

Rhentu Doeth Cymru Rent Smart Wales



RENT SMART WALES ENFORCEMENT POLICY 2020



This document is available in Welsh / Mae'r ddogfen hon ar gael yn Gymraeg.

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1. Introduction

This Policy covers the enforcement work undertaken by Cardiff Council as the Single Licensing Authority (SLA) and the 22 Local Authorities to deliver Part 1 of the [Housing \(Wales\) Act 2014](#). Collectively the partnership and service is known as Rent Smart Wales (RSW).

This policy sets out the approach taken by RSW to compliance and enforcement activities, and is intended to establish a consistent approach to enforcement across its various functions, without placing too heavy a burden on landlords, managing agents and tenants. It excludes matters which specifically relate to the determination and revocation of licence applications and securing compliance with licence conditions.

This policy has been subject to consultation across a range of stakeholders. However, further feedback is always welcomed using the contact details provided below. We will give consideration to the inclusion of any suggested improvements in future revisions.

In adopting this policy RSW intends to apply legal powers consistently and fairly, whatever the circumstances. Decisions will not be influenced by the gender, disability, language, ethnicity, religion, political beliefs or sexual preference of the subject, victims or witnesses.

RSW wants to make it easy for you to receive our information. This policy is published in English and Welsh on our [website](#) and in hard copy. We are also able to provide the document in alternative formats including audio tape, large print and in community languages. We have access to interpreter services where required. Requests for copies in other formats or other languages should be addressed to:

Rent Smart Wales,
PO Box 1106,
Cardiff.
CF11 1UA

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2. Aims of the Policy

Rent Smart Wales (RSW) strives to ensure that all landlords and agents involved in the management of privately rented property comply with the legislation in order to improve the standards and management of the sector and to better protect the interests of tenants.

RSW's responsibility is to ensure compliance with Part 1 of the Housing (Wales) Act 2014 ensuring that landlords of rented property in Wales are registered and self-managing landlords and agents are licensed. In addition RSW has responsibility to ensure compliance with the [Renting Homes \(Fees etc.\) \(Wales\) Act 2019](#). In seeking compliance RSW enforces the law, including taking enforcement action where appropriate. These areas of responsibility are summarised in the table below.

Registration of landlords and properties	Undertake appropriate interventions to ensure compliance with legislation at local and national level, in accordance with the Memorandum of Understanding (MOU) in place between the SLA and the 22 local authorities.
Licensing of self-managing landlords and agents	Undertake appropriate interventions to ensure compliance with legislation at local and national level, in accordance with the MOU in place between the SLA and 22 local authorities.
To investigate complaints and undertake proactive activity to ensure compliance	To undertake proactive activity and investigate complaints about landlords / agents / premises brought to the attention of RSW and to determine the most appropriate course of action to be taken.
To determine licence applications and where necessary refuse or revoke licences	To determine all applications having regard to provisions in the Act and in accordance with Welsh Government Guidance on the "fit and proper person test". To work collaboratively across 22 local authority areas to ensure that complete and accurate information is available when considering the fitness and propriety of all applicants.
Education and Advice	To provide advice to all in respect of matters relating to Part 1 of the Housing (Wales) Act 2014 and other associated legislation. To provide RSW approved training to facilitate compliance with the licence requirements, both in a classroom environment and online.

Compliance with the law is proactively encouraged and to this end we want to work with landlords, managing agents and tenants to promote this goal through the provision of advice and education, intelligence led checks on compliance and proportionate responses to regulatory breaches. It is not normally considered proportionate to take retrospective enforcement action against individuals who are compliant when reported to RSW, however, there may be exceptional circumstances where this may be appropriate.

Our ultimate purpose is to ensure that the private rented sector functions effectively providing a safe and secure place for tenants to live. When that purpose is undermined, we will use our legal powers to take action to resolve any unsatisfactory situations and ensure that any wrongdoers are held to account. This is what is meant by the term “enforcement action”.

We are committed to taking firm action in the following situations: -

- Against those who flout the law, or who deliberately or persistently fail to comply;
- Where there is a risk to health and safety; and
- Where it is necessary to protect the vulnerable from harm

RSW publishes an annual service delivery plan which sets out RSW’s service standards and our main areas of work for the year ahead.

3. What is this policy for?

The purpose of this document is to set out the RSW policy in respect of its compliance and enforcement activities, and to give guidance to those affected by it, in particular landlords, managing agents and tenants. It does not however, affect the discretion to take legal proceedings when this is considered to be in the public interest.

The staff of RSW will adhere to this policy, and this will be subject to regular monitoring / review periodically.

4. What is the status of this Enforcement Policy?

This policy has been adopted in accordance with the Cardiff Council constitutional arrangements and has been endorsed by the RSW Strategic Implementation Group and Welsh Heads of Environmental Health.

