

Factsheet 8w ● November 2023

Community landlord housing in Wales – local authority or housing association homes



Age Cymru Advice

0300 303 44 98

www.agecymru.org.uk

Contents

1	Information about this factsheet	4
2	Recent housing legislation in Wales – the Renting Homes (Wales) Act 2016	5
3	What is community landlord housing?	7
	3.1 Welsh Housing Quality Standard (WHQS)	8
4	How can you get community landlord housing?	8
	4.1 Being eligible to apply	10
5	Making an application	11
	5.1 Help with your application	12
	5.2 Information you should include in your application	12
	5.3 Updates whilst you are on a waiting list	13
	5.4 Can you apply to more than one local authority?	13
	5.5 ‘Common housing registers’	14
6	Local authority allocation schemes	14
	6.1 Who gets priority on the list – ‘reasonable preference’	14
	6.2 Extra priority in urgent cases – ‘additional preference’	16
	6.3 Can a local authority reduce or take away someone’s priority level?	18
7	Receiving an offer	18
8	If you’re unhappy with the way your application for community landlord housing has been handled	20
	8.1 Reviews	21
	8.2 Using the official complaints procedure	22
	8.3 Public Services Ombudsman for Wales	22
	8.4 Applying to court for a judicial review	23
	8.5 If you feel you have suffered discrimination	24
9	Occupation contracts – sole or joint contracts	24
10	If you have a community landlord and wish to move home	26
	10.1 Transfers	26
	10.2 Transfers between secure contract-holders (previously referred to as ‘mutual exchange’)	28

11	'Succession' rights in community landlord housing	30
	11.1 Priority successors	30
	11.2 Reserve successors	31
	11.3 Limit on how many times an occupation contract can be passed on via succession	31
	11.4 If you don't have any succession rights	32
	11.5 Issues to consider before taking over an occupation contract through succession	32
12	Sheltered housing	33
13	Useful organisations	34
14	Further information about Age Cymru	36
	14.1 Who we are	36
	14.2 How we can help	36
	14.3 How you can help	39

1 Information about this factsheet

This factsheet has information about applying for housing from local authorities (i.e. council homes) and/or housing associations.

Traditionally, this type of housing was collectively referred to as ‘**social housing**’, though as a result of recent legislative changes in Wales – see section 2 below – the most up to date term is ‘**community landlord housing**’ (therefore, we will generally use the latter description in this factsheet).

Our factsheet explains:

- how waiting lists are organised;
- how to apply to be added onto a waiting list;
- how properties are allocated (in terms of different priorities assigned to different applicants); *and*
- options if you need to move to a different local authority area.

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.

You may also find some of our other factsheets on housing topics to be helpful. These include:

- Age Cymru’s Factsheet 63w *Finding private rented accommodation in Wales*;
- Age UK’s Factsheet 64 *Specialist housing for older people*;
- Age Cymru’s Factsheet 35w *Renting your home in Wales – rights or problems regarding your rent*;
- Age Cymru’s Factsheet 67w *Home improvements and repairs for older people in Wales*;
- Age Cymru’s Factsheet 68w *Renting your home in Wales – rights if you are threatened with eviction*;
- Age Cymru’s Factsheet 89w *Dealing with homelessness in Wales*.

2 Recent housing legislation in Wales – the Renting Homes (Wales) Act 2016

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. Where relevant, further information on some of these elements will be included in the text below, or can be found within our other housing factsheets.

Changes in terminology

Under the Act:

- *Tenants* (and licencees) are now known as ‘**contract-holders**’.
- *Tenancy agreements* are now known as ‘**occupation contracts**’.
- *Local authority (council)* and *housing association* landlords are now 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 community landlord rented sector.

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

Converted contracts

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.

Under the new legislation, landlords must provide written contracts to contract-holders. In the case of converted contracts, landlords were 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 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, such as from Shelter Cymru, if you're unsure.

Fundamental terms in occupation contracts

Fundamental terms in your occupation contract provide you with important rights that a landlord **must** include in the contract – also see section 9 below.

Significant changes under the legislation

These include:

- as mentioned above, 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);

¹ 'Converted contracts', Shelter Cymru website: <https://sheltercymru.org.uk/housing-advice/renting/converted-contracts> (last accessed 13 October 2023).

- 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; *and*
- new rules whereby a landlord has to ensure that their property is **fit for human habitation**.

Further information on the Renting Homes (Wales) Act 2016

The Welsh Government has a section on their website on the 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

3 What is community landlord housing?

The term ‘community landlord housing’ is generally used to mean lower-cost rented housing provided by either:

- **local authorities** (i.e. council flats or houses); *or*
- **housing associations** registered with the Welsh Government.

As mentioned in section 2 above, both local authority landlords and housing association landlords in Wales are referred to as ‘**community landlords**’ in housing legislation.

This type of housing is likely to be cheaper and offer greater security from eviction than private rented housing. It is usually a good option if you need an accessible or adapted property, although you may need to wait longer for this type of housing.

