

PRIVATE TENANCIES

Your rights if you are renting your home from a private landlord

Assured Shorthold Tenancies

Most private tenancies created since 15th January 1989 are either assured or assured shorthold tenancies, with assured shorthold tenancies being the most common.

Since 28th February 1997, all new tenancies are automatically assured shortholds, unless your landlord specifies that they are letting to you on an assured tenancy.

Eviction of assured shorthold tenants

After the initial six months of a periodic tenancy, or at the end of a fixed term of six months, or at the end of a longer fixed term, the landlord can get a possession order from the County Court without needing to show any reason for doing so. They only have to prove that your tenancy is an assured shorthold. They must give you at least two months' notice that they require possession of the accommodation. This notice is called a 'notice requiring possession'. This notice cannot end before the end of the initial six months of your tenancy, or before the end of the longer fixed term. The landlord cannot start court proceedings for possession until the notice has expired. If your landlord gives you notice, get advice immediately.

You do not have to leave at the end of the notice period, although, if you do stay, you could end up having to pay the landlords' costs of going to court. You can defend the proceedings in court or wait to see if the court issues a 'possession order'.

If your tenancy was for an initial fixed term and that has ended, you could try to agree a further fixed term with

your landlord. If no such further fixed term is agreed, the tenancy becomes a periodic tenancy and you could be given two months' notice requiring possession at any time.

If the landlord has followed the procedures for eviction properly, the court must agree to the eviction.

Assured tenancies

Assured tenants have more rights than assured shorthold tenants because the landlord must have a good reason to evict an assured tenant.

You are an assured tenant if:

- your tenancy started on or after 28th February 1997 and your landlord notified you in writing, or in your written agreement, that it was not an assured shorthold tenancy
- your tenancy started between 15th January 1989 and 27th February 1997 and, either it was not for a fixed period of at least six months, or you were not give a written notice in a special legal form saying that the tenancy was an assured shorthold

Eviction of assured tenants

Your landlord must first give you a 'notice of seeking possession' (NOSP). This must be in a special legal form and it will tell you on what 'ground' the landlord wants you out. The NOSP informs you that the landlord intends to go to court for a possession order. It has to either give you two weeks or two months' notice, depending on what ground the landlord is claiming.

For a possession order to be granted by the County Court, the landlord must prove that a ground for eviction exists. Some grounds may be described as mandatory grounds, which means that if the landlord can prove the ground applies, the court must grant possession. These grounds include:

- you are at least two months or eight weeks behind with the rent, both at the date of the NOSP and at the date of the possession hearing
- the landlord used to live in the property, or needs to live in the property, and that they gave notice at the beginning of the tenancy that they may use this ground
- the landlord is going to demolish or reconstruct the property

Other grounds that the landlord can use to apply for possession are called discretionary grounds. If the landlord applies for possession using these grounds, the court will only grant possession if it is reasonable to do so. These grounds include:

- you are behind with your rent
- you have persistently paid late
- you have caused nuisance to your neighbours
- you have damaged the property
- you have damaged furniture in the property
- the landlord has made suitable, alternative accommodation available to you

Do I have a tenancy or a licence?

Most people who rent their home from a private landlord have a tenancy. If you live in self-contained accommodation, you pay rent and your landlord does not live on the premises...you are likely to have a tenancy. Your landlord may say you have a licence because licensees have fewer rights. You may have a licence if any of the following apply to you:

- you do not have 'exclusive occupation'. This is where the landlord, someone working for the landlord, or people you share with, have the right to enter your accommodation on a more or less daily basis, for instance to clean (this often applies if you are a 'lodger' or live in a bed and breakfast hotel or

- hostel), or you share with other tenants and your name is not on the tenancy
- you don't give the landlord any money in return for your accommodation
 - you have to live in your accommodation as part of your job (you are a *service occupier*)
 - you have been provided with your accommodation by a member of your family, or a friend, and there was never any intention to create a legally binding agreement

You do not have to have a written tenancy or licence agreement. A verbal agreement with your landlord is just as legally binding as a written one. You could still have one of the types of tenancy or licence mentioned in this guide.

Eviction of a licensee

If you are a licensee, you are an *excluded licensee* and your landlord may simply be able to evict you by giving you 'reasonable' notice to quit, verbally or in writing. What is reasonable may depend on how long you have lived there and on how often you pay the rent.

If you are a *service occupier* with exclusive occupation, your landlord must get a possession order from the County Court. However, the court must give your landlord a possession order if it is satisfied that you are a licensee.

Tenants with Resident landlords

If your landlord lives in the same building as you (and did at the start of the tenancy), even if you have entirely separate accommodation (unless it is a purpose-built block of flats), your rights will depend on whether you share living space with the landlord or a member of their family.

If you do not share any living space with your resident landlord or a member of their family, you have *basic*

protection from eviction. This means that your landlord must first bring your tenancy to an end. To do this, the landlord must wait until the fixed term you agreed for the tenancy runs out or, if you did not agree a fixed term, gives you a written notice to quit. This must be in a special form and give you at least four weeks' notice. The landlord then has to get a court order to evict you if you do not leave. Although a court may delay your eviction by, at most, six weeks, it must agree to your eviction. If you share living space with your resident landlord or a member of their family, you will be an *excluded tenant* or a *licensee*. Your landlord can evict you without going to court simply by giving you notice to quit. This notice does not have to be in any special form but must give you a reasonable amount of time to leave. This could be as little as a week (if you pay rent weekly), or a month (if paying monthly).

I want to leave my tenancy/ licence

If you have a fixed term that has not expired, your landlord could hold you to this term. If you leave before it ends, you may have to pay rent up until the date it expires. Your deposit may not be returned if you owe rent when you leave. Some fixed-term tenancies have a 'break clause' allowing you to leave before the tenancy expires. Alternatively, you can find someone to take on the tenancy and suggest them to your landlord. If you are thinking about ending your tenancy or licence, always get advice about it first. The Advice and Support Centres' Housing Adviser will be able to talk through your options with you.

Organisations

Advice and Support Centre
Housing Adviser
University of Wolverhampton
Students' Union
Tel: 01902 322038
Email: advice@wolvesunion.org

Shelter
Tel: 0808 800 4444

Advice UK
Tel; 020 7407 4070
Website: www.adviceuk.org.uk

Citizens Advice Bureau
26 Snow Hill
Wolverhampton
Tel: 01902 572200