

Report to	Cabinet
Date of meeting	22nd November 2022
Lead Member / Officer	Councillor Rhys Thomas / Liz Grieve Head of Communities & Customers
Report author	Geoff Davies, Lead Officer – Community Housing
Title	Renting Homes (Wales) Act 2016 and use of the Introductory Tenancy

1. What is the report about?

1.1. To seek approval from Cabinet for ending the use of Introductory Tenancies for new council tenants and to inform Cabinet of the new tenancy agreement for council tenants.

2. What is the reason for making this report?

2.1. The implementation of the Renting Homes (Wales) Act 2016 introduces a new legislative framework for the management of council house tenancies.

3. What are the Recommendations?

3.1. That Introductory Tenancies are no longer used for new tenants to the council.

3.2. That the new Occupation Contract for all council tenants, and a summary of the main changes introduced by the new legislation, are noted.

4. Report details

4.1. The Renting Homes (Wales) Act 2016 will come into force on 1st December 2022 and will introduce new tenancy law for all tenants in Wales.

- 4.2. For council tenants, this means that the current Secure Tenancy provided by the Housing Act 1985 will be replaced by the new Secure Occupation Contract and legal provisions contained with the Renting Homes Act.
- 4.3. Whilst the Act is intended to simplify renting a home in Wales, this will not mean any significant, noticeable change for council tenants with the exception of some rules around the administration of tenancies. Overall, council tenants will retain the same level of security in their homes as they do currently.
- 4.4. Matters such as the Right to Buy and remedies to address anti-social behaviour as examples, will continue to be dealt with under separate legislation.

4.5. **Introductory Tenancy Policy**

The implementation of the Act is an opportunity to review our Introductory Tenancy policy. This was introduced in 2007 and the last updated policy approved by the Council in 2016.

- 4.6. In summary, the use of Introductory Tenancies allowed the council to apply to the County Court to end a tenancy at the end of the first 12-month period should the tenant's behaviour not be in accordance with their tenancy agreement and interventions to address this have failed.
- 4.7. The grounds for possession are "mandatory" and the court would not have to consider the reasonableness of the Council's application.
- 4.8. Over time our approach to managing and supporting new tenancies has modernised and this approach now feels "draconian" and at odds with our culture.
- 4.9. We understand the lengthy waiting times for council homes and the ending of a tenancy so early has to be seen as a failure. This subsequently increases the demands and costs on homelessness and other services, with the many negative impacts associated with households having to leave their home.
- 4.10. Whilst there is risk with not retaining our ability to end a tenancy on mandatory grounds, we are still able to apply to court to seek to end a tenancy if tenancy conditions were being breached to a significant extent. The court can still grant a possession order however this would be suspended to allow the tenant an

opportunity to change their behaviour and also allow us to work with the tenant in order to seek the required change.

- 4.11. It is worth noting that since 2016, we have not ended an introductory tenancy through these means. Where we have experienced cases where new tenants have not settled, or caused issues in their community, we have used a wide range of other solutions such as increased tenancy support or injunctions if necessary.
- 4.12. The Renting Homes Act allows for the continued use of introductory tenancies through the use of a “standard” rather than “secure” contract, however this would require a significant resource to administer this for little or no impact.
- 4.13. We will continue to support our new tenants through the first 12 months of their tenancy with intensive support based on a thorough assessment of the needs of the household.
- 4.14. The majority of Councils and RSL’s in Wales are taking the same approach. This includes our neighbours Flintshire County Council and Cartrefi Conwy.

4.15. Other Provisions introduced by the Act

We have worked with the Council’s legal team, along with Hugh James specialist housing solicitors and their legal counsel, to ensure the correct conversion of our existing tenancy into the new **Secure Occupation Contract**. This is available upon request.

The occupational contract will be set out in a ‘written statement’. This statement will confirm the terms of the contract and contain all the required contractual terms. These are:

Key matters: For example, the names of the landlord and contract-holder and address of the property. These must be inserted in every contract.

Fundamental Terms: Covers the most important aspects of the contract, including how possession is granted and our obligations regarding repairs.

Supplementary Terms: This is more practical, day to day matters applying to the occupation contract. For example, the requirement to notify us if the property is going to be left unoccupied for four weeks or more.

4.16. The legislation allows for a tenant to **transfer** a tenancy (previously known as “assign”) to another qualifying person in certain circumstances and we will be legally required to administer such requests, including what was previously known as a “mutual exchange”.

4.17. When a tenant passes away, there are certain legal rights of **Succession** to the tenancy to qualifying persons. These rights remain and are enhanced to modernise some of the previous provisions as the regulations enables both a ‘priority’ and ‘reserve’ successor to succeed to the occupation contract. This allows two successions to the contract to take place, for example a spouse followed by another family member. In addition, a new succession right for carers is created.

In order to be able to consider these fairly and in line with the new provisions, we are intending to consider all claims as new claims regardless of previous successions.

4.18. The Act introduces a new standard known as **Fitness for Human Habitation (FFHH)**. This a requirement for landlords to maintain homes in a good state of repair. Similar provisions are contained within existing legislation and can be used to for tenants to make disrepair claims against their landlord. We have been working with colleagues in Property to ensure we adhere to the updated standards.

The Act sets out the 29 matters and circumstances to which regard must be had when determining whether a property is FFHH. In addition, there are specific requirements placed upon a landlord to help ensure certain matters and circumstances do not arise, these include reducing damp and condensation, ensuring there is a hard wired smoke alarm on each floor of a home and a carbon monoxide alarm in proper working order in each room where there is a gas, oil fire or solid fuel appliance.

We also need to ensure there is an Electrical Installation Condition Report (EICR) every 5 years.

Whether the dwelling is a fit place to live should, in the vast majority of cases, be clear to both landlord and contract-holder. Ultimately, where a dispute

cannot be resolved, whether the dwelling is FFHH will be a matter for the court to determine.

5. How does the decision contribute to the Corporate Priorities?

5.1. Housing is a corporate priority - **Theme 1: A Denbighshire of quality housing that meets people's needs.** Ensure sufficient good quality housing is available, meeting the needs of all Denbighshire Residents.

6. What will it cost and how will it affect other services?

6.1. The Housing Revenue Account is ring fenced and costs of implementation are covered by income through rents and service charges.

7. What are the main conclusions of the Well-being Impact Assessment?

7.1. The ending of the Introductory Tenancy means we can continue to adopt a supportive and preventative approach to ensure long term sustainability avoiding negative experiences for families and the impacts this has on services.

8. What consultations have been carried out with Scrutiny and others?

8.1. The Denbighshire Tenants and Residents Federation (DTARF) have been kept informed of these changes.

9. Chief Finance Officer Statement

9.1. The Housing Stock Business Plan remains robust and financially viable. There are sufficient resources to support the management and supervision of the housing service.

10. What risks are there and is there anything we can do to reduce them?

10.1. The risk is a failure to adhere to legislation.

11. Power to make the decision

11.1. The Council's constitution gives Cabinet responsibility for Housing functions.