In many areas, it is difficult to get community landlord housing unless you meet certain criteria, such as being homeless or needing to move on medical grounds. Waiting times can be long even if you meet these criteria. Properties are often let unfurnished and you may have little choice over type and location.

Speak to a housing adviser if you want to make an application for community landlord housing or speed up an existing application. They can guide you through the process, make sure your application is given enough priority, and help you to challenge any negative decisions. Shelter Cymru may be able to provide this assistance – see section 13 below for contact details.

3.1 Welsh Housing Quality Standard (WHQS)

The Welsh Government’s WHQS is designed to ensure that all houses owned by housing associations and local authorities are in a good condition and well maintained. In order to meet the standards, properties belonging to community landlords should be:

- “in a good state of repair”;
- “safe and secure”;
- “affordable to heat”;
- fitted with “an up-to-date kitchen and utility area”;
- fitted with “an up-to-date bathroom”;
- comfortable and promote wellbeing; *and*
- where possible, suitable for the specific needs of those living there².

The latest version of the WHQS came out in October 2023 and can be found on the Welsh Government’s website at:

www.gov.wales/welsh-housing-quality-standard-2023-0

4 How can you get community landlord housing?

Local authority owned housing

Most community landlord housing is ‘allocated’ by local authorities. This means each authority has a list of people waiting for housing, called its ‘**housing register**’.

² ‘Welsh Housing Quality Standard 2023’, Welsh Government website: www.gov.wales/welsh-housing-quality-standard-2023-0 (last accessed 25 October 2023).

Applications for housing are prioritised in line with policies set by the authority (its 'allocation scheme'), although the law says some people must be given **preference** – see section 6 below.

When a property becomes vacant, the authority selects someone from the waiting list to be the new contract-holder. Typically, this is the person with the highest priority who meets any conditions attached to the letting.

Some authorities appoint another organisation (a '*contractor*') to manage the allocations process on their behalf. This can be a housing association or a private company. The authority remains responsible for drawing up and making changes to the allocation scheme. Decisions made by a contractor can be challenged in the same way as decisions made by an authority.

Housing associations

Local housing associations may fill some, or all, of their vacancies through the local authority's housing register. Some associations have their own waiting lists and accept direct applications (though they may still require you to be assessed by the authority). Some associations may accept referrals from organisations such as social services.

Housing associations in Wales are regulated by a social housing regulation department within the Welsh Government.

When running their own waiting lists, housing associations must have clear application, decision-making and appeals processes. Associations must have published policies stating how they make use of local authority housing registers and allocation schemes and the criteria used to exclude people from their own waiting lists. You can ask to see a copy of these policies.

Sheltered housing

Sheltered housing provided by local authorities and housing associations is allocated in the same way as '*mainstream*' community landlord housing, although there may be specific rules on who gets priority. Also see section 12 below.

4.1 Being eligible to apply

Note: In this context, being eligible to apply means that you're entitled to be considered for community landlord housing and thus be added to the local authority's waiting list – i.e. it doesn't mean that you'll necessarily be offered a home, as this will depend on what level of 'priority' your case is thought to have by the authority (this will depend on individual circumstances and further information can be found in sections 5, 6 and 7 below).

If you live in the UK permanently

Most people living in the UK on a permanent basis are eligible to apply.

There are some exceptions, such as someone who is ineligible due to serious unacceptable and/or anti-social behaviour (for example, causing a serious nuisance to others in the community, using a property for illegal purposes, or committing domestic violence).

UK citizens who have been living abroad

You may not be eligible to apply if you have been living outside the UK for a lengthy period and are therefore not 'habitually resident'.

In deciding whether or not you are 'habitually resident', the local authority will look at things like:

- where you live and work;
- “where you have family or friends”;
- “the reasons why you have come to live in the area”
- “where you intend to live in future”; *and*
- “whether you have been ‘habitually resident’ in the past”³.

³ 'Who is eligible to apply?', Shelter Cymru website: www.sheltercymru.org.uk/housing-advice/finding-a-place-to-live/community-landlord-waiting-lists/who-is-eligible-to-apply (last accessed 18 October 2023).

You may find Age UK's Factsheet 25 *Returning from abroad* useful if you are in this situation.

People from abroad

People from abroad are only eligible to apply under certain circumstances. The rules are quite complicated, but Shelter Cymru have further information on their website at:

www.sheltercymru.org.uk/housing-advice/finding-a-place-to-live/community-landlord-waiting-lists/who-is-eligible-to-apply

If you are told you are not eligible and feel this decision is incorrect

You may be able to ask for a review of the decision, or make a fresh application if your circumstances change.

For further information if you are in this situation, contact a specialist housing advice organisation, such as Shelter Cymru (see section 13 below for contact details).

5 Making an application

To join a local authority waiting list, you must fill in an application form with details of where you live now, medical conditions, and other relevant factors – see section 5.2 below for further information.

The authority considers your application against their allocation scheme and gives you points or places you in a band to reflect the priority you have been given.

