

Rent Repayment Orders A Guide for Contract Holders

Introduction

A Rent Repayment Order (RRO) is a means for contract holders and former contract holders to reclaim up to twelve months rent where a landlord rents out accommodation which should be licensed, but is not. However, the landlord must first be found guilty in court or in a tribunal of committing the offence of renting the accommodation without a HMO licence. Such cases will be taken by the council.

In most cases an application for an RRO needs to be made **as soon as possible**, because the amount a tenant can claim will decrease as time goes on. Contract holders can usually get help with their application from a Citizens Advice Bureau, their local council, a students' union, or another local organisation.

A landlord has no right to make a tenant leave their home because they are applying for a RRO. The laws protecting contract holders still apply and there are extra legal restrictions on evictions by landlords who are running unlicensed accommodation.

This guide explains the process for applying for a RRO and describes the evidence you will need. It also explains where you can get help and the roles of the various people involved.

A full guidance note is also available here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/606654/Rent_Repayment_Orders_guidance.pdf

How do I know if the house I rent or recently rented should have had a licence?

HMO stands for House in Multiple Occupation. Any property in Newport which houses three or more unrelated people forming more than two households must hold a licence unless specified as exempt.

The government introduced licensing in June 2006. There are two licensing schemes in operation in Newport.

These are Mandatory Licensing, which requires properties of three or more storeys and five or more unrelated persons to be licensed, and Additional Licensing which covers all properties with three or more unrelated people forming more than two households in the same building.

The licence and any attached conditions must be displayed in a prominent location at the property.

For more information on HMO Licensing see <https://www.newport.gov.uk/en/Planning-Housing/Housing/Rented-housing/Houses-in-Multiple-Occupation/Houses-in-multiple-occupation.aspx>

What is a Rent Repayment Order?

A RRO is an order made by a Residential Property Tribunal (RPT) which requires a landlord to repay contract holders and former contract holders, the rent paid for accommodation that was not licensed.

The maximum amount that contract holders can ask for is the total rent paid over a twelve month period, however the actual amount in the RRO could be much less.

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RROs are made under Housing Act 2004, sections 73 and 74. As a tenant, or former tenant, you can only apply for a RRO after:

- (a) your landlord has been found guilty in court of renting the accommodation without a licence, or
- (b) a RRO has been made for your landlord to repay housing benefits paid on the property

Contact us to check if either of the above has occurred.

Please note: only private contract holders can apply for RROs, this power is not available to council contract holders or contract holders of Community Landlords (formerly known as housing associations)

Rent repayment orders were introduced by the Housing Act 2004. What's changed?

The Housing Act 2004 introduced rent repayment orders to cover situations where the landlord of a property had failed to obtain a licence for a property that was required to be licensed, specifically offences in relation to licensing of Houses in Multiple Occupation (section 72(1)) and offences in relation to licensing of houses under Part 3 of the Act (section 95(1)).

RROs have now been extended through the Housing and Planning Act 2016 to cover a much wider range of offences:

- Failure to comply with an Improvement Notice under section 30 of the Housing Act 2004;
- Failure to comply with a Prohibition Order under section 32 of the Housing Act 2004;
- Breach of a banning order made under section 21 of the Housing and Planning Act 2016;3
- Using violence to secure entry to a property under section 6 of the Criminal Law Act 1977; and
- Illegal eviction or harassment of the occupiers

Who is the rent repaid to?

The tenant or the local housing authority. If the tenant paid their rent themselves, then the rent must be repaid to the tenant. If rent was paid through Housing Benefit or through the housing element of Universal Credit, then the rent must be repaid to the local housing authority. If the rent was paid partially by the tenant with the remainder paid through Housing Benefit/Universal Credit, then the rent should be repaid on an equivalent basis.

When you apply for an RRO, you need to state the name of the person or company who/which would have to pay the RRO (or repay the rent).

The RPT calls that person the 'respondent'. The respondent must be the owner of the property. You may pay your rent to a managing agent or a person who is not the owner. You should check your occupation contracts, if you have one, to find out who the owner is.

If necessary check the owner named in the Land Registry - when property is sold the owner's name and address is recorded at the Land Registry. Any person can get details from the Land Registry for a fee <http://www.landreg.gov.uk/>

When should we apply to the tribunal?

