**Swansea Council**

**Supported Accommodation Licence Extension Criteria and Guidance**

**Applies to:**

**Supported Accommodation –**

* Provided by Community Landlord or Registered Charity
* Accommodation meets the definition of supported accommodation under the Act – see below.

For landlords who are issuing initial 6-month licences (rather than a contract from the outset) and prior to issuing a Supported Standard Contract.

**Contents**

Legal Framework and associated documents/guidance page 1

Overview – Issuing licences and contracts in supported accommodation page 2

Procedures for landlords and the Local Authority in extending the licence page 5

County court review of decision to extend the licence page 9

The process flowchart page 10

1. **Legal Framework and associated documents/guidance**

This procedure sets out guidance which must be followed to ensure compliance with the relevant legislation with regards to extending the licence period in supported accommodation.

The following legislation, documents and guidance have been used to develop this procedure and are referenced throughout:

**Renting Homes (Wales) Act 2016** - **Tenancies and Licences to which special rules apply: Supported Accommodation**

**Schedule 2 Part 5, paragraph 13** <https://www.legislation.gov.uk/anaw/2016/1/schedule/2>

## **Renting Homes (Wales) Act 2016** - **Supported Standard Contract Part 8 Section 143**

<https://www.legislation.gov.uk/anaw/2016/1/part/8>

**WG Supported Accommodation Guidance and Forms 2022**

<https://gov.wales/renting-homes-supported-accommodation>

**Welsh Government Prescribed Form RHW1 “Notice of Standard Contract”**

<https://gov.wales/notice-standard-contract-form-rhw1>

**Swansea Council Referral form, Supported Accommodation Licence Extension**

**About you form**

**Example of LA decision letter regarding an application to extend licence**

**Example notice of licence extension**

**Annual licence extension returns**

1. **Overview – Issuing licences and contracts in supported accommodation**

The Act[[1]](#footnote-1) allows a landlord/support provider of supported accommodation (as defined in The Act) to use a licence instead of an occupation contract for the **first six months** of the resident’s occupancy[[2]](#footnote-2). After 6 months from the start date of the licence (“end of the relevant period”), a licence will **automatically** become an occupation contract.

For supported housing on conversion, if the occupier has been in occupation for more than 6 months, a licence cannot be used or extended, they must be issued with an occupation contract. Also, if the end date of licence does not allow for 4 week’s notice of an extension after the 1st December 2022 an occupation contract must be issued.

The default position for a community landlord is that a secure contract will be issued. **However, in supported accommodation, a community landlord can instead issue a supported standard contract as long as a RHW1 (section 13 notice)[[3]](#footnote-3) is also issued to state the contract is a supported standard contract.**

The supported standard contract is based on the standard occupation contract (used in the private rented sector) with the option to include terms in the contract relating to temporary exclusions (see separate guidance notes) and mobility within the building). It also allows a shorter notice period than a standard occupation contract ie. a 2-month notice period that **can** be served in first 6 months of occupation.

The Act defines supported accommodation as[[4]](#footnote-4):

* provided by a community landlord or a registered charity,
* the landlord or charity (or a person acting on behalf of the landlord or charity) provides support services to a person entitled to occupy the accommodation, **and**
* there is a connection between provision of the accommodation and provision of the support services, i.e. the support is accommodation based and would not move with the individual if they leave, not floating support.

NB this guidance does **not** apply to private landlords providing support

[Schedule 2, Part 5, paragraphs 13 and 14](https://www.legislation.gov.uk/anaw/2016/1/schedule/2)

Referred to in the Act as the ‘relevant period’.

Welsh Government Prescribed Form RHW1 “Notice of Standard Contract” <https://gov.wales/notice-standard-contract-form-rhw1>

S143 [Renting Homes (Wales) Act 2016 (legislation.gov.uk)](https://www.legislation.gov.uk/anaw/2016/1/section/143)

Support services” include:

* support in controlling or overcoming addiction,
* support in finding employment or alternative accommodation,
* supporting someone who finds it difficult to live independently because of age, illness, disability or any other reason.
* support also includes the provision of advice, training, guidance and counselling.
  1. **Introduction to extending the licence period**

