and methodology

This paper summarises the findings from Phase 1 of a 3 stage evaluation of the Renting Homes (Wales) Act 2016. <sup>[footnote 1]</sup> The Act was implemented on 1 December 2022, with the ambition of providing simplicity and flexibility alongside protecting and safeguarding renters.

## The main measures the Act introduces

- Changes to tenancy types: Most tenancies have changed to either a secure or standard occupation contract (depending on the landlord type – see below).
- Changes to landlord types: Landlords are divided into community landlords (housing associations and councils, issuing secure occupation contracts by default), and private landlords (issuing standard occupation contracts by default).
- Terms of occupation contracts: Various terms need to be included in all occupation contracts, and landlords are required to issue a ‘written statement’ of contractual rights and responsibilities no later than 14 days of the occupant moving in, or face penalties.
- Repairs and conditions of rented properties: All rented properties must be fit for human habitation, and there is protection against landlords evicting due to a complaint about the condition of the property (a so-called ‘retaliatory eviction’).
- Joint contracts: If a joint contract-holder were to move out, this does not terminate the contract for the remaining contract-holders. Similarly, a new joint contract-holder can be added without the current contract needing to be ended.
- Succession rights: Provisions are made to ensure that certain groups (including some carers) can take over the occupation contract on the death

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of the original contract-holder.

- Abandonment: A new procedure is introduced for landlords to gain possession of an abandoned property.
- Ending occupation contracts: Landlords are required to give six months' notice under 'no fault grounds' (under section 173 – similar to Section 21 of the Housing Act 1988) and will not be able to give such notice for at least six months after the contract begins. This measure was introduced by the 2021 amendment to the Act.

Phase 1 of the evaluation was undertaken by Opinion Research Services (ORS) between December 2022 and August 2023, to:

- assess the progress of the implementation of the Act
- determine the success of the Act in meeting the intentions set out through its development by the Law Commission and the Welsh Government
- assess the early impacts of the Act on landlords, tenants, and the rental sector overall in Wales

## The main stages of the research

- Virtual scoping interviews with 17 representatives of key stakeholder housing organisations.
- A survey of landlords/managing agents, which was available online. 676 responses were received, including partial responses where the respondent dropped out before completing the full survey (539 complete responses were received). 624 respondents were either private sector landlords or managing/letting agents, and 52 were social landlords.
- A baseline data review, which yielded four sources of publicly available data (on the Rent Smart Wales <sup>[footnote 2]</sup> website) that are of interest in evaluating the Renting Homes Act <sup>[footnote 3]</sup>. These are:
  - The total number of properties in registration at the end of each month, by local authority. Taken over a long period, this data set shows the flow

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of landlords into and out of the market, with some caveats, notably that there are multiple reasons that may influence landlords' decision to join/leave the market and ex-landlords may remain registered for a time, even though they have left the market.

- Enforcement action taken against non-compliant landlords and agents, including the failure of a landlord to be registered (although registration not a direct requirement under the 2016 Act). This data gives an indication of whether most landlords register, though it cannot provide accurate numbers of non-registration to compare against the number of registered landlords.
- Training completed by landlords and agents. This data gives an indication of landlords' readiness to comply with standards, though like the enforcement data, it is indicative rather than evidencing robust conclusions.
- Energy performance <sup>[footnote 4]</sup>. It should be noted that property energy performance is governed by a mix of factors including landlords' finances and readiness to improve performance, the age of the property, and the type of construction materials used. Again, energy performance is not a direct requirement of the 2016 Act but is seen as relevant in the context of the new duty on landlords relating to fitness for human habitation.
- Six virtual focus groups and nine virtual individual interviews with 55 landlords and managing agents from across Wales; 25 from the social sector; and 30 from the private sector.
- Seven virtual focus groups and two virtual individual interviews with tenants living in the social and private rented sectors. 35 tenants from across Wales took part overall, 15 of which were renting from a private landlord, and 20 of whom were renting privately.

# Main findings

## Awareness and knowledge of the Act

The Phase 1 evaluation findings show generally good awareness of the Act among stakeholders and landlords/managing agents, particularly in relation to the changes around contracts, security of tenure, and fitness for human habitation and property standards. Participants highlighted the difference between awareness and understanding, however, describing how the latter had been affected by implementation delays, allegedly “late” changes to the legislation, and the Act’s complex terminology and legal ‘jargon’.