You should apply for an RRO as soon as possible, as in most cases the amount you can claim will decrease as time goes on. The rent cannot be claimed for any period after:

- the tenant has moved away
- the landlord has sold the house or flat, or

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- the landlord has applied to your local council for a licence (and this could happen at any time).

In any case, the application for the RRO must be made within 12 months of the date of the successful prosecution, or the award of a RRO for housing benefit/Universal Credit.

You should make an application for a Rent Repayment Order to the Residential Property Tribunal (RPT). You can download the application form from the RPT website at :

<https://residentialpropertytribunal.gov.wales/guidance>

Application Fee

Before applying for the RRO, you should make sure that you will be able to produce all the documents needed.

Unless you are entitled to a waiver you must send the application fee of **£155** with the application and the required documents.

The fee must be paid by bacs, crossed cheque made payable to, or a postal order drawn in favour of National Assembly for Wales.

Do not send cash under any circumstances, cash payments will not be accepted.

You should make an application for a RRO to the Residential Property Tribunal for Wales (RPT):

Residential Property Tribunal for Wales

Oak House
Cleppa Park
Celtic Springs
Newport
NP10 8BD

Tel: 03000 252 777 Email: rpt@gov.wales

It is essential that you include the following documents with your application:

- (a) Evidence of the successful prosecution or RRO for housing benefits provided by the council
- (b) Evidence of the rent paid during the period of up to 12 months
- (c) If you or any of the other contract holders in the house have appointed someone to represent you, include all the agreements to appoint that person to act on their behalf
- (d) Evidence of everyone living in the house during the period of the claim to show that the property was one which required licensing, unless this is shown in (b) above.

Please check that:

- You have completed the form IN FULL
- You have enclosed all the specified documents
- You have enclosed a cheque or postal order for the correct fee

The tribunal will not process your application if you have not done so.

If you have any questions about how to fill in this form or the procedure the tribunal will use, please contact the RPT on 03000 252 777 or e-mail rpt@gov.wales

PLEASE NOTE THAT THE TRIBUNAL IS UNABLE TO GIVE LEGAL ADVICE.

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Can I get help?

Contract holders can get help from various organisations:

- Contract holders and residents Associations or contract holders federations
- Shelter Cymru
- Citizens Advice Bureau
- a law centre
- Student unions
- other community organisations e.g. churches or mosques, black and ethnic minority groups or older or disabled peoples' group

Can one tenant act on behalf of all contract holders?

If one tenant is willing to act for all the contract holders in applying for the RRO the other contract holders would need to sign a declaration stating the name of the person they are appointing to act on their behalf.

The tenant must be able to trust the person they nominate to act on their behalf

How much rent can I reclaim?

Contract holders can apply to reclaim the rent paid for a period of up to a maximum of 12 months ending on the date of the application to the RPT.

You can ask to reclaim the rent for the full 12 months if you lived there and paid rent to the same landlord throughout this period. However the period for reclaim of the rent will end earlier if you have moved away, if the landlord has changed, or if the landlord has applied to the council for a licence. Please note you cannot claim for any rent paid by housing benefit in your claim.

You will need to be able to prove that you actually paid the amount of rent you are claiming and who you paid it to. When you apply for the RRO you will need to send a copy of your rent book, if you have one, otherwise make a list of all payments made by each tenant.

Any contract holders who go to the hearing should take proof of payment, for example, bank statements or cheque stubs, in case there is a dispute about the rent. If the landlord or the managing agent has acknowledged receipt of rent payments, say by e-mail, you should include this as evidence.

The RPT has to decide on an amount they consider to be reasonable for the RRO, this decision will be based on the:

- amount of rent paid
- conduct of the landlord (how well he/she manages the accommodation and its condition)
- landlord's income, and
- conduct of the contract holders in relation to the accommodation (you, or your representative, will have the opportunity to comment on what is said, so it is important to be prepared for this).

In the cases where RROs have been awarded the amount has varied greatly depending on the views of the RPT in respect of the points above and other issues.

What happens next?

The RPT will send your application to the landlord. The RPT may also "issue directions" asking you to send in more written information. It is important that you do this, otherwise you could lose the case. If you do not understand what they want, ask the RPT to explain.

If there is to be a hearing, you will be asked to provide five copies of the papers you wish to present by a certain date, one of these will go to the landlord.

