

Chartered Institute of Housing Cymru
4 Purbeck House, Lambourne Crescent
Cardiff Business Park, Llanishen
Cardiff
CF14 5GJ

Tel: (029) 2076 5760



**Chartered
Institute of
Housing**
Cymru

Increasing the minimum notice period for a 'no fault eviction'

CIH Cymru inquiry response

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple – to provide housing professionals with the advice, support and knowledge they need to be brilliant. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world. Further information is available at: www.cih.org

In Wales, we aim to provide a professional and impartial voice for housing across all sectors to emphasise the particular context of housing in Wales and to work with organisations to identify housing solutions.

For further information on this response please contact
Matthew Kennedy, policy & public affairs manager
at the above address or email matthew.kennedy@cih.org

General Comments

CIH Cymru welcomes the opportunity to provide information to inform this consultation increasing the minimum notice period for a 'no fault eviction'.

Our response is informed by feedback from our members, our knowledge of the housing industry and expertise from our policy and practice teams.

CIH Cymru supports the development of Welsh policies, practices and legislation that aim to address the key housing challenges we face, to improve standards and supply, promote community cohesion, tackle poverty and promote equality. We promote a *one housing system* approach that:

- places the delivery of additional affordable housing at the top of national, regional and local strategies as a primary method of tackling the housing crisis;
- secures investment to ensure the high and sustainable quality of all homes in a sustainable framework;
- improves standards and develops the consumer voice within the private rented sector
- promotes the concept of housing led regeneration to capture the added value that housing brings in terms of economic, social and environmental outcomes;
- recognises that meeting the housing needs of our communities is a key aspect of tackling inequality and poverty;
- ensures that that there are properly resourced support services in place to prevent homelessness and protect the most vulnerable;
- uses current and potential legislative and financial powers to intervene in housing markets and benefit schemes;
- promotes consumer rights & tenant involvement;
- and supports the continued professional development of housing practitioners.

1. Introduction

Renting a home in Wales is a vital part of the housing system and increasingly is the tenure of choice for a wide range of people. The nature of the housing market is changing rapidly as house prices increase and intergenerational equity deteriorates with homeownership becoming increasingly difficult for younger people. The Resolution Foundation's recent analysis on this issue highlighted that if home ownership growth follows a similar pattern as the last decade then half of millennials could still be renting in their 40s (unable to become homeowners even if they desired to do so) and around a third could still be renting by the time they claim their pension.¹

The shape of renting across Europe varies significantly and we believe it is important to recognise what the right investment in renting can achieve in terms of both the standard of homes and the experiences of tenants. In both Switzerland and Germany tenant households are more common than owner occupier households. This has led to a much greater quality of housing stock and stability across the entire market in these countries. The latest OECD figures reflect that the share of people in the bottom quintile of income distribution spending more than 40% of their disposable income on rent stood at 13 per cent and 29.1 per cent for Germany and Switzerland respectively, whilst for the United Kingdom, the same figure stood at 59.2 per cent.²

Whether renting in a home in the social or private rented sector we believe that people in Wales should expect consistency, fairness and equality in accessing and living in rented Accommodation. We welcome this opportunity to explore how changing the notice period for a 'no fault eviction' could improve the experiences of tenants renting in Wales.

2. Responses

The Welsh Government's proposal with regard to extending minimum notice periods for a periodic standard contract

Question 1: Do you agree with this proposal? **Yes (in principle)** / No / Don't know

Question 2: Please tell us why.

Whilst we agree with the proposal in principle we believe that if these proposals are progressed there must be a number of considerations acted upon in tandem in the interest of improving experiences for both landlords and tenants alike. We recognise that this discussion is one that at a basic level seeks to provide greater security and certainty to tenants renting in Wales. We welcome the intention highlighted in the consultation of increasing security of tenure whilst ensuring landlords have access to an efficient and effective means of possession where needed.

Addressing capacity in the court system

The consultation rightly raises legitimate concerns over the use of section 21 notices, highlighting that their use is sometimes the result of landlords being aware that this can often be the quickest route to possession. We share the view that this is in part driven by a

¹ <https://www.resolutionfoundation.org/media/press-releases/up-to-a-third-of-millennials-face-renting-from-cradle-to-grave/> (Accessed 02/09/2018).

² <http://www.oecd.org/social/affordable-housing-database.htm> (Accessed 02/09/2018).

lack of capacity in the county court system, which in Wales has seen considerable cuts in terms of resources in recent years.

In a UK-wide consultation from the UK Government seeking views on developing a housing court we highlighted the following points that we believe remain relevant to the discussion in a Wales context. It is clear that users of the current county court system, both social and private landlords alike, experience a number of difficulties including:

- the time taken for cases to be resolved, with landlords particularly telling us about lengthy delays at various stages of the possession process
- significant inconsistencies in both processes and timescales between different county courts. These inconsistencies can create difficulties for larger landlords who operate across many different areas
- a lack of understanding about court processes and procedures.

While most social landlords are experienced users of the legal system this is not necessarily the case for private landlords, for whom being a landlord is often a small scale, part time exercise. Navigating the legal system can be complex and this is exacerbated by inconsistencies between courts in different areas.

