

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

Consultation Response Form

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The majority of questions in this consultation are relevant to all respondents but some are specific to whether you are a landlord (either private or social) a letting agent or a 'contract-holder.' A contract-holder is the new name for a tenant under the Renting Home (Wales) Act 2016.

How would you best describe yourself?

A stakeholder or representative group



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

Who we are and what we do?

TPAS Cymru have been supporting tenants and landlords in Wales for over 30 years and have a strong track in developing effective participation. We have an extensive knowledge of the social housing sector and have recently broadened our expertise of the private rental sector.

We focus on issues from the tenant perspective and for the tenants' benefit. Across Wales our work improves the quality of tenant participation through promoting good practice. Whilst we do not manage homes, we work in partnership with our members - Registered Social Landlords, Local Authorities, the Registered Landlord Association, Community Housing Cymru, Chartered Institute of Housing Cymru and tenants.

This response is an example of our ongoing work to contribute to policy developments and issues, challenging the experience and needs of tenants and landlords to policy makers.

TPAS Cymru welcomes the opportunity to contribute to the inquiry to increase the minimum notice period for 'no fault evictions'.

This response has been informed by a sample survey of over 100 tenants across both the social housing sector and the private rental sector.

Key messages:

- Security of tenure is crucial for individuals and families to have confidence and thrive and the suggested legislative changes support this.
- Extended time frames enable tenants to find a home that is suitable for their needs
- There are likely to be more fault-based possession orders which is un-timely and costly and therefore a reform of Section 8 must be considered.
- A process must be implemented for the small number of cases where there are risks to the community following a tenant perpetrating dangerous behaviour despite all support avenues being exhausted.



[The Welsh Government's proposal with regard to extending minimum notice periods for a periodic standard contract](#)

These questions should be answered by all respondents

The minimum notice period for a section 173 under the 2016 Act is two months, similar to section 21 notices currently. The Welsh Government proposes extending this period to six months.

Question 1: Do you agree with this proposal?

Yes

Question 2: Please tell us why.

This, coupled with increasing the minimum time limit for issuing S.173 notices to six months will give tenants a minimum term of 12 months which increases their security. Having a six-month notice period rather than two months will alleviate stress related to moving home. This is likely to be elevated if you're on a low income, with health conditions, children, caring responsibilities and living in an adapted property. It is well documented that such stresses can contribute to mental health issues and will, in turn, put additional pressure on health provision.

TPAS Cymru consulted with 130 tenants with 83% agreeing with this proposal; emphasising that moving home is extremely disruptive and costly; two months is simply not enough time.

"It takes time to find appropriate living spaces and two months is not enough, it encourages homelessness"

"Schools, work etc have to be organised, and the cost of the actual move planned for. I think this will allow more settled communities"

"Because losing a home is no joke. This could be due to financial constrain or illness"

"With the housing shortage, it is unreasonable to expect people to find accommodation in 2 months"

One tenant who had been previously evicted, stated:

"As a tenant who had this happen in the past, I think it is only fair, it is very stressful and led to picking unsuitable property due to time constriction"

Tenants felt that if there was 'no fault', then they deserve to be given the sufficient time to find alternative accommodation.



“More stability is needed, if no fault they deserve the time to find new accommodation”

“It will take time to find suitable accommodation and as it is no fault you should not be penalised”

The financial implication of these rapid changes leads to significant consequences and families with children are left with the additional burden of finding new schools and childcare providers. This, in turn, not only puts pressure on the parent but also causes unnecessary stress on the child.

There is no dispute that extension of the S.173 notice period will reduce the impact of no-fault evictions through providing additional time for families to secure a new home.

However, TPAS Cymru recognise that these changes are likely to lead to a higher uptake of fault-based possession and feel that there needs to be systems in place to ensure the courts can manage the higher number of possession hearings. In addition to that, it is vital these systems are in place to minimise the lengthy court hearings and financial cost to the tenant as well as the potential risk to communities in cases of dangerous behaviour.

TPAS Cymru, feel that considerations need to be made in cases where support has been offered to tenants perpetrating criminal or dangerous behaviour yet it still continues. The un-timely process of gaining possession through a Section 8 notice could lead to severe negative consequence to the community.

We believe that a revision of Section 8 under the 1988 Act needs to be revised to ensure that repossession of property is achievable on reasonable time scales where there is a need due to prohibited conduct, as defined by the 2016 Act.