1. However, a landlord/support provider can extend the 6-month licence period for up to an additional 3 months instead of issuing a contract in accordance with Part 5 Schedule 2[[5]](#footnote-5) of the Act. This includes obtaining the consent of the Local Authority. An extension can be applied for an unlimited number of times.
2. It is important to note that for supported accommodation on conversion[[6]](#footnote-6), if the occupier has been in occupation for more than 6 months (as of the 1st of December 2022) a licence cannot be used or extended, and the occupier must be issued with an occupation contract [[7]](#footnote-7).
3. In addition, if the end date of a licence is before 12th of January 2023, this will be less than 6-weeks after the 1st of December 2022. This will not allow for the 6-week total period for the Local Authority to approve/deny requests submitted (2 weeks) and then for the licensee to be given 4 weeks’ notice.
4. Therefore, any person who entered supported accommodation prior to 12th of July 2022 will automatically convert to a supported standard contract on the 1st of December 2022.
5. Licence extensions are expected to only be used in **exceptional circumstances** and are not the ‘default’ position and it is expected that it is done in discussion with the licensee. The Welsh Government does not expect support providers to make regular use of the power to extend an individual’s licence.
6. Repeated extensions may be deemed unreasonable and subject to legal challenge

**2.2 Making the consideration to extend a licence**

Licensees should be notified **orally and in writing** when they first move in by their landlord/support provider about the length of their licences and the landlord’s ability to extend it in exceptional circumstances.

Consideration of licence extensions should be incorporated into the regular assessments of the licensee undertaken by the landlord/support provider. Proof of this engagement with the licensee should be provided when applying for Local Authority consent.

The Act does not define the specific circumstances in which licences may be extended but paragraph 15(8) of Schedule 2 includes reference to a landlord/support provider taking into consideration the conduct of the licensee or any other person who appears to be living at the dwelling as reasons for seeking to extend the relevant period of the licence. However, extending a licence is not automatically justified based solely on concern about a person’s conduct.

A person-centred and trauma-informed approach should be applied when making these decisions and the licensee involved in the discussion on extension. The aim is for a licensee to be able to successfully manage an occupation contract after the licence period.

Examples of unacceptable conduct where a licence extension could be considered are:

* Repeated anti-social behaviour
* Minimal or non-engagement with staff
* Behaviour which causes serious harm or risk to the health and safety of other residents or staff working within the provision

Updated guidance from the Welsh Government[[8]](#footnote-8) indicates other circumstances where a licence extension can be considered:

* Where the supported accommodation is intended to be very short term (i.e. lasting less than 6 months), but there is a delay in finding appropriate move-on accommodation and the support provider wants to be able to move swiftly when the right settled home becomes available for the individual.
* The supported accommodation is a refuge for survivors of violence against women, domestic abuse or sexual violence, which is only supposed to be very short-term accommodation (i.e. lasting less than 6 months), and requires individuals to be moved into alternative accommodation very quickly for reasons of safety or into a more appropriate settled home when one is identified.

This is not an exhaustive list. Decisions should be made on a case-by-case basis.

Landlords cannot:

* seek to continuously extend the licence in order to avoid issuing an occupation contract.

Minors under 18 years of age cannot be contract holders, so 16 and 17 years olds will remain on a licence until their 18th birthday. Their licences will automatically become an occupation contract on their 18th birthday so it is important that landlords monitor this and ensure the correct forms and contracts are issued. If they have been on a licence for over 6 months when they reach 18 they must be issued with an occupation contract and for a community landlord if this is to be a supported standard contract a RHW1 notice must be issued before their birthday. If the intention is to apply to extend their licence the same process applies as for adults.

**2.3** **Communication and engagement with the licensee**

At the start of the licence period, the landlord/support provider should explain to the licensee orally and in writing about the length of their licence and the landlord’s/support provider’s ability to extend it in exceptional circumstances.

During the licence period, the landlord/support provider should work with the licensee to prepare them for having an occupation contract. The landlord/support provider should consider whether there are any legitimate reasons why the licence should not convert into a supported standard contract, keeping evidence of behaviour and engagement.

When considering an extension, the licensee must be made aware and consulted on the decision-making process. All contact with the licensee must be accurately recorded.

Before giving notice of extension to the licensee the landlord must:

* consult the licensee and record contact
* get the consent of the Local Authority

provide the licensee with 4 weeks' notice of an extension

**Procedures for landlords and the Local Authority in extending the licence**

**3.1 Applying to the Local Authority for consent to extend the licence (including if LA is landlord)**

Landlords/support providers should ensure they have a system in place to monitor the relevant period for licence agreements used within supported accommodation, including when they are due to become occupation contracts, unless the period is extended.