Furthermore, feedback from our members also suggests that tenants often do not know what to expect from the court system and we are concerned that a lack of understanding of processes and procedures may sometimes inhibit their ability to exercise their rights effectively.

Increasing support for tenants and landlords in the PRS

We share the belief that eviction should be treated as an absolute last resort for landlords and wherever possible action should be taken to negate the need to pursue possession action.

In research conducted through our Tyfu Tai Cymru project and in partnership with Tai Pawb we explored the situation facing people living with mental health issues in the private rented sector.

The report found that:

- One in three support organisations feel there is ‘never’ enough mental health support for tenants renting privately
- 62 per cent of landlords have had, or currently have a tenant with a mental health problem
- Almost half of private landlords felt they ‘never’ had enough support or information to support tenants living with mental health problems
- Landlords would like to access more information and support
- Early intervention is key to helping people maintain their tenancy
- There are suggestions that people with mental health problems sometimes face discrimination when trying to access private rented sector housing
- Private landlords told us that the solution to the problems are straightforward; that there should be better advice available online for what landlords and

tenants can do to access support. The landlords who were best able to manage the tenancies were those who had their own experience of mental health problems within their families and knew how to access support.

CIH Cymru makes the following recommendations:

- Welsh Government to provide comprehensive information for private rented sector landlords and letting agents regarding local and national mental health support
- Relicensing through Rent Smart Wales should require all private sector landlords to complete a module on mental health to improve their knowledge of how to access support for tenants with mental health problems.
- Local authorities should develop crisis/emergency housing-related support services for people with mental health problems in the private rented sector to support tenants to stay in their own homes
- Services should be shaped and delivered with the expertise and insights of tenants living with mental health problems in the private rented sector

We believe that implementing these recommendations would offset the need in some situations for possession action to be pursued. The research found that those landlords who had had a negative experience when a tenant had a mental health issue did not feel confident in renting to tenants with mental health issues in the future. We believe greater support and information for landlords would ensure that experiences become more positive and landlords and tenants feel better supported in managing homes and living independently respectively.

Proposal regarding when a section 173 notice can be issued under a periodic standard contract

Question 1: Do you agree with our proposal to increase the period in which a section 173 notice cannot be issued from four months to six? **Yes** / No / Don't know

Question 2: Please tell us why.

We agree with the logic outlined in the consultation that providing all tenants with a virtual minimum one-year occupation period would be a step in the right direction to increase security of tenure. In addition recognising the clear link with the cycle of other factors involved in renting that are annual commitments, such as utilities.

This measure is more compatible with our desire to see greater security of tenure across the housing sector. As an organisation we advocate for a one housing system approach to developing, delivering and managing homes in Wales. In practice, we believe this means that whether renting or buying everyone should have the right to access a safe, affordable, suitable place to call home.

We would not however wish to see any unintended consequences that undermine the ability of landlords to act in cases of domestic abuse/violence, community safety and anti social behaviour.

Proposal to set further time limits on issuing a section 173 notice under a periodic standard contract

Question 1: Do you agree with this proposal? **Yes** / No / Don't know

Question 2: Please tell us why.

Scenarios where tenants feel they always have an eviction notice active is clearly undesirable. Further to this, it would clearly be poor housing management practice to re-issue a section 173 every six months, and would undoubtedly further harm relations between landlords and tenants alike.

We believe that whilst the six-month notice provides greater security for tenants (something we strongly support) there should be clear trigger points that prompt opportunities to provide support/advice and information to tenants and landlords that could prevent the need for the tenancy to end.

There are numerous examples across Wales from both the social housing sector and the PRS sector alike where landlords have developed approach to housing management that seek to greatly reduce or negate the need for eviction all together. This has included measures such as:

- Pre-tenancy assessments and links to support where need is identified
- Regular engagement with tenants to strengthen relationships with landlords
- Exploring the causes behind rent arrears and working with tenants to provide support/advice

We believe there is a strong case for sharing practice between landlords working in the social housing sector and the PRS as the principles underpinning some of the most successful approaches are universally applicable.

Proposal to remove a landlord's ability to end a fixed term standard contract under section 186.

Question 1: Do you agree with this proposal? **Yes** / No / Don't know

Question 2: Please tell us why.

We are supportive of the proposal to remove a landlord's ability to end a fixed term standard contract under section 186. Although with the same caveats as we note above around efficient process through the court systems and the avoidance of the unintended consequences that could impact housing/community management practices.

We also agree that break clauses will require careful consideration and we would be supportive of guidance in this area to landlords to ensure a level of consistency and that any clauses represent a desirable level of fairness and logic in their use.

Proposal with regards to further protection against retaliatory evictions

Question 1: Do you agree with this proposal? **Yes** / No / Don't know

Question 2: Please tell us why.

All tenants in Wales should feel confident that when problems occur landlords will meet their obligation to ensure homes are safe, secure and fit for purpose adopting well-established methods of managing homes.

We believe that if a landlord is exposed as having attempted to make a retaliatory eviction that the consequence should fall under the remit of Rent Smart Wales to enforce and require enhance training/awareness raising to ensure standards of housing management are met and well recognised.