

Rent Smart Wales (RSW) is a service hosted by Cardiff Council but ensures compliance with the legislation in partnership with 22 Welsh local authorities. The Welsh Ministers designated Cardiff Council as the Licensing Authority for the whole of Wales in 2015. The designation can be read on the [legislation website](#)

In its role as Licensing Authority under the Housing (Wales) Act 2014, the Rent Smart Wales service must process landlord registrations and grant licences to landlords and agents who are required to comply with the Housing (Wales) Act 2014.

One of the reasons the Welsh Government chose one Council to act as administrator for the whole of Wales is to make the service easier for landlords, agents and tenants to access. The central register means that landlords only have to complete one registration and if they self-manage only apply for one licence to cover them for the whole country. The same applies to agents, who need only apply for one licence. In addition it made sense to centralise the administrative functions associated with the legislation as this allowed the processing to be undertaken in the most efficient manner and consistently across Wales. However, there is a critical role for local authorities. Both the Single Licensing Authority and local authority implement the enforcement provisions and in some cases the local authority leads enforcement action against those landlords and agents not complying with their legal obligations on behalf of the Licensing Authority. The current breakdown of enforcement activity is set out below:

RSW have prosecuted 26 landlords and agents.

Local Authorities have prosecuted 14 landlords and agents.

These are across the whole of Wales with the exemption of Powys where no landlords have been convicted of Housing (Wales) Act 2014 offences.

FPNs served are detailed below:

309 FPNs have been issued to date. Of this number 6 have been issued by local authorities.

2 Swansea

2 Neath

2 Carmarthen

Local Authority	Total FPNs issued
**Not in Wales	46
**Unallocated (of these 15 are outside Wales)	29
BlaenauGwent	3
Bridgend	7
Caerphilly	8
Cardiff	45

Carmarthen	14
Ceredigion	2
Conwy	5
Denbighshire	4
Flintshire	6
Gwynedd	7
IsleOfAnglesey	8
MerthyrTydfil	4
Monmouthshire	3
NeathPortTalbot	12
Newport	17
Pembrokeshire	9
Powys	8
RhonddaCynonTaf	16
SWANSEA	26
Torfaen	4
ValeOfGlamorgan	17
Wrexham	9
Total	309

- **Section 14 of the Bill requires the local authority to notify RSW of any conviction; Members are particularly interested how this would impact on a landlord or agent's licence (would they still be considered a fit and proper person?)**

Currently RSW has a MOU in place with each Council setting out the arrangements for how we work together and share information. This, in the main, focuses on the relationship with the Housing Enforcement Teams within the authorities. The question of who will be authorised within a local authority to implement the enforcement measure within this Act will be an important consideration. The MOU with RSW will need to be amended and more robust arrangements will need to be developed with the Trading Standards Services specifically to ensure that the appropriate notifications occur.

It will be a missed opportunity if RSW cannot also deal with these offences, as we are currently doing audits of agents and it would be an appropriate time to deal with the offences as they arise or are identified. The consequence of not being able to do so is that a referral will be made to a local authority who may/may not be able to prioritise the activity in a timely manner. If this were to change, power to require information for this purpose would also need to be amended.

- **If a local authority did not prosecute a landlord or agent for taking prohibited fees, the tenant would have to go to court to get the money back – how would RSW find out? There is no mechanism in the**

Bill. Welsh Government officials said it would rely on either a local authority or tenant informing RSW – how would this work in practice?

RSW can take account of “any other matter” it considers appropriate in determining whether a landlord or agent is “fit and proper”. Currently we rely on tenants telling RSW directly of this type of issue. This information rarely comes from a local authority, unless the LA has concerns about the fitness and propriety of an individual. RSW implements a review process where significant number or significant type of complaints are received about a licensee, this automatically triggers an investigation / review of licence.

- **The RSW system for generating Fixed Penalty Notices is to be adapted to issue FPNs under this Bill – does that mean RSW will know about each FPN issued or not?**

The mechanism for this to happen has not been discussed and will require local authorities to sign up to using this as their approach. They may have their own systems for generating FPNs which they would prefer to use. If this is the case, RSW may never be advised, particularly if the FPN is paid and then the offender does comply with the legislation, at that time. To ensure this is consistently considered and/or triggers a F&P review, a formal notification system is required for FPNs as well as convictions for successful prosecutions.

RSW experience shows that despite unlimited fines being attached to these offences, the actual fines awarded by the courts are very low, at times less than the fixed penalty notice (where a landlords/agent is able to plead poverty). The way to change this is by setting a higher FPN fine, as has been done for this legislation. The question is whether £500 is sufficient; should there be a different penalty level for commercial agents?

- **How would RSW respond to the Bill in terms of updating the Code of Practice and landlord/agent training courses**

I have been advised that WG will amend the Rent Smart Wales code of practice. Amendments are already in hand to accommodate legislative changes which have occurred since the launch of RSW. RSW, LAs and other stakeholders have been consulted as part of this review process. Any complaints about this matter, will then be taken into account and will trigger a F&PP investigation in accordance with our processes.

- **How would RSW help publicise the requirements in the Bill: landlords/agents/tenants?**

RSW has the ability to notify its registered / licensed landlords and agents and would do so to advise of any update to the legislation which impacts them and the subsequent alterations to the code, which is a mandatory licence condition to comply with. We would also use our social media channels and website to inform the sector. We have a Stakeholder group which would also be used to ensure messages are consistent across the sector, which proved very useful in the roll out of RSW.

Bethan Jones
Operational Manager
Rent Smart Wales
4th July 2018