Question 3: *How do you think a longer notice period will affect you? Please consider both positive and negative impacts*

Of the 130 tenants TPAS Cymru consulted with, 112 tenants felt that the most significant positive factor was the benefit that additional time would offer them.

“Time to get support. Not enough support. At the moment you have to wait for weeks or sometimes months to get an appointment”

“Gives me enough time to go and find a new home, sort out benefits and anything else that is needed”



“This would certainly take a lot of stress out of the situation by giving tenants more time to plan, find alternative accommodation and to save up for the financial aspect of moving. The only negative I can think of is that the landlord would have to wait longer for his property to be free “

“A longer notice period would be helpful because it would allow for more time to find a suitable property and plan for moving. It would also reduce the stress impact of the eviction notice itself”

[Proposal regarding when a section 173 notice can be issued under a periodic standard contract](#)

These questions should be answered by all respondents

Under the 2016 Act, a landlord is prevented from issuing a section 173 notice within the first four months of a new occupation contract, starting with the date the contract-holder is allowed to occupy the dwelling. Our proposal is to extend this period from four months to six months, before the Act is implemented.

This, along with an extended notice period of six months, would mean that contract-holders who have started a new contract will have the security of staying in their home for at least 12 months, providing there is no breach of 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

Question 2: Please tell us why.

73% of consulted tenants agreed with this proposal. TPAS Cymru feel that these changes would provide tenants with more security and opportunity to recover any potential rent arrears. Tenants emphasised that it would give them the necessary extra time to relocate, whereas the shorter time scale may result in an inferior property which, in turn could affect their physical and mental health.

“It does not make for good well-being outcomes if you feel vulnerable in a tenancy”

“When making a new home, six months is no time”

“They should give tenants time to prove how good a tenant they could be. Hopefully I will not end up in such a position”



“It is a bit horrid to be faced with eviction when you have just found a new home It’s like making you feel bad about yourself, when you have not done anything wrong”

“For those who have no alternative other than to rent (I experienced domestic abuse) the longer the security, the better for families”

In terms of the 27% of tenants who disagreed with this proposal, there was no explanation given other than being tenants of housing associations and not realising that S.173 can be issued within the social housing sector.

“does not affect housing association tenants”

“This would not affect me”

“No impact on me”

Question 3: How would this change effect you?

Having greater security was the most common theme amongst tenants as six months, instead of four will enable landlords to work closely with the tenant for a longer period, ensuring every avenue is exhausted before serving a S.173

Tenants felt that the property would be more likely to be taken care of in this case,

“stability for tenants. Property is more likely to be respected. There is a small minority that would disrespect the property and less likely to pay rent on time or at all”

The benefit of extra time was also deemed beneficial to tenants,

“I work full-time so it would be difficult for me to look and view properties, so the extended time would benefit people working”

“It would give me more time to find alternative accommodation if the need arises with less stress than an immediate eviction would pose. Ineffective cooling off period for both parties’ landlord and tenant should the need arise”

[Proposal to set further time limits on issuing a section 173 notice under a periodic standard contract](#)

These questions should be answered by all **respondents**

At present, there would be nothing to prevent a landlord or agent from issuing a section 173 notice every six months, so they could evict the tenant should they choose do so in the next six months. This would result in the extended notice period the Welsh Government proposes being circumvented and a contract-holder having little security during the tenancy as an eviction notice would always be hanging over them.



To avoid this, the Welsh Government proposes placing a six-month restriction on the re-issuing of a section 173 notice after the previous one has expired.

Question 1: Do you agree with this proposal?

Yes

Question 2: Please tell us why.

The issuing of a S.173 notice should be taken very seriously due to the high levels of stress that this places on tenants. Tenants should be able to feel secure in their homes without worrying that they may have to leave. The current literature emphasises numerous mental health and psycho-social benefits of a 'quality home'. In addition to that, there is an emphasis on the landlord and tenant relationship and how this makes a difference to the perception of a quality home.

A landlord that continuously issues a S.173 notice immediately becomes untrustworthy to a tenant, leading them to feel uncertain instead of having improved well-being.

TPAS Cymru believe that restricting the re issuing of a S.173 will minimise uncertainty amongst tenants and enable them to thrive.

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

Currently, under section 186 of the 2016 Act, a landlord may issue a minimum two months' notice that the contract-holder must give up possession of the property. But the notice cannot require the contract-holder to give up possession before the end of the fixed term period, or within six months of the occupation date (the day on which the contract-holder would have been entitled to enter the property). If the contract-holder does not leave on the date specified in the notice (which will usually be the date on which the fixed term period ends, but could be later), the landlord may make a possession claim to the court.

