

# Renting and Letting

Rights for landlords and tenants



*Community  
Legal Service*



Call or click for free high quality legal information  
0845 345 4 345 [www.clsdirect.org.uk](http://www.clsdirect.org.uk)

This leaflet explains how to deal with problems you may have, and your legal rights, if you rent a flat, house or bedsit. If you are a private landlord, it explains your rights and duties to your tenants. The leaflet is divided into sections, depending on the type of tenancy.

● Private tenancies	3
● Council tenancies	16
● Housing association tenancies	20
● Other issues	23
● Problems with neighbours	26

In each section, there is information on:

- ending the tenancy, and eviction;
- rent and rent increases;
- responsibility for repairs; and
- buying your rented home (for council and housing association tenants).

The leaflets in this series give you an outline of your legal rights. They are not a complete guide to the law and are not intended to be a guide to how the law will apply to you or to any specific situation. The leaflets are regularly updated but the law may have changed since this was printed, so information in it may be incorrect or out of date.

If you have a problem, you will need to get more information or personal advice to work out the best way to solve it. See 'Further help' on page 27 for sources of information and advice.

Whether you are a tenant or a landlord, you may from time to time have problems or disagreements about the property or the rent. This leaflet explains legal rights and responsibilities for both tenants and private landlords.

The law for tenants and landlords is complicated, and your rights will depend on the type of tenancy agreement you have.

This leaflet is divided into sections, according to different types of landlord:

- If you are a private tenant or a landlord, see 'Private tenancies', starting below.
- If you are a council tenant, see page 16.
- If you are a housing association tenant or you rent from a trust or co-operative, see page 20.

### **Private tenancies**

On the following pages, there are explanations of the law, and how to deal with particular problems that can arise for tenants and landlords.

First, you must establish what sort of agreement you are dealing with.

If you have a tenancy, the type you have depends in part on when it began.

### **Assured and assured shorthold tenancies**

If the tenancy started on or after 28 February 1997, it is probably an assured shorthold tenancy, unless the landlord has told you in writing that it is an assured tenancy. The tenancy may start either with a fixed term or as a 'periodic' tenancy, running from week to week or from month to month (depending on when your rent is due). Either way, the tenant usually has the right to stay for at least six months.

If the tenancy started between 15 January 1989 and 27 February 1997, it will be an assured shorthold tenancy if:

- the landlord made this clear on a special legal form at the beginning; and
- it had a fixed term of at least six months to begin with and does not include a 'break clause' that would allow the landlord or the tenant to end the tenancy within the six months).

Otherwise, it will be an assured tenancy.

### **Regulated (or protected) tenancies**

Most private tenancies that started before 15 January 1989 are regulated (or protected) tenancies. This type of tenancy has the most protection

against rent increases or eviction.

### Tenancies with basic protection

People who have a tenancy or licence with basic protection have fewer rights than assured, assured shorthold and regulated tenants. You will probably have a tenancy with basic protection if:

- you live in the same building as your landlord but you do not share living space with them – for example, if you live in a house that has been converted into flats, and the landlord lives in one of the other flats;
- you live in accommodation provided by a university, school or college;
- your rent is especially low or high;
- you live in accommodation provided by the local authority because you are homeless;
- you had an assured tenancy or assured shorthold tenancy but you have stopped living in the property, even though you still have the tenancy; or
- in most cases, you must live in your home as part of your job.

Instead of a tenancy with basic protection, you may have a 'licence with basic protection', which has similar rights. See 'The difference

between a licence and a tenancy' (right) for more details.

### Excluded tenancies

Tenancies with the least level of protection are known as excluded tenancies. You may have an excluded tenancy if you:

- share living space with your landlord;
- share living space with a member of the landlord's family, if the landlord lives in the same house;
- live in holiday accommodation; or
- pay no rent.

Instead of an excluded tenancy, you may have an 'excluded licence', which has similar rights. See 'The difference between a licence and a tenancy' below for more details.

There are some other situations when you might have a tenancy with basic protection or an excluded tenancy. If you are not sure what type of tenancy you have, get advice.

### The difference between a licence and a tenancy

Some people who rent privately have a licence, rather than a tenancy. In legal terms, a licence is a permission from the owner to occupy the accommodation, whereas a tenancy is a form of ownership of the

accommodation. However, it is not always obvious which type someone has. You may have a licence (which means you are a 'licensee') if:

- your landlord provides services, such as room cleaning, which mean they have access to where you live – for example, if you live in lodgings, a hotel or a hostel; or
- you are being allowed to stay in accommodation by friends or family.

Licencees have similar rights to people who have a tenancy with basic protection or an excluded tenancy.

### **If you are unsure what type of agreement you have**

If you are unsure what type of tenancy or licence you have, check your written agreement. If you don't have one, ask your landlord for a copy, or seek advice about the type of agreement you should have. You should also seek advice if you are unsure whether you are a licensee or a tenant, or if your landlord has given you a licence agreement but you think it should be a tenancy. See 'Further help' on page 27 for where to find advice.

### **If a tenant wants to end the tenancy**

If a tenant on a periodic tenancy (one which runs from week to week or from month to month depending on when rent is paid) wants to leave, they must give the landlord notice, usually:

- four weeks if you pay weekly; or
- one month if you pay monthly.

There are other rules about giving notice to end a tenancy, and it is best to get advice if you want to end yours.

If a fixed-term tenancy has not finished, the landlord can usually insist that the tenant pays rent until the end of the fixed term. You can sometimes argue against this, for example if:

- the house or flat has serious defects; or
- your landlord was able to get a new tenant soon after you left, or has not taken reasonable steps to get a new tenant.

