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## **Welsh Women's Aid Briefing on The Renting Homes (Wales) Act 2016**

This briefing will outline the work that has been carried out by Welsh Women's Aid in order to highlight and evidence to the Welsh Government that the Act is detrimental to all types of refuge provision and the survivors who use them.

The implementation of the Act means that every survivor who resides in refuge over 6 months (the 'relevant period'), will automatically move onto a supported standard contract, unless they are able to get a three-month extension approved by the local authority. Different circumstances apply if a homelessness duty has been accepted, if a survivor has been in refuge 6 months on the day of implementation or if a survivor has no recourse to public funds (NRPF).

### **Summary of our main concerns on The Renting Homes (Wales) Act 2016**

- Safeguarding risk
- Additional administrative burden on refuge
- Additional administrative burden on local authorities
- Complexity of residents 'tenancy status'
- Financial cost to refuge
- Bed blocking
- Undermines the primary purpose of refuge as a safe haven
- Lack of statutory guidance on extension of the relative period

### **Background into The Renting Homes (Wales) Act 2016**

The Renting Homes (Wales) Bill was introduced on the 9<sup>th</sup> of February 2015<sup>1</sup> and came into force on the 1<sup>st</sup> of December 2022. Welsh Government intended that this legislation would bring clarity to the

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<sup>1</sup> [https://senedd.wales/Research%20Documents/Renting%20Homes%20\(Wales\)%20Bill%20-%20Stage%202/15-041.pdf](https://senedd.wales/Research%20Documents/Renting%20Homes%20(Wales)%20Bill%20-%20Stage%202/15-041.pdf).





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law and end confusion for both landlords and tenants<sup>2</sup> and was based on the vision set out by The Law Commission in 2013<sup>3</sup>. Coined one of the biggest changes to housing law in Wales for decades<sup>4</sup>, the Act intends to provide security of tenure to all that rent.

Welsh Women's Aid responded to consultations<sup>5</sup> during various stages of the Act, however, were not consulted by Welsh Government as experts in the Violence Against Women, Domestic Abuse and Sexual Violence (VAWDASV) sector in Wales. Therefore, we strongly believe that the voice of specialist services and survivors were not considered in the implementation and the application of the Act. In our consultation responses we highlighted concerns such as there being a number of women who reside in refuge over 6 months mostly due to the lack of appropriate move on accommodation, and therefore would be provided with a supported standard contract which would only exacerbate issues such as bed blocking<sup>6</sup>. 8 years after this consultation response was submitted in 2015, the number of survivors who reside in refuge for over 6 months has grown significantly due to the lack of suitable and appropriate accommodation in Wales and the demand for emergency temporary refuge provision has not slowed down following years of austerity, the Covid-19 pandemic, and the cost-of-living crisis.

Whilst we recognise and applaud the implementation of increased security for private renters, such as the increase notice period for no-fault evictions and the improvement of succession rights, we do not believe this fits the flexible and emergency nature of refuge provision. Refuge provision is never intended to be a 'home' and survivors reside there because they are fleeing risk of imminent serious harm or death. Refuge provision ensures that survivors and their children are kept safe and are supported until they are able to move into more appropriate long-term accommodation. Refuge provision rely on flexible tenancies, such as licenses, so that survivors can be moved on quickly when refuge is no longer appropriate for them. This could be due to their location being disclosed to the perpetrator/s or because they require other specialist support due to poor health or ill-mental health. We strongly believe that the implementation of this Act has the ability to break the Welsh VAWDASV refuge system and that it will, and already has, caused lasting devastating consequences for survivors and the specialist service provision. We do not believe the Act has benefited a single survivor who has or is currently residing in temporary refuge accommodation.

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<sup>2</sup> <https://research.senedd.wales/research-articles/the-law-on-renting-homes-in-wales-is-about-to-change/>.

<sup>3</sup> [https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2015/03/lc337\\_renting\\_homes\\_in\\_wales\\_english-language-version.pdf](https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2015/03/lc337_renting_homes_in_wales_english-language-version.pdf).

<sup>4</sup> <https://www.gov.wales/housing-law-changed-renting-homes>

<sup>5</sup> <https://welshwomensaid.org.uk/wp-content/uploads/2021/11/Consultation-on-the-Renting-Homes-Wales-Bill.pdf> and <https://welshwomensaid.org.uk/wp-content/uploads/2021/11/WWA-Response-Renting-Homes-Fees-Act.pdf>

<sup>6</sup> <https://welshwomensaid.org.uk/wp-content/uploads/2021/11/Consultation-on-the-Renting-Homes-Wales-Bill.pdf>.

