

A Shelter guide

Updated July 2013

Housing association tenancies

Understanding your rights
and responsibilities

Shelter

Housing association tenancies

This guide will give you information about tenancies provided by housing associations. It also applies to people whose homes have been transferred from the council to a housing association. If you buy a home from a housing association (eg as part of a shared ownership scheme) you have very different rights which are not covered in this guide.

This guide only offers an introduction to the law in England. If you need more detailed information, you should get advice from a Shelter advice service or citizens advice bureau, or call Shelter's free housing advice helpline **0808 800 4444** (open 8am to 8pm Mon to Fri and 8am to 5pm on weekends. Calls are free from UK landlines and main mobile networks).

Shelter's free online housing information

shelter.org.uk/advice

If you live in Wales, Scotland or Northern Ireland you can contact Shelter Cymru, Shelter Scotland or the Housing Rights Service (see pages 30–31).

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This guide gives information about the different types of tenancies provided by housing associations, and the rights and obligations that come with them. Information about how you can apply for housing association accommodation is also provided. If your problem isn't covered or fully explained see page 28.

What are housing associations and how do they work?

Housing associations provide homes for people in housing need. Some housing associations specialise in accommodation for certain groups of people, such as older people, younger people or disabled people. Housing associations vary in size, with some only having a few homes while others have many thousands.

Housing associations, along with some charities and trusts, provide 'social housing' which usually means housing at a low cost for people in housing need. Housing associations are also known as **private registered providers of social housing**. They are registered with the Homes and Communities Agency (HCA) which ensures that they act fairly and in accordance with government policy (see page 32).

How can I get a housing association home?

If you want to get housing association accommodation, you will have to apply to go on a waiting list. In most areas, there is a council-run waiting list for all council and housing association homes that become vacant. To put your name on the waiting list, you must fill in an application form which you can get from the council's housing department, or you may be able to fill it out online on the council's website.

You may be able to apply to a number of different councils, but usually applicants that have lived in the council's area for a period of time are given priority. Some councils may not accept applications from people outside their area. Not everyone can be considered for housing through the waiting list – some people are not 'eligible' and some people might not 'qualify'.

If the council decides that you are not an eligible or qualifying person you can ask for a review of its decision. For more information see Shelter's free guide *Council tenancies*.

Provide as much information as you can in your application as the council will use this to decide whether you are eligible and can qualify and, if so, how much priority you should get on the waiting list. Make sure it is accurate as the council will check your details if it is likely to offer you property. A council must give you information, free of charge, about how to apply, who is eligible and who qualifies to go on its waiting list.

Some housing associations also keep their own separate waiting lists. Contact housing associations in your area to find out whether you can apply directly. You can get a list from the Homes and Communities Agency (see page 32).

If you are homeless

If you are homeless, or likely to become homeless within the next 28 days, contact your local council and tell them that you want to make a homelessness application. What sort of help you will get depends on your personal circumstances. This guide does not provide information about how the council can help homeless people, for this see Shelter's free guide *Homeless? Read this*.

How long will I have to wait?

You can ask the council, or the housing association if you applied direct to them, whether you are likely to get a home through the waiting list and, if so, roughly how long it is likely to take. The chances of getting a housing association tenancy will depend on:

- your personal circumstances
- how many properties become vacant
- the number of people who have applied
- how the council or housing association decides who should get a place first

- the type and size of property you are willing to accept.

There is a long wait in some areas, and many people may never get an offer.

Will I get a choice?

If you are on the council-run waiting list, some councils will offer places to applicants who come to the top of the list for the particular type or size of property that has become vacant. However most councils allow you to 'bid' for properties, a property is then offered to the bidder with the highest priority. This system is known as **choice-based letting**.

Available properties are usually advertised on the council's website or in newsletters available from local libraries, housing offices and community centres. There may also be a special website advertising properties in your area.

Under a choice-based letting scheme you can bid for as many council or housing association properties as the council scheme allows. You will normally only be able to bid for properties that are the right size for your household. Bids for some properties may be restricted to certain groups (eg sheltered housing for the over 60s).

When there is no choice-based letting scheme if you refuse an offer the council makes, you may not get another. If you think the offer is not suitable, perhaps because of your health, or because you don't like the area, it may be advisable to accept the offer anyway. This is because if you don't accept the first offer and the council disagrees with your reasons, it may not offer you another property for some time.