RSW is delivered by the SLA and the 22 local authorities (LAs) in partnership. This arrangement is captured in a memorandum of understanding (MOU) signed by each party which outlines the roles and responsibilities of each party in relation to the promotion and delivery of the legislation and responsibility of each for enforcement activities. It also outlines arrangements for information sharing.

To facilitate this partnership **Cardiff Council as Single Licencing Authority has provided its general consent to each Council:**

Pursuant to Section 28 (2) and (3) of the Housing (Wales) Act 2014, to bring criminal proceedings in respect of any offence under Sections 4(2), 6(4), 7(5), 9(2), 11(3) or 13(3) of the Act, if the alleged offence arises in respect of a dwelling in their respective area.

Pursuant to Section 30 (2) of the Housing (Wales) Act 2014, to make an application for a Rent Stopping Order to the Residential Property Tribunal in respect of an offence under Sections 7(5), or 13(3) of the Act, if the alleged offence arises in respect of a dwelling in their respective area.

Pursuant to Section 31 (3) of the Housing (Wales) Act 2014, to make an application to revoke a Rent Stopping Order to the Residential Property Tribunal in respect of an offence under Sections 7(5), or 13(3) of the Act, if the offence arose in respect of a dwelling in their respective area, and is no longer being committed.

Pursuant to Section 32 (2) of the Housing (Wales) Act 2014, to make an application for a Rent Repayment Order to the Residential Property Tribunal in respect of an offence under Sections 7(5), or 13(3) of the Act, if the alleged offence arises in respect of a dwelling in their respective area.

In addition, individuals within each local authority have been authorised under section 29 (Fixed Penalty Notices) and Section 37 (Power to require documents to be produced or information given) of the Act.

Each Council has also provided its general consent to Cardiff Council as the Single Licencing Authority pursuant to Sections 17 (2) and (3) of the Renting Homes (Fees etc.) (Wales) Act 2019, to exercise any function of an enforcement authority in relation to their areas for the purposes of the Renting Homes (Fees etc.) (Wales) Act 2019 including (but without limitation) taking enforcement activity including, without limitation, bringing criminal proceedings pursuant to section 19 of that Act.

It is expected that local authorities will apply this policy in their delivery of Rent Smart Wales activities, however, there may on occasion, be a conflict with their own local enforcement policy. Where this is the case, the local authority policy will take precedence.

5. Our approach to compliance and enforcement

We aim to use our enforcement powers sensibly and in a proportionate manner. Our overall goal is to promote a fair, safe environment where citizens, tenants, property owners, investors and managing agents in Wales are treated fairly and not exposed to any hazards or unscrupulous practices. From the outset, it is important to state that we want to work with landlords, managing agents and their representative bodies to achieve that goal. Each transaction we undertake, each complaint we investigate, will be conducted fairly and in a proportionate manner.

[The Legislative and Regulatory Reform Act 2006](#), as amended, requires RSW to have regard to the Principles of Good Regulation. We will exercise our regulatory activities in a way which is:

- **Proportionate** – our activities will reflect the level of risk and enforcement action taken will relate to the seriousness of the offence
- **Accountable** – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures
- **Consistent** – our advice to those we regulate will be robust and reliable and we will respect advice provided by others.
- **Transparent** – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return, and
- **Targeted** – we will focus our resources on higher risk activities

RSW embraces the principles of good enforcement established in the [Regulators' Code \(April 2014\)](#), as amended, i.e.

- Regulators should carry out their activities in a way that supports those they regulate to comply and grow;
- Regulators should provide straightforward ways to engage with those they regulate and hear their views;
- Regulators should base their regulatory activities on risk;
- Regulators should share information about compliance and risk;
- Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
- Regulators should ensure that their approach to their regulatory activities is transparent

However, in certain instances we may conclude that a provision in the Regulators' Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on the available evidence.

RSW is committed in all aspects of its work to the promotion of equality in accordance with the participant authorities' Equality statements and policies.

The Service will seek to adopt best practice in pursuit of that commitment, including in relation to the provision of assistance, information and advice.

This policy will contribute to the fairness of decision making and will seek to ensure that decisions will not be influenced by the gender, disability, language, ethnicity, religion, political beliefs or sexual preference of the subject, victims or witnesses. During the monitoring and review of our practices under this policy we will make sure that our enforcement activity reflects this commitment.

In some areas of our work we have a shared enforcement role with other agencies. When we exchange information on enforcement activities with our partner agencies, we will do so in accordance with any established methods of information sharing and legal requirements, including the [Data Protection Act 2018](#), the [Crime and Disorder Act 1998](#) and the Housing (Wales) Act 2014.

