

# FIXING THE BROKEN FOUNDATIONS OF STUDENT HOUSING IN WALES



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national union of students

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# FIXING THE BROKEN FOUNDATIONS OF STUDENT HOUSING IN WALES

Shelter Cymru exists to defend the right to a safe home in Wales. We believe that home is everything and that without a secure and good quality home, it is impossible to lead a healthy, happy and productive life.

NUS Wales promotes, defends and extends the rights of more than 300,000 college students, university students and apprentices at education institutions across Wales. We harness the collective power of students through democratic representation and inclusive campaigning.

In 2021, Shelter Cymru helped over 17,000 people through our advice and support services, including over 5,500 households with dependent children, across every local authority area in Wales. 15% of the people using our service were between 16-24 years old.

We have seen a significant increase in demand on our advice services from students during the Covid-19 pandemic. We wrote about this in our [blog](#) in May 2020, highlighting the particular issues facing students, such as some having to [pay for accommodation](#) they were unable to use. While solutions to this problem were found for many students in institutional accommodation, the majority of students renting from private landlords did not benefit from this. There is an inequality of experience and disparity of rights that characterise the wider student housing experience. Restrictions on the ability to work to supplement income have further added to the financial [hardship caused by Covid-19](#). In addition to the immense strain on students [financially](#), the pandemic has also severely impacted students' [mental health and wellbeing](#). This situation has placed many students at a higher

risk of poorer educational outcomes or dropping out of education altogether, which would only further exacerbate societal inequalities in Wales and the UK.

Our advisers have also seen an unprecedented increase in instances of landlord or agent harassment and illegal eviction in the private rented sector (PRS) which we wrote about in [Welsh Housing Quarterly](#). This is important, as [our research shows](#) that the vast majority of students live in the PRS and as such, will have been subject to these experiences, in addition to other issues such as damp and mould, disrepair, and pest problems.

The message is clear. Even before the pandemic exacerbated the worst impacts of student housing, the conditions many students were expected to put up with were poor. A culture of complacency exists around all types of student housing and accommodation, which the pandemic seems only to have entrenched. As Wales emerges from the pandemic, adjusting to a 'new normal' presents an opportunity to right these wrongs and fix the broken foundations of the student housing system.

This report will examine the current landscape of student housing in Wales and make recommendations as to how we can work together to improve conditions and experiences for students across all parts of Wales. While these recommendations would go a long way towards improving the quality of student housing and housing more widely, we hope that this report and ongoing work begins the move to a fundamental reform of housing in Wales, which sees everyone receive the right to a good home.



## EXECUTIVE SUMMARY

In November 2021, Shelter Cymru and NUS Wales published a [report](#) that captured a snapshot of the state of student housing in Wales. Based on a survey of students at education institutions across Wales, the report concluded that the system is broken at the foundations and made broad recommendations on how Welsh Government and sector bodies can improve the experiences of students.

The survey found that more than half of students have experienced damp or mould in their accommodation. A further 46% have lived in properties in disrepair and a third reported having issues with their landlord. These issues have persisted for decades, and Covid has only exacerbated the impacts that poor quality housing is having on student tenants. The pandemic has affected students' income, while lockdowns impacted mental health and well-being, and increased the amount of time students spent in their accommodation.

These problems have been particularly pronounced for the 64% of students who live in the private rented sector. While students living in university-owned halls of residence received rent rebates for time they couldn't access their accommodation, it was up to individual landlords whether to reimburse students living in their properties. This meant that many students paid hundreds, if not thousands of pounds, for housing they couldn't use for months at a time.

Building on the findings of our student housing survey, Shelter Cymru has conducted a thorough review of the regulatory landscape of student housing in Wales. This report provides a detailed analysis of the legislative framework that underpins the student housing sector, how providers of student housing are regulated, and the avenues of recourse and redress open to students.

### A Complex Patchwork

This report finds that the volume and complexity of housing legislation makes it difficult for students to access effective redress when faced with issues in their accommodation. In the absence of an overarching piece of legislation for student housing, the Housing Act 2004 lays the ground for the current patchwork regulatory system that governs the sector.

Under the 2004 Act, university-owned halls of residence and privately operated purpose-built student accommodation are exempt from the licensing scheme for houses in multiple occupation (HMOs). These forms of student accommodation are instead subject to voluntary codes of practice.

As the regulatory and legislative landscape for housing has diverged between the UK nations since devolution, clear differences have emerged that allow for direct comparisons. The report considers how Wales can learn from the redress system for renters in Scotland and England. It also considers the Republic of Ireland, where student housing is covered under the same laws of the majority of residential tenancies.

## Redress and Recourse for Students

There are high levels of dissatisfaction and feelings that there are many gaps in housing redress systems across the UK, and this especially applies to students. Two distinct regulatory frameworks - applying to purpose-built student accommodation and housing provided by a private landlord or letting agent - seek to uphold quality and provide students with a route to resolving disputes.

In the purpose-built sector, codes of practice that providers can voluntarily sign up for provide a system for enforcing standards and processes by which students can settle disputes. In the private rented sector, landlords have been registered and licensed by Rent Smart Wales since 2015.