If you accept the property, you can also ask the council to review the offer and tell it why you think it is unsuitable. If the council does not offer you another property, get advice from a Shelter advice service or citizens advice bureau to find out whether you can take action (see pages 30–31).

If you applied to a housing association directly you should ask them about their policy and whether they allow you to have any choice.

What types of tenancy do housing associations provide?

It's very important to check the type of tenancy you have, especially if you are having problems. The type of tenancy you have will affect for example:

- how the housing association can evict you (see page 21)
- whether you can pass your tenancy on in the event of your death (see page 15)
- whether you can buy your home (see page 18)
- whether you can get a transfer or exchange your home (see page 13).

The easiest way to find out what type of tenancy you have is to check your tenancy agreement. All housing associations should give you a written tenancy agreement. If you are not sure what type of tenancy you have, contact the housing association or get advice (see page 28).

The type of tenancy you have usually depends on when your tenancy started and/or the type of accommodation you have:

- Most tenants who moved in after 15 January 1989 are **assured tenants** (see page 8).
- If you are a new tenant, or haven't had your tenancy for long, you may have a **starter tenancy** (see page 9).
- If the housing association got a court order to demote your tenancy, you will have an **assured shorthold tenancy** (see page 9).
- The housing association granted you a **family intervention tenancy** when you agreed to engage with behaviour support services as an alternative to eviction (see page 10).
- If your tenancy started before 15 January 1989, you are probably a **secure tenant** (see page 9), although if your tenancy was transferred from the council to a housing association you will be an assured tenant.

- If you live in a hostel, temporary accommodation arranged by the council when you made a homelessness application, or housing where support is provided, you could be either an **assured** or **assured shorthold tenant**, an **occupier with basic protection**, or an **excluded occupier**.
- If you work for a housing association and have to live in one of its properties in order to do your job (for example, as a caretaker), you may be a **service occupier**. Your right to live in your home will normally end if your job does, eg if you are made redundant. If you have an employment contract, check to see if it says anything about your accommodation.

A tenancy could be in your name only (a sole tenancy) or shared with someone else (a joint tenancy). Joint tenants have equal rights in the property and:

- each person is responsible for paying the whole of the rent – even if the other person does not pay their share
- if one person ends the tenancy, it will end for everyone (see page 20)

The rights of different types of tenant are explained below.

Assured tenancies

Most housing association tenants have an assured tenancy. Assured tenants have stronger rights than most other tenants and can only be evicted in the situations specified by the law.

As an assured tenant you may be able to:

- pass on your tenancy in the event of your death
- get a transfer
- exchange your home
- buy it at a discount.

You can take in a lodger with your landlord's written permission. More information about these rights is provided later in this guide.

You should check your tenancy agreement to make sure of your rights because different housing associations give different rights. You could lose some of these rights if your tenancy is demoted (see page 10).

Assured shorthold tenancies

Housing associations often grant assured shorthold tenancies. They can either be for a **fixed term** (for a set period of time, such as two years), or **periodic** (rolling from week to week or month to month). Once a fixed-term tenancy comes to an end, it will automatically become a periodic tenancy if it is not renewed.

Assured shorthold tenancies are similar to assured tenancies, but you can be evicted from them more easily (see page 21).

Some housing associations will grant assured shorthold tenancies to new tenants, this is often referred to as a **starter tenancy**. This is to give new tenants a 'trial period', or probationary tenancy, on the basis that if you keep to the terms of the tenancy in the first year, you will then be given an assured tenancy or an assured shorthold tenancy, normally with a fixed-term of at least five years.

Some housing associations will grant assured shorthold tenancies for a fixed term. For tenancies that are not 'starter tenancies' the length of the fixed term will be at least five years, except in exceptional circumstances when it could be for as little as two years.

Your other rights are similar to those of assured tenants except that you may not have the right to exchange your home (see page 14) or to buy your home at a discount (see page 18).

Secure tenancies

If your tenancy started before 15 January 1989 you will probably have a secure tenancy. You will also probably have a secure tenancy if you moved into your current home after 15 January 1989 but had a tenancy in a different property with the same housing association before that date. If you moved in before 15 January 1989, but your tenancy has since been transferred from the council to a housing association you will be an assured tenant.

Secure tenants have greater rights than most other tenants and can only be evicted in the situations specified by the law. As a secure tenant you may be able to pass on your tenancy in the event of your death, get a transfer, exchange your home or buy it at a discount. You can also take in a lodger, though your tenancy agreement may say that you must tell your landlord. More information about these rights is provided later in this guide.

