

**RENT SMART WALES PROGRESS AND PREPARATION FOR
RENEWAL ACTIVITIES**

**HOUSING AND COMMUNITIES (COUNCILLOR LYNDA THORNE)
AGENDA ITEM: 6**

Reason for this Report

1. Pursuant to the Council's designation as Single Licensing Authority for Wales to implement Part 1 of the Housing (Wales) Act 2014, this report provides an update on the first 5 years of operating (under the brand name Rent Smart Wales) in partnership with Welsh Authorities and summarises the service refinements being undertaken in preparation for renewal activities due from 23rd November 2020.

Background

2. Rent Smart Wales (RSW) has a remit to operate across Wales to register landlords and their properties and to license landlords and letting and managing agents involved in those specific activities. No licence is issued without evidence that the applicant has completed approved training to ensure that they are familiar with their legal obligations and responsibilities. This training can be undertaken with RSW directly or by an external trainer approved by RSW. At 31st August 2020, 105,386 landlords are registered, 52,702 licences issued and 40,813 people trained directly by RSW. Core performance data is available at Appendix 1.
3. The impact of RSW is being increasingly valued by stakeholders for a range of reasons such as
 - a. The data available provides a much better understanding of the sector e.g. 55% of the private rented sector stock is managed by agents which indicates that service solutions targeted towards agents will have a proportionally bigger impact on the sector than those targeted at landlords.
 - b. the ease with which landlords and agents can be contacted to advise of changes to legislation and guidance, particularly important during the COVID – 19 management period,
 - c. the strategic benefit of the data which assists local authorities with their housing duties. A recent example is the energy performance project which has allowed a comparison of open source energy performance certificate (EPC) data with RSW registered property

- data, leading to identification and targeting of compliance messages alongside information about help and assistance available,
- d. investigation of licence condition breaches which directly assist tenants to help resolve conflicts with their landlords / agents and
 - e. the ability to limit the involvement of those not 'fit and proper' from operating which has led to joint operations with partner organisations.

Issues

- 4. Despite the benefits already recognised, there is scope for RSW to have greater influence on the sector as the Service becomes more established and requirements are refined over time.
- 5. The Housing (Wales) Act 2014 prescribes that registrations and licences are valid for 5 years, following which applications for continuance and renewal respectively, are required. Appendix 2 shows the schedule of expiration dates starting on the 23rd November 2020. Preparation for these renewal activities is well underway and has involved the setup of a Renewal Steering Group of both internal and external stakeholders. A range of RSW activities have been reviewed with a view to identifying opportunities for improvement to existing systems and establishing processes and documentation for renewal activities. These include:
 - a. Training syllabus'

The Licensing Authority must specify requirements in relation to training (in accordance with 19(3) (a) of the Housing (Wales) Act 2014 and Regulation 4 of The Regulation of Private Rented Housing (Training Requirements) (Wales) Regulations 2015. The syllabus applied to a course suitable for an initial licence application has been in place since 23rd November 2015 and will continue to be appropriate for first applications. Additional training options will be available for landlords and agents to satisfy the training requirements at re-licensing stage. This additional flexibility is required to recognise the fact that applicants have previously undertaken training and any further training required should build on this foundation. The additional options available at renewal therefore include a re-licensing course (classroom or online) or approved Continued Professional Development (CPD) courses. Licensing Training requirements – Guidelines for Applicants can be viewed [here](#)

- b. Fee policy

RSW is a fee generating, self-funding service, operating on a 5 year cycle to tie in with the registration and licence terms. At first launch a Fee Policy was adopted which was underpinned by a financial model which estimated the costs involved in the delivery of each aspect of the service. The financial model has recently been reviewed and refreshed to set fees for the next 5 years and incorporating fees for renewal activities too (not originally catered for). This is now published and can be viewed [here](#)

c. Registration

The Registration Form has been reviewed and restructured to better capture data in accordance with the legal requirements now clarified by case law and additional data will be captured which experience has shown would be useful to housing practitioners. A specific example is the Grenfell Tower Fire where Government was keen to understand and locate properties of a specific size. In addition, the processes RSW will implement to make landlords aware of their legal obligation to register and to renew their Registration has been set out in detail. This involves notifications that will be sent by text, email and in writing at specific intervals, and includes the formal legal notices as required to revoke a registration if not renewed.

d. Licensing and licence conditions

Licences are issued only to those who are deemed 'fit and proper' to hold a licence and once licensed they are required to comply with licence conditions throughout the licence period. RSW use a standard set of conditions as a basis for licence approval which includes the requirement to comply with a Welsh Government (WG) approved letting and management Code of Practice. Changes have recently been implemented to address gaps and refine specific conditions to secure better management of the private rented sector. These are now published and can be viewed [here](#).