The involvement of the local authority in the decision to extend the relevant period is specified at paragraph 15(5) of Part 5 of Schedule 2 to the Act. This provision ensures local authorities, as the commissioners of supported housing, will be aware of the number of extensions and the reasons for them.

At least 6 weeks before the licence period is due to end, the landlord/support provider may decide to apply for consent from the Local Authority to extend the licence.

If the landlord/support provider decides to apply for a licence extension they should advise the licensee of the reasons for seeking an extension, orally and in writing.

The landlord /support provider should apply to the Local Authority for consent to extend the licence by completing the Swansea Council Referral Form, Supported Accommodation Licence Extension and emailing along with the Equalities Monitoring ‘About you’ form to:

* [LicenceExtensions@swansea.gov.uk](mailto:LicenceExtensions@swansea.gov.uk)

In all cases, attempts should be made to allow Local Authority Reviewing Officers the maximum period of 2 weeks to make a decision. Officers will apply their discretion where the full 2 weeks has not been given, however this would need to be in extenuating circumstances.

The licence extension request form must include the following information:

* the name, address and contact details of the landlord and the licensee
* the date the licence commenced
* the date the relevant period is due to end
* the reasons for seeking to extend the relevant period
* evidence of consultation with the licensee
* evidence of any action already taken within the relevant period to address the conduct of the tenant/licensee, if applicable
* the length of time, up to a maximum of three months, for which approval is sought to extend the relevant period; and
* the date by which approval is sought

The landlord/support provider should also collect equalities information via the ‘About you’ form.

**3.2** **Decision making by the Local Authority**

The licence extension request will be reviewed by a panel comprising of Housing Support Grant Team, Social Services, Legal Services and Housing Services depending on the project involved.

The panel will take into account:

* The reasons why a licence extension has been requested
* Details of conversations with the licensee about the licence period being extended
* The date the licence is due to end
* The length of time of the extension request, and whether it is for the full 3 months
* Has a licence request been made previously and if so, how many times

Where a licence request has previously been submitted and consented to, the landlord/support provider is required to show how they have worked with the licensee in the interim period to address and improve their conduct at the property.

In reaching its decision, the Local Authority must consider each application on a case-by-case basis. There should be clear evidence that a person-centred and trauma informed approach has been adopted and the licensee has been involved in the discussion to extend the licence period.

There is no obligation on the Local Authority to extend the relevant period, or to grant the extension for the full period requested by the landlord. These decisions are at the discretion of the Local Authority, but the Authority and the landlord/support provider should bear in mind that its decision is subject to the licensee having the right to apply to the County Court for a review of the decision to extend the licence period.

Once a decision is made by the panel, the notice of extension form will be sent back to the landlord/support provider. This will either confirm or deny consent.

This decision will be sent back to the landlord/support provider within 2 weeks of the request being submitted.

**3.3 Serving the notice of extension**

Once the landlord/support provider has received confirmation of consent to extend the licence period from the Local Authority, they **must** issue a notice of extension to the licensee **at least four weeks before** the licence period ends.

An example of the letter which could be used by landlords/support providers as a notice of extension can be found in **Notice of Licence Extension.**

The notice of extension must:

* state that the landlord has decided to extend the relevant period;
* set out the reasons for extending the relevant period (these should be the same reasons given when consulting the licensee);
* confirm that the local housing authority in whose area the accommodation is provided has consented to the extension, and;
* specify the date on which the extended relevant period will now end
* Also inform the licensee that he or she has a right to apply for a review in the county court and the date by which the application must be made. (see section 5 below)

If the notice of extension is not provided to the tenant/licensee **at least four weeks before** the date on which the relevant period is due to end, the contract automatically converts to a supported standard contract at the end of the relevant period (even if local authority approval for the extension has been received). This must be issued with a RHW1 (section 13) notice if it is a community landlord.

If the Local Authority refuses an extension of the licence a Standard Contract must be issued. If this is to be a Supported Standard Contract, it must be issued with a RHW1 (section 13) notice if it is a community landlord.

The Local Authority’s decision is final and cannot be appealed by the landlord/support provider. However, there should be an open and honest dialogue between the Local Authority and landlords/support providers throughout the period of the supported housing contract so that landlords and support providers understand the approach to extending the relevant period.

**3.4** **Extended licence period**

During the extended relevant period the landlord should work with the licensee to address the original reasons for applying for the extension and record details of this contact. The aim of this is to reduce the likelihood of a further extension being required.