You could also lose some of these rights if your tenancy is demoted.

Demoted tenancies

If you have an assured tenancy or a secure tenancy, a housing association can get a court order to downgrade your tenancy to a demoted tenancy, and you can be evicted more easily.

A demoted tenancy gives you largely the same status as an assured shorthold tenant with a starter tenancy. Demotion gives a housing association an alternative to eviction if you are causing a nuisance through antisocial behaviour. You do not lose your home and will become an assured tenant after 12 to 18 months, unless the housing association has begun court proceedings to evict you.

The housing association has to get a court order to downgrade your tenancy and it must give you at least two weeks' written notice if you are an assured tenant, or four weeks if you are a secure tenant, before it can apply to the court. It is very important that you stick to the conditions of your tenancy agreement while your tenancy is demoted. If you don't, you could very easily lose your home.

If you experience any problems during the demotion period, you may want to get advice from a Shelter advice service or citizens advice bureau (see pages 30–31).

Family intervention tenancies

This is a type of tenancy that a housing association can offer to assured or secure tenants who are willing to engage with behaviour support services. It is aimed at families that have been involved in antisocial behaviour, and can be used as an alternative to possession proceedings.

A family intervention tenancy lasts between six months and two years, at the end of which you will become an assured or assured shorthold tenant, unless steps have been taken by the housing association to evict you.

I live in supported housing

Housing associations often provide supported housing. Supported accommodation can vary widely. Sometimes housing associations grant assured tenancies and provide support as well. Sometimes they grant assured shorthold tenancies because the person's support needs may change and this means they can be moved to other accommodation more easily. In other cases, the level of support is so high that the person does not have a tenancy at all.

If you live in supported housing, check your tenancy agreement to see if it says what type of tenancy you have. However, if you're having problems, it is a good idea to get advice from a Shelter advice service or citizens advice bureau on what your tenancy type is, because it might not necessarily be what it says on your agreement and you might have more rights than you think (see pages 30–31).

I live in temporary accommodation or a hostel

In some cases, people who live in hostels or temporary accommodation for homeless people can be evicted without much notice and without going to court.

If you live in a hostel or temporary accommodation and the housing association wants you to leave or you are having problems in the accommodation, you may need to get independent advice from a Shelter advice service or citizens advice bureau (see pages 30–31).

What information should the housing association give me?

The housing association should give you a **written tenancy agreement** explaining the responsibilities and rights you have as a tenant.

It should say:

- what kind of tenancy you have (see page 7)
- how you could be evicted (see page 21)
- how repairs should be carried out (see page 15)
- how much rent you have to pay, when you have to pay it, and when it can be increased (see page 16)
- if there are any service charges (eg for heating or cleaning).

The Homes and Communities Agency publishes the standards of service housing associations should provide, for more information visit www.homesandcommunities.co.uk

Can I take in a lodger?

If you are a secure tenant, you have the right to take in a lodger. Although your tenancy agreement might say you must tell your landlord. For other types of tenancy you don't have an automatic right to take in a lodger and you should check if your tenancy agreement allows it.

Often you will be allowed to but will have to get written permission from the housing association first. If you allow someone to move in without permission, you could be evicted.

Regardless of the type of tenancy you have, bear in mind that any benefits you're claiming may be reduced as your income increases because someone is paying you rent.

Whatever type of tenancy you have, you are not allowed to rent out the whole of your home to someone else, even if you intend to return. If you do this and the housing association finds out, you will probably be evicted.

Can I move out temporarily?

It's a condition of nearly all housing association tenancies that you occupy the property as your 'only or principal home'. If you do not fulfil this condition, you will lose a lot of your rights (eg the right to pass your

tenancy on in the event of your death) and the housing association can end the tenancy by serving a notice to quit and getting a court order.

You do not have to stay in the home at all times to occupy the property as your 'only or principal home'. You will not lose any rights if for example you go on holiday or spend some time in hospital. However, the issue may arise if you are away for a lengthy period or you have been living elsewhere.

If you are going to be away for a while, you should talk to your housing officer about how you can be contacted or how the rent will be paid. You may also want to get advice from a Shelter advice service or citizens advice bureau (see pages 30–31).

If you are claiming housing benefits, you can continue to get housing benefit if your absence will no longer than 13 weeks – in limited cases you can get housing benefit if you are going to be away for up to one year. See Shelter's free guide *Housing benefit* for more information.

