

Factsheet 68w ● March 2023

Renting your home in Wales – rights if you are threatened with eviction



Age Cymru Advice

0300 303 44 98

www.agecymru.org.uk

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1 Information about this factsheet

1.1 Legislative changes in Wales and new terminology regarding housing law

The *Renting Homes (Wales) Act 2016* was implemented on **1 December 2022** and means that the way all landlords (in all housing sectors) rent their properties has changed.

Note: The information in this section is a brief summary of the main points of note in the new legislation. Further information on these elements can either be found within relevant sections of the factsheet below, or in our other factsheets on housing topics.

Changes in terminology

Under the Act:

- *Tenants* (and licencees) will now be known as **‘contract-holders’**.
- *Tenancy agreements* will now be known as **‘occupation contracts’**.
- *Local authority (council) and housing association* landlords will now be known as **‘community landlords’** (private registered providers of social housing will also be classed as a community landlord). Private rented sector landlords will continue to be referred to as ‘private landlords’, so there is no change in this regard.

Types of occupation contract

The new act seeks to simplify housing law by specifying two types of occupation contract:

- **Standard contract** – generally for use in the private rented sector.
- **Secure contract** – generally for use in the social rented sector.

Note: There will also be **‘converted’** versions of the contracts above, however (in cases where people already had a tenancy in place prior to the new act coming into force on 1 December 2022) – see section 3 below for further information.

Other significant changes under the new legislation

The other main changes under the act include:

- Contract-holders will receive a written contract setting out their rights and responsibilities.
- There is an increase in the ‘no fault’ eviction notice period from two to **six** months.
- New measures to protect against **retaliatory** eviction (i.e. where a landlord serves notice on a contract-holder because they ask for repairs and/or complain about poor conditions).
- Improved succession rights – i.e. these rights set out who is able to continue to live in a property after the contract-holder dies.
- Increased flexibility in cases where there are joint contract-holders, making it easier to add or remove others to an occupation contract.
- New rules whereby a landlord has to ensure that their property is **fit for human habitation**.

Note: Further information on the *Renting Homes (Wales) Act 2016*

The Welsh Government has a section on their website on the new legislation, including specific pages aimed at contract-holders and landlords, plus a link to the actual Act itself:

www.gov.wales/housing-law-changing-renting-homes

1.2 What this factsheet is about

This factsheet provides information on what rights a contract-holder may have to keep their home. It includes information on what to do if you're threatened with eviction.

We also have factsheets available on other aspects relevant to contract-holders; finding accommodation (in the private rented sector and from social landlords); specialist housing for older people and park homes. All of the factsheets are available from our website at the following link, or contact Age Cymru Advice (see section 14):

www.agecymru.org.uk/information-resources

Note: The information given in this factsheet is applicable in Wales. Different rules may apply in England, Northern Ireland and Scotland. Contact Age UK, Age NI and Age Scotland respectively for further information.

2 Help in a crisis

If you have been told you must leave your accommodation, do not panic. In most cases, the person owning or managing the property needs to get a court order if they want to evict you, called an **'order for possession'**.

If you are a tenant, your landlord can usually only evict you if they have a good reason and must follow correct legal procedures in order to do so.

It may be possible to challenge an eviction – **the key thing is to seek specialist housing advice as soon as possible.**

In order to obtain specialist advice, you could check if there is a law centre in your area and/or speak to an organisation such as **Shelter Cymru** or the local **Citizens Advice** – see section 14 below for contact details.

If you're on a low income, legal aid may be available for challenging a landlord's 'possession claim', meaning you could get free legal advice and representation, provided your case is considered strong enough.

Note: The earlier you do this, the stronger your chances of preventing eviction, but you should seek advice even if the eviction is at a very late stage. In some circumstances, it is possible to challenge eviction right up until the date bailiffs are scheduled to attend.

Preventing homelessness

Another key source of help, if you are threatened with eviction, is the **local authority**. They should be able to help even if you have an informal housing arrangement – for example if you are staying with friends or family.

If the authority has reason to believe you may be threatened with homelessness, it must make inquiries to determine whether it has a duty to help you. It has a duty if it accepts you are threatened with homelessness and 'eligible for assistance' on the basis of your nationality and immigration status. British citizens are usually eligible.

You are threatened with homelessness if you are in danger of losing your home within the next 56 days.

If the local authority accepts a duty to help you, they must take ‘reasonable steps’ to prevent you from becoming homeless over the next 56 days or so. The reasonable steps should be tailored to your circumstances and needs and focused on helping you to stay in your current property. For example, assessing you for a Discretionary Housing Payment, negotiating with your landlord, or arranging a mediation appointment for you and your family. You are likely to have to take certain steps too.

For more information, see Age Cymru’s Factsheet 89w *Dealing with homelessness in Wales*.

3 Types of occupation contract

As a contract-holder, your rights against eviction depend mainly on the type of occupation contract you have, so it is important to work this out. The information below should help you determine this. However, if you’re unsure it’s important to get this checked by a specialist housing adviser, as a contract could be incorrect or misleading, for example. Contact Shelter Cymru for further information – see section 14 below for contact details.

Note: This section has brief information on the types of occupation contract that can exist.

For further discussion on the rights that you have with each one when it comes to being threatened with eviction, see section 4 below.

3.1 If you rent your home and moved in *prior* to 1 December 2022 – converted occupation contracts

When the *Renting Homes (Wales) Act 2016* was implemented on 1 December 2022 your existing rental agreement will have become a ‘**converted occupation contract**’ (except for certain exceptions – see section 3.5 below).

The type of converted contract you now have will depend on who your landlord is and the type of tenancy agreement you had immediately before the new legislation came into force, as outlined overleaf.

Note: Generally speaking, converted contracts will provide new rights, as a result of the new legislation, though many terms of the original agreement will continue to apply. Shelter Cymru advise that:

“The terms of the tenancy agreement that you had before 1 December 2022 are still binding on you and your landlord. The only exception to this is if the terms of the agreement you made before 1 December 2022 are incompatible with the fundamental terms of the new type of occupation contract you have”¹.

See section 3.4 below for more information on fundamental terms.

Under the new legislation, landlords must provide written contracts to contract-holders. In the case of converted contracts, landlords have been given until 31 May 2023 to provide this. The contract should incorporate the terms of your original agreement made before 1 December 2022. You do not need to sign this agreement, but if you are asked to, make sure to check that the agreement is not actually a whole new contract and doesn't take away any significant rights that you had before. Seek specialist advice if you're unsure.

If you have a community landlord – i.e. you landlord is the local authority (council) or a housing association

- You will now have a **converted secure contract** if before 1 December 2022:
 - you had a secure council tenancy; *or*
 - you had an assured housing association tenancy.

- You will now have a **converted introductory standard contract** if before 1 December 2022:
 - you had an introductory tenancy with the council; *or*
 - you had a starter tenancy with a housing association.

¹ 'Converted contracts', Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/renting/converted-contracts> (last accessed 20 January 2023).

- You will now have a **converted prohibited conduct standard contract** if before 1 December 2022:
 - you had a demoted council tenancy; *or*
 - you had a demoted housing association tenancy.

If you have a private sector landlord

- You will now have a **converted fixed term standard contract** if before 1 December 2022:
 - you had a fixed term assured shorthold tenancy.
- You will now have a **converted periodic standard contract** if before 1 December 2022:
 - you had a periodic assured shorthold tenancy; or
 - you had an assured tenancy.

If you live in emergency or temporary accommodation

If you moved into emergency or temporary accommodation before 1 December 2022 because you are homeless, then you might “have a converted standard occupation contract, a ‘license’ or ‘common law’ tenancy”².

Shelter Cymru provide further information on this topic on their website at the following link, or you can ring their advice line (see section 14 below for contact details):

<https://sheltercymru.org.uk/housing-advice/renting/converted-contracts/temporary-accommodation>

² ‘Converted contracts: temporary accommodation’, Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/renting/converted-contracts/temporary-accommodation> (last accessed 28 February 2023).

If you live in supported accommodation

Supported housing is accommodation that is provided to people in conjunction with support, supervision or care to enable people to live as independently as possible within the community. This might include older people, or people with a disability, individuals and families who have experienced homelessness, or people recovering from dependency on drugs or alcohol.

If you had an assured shorthold tenancy in supported accommodation before 1 December 2022 you might have a **converted supported standard contract**. However, “it can be difficult to work out what type of renting agreement you have in supported accommodation”³ – **therefore, if you’re unsure, contact Shelter Cymru for further advice** (see section 14 below for contact details).

3.2 If you started renting from 1 December 2022 onwards and have a community landlord – i.e. your landlord is the local authority (council) or a housing association

Secure occupation contracts will be issued in most cases

Most contract-holders renting from a community landlord will be given a **secure occupation contract**.

Your landlord must provide you with a written contract within **14 days** of the contract starting. The type of contract that you’ve been given should be clearly stated within it. If you are concerned that you might have been issued with the wrong type, seek specialist advice.

Exceptions

Exceptions where a community landlord may issue a type other than a secure occupation contract, include:

³ ‘Converted contracts: supported accommodation’, Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/renting/converted-contracts/supported-accommodation> (last accessed 28 February 2023).