We will work with other service areas within Cardiff Council and Council's across Wales, and the appropriate external regulators to ensure that our 'own house is in order' to promote regulatory compliance.

6. Advising on the Rules

Advice to business will be provided proactively and also in response to specific requests for guidance. Such advice will be given clearly and in plain language and will be confirmed in writing on request. Legal requirements will be clearly distinguished from best practice, codes of practice, guidance and other advice.

We will promote compliance with legal requirements, by raising awareness of relevant standards, through media releases and marketing, distributing leaflets, face-to-face contact and through stakeholder engagement and community partnerships.

RSW supports the Government's 'golden rules' for guidance on regulation set out in the Code of Practice on Guidance Regulation http://www.fwr.org/WQreg/Appendices/CoP_on_Guidance_on_Regulation.pdf (BIS, 2009), in that it should be:

- Based on a good understanding of users
- Designed with input from users and their representatives
- Organised around the user's way of working
- Easy for the intended users to understand
- Designed to provide users with confidence in how to comply with the law (i.e. no use of legal disclaimers of liability)
- Issued in good time
- Easy to access
- Reviewed and improved

Landlords and businesses approaching the Service for advice on any non-compliance can in the main do so without fear of automatically triggering an enforcement action. Nevertheless there will be some circumstances e.g. where there is a history of non-compliance, where after due consideration, enforcement action is unavoidable.

7. Ensuring Compliance

RSW adopts an intelligence-led / risk based approach to ensure that its resources are most effectively targeted.

Complaints received about alleged non-compliance will be assessed on an individual, case by case basis and allocated to an appropriate officer / local authority for investigation / action as necessary.

8. Responding to Breaches of the Rules

Overview

In responding to breaches of the law, a range of actions is available to RSW, and these are set out below. The appropriate action will be determined following careful consideration of the particular facts of each individual case, and taking into account the approach of the offender and any comments they wish to be taken into consideration.

RSW will normally take a stepped approach within the hierarchy of enforcement available.

There may be circumstances where it is suspected that an offender has committed offences across a number of local authority areas. In such circumstances we may enter into a legal agreement for one authority to take the lead role, as appropriate, making use of the provisions of [section 19 of the Local Government Act 2000](#), [section 222 of the Local Government Act 1972](#) or any other enabling provisions and/or the Single Licensing Authority will take the lead.

Conduct of Investigations

All investigations will be carried out with due regard to the following legislation and any associated guidance or codes of practice, in so far as they relate to the RSW:

- the [Criminal Procedure and Investigations Act 1996](#)
- the [Police and Criminal Evidence Act 1984](#)
- the [Regulation of Investigatory Powers Act 2000](#)
- the [Criminal Justice and Police Act 2001](#)
- the [Human Rights Act 1998](#)
- the [Protection of Freedoms Act 2012](#)

- Cardiff Council's Operational Policy and Guidance on the Use of Directed Surveillance Under the Regulation of Investigatory Powers Act 2000

These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

Our procedures for interviewing alleged defendants follow the principles set out in the Police and Criminal Evidence Act 1984, and the relevant associated Codes of Practice.

Enforcement powers are provided by the legislation under which our officers are authorised, and staff will use these powers when necessary, but always in a proportionate manner. Officers will reasonably expect co-operation during the investigation of alleged contraventions.

All investigations will be completed in a timely fashion and having regard to any time limits for bringing formal action prescribed by the legislation.

Communication

Our staff will always work collaboratively with partners, where appropriate.

Those affected by enforcement action (including witnesses and defendants) will be kept informed of the progress of investigations. This will be done in a clear, appropriate and timely manner. As decisions are made regarding the direction in which an investigation will be concluded, the defendant(s) will receive written confirmation of the intended course of action. This will be provided as soon as practicable, together with information on rights to representation.

RSW will publish the results of its prosecution cases on its website. Such results may also be drawn to the attention of interested parties.

Decisions on Enforcement Action

The appropriate action will be determined following careful consideration of the circumstances of each individual case.

A range of enforcement outcomes is available to RSW, as detailed below. In general the more serious the matter the more likely it is that court proceedings will follow.

Our choices of enforcement actions aim to:

- Change the behaviour of the offender to secure compliance.
- Eliminate any financial gain or benefit from non-compliance.
- Be responsive and appropriate for the particular offender and regulatory issues which can include punishment and the public stigma that should be associated with a criminal conviction.
- Be proportionate to the nature of the offence and the harm caused.

- Restore the harm, or make safe any situation, caused by regulatory non-compliance where appropriate; and
- Deter future non-compliance.

The main types of legal sanctions available and the factors to be taken into account when deciding on the most appropriate course of action are outlined below. Any decision to take formal action will take account of the criteria contained in the [Code for Crown Prosecutors](#), The Regulators Compliance Code and guidance issued by Welsh Government.