Tenant awareness and understanding of the Act was far more limited: few of those participating said they were specifically aware of the Act before its introduction, nor did they feel their awareness and understanding had increased since implementation, despite many having signed a converted contract. Awareness was slightly better among social housing tenants, potentially because social landlords said they have been more likely to disseminate formal communications about the Act than private landlords and managing agents. Even so, a muted response to this communication was described, suggesting that social tenants feel more secure in their tenure and thus less affected by the changes. This was corroborated by participating tenants in social housing, who had been assured that little would change for them as a result of the Act, and so did not feel the need to consider it in detail.

Moving forward, it was considered essential that ongoing awareness-raising and communication is undertaken, especially with landlords and managing agents, to correct lingering misconceptions and ensure understanding of any changes made post-implementation. Reaching those who are not part of associations/ organisations that offer advice and guidance, while evidently challenging, will be especially important in ensuring a level playing field across Wales.

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In terms of raising awareness among tenants, it was frequently said that until they begin to see the practical impacts of the changes, their interest in the Act is likely to remain limited. However, there was a sense that there is growing awareness around fitness for human habitation requirements, safety, and property standards; and that while the Act and its changes will take a while to embed, tenants will gradually become aware of their contractual rights.

## Expectations of the Act

Stakeholders' general expectations, or at least understanding of the intentions of, the Act prior to implementation were chiefly that it would ensure better rights for tenants, and better understanding of those rights; simplify the renting process within a single legal framework; and better balance the power dynamic between tenants and landlords/managing agents. This was echoed by some private rented sector tenants, while those in the social sector did not feel the Act would make a tangible difference to them.

Landlords' and managing agents' expectations were more practical: while some noted the Act's intentions to improve security of tenure and property standards, most spoke about an increase in paperwork volumes and bureaucracy; and increases in their contractual, fitness for human habitation, and anti-social behaviour responsibilities. Some though did note the expectations of the Act as a whole, notably increasing security of tenure (especially for tenants in the private rented sector) and improving accommodation standards.

Most participants felt that it is too early to tell whether these expectations/intentions have been realised, but there was hope among stakeholders that they would be, following a likely period of short- and medium-term anxiety and confusion. Indeed, even the more negative landlords and managing agents acknowledged that the Act, by its very existence, had realised expectations in terms of protecting tenants, improving accommodation, making landlords aware of their obligations, and standardising processes.

## Support, advice, and guidance

Requests for advice and guidance from landlords and managing agents leading up to and since the implementation of the Act were said by stakeholders to be mainly in relation to compliance with the legislation generally; changes to contracts; fitness for human habitation requirements; negotiating rent withdrawal issues; and dealing with anti-social behaviour.

Landlords and managing agents themselves said they most commonly accessed support, advice, and guidance from Rent Smart Wales (RSW) and the National Residential Landlords' Association (NRLA). Both were praised for the assistance they had provided around the Act, though there were some complaints that RSW had provided incorrect, unclear, or outdated advice/information. Other commonly used sources included the Renting Homes Wales website, and, for social landlords, Community Housing Cymru. Social landlords in particular had accessed legal support, training, and advice which, although invaluable, was said to have come at a significantly high cost.

For tenants, advice and guidance is most frequently asked for around more generic housing-related issues such as homelessness; rent arrears; evictions and repossession orders; joint-contracts and succession rights. However, a couple of stakeholders said they had noticed an uptake in correspondence around the Act generally, as well as around specific issues such as rent withdrawal, landlords' fitness for human habitation responsibilities, and the application of the changes within temporary accommodation.

## Meeting the Act's requirements

Few participating social/private landlords and managing agents said they had found it easy to meet the Act's requirements, primarily due to the bureaucracy and paperwork, time, and cost involved in doing so, and the inherent complexity

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of the changes introduced. Furthermore, the alleged ongoing and last-minute changes to the legislation were again raised as a compounding factor.