Can I get a transfer?

If you want to move, and you are an assured, assured shorthold or secure tenant, it may be possible to get a transfer to another property owned by your housing association.

Most housing associations have a waiting list. You are more likely to be offered another property if your current home isn't suitable for you. Even if this is the case, you may have to wait a long time until a suitable property is available, particularly if you need a large property.

You can also apply to your local council to go on its housing waiting list, or to go on the list of another council or housing association property in the area, and sometimes outside of your area. All councils have to follow certain rules but each council's waiting list may operate very differently, and not everyone can be considered for housing through the waiting list.

Most councils have leaflets explaining how its system works. For more information see Shelter's free guide *Council tenancies*.

If you are a tenant in London, you can register for a transfer to another London borough by visiting www.housingmoves.org

Can I exchange homes with another tenant?

If you are a secure, assured or assured shorthold tenant you may be able to exchange homes with another council or housing association tenant. You can exchange with someone in your area, or with a tenant in another part of the country. This process is known as **mutual exchange**.

However, you must both get permission from your landlords and the exchange must be arranged properly. Otherwise, you could both lose your homes.

The landlord can only withhold permission for certain reasons and if it does it must give its reasons in writing. If either of you have rent arrears, the landlord can refuse to allow the exchange until these are paid off. It is possible to have mutual exchanges involving more than two tenants.

You should also check what type of tenancy you would have after the exchange, as you might end up with fewer rights. Depending on which type of tenancy you have/exchange with you may retain your current type of tenancy or you may take on the type of tenancy the other tenant has.

There are a number of organisations that arrange swaps (such as HomeSwapper, see www.homeswapper.co.uk) – ask your housing association, a Shelter advice service or citizens advice bureau for details (see pages 30–31).

If you have a demoted or family intervention tenancy, you cannot exchange your home.

Can I pass my tenancy on if I die?

If you have a joint tenancy, the other joint tenant will automatically take over the tenancy when you die.

If you are the only tenant, there are rules about who the tenancy can be passed on to. This process is called **succession** and can only happen

once, unless your tenancy agreement allows for more than one succession.

If you are an assured or assured shorthold tenant, the tenancy can only pass to your spouse, civil partner or cohabitee who was living in your home at the time of your death, unless your tenancy agreement also allows for a family member to succeed.

If you are a secure tenant your tenancy can be passed on to your spouse or civil partner, as long as s/he has been living in your home at the time of your death. If you are not living with a spouse or civil partner, your cohabitee or a member of your family may be able to take over the tenancy if s/he has been living with you for at least one year.

Only certain people are classed as being 'members of your family', these include: parents, grandparents, children, grandchildren, siblings, uncles, aunts, nephews and nieces. If more than one person living in your home qualifies to succeed, then your spouse or civil partner takes priority.

If you have a tenancy that is not an assured, assured shorthold, or secure tenancy, you probably don't have the right to pass on your tenancy.

If you are a secure tenant you can **assign** your tenancy to any person who would be entitled to take on the tenancy by succession in the event of your death. If you are an assured or assured shorthold tenant you can only assign your tenancy if the housing association agrees to it.

Assignment means that the tenancy is legally transferred into someone else's name during your lifetime. The correct procedure must be followed or the assignment will not be legal.

What if I need repairs to be carried out?

As your landlord, the housing association is responsible for most, but not all, repairs. It is usually responsible for repairs to:

- central heating, gas fires, flues, fireplaces, ventilation and chimneys
- water, pipes, basins, sinks, toilets and baths, drains and guttering
- internal walls and ceilings, including plasterwork

- the structure and exterior of the building (eg walls, roof, external doors and windows)
- sinks, baths, toilets and other sanitary fittings, including pipes and drains
- gas pipes, electrical wiring, and some appliances provided.

Your landlord is also responsible for fixing any damage to internal decorations caused by the disrepair or while repairs were being made.

Your tenancy agreement, or an accompanying tenants' handbook, will usually set out the repairs the housing association will carry out and how quickly the different sort of repairs should be done. If you have a repair problem, report it to the housing association as soon as possible – it's always best to do so in writing as well as speaking to your housing officer. Keep a note of what you reported, to whom, and when.

Your landlord is not required to fix any damage caused by you, anyone in your household, or any guests, whether the damage was caused accidentally or on purpose.

For further information about your landlord's responsibilities and the steps you can take to get repairs carried out see Shelter's free guide *Getting repairs done*.