- A one-year introductory standard contract:

If you have been issued with this type of contract, it will **change** to be a **secure occupation contract** at the end of this trial period, unless the landlord starts the process to evict you during the trial period, or seeks to extend the introductory period by a further 6 months – in both these scenarios there is a process whereby you can request a review of the decision.

- If you are living in supported accommodation:

When you first move into supported accommodation, you may have a **licence** or **common law tenancy** for an initial period of 6 months. After this, you should automatically **move** to a **supported standard contract** (unless your landlord seeks an extension to the initial period – contact a specialist advice agency if you are in this situation).

- Situations where a contract-holder has carried out anti-social behaviour (for example, using your home for a criminal activity or behaving in a way that causes harassment, alarm, or distress to other people in the local community):

In these cases, you may have a **prohibited conduct standard contract**. Community landlords can apply to court in order to give you one of these contracts. They usually last for a period of 12 months and, as long as there are no further problems, it should be **replaced** with a new **secure occupation contract** at the end of this period.

- If you are living in temporary or emergency accommodation:

This type of accommodation is provided by the local authority (council) if you made a homelessness application and have been deemed to be in 'priority need'. It is likely that initially you will be given a **licence** or **common law tenancy**.

You should later be given a **standard occupation contract** if your landlord is the local authority and they accept a duty to secure you housing. This should happen as soon as the authority notifies you of their decision. If your landlord is a housing association or private landlord, you should get a standard occupation contract 12 months after the local authority notify you of their homelessness decision.

Note: If your community landlord gives you notice that your contract is a standard contract (rather than the usual secure contract used in this housing sector) and none of the exceptions mentioned above apply, you should seek specialist housing advice, such as from Shelter Cymru – see section 14 below for contact details.

3.3 If you started renting from 1 December 2022 onwards and have a private sector landlord

Most rental agreements with private landlords will now be standard occupation contracts

There are **two** main types of standard occupation contract:

- **Fixed term standard contracts** – i.e. your contract lasts for a specific time period (though you can't be evicted at the end of the fixed term without a court order – see below); *and*
- **Periodic standard contracts** – under this arrangement, your contract does not have a specific end date, so rolls forward with each rental period.

Exceptions

Section 3.5 below has information on some situations where you may have a rental agreement that is not an occupation contract.

3.4 Fundamental terms in occupation contracts

Fundamental terms in your occupation contract provide you with important rights that a landlord **must** include in the contract.

There are two types of fundamental terms:

- **Hard fundamental terms** – these cannot be left out of an occupation contract or altered in any way.

- **Soft fundamental terms** – the only time that a soft fundamental term can be altered and/or left out of the contract is if it puts you, as the contract-holder, in a “**better position**” and only if you’re happy to agree to the change⁴. This applies in the case of soft fundamental terms only.

Note: What constitutes a fundamental term may sometimes differ depending on what type of occupation contract it is – e.g. secure or standard.

3.5 Exceptions where people may not have an occupation contract

As indicated in sections above, most renting agreements are occupation contracts (secure, standard, or converted ones from pre-1st December 2022). However, there will be some exceptions, including:

- licences or common law tenancies in temporary or supported accommodation;
- regulated tenancies that began prior to 15 January 1989 (these are rare as they have not been granted for a long time, but it’s possible you have one if you have lived in your home or with the same landlord since before 15 January 1989. Contact Shelter Cymru if you need further advice on this topic⁵);
- where you share accommodation with your landlord and are an ‘excluded occupier’ (this is likely if you share a kitchen or bathroom etc with the landlord, so your living space is not self-contained, or live in the same building as the landlord and share accommodation with a member of their family);
- you live in a hostel or refuge;
- you live in a care home;

⁴ ‘Fundamental terms of occupation contracts’, Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/renting/written-occupation-contracts/fundamental-terms-of-occupation-contracts> (last accessed 24 January 2023).

⁵ Shelter’s website has further information at: <https://sheltercymru.org.uk/housing-advice/renting/converted-contracts/private-landlords-and-converted-contracts/regulated-tenancies>

- you live in an almshouse;
- holiday lets;
- or certain types of agricultural tenancies.

Note: This is not an exhaustive list, so seek advice if you are unsure.

4 The eviction process (by occupation contract type)

Your landlord must follow correct legal procedures if they wish to evict you, though these procedures will depend on the type of renting agreement you have (as outlined in sections 4.1 to 4.12 below).

It should be noted when reading this section that – as outlined in section 3 above – converted contracts are those rental agreements that started before 1 December 2022 and, therefore, were converted when the *Renting Homes (Wales) Act 2016* was implemented. The other contracts listed are ones that apply where the rental agreement was entered into from 1 December 2022 onwards.

Note: In the case of all the different types of contract outlined below, it is always best to seek expert, specialist, advice straight away – for example from Shelter Cymru (contact details can be found in section 14 below).

An adviser can check if procedures are being followed correctly, may be able to assist you in negotiating with your landlord, help you to seek a review or appeal of a decision, or represent you in court (either directly or putting you in touch with another organisation that can). If you make sure you get together all the relevant papers and documents that you have received from the landlord or court before meeting with an adviser, this will help them to take action to help you as soon as possible.

The information below concentrates on **two steps** in the eviction process – **receiving notice of eviction** (including the periods required) and **possession orders** that the landlord must get from the county court.

There is also a **third** potential step – action by a **bailiff** to carry out the eviction – though this shouldn't be necessary unless you have not left the property by a specified date (information on bailiffs can be found in section 7 below).

4.1 **Converted secure contracts with a community landlord**

In this situation the rules will be the same no matter what date you moved in, as the rules in regard to eviction rights will not have changed as a result of new legislation.

Secure contract-holders have strong protection against eviction and the landlord must have a proven legal reason if they wish to evict someone (known as 'discretionary' grounds – see below) and they will need to obtain a court order to proceed with the eviction. They should also only evict as a last resort, following previous attempts to offer information and help to avoid you losing your home.

Legal grounds for eviction – the two types of discretionary grounds: breach of contract and estate management grounds

- **Breach of contract** (i.e. if you break a term of your occupation contract).
Examples are:

- you are behind on your rent (see section 8 below for information on specialist debt advice if you are in rent arrears);
- you (or someone who lives with you or visits you) has been causing nuisance or annoyance to others in the neighbourhood and/or your landlord and/or staff or contractors acting for your landlord;
- you have been using your home for illegal activities;
- you have damaged the property and/or furniture or other goods provided with it by your landlord;
- you lied about your circumstances in order to be allocated the property;
or
- you have lodgers living with you that result in the home being overcrowded.

● Estate management grounds

Examples are:

- your home has been designed or adapted for a person with a disability, but no one is living in the property who requires this;
- the landlord plans to demolish the property;
- major repairs are required and it's not possible to do them whilst you are living there; *or*
- the home is too big for you (this could be because you inherited the occupation contract after the original contract-holder died and you are not their spouse or partner; or a joint contract-holder has withdrawn from the contract and left the property).

Starting the eviction process – written notice

The landlord must provide you with a written notice that states the grounds for the eviction (see above).

The notice should also specify how long you have before they will start court action – often a period of **1 month**, though there are exceptions, including:

- situations where the landlord is taking action due to anti-social behaviour (where they can begin court action **straight away** after giving you the notice);
- where you have inherited the occupation contract via succession and the property is larger than you need. In these instances, the landlord “cannot serve notice until **6 months after** they found out about the death of the contract-holder. Once 12 months have passed, they cannot give notice using this ground”⁶ (emphasis added).
- where a joint contract-holder has left the contract and the home is larger than you require. In these cases, the landlord must serve notice **within 6 months** of the former joint contract-holder leaving the contract.

Court action – including the ‘pre-action protocol’ for community landlords

If you have a converted secure contract with a community landlord, prior to starting court action, they must follow rules set out in a pre-action protocol. Under this protocol they must:

- Contact you to discuss the cause of rent arrears; your financial circumstances (including any entitlement to welfare benefits), plus ways you may be able to pay back the arrears.
- Help you with benefit applications for Housing Benefit, Universal Credit housing costs or a discretionary housing payment (they shouldn’t continue with eviction proceedings if you have applied for one of these; it’s likely you are eligible for it, and you will be able to make up the arrears). If you’re getting other benefits, the landlord should assist you to apply to have arrears paid back from one of those benefits.
- “Hold off on court action if you agree to pay your current rent and a reasonable amount towards your arrears and you stick to this arrangement”⁷.

⁶ ‘Eviction: secure contracts’, Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/eviction/eviction-by-a-community-landlord/eviction-in-secure-contracts> (last accessed 25 January 2023).

⁷ ‘Pre-action eviction rules’, Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/eviction/eviction-by-a-community-landlord/pre-action-eviction-rules> (last accessed 26 January 2023).

Note: Vulnerable contract-holders

If you have difficulty understanding the information about the process to evict you, the landlord should assist. For example, by:

- providing an interpreter;
- applying to the court for someone to be appointed to represent you during court proceedings;
- making sure that you have not been discriminated against because of your age or disability;
- considering whether you should be referred to the local authority social services department for a needs assessment (for further information on needs assessments, see Age Cymru’s Factsheet 41w *Social care assessments for older people with care needs in Wales*).

If you feel that your community landlord has not taken the appropriate pre-action protocols, you can seek advice from a specialist housing organisation.