You will need to get advice if you think either of these reasons applies in your case. Tenants can leave on the last day of a fixed-term tenancy without having to give notice – but it is best to let the landlord know you plan to leave.

Some fixed-term tenancies have a 'break clause', that allows a tenant to tell the landlord they want to leave before the fixed term expires. If there is a joint tenancy, and one tenant wants to leave, the legal situation can be complicated, and the remaining tenants should get advice.

### **If a landlord wants to end the tenancy**

Most landlords of private tenancies must give written notice if they want a tenancy to end and the tenants to leave, but this does not always apply to the landlords of licensees. If the tenant does not leave by the end of the notice period, the landlord can start 'possession proceedings' in the county court by giving a notice seeking possession. The tenant does not have to leave at the end of the notice period, but if they don't leave and the court grants an eviction order, they may have to pay the landlord's costs of going to court.

If you are a tenant facing eviction and are likely to become homeless when you leave, you should get advice before leaving. It may be difficult getting the council to help you with housing even if you leave before the landlord gets a court order. The council will take the reason for the eviction into account when

deciding whether it will offer help with housing. If the court awards an 'outright possession' order, and you still do not leave, the landlord can ask the court to call in bailiffs to evict you.

The tenant does not have to leave just because a fixed term has come to an end. The landlord usually still has to serve notice and, if the tenant still does not leave, must apply to the court for a possession order.

If the landlord wants possession because the tenant has not paid their rent, the court may, in some cases, grant:

- an adjournment, which is when the hearing is put back to give the tenant time to prepare their case. An 'adjournment on terms' is when the court delays the hearing for a fixed period or even indefinitely as long as the tenant pays the rent plus a regular amount towards the arrears; or
- a postponed (suspended) order, which is when the tenant is allowed to stay in the property as long as they stick to certain conditions, such as paying off a certain amount of arrears each month or week.

If the tenancy is assured shorthold or a tenancy with basic protection, the court can delay granting possession for a maximum of six weeks only.

### Assured tenancies

With an assured tenancy, the landlord must first give the tenant a legal notice, called a 'notice of seeking possession'. If you get a notice like this, you should get advice immediately.

Depending on the reasons ('grounds') for possession, the landlord must give the tenant either two weeks' or two months' notice that they intend to apply for the next step: a possession order. But if they are seeking possession because of the tenant's anti-social behaviour, they can start possession proceedings immediately after giving notice of seeking possession.

The tenant may either:

- go to court and argue against the landlord's claim (that is, argue that the landlord doesn't have the right to end the tenancy); or
- wait to see if the court issues a possession order.

The landlord must first prove to the court they have a reason for possession. If the landlord shows the court they have certain reasons (known as 'mandatory grounds'), it

will automatically grant 'outright possession'. These include where:

- the tenant is at least two months or eight weeks behind with the rent;
- the landlord used to live in the property (or they now need to) and they made the tenant aware of this at the start of the tenancy;
- the landlord is going to demolish or rebuild the property; or
- the landlord's bank or other mortgage lender is repossessing the property.

Other grounds are 'discretionary'.

This means the court will decide whether it is reasonable to grant possession or not. The most common discretionary grounds are that:

- the tenant has missed rent payments, though only if they have missed less than two months' or eight weeks' worth;
- the tenant has damaged the property or broken a term of the tenancy agreement;
- the tenant has been a nuisance to their neighbours; or
- the landlord can prove that the tenant has been offered somewhere else suitable to rent, by either the landlord or someone else.

If the tenant has missed rent payments, the court may postpone (delay) the order so that the tenant can pay off the rent they owe without losing their home. If the landlord offers another place to live, the court must be satisfied that it is suitable for the tenant's needs. This means taking account of, for example:

- the size of the new place and the rent on it;
- where the tenant works;
- where their children go to school; and
- whether they need to live near a family member.

The tenant can dispute the landlord's offer in court if they think it is not suitable. The court is likely to consider that an alternative place to live would not be suitable if the new tenancy would give the tenant fewer rights than they currently have.

### **Assured shorthold tenancies**

People with assured shorthold tenancies have less protection than assured tenants.

If the landlord wants the tenant to leave within the first six months of the tenancy, they have to show they have a reason to evict the tenant, in the same way they do for an assured

tenancy. This also applies if the agreement allows the tenant to stay for a fixed period, unless the agreement includes a 'break clause'. During that period, the landlord can evict only for the reasons that apply to assured tenancies.

If the tenant has had the tenancy for six months or more and the tenancy is not for a fixed term of more than six months, the landlord can get a court order without having to prove they have a reason and without having to attend a hearing. This is called the 'accelerated possession' procedure. But to do this, the landlord must give the tenant at least two months' notice in writing that they want possession, and they cannot go to court to get possession until that notice period ends.

As long as the landlord has followed the procedures properly, the court will automatically grant them possession. But the tenant can still ask for a possession order to be delayed for a short time if it would cause them 'exceptional hardship'; for example, if someone in their household is ill or pregnant.

If the landlord wants possession but is not claiming a 'money judgement' for the unpaid rent, they can use what is known as the 'accelerated

possession procedure'. Under this, the landlord sends the paperwork for the possession claim to the court and a judge can make a possession order without a court hearing. This procedure is quicker and cheaper than a normal possession claim.

### **Regulated tenancies**

The landlord must start to end the tenancy by giving the tenant a 'notice to quit' (unless an end date was agreed at the start of the tenancy). This must give the tenant at least four weeks' notice and be on a special legal form. The landlord must then apply to the court for a possession order.