Despite these challenges, however, most felt that they had been able to meet the Act's requirements, not least as they were already compliant with all or most of them before the legislation came into being. The requirements considered most straightforward to meet were those relating to property safety and fitness for human habitation (including the installation of mains operated interlinked smoke alarms and carbon monoxide alarms). This was echoed by both tenants and stakeholders.

At the time of this evaluation phase, the provision of converted contracts to tenants was mixed. Many, but certainly not all, participants had received their converted contracts at the time of their participation in the focus groups [footnote 5]. These delays could, it was said, be a consequence of a lack of understanding around converting existing contracts, not least due to an alleged paucity of guidance around the process.

Also, in relation to contracts, in considering barriers to tenants' understanding of the Act and its changes, the length and complexity of the new occupation contract was said to be sometimes off-putting. Indeed, many participating tenants said they had not read their contract for this reason. As such, there was some suggestion that a simplified version of the contract should be made available to aid understanding, especially among those with low literacy levels, or whose first language is not English or Welsh.

Overall, implementation was said to continue to vary between landlords/managing agents, with some having planned for the changes early in the process, while others remain unaware even of the need to register with RSW, let alone of their obligations under the Act. Moreover, it was said that perceptions of the Act remain largely negative among landlords, and that not enough has been done to counteract this negativity with reassurance, guidance, and promotion of the benefits.

## Main early impacts of the Act

In discussing the early or possible future impacts of the Act, most stakeholders and landlords/managing agents raised the prospect of private landlords leaving the rental market because of the increasing administrative and financial burdens being placed upon them, leading to a shortage of private rented accommodation. While it was recognised that other factors such as the COVID-19 pandemic, the cost-of-living crisis, higher interest rates/taxation, high house prices, and the lucrative 'Airbnb' market have also contributed to this situation, the Act was considered the final straw by many. However, to date there is not strong evidence of this happening as the number of private rented sector properties registered with RSW is increasing overall, rather than falling.

Potential impacts on tenants were also raised, including the possibility of rent increases as a result of higher costs for landlords and fewer properties being available. Many participating tenants said they had, or knew others who had, experienced rent increases and were having to move as a result, an issue compounded by the fact that finding rental properties has become more challenging in recent years. In this context, while it was recognised that the Act increases security of tenure in principle through the six-month no fault notice period and protection against retaliatory eviction, there was some feeling that tenants would remain reticent to 'rock the boat' and exercise their rights because of the supply and demand difficulties in the private rental sector.

This situation, it was said, is compounded by a lack of property availability within the social housing sector, meaning it cannot be relied upon as a 'safety net' for those whose rents increase to unaffordable levels, but also cannot find anywhere else to live within their price bracket. In fact, this lack of social housing provision was considered a contributory factor to the supply and demand issues being experienced in the private rented sector, as well as the acceptance by some of sub-standard housing.

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Another concern among stakeholders and landlords/managing agents was that in the absence of statutory guidance, too much has been left up to courts' discretion and for case law to define. There was also some concern that the justice system is so backlogged that it will be impossible to ensure cases are dealt with in a timely manner.

Despite the issues noted above, the Act was thought to have strengths and positive impacts (even by some landlords and managing agents), particularly in relation to:

- simplified processes
- the provision of a level playing field
- greater transparency and clarity via a single legal framework and contracts containing all relevant information
- better property standards and greater security of tenure for tenants (though there was some feeling that it does not go far enough in preventing no-fault evictions)
- heightened awareness of tenants' rights and landlords' responsibilities
- strengthening measures to address anti-social behaviour

These strengths are, it was felt, likely to become more apparent in the medium- to long-term.

There was also some sense that if some of the landlords who leave the sector are those who are not keeping their properties up to standard and being mindful of their tenants' welfare, this might be a positive thing for the sector as a whole. This was echoed by some tenants, who felt that the Act's requirements should not be overly burdensome for 'good' landlords, who would most likely be complying with many of them already.

On this note, though, not everyone felt convinced that poorer or 'rogue' landlords would comply with the new legislation, feeling instead that they would continue to operate under the radar and seek to find loopholes in the new Act. As such,

they questioned the potential benefits for the more vulnerable tenants who tend to find themselves living in the sub-standard accommodation offered by this type of landlord.