The court’s decision on discretionary grounds eviction (breach of contract or estate management grounds)

As stated above, the court will only decide to evict if the landlord has proven the ground they are seeking to evict you on and it is reasonable for the landlord to take this action, given the circumstances. If so, the court can make a **possession order**, whereby you would have to leave by a date stated in the order – again, seek advice from a specialist housing organisation if you are in this situation.

Note: If the ground for evicting is an **estate management** ground (see above), then the landlord must “**show the court that they are making suitable alternative accommodation available for you**”⁸.

⁸ ‘Eviction: secure contracts’, Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/eviction/eviction-by-a-community-landlord/eviction-in-secure-contracts> (last accessed 26 January 2023).

4.2 Converted introductory standard contracts with a community landlord

If you have one of these contracts, your landlord may not always need to provide a reason for wishing to evict you, but they must follow correct procedures, including obtaining a court order.

Starting the eviction process – written notice and the ‘pre-action protocol’ for community landlords

The landlord has to provide you with written notice of their intention to evict you. The notice must clearly state how long before they will start court action.

If you have a converted introductory standard contract with a community landlord, prior to starting court action, they must follow rules set out in a ‘pre-action protocol’ – the protocol rules are the same as outlined above in section 4.1 for converted secure contracts.

Grounds for eviction: ‘absolute grounds’

In some circumstances, a community landlord can end a converted introductory standard contract by using ‘absolute grounds’: significantly, this means that, so long as the landlord uses the correct procedure, the court will automatically grant a possession order (without the landlord having to prove that it is reasonable to evict). Absolute grounds are:

- a ‘**no fault**’ eviction (known as a ‘section 173’ notice – this is a reference to the section of the *Renting Homes (Wales) Act 2016* that provides this power⁹); *or*
- two months or more of serious rent arrears (a ‘section 181’ notice).

Grounds for eviction: ‘discretionary grounds’

These are two types of discretionary grounds: ‘breach of contract’ and ‘estate management grounds’. Examples are given below (not an exhaustive list):

⁹ This replaces the old system of ‘section 21’ notices for no fault evictions under the old legislation, prior to the introduction of the *Renting Homes (Wales) Act 2016*.

- **Breach of contract** (i.e. if you break a term of your occupation contract):
 - you are behind on your rent (see section 8 below for information on specialist debt advice if you are in rent arrears);
 - anti-social behaviour; *or*
 - subletting – either part of, or the whole property – without having gained permission.
- **Estate management grounds**
 - your home has been designed or adapted for a person with a disability, but no one is living in the property who requires this; *or*
 - major building work or redevelopment is being carried out by the landlord.

Eviction notice periods

- **Section 173 ‘no fault’ notice** – the landlord cannot give you a section 173 notice until 4 months after you moved in. Once you are given a notice, it should provide you with a period of two months before the eviction will be acted upon.

It should be noted, that if your landlord fails to provide you with a written contract by 1 June 2023, they cannot use the section 173 procedure until 6 months after they provide the written contract.

- **Section 181 rent arrears notice** – the landlord must give you a notice period of one month.
- **Discretionary grounds evictions** – you will usually receive a notice period of one month before the landlord can start court action.

However, it should be noted that if the landlord wishes to evict you on the grounds of anti-social behaviour, they can start court action straight away once they have given you the notice.

If you have inherited the occupation contract through succession and the landlord wishes to evict you on the basis that the home is larger than you need, they cannot serve notice until 6 months after they found out about the contract-holder’s death. Once 12 months have passed, they will not be able to give notice using this ground.

Meanwhile, if your landlord is evicting you because a joint contract-holder has left the contract (and the home is now larger than you need), they must serve notice within 6 months of the joint contract-holder pulling out of the contract.

The court's decision

- **Section 173 'no fault' notice** – the court will always grant a possession order to the landlord for a 'no fault' eviction, provided all procedures have been followed correctly. However, court papers that you should receive should give you the chance to raise your concerns if you feel the landlord hasn't followed procedures, including the pre-action protocol – seek specialist housing advice if you are in this situation.
- **Section 181 rent arrears notice** – “if your landlord is evicting you for serious rent arrears, the court has to grant a possession order if you are in 2 months arrears on the day you were given notice **and** on the day of the hearing. If you are not in serious rent arrears on one of these days the court may decide not to evict you”¹⁰. As above with section 173 notices, you will be able to notify the court if you think correct procedures haven't been followed, a mistake has been made in arrears calculations, or if there have been issues with Housing Benefit or Universal Credit claims.
- **Discretionary grounds** – the court's decision in regard to discretionary grounds will be the same as outlined in section 4.1 above.

4.3 Converted prohibited conduct standard contract with a community landlord

Note: You shouldn't have one of these contracts, unless you have engaged in anti-social behaviour.

Your landlord will have quite strong rights to evict you under a converted prohibited conduct standard contract, as they will not have to prove a legal reason to the court. They do have to follow the correct procedures though, as outlined below.

¹⁰ 'Eviction: converted introductory standard contracts', Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/eviction/converted-occupation-contracts-and- eviction/eviction-in-converted-introductory-standard-contracts> (last accessed 1 February 2023).

Starting the eviction process – written notice and the ‘pre-action protocol’ for community landlords

The landlord must give you written notice, specifying how long you have before they will start court action – see below.

Prior to starting court action, the landlord must also follow rules set out in a ‘pre-action protocol’ – the protocol rules are the same as outlined above in section 4.1.

Grounds for eviction: ‘absolute grounds’

Your landlord may be able to evict you by using ‘absolute grounds’. If so, as long as the landlord uses the correct procedure, the court will automatically grant a possession order. Absolute grounds are:

- a ‘**no fault**’ eviction (known as a ‘section 173’ notice); *or*
- two months or more of serious rent arrears (a ‘section 181’ notice).

Note: Shelter Cymru advise that “you should check your contract to see if it allows the landlord to give you a ‘no fault’ or a serious rent arrears notice. If it doesn’t, then the landlord can’t end your contract using these grounds”¹¹.

Grounds for eviction: ‘discretionary grounds’

These are the same as outlined in section 4.2 above.

Eviction notice periods

- **Section 173 ‘no fault’ notice** – once you are given a notice, it should provide you with a period of two months before the eviction will be acted upon.

It should be noted, that if your landlord fails to provide you with a written contract by 1 June 2023, they cannot use the section 173 procedure until 6 months after they provide the written contract.

¹¹ ‘Eviction: prohibited conduct standard contracts’, Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/eviction/eviction-by-a-community-landlord/eviction-in-prohibited-conduct-standard-contracts> (last accessed 1 February 2023).

- **Section 181 rent arrears notice** – the landlord must give you a notice period of one month.
- **Discretionary grounds evictions** – notice periods for these types of evictions are the same as outlined in section 4.2 above.

The court's decision

- **Section 173 'no fault' notice** – the court will generally grant a possession order to the landlord for a 'no fault' eviction, provided all procedures have been followed correctly. There could be an exception, however, if the court decides that the landlord may be trying to carry out a **'retaliatory eviction'** (also see section 6 below for further information). Court papers that you should receive should also give you the chance to raise your concerns if you feel the landlord hasn't followed procedures, including the pre-action protocol – seek specialist housing advice if you are in this situation.
- **Section 181 rent arrears notice** – the court will reach its decision in regard to this type of notice in the same way as outlined in section 4.2 above.
- **Discretionary grounds** – the court's decision in regard to discretionary grounds will be the same as outlined in section 4.1 above.

4.4 Converted fixed term standard contract with a private sector landlord

The eviction process – written notice and court action

The landlord must give you written notice, specifying how long you have before they will start court action – see below. The landlord must go via the court to gain a possession order before they can evict you and they must only do this once the specified notice period has come to an end.

Grounds for eviction: 'absolute grounds'

Your landlord may be able to evict you by using 'absolute grounds'. If so, as long as the landlord uses the correct procedure, the court will automatically grant a possession order. Absolute grounds are:

- a ‘**no fault**’ eviction under a landlord’s break clause;
- an end of fixed term ‘**no-fault**’ eviction (a ‘section 186’ notice); *or*
- two months or more of serious rent arrears (a ‘section 181’ notice).

Note: ‘No-fault’ notice restrictions

There are some important restrictions, whereby a landlord will not be able to use either of the ‘no-fault’ routes mentioned above, including where:

- your landlord has not registered with Rent Smart Wales (see section 9 below for further information on Rent Smart Wales requirements); *or*
- your landlord hasn’t either obtained a licence from Rent Smart Wales, or appointed a licensed agent to act for them; *or*
- your landlord has failed to protect your deposit in a recognised deposit scheme¹²; *or*
- your landlord (or their agent) has charged you a banned letting fee and has not repaid it (also see section 10 below for further information); *or*
- your landlord (or their agent) has failed to pay you back a returnable holding fee.

Contact a specialist housing organisation, such as Shelter Cymru, if any of the above scenarios apply to you.