As with assured tenancies, there are certain 'mandatory' grounds for which the court will automatically grant possession, as well as 'discretionary' grounds for which the court must decide whether it is reasonable to evict the tenant (see 'Assured tenancies' on page 7). Many of the grounds that can be used are similar to those for assured tenancies, but there are some differences.

### **Tenants and licensees with basic protection**

To end the tenancy or licence, the landlord must:

- serve a 'notice to quit' giving at least four weeks' notice; or

- wait for the agreed fixed term of the tenancy or licence to end.

After this, the landlord has to get a court order to evict the tenant if the tenant does not leave. However, the landlord has to show the court only that this notice has been properly served – they do not have to prove that there is a ground or reason for possession to be granted.

If your home is provided as part of your job, your right to live there will probably end when your job does. However, you cannot be evicted without receiving at least four weeks' notice and a court order.

### **Excluded tenancies and licences**

If there is a legally binding agreement between the tenant or licensee and the landlord, the landlord must first give any notice set out in the agreement or wait for the fixed term of the tenancy or licence to end. However, unlike with other types of tenancy or licence, the notice period can be less than four weeks.

If there is no agreement, an excluded licensee will be entitled only to notice that is reasonable in the circumstances. This could be as little as a few days or sometimes even immediate.

If the tenant or licensee does not leave after the notice period, the

landlord does not have to get a possession order from the court, as they normally do with other types of tenancy. They can, for example, change the locks while the tenant or licensee is away from the property, though they cannot use force to evict them. However, the landlord can choose to get a possession order as a way of forcing the tenant or licensee to leave. As long as the landlord has given reasonable notice, the court will grant the order. The landlord can then get a bailiff's warrant. Bailiffs have the right to use 'reasonable force' to remove tenants or licensees from the property.

#### **If the landlord gets a possession order**

If the court grants the landlord 'outright possession', the possession order will set a date for the tenant to leave. Once the date of the order has passed, the landlord can apply for a warrant if the tenant has not left. If this is granted, the court will tell the bailiffs to evict the tenant. The landlord has the right to claim payment for the time the tenant continues to live in the property.

If you are a tenant or licensee and you receive notice that bailiffs are going to evict you, you should get advice immediately. You may still be

able to stop the eviction by getting the court to 'suspend' the warrant. But you must have a good reason and show you have a realistic plan to pay off any rent you owe.

#### **Harassment and illegal eviction by a landlord**

It is generally illegal for a landlord to evict a tenant without a court order. This usually includes, for example, changing locks while the tenant is out. Even in the few situations where the tenant doesn't have this protection (for example, people with an excluded tenancy or licence), the landlord must still bring the tenancy or licence to an end, or wait for it to end, before taking this type of action. If you are a tenant who is being harassed, or you are facing illegal eviction by a private landlord, contact the tenancy relations officer at your local council (or the council officers who deal with harassment and illegal eviction). The council officer should try to stop the harassment and persuade the landlord to let you back into your home. If this fails, they can prosecute the landlord, although this happens only in extreme cases.

Tenants can also take action in court themselves, though they would need expert legal help to do this. You can apply for an injunction to stop the landlord harassing you or to let you

return to your home. You should also be able to claim compensation. If the case is urgent, you can get an emergency injunction before there is a fuller court hearing.

The Protection from Harassment Act 1997 also offers protection against harassment by any person – including a landlord, even where they are not necessarily trying to evict you.

### **Deposits**

A landlord will normally ask for a deposit from the tenant before they move in. Both the landlord and the tenant should make sure that the tenancy agreement states:

- how much the deposit is;
- who holds it;
- when money can be deducted from it (for example, for unpaid rent or damage to the property); and
- when the tenant will get the money back.

If, when the tenant leaves, they don't get their deposit back, and there is not a good reason for this, they can claim against the landlord through the courts as a 'small claim'. This is a simpler, quicker and less expensive way of using the courts than the full court procedure, but it can be used only for claims up to £5,000. You can

get forms and more details from your local county court, Citizens Advice Bureau or legal advice centre, or from the court service website (see 'Further help' on page 27).

A new tenancy deposit scheme to safeguard deposits and provide independent arbitration for disputes over deposits is being set up, and is due to begin in March 2007.

### **Rent increases**

A landlord's right to increase rent depends on the type of tenancy.

#### **Assured tenancies**

People with assured tenancies can sometimes challenge a rent increase. If the tenancy is for a fixed term, the rent is normally agreed at the start and cannot change during that term. The only exception to this is if the tenancy agreement includes a rent review or increase arrangement (or if the tenant agrees to an increase).

With a periodic tenancy (one that runs from week to week or from month to month, depending on when the rent is paid), the rent can go up in the first year only if the tenancy agreement allows for this.

After a year, the landlord can increase the rent by giving at least one month's notice on a special form. If the tenant thinks the new rent is

too high, they can contact their local Rent Assessment Committee (RAC). RACs are independent bodies that deal with rent issues. Your local RAC will be listed in the phone book. RACs can set the rent according to what is charged elsewhere in the area. They can uphold the landlord's rent demand (or even increase it) as well as reduce it. The rent fixed by the RAC is the maximum the landlord can charge for one year.

However, if the tenancy agreement sets out how the rent is to be increased, this procedure does not apply and the tenant cannot ask the RAC to assess the rent. If you are in this situation and you think the way your tenancy agreement says rent can be increased is unfair, you should get advice, because it is sometimes possible to challenge unfair agreements.

### **Assured shorthold tenancies**

The landlord's right to increase rent on assured shorthold tenancies is the same as for assured tenancies. A tenant can apply to an RAC at the start of a tenancy if they think the rent is excessive.