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The papers for the hearing need to be in a bundle which is easy for the tribunal to refer to.

All the papers need to be put in date order, each page should be numbered and a list of contents with page numbers should be at the front. Once copied the papers need to be placed in a binding which will keep them in order.

You may wish to get advice on preparing the bundle from one of the local organisations mentioned above.

The RPT panel members will usually visit the house or flat before the hearing. If you are at home when they visit, it is okay to talk to them, but do bear in mind that they will not take what you say into account when making their decision. They can only make their decision on the written evidence and what is said at any hearing.

You will normally get 21 days notice of any hearing. In some cases the RPT will make a decision without an oral hearing, but this would be unusual in the case of an RRO. In any case you would be sent a written record of the RPT panel's decision.

What is the hearing like?

The hearing at the RPT is similar to a court hearing, but less formal. The case is heard by two or three panel members. The panel chairman introduces the case and explains what will happen; you can ask the chairman questions at any time if you need to.

The panel members can ask the landlord and the contract holders' representative questions throughout the case and take notes.

RPT panels generally hear cases without lawyers, but everyone does have the right to be represented by a solicitor or barrister or by some other person. Don't let this put you off, many landlords do represent themselves and the Chairman of the panel will help you if necessary.

All contract holders who are making the claim need to be present unless they have appointed a person to represent them. We recommend that two or more contract holders are there anyway, in case they need to answer questions about the rent, the accommodation, or any issues the landlord may raise about the behaviour of the contract holders.

If a number of contract holders have applied for the RRO themselves, it is easier if they appoint a spokesperson to lead their case at the tribunal. Other contract holders will still get the opportunity to speak if they want to.

The hearing starts with the contract holders' representative saying why they have applied for the RRO he/she can simply read out the Grounds of the Application from the application form and introduce the evidence in the bundle.

The landlord or his/her lawyer will ask questions of the contract holders' representative and then put their own case to say why the panel should not make an RRO or why it should be for less money than is claimed.

The contract holders' representative will then be able to question the landlord, or comment on what has been said. Other contract holders will be able to have their say too.

The panel will not make their final decision at the hearing. Their decision will be in writing and it will be sent in the post to the landlord and tenant(s) within a few weeks of the hearing.

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The landlord and the contract holders can appeal against a RRO to the Lands Tribunal, but they must do so within 21 days. The appeal may involve a hearing, if so the same contract holders who were at the RPT hearing, will need to be there. The procedures are similar to those for the RPT.

How will the money be paid?

The RPT will send a copy of their written decision to the landlord. At present this is the only way they know they should repay the rent. It should be paid directly to the contract holders.

So if you do not receive the money within four weeks of the RPT decision, firstly check with the RPT to find out whether the landlord has appealed. If not the contract holders should write a letter to the landlord asking for the money to be paid to them, stating the amount to be paid and who it should be paid to.

If there is more than one tenant, the money can be divided up and paid to each tenant individually. (If there is an appeal, you would have to wait until it has been decided.)

What if the landlord doesn't pay up?

If the RRO payment has not been received within say one month of the letter, the contract holders can apply to the County Court for permission to reclaim the money as a civil debt (see The Residential Property Tribunal Procedure (Wales) Regulations 2006, regulation 34).

www.opsi.gov.uk/legislation/wales/wsi2006/20061641e.htm

A housing advice agency, Citizens Advice Bureau or solicitor can advise on this procedure. You could ask them to enquire whether they can register the RRO as a local land charge under section 74(9) of the Act.

Can my landlord evict me?

Your landlord has no right to make you leave your home because you are applying for a RRO.

If your landlord does try to evict you, you should seek legal advice, there are extra restrictions on landlords' powers to evict, where the accommodation is not licensed, see Housing Act 2004, section 75.

Conclusion

Contract holders and former contract holders can reclaim up to 12 months' rent in a RRO where a landlord has been found guilty in court or in a tribunal of renting their accommodation without a licence.

The procedure involves gathering evidence and appearing before a tribunal, but not all contract holders need to do it themselves.

One tenant can be appointed to represent the other contract holders and various local organisations can help in the process and may be willing to represent the contract holders. Contract holders should apply for an RRO as soon as possible after the successful prosecution or RRO for housing benefits, as in most cases the amount of rent that can be reclaimed will reduce as time goes on.