In addition, the process RSW will implement to make those letting and managing aware of their legal obligation to get licensed or to renew their licence has been refined and set out in detail. This involves notifications that will be sent by text, email and in writing at specific intervals.

6. In order to ensure that licence conditions are being complied with a number of monitoring measures have been incorporated into the service. These include responding to complaints and dealing with breaches as they arise, reviewing compliance by setting review dates and implementing audits of high risk licensees, such as agents. These activities provide licensees with the opportunity to secure improvements in their practices.
7. Agent audits are particularly effective in achieving these improvements. RSW licence conditions require that agents participate and co-operate in an audit during the term of their licence. The audit seeks to comprehensively test and provide assurance that licensed agents are adhering to their licence conditions, the Rent Smart Wales Code of Practice and complying with legislative requirements. This involves a pre-audit questionnaire (a controlled self-risk assessment), information about a sample of properties based on anticipated risk areas, a review of processes, procedures, website, tenancy agreement templates and terms of businesses to make sure that the clauses and terms are fair and enforceable. During the audit, the agent is issued with a report and an

action plan, listing points that they need to action and report back on within a specified timescale. At the end of the process the agent is issued with an audit outcome review. Feedback received from agents indicates that licensees find the process useful and informative, leading to the implementation of improved practices in the business.

8. A grading system has been developed to support these findings and to provide businesses with a clear indication of how they perform against the set standard. Consultation with stakeholders has led to the development of the grades below set alongside examples of the common failings in each category.

Grade	Compliance level	Common failings
Best Practice	Best practice and legal compliance	<ul style="list-style-type: none"> • None
Satisfactory	Non critical areas of concern	<ul style="list-style-type: none"> • No Equalities Policy in place • Communicating terms to tenant. • Improvement required to property inspections • Failure to comply with administrative licence conditions
Action needed	Areas of Concern (Cautionary)	<ul style="list-style-type: none"> • List of fees not available on agent website • EPC indicators not available on property advertisements • Failure to comply with the Renting Homes (Fees etc.) (Wales) Act 2019
Urgent action needed	Major areas of concern (Regulatory)	<ul style="list-style-type: none"> • Failure to provide Gas Safety Records • Failure to adhere to Improvement Notices / Prohibition Orders • No Client Money Protection – for agents who believe they do not require them

9. The groundwork to implement a grading structure to support agent audits has been completed and discussed with stakeholders and provides the confidence to now adopt this approach on a formal basis with a view to ensuring that all commercial agents with a portfolio greater than 20 properties or where there is a cause for concern are audited within the period of their licence. Proposed grades are issued during the audit with the report and action plan. Final grades are issued at the Audit Outcome Review Stage and take into consideration the actions points the agent

has actioned during the audit. Final grades are provided in the audit report and also in the form of a certificate which the agent can display if they so wish.

10. This will provide a basis for future consideration of the mandatory display of the grade, once all businesses have completed the process once. If achieved this could further influence business behaviour to secure ongoing improvements.

Local Member consultation

11. The proposal does not involve a local issue. The proposal does not require the carrying out of consultation under statute or at law or by reason of some promise or undertaking previously given by or on behalf of the Authority. However, ongoing dialogue is held with stakeholders including Welsh government, local authorities through the Directors of Public Protection (DPPW) network and landlord, agent and tenant organisations through the RSW Stakeholder group.

Reason for Recommendations

12. To provide visibility to the work being undertaken by RSW to prepare for renewal activity which will commence on 23rd November 2020 and the work being undertaken by the Service to secure improvements in the PRS across Wales, specifically agent audit.
13. To secure Cabinet endorsement for the approach being taken.

Financial Implications

14. There are no additional financial implications arising from this report. The refinements in the policies and processes will enhance the service provided and all associated costs will be recovered through the fees charged.

Legal Implications

15. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.
16. The Council has to satisfy its public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of

opportunity and (3) foster good relations on the basis of protected characteristics.

HR Implications

17. There are no HR implications for this report.

Property Implications

18. There are no specific property implications affecting this report

RECOMMENDATIONS

Cabinet is recommend to:

1. note the progress made by Rent Smart Wales in delivery of the Housing (Wales) Act 2014 and
2. endorse the refinements required to policies and processes specifically relating to registration, licence, compliance and renewal activities
3. approve the 'Agent Audit' grading structure set out and delegate authority to the Corporate Director to revise the grading structure in light of operational experience.

SENIOR RESPONSIBLE OFFICER	CHRIS LEE Corporate Director Resources
	9 October 2020

The following appendices are attached:

Appendix 1 – Rent Smart Wales Core Data

Appendix 2 – Landlord Registration & Licence expiry dates