If your tenancy started between 15 January 1989 and 28 February 1997, you can challenge the rent any time

during the initial fixed term. If your tenancy started after 28 February 1997, you can challenge the rent within six months of the start of the tenancy. But it may be risky to do this, as the landlord can legally evict you at the end of the tenancy period. If you have an assured shorthold tenancy, you need to get advice before you challenge any rent increase.

At the end of the fixed term, the landlord may offer another fixed term at a higher rent. If the tenant signs a new agreement, they cannot then apply to the RAC to set the rent.

### **Regulated tenancies**

Tenants and landlords with regulated tenancies can apply to the Rent Service to set a 'fair rent' (the Rent Service number is in the phone book). The Rent Service can put the rent up as well as down. If the fair rent is lower than the tenant has been paying, the tenant may be able to get back up to two years' overpaid rent. If the fair rent is higher than the tenant has been paying, the landlord must give notice before they can start charging the higher rent.

A fair rent is set for two years, but the tenant or the landlord can appeal to the RAC. It may either increase or decrease the rent set by

the Rent Service. After two years, or if there has been a significant change in the property's condition, the landlord or the tenant can apply for a new fair rent.

### **Other private renting arrangements**

For other types of tenancy (often where the landlord lives with the tenant) the landlord can charge any rent they wish. Unless there is a written agreement saying how and when rent may be increased, the only option for the tenant is to negotiate with the landlord – or leave.

### **Responsibility for repairs**

Many written tenancy agreements say which repairs the landlord must do and which ones the tenant must do. For most tenancies, if the agreement is for less than seven years, the Landlord and Tenant Act of 1985 means all landlords must keep certain things in good repair, whether or not there is a written agreement. These are:

- the structure and outside of the property;
- water, gas, electricity and drainage installations; and
- heating and hot water systems.

Landlords must also maintain gas flues and appliances belonging to

them, and get them tested every year by a Corgi-registered gas fitter (one who is registered with the Council for Registered Gas Installers). They must also give the tenant a copy of the safety certificate.

In furnished flats and houses, upholstery and soft furnishings must meet fire regulations.

For tenancies that started on or after 15 January 1989, the landlord must also keep the common areas (shared stairways, hallways and lifts, for example) in good repair. In a block of flats, they must do necessary work on any empty flats they own (for example, to prevent leaking pipes affecting flats below).

If your tenancy started before 15 January 1989, the situation is more complicated and you should get advice. Your landlord's responsibilities will depend on whether your contract says you are responsible for common areas.

'Keep in repair' includes doing repairs that were already needed when the tenancy started, and not just problems that have arisen since. The landlord must also 'make good' or redecorate when a repair is finished. As long as the landlord gives notice, they normally have the right to come into the tenant's home to check its

condition and do any repairs that are needed. They should give notice of at least 24 hours in writing, except in an emergency.

Legally, repair is not the same as renewal or improvement of a property. If you're not sure whether something counts as a repair, a housing aid centre or other advice centre should be able to help you.

### Getting repairs done

The tenant (or tenants' association) should tell the landlord about things that need repairing as soon as possible. It is best to do this in writing and keep copies of the letters.

If the repairs aren't done, the tenant should get advice from a solicitor, Citizens Advice Bureau or housing advice centre. This is because, depending on the type of tenancy, the landlord could try to:

- evict the tenant at the end of the tenancy period rather than do the repairs (assured shorthold tenants and licensees could be at risk of this); or
- increase the rent when repairs have been done (this could affect regulated tenants).

In many situations, though, it is still worth taking action. If the tenant has

told the landlord about repairs and they are not done in a reasonable time, or not done properly, the tenant can make a claim in the county court. You should get expert advice before doing this (see 'Further help' on page 27 for where to find help). The court can order the landlord to do the repairs. It can also award the tenant compensation for distress and inconvenience.

A quicker option may be to get an injunction from the courts, which forces a landlord to do the repairs (again, you will need advice before doing this). This may be combined with a claim for compensation. Whatever happens, you should never stop paying rent, as this could give the landlord a reason to evict you.

If a tenant has to move out while major repair work is done, they may be able to claim the cost of somewhere else to stay. But you should get advice before moving out, because even a temporary move could mean losing some rights as a tenant.

If you stay while the work is done, you may be able to claim compensation from the landlord for discomfort and inconvenience.

Licensees are normally in a much weaker position than tenants if they

want to get repairs done. A landlord normally doesn't have to carry out any work that is not set out in the licence agreement.

### **If the house or flat is unsafe**

If a home is 'hazardous' (its condition is seriously affecting the health or safety of the occupiers) or if it needs other kinds of major repairs, the tenant should contact the local council's environmental health officer. The council can order the landlord to do the repairs. If they don't do them within a reasonable time, the council can:

- take legal action against the landlord; or
- do the work itself and get the cost back from the landlord.

If the condition of the house or flat is affecting a tenant's health, the local council can also take action against the landlord. If the local council won't do anything, the tenant can get the magistrates' court to force the landlord to fix the property (under the Environmental Protection Act 1990). You will need expert advice to do this.

### **If the tenant arranges their own repairs**

If the landlord won't do minor repairs, a tenant can get the work done themselves. You can take the cost of the repairs out of your rent. But you must get advice first, because you must follow a special procedure, as follows:

1. Write to the landlord explaining that if the landlord doesn't do the work within a reasonable time (two weeks, for example) you are going to do it yourself and claim back the money.
2. If the work is not done in this time, get three quotes for the work.
3. Send the quotes to the landlord with a letter explaining that you will go ahead with the cheapest quote unless the landlord arranges for the repairs to be done within a certain time (two weeks, for example).
4. If the work is not done in this time, arrange for the work to be done by the company or tradesperson who provided the cheapest quote.
5. Pay for the work and send a copy of the receipt to the landlord.
6. Ask the landlord to refund the money.