Grounds for eviction: ‘discretionary grounds’

There are two types of discretionary grounds: ‘breach of contract’ and ‘estate management grounds’. Examples are given below (not an exhaustive list):

- **Breach of contract** (i.e. if you break a term of your occupation contract):
 - you are behind on your rent (see section 8 below for information on specialist debt advice if you are in rent arrears);
 - anti-social behaviour; *or*

¹² Shelter Cymru have further information on deposit protection schemes at: <https://sheltercymru.org.uk/housing-advice/paying-for-housing/tenancy-deposits/tenancy-deposit-protection-schemes>

- subletting – either part of, or the whole property – without having gained permission.

● Estate management grounds

- your home has been designed or adapted for a person with a disability, but no one is living in the property who requires this; *or*
- major building work or redevelopment is being carried out by the landlord.

Eviction notice periods

- **‘No fault’ eviction under a landlord’s break clause** – you should be provided with a notice period of 2 months.

It should be noted that “your landlord can’t give you a ‘no fault’ notice under a break clause until 4 months after you moved in”¹³. Also, if the landlord fails to provide you with a written contract by 1 June 2023, they can’t use the break clause method to evict you until 6 months after you’ve received the written contract.

- **End of fixed term (section 186) ‘no-fault’ eviction** – “Your landlord can give you a ‘no fault’ section 186 notice during the fixed term. This notice must give at least 2 months before court action can begin. A section 186 notice can’t expire until the fixed term has ended. Your landlord can’t give you a ‘no fault’ section 186 notice asking you to leave on a date less than 6 months after you moved in”¹⁴.
- **Section 181 rent arrears notice** – the landlord will be able to begin court action after a *two week* notice period.
- **Discretionary grounds evictions** – notice period for these types of evictions are the same as outlined in section 4.2 above.

¹³ ‘Eviction: converted fixed term standard contracts’, Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/eviction/converted-occupation-contracts-and-eviction/eviction-in-fixed-term-standard-contracts> (last accessed 7 February 2023).

¹⁴ Ibid

The court's decision

- **'No fault' eviction under a landlord's break clause or end of fixed term (section 186) 'no-fault' eviction** – the court will generally grant a possession order to the landlord, as long as they have followed all the correct procedures. However, if you think this isn't the case, the court papers you receive should provide you with the opportunity to raise this. Depending on individual circumstances, the court may decide on a hearing.
- **Section 181 rent arrears notice** – the court will reach its decision in regard to this type of notice in the same way as outlined in section 4.2 above.
- **Discretionary grounds evictions** – the court's decision in regard to discretionary grounds will be the same as outlined in section 4.1 above. Shelter Cymru advise that "if the ground is an estate management ground, then the landlord must...show the court that they are making suitable alternative accommodation available for you"¹⁵.

4.5 Converted periodic standard contract with a private sector landlord

Starting the eviction process – written notice and court action

The landlord must give you written notice, specifying how long you have before they will start court action – see below. The landlord must go via the court to gain a possession order before they can evict you and they must only do this once the specified notice period has come to an end.

Grounds for eviction: 'absolute grounds'

Your landlord may be able to evict you by using 'absolute grounds'. If so, as long as the landlord uses the correct procedure, the court will automatically grant a possession order. Absolute grounds are:

- a **'no fault'** eviction (known as a 'section 173' notice); *or*
- two months or more of serious rent arrears (a 'section 181' notice).

¹⁵ Ibid

Note: 'No-fault' notice restrictions

There are some important restrictions, whereby a landlord will not be able to use the 'no-fault' section 173 notice. These restrictions are the same as outlined in section 4.4 above.

Grounds for eviction: 'discretionary grounds'

These are the same as outlined in section 4.4 above.

Eviction notice periods

- **Section 173 'no fault' notice** – when you are given a section 173 notice, it should provide you with a period of two months before the eviction will be acted upon.

Note: Your landlord cannot evict you using section 173, “until 4 months after you moved in”. Also, if your landlord fails to provide you with a written contract by 1 June 2023, they cannot use the section 173 procedure until 6 months after they provide the written contract.

- **Section 181 rent arrears notice** – the landlord will be able to begin court action after a *two week* notice period.
- **Discretionary grounds evictions** – notice period for these types of evictions are the same as outlined in section 4.2 above.

The court's decision

- **Section 173 'no fault' notice** – the court will generally grant a possession order to the landlord for a 'no fault' eviction, provided all procedures have been followed correctly. Court papers that you should receive should also give you the chance to raise your concerns if you feel this hasn't happened.
- **Section 181 rent arrears notice** – the court will reach its decision in regard to this type of notice in the same way as outlined in section 4.2 above.
- **Discretionary grounds evictions** – the court's decision in regard to discretionary grounds will be the same as outlined in section 4.4 above.

4.6 Secure occupation contract with a community landlord

Starting the eviction process – written notice, the ‘pre-action protocol’ for community landlords and court action

The landlord must give you written notice, specifying how long you have before they will start court action and the legal grounds for eviction – see below.

Prior to starting court action, the landlord must also follow rules set out in a ‘pre-action protocol’ – the protocol rules are the same as outlined above in section 4.1 for converted secure contracts.

Grounds for eviction: ‘discretionary grounds’

Note: Under new secure occupation contracts (for rental agreements from 1 December 2022 onwards) there are no ‘absolute grounds’ for eviction (only discretionary grounds).

There are two types of discretionary grounds – breach of contract and estate management grounds – and they are the same as those outlined in section 4.1 above for converted secure contracts.

Eviction notice period

The notice period you receive will be the same as outlined in section 4.1 above.

The court’s decision

The court’s decision will be taken in the same way as outlined in section 4.1 above.

4.7 Introductory standard contract with a community landlord

Starting the eviction process – written notice, the ‘pre-action protocol’ for community landlords and court action

The landlord must give you written notice, specifying how long you have before they will start court action.

Prior to starting court action, a community landlord must also follow rules set out in a 'pre-action protocol' – the protocol rules are the same as outlined above in section 4.1.

Grounds for eviction: 'absolute grounds'

In some circumstances, a community landlord can end an introductory standard contract by using 'absolute grounds': significantly, this means that, so long as the landlord uses the correct procedure, the court will automatically grant a possession order. Absolute grounds are:

- a 'no fault' eviction (known as a 'section 173' notice – this is a reference to the section of the *Renting Homes (Wales) Act 2016* that provides this power); or
- two months or more of serious rent arrears (a 'section 181' notice).

Note: Check your contract to make sure your landlord can use the above measures, plus restrictions on using a 'no-fault' notice

Shelter Cymru advise that you should “check your contract to see if it allows the landlord to give you a 'no fault' or a serious rent arrears notice. If it doesn't, then the landlord can't end your contract using these grounds”¹⁶. There are also some important restrictions, whereby a landlord will not be able to use the 'no-fault' (section 173) procedure mentioned above, including where:

- you have not been provided with a written contract within 14 days of the contract start date (it should be noted that the landlord is then not able to give you a 'no-fault' notice until at least 6 months after providing you with the written contract);
- you have not been provided with a correspondence address for the landlord;
- you have not been provided with an up-to-date energy performance certificate (EPC), electrical installation condition report (EICR) and gas safety report;

¹⁶ 'Eviction: introductory standard contracts', Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/eviction/eviction-by-a-community-landlord/eviction-in-introductory-standard-contracts> (last accessed 16 February 2023).

- the landlord hasn't fitted working smoke alarms in the property;
- the landlord hasn't fitted working carbon monoxide alarms where a gas, oil or solid fuel appliance is present;
- a previous possession claim was rejected by the court less than 6 months ago, on the basis that it was a 'retaliatory' claim (i.e. where the landlord is evicting someone to avoid doing repairs or making a property fit for habitation – also see section 6 below);
- it is less than 6 months since the landlord withdrew a previous 'no fault' notice (unless the new notice was given within 28 days of the withdrawn one).

Contact a specialist housing organisation, such as Shelter Cymru, if any of the above scenarios apply to you.

Grounds for eviction: 'discretionary grounds'

There are two types of discretionary grounds – breach of contract and estate management grounds – and in the case of an introductory standard contract they are the same as those outlined in section 4.2 above.

Eviction notice period

- **Section 173 'no fault' notice** – you should be provided with a notice period of **6 months** (court action can only begin after this point).

It should be noted that the landlord cannot give you a 'no fault' notice "until 6 months after you moved into your home"¹⁷.

- **Section 181 rent arrears notice** – the landlord must give you a notice period of one month.

Note: The right to ask for a review of a landlord's decision to give you section 173 or section 181 notice

You should be informed of the right to request a review in the notice that you're given. The court has the power to dismiss a landlord's possession claim if the notice has not provided you with this information. If you wish to request a review, you should do so in writing within 14 days.

¹⁷ Ibid

- **Discretionary grounds evictions** – the notice periods will be the same as outlined in section 4.2 above.

The court's decision

- **Section 173 'no fault' notice** – the court must grant a possession order to the landlord for a 'no fault' eviction, provided all procedures have been followed correctly **and** they provided you with all the required information when you moved into the property (see the restrictions on using a 'no fault' notice above). Court papers that you should receive should give you the chance to raise your concerns if you feel the landlord hasn't followed procedures, including the pre-action protocol.

Potentially, the court may decide against the landlord if they judge it to be a 'retaliatory eviction' (this is where a landlord is evicting you rather than carrying out repairs and/or making the property fit for habitation – also see section 6 below).

