

ANUK/Unipol National Codes

Guidance Note for Members (5th May 2026)

Agreements for 2026/27 made Before 1st May 2026 and “Re-contracting” Practices

1 Purpose of this note

ANUK/Unipol has become aware of increasing discussion within the sector concerning attempts to move students who signed assured shorthold tenancy agreements before 1 May 2026 (“commencement”) onto replacement common law tenancy agreements after the commencement of the Renters’ Rights Act 2025 (“RRA”).

This note is intended to highlight some of the legal and practical risks arising from such approaches and to assist members and other interested parties in identifying practices which may create legal, operational or reputational difficulties.

The student accommodation sector encompasses a diverse range of legal and operational models. It is therefore not possible for a single guidance note to address every circumstance or provide definitive answers for all members.

This note is intended as general guidance only. It does not constitute legal advice, and providing advice on individual cases is not part of the National Codes's role. Members should take their own legal advice on their particular documentation, arrangements and circumstances.

2 The Legal Framework: Not all pre-1 May arrangements are the same

Arrangements which appear superficially similar may produce materially different legal outcomes during the transitional period. Members should be aware that there is a legal distinction between:

- an executory contract under which a tenancy will only come into existence when granted in possession after 1 May 2026; and
- a tenancy already granted before 1 May 2026, including a reversionary tenancy where the student is not entitled to take possession until a later date.

That distinction existed before the RRA and has always been legally important. Historically, however, it was not always closely examined within the sector because, the practical consequences were often the same regardless of which structure had been used.

The transition to the new regime has brought the distinction into much sharper focus because the legal consequences may now differ significantly depending on which structure was used before commencement.

The position is further complicated by the fact that some booking and tenancy documents do not fit neatly into either category. Some documentation contains features pointing in both directions. The sector also tends to use broad operational expressions such as "issuing tenancies" or "signing up" without analysing whether that process creates a tenancy immediately (albeit with possession deferred until a later date) or creates a only binding

agreement for the future grant of a tenancy, with the tenancy itself arising when possession is subsequently given.

3 How do you know which type of arrangement it is?

The distinction will often turn on the wording and legal effect of the particular documentation used, together with the structure of the booking journey as a whole.

For example:

- An agreement to grant a tenancy in the future, with the tenancy itself only coming into existence when later granted in possession (executory contract) are typically identified by phrases such as “the landlord agrees to let”; “this agreement”; “this is an agreement for an assured shorthold tenancy”.
- Words of present grant or demise or disposition create a tenancy immediately, even though the student does not become entitled to possession until a later date (reversionary tenancy) - typical phrases include “the landlord lets”; “this tenancy”, “this is an assured shorthold tenancy”.
- Some arrangements contain elements of both approaches or may not clearly address the point (requires careful case-by-case review).

Many Members will be aware what kind of arrangements they are currently operating. Those who are unsure should take legal advice.

4 What difference does it make?

Broadly speaking, tenancies granted to actual or prospective students at specified educational institutions are outside the scope of the assured tenancy regime if:

- the landlord is a specified educational institution or other body of persons; or
- the landlord is a member of an approved code of practice; or
- the tenancy is managed by a member of an approved code of practice; or
- the tenancy is in a building managed by a member of an approved code of practice.

For short, we will call this the “PBSA exemption”.

Two important points should be noted about the PBSA exemption, as set out in the RRA:

- (a) assured status is determined at tenancy level, not member level or building level; and
- (b) availability of the PBSA exemption is determined at the date of the **grant** of the tenancy.

Accordingly, identifying the point at which the tenancy was **granted** is critical.

4.1 When is our tenancy granted?

Where an executory contract model is used, the tenancy itself is granted “by parol” (orally, or by conduct) when the student takes possession.

By contrast, where a reversionary tenancy model is used, the tenancy is granted by the tenancy agreement itself at the time when the tenancy agreement becomes binding - even

if under the terms of that agreement the student does not become entitled to possession until a later date.

Some agreements used within the sector are not entirely clear as to the point at which they become legally binding, which can complicate things further. Members may therefore wish to pay closer attention to this aspect of their booking journeys and tenancy documentation in future.

5. Now we know what we have, what do we do?

5.1 *Executory contracts*

Members who conclude that their booking model used executory contracts rather than pre-granted tenancies should not need to make significant changes to arrangements already entered into before 1 May 2026.

In those cases, what matters is not whether the contractual documentation described the future tenancy as an “AST” or stated that the parties intended an assured shorthold tenancy to arise. What matters is that a tenancy was not **granted** before commencement.