7. If the landlord does not refund the money, write to them explaining that you are going to take the money from future rent payments.

If you don't follow this procedure, you may still be liable to pay all the rent. And people with assured shorthold tenancies can still be evicted for not paying their rent even if they have followed this procedure.

### **Making improvements to the house or flat**

Private tenants can make improvements to their home only if the landlord has given their written agreement first. Tenants cannot claim back the money they've spent unless the landlord agrees to this at the outset.

### **Council tenancies**

If you live in a self-contained council house or flat and are the person named on the tenancy agreement or rent book, you are probably what's called a 'secure' tenant. The main exceptions to this are as follows:

- People who have an introductory tenancy, which some councils give new tenants for 12 months (and which can be extended to 18 months in some cases).  
Introductory tenants who do not

stick to the terms of the tenancy agreement can be evicted very easily (see 'If the council wants you to leave' on page 17). After a year, if possession proceedings have not been started or the introductory tenancy has not been extended, it automatically becomes a secure tenancy.

- People housed because they were homeless (instead of being given a home through the waiting list). But if you were housed before 1 April 1997, the situation is not so clear, and you should get advice.
- People living in council accommodation that is tied to their job because they work for the council.
- Students living in designated student lets.
- People who live in council hostels or temporary council accommodation. These people usually have a tenancy or licence with basic protection or an excluded tenancy (see page 9 for more about these).
- People whose secure tenancy has been 'demoted'. This could happen if someone in your household behaves anti-socially, causes a nuisance or uses your home for

illegal activities (such as drug dealing). Tenancies like this are normally demoted for at least a year and give you fewer rights than a secure tenancy, so it is easier for the council to evict you if it wants to. If there are no problems during a demoted tenancy, you should go back to being a secure tenant.

- People who have lost their secure tenancy because of previous court proceedings, and have become 'tolerated trespassers'. If you are in this situation, the law is complicated, and you will need expert advice on your rights.

If you are not sure whether you are a secure tenant or not, you should get advice.

### **If you want to end the tenancy**

If you want to leave your council house or flat, you can do so by giving notice, usually of four weeks. If you have a joint tenancy, and one tenant wants to leave, the legal situation can be complicated, and you should get advice.

### **If the council wants you to leave**

In most cases the council must be able to prove there is a good reason to ask you to leave. Council tenants have fairly strong rights, but you

should always get advice if you are threatened with eviction.

Usually the council must serve notice warning you that it plans to take possession proceedings against you, and telling you why. You will normally get at least four weeks' notice that the council is applying to court, unless the council wants you to leave because you have been a nuisance to your neighbours. In this case you will still get a written notice, but the council can start court proceedings straight away.

If the court awards an outright possession order, and you still do not leave, the council can ask the court to call in bailiffs to evict you.

Instead of outright possession, the court may grant one of two types of order:

- An adjournment, which is when the hearing is put back to give you time to prepare your case. An 'adjournment on terms' is when the court delays the hearing for a fixed period or even indefinitely as long as you pay the rent and pay a regular amount towards the arrears.

- A postponed (suspended) order, which is when you are allowed to stay in your home as long as you stick to certain conditions, such as paying off a certain amount of arrears each month or week or not causing a nuisance to neighbours.

For most of the grounds on which the council may ask for possession, the court must decide whether it would be reasonable to make a possession order. Grounds can include if you:

- have not paid your rent;
- cause nuisance to neighbours;
- damage the property; or
- have too many people living at the property.

In certain cases, the court may grant possession if the council can prove its reason for wanting this, and show that it can find you somewhere else suitable to live. Some of these other reasons are complicated, and you should get advice.

The council may also be able to evict you if your husband or wife or partner has been forced to leave the home because of violence or threat of violence by you, and is unlikely to return.

### **Introductory and demoted council tenancies**

If the council wants to evict you

from an introductory or a demoted tenancy, it must tell you at least four weeks beforehand. It must write to you, giving its reasons and allowing you 14 days to ask for a review. If you don't ask for a review, or the review is unsuccessful, the court will automatically grant a possession order. It is very important to get advice and ask for a review as soon as you are threatened with eviction. You can sometimes challenge the council's decision to pursue a possession order against you.

### **Rent increases**

If the council wants to increase your rent, it will usually give you notice in writing. If you pay rent weekly, you should be given at least four weeks' notice. It is very difficult to challenge council rent increases in the courts.

### **Responsibility for repairs**

You should tell the council about things that need repair as soon as possible. It is best to do this in writing and keep copies of letters. Councils must have guidelines on how long it should take to do a repair, depending on how urgent it is.

If minor repairs are not done within a reasonable time, you should be able to claim compensation of up to £50. For bigger problems, you have many of the same legal options as private

tenants (see 'Responsibility for repairs' on page 13). The main difference compared with private tenants is that you can't get the council to take action against itself, as the landlord, to get repairs done.

If the poor state of your home is affecting your health and the council won't fix it, you could take a complaint to the magistrates' court under the Environmental Protection Act 1990. But you will need expert advice before doing this.

You could also try putting pressure on the council through a tenants' association or your local councillor. Tenants' associations may have the right to take over the job of looking after their members' homes from the council under the 'right to manage' scheme. You can get information about this from:

- the Department for Communities and Local Government (in England); or
- the Welsh Assembly Government (in Wales).

See 'Further help' on page 27, for details.

As a council tenant, you may be able to get compensation from the council for certain improvements you have made to your home.