In practice, these frameworks have proven ineffective in reducing poor or illegal behaviour from landlords or agents. Recourse and redress available via codes of practice and Rent Smart Wales are currently limited in scope and many students are unaware of their existence. Other accountability avenues open to students - local authorities and the courts - are either under-resourced or too expensive and complicated for students to navigate.

The effect of decades of inaction on student housing is that students feel powerless to act, and that poor quality housing is seen as a rite of passage. The system is overly complicated and bureaucratic, and is difficult to grasp for experienced housing experts, never mind young people living away from home for the first time.

## RECOMMENDATIONS

- The Welsh Government should lead work with local authorities, education and accommodation providers to work in partnership with students in raising awareness of students' options for housing redress;
- Local authorities should conduct periodic checks ensuring that any and all relevant new student accommodation is registered with an appropriate code and compliant with said code;
- Licensing schemes and codes should be streamlined and standardised, to offer students the same (or as close to the same as is possible) options of recourse. This includes ensuring greater consistency around the mandatory and additional licensing of HMOs;
- The Welsh Government should deploy rent repayment orders as is done in England, to deter landlords from unlawful conduct and give greater options for redress in the event of breaches of licence agreements;
- The Welsh Government should review the Housing (Approval of Codes of Management Practice)(Student Accommodation)(Wales) Order 2006, in light of the much-changed nature of student housing since then. This should be done in partnership with NUS Wales;
- A working group, co-led by NUS Wales and the Welsh Government, including membership of educational and housing sector stakeholders, should be convened to review the above recommendations and to drive work to improve student housing in Wales.

## OUR RESEARCH AND FINDINGS

We recently published our [Broken Foundations: Fix Student Housing](#) report in partnership with NUS Wales. The report was informed by a survey of students in Wales to gain further insight into the problems within the Welsh student housing sector. Our findings revealed that students in Wales live in a wide range of accommodation types with differing levels of security and rights.

### What type of accommodation do students in Wales live in?

Many first-year students in higher education begin their university lives by moving into the university's 'halls of residence' or other types of purpose-built student accommodation (PBSA). Overall, slightly more than 20% of students across all levels of study live in these types of accommodation. However, the student housing market is a fast-evolving sector and there has been a trend in recent years towards increasing development of PBSA, as well as an [increasing use of private companies](#) rather than universities themselves in the management of such accommodation.

However, we found that a significant majority of students (64%) live in 'mainstream' private rented housing rather than in PBSA. It is extremely common for students in the mainstream PRS to share a house with other students, referred to as 'houses in multiple occupation' (HMOs). This term refers to a building, or part of a building, that is occupied by people from separate households with shared basic amenities (e.g. bathroom, kitchen or living room). Some HMOs require a licence from the local authority, but this varies depending on the area, and there are different requirements in each nation of the UK. Our survey found that 45% of students in Wales are living in HMOs. This type of housing is particularly prevalent in areas close to higher education institutions such as Bangor, Swansea, Cardiff and Aberystwyth.

Our research revealed some worrying housing issues experienced by students in Wales. Poor conditions, landlords and letting agents failing

to address disrepair, and other problems around behaviour and professionalism were commonplace. The notion that it's acceptable for students to experience bad housing as a '[rite of passage](#)' must be challenged. In areas such as housing, this complacency can have dangerous implications and consequences for the safety and well-being of students. The findings of our recent survey suggest that students do perceive that there is a culture of unequal treatment in comparison to other renters, even though their legal rights are identical. One survey respondent stated:



Just because we are students doesn't mean we should be treated differently to other adults."

The complexity of housing legislation means that many renters in Wales find it difficult to fully understand their rights. We believe this is particularly true for students, many of whom are living away from home for the first time. Options for seeking redress are weak across the sector but especially within the PRS, and there is a problem of a lack of access to expert advice and practical assistance. These factors contribute to housing inequality, insecurity and the poor conditions that many students experience. We are concerned at the difficulties and barriers facing students as they experience housing problems, and believe that a culture change is needed within student housing if we are to begin solving these issues. To raise awareness of these longstanding issues, we are working in partnership with NUS Wales to [Fix Student Housing](#) once and for all.