Fixed Penalty Notices

RSW has the power to issue fixed penalty notices in respect of certain breaches under the Act and the Renting Homes (Fees etc.) (Wales) Act 2019. These notices give the offender the opportunity to avoid prosecution by payment of the prescribed sum (£150, £250 and £1000) in recognition of the offence. The Fixed Penalty payable is specified in the legislation (Section 29 (4) of the Housing (Wales) Act 2014 and section 13 of the Renting Homes (Fees etc.) (Wales) Act 2019). The decision to offer an offender a Fixed Penalty Notice is at the discretion of the investigating officer. They will only be issued where the evidence would have been sufficient to support a prosecution.

Payment of a fixed penalty does not provide an individual immunity from prosecution in respect of similar or recurrent breaches. In some circumstances, in particular where breaches are serious or recurrent, it may be that prosecution is more appropriate than the issuing of a fixed penalty notice. A FPN will only be offered to discharge liability for an offence once. A recurrence of the offence will result in the case being considered for prosecution.

Upon expiry of an unpaid FPN, payment will not be accepted, except in exceptional circumstances. The case will be assessed for alternative enforcement action possibly leading to prosecution.

Prosecution

RSW may prosecute for legislative breaches, particularly in respect of those who flout the law or who act irresponsibly, or where there is a risk to health and safety. Where Fixed Penalty Notices have failed to secure compliance previously, then prosecution is likely.

As with the preceding enforcement options, a number of factors will be taken into consideration including:

- The seriousness of the offence
- The previous history of the offender
- Any statutory defence available
- Action taken to avoid recurrence

- Any explanation offered, and if the law allows the circumstances and attitude of the offender
- What course of action will best serve the public interest
- Whether there is a realistic prospect of conviction

The decision as to whether prosecution is the most appropriate course of action in a particular case will be made

- In accordance with this Policy;
- In accordance with the Code for Crown Prosecutors; and
- In accordance with statutory requirements, taking into consideration all relevant codes of practice, and without any unnecessary delay.

In following the Code for Crown Prosecutors, a prosecution will only be commenced where RSW / Council is satisfied that there is **sufficient evidence** to provide a realistic prospect of conviction against the defendant(s). In addition RSW / Council must be satisfied that having considered all the relevant facts and circumstances of the case, and having regard to the criteria established by the Code for Crown Prosecutors, a prosecution would be **in the public interest** for each case and its merits.

In limited circumstances 'alternative disposals' may be agreed after commencement of proceedings, subject to legal advice.

A successful prosecution will result in a criminal record. There is a range of punishments available to the court depending on the charge, and the particular circumstances of a case and the offender.

Prosecution cases will be issued in Cardiff if instigated by the single licensing authority (SLA). Defendants may apply to the courts with jurisdiction, for the case to be listed for hearing at an alternative court. Where local authorities instigate proceedings the cases will be issued in their local courts. At this point a compensation order for the tenants affected may be applied for.

The court may be asked to compensate the tenants for the period that a breach was in force. As part of the investigation, the prosecuting authority may where appropriate investigate the financial means of the Defendant to ensure that the Court has all factual information available to them to decide on fines and possible compensation.

Section 35 of The Housing (Wales) Act 2014 provides the ability to prosecute the directors of a limited liability company as well as the body corporate. As a general rule we will use this provision where the director has consented or connived in the offence, or can be shown to have been negligent, or where a series of companies are used to limit liability for breaches and / or responsibility etc. A similar approach will be taken when considering offences undertaken by partnerships and charities / trusts.

Additional Considerations

During the decision process on the appropriate enforcement action, consideration will be given to whether a Rent Stopping Order or Rent Repayment Order should also be pursued. Additional factors considered for these purposes will include:

- Type and number of complaints about property portfolio
- Evidence of non-compliance with the [Code of Practice for Licensed landlords and Agents](#)
- Impact of non-compliance on tenants
- Period of non-compliance

RSW will normally pursue Rent Repayment Orders in cases where Housing Benefit or Universal Credit have been paid. Where Housing Benefit or Universal Credit have not been paid, tenants will be provided with information about how to make the application themselves.

RSW will pursue applications for Rent Stopping Orders in all appropriate cases and in discussion with the tenants.

Landlords will be informed at appropriate intervals that we have powers to instigate Rent Stopping Order and Rent Repayment Order proceedings. Appendix 2 provides additional information on these sanctions.

9. Working with Stakeholders

RSW has established a Stakeholder Consultation structure. We will endeavour to undertake consultation with stakeholders through this and other fora and welcome suggestions to improve the way we manage our service.