You will have fewer rights to repairs if you are in temporary council accommodation or the property is due for renovation or demolition.

### **Buying your rented home**

If you have a secure tenancy, you will generally have the right to buy:

- the freehold, if you live in a house; or
- a 125-year lease, if you live in a flat.

To claim this right you must have lived in a public-sector home (for example, a council or housing association home) for a certain period:

- If your first public-sector tenancy started before 18 January 2005, you must have lived there for at least two years.
- If your first public-sector tenancy started on this date or later, you must have lived there for five years.

You do not have the right to buy if:

- you have a demoted tenancy; or
- the council is taking court action against you for anti-social behaviour; or
- you live in sheltered accommodation; or
- you live in accommodation that is provided as part of your job, and you must live there to do the job.

The cost of buying your home will be the market value, but with a discount based on the area you live in and how long you have lived in public-sector housing. The local council will say what it thinks is the market value. If you disagree with this, you can appeal to the District Valuer. If you sell your home within a particular period, you will have to repay some or all of the discount:

- If your first public-sector tenancy started before 18 January 2005, you will have to repay some or all of the discount if you sell your home within three years.
- If your first public-sector tenancy started on this date or later, you will have to repay some or all of the discount if you sell your home within five years.

But even within this period, you can pass on your home or leave it to certain family members without anyone having to repay any money.

Any period in which your tenancy has been demoted will not count towards the time you need to have rented to have the right to buy your home, or get a discount on the price.

In some rural areas, there are special rules on who you can sell property to.

You can get more details of right-to-buy schemes from your council.

## Complaining about your council

If you have a complaint you should first take it up with the council, using its complaints procedure. If you are unhappy with its response, contact:

- the Local Government Ombudsman if your complaint is about an English council; or
- the Public Services Ombudsman if the complaint is about a Welsh council.

See 'Further help' on page 27 for contact details.

## Housing association tenancies

In recent years, many council homes have been transferred to housing associations. As well as housing associations, other bodies provide 'social housing', such as housing trusts and co-operatives. Those that are registered with the Housing Corporation (in England) or National Assembly for Wales are called 'registered social landlords' (RSLs). As with council or private landlords, there are different types of tenancy:

- If your tenancy began (or you were transferred from a local council) before 15 January 1989, you probably have a secure tenancy, similar to most council tenancies.

- If your tenancy began on or after 15 January 1989, you probably have an assured or assured shorthold tenancy, similar to those with private landlords. These may be for fixed terms (of, for example, six months) or 'periodic' (running from week to week or from month to month).

With other kinds of social housing provider, such as a trust or co-operative, you won't automatically have a secure tenancy.

There are also two special types of tenancy:

- A starter or probationary tenancy, which some landlords give new tenants for up to 18 months. These are assured shorthold tenancies, and tenants who do not stick to the terms of the tenancy agreement can be evicted very easily. After a year, if possession proceedings have not been started, these tenancies should automatically become assured tenancies.
- A demoted assured shorthold tenancy, which your tenancy could become if someone in your household behaves anti-socially, causes a nuisance or uses your home for illegal activities (such as drug dealing). Tenancies like this are normally demoted by the

court for at least a year, and give you fewer rights than other tenancies, so it is easier for the landlord to evict you. If there are no problems during your demoted tenancy, you will become an assured tenant again.

If you are unsure what type of tenancy you have, check your tenancy agreement or seek advice.

### **If you want to end the tenancy**

If you want to leave your house or flat, you can do so by giving notice, usually of four weeks. If you are still in a fixed term in the tenancy, your landlord can insist that you pay rent until the end of the fixed term. You can sometimes argue against this, for example if the house or flat has serious defects, or if your landlord was able to get a new tenant soon after you left. You will need to get advice if you think either of these reasons applies to your situation.

Some fixed-term tenancies have a 'break clause', which allows you to leave before the fixed term expires. If you have a joint tenancy, and one tenant wants to leave, the legal situation can be complicated, and you should get advice.

## **If the landlord wants to end the tenancy**

In most cases, the housing association or other landlord must serve notice on you to warn you that it plans to start possession proceedings, and tell you why. At the end of the period set out in the notice, the landlord can apply to the court for possession. If the court awards an outright possession order, and you don't leave by the date given in the order, the landlord can ask the court to call in bailiffs to evict you.

Instead of outright possession, the court may grant a postponed (suspended) order, which is when you are allowed to stay in your home as long as you stick to certain conditions, such as paying off a certain amount of arrears each month or week or not causing a nuisance to neighbours.

Alternatively, the court may grant an 'adjournment on terms', which is when the court delays the hearing as long as you pay the rent and a regular amount towards the arrears. But this can happen only in certain circumstances, and you would need expert advice to see if it would be possible for you.

If you have an assured or assured shorthold tenancy, your rights as a

tenant are broadly the same as for a private tenant of the same type (for more information, see page 7&8). However, many housing associations give their tenants extra rights. If you have a secure tenancy, your rights are the same as for a secure council tenant (see page 16).

## **Rent increases**

Housing association and RSL tenancies which started before 15 January 1989 are protected by 'fair rent' controls, which means the landlord has to apply for a rent to be fixed by the Rent Service. But if you think your rent is too high, you can make your case to the Rent Service (see 'Further help' on page 27).

For assured and assured shorthold tenancies, there is little legal control over rent levels. Your rights are the same as for the same types of tenancy with a private landlord (see 'Rent increases' on page 11).

In many areas, housing association rents are lower than market rents and so can be difficult to challenge.