- **Section 181 rent arrears notice** – if your landlord is evicting you for serious rent arrears, the court will grant a possession order if you are in 2 or more months arrears on the day you were given notice **and** on the day of the hearing. If you are not in serious rent arrears on one of those days, it's possible the court may decide not to evict you. As above with section 173 notices, you will be able to notify the court if you think correct procedures haven't been followed – including the pre-action protocol – or you feel a mistake has been made in arrears calculations, or if there have been issues with Housing Benefit or Universal Credit claims.

Note: Request to the county court to review the decision to evict you under either section 173 or section 181

“In some circumstances you can ask the county court to review the decision to evict you after court action has started”. You can do this “even if the landlord has already reviewed the decision to give notice”¹⁸.

County court reviews can be very complicated, so seek advice from a specialist housing organisation, such as Shelter Cymru.

¹⁸ Ibid

- **Discretionary grounds** – the court’s decision in regard to discretionary grounds will be the same as outlined in section 4.1 above.

4.8 Supported standard contract with a community landlord

Starting the eviction process – written notice, the ‘pre-action protocol’ for community landlords and court action

The landlord must give you written notice, specifying how long you have before they will start court action.

Prior to starting court action, a community landlord must also follow rules set out in a ‘pre-action protocol’ – the protocol rules are the same as outlined above in section 4.1.

Grounds for eviction: ‘absolute grounds’

In some circumstances, a community landlord can end a supported standard contract by using ‘absolute grounds’: significantly, this means that, so long as the landlord uses the correct procedure, the court will automatically grant a possession order. Absolute grounds that can be used for this type of occupation contract are:

- a ‘no fault’ eviction (known as a ‘section 173’ notice); *or*
- end of fixed term ‘no fault’ eviction (a ‘section 186’ notice); *or*
- two months or more of serious rent arrears (a ‘section 181’ notice).

Note: Check your contract to make sure your landlord can use the above measures, plus restrictions on using a ‘no-fault’ notice

You can check your contract to make sure that it allows the landlord to give you any of the above notice types. If it doesn’t, the landlord can’t use these grounds to bring the occupation contract to an end.

Even if the contract does allow it, there are certain restrictions in regard to the use of evictions via the section 173 or section 186 route, including where:

- you have not been provided with a written contract within 14 days of the contract start date (it should be noted that the landlord is then not able to give you a ‘no-fault’ notice until at least 6 months after providing you with the written contract);
- you have not been provided with a correspondence address for the landlord;
- you have not been provided with an up-to-date energy performance certificate (EPC), electrical installation condition report (EICR) and gas safety report;
- the landlord hasn’t fitted working smoke alarms in the property;
- the landlord hasn’t fitted working carbon monoxide alarms where a gas, oil or solid fuel appliance is present; *or*
- in regard to section 173 notices only, a previous possession claim was rejected by the court less than 6 months ago, on the basis that it was a ‘retaliatory’ claim (also see section 6 below). Shelter Cymru advise that “you cannot use the defence that...eviction is a retaliatory...to avoid repairs if the landlord uses the section 186 procedure”¹⁹.

Contact a specialist housing organisation if any of the above scenarios apply to you.

Grounds for eviction: ‘discretionary grounds’

There are two types of discretionary grounds – breach of contract and estate management grounds – and in the case of a supported standard contract they are the same as those outlined in section 4.2 above.

Eviction notice period

- **Section 173 ‘no fault’ notice** – you should be provided with a notice period of **2 months** (court action can only begin after this point).

¹⁹ ‘Eviction: supported standard contracts’, Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/eviction/eviction-by-a-community-landlord/eviction-from-supported-accommodation/eviction-in-supported-standard-contracts> (last accessed 17 February 2023).

- **Section 186 end of fixed term ‘no fault’ notice** – If you were given a fixed term supported standard contract, at the end of the fixed term period the landlord can seek to end the contract. They don’t need to provide a reason, but will need to give you a ‘section 186’ notice.

The notice must give you a period of **2 months** before the landlord can start court action (the landlord will also have to wait until the fixed term has ended).

- **Section 181 rent arrears notice** – with this type of occupation contract, the landlord can start court action after a notice period of only **2 weeks**.
- **Discretionary grounds evictions** – the notice periods will be the same as outlined in section 4.2 above.

The court’s decision

- **Section 173 ‘no fault’ notice** – the court must grant a possession order to the landlord for a ‘no fault’ eviction, provided all procedures have been followed correctly **and** they provided you with all the required information when you moved into the property (see the restrictions on using a ‘no fault’ notice above). Court papers that you should receive should give you the chance to raise your concerns if you feel the landlord hasn’t followed procedures, including the pre-action protocol.

Potentially, the court may decide against the landlord if they judge it to be a ‘retaliatory eviction’ (this is where a landlord is evicting you rather than carrying out repairs and/or making the property fit for habitation – also see section 6 below).

- **Section 186 end of fixed term ‘no fault’ notice** – the court must grant a possession order to the landlord for a Section 186 eviction, provided all procedures have been followed correctly **and** the landlord provided you with all the required information when you moved in. Court papers that you should receive should give you the chance to raise your concerns if you feel the landlord hasn’t followed procedures, including the pre-action protocol.

- **Section 181 rent arrears notice** – if your landlord is evicting you for serious rent arrears, the court will grant a possession order if you are in 2 or more months arrears on the day you were given notice **and** on the day of the hearing. If you are not in serious rent arrears on one of those days, it's possible the court may decide not to evict you. Court papers you receive should give you the opportunity to raise concerns if you don't feel correct procedures or the pre-action protocol have been followed, or you feel a mistake has been made in arrears calculations, or if there have been issues with Housing Benefit or Universal Credit claims.

Note: Request to the county court to review the decision to evict you under section 173, section 186 or section 181

In some circumstances you may be able to ask the county court to review the decision to evict you. However, this can be very complicated, so seek advice from a specialist housing organisation, such as Shelter Cymru.

- **Discretionary grounds** – the court's decision in regard to discretionary grounds will be the same as outlined in section 4.1 above.

4.9 **Prohibited conduct standard contract with a community landlord**

Starting the eviction process – written notice, the 'pre-action protocol' for community landlords and court action

The landlord must give you written notice, specifying how long you have before they will start court action.

Prior to starting court action, a community landlord must also follow rules set out in a 'pre-action protocol' – the protocol rules are the same as outlined above in section 4.1.

Grounds for eviction: 'absolute grounds'

The information on absolute grounds for eviction under a prohibited conduct standard contract is the same as outlined above in section 4.7 (for introductory standard contracts).

Grounds for eviction: 'discretionary grounds'

There are two types of discretionary grounds – breach of contract and estate management grounds – and in the case of prohibited conduct standard contracts they are the same as those outlined in section 4.2 above.

Eviction notice period

- **Section 173 'no fault' notice** – you should be provided with a notice period of **2 months** (court action can only begin after this point).
- **Section 181 rent arrears notice** – the landlord must give you a notice period of one month.

Note: The right to ask for a review of a landlord's decision to give you section 173 or section 181 notice

You should be informed of the right to request a review in the notice that you're given. The court has the power to dismiss a landlord's possession claim if the notice has not provided you with this information. If you wish to request a review, you should do so in writing within 14 days.

-
- **Discretionary grounds evictions** – the notice periods will be the same as outlined in section 4.2 above.

The court's decision

- **Section 173 'no fault' notice** – the information for a prohibited conduct standard contract is the same as outlined in section 4.7 above.
- **Section 181 rent arrears notice** – this is also the same as outlined in section 4.7.

Discretionary grounds – the court's decision in regard to discretionary grounds will be the same as outlined in section 4.1 above.

4.10 Fixed term standard contract with a private sector landlord

The eviction process – written notice and court action

The landlord must give you written notice, specifying how long you have before they will start court action – see below. The landlord must go via the court to gain a possession order before they can evict you and they must only do this once the specified notice period has come to an end.

Grounds for eviction: ‘absolute grounds’

Your landlord may be able to end your occupation contract during the fixed term by using ‘absolute grounds’. If so, as long as the landlord uses the correct procedure, the court will automatically grant a possession order. Absolute grounds for this type of occupation contract are:

- a ‘no fault’ eviction under a landlord’s break clause;
- two months or more of serious rent arrears (a ‘section 181’ notice).

Note: Check your contract to make sure your landlord can use the above measures, plus restrictions on using a ‘no-fault’ landlord’s break clause notice

You can check your contract to make sure that it allows the landlord to give you any of the above notice types. If it doesn’t, the landlord can’t use these grounds to bring the occupation contract to an end.