Waiting times vary significantly and depend on factors such as:

- the local housing market – how much community landlord housing is available and how many people want it;
- your level of priority and how this compares to others on the waiting list (also see section 6 below for further information);
- your needs – the type, size, and location of the property you are looking for, and whether you can be flexible.

5.1 Help with your application

Local authorities are required by law to provide the following:

- information on how to make an application;
- information on who is eligible to be considered for housing;
- the procedures they will follow when they receive your application;
- how they will prioritise between applicants;
- assistance if you find it difficult to apply – for example, if you have reading difficulties, or English is your second language;
- supply you with an application form in a different format where required – for example, in braille, large print or an audio version.

Note: Most local authorities will provide a leaflet explaining how their system works.

You have the right to request information to enable you to assess the likely outcome of your application – for example whether you are likely to be given priority, whether suitable housing is likely to become available, and how long this is likely to take.

5.2 Information you should include in your application

Most application forms used by local authorities will include questions and/or space for you to address the following:

- your personal details (name and age etc), plus those of everyone else in your household, including how they are related to you;
- details of your income, savings or other assets, plus those of any joint applicants (for further information on joint applications, also see section 9 below);
- where you live currently and the facilities and conditions there (for example, if there is overcrowding or disrepair);
- other places where you may have resided in recent years;

- details of your connection to the area where you're applying (i.e. whether you currently live there and if so for how long; do you work in the area or have close family members in the area);
- if you need to live close to particular people or facilities such as shops or a bus route;
- the type of housing you need – for example, particular features or facilities due to disability, illness or mobility problems;
- evidence supporting your application – for example, a GP letter explaining why you need re-housing on medical grounds;
- if you have experienced any crime, violence or harassment in your current accommodation (including copies of police incident reports where relevant).

5.3 Updates whilst you are on a waiting list

Keep the local authority informed of changes in your circumstances that could affect your level of priority.

You may also be sent a request each year for up-to-date information about your household. **It is important to provide this, or you may be taken off the waiting list.**

5.4 Can you apply to more than one local authority?

You may be able to apply to more than one local authority, though it should be noted that you may well be given a lower priority if you're unable to demonstrate a local connection.

As touched upon above, connections might include employment, past residence, family associations, or other special circumstances. You may find a local authority relaxes its requirements if you are looking for sheltered accommodation in the area and, for example, you need to move closer to family and friends for this (also see section 12 below in regard to sheltered housing).

Following your applications, it's possible to be on the waiting list of more than one local authority at the same time, but if you are homeless, only one of them will deal with your homelessness application (see Age Cymru's Factsheet 89w *Dealing with homelessness in Wales* for further information on homelessness).

5.5 'Common housing registers'

Most areas have a common housing register, meaning you only need to make one application in order to be considered for both local authority and housing association housing.

However, you may wish to check this with your local authority to make sure that there aren't any housing associations in your area operating separate waiting lists. If there are, you can ask the authority for contact details.

6 Local authority allocation schemes

As mentioned above, local authorities must have an 'allocation scheme' setting out the procedure they follow when allocating community landlord housing and how they prioritise applications. They must publish a summary of the scheme and you can request a copy free of charge. Schemes vary to a certain extent between local authorities, though legislation specifies certain people that should be given most priority.

In drawing up schemes and allocating accommodation, local authorities must take into account the following Welsh Government guidance:

Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness (March 2016)

A copy can be accessed at:

www.gov.wales/allocation-accommodation-and-homelessness-guidance-local-authorities

6.1 Who gets priority on the list – 'reasonable preference'

Waiting lists are not operated on a 'first come, first served' basis; rather, the law says that local authorities must give certain groups of people a 'reasonable preference' for housing – see below.

Authorities can, however, set their own rules to determine the relative position of different applicants with reasonable preference in order to reflect local priorities.

To decide how much priority you get, your application should be assessed by the local authority using their housing allocations policy.

Note: “Being given ‘reasonable preference’ does not guarantee you a place. There might be a long waiting list and limited places available”⁴.

You should be given reasonable preference if you:

- are homeless (even if you have not made a homelessness application); *or*
- are threatened with homelessness within the next **56 days** (if so, you may well also be eligible for other help, advice or potentially emergency accommodation from the authority’s homelessness department. **You can also ask to make a homelessness application** – see Age Cymru’s Factsheet 89w *Dealing with homelessness in Wales* for further information).

You may also be given reasonable preference if your current home:

- is overcrowded;
- has insanitary conditions (drainage and sewerage is not functioning properly);
- lacks adequate heating;
- lacks basic washing and cooking facilities; *or*
- is in serious disrepair for another reason (or because of combined factors of some of the above).

⁴ ‘Who gets priority?’, Shelter Cymru website: www.sheltercymru.org.uk/housing-advice/finding-a-place-to-live/community-landlord-waiting-lists/who-gets-priority (last accessed 18 October 2023).