Please note: This advice has been produced in consultation with experienced housing practitioners. It is not statutory guidance, so should be read in conjunction with the law. The advice may be subject to challenge by the Courts or the Residential Property Tribunal.

Appendix 1

**Authority to Act on Behalf of Tenant
in application for Rent Repayment Order**

I [name of contract holder] of [address of contract holder] {formerly of [address of unlicensed house or flat]} authorise and give my consent to [name of representative] [organisation of representative or address of representative] to act on my behalf in the process of applying for a Rent Repayment Order to reclaim the rent paid at [address of unlicensed house or flat] which was operated without a licence.

I request that those who it may concern provide my representative with all relevant information and I authorise them to discuss my case with them.

Signed: _____

Name: _____

Date: _____

Appendix 2

Application Form to the Residential Property Tribunal for a Rent Repayment Order

Contact the Residential Property Tribunal for Wales (First Floor, West Wing, Southgate House, Wood Street, Cardiff, CF10 1EW. Tel: 029 2023 1687, Fax: 029 2023 6146) for the application form.

Most of the questions are straight forward, but please note:

the “**respondent**” is the person or company that owns your home. If you pay rent to the owner, that owner is the respondent. If you pay rent to another person or a managing agent, you need to find out who the owner is and name them as the respondent. (In the latter case the respondent may not be the same person or company who was found guilty in court.)

Question 7: the **type of application** is “An application by an occupier for a Rent Repayment Order under Housing Act 2004 Section 73(5).”

In the **Grounds of the Application** you will need to say:

“This application for a rent repayment order follows the {conviction of [name] on [date] for running an unlicensed house in multiple occupation} {making of a rent repayment order on [date] requiring [respondent’s name] to repay rent paid as housing benefit paid for accommodation} at [address of house or flat].

Rent amounting to £xxx was paid, by the **contract holders** living at [address], to [respondent’s name]

{[agent’s name] who collected the rent on behalf of [name of respondent]} {during the twelve months ending on the date of this application} {during the period between [date twelve months before this application] and [date you moved/landlord changed/licence application was made]}. This amount does not include rent paid for by housing benefits.”

Remember you will need to send some of the papers listed below, appendix 3, with your application form.

The form is available for download via the RPT website as a pdf

<https://gov.wales/docs/rpt/publications/HWA6-en.pdf>

Appendix 3

List of documents needed for a Rent Repayment Order

The following papers need to be provided either with the application for the RRO or in the bundle for the hearing. The original documents should be kept by the **contract holders** or their representative and will need to be available at the hearing.

Evidence to show	Details to be included	Format	Who can help	When needed
1. A successful prosecution or RRO for Housing Benefits	Date of prosecution or RRO, amount of fine, name of person or organisation responsible.	housing benefits, RRO, report from Magistrates' Court, press cutting, or statement from Council officer.	HMO Team	With application
2. Rent paid by the contract holders during the period of 12 months up to the date of application for the RRO or rent paid until date you moved/ landlord changed/ licence applied for.	For each tenant: Dates when rent was paid, Amount paid Who it was paid to. Do not include any rent paid by housing benefits.	rent book, or receipts for rent, or table listing all payments, or document from landlord or agent stating rent payments are up to date.	If the rent is paid to an agent, ask if they can confirm that the rent is up to date.	With application. Also take bank statements and cheque stubs (if paid by cheque) to the hearing.
3. Contract holders' to appoint another person to act on their behalf (where relevant)	See appendix 1			Obtain as early as possible. Send with application.
4. Completed application form sent to the RPT	See appendix 2			Bundle for hearing
5. Correspondence with the RPT		Letters or emails received and sent.		Bundle for hearing.

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6. Occupation Contracts, if provided when you moved in.			Other contract holders	Bundle for hearing
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7. Evidence to show that property is licensable if not shown in 2 or 6 above.	Contract holders names and dates they lived in the house or flat for the period the rent is being claimed.	List	Other contract holders and contract holders who have moved out.	Bundle for hearing
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Statement from council officer (optional).	This could include: details of the successful prosecution or housing benefits RRO name and address of the owner of property letters inviting the landlord to apply for a licence details of any licence application made landlord's history of compliance any details of landlords' income raised in the above court or tribunal		HMO team	Bundle for hearing
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