Members should not assume that pre-1 May references to ASTs within executory contractual documentation mean that the tenancy, when later granted in possession, will necessarily be assured. Assured tenancy status is determined by the application of statutory criteria, not simply by the labels used within earlier contractual documentation. If a tenancy **granted** on or after 1 May 2026 meets all the PBSA exemption criteria, the tenancy cannot (as a matter of law) be an assured tenancy.

As an extra precaution, members with executory contracts may want to check that the tenant still meets the student part of the PBSA exemption criteria just before giving possession.

5.2 *Reversionary tenancies / pre-commencement tenancies*

Members who conclude that their documentation granted tenancies before 1 May 2026 should be aware that those tenancies will have been granted under the assured shorthold tenancy regime and be subject to the tenure reform provisions introduced by the RRA. These tenancies are likely to have become assured tenancies on 1st May.

5.3 *“Re-contracting” arrangements*

In some cases, members may now regard that outcome as commercially inconvenient or inconsistent with what they intended to achieve.

However, regardless of the tenancy arrangements in place, members should approach any proposed “re-contracting” exercise with caution.

The fact that a landlord now prefers a different legal structure does not, in itself, entitle the landlord to vary, terminate or replace existing arrangements unilaterally. A tenancy agreement or other binding contract remains enforceable according to its terms unless it is brought to an end in accordance with those terms or by agreement between the parties.

Members should therefore approach any proposed “re-papering” exercise with caution. Where a landlord wishes to terminate, replace or restructure existing arrangements, the

legal, practical and reputational implications should be considered carefully. Agents should not assume that a proposed course of action is legally effective simply because it has been requested by a landlord and may wish to obtain their own legal advice before assisting with its implementation.

6. What types of “re-contracting” approaches are currently being suggested?

The fact that a particular approach is widely discussed within the market does not necessarily mean that it is legally effective or consistent with good sector practice. ANUK/Unipol is aware of a range of approaches currently being discussed within the sector, including:

- serving section 8 notices before students take occupation in the belief that this terminates existing arrangements;
- asking or pressuring students to sign replacement tenancy agreements shortly before move-in;
- suggesting to students that existing agreements are defective, mistaken or no longer effective;
- suggesting that the Renters’ Rights Act 2025 requires existing agreements to be replaced;
- asserting that students “must” sign new documentation in order to take occupation;
- attempting to withdraw previously agreed tenancy terms and replace them with different contractual structures;
- presenting replacement agreements as an administrative formality rather than a substantive change in legal rights;
- offering students a superficially more attractive deal if they re-sign.

The next sections consider some of the assumptions which appear to underpin these approaches and some of the legal, operational and reputational risks which may arise if those assumptions are incorrect.

7. Why might these approaches create problems?

7.1 *Service of a section 8 notice using Ground 4A does not itself end a tenancy*

ANUK/Unipol has become aware of suggestions within the sector that landlords may be able to terminate pre-1 May arrangements simply by serving a section 8 notice before occupation begins and then offering replacement common law tenancy agreements.

Members should exercise caution before adopting such an approach.

Section 5 Housing Act 1988 provides that an assured tenancy cannot be brought to an end by the landlord except by obtaining and enforcing a court order for possession.

Accordingly:

- service of a section 8 notice does not itself terminate a tenancy;

- a tenant's rights do not automatically disappear upon service of notice; and
- the legal effect of serving notice may be significantly more limited than some people appear to assume.

There may also be additional difficulties where:

- the tenancy agreement itself restricts the landlord's rights of termination;
- the relevant contractual termination provisions refer only to specific statutory grounds;
- or the agreement does not anticipate the impact of the RRA.

Members should therefore avoid assuming that a section 8 notice can simply be used as a mechanism to "reset" existing arrangements.

Members should be wary of using section 8 notices tactically or rhetorically to pressure students into giving up their rights where the legal basis is uncertain. In some cases, a premature section 8 notice may prove self-defeating. Instead of preventing voids part-way through an academic year, an early section 8 notice may create an immediate one. For example, if a landlord serves a notice requiring possession before the student is entitled to take occupation, and the student complies by allowing the landlord to have possession on the date specified, the landlord may find it difficult to argue that the student remained liable for rent thereafter.

7.2 *Explicit or implied removal of choice*

The Consumer Rights Act 2015 applies, and this requires operators to act transparently and in good faith.

Potential concerns include:

- misrepresentation;
- mischaracterising students' existing contractual rights;
- attempting retrospectively to alter the nature of the bargain originally offered to students;
- disguising an action the operator now regrets as an administrative mistake;
- exerting pressure on students to surrender existing arrangements; or
- placing agents/intermediaries in positions with which they are uncomfortable professionally or ethically.

Members should also bear in mind wider consumer protection legislation prohibiting misleading or unfair commercial practices, and this applies to landlords and agents.