What are the rules on rent and rent increases?

The housing association will set the amount of rent you have to pay. In most parts of the country the rent is usually less than private landlords would charge for a similar property, sometimes significantly less.

Although for new built or converted properties some housing association may charge what is called an 'affordable rent', which can be up to 80% of the market rent.

Your rent may also include charges for water rates or services, such as heating or use of a garage. Ask the housing association exactly what the rent includes if you are unsure.

The amount of rent you pay will normally not go up more than once per year. Most tenancy agreements will have a 'rent review clause', and this will tell you when and, roughly by how much your rent will go up.

If you were a council tenant and your home was transferred to a housing association, you may have been given a rent guarantee for a period of time. In this situation, your housing association cannot put your rent up above the amount specified in the guarantee.

If you are an assured or assured shorthold tenant and there is no rent review clause in your tenancy agreement, the housing association must give you at least one month's written notice before increasing the rent.

If you think the increase is excessive or unfair you can appeal to the First-tier tribunal (previously called the Rent Assessment Committee). You must apply for an appeal before the date that your rent is due to increase. Although the First-tier tribunal can put rents up as well as down if it considers your rent is too low.

If you are a secure tenant your rent must be a 'fair rent'. This means that if there is not a rent review clause in your tenancy agreement your rent can only be increased by an independent rent officer and this will be the maximum rent the housing association can charge.

What if I'm having problems paying my rent?

You can claim housing benefit if you are on benefits or have a low income. Although, you may not be entitled to any housing benefit if you:

- have savings of over £16,000 (unless you are getting pension credit)
- are a full-time student
- are a 'person from abroad', or have been living abroad. Some people from abroad are entitled to housing benefit – this is a complicated area, see Shelter's free guide *Housing benefit* for more information.

To claim ask your housing officer or your local council for an application form as soon as possible. Sometimes you can also claim online on the council's website. Claim forms may also be included with application packs for other benefits, such as income support or jobseeker's allowance.

If you under-occupy your home (you have more bedrooms than the rules say your household needs) and you are below pension age, your housing benefit will normally be reduced. You will be expected to pay the rent for the extra rooms yourself. To see if you will be affected, use Shelter's online checker tool at tinyurl.com/bedroomtax-checker

It is very important to provide all the information the form asks for. If you hand in any forms or provide any documents (such a birth certificate, wage slips etc), always ask for a receipt and take photocopies of them if possible. See Shelter's free guide *Housing benefit* for more information.

If you're struggling to pay your rent, or you have already fallen behind, it is always a good idea to speak to your housing officer. It is often possible to sort things out if you act quickly. If you don't do anything, the situation is likely to get worse and you risk losing your home. Shelter's free guide *Rent arrears* provides information about your options.

Can I buy my home?

Only some housing association tenants have the 'right to buy' their home. You may qualify if you are a secure tenant or you used to be a council tenant and your home has been transferred to a housing association. If you do qualify you will be entitled to buy it at a discounted price, the maximum discount you can get is £75,000 except in London boroughs where it's £100,000.

If you don't have the right to buy, there is a similar scheme for certain other housing association tenants. This is known as the 'right to acquire'. You should check with your housing association to see if you qualify.

Alternatively, you may be able to buy a home through a low cost home ownership or shared ownership scheme, designed to help people get on the property ladder. Shared ownership schemes involve you buying a share in a property, and paying a rent to a housing association which owns the remainder. Low-cost home ownership schemes usually involve being offered a loan, that otherwise might not be available to you, to help buy a property on the open market.

What if I'm having problems with neighbours?

Many disagreements between neighbours can be sorted out by talking. Problems often start with disagreements about property boundaries or noise. Although these disputes can be distressing, it's often possible to sort things out through mediation.

Mediation helps both sides to listen to each other and find a solution that everyone is satisfied with – it isn't about working out who's right and who's wrong. Many housing associations can arrange mediation services for their tenants, see [tinyurl.com/neighbour-dispute](https://www.tinyurl.com/neighbour-dispute)

Most housing associations have been getting tougher on people who behave antisocially, or threaten to do so. They will usually investigate the complaint first, and attempt to resolve the problem informally. This can take some time. Although, if a housing association is satisfied that there is a serious problem, there are several options open to it, such as taking the tenant to court to evict her/him where s/he, or a member of her/his family, is causing the problem.

Can I get involved in the management of my home?