Note: The local authority will likely visit your accommodation to assess the situation before they're able to decide on the level of priority they will allocate you. If the situation is sufficiently serious – for example, the property is dangerous or potentially damaging to your health – you may be given a higher priority.

You may also be given reasonable preference if you need to move:

- because of physical health and/or mental health problems exacerbated by your current home;
 - due to mobility issues that make your current home impractical; *or*
 - to give or receive care, or access specialised medical treatment.
-

Note: It can also be a good idea to contact the **social services department** at your local authority as well, so that they can carry out a **care needs assessment** for you.

It may be with certain help or services from them you could stay in your current home, or they can play a role in providing the evidence you need that the authority's housing department should allocate you a high priority and find you more suitable accommodation.

Age Cymru's Factsheet 41w *Social care assessments for older people with care needs in Wales* has further information on care assessments and Factsheet 67w *Home improvements and repairs for older people in Wales* may also be helpful.

6.2 **Extra priority in urgent cases – 'additional preference'**

If you fit into any of the 'reasonable preference' groups outlined in section 6.1 above, the local authority might also decide to give you '**additional preference**' if your housing needs are particularly urgent. Shelter Cymru describe this as "like being given a head-start"⁵.

Your application may be given 'additional preference' where:

⁵ Ibid

- You are homeless due to having experienced – or at risk of experiencing – domestic abuse.
- “You are homeless because you’ve been a witness or victim of crime and are at risk of intimidation”.
- You are homeless due to abuse *and/or* harassment *and/or* threats *and/or* being attacked in your local area, due to:
 - your sex;
 - the fact you have a disability;
 - your race;
 - your religion;
 - sexual orientation; *or*
 - gender reassignment.
- “You need to move because of urgent medical needs” (this could include you or a member of your household having a life-threatening illness).
- Someone is due to be discharged from hospital and their current accommodation is unsuitable.
- “You need accommodation because you have left Armed Forces accommodation, or have a medical condition or disability caused by serving with the Armed Forces”.
- Your housing benefit has reduced because of the ‘bedroom tax’ and “you can no longer afford the rent [and] would like to move to a smaller, more affordable, property”⁶.

Note: The above is not an exhaustive list and you might be given ‘additional preference’ for other reasons too. All of your different circumstances and how they might have a cumulative effect, or interact with each other, should be considered by the authority in deciding if you have an urgent housing need.

⁶ Ibid

6.3 Can a local authority reduce or take away someone's priority level?

In some instances, the authority will be able to do this, including where:

- you have moved home since your application was made and conditions there are improved (so you're housing needs are now less serious or urgent);
- you have found and moved into suitable, settled, accommodation and are no longer homeless;
- you have now recovered from an illness which gave you extra priority;
- you have experienced an improvement in your financial circumstances and can now afford to buy or rent accommodation for yourself; *or*
- where you have behaved anti-socially since you first made your application.

7 Receiving an offer

Local authorities usually allocate community landlord properties through:

- a 'choice-based lettings' scheme; *or*
- by giving you a direct offer from their waiting list.

Note: Each authority may use either system or a combination of both.

Choice-based letting schemes

Ask your local authority if they run one of these schemes. Although they can vary in different areas, choice-based lettings will generally operate as follows:

- “Available properties are advertised locally, often in leaflets or newsletters available from local libraries, housing offices and community centres. There may also be a special website advertising properties in your area”. To avoid missing out, you would need to check these regularly and stick to any deadlines for bids (you won’t necessarily be able to apply – or ‘bid’ – for all properties, however. For example, some might only be available for applicants with a disability, or for a household who needs a certain number of bedrooms).
- When there’s a property you wish to apply for, you should generally be able to do so via a number of ways – i.e. bidding online, by phone, by text or by post.
- Bids are then sorted under the scheme in order of priority. “The person with the highest priority normally gets first refusal on the property”. However, if they turn the offer down, “the next person on the list gets the chance to see it, and so on”.

Note: “If you refuse a property, the whole process starts again. However, some schemes will penalise you (i.e. by reducing your priority) if you turn down several offers, or don’t make any bids at all”⁷. Speak to your local authority to clarify the rules, or you could seek advice from a specialist housing organisation, such as Shelter Cymru (see section 13 below for contact details).

Direct offers from the local authority – how many might you receive?

When you make your application, ask the authority how many offers you will get – an authority doesn’t have to give someone more than one offer of housing (and thus many may only offer you one property).

⁷ ‘Waiting for an offer’, Shelter Cymru website: www.sheltercymru.org.uk/housing-advice/finding-a-place-to-live/community-landlord-waiting-lists/getting-an-offer (last accessed 24 October 2023).

Even if the authority does have a policy of offering more than one property, they may only do so after you have received a previous offer – i.e. it is unlikely you will be given a choice of more than one, or multiple, properties at the same time. “You may also have to tell them why you’re turning the property down, which may cause problems if they think you didn’t have a good reason”⁸.

