

Problems people encounter when renting.

Our prime aim is to make the arrangements for renting a home better for both tenants and landlords. The following examples illustrate some of the difficulties people encounter as a result of the complexity of current housing law.

- **Case study A:** An individual was served with a possession notice from his landlord on the basis that he was an assured shorthold tenant. He had actually signed an assured shorthold rental contract in 1999. However, because he had continuously occupied the property since 1988 he had protection under the Rent Act 1977. His defence was successful but the absence of any written rental contract, other than the one signed in 1999, added to the confusion for the current landlord, the tenant and the court. Such confusion would be minimised by the introduction of a simplified tenancy regime and compulsory written contracts with standard terms.
- **Case study B:** Shelter Cymru defended successfully a possession claim made by a housing association that sought to evict an assured shorthold tenant under section 21 of the Housing Act 1988. The rental contract drafted by the association contained a clause on how the tenancy could be ended, which meant that the association had erroneously contracted out of the provisions of section 21, invalidating the possession claim. This outcome could have been avoided if standard terms were utilised in rental contracts. The association has since updated its assured shorthold contract to reinstate the provisions of section 21, meaning that new tenants are subject to section 21 while existing assured shorthold tenants are exempt.
- **Case study C:** A landlord had drafted his own rental contract and had included clauses on ending the tenancy that neither he nor the tenant understood. When the landlord sought possession he lost his case due to the extremely poor way in which he had drafted the contract. This outcome could have been avoided if model contracts were available to landlords.
- **Case study D:** A housing association sought to evict an individual on the grounds that he occupied the accommodation under a licence. It was argued, successfully, that the individual was in fact an assured shorthold tenant. Part of the case turned on the provision of services at the property and whether this undermined exclusive possession. This is an issue which is complex and time-consuming for a court to decide, and which would be removed with the introduction of standard rental contracts.
- **Case study E:** Current law makes it very difficult to remove a joint tenant's name from a local authority tenancy without that individual's permission and a court order. One individual insisted on her name remaining on the rental contract despite the fact she had ceased living in the property some ten years before. A consequence of this is that, in the event of the remaining joint tenant's death, his new long-term partner who was living with him in the property would become homeless. A more flexible approach to joint tenancies could have prevented this outcome.

- **Case study F:** Cases of domestic abuse can also be made more difficult by current law. A husband was arrested by police following alleged domestic abuse. Subsequently, he refused to give permission for his name to be removed from the tenancy. His ex-wife wished to exchange her property and move elsewhere. However, she could not do so without obtaining a court order. Her only other option was to end the tenancy herself, thereby making herself homeless.
- **Case study G:** A client of Shelter Cymru was in a same-sex relationship, living in local authority housing. Her partner left and served notice, and the local authority immediately served a notice to quit on the client, who was vulnerable and suffering with severe depression. Shelter Cymru were unable to challenge the notice to quit because currently, once one tenant serves notice, the wishes of the remaining tenant become irrelevant. Legally the council is entitled to possession. The outcome was that the client had to make a homelessness application.
- **Case study H:** A refugee renting a room in the private rented sector was told by her landlord that she had to leave the property within two weeks as he had other people to move in. He referred to the tenancy agreement which stated that: 'The tenant agrees to give a minimum of two weeks notice if they wish to leave the property. In addition, the landlord agrees to give a minimum of two weeks notice if they require the tenant to vacate the property'. Shelter Cymru advised the landlord that these actions were unlawful, and the tenant has since been able to remain at the property with no further harassment.
- **Case study I:** A tenant, who for many years had been living in a housing association property as an assured tenant, was recently arrested and brought into prison on recall for seven weeks as she had breached her Probation Order. The arresting officer had coerced her to sign a Notice to Quit, which he wrote out in his pocket note book, telling her that if she refused, the consequence would be that she would be 'thrown out' whilst in custody. The entry in the police officer's notebook was invalid as it did not give the correct date. Shelter Cymru helped Samantha to formally withdraw the Notice to Quit and inform the landlord that she intended to remain the lawful tenant. When she returned to the property following her release, however, she found her possessions had been disposed of and the utilities cut off. With Shelter Cymru's assistance she is now back in her home and is engaging well with drug intervention support, whilst they assist her with possible compensation for loss of her belongings.

These examples show why it is widely accepted that the current law on renting a home is unsatisfactory. The law has evolved over more than 150 years and successive changes have not applied retrospectively. This has resulted in a wide range of different legal relationships between landlords and tenants. Tenancies vary greatly according to when they commenced and the status of the landlord concerned.

This situation has been complicated by a piecemeal or sector-focused approach to previous legislation. At times, this has resulted in private sector landlords being required to provide greater security of tenure than local authorities, and housing associations being treated as local authorities for security of tenure purposes but as private landlords in relation to setting rents. Efforts have been made to bring together different pieces of legislation but the overall picture is still fragmented. This often results in confusion and unfairness that also hampers the efficiency of the rented sector and the part it plays in our overall housing system.