There is no limit on the number of times the relevant period can be extended, subject to the previously stated steps and procedures being correctly followed each time, however they are expected to be used only in exceptional circumstances and repeated extensions may be deemed unreasonable and subject to legal challenge.

The same timescales for applying for consent and issuing the notice apply to further extension requests – Local Authority consent should be sought at 6 weeks and notice served on the licensee at 4 weeks before the end of the 3-month extension period.

**3.5** **Annual monitoring returns**

The landlord/support provider should record equality data relevant to each application and should periodically review this information.

An ‘Annual Licence Extension Returns’ form will need to be submit to the Local Authority via:

* [LicenceExtensions@swansea.gov.uk](mailto:LicenceExtensions@swansea.gov.uk)

The annual statistical return will run from April to March and should be submitted within **eight weeks** of the start of the financial year.

This should set out:

* the total number of extended relevant periods
* the number of repeated requests to extend
* the reasons for them and
* a breakdown of the equality and diversity characteristics of those tenant(s) or licensee(s) concerned relevant to each extension.

**4. County Court review of decision to extend the licence**

**4.1 Action the County Court may take**

The licensee has the right to apply to the County Court for a review of the decision if they disagree with the extension.

The landlord/support provider must inform the licensee of this right of review and the timeframe for submitting an appeal when issuing the notice of extension.

The application to the Court must be made by the licensee within **14 days** of the landlord giving the licensee the written notice of extension (unless the court gives permission for a late challenge).

The person remains on a licence until a decision is made by the County Court.

There is no equivalent challenge for a landlord.

**4.2 Action the County Court may take**

The County Court will consider the decision/agreement to extend the licence taken by the Local Authority. The Court may:

* confirm the decision
* quash the decision
* vary the length of the extension (but by **no more than the three months** maximum)

If the County Court quashes the decision -

(a) the notice of extension is of no effect, and

(b) the County Court may make any Order the High Court could make when making a Quashing Order on an application for Judicial Review.

|  |  |
| --- | --- |
| **5.** | **The Process** |
|  |  |

**At start of licence period:**

The Landlord should explain to the licensee orally and in writing (also in plain English/easy read if required) about the length of their licence and the landlord’s ability to extend it in exceptional circumstances.

**During licence period**

Landlord considers whether there are any legitimate reasons why the licence should not convert into a standard contract, taking a person centred, trauma based approach and keeping evidence/reasons for decision.

**Extension required**

Landlord consults with the licensee orally and in writing regarding the decision to extend the licence period and keeps records.

**No extension required**

Converts to a supported standard contract (in most cases). If a community landlord must be issued with s13 notice if not secure

**Extension rejected**

Landlord applies to the LA at least **six weeks** before the end of the licence period, LA has two weeks to make decision.

**Extension approved**

**Give notice of the extension at least four weeks before the end of the licence.**

**Notice must include reason for extending, date for end of new licence period, confirm consent and right to review.**

If the licensee applies for review, then they will remain on a licence until the decision of the court

Consideration of extensions should be built into regular assessments with the licensee and records kept.

Record equality and diversity information for annual return

1. [Schedule 2, Part 5, paragraphs 13 and 14](https://www.legislation.gov.uk/anaw/2016/1/schedule/2) [↑](#footnote-ref-1)
2. Referred to in the Act as the ‘relevant period’. [↑](#footnote-ref-2)
3. Welsh Government Prescribed Form RHW1 “Notice of Standard Contract” <https://gov.wales/notice-standard-contract-form-rhw1> [↑](#footnote-ref-3)
4. S143 [Renting Homes (Wales) Act 2016 (legislation.gov.uk)](https://www.legislation.gov.uk/anaw/2016/1/section/143) [↑](#footnote-ref-4)
5. <https://www.legislation.gov.uk/anaw/2016/1/schedule/2> [↑](#footnote-ref-5)
6. ‘Conversion’ meaning the process of tenancies and licences changing after 1st of December 2022 to be compliant with Renting Homes legislation. [↑](#footnote-ref-6)
7. The Renting Homes (Wales) Act 2016 (Amendment of Schedule 12) Regulations 2022, Paragraph 4.b [↑](#footnote-ref-7)
8. Paragraph 11 of [Supported accommodation: exceptional approach to extending the relevant period for a tenancy or licence [HTML] | GOV.WALES](https://gov.wales/supported-accommodation-exceptional-approach-extending-relevant-period-tenancy-or-licence-html) [↑](#footnote-ref-8)