There are also some important restrictions, whereby a landlord will not be able to use the ‘no-fault’ break clause notice:

- fixed term standard contracts of less than 2 years cannot normally contain a break clause (unless certain exceptions apply²⁰), so on that basis the landlord may not be able to use this eviction method;

²⁰ Exceptions include “if you are living in temporary accommodation provided by a private or community landlord as part of the council’s homelessness duties, and have been given a standard contract...if you live in supported accommodation and have a supported standard contract [or] if you are renting in a care institution under a standard contract (renting agreements in care institutions are not usually standard occupation contracts unless you receive notice that it is a standard contract)” – ‘Eviction: fixed term standard contracts’, Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/eviction/eviction-by-a-private-landlord/eviction-in-private-fixed-term-standard-contracts> (last accessed 20 February 2023)

- your landlord cannot usually “give notice under a break clause less than 18 months after you moved into your home”²¹;
- your landlord has not registered with Rent Smart Wales (also see section 9 below);
- your landlord hasn’t either obtained a licence from Rent Smart Wales, or appointed a licensed agent to act for them;
- your landlord has failed to protect your deposit in a recognised deposit scheme²²;
- your landlord (or their agent) has charged you a banned letting fee and has not repaid it (also see section 10 below for further information);
- your landlord (or their agent) has failed to pay you back a returnable holding fee;
- you have not been provided with a written contract within 14 days of the contract start date;
- you have not been provided with a correspondence address for the landlord;
- you have not been provided with an up-to-date energy performance certificate (EPC), electrical installation condition report (EICR) and gas safety report;
- the landlord hasn’t fitted working smoke alarms in the property;
- the landlord hasn’t fitted working carbon monoxide alarms where a gas, oil or solid fuel appliance is present; *or*
- a previous possession claim was rejected by the court less than 6 months ago, on the basis that it was a ‘retaliatory’ claim (i.e. where the landlord is evicting someone to avoid doing repairs or making a property fit for habitation – also see section 6 below).

Contact a specialist housing organisation, such as Shelter Cymru, if any of the above scenarios apply to you.

²¹ The exceptions are the same as outlined in the previous footnote.

²² Shelter Cymru have further information on deposit protection schemes at: <https://sheltercymru.org.uk/housing-advice/paying-for-housing/tenancy-deposits/tenancy-deposit-protection-schemes>

Grounds for eviction: ‘discretionary grounds’

There are two types of discretionary grounds – breach of contract and estate management grounds – and in the case of fixed term standard contract they are the same as those outlined in section 4.2 above.

Eviction notice periods

- **‘No fault’ eviction under a landlord’s break clause** – you should be provided with a notice period of **6 months**. As noted above, your landlord won’t be able to give notice under a break clause less than 18 months after you moved into the property.
- **Section 181 rent arrears notice** – the landlord will be able to begin court action after a *two week* notice period.
- **Discretionary grounds evictions** – notice period for these types of evictions are the same as outlined in section 4.2 above.

The court’s decision

- **‘No fault’ eviction under a landlord’s break clause** – the court will generally grant a possession order to the landlord, as long as they have followed all the correct procedures **and** they provided you with all the required information when you moved into the property (see the restrictions on using a ‘no fault’ notice above). Court papers that you should receive should give you the chance to raise your concerns if you feel the landlord hasn’t followed procedures, or if you feel that it’s a retaliatory eviction.

Potentially, the court may decide against the landlord if they judge it to be a ‘retaliatory eviction’ – also see section 6 below.

- **Section 181 rent arrears notice** – the court will reach its decision in regard to this type of notice in the same way as outlined in section 4.2 above.
- **Discretionary grounds evictions** – the court’s decision in regard to discretionary grounds will be the same as outlined in section 4.1 above. Shelter Cymru advise that “if the ground is an estate management ground, then the landlord must...show the court that they are making suitable alternative accommodation available for you”²³.

²³ ‘Eviction: fixed term standard contracts’, Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/eviction/eviction-by-a-private-landlord/eviction-in-private-fixed-term-standard-contracts> (last accessed 21 February 2023).

4.11 Periodic standard contract with a private sector landlord

The eviction process – written notice and court action

The landlord must give you written notice, specifying how long you have before they will start court action – see below. The landlord must go via the court to gain a possession order before they can evict you and they must only do this once the specified notice period has come to an end.

Grounds for eviction: ‘absolute grounds’

Your landlord may be able to end your occupation contract by using ‘absolute grounds’. If so, as long as the landlord uses the correct procedure, the court will automatically grant a possession order. Absolute grounds for this type of occupation contract are:

- a ‘no fault’ eviction (known as a ‘section 173’ notice); *or*
- two months or more of serious rent arrears (a ‘section 181’ notice).

Note: Check your contract to make sure your landlord can use the above measures, plus restrictions on using the ‘no fault’ procedure

You can check your contract to make sure that it allows the landlord to give you any of the above notice types. If it doesn’t, the landlord can’t use these grounds to bring the occupation contract to an end.

There are also some important restrictions, whereby a landlord will not be able to use the ‘no-fault’, section 173, notice. These are:

- your landlord has not registered with Rent Smart Wales (also see section 9 below);
- your landlord hasn’t either obtained a licence from Rent Smart Wales, or appointed a licensed agent to act for them;
- your landlord has failed to protect your deposit in a recognised deposit scheme²⁴;

²⁴ Shelter Cymru have further information on deposit protection schemes at: <https://sheltercymru.org.uk/housing-advice/paying-for-housing/tenancy-deposits/tenancy-deposit-protection-schemes>

- your landlord (or their agent) has charged you a banned letting fee and has not repaid it (also see section 10 below for further information);
- your landlord (or their agent) has failed to pay you back a returnable holding fee;
- you have not been provided with a written contract within 14 days of the contract start date;
- you have not been provided with a correspondence address for the landlord;
- you have not been provided with an up-to-date energy performance certificate (EPC), electrical installation condition report (EICR) and gas safety report;
- the landlord hasn't fitted working smoke alarms in the property;
- the landlord hasn't fitted working carbon monoxide alarms where a gas, oil or solid fuel appliance is present; *or*
- a previous possession claim was rejected by the court less than 6 months ago, on the basis that it was a 'retaliatory' claim (i.e. where the landlord is evicting someone to avoid doing repairs or making a property fit for habitation – also see section 6 below);
- it is less than 6 months since the landlord withdrew a previous 'no fault' notice (unless the new notice was given within 28 days of the withdrawn one).

Contact a specialist housing organisation, such as Shelter Cymru, if any of the above scenarios apply to you.

Grounds for eviction: 'discretionary grounds'

There are two types of discretionary grounds – breach of contract and estate management grounds – and in the case of a periodic standard contract they are the same as those outlined in section 4.2 above.

Eviction notice periods

- **Section 173 'no fault' notice** – you should be provided with a notice period of **6 months** (court action can only begin after this point).

It should be noted that the landlord cannot give you a 'no fault' notice less than 6 months after you moved into the property.

- **Section 181 rent arrears notice** – the landlord will be able to begin court action after a *two week* notice period.
- **Discretionary grounds evictions** – the notice periods will be the same as outlined in section 4.2 above.

The court's decision

- **Section 173 'no fault' notice** – the court must grant a possession order to the landlord for a 'no fault' eviction, provided all procedures have been followed correctly **and** they provided you with all the required information when you moved into the property (see the restrictions on using a 'no fault' notice above). Court papers that you should receive should give you the chance to raise your concerns if you feel the landlord hasn't followed procedures, or if you feel that it's a retaliatory eviction.

Potentially, the court may decide against the landlord if they judge it to be a 'retaliatory eviction' – also see section 6 below.

- **Section 181 rent arrears notice** – the court will reach its decision in regard to this type of notice in the same way as outlined in section 4.2 above.
- **Discretionary grounds** – the court's decision in regard to discretionary grounds will be the same as outlined in section 4.1 above.

4.12 If you don't have an occupation contract

Section 3.5 above has some information on situations where you may not have an occupation contract. If so, you could be classed as an 'excluded occupier' or an 'occupier with basic protection' which effects how easily you can be evicted.

Excluded occupiers

If you live in the same accommodation as your landlord and you don't have living space that is self-contained – i.e. you share the kitchen and/or bathroom and/or living room with them – you are probably an excluded occupier. As such, you will have very few rights against eviction.

Unlike those with occupation contracts in the various sections above, if you are an excluded occupier, the landlord won't need to get a court order in order to evict you. They will have to give 'reasonable notice', though there is not a specific legal definition of 'reasonable' in this context.

If you are in this situation, you can approach your local authority and make a homelessness application (also see Age Cymru's Factsheet 89w *Dealing with homelessness in Wales*). You could also contact a specialist housing organisation, such as Shelter Cymru (see section 14 below for contact details).

Occupiers with basic protection

In these cases, your landlord will need to provide you with a valid notice and get a court order to evict you. However, they don't have to provide the court with a reason for wanting to evict. Contact Shelter Cymru for further advice if you are in this situation.

5 If your landlord illegally evicts or harasses you

It is against the law for your landlord to:

- harass you; *or*
- force you to leave your home without having first followed the correct legal requirements for the type of occupation contract concerned (see section 4 above).

5.1 Illegal eviction

Shelter Cymru advise that an eviction is likely to be illegal **“if your landlord makes you leave your home without getting a court order”**²⁵ (an exception could be where you're an excluded occupier – see section 4.12 above).

The landlord may also be committing a criminal offence if they:

²⁵ 'What is illegal eviction?', Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/eviction/harassment-and-illegal- eviction/what-is-illegal- eviction> (last accessed 22 February 2023).

- lock you out of your home / change the locks whilst you are out;
- make threats of, or use, violence which mean you feel forced to leave and/or physically throw you out (this includes where you're an excluded occupier);
- prevent you from accessing certain parts of your home.