A communication may potentially be misleading not only where it contains factually incorrect statements, but also where the overall presentation creates a misleading impression as to the student's legal position or the necessity for particular action.

In this context, potential consumer protection concerns may arise where students are told or led to believe:

- that existing agreements are no longer effective when they remain legally binding;

- that new legislation “requires” replacement agreements when this is not in fact the case;
- that students “must” sign new agreements in order to retain rights they already possess;
- or that service of a notice itself automatically terminates existing tenancy rights.

7.3 Requirements of the ANUK/Unipol National Code

A stated purpose of the [ANUK/Unipol National Code for accommodation owned or managed by Non-Educational Establishments](#) is “to establish a framework of voluntary standards to support how member owners, managers and their occupants can do business with one another effectively and **fairly**” (emphasis added).

Under the Code, members commit to pursuing their business in a professional, courteous and diligent manner at all times. Professionalism includes taking reasonable steps to understand and comply with the applicable legal framework and ensuring that communications with students accurately reflect their legal rights and obligations.

Members also commit under the Code to “describe all property details accurately; without misrepresentation”.

In this context, members should take care that communications with students accurately reflect the need for, or the effect of, replacement agreements. If a student is induced to enter into a replacement agreement on the basis of inaccurate statements concerning their existing legal rights or the effect of the new legislation, that may create risks as to the enforceability of the replacement arrangement.

If misrepresentation occurs, the student could be entitled to rescind (end) the contract and claim damages (compensation) for loss.

The National Codes is [advising](#) students to carefully consider all requests to re-contract and take advice if they are unsure.

The Code would take very seriously any complaint that a member had represented a replacement contract as being a requirement of the Code itself.

8. Voluntary surrender and replacement agreements

This note is not intended to suggest that parties can never agree to vary or replace existing arrangements.

A genuinely voluntary surrender and re-grant arrangement may be legally and commercially defensible, particularly where students are properly informed and are given a genuine choice. The offer of a clear benefit or incentive in return for giving up their existing arrangement may also be appropriate. Offers to renegotiate are very different from attempts unilaterally to displace rights arising under existing agreements.

The Code requires members:

- “to inform all prospective occupants about any contractual terms under which the property is offered”; and

- to “make sure that their occupancy agreements do not contain any unfair terms... or conditions that conflict with the occupant’s statutory or common law rights.”

The National Codes would expect students to be given a fair opportunity to understand their options and make an informed decision. Approaches which do not do so may be difficult to reconcile with the expectations of the Code, and could result in complaints from students.

9. Practical recommendations for members

Pre-1 May arrangements which are properly formed as executory contracts are likely to achieve the intended commercial outcome (a common law tenancy taking effect in possession) without retrospective restructuring exercises.

If reversionary tenancies were granted before 1 May 2026, or if this guidance raises issues of which a Member was previously unaware, the Member should:

- review carefully whether its pre-1 May documentation created executory contracts or already-granted tenancies;
- avoid blanket assumptions that all pre-1 May arrangements can or should be “re-papered”;
- take specific legal advice before serving notices intended to facilitate replacement tenancy structures;
- ensure communications with students are accurate, balanced and transparent;
- avoid pressure tactics or statements which could later be characterised as misleading.

Members acting as agents should also bear in mind that they may owe separate responsibilities to landlord clients, consumers and the Code itself. Balancing those responsibilities may sometimes require difficult professional judgments.

In many cases the risks associated with taking a tenancy from assured shorthold to assured under the RRA will be more manageable than the risks associated with trying to impose common law tenancies retrospectively.

10. Legal uncertainty and differing interpretations

This guidance is not a definitive statement of the law, which is complex. In some areas, the transitional provisions of the RRA do not always fit neatly with existing student accommodation practices or with earlier legislation that continues to apply. This guidance considers one specific issue arising from the transition to the RRA, namely proposals to replace contracts or tenancies entered into before commencement. It aims to make members aware that such proposals may be unnecessary in some cases and may present unforeseen risks in others.

ANUK/Unipol wishes to promote understanding so that members have the tools they need to act fairly, transparently and in accordance with the expectations of the Code. However, ANUK/Unipol is not a legal adviser. Members should take legal advice on their specific documentation and operational arrangements. Different advisers may properly reach

different conclusions on some issues, and there may sometimes be more than one reasonable course of action rather than a single 'right' answer.

Where differing legal views exist, it is not the role of ANUK/Unipol to adjudicate on which interpretation is correct. Its role is instead to encourage good practice and help members understand how the expectations of the Code may apply in practice.

Prepared for ANUK/Unipol by Hilary Crook, Hatch Legal.