Suitable offers

Local authorities should always offer housing that is suitable for the applicant (and the rest of their household). If you don’t believe the offer is suitable, you do have the right to ask for a review of the decision – also see section 8 below for further information on this.

However, it’s important to bear in mind that as there is a high demand for community landlord housing, there isn’t a guarantee that you’ll be offered somewhere you feel is more appropriate. Also, “if the review decides that the property was ‘suitable’ you may not be entitled to another offer”⁹.

8 If you’re unhappy with the way your application for community landlord housing has been handled

If you feel unhappy with the way certain decisions have been made regarding your application for community landlord housing, you will have the right to challenge the decision in certain circumstances. For example, where:

- you feel you have been given a lower priority on the waiting list than should be the case;
- you believe you have been treated unfairly or discriminated against (also see section 8.5 below);
- you feel that the authority took an unreasonably long time to process your application;

⁸ Ibid

⁹ Ibid

- as mentioned in the section above, you disagree with a decision that an offer of a certain property is suitable; *or*
- the authority decided you were ineligible to be considered for housing (due to either anti-social behaviour or immigration status).

You may be able to challenge the decision via:

- requesting a review;
- using the local authority's / housing association's complaints procedure;
- escalating a case to the Public Services Ombudsman for Wales; *or*
- in certain situations, a judicial review.

8.1 Reviews

Where a local authority (or other community landlord) carries out a review of a decision in regard to your application, the review must be carried out by a different – and more senior – member of staff than the original decision maker.

You usually have to ask for a review within **21 days** of receiving a decision.

Note: It would be a good idea to seek advice from Shelter Cymru (or another specialist housing organisation) as to whether you have a good case to ask for a review. They can also help you to decide whether to pursue this, or whether it might be in your interests to not do so. For example, Shelter advise that:

“If you have been offered a home, and you refuse it while the review takes place, you could lose that offer and your place on the waiting list. Bear in mind that just because you don’t like a decision doesn’t mean that it is wrong and a review may reach the same decision – or, in some cases, a worse decision”¹⁰.

¹⁰ ‘What can you do if you are unhappy with a decision?’, Shelter Cymru website: www.sheltercymru.org.uk/housing-advice/finding-a-place-to-live/community-landlord-waiting-lists/challenging-allocations-decisions (last accessed 25 October 2023).

8.2 Using the official complaints procedure

If your case has undergone a review, but you're still unhappy with the outcome – or the local authority / housing association have refused to carry out a review – you could try using the complaints procedure of the organisation concerned. You could contact the local authority or housing association to find out how to make an official complaint, or there may be information about this on their website.

8.3 Public Services Ombudsman for Wales

The Public Services Ombudsman for Wales can look into complaints concerning public services and government bodies in Wales – this includes local authority housing departments and housing associations. See section 13 below for the Ombudsman's contact details.

You will normally have to go through the complaints procedure with the community landlord concerned first, prior to contacting the Ombudsman (there could be some exceptions, however, where the Ombudsman might consider a complaint at an earlier stage, such as if the organisation you're complaining to is ignoring your complaint, or taking a long time to respond).

What the Ombudsman can do

The Ombudsman is independent from the organisations it investigates. When looking into complaints involving community landlords it can examine if the landlord:

- has failed to do something they should have done;
- has failed to follow their own policies, or use other procedures correctly when taking certain actions and/or making decisions;
- has potentially acted in an unfair way in the way they dealt with your application;
- has failed to tell you how it has dealt with your housing application (e.g. not sending a letter detailing any points awarded);
- “has delayed dealing with changes in your situation which you have told it about e.g. you have been asked to leave your home”; *or*

- whether or not they were justified in suspending an application¹¹.

What the Ombudsman will be unable to do

The Ombudsman cannot:

- force a local authority and/or a housing association “to give you a house, or any particular house”; *or*
- “change a properly made decision about your housing application”¹².

8.4 Applying to court for a judicial review

Judicial review is a type of legal case that can be used to challenge the way that decisions have been made by public organisations, including local authorities or housing associations.

It has a very specific purpose – that is, to challenge the **way** that decisions have been made, rather than the actual decisions themselves.

It should be noted that even when judicial review is successful, the court is unable to impose its own decision in regard to your case – rather, it can overturn the community landlord’s decision and make them examine it again.

Judicial review is a very complicated procedure, so you should seek expert advice before taking any action. You may be able to get help via **legal aid** if you are receiving certain benefits, or have a low income.

“Shelter Cymru has a legal team who can tell you whether you have a good case and, if so, might be able to help and represent you. Get help from a Shelter Cymru adviser who can refer you to the legal team as necessary”¹³ – see section 13 below for contact details.

Age UK’s Factsheet 43 *Getting legal and financial advice* may also be helpful.

¹¹ ‘Housing Allocation Factsheet’, Public Services Ombudsman for Wales website: www.ombudsman.wales/fact-sheets/housing-your-home-housing-allocation (last accessed 25 October 2023).