10. Comments and complaints

We strive to provide a high standard of service. However, for anyone wishing to make a complaint about the service they have received from us, there is a formal complaints procedure, to ensure that concerns are dealt with quickly and consistently. Complaints can be made in person, in writing, by email or by using the online enquiry form. You will find more information about our Complaints Policy at: <https://www.rentsmart.gov.wales/en/resource-library/>

Any comments or complaints about the application of this policy should be addressed to Rent Smart Wales at the address given in the introduction to this policy.

On occasion, one of our 22 local authority partners may be more appropriate to investigate, under their own Complaint Policy. If this is the case we will advise the customer and refer the matter to the local authority in question to provide an appropriate response.

Sometimes your concern or complaint will not be dealt with via the Complaints Policy, examples include:

- an appeal against a 'properly made' decision made by the Council
- a means to seek change to legislation or 'properly made' policy decision
- decisions in respect of which there is a separate right of appeal or review, e.g. via a Residential Property Tribunal

11. Review and Monitoring

This Policy is reviewed periodically. This includes consultation with Directors of Public Protection across Wales

Details of formal action are reported to appropriate bodies.

APPENDIX 1: TABLE OF OFFENCES Housing (Wales) Act 2014

Offences and Enforcement:

Please read in consultation with Part 1 of the Housing (Wales) Act 2014

Key: Information in **green** is relevant to Licensing Authority. Information in **blue** is relevant to Local Housing Authority

Offence:	Enforcement
<p>Section 4(2)</p> <p>4 Requirement for a landlord to be registered (1) The landlord of a dwelling subject to, or marketed or offered for let under, a domestic tenancy must be registered under this Part in respect of the dwelling (see sections 14 to 17), unless an exception in section 5 applies. (2) A landlord who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.</p>	<p>Prosecutions: By Licensing Authority - s. 28(1) General or specific consent of LiA, LHAs where dwelling in their area – s.28(2) Fixed Penalty Notices: Can be issued by Licensing Authority for where dwelling to which offence relates covers - 29(10a) By consent from LiA, LHA where dwelling in their area – 29(11)</p>
<p>Section 6(4)</p> <p>6 Requirement for landlords to be licensed to carry out lettings activities (1) The landlord of a dwelling marketed or offered for let under a domestic tenancy must not do any of the things described in subsection (2) in respect of the dwelling unless—</p>	<p>Prosecutions: By Licensing Authority - s. 28(1) General or specific consent of LiA, LHAs where dwelling in their area – s.28(2) Fixed Penalty Notices:</p>

<p>(a) the landlord is licensed to do so under this Part for the area in which the dwelling is located, (b) the thing done is arranging for an authorised agent to do something on the landlord’s behalf, or (c) An exception in section 8 applies. (4) A landlord who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine.</p>	<p>Can be issued by Licensing Authority for where dwelling to which offence relates covers - 29(10a) By consent from LiA, LHA where dwelling in their area – 29(11)</p>
<p>Section 7(5)</p> <p>7 Requirement for landlords to be licensed to carry out property management activities (1) The landlord of a dwelling subject to a domestic tenancy must not do any of the things described in subsection (2) in respect of the dwelling unless— (a) the landlord is licensed to do so under this Part for the area in which the dwelling is located, (b) the thing done is arranging for an authorised agent to do something on the landlord’s behalf, or (c) An exception in section 8 applies. (5) A landlord who contravenes subsection (1) or (3) commits an offence and is liable on summary conviction to a fine.</p>	<p>Prosecutions: By Licensing Authority - s. 28(1) General or specific consent of LiA, LHAs where dwelling in their area – s.28(2) Fixed Penalty Notices: Can be issued by Licensing Authority for where dwelling to which offence relates covers - 29(10a) By consent from LiA, LHA where dwelling in their area – 29(11) Rent Stopping Order – Application to RPT can be made by: 30(1a) - Licensing Authority for area where dwelling located 30 (1b) LHA for area where dwelling located [but only on either general or specific consent from LiA 30(2)] Rent Repayment Order – Application to RPT can be made by: 32(1a) - Licensing Authority for area where dwelling located 32 (1b) LHA for area where dwelling located [but only on either general or specific consent from LiA 32(2)]</p>
<p>Section 9(2)</p>	<p>Prosecutions: By Licensing Authority - s. 28(1)</p>