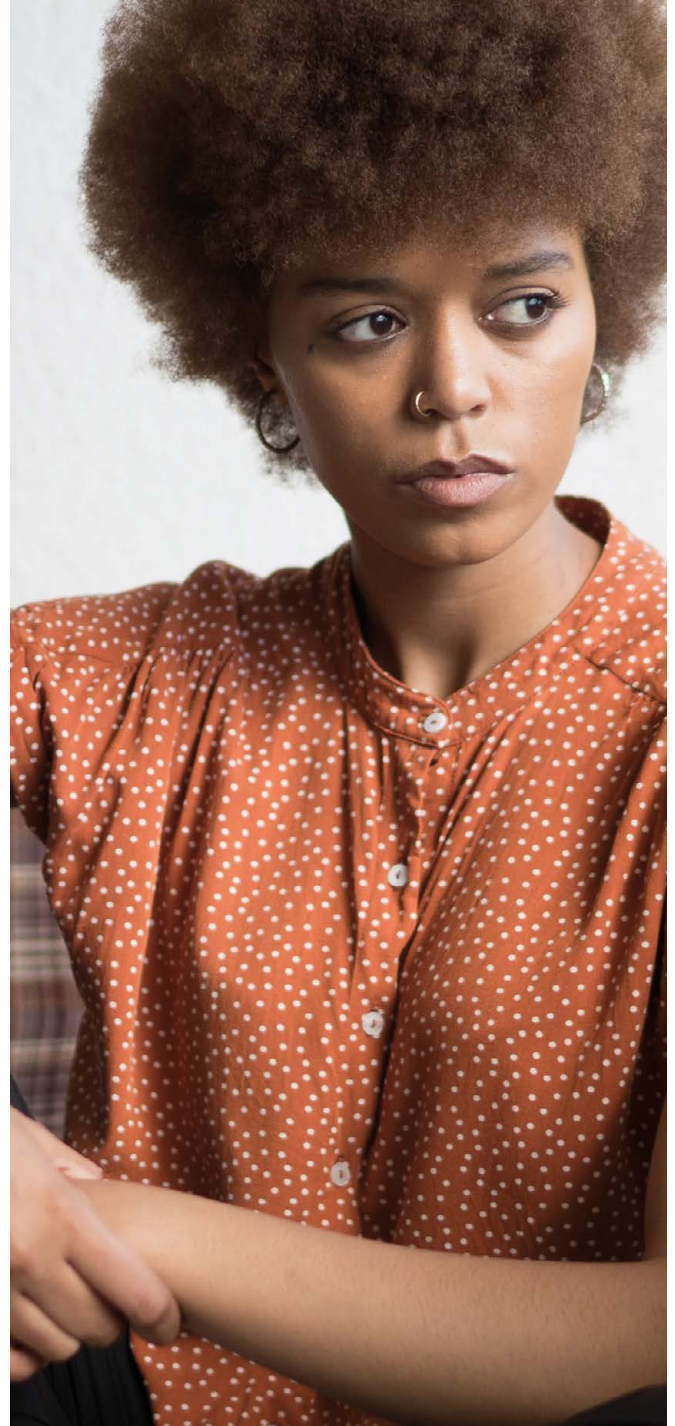
We hope this report will be a helpful resource for students and their advocates in navigating the redress landscape and providing useful information about the rights and recourse options. We have created some 'quick reference' guides in the form of tables and flowcharts that provide useful information on resolving housing problems for students.

## REGULATORY LANDSCAPE FOR STUDENT HOUSING IN WALES

'Regulation' can be defined as one of the primary ways in which government can achieve certain policy objectives in a specific area, such as improving quality, ensuring fairness and preventing breaches of rights. It can take a variety of forms ranging from direct national or government intervention to indirect or 'self-regulation'. In some instances, it refers to legislation that makes certain activities compulsory while prohibiting others. At other times it refers to licensing activity where an individual or a company's ability to carry out a certain activity (letting property, for example) is conditional upon conformity with certain codes of practice. It can also refer to voluntary self-regulation, which relies on using incentives to encourage and deter certain practices.

Regulation of the rented housing sector employs a variety of the approaches described above and can take various forms within different parts of the sector. Housing regulation is about more than housing and landlord/tenant laws because it is affected by regulation in other relevant areas, such as building safety, fire safety and planning.

The regulatory and legislative framework for student housing in Wales is complex and opaque. With a patchwork of voluntary codes, guidelines and laws attempting to cover an ever-changing and fast-growing sector, it is no surprise that so many students feel powerless to address issues with their accommodation. Navigating the options for housing redress available to students is difficult for individuals with a good understanding of housing law and near impossible for many young people, living away from home for the first time. This creates a power imbalance and contributes to a culture of complacency within student housing, which sees people living in poor conditions with very few options to remedy this injustice.





## ONE LANDSCAPE: TWO REGULATORY FRAMEWORKS

In Wales there are two distinct regulatory systems at work that impact on student housing, mapping out two separate routes for a student seeking redress. The redress route depends on whether a student's accommodation is purpose-built and provided by an educational institution or private company, or provided by a private landlord or letting agent. In certain situations the different types of student housing may be governed by the same laws, regulations or guidance. Consequently, there is much confusion among not just students, but also professionals in relation to identifying the appropriate route by which housing problems can be resolved.

There is currently no single piece of primary or secondary legislation directly governing student housing, but the origin of the current 'patchwork' regulatory system be found in the Housing Act 2004. Part 1 of this Act introduced a set of standards for the physical conditions of all rented property, known as the Housing Health and Safety Rating System (HHSRS). The Act places a duty on local councils to monitor conditions in private rented housing and provides a range of enforcement powers when properties fall below acceptable standards. As we will see below, the HHSRS is an important element underpinning the regulatory system in relation to student housing. This law also introduced a mandatory licensing scheme for larger HMOs and gave powers to the local authorities to extend licensing requirements to smaller HMOs (additional licensing). In relation to HMOs that do not require a licence but are still classed as a HMO, the Act also granted powers to make secondary legislation concerning the management of such smaller buildings with fewer occupants. Regulations were then passed which placed extra responsibilities upon all landlords managing HMOs of any description relating to matters including fire safety and waste disposal. Where a HMO requires a mandatory licence or is under an additional licensing scheme, then local authorities are likely to have far more stringent licence conditions to ensure compliance with fire safety and building regulations, for example.