5.2 Harassment

Various actions could constitute harassment and can be a criminal offence. Generally, it will be carried out to deliberately make your life difficult and thus make you leave your home (as well as the landlord themselves, it could be carried out by other family members or associates of the landlord, or the letting agent). The following are potential examples of harassment:

- cutting off utilities (gas, electricity or water);
- visiting your home on a regular basis without notice;
- interfering with post;
- entering your home without you knowing (unless there is a genuine emergency);
- beginning disruptive repairs or other work at the property, but then not finishing them;
- being abusive and threatening (including in relation to your race, sexuality or gender etc);
- pressuring you to leave the property straight away after having given notice, even though you are still within the notice period.

5.3 How to get help

Depending on the circumstances, if you are undergoing harassment, or your landlord is trying to – or already has – carried out an illegal eviction, you could contact:

- Shelter Cymru for advice (including the possibility of an injunction against the landlord in the case of harassment);
- the local authority (who can help you if you need to make a homelessness application);

- the police (if you feel unsafe in your home, or the landlord – or someone acting for them – has been violent or threatened violence);
- Rent Smart Wales (the body that runs the registration and licensing scheme for private landlords in Wales – also see section 9 below).

6 Retaliatory eviction

A retaliatory or ‘revenge’ eviction can occur when a landlord gives a ‘no fault’ eviction notice to a contract-holder who has previously asked for repairs to be carried out at the property, or complains about bad housing conditions.

If you have a **secure** contract (most likely if you have a community landlord in the social rented sector) you are not at risk of retaliatory eviction, as this type of contract cannot be ended with a ‘no fault’ notice. As such, contract-holders who have a private landlord generally have the highest risk of retaliatory eviction. Section 4 above, which contains information on eviction for different occupation contracts, indicates where retaliatory eviction might be a factor if you have a type of **standard** contract.

As indicated when relevant in section 4, provisions within the *Renting Homes (Wales) Act* now offer protection for standard contract-holders against retaliatory eviction.

Shelter Cymru advise that “if your landlord applies to court for a possession order, you can inform the court that you believe you were given notice because you asked for repairs to be done or for your home to be made fit to live in. If the court is satisfied that the landlord is trying to evict you because you asked for work to be done, they no longer have to give the landlord a possession order”²⁶.

6.1 Alerting the court if you feel you are being evicted for retaliatory reasons

The following can help you show the court that you are the victim of a retaliatory eviction:

²⁶ ‘Retaliatory eviction if you ask for repairs’, Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/repairs-and-bad-conditions/retaliatory-eviction> (last accessed 22 February 2023).

- make sure you keep copies of all your communications with the landlord (and letting agent if there is one dealing with issues on behalf of the landlord);
- report problems and repairs you feel are needed to your landlord (or their agent) as soon as you're aware of them²⁷;
- you should also keep a log of previous problems with your landlord (even if this was just verbal communication), such as anger when asked about repairs, or if there have been harassment issues. This can help you illustrate the connection between you asking for repairs and then subsequently being issued with an eviction notice;
- if the local authority's environmental health department have been involved, you can ask them for copies of reports, letters or notices they have issued to the landlord.

Note: Seek help straight away from a specialist housing organisation, such as Shelter Cymru, if you are faced with this situation. An adviser may be able to represent you in court proceedings, for example.

7 Action by a bailiff

This stage in the eviction process should only be necessary if you have not left the property by the specified date in a possession order granted by the court.

If you have not left by the possession order date, then the landlord can arrange for a county court bailiff to evict you by applying for an eviction warrant. If this happens, you will receive a 'Notice of Eviction' letter from the court which will tell you when the bailiffs will arrive (usually in 1 or 2 weeks, though it could be sooner).

²⁷ Shelter Cymru advise that "it is probably a supplementary term of your occupation contract that you must report repairs, so if you don't do it, your landlord may try to take money out of your deposit when you leave" – see: <https://sheltercymru.org.uk/housing-advice/repairs-and-bad-conditions/repairs-in-private-rented-housing/reporting-repairs-and-allowing-access-if-you-have-a-private-landlord>

It should be noted that you can only be evicted by bailiffs if they have been authorised via an eviction warrant. If anyone tries to force you to leave your home without the process detailed above having been followed, then it is likely to be an illegal eviction. “No-one other than a bailiff acting for the county court is allowed to remove you from the accommodation”²⁸.

Note: Seek assistance straight away if you are being threatened with action by a bailiff and/or you have received a ‘Notice of Eviction’. Further information can be found on the Shelter Cymru website at:

<https://sheltercymru.org.uk/housing-advice/eviction/court-action/eviction-by-the-bailiff>

8 Debt advice and the ‘Breathing Space’ Debt Respite Scheme

If you are experiencing difficulty making your rent payments, are already in rent arrears, or have other problems with debt, you can ask for advice and assistance from an organisation specialising in debt advice – for example, Citizens Advice, StepChange or the National Debtline (contact details for all of these can be found in section 14 below).

You may be eligible for the Breathing Space (Debt Respite Scheme). The scheme is free and is designed to give people time to receive debt advice. It prevents creditors from adding interest, fees or taking enforcement action for 60 days. There is also a specific ‘mental health crisis Breathing Space’ for people who are receiving mental health crisis treatment. This lasts as long as the person’s mental health crisis treatment, plus 30 days (no matter how long the crisis treatment lasts).

Applying to the Breathing Space scheme

You can’t apply to the scheme directly, but can do so via one of the free debt advice organisations mentioned above, or possibly via your local authority if someone there is helping you already. Where applicable, a mental health worker may also be able to help you apply.

²⁸ ‘Eviction by the bailiff’, Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/eviction/court-action/eviction-by-the-bailiff> (last accessed 23 February 2023).

Note: Be very wary of debt management companies who charge for their services – they might use similar wordings to ‘breathing space’ on their websites or in their adverts, but could actually be marketing debt management plans that you’d be charged for. It is best to seek advice from Citizens Advice, StepChange or the National Debtline instead.

Age UK’s Factsheet 75 *Dealing with debt* may also be helpful – visit our website or contact Age Cymru Advice for a copy (see section 14 below).

9 Rent Smart Wales – check whether your private landlord or agent is registered and licensed

Rent Smart Wales is a Welsh Government body which private landlords must be registered with. Additionally, any person who lets or manages a domestic property must have a licence from Rent Smart Wales – i.e. landlords who self-manage their properties, or letting agents who may have been appointed by the landlord.

One of the purposes of the registration and licensing scheme is to allow for the monitoring of private landlords and agents and to try and ensure that only reputable people are able to let out property.

9.1 Rent Smart Wales Code of Practice for private landlords and agents

Landlords and agents must abide by standards outlined in the following Rent Smart Wales document:

Code of Practice for Landlords and Agents licensed under Part 1 of the Housing (Wales) Act 2014

A copy can be accessed on the Welsh Government website at:

www.gov.wales/rent-smart-wales-code-practice

If you have concerns about the conduct of your landlord or agent, you can report it to Rent Smart Wales who should investigate. If they are not adhering to the Code of Practice, they could potentially lose their licence or not be able to renew it when it expires. It should be possible to make your complaint anonymously if you wish.

9.2 ‘Fit and proper person’ test for private landlords and agents

When deciding to grant a licence, Rent Smart Wales must be satisfied that “the applicant is a fit and proper person to be licenced”.

“This requirement is to ensure that those responsible for letting and managing a property in the private rented sector are of sufficient integrity and good character to be involved in the management of the property to which the licence relates. In addition, that they do not pose a risk to the welfare or safety of persons occupying the property”²⁹.

When deciding whether someone is ‘fit and proper’, Rent Smart Wales will take into consideration whether the applicant has:

- “committed any offence involving fraud or dishonesty, violence, firearms or drugs or any offence listed in...the Sexual Offences Act 2003”;
- “practised unlawful discrimination on the grounds of any characteristic which is a protected characteristic under...the Equality Act 2010, or victimised another person contrary to that Act, in or in connection with the carrying on of any business”³⁰; *or*
- contravened any provision of the law relating to housing, landlords or contract-holders.

The above list is not exhaustive, however, and Rent Smart Wales “must have regard to all matters it considers appropriate”³¹.

9.3 If your private landlord isn’t registered or the landlord/agent has not got a licence

Action by Rent Smart Wales or the local authority

Landlords or agents that are not registered, or have failed to comply with the licensing rules may face one of the following penalties:

²⁹ ‘Guidance on the “fit and proper person” test for licensing of landlords and agents: Guidance issued to the Licensing Authority under section 20(6) of the Housing (Wales) Act 2014, Welsh Government / Rent Smart Wales, October 2015.

³⁰ Ibid

³¹ Ibid

- a fixed penalty notice;
- a **rent stopping order (RSO)** – this stops rent being paid by the contract-holder for a certain period; *or*
- a **rent repayment order (RRO)** – this requires the landlord to repay any rent received for a certain period and/or housing benefit or universal credit received (i.e. where money from these benefits has been paid to them on behalf of the contract-holder to help them meet their rent).

Contact your local authority or Rent Smart Wales for further information on this topic.

Action the contract-holder can take

“Where a landlord has been successfully prosecuted, or a RRO has already been made in respect of housing benefit or universal credit, [contract-holders] can apply to the Residential Property Tribunal themselves for an RRO so that they can have some of their rent repaid. If you want to do this contact the Residential Property Tribunal Wales”.