<p>9 Requirement for agents to be licensed to carry out lettings work</p> <p>(1) A person acting on behalf of the landlord of a dwelling marketed or offered for let under a domestic tenancy must not carry out lettings work in respect of the dwelling unless the person is licensed to do so under this Part for the area in which the dwelling is located.</p> <p>(2) A person who contravenes this section commits an offence and is liable on summary conviction to a fine.</p>	<p>General or specific consent of LiA, LHAs where dwelling in their area – s.28(2)</p> <p>Fixed Penalty Notices: Can be issued by Licensing Authority for where dwelling to which offence relates covers - 29(10a) By consent from LiA, LHA where dwelling in their area – 29(11)</p>
<p>Section 11(3)</p> <p>11 Requirement for agents to be licensed to carry out property management work</p> <p>(1) A person acting on behalf of the landlord of a dwelling subject to a domestic tenancy must not carry out property management work in respect of the dwelling unless the person is licensed to do so under this Part for the area in which the dwelling is located.</p> <p>(2) Where a dwelling was subject to a domestic tenancy, but is no longer subject to that domestic tenancy, a person acting on behalf of the landlord of the dwelling must not check the contents or condition of the dwelling, or arrange for them to be checked, for any purpose connected with that tenancy unless—</p> <p>(a) the person is licensed to do so under this Part for the area in which the dwelling is located,</p> <p>(b) the person does no other thing in respect of the dwelling falling within—</p> <p>(i) section 10(1), except preparing, or arranging the preparation of, any inventory or schedule of condition, or (ii) section 12(1), or</p> <p>(c) The activity would not, by virtue of section 12(3), be property management work.</p> <p>(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine.</p>	<p>Prosecutions: By Licensing Authority - s. 28(1) General or specific consent of LiA, LHAs where dwelling in their area – s.28(2)</p> <p>Fixed Penalty Notices: Can be issued by Licensing Authority for where dwelling to which offence relates covers - 29(10a) By consent from LiA, LHA where dwelling in their area – 29(11)</p>
<p>Section 13(3)</p> <p>13 Offence of appointing an unlicensed agent</p>	<p>Prosecutions: By Licensing Authority - s. 28(1) General or specific consent of LiA, LHAs</p>

<p>(1) The landlord of a dwelling marketed or offered for let under a domestic tenancy must not appoint or continue to allow a person to undertake lettings work on behalf of the landlord in relation to that dwelling, if—</p> <p>(a) the person does not hold a licence to do so under this Part for the area in which the dwelling is located, and</p> <p>(b) The landlord knows or should know that the person does not hold such a licence.</p> <p>(2) The landlord of a dwelling subject to a domestic tenancy must not appoint or continue to allow a person to undertake property management work on behalf of the landlord in relation to that dwelling, if—</p> <p>(a) the person does not hold a licence to do so under this Part for the area in which the dwelling is located, and</p> <p>(b) The landlord knows or should know that the person does not hold such a licence.</p> <p>(3) A landlord who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.</p>	<p>where dwelling in their area – s.28(2)</p> <p>NO FPN</p> <p>Rent Stopping Order – Application to RPT can be made by: 30(1a) - Licensing Authority for area where dwelling located 30 (1b) LHA for area where dwelling located [but only on either general or specific consent from LiA 30(2)]</p> <p>Rent Repayment Order – Application to RPT can be made by: 32(1a) - Licensing Authority for area where dwelling located 32 (1b) LHA for area where dwelling located [but only on either general or specific consent from LiA 32(2)]</p>
<p>Section 16(3)</p> <p>16 Duty to update information</p> <p>(1) A landlord who is registered under section 15 in relation to a rental property must notify the licensing authority in writing of the following changes—</p> <p>(a) any change in the name under which the landlord is registered;</p> <p>(b) the appointment of a person to carry out lettings work or property management work on behalf of the landlord in respect of the rental property;</p> <p>(c) that a person who the landlord has previously appointed to carry out lettings work or property management work on behalf of the landlord in respect of the rental property has ceased to do so;</p>	<p>Prosecutions: By Licensing Authority only - s. 28(1)</p> <p>Fixed Penalty Notices: Can be issued by Licensing Authority to which the information to which the offence related was provided to - 29(10b)</p>

<p>(d) any assignment of the landlord’s interest in the rental property; (e) Any prescribed changes. (2) A landlord must comply with the duty in subsection (1) within 28 days beginning with the first day on which the landlord knew, or should have known, of the change. (3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding level 1 on the standard scale.</p>	
<p>Section 23(3)</p> <p>23 Duty to update information (1) A licence holder must notify the licensing authority in writing of the following changes— (a) any change in the name under which the licence holder is licensed; (b) Any prescribed changes. (2) A licence holder must comply with the duty in subsection (1) within 28 days beginning with the first day on which the licence holder knew, or should have known, of the change. (3) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.</p>	<p>Prosecutions: By Licensing Authority only - s. 28(1) Fixed Penalty Notices: Can be issued by Licensing Authority to which the information to which the offence related was provided to - 29(10b)</p>
<p>Section 38(1)(4)</p> <p>38 Enforcement of powers to obtain information (1) A person who fails to do anything required of that person by a notice under section 37 commits an offence. A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale. (4) A person who intentionally alters, suppresses or destroys any document which the person has been required to produce by a notice under section 37 commits an offence. A person who commits an offence under subsection (4) is liable on summary conviction to a fine.</p>	<p>Prosecutions: By Licensing Authority only - s. 28(1) Fixed Penalty Notices – 38(1) Only: Can be issued by Licensing Authority which authorised the person who gave the notice - 29(10c)</p>
<p>Section 39(1)(2)</p>	<p>Prosecutions:</p>