There is an exemption in the Act which means that [mandatory and additional licensing](#) and statutory regulations relating to the management of smaller HMOs do not apply to accommodation provided by universities and colleges. This means that most types of student accommodation, such as onsite 'halls of residence' and other PBSA developments, provided they are managed by the institution, are not legally required to obtain a HMO licence or follow statutory HMO regulations. In practice this means that accommodation provided by educational institutions is not required by law to conform to the numerous statutory rules relating to the safety of a building and its occupants. Recognition of the higher risks involved with HMOs and the need to make them safer were central purposes of the Housing Act 2004, which also introduced significant criminal and financial sanctions for non-compliance in the form of rent repayment orders, fines and even imprisonment. This exemption, applying to a large section of student housing, eases pressures on under-resourced local authorities. This does though raise the question; how are acceptable standards of safety and management ensured in exempt student accommodation?

### Voluntary self-regulation of student accommodation

While providers of student accommodation are not subject to statutory HMO licensing and unaffected by the sanctions of the Housing Act 2004, it contained an option for each national authority to introduce a voluntary system of self-regulation for student housing provided by universities and colleges. Section 233 of the Act states that the respective national governments may approve 'codes of practice' for exempt accommodation, creating a system whereby institutions can choose to sign up to a code of practice. In accordance with this section, stakeholders devised codes of practice for the management of student accommodation run by an educational establishment which were [approved by Welsh ministers in 2006](#). There are no penalties involved



should an institution choose not to comply with an approved code. However, while code membership is voluntary, the potential for being subject to other elements of the Act (specifically HHSRS enforcement action by local authorities) creates an incentive for accommodation providers to take up membership of one of the codes. It appears to have been an effective use of the 'carrot-and-stick' approach as all universities and colleges providing accommodation in Wales are signed up with a relevant code of practice. Signing up to membership of a code of practice provides some assurance that the accommodation should meet certain standards and may provide assurance to the local authority concerned because they have a [statutory duty](#) to monitor housing conditions in the area.

### How is privately managed PBSA regulated?

There is a separate voluntary code of practice specifically for student accommodation not managed or controlled by an education provider. These types of PBSA are not exempt from HMO licensing. Determination of the need for a licence for private PBSA is dependent on a number of factors, such as whether a building, or part of a building shared by the occupants, fits the definition of a HMO. Also relevant could be whether there is an additional licensing scheme in the area. For example, a flat shared by four students within a building managed by a commercial developer of PBSA may not meet the definition to require a mandatory licence, but could be caught by the need for a licence if the building is in an area designated for additional licensing.

It falls to the local authority to determine whether a licence is needed for specific units within a privately run PBSA. Again, the issue of limited resources for inspection and enforcement action is a concern for local authorities, and so it is the local authorities themselves that may incentivise voluntary compliance with a 'code of practice' to gain assurances that accommodation is maintained to an acceptable standard and managed appropriately. One method used by local authorities is to apply a discount structure to the licence fee depending on the number of licences needed for a PBSA development, or if the manager of PBSA is a

member of the relevant code of practice. It would appear that code membership, although voluntary, is widely taken up by private providers of PBSA. [The National Code 2020 annual report's](#) list of members confirms that all providers in Wales – as listed in the National Code's student-facing [accommodation directory](#) – are signed up to the code for private providers of PBSA.

In relation to student housing in the mainstream PRS, areas in Wales that have some of the highest proportions of shared student housing are subject to additional licensing schemes. There is, however, some variation between local authorities in how these schemes are implemented. For example, criteria for the requirement of a licence varies between local authorities. Also, some authorities implement additional licensing across the whole county, whereas others only require a licence for properties in specified wards. This means that there may be two HMOs of identical composition, e.g. one in Ceredigion and the other in Cardiff, with one subject to licensing and the other not. This can result in a postcode lottery regarding statutory safety requirements between two identical developments depending on their location.



## THE STUDENT ACCOMMODATION 'CODES':

There are three codes of practice that were devised to cover the varying types of purpose-built student accommodation. Two of these codes apply to accommodation managed and controlled by educational establishments and it is up to the provider themselves to decide which code best suits the needs of the institution. These codes were developed in consultation with stakeholders by Universities UK (UUK), Accreditation Network UK (ANUK) and Unipol, and were approved by Welsh Government regulations in 2006. Regulations were then made identifying educational institutions whose accommodation could be considered exempt. Although the equivalent regulations for England have been regularly updated, these regulations do not appear to have been updated in Wales since 2006.

### The codes of practice for university or college managed accommodation:

- [Universities UK/Guild of HE Code of Practice for the Management of Student Housing.](#)

This code is often referred to as the UUK code and sometimes 'The Student Accommodation Code' (SAC). This code was:



designed giving due regard to the particular characteristics of student housing, and to management practice, in the higher education sector".