Pendragon House, Caxton Place | Pentwyn, Cardiff | CF23 8XE  
Tel: 02920 541551  
[info@welshwomensaid.org.uk](mailto:info@welshwomensaid.org.uk) | [www.welshwomensaid.org.uk](http://www.welshwomensaid.org.uk)

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### Concerns around The Renting Homes (Wales) Act 2016

- The administrative burden of applying for extension of the relative period will have on services that are already overstretched and therefore time is spent completing administrative tasks and not providing front line support
- Safeguarding v Occupation Contracts – the difficulty of being unable to move on a survivor when they can no longer remain in refuge safely, which can be for reasons such as being located by a perpetrator or requiring further specialist support. When mutual agreement is not achieved, a 2-month notice period will have to be served meaning the risk of serious harm for survivors and staff will remain for this period.
- There are 4 different scenarios that survivors could be in after 6 months of residing in a refuge:
  - Survivor has NRPF so will remain on a license agreement.
  - An extension has been applied for and granted by the local authority so the relative period has been extended up to 3 months.
  - Survivor will be on a supported standard contract because a extension was not applied for/approved or because they were in refuge 6 months on the day the Act was implemented.
  - Homelessness duty has been accepted by the local authority so the relative period is now 12 months before a supported standard contract is enforced.
- Financial Cost – The cost of having to take a survivor to court or to take out an injunction if they don't leave can be approximately £4,500 without a trial. The cost of translating the supported standard contract into easy read and multiple languages will be high.
- Bed blocking when demand is significantly high. When staff know a survivor has left refuge and will not return, they will need to wait 4 weeks until they can re-occupy the room.
- The lack of statutory guidance on how Local Authorities receive or grant extensions of the relative period meaning that each Local Authority has a different way of working.

Pendragon House, Caxton Place | Pentwyn, Cardiff | CF23 8XE  
Tel: 02920 541551  
[info@welshwomensaid.org.uk](mailto:info@welshwomensaid.org.uk) | [www.welshwomensaid.org.uk](http://www.welshwomensaid.org.uk)

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## **Pre-implementation – prior to 1<sup>st</sup> December 2022**

Following concerns raised about the upcoming implementation of the Act by member services, Welsh Women's Aid arranged a 'Practise Development Session' in November 2022, which was attended by staff from specialist member services throughout Wales. Simon White, Head of Housing Legislation for the Welsh Government, and a speaker from Shelter Cymru were invited. The aim of the session was to understand the key changes in the Act, whilst discussing the VAWDASV sectors concerns with housing specialists. During the meeting, any exemption for refuge accommodations from the provisions that raised concerns were ruled out by the Head of Housing Legislation, stating that such amendments would require change to primary legislation. Welsh Women's Aid and our members felt that our concerns had not been heard or that the gravity of the impact on refuge provision and survivors were not fully understood.

During Plenary on the 29<sup>th</sup> of November, both Janet Finch-Saunders MS and Sioned Williams MS highlighted our concerns to Julie James MS, Minister for Climate Change<sup>7</sup>. Sioned Williams MS emphasized our concerns around safe refuge management, disparities between survivors' rights and that the Act fundamentally does not consider the unique position of refuge<sup>8</sup>. In her response the Minister for Climate Change stated that Welsh Government would work closely with the sector in order to address any misunderstanding of the legislation, identification of negative impacts and consider further actions<sup>9</sup>.

Whilst WWA strongly believed that we had not misunderstood the Act, we welcomed the opportunity to work with Welsh Government to discuss our concerns further and were optimistic about what options could arise.

## **Post- implementation – 1<sup>st</sup> December 2022 onwards**

### **Actions taken by Welsh Women's Aid**

On the 1<sup>st</sup> of December, the day that the Act came into force, Welsh Women's Aid sent an open letter<sup>10</sup> which has been signed by 19 member services to the VAWDASV National Advisors, Jane Hutt MS: Minister for Social Justice and Chief Whip and Julie James MS: Minister for Climate Change. This

<sup>7</sup> <https://record.assembly.wales/Plenary/13049#A76121>.

<sup>8</sup> *ibid*, 257.

<sup>9</sup> *Ibid*, 266.

<sup>10</sup> <https://welshwomensaid.org.uk/wp-content/uploads/2022/12/Welsh-Womens-Aid-Renting-Homes-Act-Open-Letter.pdf>

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[info@welshwomensaid.org.uk](mailto:info@welshwomensaid.org.uk) | [www.welshwomensaid.org.uk](http://www.welshwomensaid.org.uk)

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was also publicly shared on WWA's website and twitter page<sup>11</sup> and highlighted the urgent call to exempt refuges from the Act and the different concerns held by the VAWDASV sector.