Leaving this provision in place, whilst extending the required notice period for a section 173 notice to six months, would create a situation where a landlord could circumvent the protections offered for periodic standard contracts.

This is because, with the notice period applicable to a periodic standard contract extended to six months, a landlord may consider short fixed term contracts a preferable option. This could significantly reduce, or indeed negate, the benefits to contract-holders of extending the notice period under section 173. A contract-holder would not get the benefit of the increased security or of the extended notice periods where a landlord chose to offer a short fixed term contract that could be ended (after the end of the fixed term) by giving two months' notice.



Therefore, it is proposed to remove a landlord's ability to issue a notice to end the fixed term contract under section 186. This will mean that, if a contract-holder chooses not to vacate the property at the end of the fixed term, the contract will automatically be replaced by a periodic standard contract (under section 184).

Except in the case of a breach of contract, a landlord who wishes to remove a contract-holder who remains in occupation at the end of the fixed term, will be required to serve a section 173 notice to bring the new periodic standard contract to an end, which would be subject to the amended six-month notice period.

Question 1: Do you agree with this proposal?

Yes

Question 2: Please tell us why.

TPAS Cymru agree with the Welsh Government's expectation that the continuation of the use of S. 186 will render the measures put in place to increase protection for tenants invalid.

Use of break clauses

Break clauses allow a landlord or a contract-holder to end a fixed term contract at an agreed point. Whilst they do not automatically form part of every fixed term contract, they can be requested for inclusion by either party. The inclusion of regular break clauses by a landlord could circumvent the proposals being made in relation to extending security of tenure. For example a three year fixed term contract could be issued which included a term enabling the landlord to issue a possession notice every six months.

There is, therefore, a need to consider the future use of break clauses under the 2016 Homes Act. Three potential ways of doing so are:

- To limit the permitted number and/or frequency of break clauses under a fixed term contract.
- To set a minimum period before a break clause can be exercised.
- To prevent the use of break clauses.

Proposal with regards to further protection against retaliatory evictions

These questions should be answered by all respondents



The Welsh Government proposes that, where a court has deemed a notice under section 173 of the 2016 Act to have been issued in a retaliatory fashion (e.g. to avoid undertaking repairs reported by the contract-holder) a landlord will be prevented from issuing a further notice under section 173 for six months.

Question 1: Do you agree with this proposal?

Yes

Question 2: Please tell us why.

92% of tenants TPAS Cymru consulted with agreed with this proposal.

Tenants in the PRS have told TPAS Cymru that they already feel that renting is insecure without the threat of eviction; and that vulnerable families need to be protected. Tenants commented that many landlords ignore their responsibilities when it comes to repairs and that this change would act as a disincentive to the current behaviour and as a protection for tenants. Ultimately tenants felt that they should not be penalised or feel anxious about reporting a necessary repair and that it is immoral that this practice exists. These changes put tenants in a stronger position to challenge poor conditions.

“All homes should be up to suitable standard and adequately maintained”

“The amount of rent charged is astronomical. The least one should expect is to have repairs carried out without feeling you will be given your marching orders”

“Tenants would stop being scared to report repairs that needed doing to their properties for fear of eviction”

Question 3: *How would this change affect you? Please consider both positive and negative impacts.*

Being confident in asking landlords to repair their home and feeling secure was the most common theme amongst tenants.

“The tenant would feel able to report faults without worrying about retaliation”

“It would prevent me from living in inadequate housing, and give me more rights as a tenant. But if the landlord still doesn't do the repair, you are in a no-win situation”

“It would mean not having to live with a young child in a home during the winter which has no working central heating”



[Proposal with regards to failure to comply with existing legislation](#)

These questions should be answered by all **respondents**

The Welsh Government is considering additional restrictions to any landlord seeking to issue a notice where they have failed to comply with relevant legislation. This will help drive up standards in the sector and ensure contract-holders live in properties of a safe and suitable standard. Key areas for consideration here are compliance with Gas Safety Certificates and Energy Performance Certificates

Question 1: Do you agree with this proposal in principle?

Yes

Question 2: Please tell us why.

When the PRS is the only viable option for many individuals, it is essential that the homes that are being offered are good quality and enable communities to thrive. TPAS Cymru believe that providing information that is required by law should be taken very seriously. Landlords should be accountable for the services they provide and where failure to supply items as important as Gas Safety Certificates additional restrictions are beyond reasonable.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:



Appendix 1: Demographics of tenants on our Tenant Pulse Database