## Specific impacts and issues

In terms of more specific issues, there was considerable concern among some stakeholders about the inclusion of student accommodation within the Act given it is a very different form of renting with a high degree of protection already in place for tenants. It was also said to be difficult to:

- align contract length and notice periods with the academic year, meaning that if a student's contract is up in, say, July and they refuse to leave, the new six-month notice period takes them way beyond September when new students would be expected to move in
- relocate students in the event of fallouts or accusations of inappropriate behaviour, which could previously have been done using accommodation licences but is now a more onerous process due to the need for consent from the student themselves

The potential impacts of including temporary accommodation within the Act were highlighted by several stakeholders and social landlords.

One stakeholder raised issues around the 48-hour temporary exclusions in supported housing, particularly that people in these situations may have nowhere else to go given the current rental market and the intense pressures on local authority housing and homelessness services. Furthermore, while the same stakeholder understood the reason behind extending licences for people in supported accommodation projects (i.e., offering security of tenure to some of society's most vulnerable residents), they said that these projects are supposed to be short-term by their very nature, and that offering tenants a contract with a two-month notice period may cause operational issues for projects if someone

does not want to move on.

There was also said to be inconsistency between the arrangements for temporary homeless accommodation provided by a local authority, and those for temporary accommodation provided by Registered Social Landlords, since local authorities must issue standard contracts whereas the latter can issue licences for up to 12 months. A local authority representative highlighted this as a significant issue, considering it unfair for their clients in temporary accommodation with an RSL landlord to have lower security of tenure.

## Unintended impacts of the Act

The main unintended potential impacts of the Act have been reported above: a concern that private landlords are choosing to leave the sector, exacerbating existing property shortages; and rent increases for tenants because of higher costs for landlords in meeting the Act's requirements and fewer properties being available.

## Next steps

An ongoing review of the Act was considered essential in determining whether it is meeting its stated aims. Phase 2 of the evaluation will continue to explore the issues reported above and the developing impact of the act by engaging a range of strategic stakeholders, landlords and tenants..

Finally, given that one of the key themes to emerge from Phase 1 is that the Act could contribute to the shrinking of the Welsh private rental sector as landlords exit the market, it will be important to consider whether this is a “perceived truth” or reality. The baseline data analysis has shown that RSW property registrations have fluctuated since 2019 but have stabilised, and indeed increased, from 2021, and suggests that the following streams of data can be

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monitored over time.

- The general trend in registrations by local authority starting from December 2021. The rationale for this is that there has been a broadly consistent upwards trend starting in 2021, and that 2021 predates the introduction of the Act.
- Specific changes by local authority starting at December 2022; the introduction of the Act. This could demonstrate whether landlords' behaviour is changing and whether those changes apply more to some local authorities than others.
- Specific changes by local authority starting at December 2023; this allows 12 months for landlords to have made decisions based on their own views of the repercussions of the Act. Again, this could demonstrate whether landlords' behaviour is changing and whether those changes apply more to some local authorities than others.

Even so, it is recognised that isolating the impact of the Act and its requirements from other factors on landlords' decisions to join or leave the sector will be difficult.

## Footnotes

[1] [Renting Homes \(Amendment\) \(Wales\) Act 2021 \(legislation.gov.uk\)](#)

[2] Rent Smart Wales assists those who let or manage rental properties in Wales to comply with their Housing (Wales) Act 2014 obligations and provides advice on renting out safe and healthy homes. It also processes landlord registrations, grant licences and delivers training for those involved in the rental market.

[3] [Resource library \(gov.wales\)](#)

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[4] Whilst the failure to provide a valid Energy Performance Certificate (EPC) to a contract-holder results in a restriction on issuing a section 173 notice, and the new Fitness for Human Habitation obligation on landlords includes a reference to avoiding excess cold, a specific level of energy performance is not prescribed by the Act (legislation on energy performance/conservation is not devolved to Wales and EPC requirements are set out in the Energy Act 2011).

[5] The focus group and interviews were undertaken between May and July 2023. The deadline for providing converted contracts was 31 May 2023.

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Views expressed in this report are those of the researchers and not necessarily those of the Welsh Government.

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