Welsh Women's Aid are the secretariat for the Cross-Party Group (CPG) on Violence against Women and Children and on the 2<sup>nd</sup> of December 2022 a joint meeting was held with the CPG on Women. In this meeting specific concerns regarding survivors with no recourse to public funds (NRPF) and the Act were raised. Following this, the chairs of both of the CPG's Sioned Williams MS and Sian Gwenllian MS, sent a joint letter to Minister Jane Hutt, MS to raise their concerns.

Welsh Women's Aid have supported member services in every possible way to ensure they feel supported when trying to navigate and minimise the detriment of the Act. We have organised regular 'Renting Home Forums' where members have been able to discuss any concerns or questions they have had. Most of these forums have been attended by a Barrister to enable WWA to answer any questions members had informally. Members are regularly kept up to date with any updates from Welsh Government and are able to seek support from WWA when needed. We have also shared template agreements that have been provided by our legal counsel, to help support our members with the changes implemented under the Act. Those who work the specialist VAWDASV sector are experts in their field and often have to navigate changes in legislation and policy, however the implementation of this Act has caused significant pressure on services that are already struggling due to staff retention, increased demand, and a cost-of-living crisis.

## Work with Welsh Government

Welsh Women's Aid were hopeful at the prospect of working closely with the Welsh Government, in order to address the significant concerns that we believe will only alleviate once an exemption is provided for all forms of refuge provision. The current Act jeopardises the safety of all staff and survivors who reside in refuge as we are significantly concerned that this piece of housing legislation overrides safeguarding.

We met with Welsh Government Housing Policy Division on numerous occasions, with our first meeting being in December 2022. In this early meeting clarity was provided regarding homelessness duty, those with NRPF and the assurance that refuge was not deemed as settled or permanent accommodation. Welsh Government drafted a letter to local authorities which clarified local authorities' homeless duty and a guidance notice on supported accommodation, which we provided our comments to ensure that this was fit for purpose. We welcomed that nearly all of our comments were adopted. Alongside this, the Welsh Government also provided an example periodic supported

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<sup>11</sup> <https://twitter.com/WelshWomensAid/status/1598370130299330560>.





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standard contract and a list of lead local authority contact details that we could share with our members. Whilst Welsh Women's Aid welcome the further clarification and details received on the Act, we strongly believe that these actions are solely mitigation for a piece of legislation that is not made for and does not fit refuge provision. We fundamentally believe that this Act provides no benefit for those survivors who reside in refuge or for those survivors who one day may need to seek safety in refuge.

We have produced 4 different briefings for Welsh Government following their requests, which have highlighted the detrimental impact the Act has on the specialist sector, survivors, and staff. Whilst we recognise the importance of having a secure evidence base which highlights and supports our concerns, continuously requesting further data heavily relies on our specialist services ability to have the time to provide this data, when they are already significantly overstretched. All evidence and statistics we have provided to Welsh Government is always caveated with the understanding that its reflective of services who have had the capacity to respond, and that it is not intended to represent a full conclusive picture of refuge.

During our most recent meeting with Welsh Government in June to discuss the 4<sup>th</sup> briefing that we had prepared following a request of further evidence, it was highlighted that they felt we did not have the robust evidence base in order to make any legislative change. Welsh Government also stated that making any legislative change would remove individuals' rights, which we fundamentally do not agree with. An exemption would not remove the right of survivors, it would allow them to remain on a flexible license agreement which ensures that survivors can be given immediate notice to quit, in the circumstance where it is no longer safe for them to stay in refuge. It must be noted that this situation would be the last resort and alternative accommodation would be sought for the survivor, whilst ensuring a safe refuge environment was maintained. We have never proposed to take away the rights of survivors, refuge provision works to ensure that survivors and their family are kept safe from imminent risk of serious harm and death and that they are supported to manage their trauma and re-build their lives. Welsh Government also stated that some of the concerns we have raised are not specific to refuge and we believe that the life-saving emergency nature of refuge is being weakened when it comes to there being a lack of understanding that security of tenure is not required in accommodation that is only supposed to be temporary. Ideally survivors should not have to reside in refuge for over 6 months, however there is currently a significant lack of suitable and appropriate accommodation for survivors to move into, which will not be solved before further survivors are negatively impacted by the Act.