Your housing association is required to consult and involve all tenants in decisions that are likely to affect you. You might be able to join a tenants' committee and help in the running of the housing association. If you want to get involved, ask the housing association for details.

Homes transferred from councils to housing associations

Sometimes councils transfer some or all of their housing stock to a housing association. This is called voluntary transfer. If a council wishes to do this, it must hold a ballot of its tenants. A majority of the tenants have to be in favour before the sale can go ahead.

After a voluntary transfer takes place, the council's secure tenants become assured tenants of the housing association. However, they keep the right to buy their home (the preserved right to buy). Most other tenants of the same housing association will not have this right.

Transferring tenants may also be allowed to keep other rights they had as secure tenants, in order to get them to vote in favour of the voluntary transfer. These tenancies are often called **enhanced assured tenancies**.

What if I want to leave?

You must end your tenancy properly if you want to leave. For most tenancies, you will have to give at least four weeks' notice in writing, but check your tenancy agreement as it might be more.

The notice usually has to end on a day when the rent is due, or the day before, but again check what your tenancy agreement says. Once the notice ends, your tenancy ends, and you no longer have any right to live in your home. If you have a fixed-term tenancy you cannot give notice during the fixed term unless your tenancy agreement says this is allowed.

If you have a joint tenancy, the actions of each individual tenant will affect all of your rights. For instance:

- if one of you gives valid notice to the council, the tenancy will be ended for all of you, whether you agree to the notice being given or not. This does not apply during the fixed term of a fixed-term tenancy
- if one of you leaves without giving notice, the whole rent will still be due and the other(s) will have to pay the missing person's share.

If you are a joint tenant and are thinking about leaving, be sure to discuss it with the other joint tenant(s) before you take any action.

It is not enough to hand back the keys or walk away, if you do this you will still be liable for the rent. But it is possible to end your tenancy without giving notice, if you can come to an agreement with the housing association. This is called **surrender**. If you have a joint tenancy, all of the joint tenants must agree for the surrender to be valid.

It's always best to put what's been agreed in writing so everyone knows where they stand.

Can my housing association evict me?

The steps the housing association must follow if it wants to evict you will depend on the type of tenancy you have. Normally, it will have to give you notice that it is going to start court proceedings and it must always get a court order. If you are threatened with eviction for any reason, you may want to get advice from a Shelter housing advice service or citizens advice bureau (see pages 30–31).

Assured and secure tenancies

If you are an assured or secure tenant, the housing association can only evict you if it:

- gives you notice that it is going to ask the court to evict you, and
- can prove a legal reason (or 'ground') for the eviction, and gets a court order – but, even if it gets one, the court may say that you can stay in your home if you keep to certain conditions.

What notice will I get?

Before the housing association can go to court, it has to give you a written **Notice Seeking Possession**. The notice has to set out the **grounds** (legal reasons) why it wants to evict you. Depending on your circumstances it must give you either two weeks, four weeks, or two months' notice before it starts court proceedings.

The only exception is if the housing association wants to evict you because it says you have been involved in nuisance, antisocial behaviour, or domestic violence. In these cases, it won't have to give you any notice at all.

The notice is valid for 12 months. If the housing association doesn't start court action before the end of that time, it has to begin the process again.

The housing association does not have to go to court after it has served a notice, and if you come to an agreement to, say, pay off any rent arrears it may not do so. It is important that if you do make an agreement it is something you can realistically meet.

If you don't respond to the notice, or if the housing association isn't satisfied with your response, the next step it will take is to apply to the court for a possession order. You will then receive papers from the court, setting out:

- that the housing association is applying for 'possession' of your home
- the grounds the housing association is relying on
- the date and time of the court hearing.

What grounds can the housing association use to evict me?

Assured and secure tenants can only be evicted on certain grounds. On some grounds, the judge can decide that it's not reasonable to evict you, even if the housing association can prove that the grounds are true. These are **discretionary grounds**.

On other grounds if the housing association can prove that the grounds are true, the judge must make an order for possession, except in very limited circumstances. These are **mandatory grounds**. The grounds for eviction include:

- you break your tenancy agreement
- you have two months'/eight weeks' arrears (a 'mandatory' ground)
- you have some rent arrears or a history of late payment (a 'discretionary' ground)
- you, your family or people that visit you cause a nuisance or antisocial behaviour
- you use your home for illegal activities, such as drug dealing
- you are violent towards your spouse or partner and s/he leaves as a result

- you lied about your circumstances in order to get the tenancy
- the housing association plans to demolish or carry out major works in your home.