<p>39 False or misleading information</p> <p>(1) A person who—</p> <p>(a) Supplies any information to a licensing authority in connection with any of its functions under this Part which is false or misleading, and</p> <p>(b) Knows that it is false or misleading or is reckless as to whether it is false or misleading, commits an offence.</p> <p>(2) A person who—</p> <p>(a) supplies any information to another person which is false or misleading,</p> <p>(b) knows that it is false or misleading or is reckless as to whether it is false or misleading, and</p> <p>(c) Knows that the information is to be used for the purpose of supplying information to a licensing authority in connection with any of its functions under this Part, commits an offence.</p> <p>(3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine.</p>	<p>By Licensing Authority only - s. 28(1)</p> <p>Fixed Penalty Notices :</p> <p>Can be issued by Licensing Authority to which the information was supplied - 29(10d)</p>
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TABLE OF OFFENCES Renting Homes (Fees etc.) (Wales) Act 2019

Offences and Enforcement:

Please read in consultation with Renting Homes (Fees etc.) (Wales) Act 2019.

Note: Under Section 17(1), Local Housing Authorities, and the Licensing Authority in respect of the Housing (Wales) Act 2014, are Enforcement Authorities, but under Section 17(2), the Licensing Authority cannot act as an Enforcement Authority without the prior written consent of the Local Housing Authority.

Key: Information in green is relevant to Licensing Authority. Information in blue is relevant to Local Housing Authority

Offence:	Enforcement
<p>Section 2</p> <p>2 Prohibitions applying to landlords</p> <p>(1) It is an offence for a landlord to require a prohibited payment to be made to the landlord, or any other person (a) in consideration of the grant, renewal or continuance of a standard occupation contract, or (b) pursuant to a term of a standard occupation contract which purports to require the payment to be made.</p> <p>(2) It is an offence for a landlord to require a person to enter into a contract for services with the landlord, or any other person (a) in consideration of the grant, renewal or continuance of a standard occupation contract, or (b) pursuant to a term of a standard</p>	<p>Prosecutions:</p> <p>By Local Housing Authority</p> <p>By Licensing Authority – s.19 with the consent of the Local Housing Authority where the offence is committed in the authority’s area – s.17(2)</p> <p>Fixed Penalty Notices:</p> <p>By Local Housing Authority – s.13</p>

<p>occupation contract which purports to require entry into the contract for services.</p> <p>(4) It is an offence for a landlord to require the grant of a loan to the landlord, or any other person (a) in consideration of the grant, renewal or continuance of a standard occupation contract, or (b) pursuant to a term of a standard occupation contract which purports to require the loan to be granted.</p> <p>(5) A person guilty of an offence under this section is liable on summary conviction to a fine.</p> <p>(6) The court by which a person (“the offender”) is convicted of an offence under subsection (1) may order the offender to pay the amount of the payment concerned or (in a case where part of the payment has been repaid) the outstanding amount of the payment to the person by whom it was paid.</p>	<p>By Licensing Authority - s.13, with the consent of the Local Housing Authority where the offence is committed in the authority’s area – s.17(2)</p>
<p>Section 3</p> <p>3 Prohibitions applying to letting agents</p> <p>(1) It is an offence for a letting agent to require a prohibited payment to be made to the letting agent, or any other person (a) in consideration of arranging the grant, renewal or continuance of a standard occupation contract, or (b) pursuant to a term of a standard occupation contract which purports to require the payment to be made.</p> <p>(2) It is an offence for a letting agent to require a person to enter into a contract for services with the letting agent, or any other person (a) in consideration of arranging the grant, renewal or continuance of a standard occupation contract, or (b) pursuant to a term of a standard occupation contract which purports to require entry into the contract for services.</p> <p>(4) It is an offence for a letting agent to require the grant of a loan to the letting agent, or any other person (a) in consideration of arranging the grant, renewal or continuance of a standard occupation contract, or (b) pursuant to a term of a standard occupation contract which purports to require the loan to be made.</p> <p>(5) A person guilty of an offence under this section is liable on summary conviction to a fine.</p> <p>(6) The court by which a person (“the offender”) is convicted of an offence under subsection (1) may order the offender to pay the amount of the payment concerned or (in a case where part of the payment has been repaid) the outstanding</p>	<p>Prosecutions:</p> <p>By Local Housing Authority</p> <p>By Licensing Authority – s.19 with the consent of the Local Housing Authority where the offence is committed in the authority’s area – s.17(2)</p> <p>Fixed Penalty Notices:</p> <p>By Local Housing Authority – s.13</p> <p>By Licensing Authority - s.13, with the consent of the Local Housing Authority where the offence is committed in the authority’s area – s.17(2)</p>