¹² Ibid

¹³ ‘What can you do if you are unhappy with a decision?’, Shelter Cymru website: www.sheltercymru.org.uk/housing-advice/finding-a-place-to-live/community-landlord-waiting-lists/challenging-allocations-decisions (last accessed 25 October 2023).

8.5 If you feel you have suffered discrimination

If you feel you have been discriminated against, you can seek advice from the Equality Advisory & Support Service – see section 13 below for contact details. A public body, such as a local authority, is not allowed to discriminate on the basis of a ‘protected characteristic’ under the *Equality Act 2010*. These are:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion or belief;
- sex; *and*
- sexual orientation.

Also, see Age UK’s Factsheet 79 *Equality, discrimination and the Public Sector Equality Duty* for more information.

9 Occupation contracts – sole or joint contracts

Note: The information in this section applies in the case of sole or joint occupation contracts, unless otherwise stated (joint contracts are where you are renting with your spouse or partner, for example).

When you are offered a property with a community landlord, you will be given an occupation contract to sign. Most contract-holders renting from a community landlord will be given a **secure** occupation contract (some exceptions can be found in Age Cymru’s Factsheet 68w *Renting your home in Wales – rights if you are threatened with eviction*).

Your landlord must provide you with a written contract within 14 days of the contract starting.

Written occupation contracts must contain each of the following:

- **Key matters** (e.g. the landlord's address, plus the rent due and how often).
- **Fundamental terms**¹⁴ (these are particularly important terms, such as the process for evicting a contract-holder; the landlord's responsibilities to keep the property fit to live in and in regard to repairs).
- **Supplementary terms** (these will tend to deal with common day-to-day issues, such as how and when a contract-holder should report when repairs are needed); *and*
- **additional terms of the contract** (this will cover things such as whether the contract-holder can keep pets or anything else specific to the property, such as parking facilities. Additional terms should be fair and not contravene consumer law).

Note: Seek advice if you are unsure about anything in the occupation contract before you sign it.

Specific information in regard to joint occupation contracts

Community landlords will usually grant joint occupation contracts to couples (married couples, civil partners, or people living together, including same-sex couples). Joint contracts might also sometimes be offered in other circumstances.

Asking for a joint occupation contract can have pros and cons, so you may wish to seek advice before deciding whether to do so. If you are offered a joint contract with your partner, bear in mind that:

- if you split up, “neither of you can be forced to leave without a court order. You would have equal rights to live in the property until the court decides what should happen to your home”; *and*

¹⁴ There are two types of fundamental terms: ‘Hard fundamental terms’ (which cannot be left out of an occupation contract or altered in any way) and ‘Soft fundamental terms’ (these can be altered and/or left out of the contract, but only if it puts you, as the contract-holder, in a “better position” and only if you’re happy to agree to the change. What constitutes a fundamental term may sometimes differ depending on what type of occupation contract it is. Further information can be found on the Shelter Cymru website at: www.sheltercymru.org.uk/housing-advice/renting/written-occupation-contracts/fundamental-terms-of-occupation-contracts).

- “each of you would be individually responsible for paying the rent and not breaking the occupation contract. This means that you could be held liable if the other joint contract-holder doesn’t pay her/his share of the rent, or causes nuisance to the neighbours”¹⁵.

10 If you have a community landlord and wish to move home

10.1 Transfers

If you are already living in community landlord housing and wish to move to another home within the community landlord sector, you may be able to apply for a transfer to another property (known as a ‘waiting list transfer’).

All local authorities (or other community landlords) should provide information on applying for a waiting list transfer and how their scheme works. You will generally need to fill in a form or register on their website.

You will generally need to outline your reasons for wishing to move – for example:

- a health condition which is making living in your current home difficult;
- the need for a home with adaptations; *or*
- the need to be nearer family members, or a carer.

In your transfer application, you should be able to include copies of letters or other correspondence that could assist your case, such as from your doctor, or social services.

If the transfer application is accepted, you will usually be on the same waiting list as other households wishing to find community landlord housing – i.e. the same housing register as outlined in section 7 above. As such, your level of priority for the transfer is also likely to be assessed in the same way as outlined above.

¹⁵ ‘Community landlord waiting lists’, Shelter Cymru website: www.sheltercymru.org.uk/housing-advice/finding-a-place-to-live/community-landlord-waiting-lists (last accessed 26 October 2023).

Note: “Get help if your housing needs have changed and you have been told you can’t apply for a waiting list transfer. An adviser may be able to help you get accepted onto the waiting list. You may be able to make a homelessness application if it is no longer reasonable for you to live in your home”¹⁶.

Priority for a waiting list transfer

You may be entitled to extra priority in certain circumstances, such as:

- your current home has become unsuitable, due to illness or a disability;
 - you need to move to avoid hardship (for example, you have a mental health condition and need to be close to people supporting you); *or*
 - you are under-occupying your home and cannot afford the rent.
-

Note: Transfers to a different area

You may be able to transfer to a different local authority area and take on a new occupation contract there.