## **Responsibility for repairs**

You generally have the same rights and ways of getting repairs done as a private tenant does. This includes the right to take legal action or to get an injunction in court or to get your local

council involved if your house or flat is hazardous (see 'Responsibility for repairs' on page 13). If repairs are not done by a housing association or RSL after a reasonable time, you could also use the landlord's complaints procedure (see 'Complaining about your landlord' on the right).

Most housing association tenants are assured tenants, which means they can only be evicted for certain reasons, so you can take action to get repairs done without risking being evicted for doing this.

### **Buying your rented home**

Some housing association tenants have the right to buy their home. Most housing association secure tenants, and people whose homes have transferred from the council to a housing association since they moved in, have the right to buy. This works in the same way as the right to buy for a secure council tenant (see page 19).

Other tenants may be able to buy through the 'right to acquire' scheme. This is similar to the right to buy, but discounts are usually lower and fewer properties qualify.

The housing association can give you information about the right to buy, the right to acquire and any other home-ownership schemes that may be available.

### **Complaining about your landlord**

In England, your rights and responsibilities as a housing association or registered social landlord tenant are set out in the Housing Corporation charter. In Wales, housing associations are regulated by the Welsh Assembly. You can get a copy of the charter or regulations from your landlord if you don't already have one.

If you have a complaint, you should first take it up with the housing association or RSL using its complaints procedure. If you are unhappy with its response, contact:

- the Independent Housing Ombudsman Service, if you are in England; or
- the Public Services Ombudsman, if you are in Wales.

See 'Further help' on page 27 for their details.

### **Other issues**

#### **Bedsits and hostels**

Some types of rented accommodation are called 'houses in multiple occupation' (HMOs), including most:

- houses split into bedsits;
- houseshares where the people who live there are unrelated or not in a relationship;

- hostels; and
- bed-and-breakfasts.

Local councils must operate an HMO licensing scheme for buildings of three or more storeys that have five or more people from more than one household living there. They may operate a licensing scheme for other HMOs, too. The schemes enforce regulations covering things like fire precautions and fire escapes, toilets, and washing and kitchen facilities.

If you live in an HMO and you have a problem, contact the environmental health officer at the local council, who can order the landlord to make repairs or improve vital facilities.

### **Relationship breakdown**

If your relationship with your spouse or partner breaks down, your options depend on whose name or names are on the tenancy agreement, and whether you are married. For more information, see the Community Legal Service Direct leaflets 'Divorce and Separation' or 'Living Together and your Rights if you Separate'.

### **Passing on a tenancy**

An assured or assured shorthold tenancy cannot be passed on ('assigned') to someone else, unless the landlord agrees to it. A secure tenancy can usually be assigned only

to someone who would have the right to take it over after you die. However, you can usually swap your tenancy with another council or housing association tenant (called a mutual exchange).

If you have a regulated tenancy, it can be passed on only if it is a 'contractual' tenancy (unless the contract specifically says it cannot). A 'statutory' regulated tenancy cannot be passed on. If you are not sure which type you have, seek advice.

Always get advice before assigning your home to someone. If you don't follow the right procedure, you and the person you assign your home to could both be evicted.

### **Passing on a tenancy when someone dies**

If a tenant dies, another member of the family may be able to take over the tenancy (called 'succession'). With a periodic assured or assured shorthold tenancy, the tenancy automatically passes to the tenant's husband or wife or partner (whether or not they were in a civil partnership) if they were living with the tenant before they died.

However, this will not happen if the tenant who died had held the tenancy only because it had been passed to them from a previous husband, wife or partner who had died.

If there is no husband, wife or partner, the tenancy may be passed to someone else under the will of the person who has died. However, when someone has inherited a periodic assured tenancy in this way, the landlord has the right to get possession of the property (and therefore evict the tenant) if they apply to do so within 12 months of the original tenant dying.

With a secure tenancy, the tenancy passes to the husband or wife or partner (including a same-sex partner) or, if they didn't have one, to any member of the family who has lived with the tenant for at least a year before they died. When this type of tenancy is passed on, that person may have to move to a different property if the council or registered social landlord says the house or flat is larger than they need. There can be only one succession, which means the tenancy will end when the person who succeeded the original tenant dies.

If you or someone you live with has a regulated tenancy and you are concerned about what happens if you, your husband or wife, or other close relative dies, you should seek advice, because the situation is more complicated.

In all types of tenancy, if there are joint tenants, the share of the property belonging to the person who dies automatically passes to the other tenant or tenants.

### **Letting to someone else**

Tenants are usually allowed to let a room in their home to a lodger:

- unless the tenancy agreement specifically says they can't; and
- as long as the arrangement doesn't give the lodger sole rights to any part of the property.

The lodger would be classed as a licensee (see 'The difference between a licence and a tenancy' on page 4). But if the tenant creates a tenancy with a person, giving that person sole rights to part of the home, this is called sub-letting, and would need the landlord's permission. Most tenants are not allowed to sublet the whole of their home. If they do this, they could be evicted.

### **If you can't afford your rent**

If you have a low income, you may be able to get housing benefit through your local council to help you pay your rent. Your savings, as well as your income, will be used to work out whether you can get benefit, and if so, how much.

Most people who can claim housing benefit can also claim council tax benefit. For more information about housing benefit and how to apply for it:

- contact your local council or your local Citizens Advice Bureau; or
- visit the Department for Work and Pensions website.

For more information about claiming benefits generally and your rights to benefits, see the Community Legal Service Direct leaflet 'Welfare Benefits'.

If you are behind with your rent, and having problems with debt, see the Community Legal Service Direct leaflet 'Dealing with Debt'.