As such, this code is often selected by educational establishments for accommodation that is owned by a university (commonly on university campuses). However, it also states that:



where appropriate it may serve also as the code for further education establishments".

Memberships are held primarily by higher education institutions for 'on-campus' accommodation with some exceptions, such as University of Wales Trinity Saint David's '[Llys Glas](#)' development in

Swansea which is managed by the university but is sited away from other campuses within the city.

Institutions that are members of the UUK code must, in accordance with paragraph 1.4, make potential students aware of the code. The student-facing website for the code can be found at [thesac.org.uk](https://thesac.org.uk), which hosts a database and search function through which the institution and specific buildings can be searched to determine whether any given residential accommodation is covered by the UUK Code.

Once accommodation has been selected the website leads a potential complainant through the steps involved. The website also contains the full written terms of the code online and a link to download a PDF version. This website is a useful tool for students wishing to find out more about making a complaint. However, although the UUK Code requires its publication to students, the vast majority of students do not appear to be aware of it. Furthermore, and anecdotally, many professionals in the student sector, including students' union (SU) advisers that we approached were also unaware of this website. This indicates that not enough is being done within UUK Code-approved accommodation providers to raise awareness of the official regulatory route to seek redress for issues with accommodation.

- [Accreditation Network UK \(ANUK\)/Unipol Code of Standards for student accommodation managed and controlled by educational establishments](#)

This code is often referred to as the ANUK Code (we will refer to it as ANUK1 Code in order to distinguish it from the code of practice for accommodation managed by private companies). Like the UUK code, the ANUK1 code is available to be adopted by educational establishments that manage the accommodation. This code [states](#) that:



the UUK Code of Practice for the management of Student Housing also sets out to offer similar arrangements and higher educational

establishments are encouraged to review both Codes and adopt the Code which provides most value".

The [ANUK1 Code](#) requires that "the educational establishment's membership of this Code is clearly communicated to all occupants by the display of a standard notice within the building, or a central reception area" including displaying the National Code logo on the provider's website. There is also a requirement that all occupancy agreements between the accommodation provider and student



should include a reference to the fact that the educational establishment is a member of this Code".

Information about educational institutions with membership of the ANUK1 Code can be found on the [nationalcode.org](#) website. There is a far greater quantity of information on this website in comparison to the UUK Code equivalent, which is commendable. However, the [section of the website](#) where a student can find out if their accommodation falls under the code is far less prominent on this website than on the UUK Code equivalent. The lack of immediate clarity regarding this means we are concerned that students and those advising or supporting them may not be able to easily ascertain whether the accommodation in question is covered by this code. On the ANUK1 Code website, accommodation is searchable by region, city and specific development. However the website erroneously places Cardiff in the results for the region category of 'England'.

While the website does list accommodation with membership, a brief look at the list of educational institutions signed up to the ANUK1 Code, available in the [National Code's Annual Report for 2020](#), reveals that this code is largely preferred over the UUK Code by further education establishments. While these codes are broadly similar, there are some significant differences in the rights and processes between the two. Clicking on the links contained in the accommodation names merely takes you to the relevant website (which usually contains very little helpful information about resolving housing issues using the codes). Instead, information about the complaints and

escalation process is found in various places on the [nationalcode.org](#) website, often within long passages of text. In this sense this website is not as user-friendly as the UUK equivalent.

There is just one code of practice for accommodation managed by someone other than a university or college:

- [ANUK/Unipol National Code of Standards for Larger Developments for student accommodation NOT managed and controlled by educational establishments](#)

This code applies to accommodation not managed and controlled by educational establishments, and covers PBSAs managed by private providers. We will refer to this Code as ANUK2. This type of accommodation is likely to be off-campus and can vary in proximity to the nearest education site. As mentioned earlier in this paper, there has been an increase in this type of accommodation in Wales in recent years with examples such as Student Roost and Prime Student Living (to name two of many) operating premises in Cardiff, Swansea and Wrexham.

In the same way as ANUK1, the ANUK2 Code requires that membership of the code is:



prominently displayed to all tenants in a way that is easily accessible to tenants - both at the time they collect their keys as well as during the course of the tenancy",

including displaying the National Code logo on the provider's website. However, there is no requirement that an occupancy agreement makes reference to the provider's membership of the [ANUK2 Code](#). This means that in the event of seeking redress, many students may not know where to begin.

As the [nationalcode.org](#) website includes accommodation covered by both the ANUK1 and ANUK2 codes, information about educational institutions with membership of the ANUK2 Code can be found on the website via the same process as for ANUK1.

## ENFORCING THE CODES

The codes operate by way of a complaints procedure which (broadly speaking) follow a three-stage process:

### 1st stage

Complaints about accommodation covered by any of the three codes should be raised with the accommodation manager in the first instance.

### 2nd stage

If the complaint is unresolved then the second stage is to escalate the complaint via the educational establishment's complaints procedure (for students in accommodation covered by the UUK code) or via the 'National Code Administrator' (NCA) for students in accommodation covered by the ANUK1 or ANUK2 codes.