“Any application by a [contract-holder] must be made within 12 months of any conviction or RRO and costs £155 (unless you are on certain income related benefits)”³². Contact Shelter Cymru for further information.

Restriction on eviction

If your landlord is not registered, and has not either obtained a licence themselves, or appointed an agent who is licensed, **they may not be able to carry out a ‘no-fault’ eviction** – see section 4 above.

9.4 Checking the register

You can use the Rent Smart Wales public register to check whether your landlord or agent is registered and licensed at the following link, or use their contact details listed in section 14 below:

<https://rentsmart.gov.wales/en/check-register>

³² ‘Landlord registration and licensing’, Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/finding-a-place-to-live/renting-privately/landlord-registration-and-licensing> (last accessed 23 February 2023).

10 Letting fees

It is an offence for landlords or letting agents to charge a contract-holder any payment that is not specified as a ‘permitted payment’ by legislation.

The permitted payments in addition to your regular rent payments are:

- security deposits;
- holding deposits (capped at the equivalent of one weeks’ rent and refundable in most circumstances);
- a payment in default (if a contract-holder breaches their contract);
- payments for council tax, utilities, a television licence, or communication services **when these are included as part of your regular rent.**

Charges that are **not** permitted include:

- general administration;
- checking references or credit checks;
- accompanied viewings;
- receiving an inventory;
- signing a contract;
- drawing up, amending or renewing an occupation contract; *and*
- inspecting a property at the end of an occupation contract.

Contract-holders should be able to recover such payments – contact Shelter Cymru for further information. Further information can also be found on their website at:

<https://sheltercymru.org.uk/housing-advice/paying-for-housing/letting-fees>

Restriction on eviction

If your landlord or the letting agent has charged you a banned fee and/or a holding deposit and the money has not been returned to you, **they may not be able to carry out a ‘no-fault’ eviction** – see section 4 above.

11 Inheriting an occupation contract ('succession')

Your right to inherit a family member's occupation contract after their death depends on various factors, including the type of occupation contract and landlord; when the contract was granted; your relationship to the person who has died, plus how long you lived together.

The rules on succession are complex, so you may wish to contact Shelter Cymru for further advice and information.

12 Relationship breakdown

If you are asked to leave your home by your spouse, civil partner or partner (referred to collectively as 'partner'), you may have rights to stay temporarily or permanently. This may be the case even if the occupation contract is in their sole name.

If you and your partner separate and find it difficult to agree on who should keep your home, in some situations you might find mediation helpful – Age UK's Factsheet 43 *Getting legal and financial advice* contains some more information on this topic. Legal aid, or funding for legal advice and representation, is available for mediation, but you must meet eligibility criteria, such as being on a low income or in receipt of certain benefits.

If you try mediation, make sure you understand your rights to keep your home and your potential options first – contact Shelter Cymru for further advice.

Mediation is unlikely to be appropriate if you have experienced violence (or are at risk of violence), however. If you are affected by these issues, you could contact the **Live Fear Free Helpline** on freephone **0808 80 10 800** (available 24-hours).

If your partner leaves your property but has not served a notice to quit, you must establish whether you can be made a sole contract-holder. The rules on this can be quite complicated, so you may wish to contact Shelter Cymru for further advice and information.

13 If your landlord experiences financial difficulties – mortgage repossession

The property you rent may be mortgaged, or your landlord may have secured other debts against its value. This gives the organisation who granted the mortgage or the loan – the lender – a right of possession if your landlord breaches the terms of their agreement (for example, by failing to keep up with payments).

In some situations, if a lender repossesses the property, your occupation contract may be 'binding' on them. This means they may not be able to evict you unless they can prove a ground for possession, or the no-fault procedure is available to them. This will depend on whether your occupation contract was granted before or after the mortgage was taken out and whether your original landlord did so with the consent of the lender. If the occupation contract was granted without the lender's consent, it will not be binding on them and you can be evicted if they obtain possession. Contact Shelter Cymru for further advice if you are in this situation.

14 Useful organisations

Age Cymru Advice

Free and confidential information and advice on matters affecting the over 50s in Wales.

Tel: 0300 303 44 98

E-mail: advice@agecymru.org.uk

Website: www.agecymru.org.uk/advice

Age Cymru organisations (local)

Your local Age Cymru may be able to provide advice and support on a range of issues. **Age Cymru Advice** can provide details of your local Age Cymru (see above), or visit the Age Cymru website at:

www.agecymru.org.uk/local

Citizens Advice Bureaus (CABs)

National network of free advice centres offering confidential and independent advice, face to face or by telephone.

Tel: 0800 702 2020

Details of your nearest CAB can be found at:

www.citizensadvice.org.uk/wales

Local authority (council)

<https://gov.wales/find-your-local-authority>

Whoever your landlord is, your local authority must ensure information and advice about homelessness is available to you free of charge. They may have a duty to help you if you become homeless or are threatened with homelessness. For further information, also see Age Cymru's Factsheet 89w *Dealing with homelessness in Wales*.

National Debtline

National telephone helpline for people with debt problems.

Tel: 0808 808 4000

Website: www.nationaldebtline.org

Public Services Ombudsman for Wales

The Ombudsman looks to see whether people have been treated unfairly or have received a bad service from a public body, such as a local authority.

Tel: 0300 790 0203

E-mail: ask@ombudsman.wales

Website: www.ombudsman.wales

Rent Smart Wales

An organisation that processes landlord registrations and grants licences to landlords and agents who are required to comply with the *Housing (Wales) Act 2014*.

Tel: 03000 133 344

Website: www.rentsmart.gov.wales

Shelter Cymru

A charity providing advice to people with housing problems. This includes a wide range of issues, including rights for contract-holders; eviction; homelessness and repairs.

Tel: 08000 495 495

Website: www.sheltercymru.org.uk

StepChange Debt Charity

Offers free and independent debt advice and can help explore your options, including setting up a debt management (repayment) plan.

Tel: 0800 138 1111

Website: www.stepchange.org

Tai Pawb

An organisation promoting equality and social justice in housing. Tai Pawb works in partnership with providers and receivers of housing services, local authority partners, voluntary organisations and the Welsh Government.

Tel: 02921 057 957

Website: www.taipawb.org

Welsh Government

The devolved government for Wales.

Tel: 0300 060 4400

E-mail: customerhelp@gov.wales

Website: www.gov.wales

15 Further information about Age Cymru

15.1 Who we are

Age Cymru is the national charity for older people in Wales. We work to develop and deliver positive change with and for older people.

Our vision is an age friendly Wales.

Our mission is to make life better for older people.

Together with our local partners:

- We provide information and advice.
- We deliver wellbeing programmes.
- We provide independent advocacy.
- We support carers.
- We campaign and research.

Age Cymru

Mariners House
Trident Court
East Moors Road
Cardiff
CF24 5TD

029 2043 1555

www.agecymru.org.uk

Registered Charity 1128436

15.2 **How we can help**

Age Cymru Advice: our information and advice service for matters affecting people over 50 in Wales

Age Cymru Advice is committed to being the foremost information and advice service to older people in Wales.

We aim to provide effective, accessible, high-quality information and advice while offering a free, impartial and confidential service. Age Cymru Advice can assist older people themselves, their family, friends, carers, or professionals.

All of our guides and factsheets are available to download from our website, or you can contact our advice line to have copies posted to you for free.

Local support

Age Cymru Advice also acts as a gateway to our local services. Face to face support via local offices and home visits may be available to people requiring additional or more specialised support.

Getting in touch

If you want to talk to one of our expert advisers, in Welsh or English, call us on **0300 303 44 98**. Our advice line is open between 9am and 4pm, Monday – Friday.

(Calls are charged at the same rate as a call to a standard 01 or 02 number. They will also be automatically included in any landline or mobile inclusive minutes package).

You can also:

- email us at advice@agecymru.org.uk; or
- visit our website at www.agecymru.org.uk/advice



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15.3 How you can help

All the information and advice we provide is free and completely impartial. In many cases our timely intervention can be life changing. We are an ageing population and more people than ever are coming to us for support. You can help us be there for those that need us most.

Make a donation

No matter how small or large, donations make a massive difference and help us continue our important work.

Call: **029 2043 1555**

Visit: **www.agecymru.org.uk/donate**

Every donation we receive helps us be there for someone when they need us.

- £10 helps towards a fully trained expert advice worker to respond to queries from people who need the support of our information and advice service.
- £20 helps towards the cost of us producing free information guides and factsheets that provide useful advice on issues affecting people over 50.

Fundraise

Whether it is having a bake sale, running a marathon or knitting small hats for the Big Knit, there are so many ways to raise vital funds to support our work.

Call: **029 2043 1555**

Visit: **www.agecymru.org.uk/getinvolved**

Volunteer with us

All volunteer roles at Age Cymru support us to improve lives and help us work towards an age friendly Wales. However you'd like to get involved, we'd love to hear from you.

Call: **029 2043 1555**

Visit: **www.agecymru.org.uk/volunteer**

Leave us a gift in your will

With a gift to Age Cymru in your will, you can do so much to make sure older people have the support they deserve in the years to come. Leave a world less lonely.

Call: **029 2043 1555**

Visit: **www.agecymru.org.uk/legacy**