If the housing association wants to evict you solely because of rent arrears it must follow the Rent Arrears Protocol which sets out certain steps it must take before going to court. This includes writing to you about the arrears, helping you with your housing benefit and offering other support if you are vulnerable. The housing association must also try to reach an agreement with you to repay the arrears so that going to court can be avoided if possible. For more information see Shelter's free guide *Rent arrears*.

Whatever the grounds, you may want to get advice from a Shelter housing advice service or citizens advice bureau (see pages 30–31). An adviser may be able to help you negotiate with your landlord, and/or represent you in court.

Demoted and starter tenancies

Demoted and starter tenants have assured shorthold tenancies and can be evicted much more easily than assured or secure tenants. The housing association doesn't have to have a legal 'ground' to evict you but it should tell you the reason why it have decided to evict you. It must give you notice which does not have to be on, or in, any special form but it must:

- be in writing
- not expire for at least two months.

This notice is often referred to as a **Section 21 notice**. After the notice has expired the housing association must go to court to get an order to evict you. In most cases, if it followed the correct procedure, the judge will have no choice but to order an eviction. In very exceptional cases you may be able to argue that the housing association has acted unfairly or unlawfully and that a possession order should not be made.

Other assured shorthold tenancies

Like demoted and starter tenancies, housing associations don't need to prove a reason (or ground) in order to evict assured shorthold tenants. However, they should tell you why they have decided to evict you.

Before going to court it must give you notice which is often referred to as a **Section 21 notice**. It does not have to be on, or in, any special form but it must:

- be in writing
- not expire for at least two months.

In addition, if you have a fixed-term assured shorthold tenancy that was for a minimum period of two years and it started after 31 March 2012 the housing association must also give you a notice of 'non-renewal', at least six months before your tenancy ends telling you that your tenancy will not be renewed.

In most cases, if it followed the correct procedure, the judge will have no choice but to order an eviction. In very exceptional cases you may be able to argue that the housing association has acted unfairly or unlawfully and that a possession order should not be made.

Temporary accommodation, supported housing and hostels

If you live in supported housing, temporary accommodation, or a hostel, and you are being threatened with eviction, you may want to get advice from a Shelter housing advice service or citizens advice bureau (see pages 30–31). Advisers can check the type of tenancy you have and explain what your rights are.

Some people may not be entitled to a court order, or even to written notice. Don't assume that the local council will have to rehouse you if you apply as homeless. See Shelter's free guide *Homeless? Read this* for more information.

If you receive support and care and your housing association gives you notice of eviction, the housing association is meant to offer advice and assistance and inform other agencies involved of the action being taken.

You should take advantage of any help these agencies can provide, because your other options will be very limited.

Note: if you live in temporary accommodation, supported housing or a hostel, the following two sections on pages 25–28 may or may not apply to you.

What if the housing association goes to court?

It is important for you to go to the court hearing so you can put your side of the case to the judge to help her/him make a decision about whether to evict you or not. Take along any supporting evidence you have, such as evidence of rent payments, photos of repair problems in your home, housing benefit delays, and evidence of your finances, such as wage slips and bank statements. If you have missed rent payments be prepared to explain the reasons why.

Get to court early, if you arrive late, the court may already have made a possession order.

Hearings do not take very long, and can be over in minutes. If possible, get advice before the court hearing. However, many county courts run a scheme where there may be an expert such as a solicitor or housing adviser at the court who can help you to put your case to the judge. It is always worth asking if there is a 'duty advocate' or 'duty solicitor' when you arrive at the court.

Even if the housing association tells you that you don't need to attend the hearing, it's important to go along. If you don't attend, the judge will make a decision in your absence, and is more likely to make a decision in your landlord's favour. If you are ill, get a message to the court explaining why you can't attend to see if the case can be adjourned (postponed) until you are well.

The hearing will be in private, which means that members of the public can't sit in court. However, it may take place in one of the big court rooms. Possession hearings are usually quite informal, but you may want to take along a friend for moral support. It is best not to take children if you can avoid it as children may not be allowed to go into the court room.

What orders can the court make?