Whilst we strongly believe that the Act has not benefited a single survivor in refuge and the 'workarounds' are purely mitigation for an Act that is not fit for refuge provision, Welsh Government believe that our evidence is relatively small and insufficient. We are significantly concerned that

Pendragon House, Caxton Place | Pentwyn, Cardiff | CF23 8XE  
Tel: 02920 541551

[info@welshwomensaid.org.uk](mailto:info@welshwomensaid.org.uk) | [www.welshwomensaid.org.uk](http://www.welshwomensaid.org.uk)

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Welsh Government do not see our concerns or the impact on survivors as being enough when refuge staff are having to juggle safeguarding staff and survivors alongside implementation of the Act. There have been instances experienced by refuge's where they have been severely concerned that a survivor or staff member will be harmed because the survivor does not want to leave even though it is no longer a safe space for them. It is by pure luck that there has not yet been a catastrophic event of serious harm or homicide, and we are alarmed that the Welsh Government cannot see the potential of this happening if an exemption is not provided. We fundamentally believe that if an Act negatively impacts a single survivor, that is enough to warrant and evidence a change in legislation, and that the concept that not enough people are being detrimented is a draconian measure to have.

### **Upcoming Consultation on exemption for B&B accommodation**

On the 21<sup>st</sup> July 2023, the Welsh Government published an open consultation on "Renting Homes: bed and breakfast accommodation used for homelessness purposes", which seeks views on possible amendments to Schedule 2 of the Act.

The possible amendments would prevent bed and breakfast accommodation that is used for homelessness purposes from being an occupation contract. The rationale for this potential decision states "there was no expectation that a person who is homeless would be living in B&B accommodation long enough for an occupation to arise... However due to the shortage of temporary accommodation... an exclusion is now required due to accommodation being used more extensively and for longer periods".

People who flee to refuge, have no other option and would otherwise be homeless. Refuge is only ever intended to be emergency temporary accommodation, to ensure a survivor and their family are safe and supported until they can move into more appropriate long-term accommodation. It has never been intended that survivors would remain in refuge long enough for an occupation contract to arise, but this has been a significant consequence of the lack of suitable and appropriate move on accommodation. Welsh Government confirmed that an exemption for refuge could not be achieved, and when we highlighted a public consultation as an option, this was also refused. They stated that our evidence base was not robust enough, however it is unclear what level or type of evidence was provided to allow for this consultation to go ahead and for a change to be made this down the line.

We appreciate the Welsh Governments 'no one left out approach' has resulted in a higher number of people in temporary accommodation. However, we do not understand the rationale to disregard an exemption for refuge provision, when the change to primary legislation required for B&B exemptions has been considered suitable for public consultation.

Pendragon House, Caxton Place | Pentwyn, Cardiff | CF23 8XE  
Tel: 02920 541551  
[info@welshwomensaid.org.uk](mailto:info@welshwomensaid.org.uk) | [www.welshwomensaid.org.uk](http://www.welshwomensaid.org.uk)

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## Chronological list of events

- 27/07/2015** – WWA Consultation Response on the Renting Homes (Wales) Bill
- 19/07/2019** – WWA Consultation Response on Welsh Government Renting Homes (Fees etc) (Wales) Act 2019
- 03/11/2022** – Practise Development Session with Simon White, Head of Housing Policy, Welsh Government
- 29/11/2022** – Plenary in the Senedd – concerns raised by Sioned Williams MS and Janet Finch-Saunders MS, with response from Julie James MS, Minister for Climate Change.
- 01/12/2022** – The Renting Homes (Wales) Act 2016 came into force and Welsh Women's Aid sent out an Open Letter to National Advisors, Jane Hutt MS, Minister for Social Justice and Julie James MS, Minister for Climate Change. The Open Letter was also shared on the WWA website and via twitter.
- 06/12/2022** – Meeting with Welsh Government and Welsh Women's Aid
- 07/12/2022** – Letter sent to Julie James MS, Minister for Climate Change on behalf of the CPG on Women and Violence against Women and Children, in regard to the impact of the Act on those with NRPF.
- 15/12/2022** – Meeting with Welsh Government and Welsh Women's Aid and first Renting Homes Forum internally for members. This continued every month until June 2023.
- 19/12/2022** – Reply from Julie James MS, Minister for Climate Change on Open Letter.
- 21/12/2022** – Reply from Julie James MS, Minister for Climate Change on letter from CPG.
- 11/01/2023** – Draft letter from Welsh Government for local authorities shared for comments to Welsh Women's Aid.
- 21/01/2023** – Guidance Note from Welsh Government shared for comments to Welsh Women's Aid and names of local authority lead names provided.
- 01/02/2023** – Third Briefing shared with Welsh Government
- 16/02/2023** – Meeting with Welsh Government and Welsh Women's Aid
- 22/02/2023** – Letter to Local Authorities issued by Welsh Government.
- 03/04/2023** – Fourth Briefing shared with Welsh Government
- 08/06/2023** – Meeting with Welsh Government and Welsh Women's Aid

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