Local authorities sometimes have ‘nomination agreements’ with community landlords in other areas. If you have been accepted for a waiting list transfer by your authority, you can ask whether they can ‘nominate’ your application to a community landlord in a different area.

You may also be able to apply directly to a local authority or housing association in a different area, though bear in mind you may be given a lower priority, so if your existing local authority is able to nominate you, it may be a better option.

It’s possible to be on the waiting list of more than one local authority at the same time, but if you are homeless, only one of them will deal with your homelessness application.

¹⁶ ‘Applying for a waiting list transfer’, Shelter Cymru website: www.sheltercymru.org.uk/housing-advice/finding-a-place-to-live/community-landlord-waiting-lists/waiting-list-transfers (last accessed 26 October 2023).

If you're unhappy with a decision about a transfer application

You may be able to ask for a review and/or challenge the decision in the same way as outlined in section 8 above.

10.2 Transfers between secure contract-holders (previously referred to as 'mutual exchange')

"If you have a secure occupation contract with a community landlord you can swap your home with another secure contract-holder if they have a community landlord"¹⁷. This is a fundamental term in such contracts (as mentioned in section 9 above, most contract-holders renting from a community landlord will have a secure occupation contract).

You are also able to exchange your home with another contract-holder in the same way if you have a *converted* secure contract (this will be the case if your contract was already in place prior to 1 December 2022).

You **do** need to inform your landlord and they must consent to the swap, though they should only refuse in limited circumstances, such as where:

- they have started eviction proceedings against you;
- a member of your household has engaged in anti-social behaviour;
- your home is equipped with adaptations, but nobody in the new contract-holder's household will require these;
- the new home will be overly large for the needs of your household;
- you have rent arrears (you may be required to repay these before any swap can proceed).

It should be noted that the above is not an exhaustive list.

¹⁷ 'Transfers between secure contract-holders', Shelter Cymru website: www.sheltercymru.org.uk/housing-advice/finding-a-place-to-live/community-landlord-waiting-lists/transferring-secure-contracts (last accessed 27 October 2023).

Note: “The swap must be arranged properly and the contract-holder...you are swapping with will also need consent from their landlord. If you go ahead and swap without both landlord’s permission, **you could both lose your homes**”¹⁸ (emphasis added).

Transfers if the other household lives outside Wales

It may be possible to swap your home with a secure or assured tenant from elsewhere in the United Kingdom. Your community landlord should have a policy on this and you can ask them for further information on it.

Finding someone to do a transfer with

Many people used dedicated ‘home swap’ websites. Shelter Cymru list the following three on their website:

- Homeswapper – www.homeswapper.co.uk
- House Exchange – www.houseexchange.org.uk
- Ukhomeswap – www.ukhomeswap.co.uk

Some sites may charge a registration fee. However, you could check with your landlord in case they have an arrangement where you can use some of these websites for free.

Before agreeing to go ahead with a transfer

Before you decide to proceed with the transfer:

- you should check – if moving within Wales – that you will still have a secure occupation contract and will still have the same rights after the transfer;
- you should check – if moving elsewhere in the UK – what type of tenancy you will have (housing legislation is different in other part of the UK and you will have a tenancy, rather than an occupation contract. As such, you may well have different rights with your new agreement, if you will no longer be in Wales);
- check how much the rent will be;

¹⁸ Ibid

- find out if any repairs and/or redecoration are needed in the home you'll be moving to (when transferring, you will generally be accepting the property in its current condition);
- do **not** “make or accept any payment for swapping with the other contract-holder or tenant. This is illegal and you could be prosecuted and evicted”;
- bear in mind that if you “are swapping with a secure council tenant or assured housing association tenant elsewhere in the UK you might have to sign a “deed of assignment” in order for the swap to be legally binding. This is a legal document that must be signed by an independent witness”;
- bear in mind that if you are swapping with another secure contract-holder in Wales, “signing a deed is not necessary, but your community landlord will ask you to sign a new occupation contract and other relevant paperwork”¹⁹.

Note: If you are concerned about the terms of anything you've been asked to sign, seek specialist housing advice from an organisation such as Shelter Cymru.

11 ‘Succession’ rights in community landlord housing

If your partner or another family member dies, you may be able to take over their occupation contract via a process called ‘succession’. If you qualify to do this, then you will have the same type of contract as the person who has died.

11.1 Priority successors

You are likely to be a priority successor if you're the **spouse** or **partner** of the contract-holder and were living in the property as your only, or principal, home at the time the contract-holder died.

¹⁹ Ibid

Note: You cannot be a priority successor if the contract-holder who has died were themselves previously a successor of the occupation contract (however, you may be a reserve successor – see section 11.2 below).