<p>amount of the payment to the person by whom it was paid.</p>	
<p>Section 11 11 Offence of failing to comply with a notice under section 10 (1) It is an offence for a person to fail to do anything required of the person by a notice under section 10. (2) In proceedings against a person for an offence under subsection (1) it is a defence that the person had a reasonable excuse for failing to comply with the notice. (3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale. (4) It is an offence for a person to intentionally alter, suppress or destroy any document which the person has been required to produce by a notice under section 10. (5) A person who commits an offence under subsection (4) is liable on summary conviction to a fine.</p>	<p>Prosecutions: By Local Housing Authority By Licensing Authority – s.19 with the consent of the Local Housing Authority where the offence is committed in the authority’s area – s.17(2) NO FPN</p>
<p>Section 12 12 Offence of providing false or misleading information in relation to a notice under section 10 (1) It is an offence for a person given a notice under section 10, in purported compliance with the notice, to supply information that is false or misleading, if the person— (a) knows that the information supplied is false or misleading, or (b) is reckless as to whether it is false or misleading. (2) It is an offence for a person to supply information that is false or misleading, if the person— (a) knows that the information is false or misleading, or is reckless as to whether it is false or misleading, and (b) knows that the information is to be used for the purpose of supplying information in purported compliance with the requirements of a notice given to another person under section 10. (3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine.</p>	<p>Prosecutions: By Local Housing Authority By Licensing Authority – s.19 with the consent of the Local Housing Authority where the offence is committed in the authority’s area – s.17(2) NO FPN</p>

APPENDIX 2: Additional Information: Rent Stopping Orders & Rent Repayment Orders.

Rent Stopping Orders

A Rent Stopping Order has the effect of stopping the rent payable by a tenant to a landlord while it is in force.

In some circumstances, if a landlord is carrying out certain property management activities without a licence or uses an unlicensed agent to carry out letting or property management work on his or her behalf, the single licensing authority or a local authority *may* consider applying to the Residential Property Tribunal (RPT) for a rent stopping order.

The RPT in considering an application for a rent stopping order, must be satisfied that an offence under sections 7(5) or 13(3) of the Housing (Wales) Act 2014 is being committed.

Where the RPT makes a rent stopping order, the periodic rent payments in connection with that particular property are stopped for the period falling between the “stopping date” specified in the order, and a date specified by the tribunal when the order is revoked.

A licensing authority or local authority will need to be able to provide evidence to the RPT that these offences are being committed, although it is not necessary for the person to have been convicted or charged for the offence.

A landlord would not be considered to be committing an offence if they have applied to be licensed, from the date of the licence application until it is determined or if refused, the appeals process has been exhausted and the decision upheld.

However, if a landlord continues to undertake such activities without a licence, or use an unlicensed agent to undertake such activities, and makes no effort to comply with their duties despite requests, there would likely be clear evidence to present to the RPT.

If a tenant is concerned that their landlord is committing such an offence, they should notify the licensing authority or their local authority. They will be given appropriate advice by RSW.

Rent Repayment Orders

A rent repayment order has the effect of requiring the landlord to repay rent that has been paid for a specific period of time stated in the order during which the landlord has been found to have committed an offence under section 7(5) or 13(3).

If a landlord has been carrying out certain property management activities without a licence or using an unlicensed agent to carry out lettings or property management work, the licensing authority or a local housing authority or a tenant may consider applying to the Residential Property Tribunal (RPT) for a rent repayment order.

For an application from a licensing authority or local authority, the RPT in considering an application, must be satisfied that an offence under sections 7(5) or 13(3) of the Housing (Wales) Act 2014 has been committed. The licensing authority or local authority must give the landlord a “notice of intended proceedings” and the offence must have been committed within 12 months of the date of that notice.

For an application from a tenant, the RPT in considering an application must be satisfied that the landlord has been convicted of an offence or that a rent repayment order has already been made in respect of housing benefit or universal credit. The application by a tenant must be made within 12 months of the date of the conviction or the date of any rent repayment order made.

Where the RPT makes a rent repayment order, the landlord will be required to repay the rent amount specified in the order to the relevant applicant. This allows the tenants of a property to recover rent they have paid, or the relevant local authority or licensing authority, to recover rent, housing benefit or universal credit paid, to an unlicensed landlord.