### Final stage

If the complainant is not satisfied with the outcome of the second stage the matter can be escalated to the recognised regulatory authority. This authority differs depending on which code the establishment has signed up to. For students in UUK accommodation a complaint should be raised with the Office of the Independent Adjudicator (OIA) if that institution has recourse to the adjudicator. The OIA was established as the students' complaints scheme for Wales by Part 2 of the Higher Education Act 2004 (HEA). The OIA must comply with the provisions of the HEA 2004, which include publishing details about the OIA scheme and annual reports for example. The OIA publishes summaries of its decisions, which can be viewed [here](#).

For students in accommodation covered by the ANUK1 or ANUK2 codes they will have already referred the matter to the NCA at the second stage. If the matter is not resolved at this stage then it must be referred to the NCA's 'Chair of Tribunal' who will decide whether the resolution can be made by their decision alone or whether a full tribunal is

appropriate, for example where a serious breach of the code is alleged. While the NCA is not subject to any mandatory requirement they do publish full decisions which can be viewed [here](#).

### What happens if providers consistently fail to meet the codes' standards?

Schedule 14 of the Housing Act 2004 states that Welsh Government may "have regard to" whether an institution is complying with the codes. Although the legislation does not clarify what action the government may take should it deem a provider's compliance with the codes as poor, the codes themselves allow for expulsion from membership where non-compliance is deemed serious enough. This is subject to the decision-making process of the UUK's Governance Board or the ANUK's National Code Administrator, both of which oversee compliance in respect to the relevant code. This would trigger an obligation under the terms of the codes of practice to notify the local council who may then, in theory, use their powers to inspect and take enforcement action, in relation to the property under the HHSRS, such as improvement or prohibition notices. In the most serious of cases, this could result in a court-ordered closure of the premises. Although suspension and expulsion from a code of practice is infrequent, it is a power that is used occasionally, as the case summaries on the NCA's website show.

### Problems with the redress landscape

REDRESS IS:



[to correct something that is wrong or unfair"](#)



[to remedy or set right an undesirable or unfair situation"](#)



## Lack of awareness of how to seek housing redress

Housing issues can be varied and legally complex, and navigating redress for housing issues can be something of a minefield. Differences in regulation across types of student housing and the sheer volume and complexity of legislation mean that students are understandably reliant upon advice and assistance from their students' union or other advice centres. This is a confusing redress landscape for students, and also for many students' union advisers who may not possess in-depth knowledge of housing law and regulation.

Our *Broken Foundations: Fix Student Housing* report reveals that only a minority of students would seek support from a specialist advice service such as Citizens Advice or Shelter Cymru. Many instead indicated that they would seek support from family and friends, their SU or education provider in the first instance.



A key challenge to overcome is understanding why students are not turning to free, independent and professional support services for their accommodation issues, and how we can resolve this... Given that significant numbers of students will speak to friends or family about issues, or approach their students' union or education provider – how can we better equip these groups to be able to support and signpost to professional support?"

This is even more concerning, considering that Save the Student's [National Student Accommodation Survey](#) 2021 found that around a third of students don't read their accommodation contract. Given the issues around [course oversubscription](#) and low supply of student housing in the PBSA market and general PRS, it is hardly surprising that contracts may not have been examined fully before being committed to. Issues around low housing supply across all forms of student housing and the competitive element to securing housing in time for the academic year exacerbates a lack of consumer power. So students, as is very often the case for private renters, will often feel forced to accept the contracts offered and rarely have the opportunity to

exercise true freedom of choice.

The ANUK 2020 Annual Report shows that only one in 3,000 students make contact with the National Code to report a complaint. While this may indicate that the ANUK codes are effective at preventing some problems, this report also recognises that awareness of the codes is lacking, drawing attention to far lower ratios of contacts from students in previous years.

## Do the codes deliver effective redress?

In some respects, the codes seek to introduce a system to ensure the quality and safety of student housing and they require that there is a clear procedure for complaints. However, complaints raised via the codes can only deal with alleged breaches of the codes themselves. They are unable to deal with a number of issues which most often give rise to housing complaints such as contractual disputes between occupant and landlord. This is demonstrated in the tribunal decision of the National Code Administrator [here](#). There is also inconsistency between the quality of redress possible depending on which code the student's landlord is a member of. The OIA's [rules](#) allow a decision to recommend an institution pay financial compensation for distress and inconvenience, whereas the NCA Tribunal [rules](#) don't permit such financial redress, even when complaints are upheld. There are a [number of examples](#) where fault was found with the housing provider, but financial compensation could not be considered. This is in contrast to the redress system in the Republic of Ireland, where student housing is covered under the same legislation as most other residential tenancies. Under this system, a student can escalate a complaint to the Residential Tenancies Board which can then make an enforceable 'determination order', which can include financial redress. An example of this can be found [here](#).

In many cases students living in institutional and private PBSA in Wales do not receive proportionate or effective redress for their housing problems. The codes should not be seen as a substitute for other redress options, such as the courts, as the level and scope of redress possible using the codes is very limited. Where issues fall outside the codes' remit, students are signposted to the county court,

however this is clearly financially prohibitive for the vast majority of students. Court is costly, time-consuming and a stressful process. We know that students living in the PRS whose redress route is via the courts simply do not or cannot engage with this process due to financial or time constraints, or a lack of support.