11.2 Reserve successors

The following people may be reserve successors:

- a family member, other than a spouse or partner, who has been living in the property as their only, or principal, home for at least 12 months at the time of the contract-holder’s death;
- a spouse or partner “of the contract-holder who has died, but are not a priority successor because the contract-holder inherited the contract as a priority successor (you do not need to have lived at the property for 12 months if this applies to you)”²⁰; *or*
- a carer for the contract-holder who has died, as long as the following also apply:
 - you lived in the property as your only, or principal, home for the last 12 months, including at the time of the contract-holder’s death; **plus**
 - at some point within the last 12 months prior to the contract-holder’s death, you were providing care to them (or another member of their family at the same address) whilst living at the property; **plus**
 - there is no other property that you have an entitlement to live in as a home at the time of the contract-holder’s death.

11.3 Limit on how many times an occupation contract can be passed on via succession

It is not possible for anyone to succeed to an occupation contract “if the contract-holder who has died succeeded to the contract as a **reserve successor**”²¹ (emphasis added).

²⁰ ‘Inheriting an occupation contract when a contract holder dies’, Shelter Cymru website: www.sheltercymru.org.uk/housing-advice/families-and-relationships/death-in-the-household/succession-rights (last accessed 30 October 2023).

²¹ Ibid

This means occupation contracts can only be passed on through succession **twice**.

11.4 **If you don't have any succession rights**

In this situation, the local authority or housing association may consider granting a new occupation contract, in your name. "There is no legal requirement for them to do so but the Welsh Government expect them to consider any request"²². You may wish to speak to an adviser at Shelter Cymru, who might be able to help you negotiate with your landlord in regard to being offered an occupation contract (see section 13 below for their contact details).

11.5 **Issues to consider before taking over an occupation contract through succession**

Even if you have a right to take over an occupation contract by succession, you may need to consider whether it is the right decision for you, based on individual circumstances. For example:

- Will the rent be affordable?
- Do you wish to remain in a property where your partner or close relative has died?
- Is there a chance the landlord may try to evict you after you've taken over the occupation contract? For example, if the home will now be too large for your needs.

²² Ibid

Note: If you decide not to stay in the property, you will then need to consider if you will be able to find suitable alternative accommodation on your own. You may wish to approach the local authority for help, though it should be noted that they may decide you're "intentionally homeless because you gave up a home that you could have stayed in" (i.e. the home that you had succession rights for). If so, the authority "may still have to take reasonable steps to help prevent you becoming homeless but are unlikely to have any duty to secure alternative accommodation for you"²³. It may be a good idea to seek specialist advice in this situation to help you decide on your options.

12 Sheltered housing

If you apply for community landlord housing, you may be asked whether you are interested in sheltered housing. This is a type of housing-with-support intended specifically for older people.

The support is generally low level and may be limited to an emergency alarm and visiting staff. Sheltered housing is intended for people who may have some support needs, but are able to live independently.

Some local authorities place all sheltered housing applicants in the same band or give them the same number of points. Others give more priority to applicants seen as having particular needs for sheltered housing – for example, mobility issues.

If you already rent a local authority or housing association home and you need accommodation with more support, you may be able to transfer – see section 10 above.

For further information, see the following Age UK factsheets:

- Factsheet 64 *Specialist housing for older people*; **and**
- Factsheet 2 *Buying retirement housing*.

²³ Ibid

13 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 20 20

Details of your nearest CAB can be found at:

www.citizensadvice.org.uk/wales

Equality Advisory & Support Service

A helpline that can advise people on equality and human rights issues.

Tel: 0808 800 0082

Website: www.equalityadvisoryservice.com

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

Shelter Cymru

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

Tel: 08000 495 495

Website: www.sheltercymru.org.uk

Tai Pawb

An organisation in Wales 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

E-mail: info@taipawb.org

Website: www.taipawb.org

Welsh Government

The devolved government for Wales.

Tel: 0300 060 4400

E-mail: customerhelp@gov.wales

Website: www.gov.wales

14 Further information about Age Cymru

14.1 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.

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

14.2 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



Gwasanaeth Cwbl Achrededig sy'n cynnwys
adolygu gan gymheiriad
Fully Accredited Service with peer review



darparu gwybodaeth a chyngor o safon i bobl Cymru
a hynny mewn modd sy'n gyson
providing a consistent approach to quality information
and advice for the people of Wales





www.facebook.com/agecymru



www.twitter.com/agecymru



www.youtube.com/agecymru

Sign up to our newsletter

Our quarterly newsletter contains details of our campaigns, services and how you can support our work. Sign up today by visiting:

www.agecymru.org.uk/agematters

Disclaimer and copyright information

This factsheet is not a comprehensive statement of the law in this subject. Age Cymru cannot give individual legal or financial advice and some rules may have changed since the publication of this factsheet. Please note that the inclusion of named agencies, companies, products, services or publications in this factsheet does not constitute a recommendation or endorsement by Age Cymru. Whilst every effort is made to ensure accuracy, Age Cymru cannot be held responsible for errors or omissions.

© Age Cymru 2023. All rights reserved. This factsheet may be reproduced in whole or in part in unaltered form by local Age Cymru organisations with due acknowledgement to Age Cymru. No other reproduction in any form is permitted without written permission from Age Cymru.

14.3 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**