### **Problems with neighbours**

If you are constantly disturbed by noisy neighbours, and talking to them about the problem has not worked, you should contact the environmental health officer at your local council. It is a good idea to keep a diary about each time you are disturbed. The council can serve an 'abatement' notice or, in some cases, take away equipment (such as a stereo system). Or you can go to the county court to get an injunction to stop the noise. These procedures may also be used for some other kinds of nuisance.

In cases of harassment or anti-social behaviour by other tenants, you should tell your council or landlord. Some councils have mediation schemes to sort out disputes between neighbours. If the problem is serious, the landlord may take out an injunction to get the offenders to stop, or to evict them.

All councils and registered social landlords must have policies and procedures for dealing with anti-social behaviour. This should include policies to protect tenants who may be harassed because of their race or sex or if they are gay.

For more about dealing with problems with neighbours, see the Community Legal Service Direct leaflet 'Neighbourhood and Community Disputes'.

## Further help

### Community Legal Service Direct

Provides free information direct to the public on a range of common legal problems.

Call 0845 345 4 345

Speak to a qualified legal adviser about benefits and tax credits, debt, education, housing or employment, or find local advice services for other problems.

Click [www.clsdirect.org.uk](http://www.clsdirect.org.uk)

Find a high quality local legal adviser or solicitor, link to other online information and see if you qualify for legal aid using our calculator.

### Shelter

Free helpline: 0808 800 4444

[www.shelter.org.uk](http://www.shelter.org.uk)

Shelter also has a network of local Housing Aid Centres in England and works closely with partners in Wales (Shelter Cymru).

In England phone: 020 7505 4699

In Wales phone Shelter Cymru: 01792 469 400

[www.sheltercymru.org.uk](http://www.sheltercymru.org.uk)

### Department for Work and Pensions

[www.dwp.gov.uk](http://www.dwp.gov.uk)

### The Housing Corporation (England)

phone: 0845 230 7000

[www.housingcorp.gov.uk](http://www.housingcorp.gov.uk)

### Welsh Assembly Government

phone: 0845 010 3300

[www.housing.wales.gov.uk](http://www.housing.wales.gov.uk)

### Housing Ombudsman Service

phone: 020 7836 3630

[www.ihos.org.uk](http://www.ihos.org.uk)

### Local Government Ombudsman

phone: 0845 602 1983

[www.lgo.org.uk](http://www.lgo.org.uk)

### National Assembly for Wales

phone: 0845 010 3300

[www.wales.gov.uk](http://www.wales.gov.uk)

### Department for Communities and Local Government (DCLG)

For free housing information leaflets call the DCLG Publications Centre:

0870 1226 236

[www.communities.gov.uk](http://www.communities.gov.uk)

### Public Services Ombudsman for Wales

phone: 01656 641150

[www.ombudsman-wales.gov.uk](http://www.ombudsman-wales.gov.uk)

### Residential Property Tribunal Service

An organisation that covers rent assessment committees and the Rent Service

phone: 0845 600 3178

[www.rpts.gov.uk](http://www.rpts.gov.uk)

## District Valuer

To find your local District Valuer

[www.voa.gov.uk/dv\\_services/](http://www.voa.gov.uk/dv_services/)

phone: 020 7506 1700

## The Community Legal Service

The Community Legal Service has been set up to help you find the right legal information and advice to solve your problems.

You can get help through a national network of organisations including Citizens Advice Bureaux, Law Centres, many independent advice centres and thousands of high street solicitors. All of these services meet quality standards set by the Legal Services Commission. Look for the Community Legal Service logo, shown below.

Many of the organisations offer some or all of their services for free. If you cannot afford to pay for advice you may be eligible for financial support through the Community Legal Service Fund (Legal Aid). You can order leaflets about funding from the LSC Leaflet line on 0845 3000 343. You can also use a Legal Aid eligibility calculator on the website: [www.clsdirect.org.uk](http://www.clsdirect.org.uk)

Community  
Legal Service



## The Legal Services Commission (LSC)

The Community Legal Service and the Community Legal Service Fund are managed by the Legal Services Commission. To find out more about us visit our website at [www.legalservices.gov.uk](http://www.legalservices.gov.uk) or find the details for your local Legal Services Commission office in the phone book.

legal services

COMMISSION

The leaflets are also available online at: [www.clsdirect.org.uk](http://www.clsdirect.org.uk)

- 1 Dealing with Debt
- 2 Employment
- 3 Divorce and Separation
- 4 Renting and Letting**
- 5 Buying and Selling Property
- 6 Losing your Home
- 7 The Human Rights Act
- 8 Claiming Asylum
- 9 Welfare Benefits
- 10 Wills and Probate
- 11 Dealing with the Police
- 12 No-win, No-fee Actions
- 13 Problems with Goods and Services
- 14 Medical Accidents
- 15 Equal Opportunities
- 16 Racial Discrimination
- 17 Personal Injury
- 18 Rights for Disabled People
- 19 Community Care
- 20 Education
- 21 Immigration and Nationality
- 22 Mental Health
- 23 Alternatives to Court
- 24 Family Mediation
- 25 Veterans
- 26 Domestic Violence, Abuse and Harassment
- 27 Living Together and your Rights if you Separate
- 28 Dealing with Someone Else's Affairs
- 29 Care Proceedings
- 30 Neighbourhood and Community Disputes
- 31 Changing your Name

The leaflets are also available in Welsh, Braille and Audio

To order any of these leaflets contact the LSC leaflet line on **0845 3000 343** or email [LSCleaflets@ecgroup.uk.com](mailto:LSCleaflets@ecgroup.uk.com) or fax 020 8867 3225



This leaflet is published by the Legal Services Commission (LSC). This leaflet was written in association with Shelter.

# Shelter



LSC004E