In theory, the 'codes system' provides a reasonable level of regulation and assurance. Buy-in to the codes from providers is high and the frequency of inspections and reporting would be difficult to replicate in many resource-starved local authorities. However, whether students are sufficiently aware of the codes is debatable.

There are also inconsistencies causing confusion; there are many variations between the UUK and ANUK codes, and across the codes for private and institutional accommodation as different rules and regulations can apply. The Welsh Government has a [duty](#) to ensure that those affected by the codes are aware of them. This includes students and advisers as well as those responsible for regulation. We feel that consideration should be given to how more students and other stakeholders impacted by the codes can be better made aware of them.

## Redress in the mainstream PRS

We have consistently spoken about the [limited redress](#) options for renters in Wales. This is particularly true for private renters, where poor conditions and criminal behaviour from landlords are most prevalent. This prevalence is clearly highlighted in our *Broken Foundations: Fix Student Housing report* which shows that the majority of students live in the PRS (either in HMOs or in more standard tenancies alone or with a partner and/or children). This is where we found many of the issues and in particular the culture of complacency relating to student housing. Shelter Cymru's wider advice and support team's work is dominated by the private rented sector, which accounts for more than 40% of our overall casework. Despite the PRS being where many of the issues are concentrated, for students and wider in Wales, the options for redress are not reflective of the seriousness of issues produced by this sector, as this section outlines. The implementation of the Renting Homes (Wales) Act 2016 in 2022 is likely to have a

significant impact upon this, however this report takes account of the current system as we find it in Wales.

A UK Government consultation in 2018

['Strengthening Redress in the housing market'](#)

found there is a high level of dissatisfaction with housing redress, and a sense that there were many 'gaps'. Redress was often felt to be unfair, disproportionate and a confusing process. Identifying the appropriate redress route for particular issues was seen as problematic. These are all prohibitive and dissuasive factors to students facing housing problems.

More must be done to remove barriers to effective redress for students living in the mainstream PRS. We are fully supportive of reforms introduced to date by the Welsh Government, such as registration and licensing. These appear to have been effective in some respects, increasing professionalism and accountability in the sector. However, these are too often ineffective as a deterrent to unprofessional and, at worst, criminal behaviour. This is due in part to the emphasis on the authorities as the intermediary between tenant and landlord. Due to the limitations of resources, and the narrow scope of the registration and licensing requirement, our experience is that the direct tenant experience is often unimproved.

The powers of letting agents redress schemes are limited and only relevant where tenancy issues are concerned to properties managed by agents. The only other bodies that provide accountability are Rent Smart Wales, local authorities and the courts. The former, while it does carry out prosecutions where registration and licensing laws are breached, can only do so in a limited number of cases due in part at least to a lack of resources and tend not to consider matters of harassment or illegal eviction. Tenants can apply for rent repayment orders (RROs) in cases where landlords have been successfully prosecuted for registration and RSW and HMO licensing offences, but only a very small proportion of those breaking the law are convicted. Local authorities face similar capacity and resource challenges in assisting tenants and again, a tenant can only apply for an RRO in cases where the authority has secured a criminal conviction. Besides the very limited number of cases where

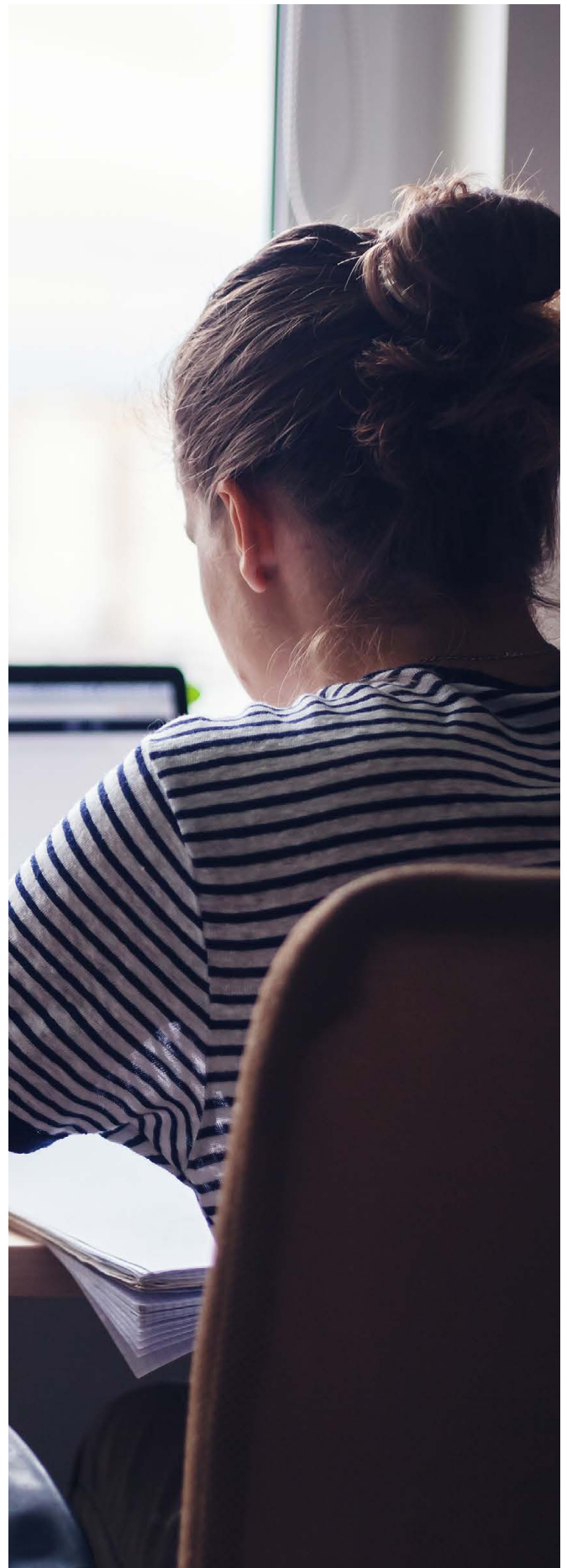
an RRO application could be made under devolved Welsh housing law, the only direct route for tenants to achieve any significant justice would be through the county court, which is extremely expensive and complicated since LASPO Legal aid is only available in strictly defined and limited circumstances.

So, while the courts can be effective, the reality is that this is simply not a realistic or accessible option for the vast majority of student renters who have experienced contract breaches and/or poor behaviour from their landlord or letting agent.

By contrast, the redress system for renters in Scotland would appear to be more accessible, with a dedicated housing and property tribunal. Applications to the First Tier Tribunal in Scotland are usually free of charge and in most circumstances paying for legal representation is less of a necessity. In Wales, seeking redress through the county court is simply not a viable option and other routes for redress are fragmented and confusing.

The situation in England is also better for renters in pursuit of redress. The Housing and Planning Act 2016 (HPA) introduced rent repayment orders available for tenants to apply for directly without the need for the landlord/agent to have received a criminal conviction first. RROs under the HPA are available for tenants who have been evicted illegally or harassed by their landlord, or the landlord has used violence to secure entry to a property, as well as other breaches of licensing rules. Tenants can apply to the First Tier Tribunal for an RRO for up to 12 months of paid rent.

While these RROs are by no means an easy option as the claimant must prove their case to the criminal standard of “beyond reasonable doubt”, there have been many publicised instances of students successfully claiming RROs under this English legislation, such as [Ash Road in Leeds](#) and [Alton Road in Birmingham](#). There are also some agencies providing free advice and assistance to tenants about claiming RROs such as [Safer Renting](#) and [Flat Justice](#), as well as companies providing help for a fee. We believe the introduction of similar provisions in Wales would be a valuable addition to the redress options for renters.





advice or not.

Ultimately, until housing legislation in Wales takes account of students' needs and experiences as a central part of its creation, we may continue to see systems that are unfit for the student market and

inaccessible to students, perpetuate the issues highlighted in these reports. Students in Wales are more than an afterthought and in spite of the Renting Homes (Wales) Act 2016, more needs to be done to remedy this.

## CONCLUSIONS

It is clear, from both this report and the findings in our Broken Foundations report, that fundamental change is needed to address the situation many students face in Wales. The recommendations outlined below represent a range of options which can be deployed to patch over the broken foundations.

However, until we reform the way we perceive housing and the legislative and regulatory framework it exists within – to put students at its core as opposed to an afterthought – we will continue to see issues. The culture of complacency and perceived 'rite of passage' means poor conditions in students' homes are entrenched within our society and have been for decades. Only fundamental reform, led in partnership with students and other fundamental stakeholders, will deliver the change we really need to see.

Until then, more students will see their lives impacted by poor housing. More students will suffer academically, more students will struggle with their

physical and mental health as a result of where they choose to live and the lack of suitable options for redress. Societal inequalities will only deepen and perceptions will remain the same.

We hope this report goes some way to stimulating this conversation, highlighting the plight of many students in Wales and begins our national journey to a fairer housing system for all.





## RECOMMENDATIONS:

- The Welsh Government should lead work with local authorities, education and accommodation providers to work in partnership with students in raising awareness of students' options for housing redress;
- Local authorities should conduct periodic checks ensuring that any and all relevant new student accommodation is registered with an appropriate code and compliant with said code;
- Licensing schemes and codes should be streamlined and standardised, to offer students the same (or as close to the same as is possible) options of recourse. This includes ensuring greater consistency around the mandatory and additional licensing of HMOs;
- The Welsh Government should deploy rent repayment orders as is done in England, to deter landlords from unlawful conduct and give greater options for redress in the event of breaches of licence agreements;
- The Welsh Government should review the Housing (Approval of Codes of Management Practice)(Student Accommodation)(Wales) Order 2006, in light of the much-changed nature of student housing since then. This should be done in partnership with NUS Wales;
- A working group, co-led by NUS Wales and the Welsh Government, including membership of educational and housing sector stakeholders, should be convened to review the above recommendations and to drive work to improve student housing in Wales.

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undeb cenedlaethol y myfyrwyr

**nus** *wales*  
national union of **students**

  
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