Depending on the type of tenancy you have and the ground on which the housing association is applying for possession, there are several types of order that the judge can make. The judge will make a decision at the court hearing. It is likely that the judge will do one of the following:

- **strike out/dismiss the housing association's claim** – the judge could do this if the housing association hadn't followed the proper procedure or the grounds for possession were not proved (eg you were not responsible for any antisocial behaviour). It will have to start the process again if it wants to evict you.
- **Adjourn the hearing to another date** – this may be to give you more time to prepare your case, or to check that you are sticking to conditions.
- **Adjourn the hearing on a condition** – for example that you regularly pay your rent and something towards the arrears. If you stick to the conditions, it may not go back to court at all.
- **Make a suspended or postponed order for possession** – a possession order is made but it allows you to stay in your home as long as you stick to certain conditions. The conditions will be set out in the order (eg to pay the rent plus the arrears in instalments, or ensure your children don't cause a nuisance).

If the order is suspended this means that the housing association can apply to the court for a bailiff's warrant to evict you if you break the conditions.

If the order is postponed, and you break the conditions, the housing association can apply to the court for a date to be fixed when you have to leave. After this, the landlord can apply for a bailiff's warrant.

- **Make an outright possession order** – which means that the property will be given back to the housing association on a certain date. If you don't leave, the housing association can ask the court to send a bailiff to remove you and your belongings from your home.

You should be sent a letter first, but you will only have a few days before you have to leave.

- **Make a money judgment** – if you go to court because of rent arrears the judge may make a money judgment as well as a possession order (or adjournment). This means that you have to pay the rent arrears, regardless of whether you are evicted. This will affect your credit rating, which could make it difficult to find a new home.

Will I have to pay the housing association's legal costs?

Unless the case is dismissed, you will usually be ordered to pay your landlord's court costs, even if a possession order is not made. This will usually be around £200 to £300, though it could be more. In most cases the housing association will add the amount to your rent statement. You can ask the court to allow you to pay off the costs in instalments.

If you think you should not pay your landlord's costs because the action has been brought unfairly, you should explain this to the judge at the hearing. If you are not sure, get advice from a Shelter housing advice service or citizens advice bureau (see pages 30–31).

Can I ask the court to change the order/stop the bailiffs?

If a suspended/postponed order for possession is made, and you are worried that you will not be able to keep to them, perhaps due to a change in your circumstances, you can apply to the court to get the conditions changed.

If the housing association has asked for the bailiffs to evict you, you can apply to the court to stay or suspend the warrant. The court may agree to halt the eviction while you try to put things right. You might, for example, get some extra time to pay off some or all of your rent arrears. For more information about what you can do to try to stop the bailiffs, see Shelter's free guide *Rent arrears*.

To ask the court to change an order or stay or suspend the warrant, you need to:

- fill in an application form (an N244) that's available from the county court offices or can be downloaded from the 'Forms' section of www.justice.gov.uk
- explain why you think the order should be changed
- pay a court fee, unless you can show the court you are exempt because you are on a low income.

How do I make a complaint?

Your housing association must have an official complaints procedure, which tenants can use if the services provided are not satisfactory. If you want to make a complaint, ask the association for its complaint form. Fill it in, return it, and keep a copy.

Each housing association has a different complaints procedure, but the housing association will have to respond to your complaint within a certain time. You may be able to meet with senior staff or committee members to discuss your complaint.

If you have exhausted the complaints procedure and are not satisfied with the outcome of your complaint, you can complain further to the Housing Ombudsman Service (see page 31).

The Ombudsman will decide whether to investigate your complaint, if it does and upholds your complaint it can recommend that the housing association takes specific action and pay you compensation. Its services are free and independent.

Where to get further advice

This guide is only an introduction to the law in England. If your situation isn't covered or fully explained here you should contact an adviser.

An adviser may be able to help by:

- explaining the rights you have
- helping you challenge a decision you are unhappy with
- explaining complicated legal matters.

You can get advice from a local Shelter advice service, citizens advice bureau, or by contacting Shelter's free housing advice helpline on 0808 800 4444, or by visiting [shelter.org.uk/advice](https://www.shelter.org.uk/advice)

Help from a solicitor

If you decide to see a solicitor, you may be entitled to public funding, often referred to as legal help and legal aid. Not all problems qualify for legal help, but if your issue does, you will qualify for legal help if you are on certain benefits or you have a low income. There is a 'means test'. To qualify for legal aid you must also have a good chance of success in court. Your solicitor will be able to advise you about this. To check if you are eligible visit www.gov.uk/check-legal-aid

Under legal aid, the solicitor can represent you in court proceedings and her/his fees are paid by the Government. If your income is above a certain level you may have to pay a contribution.

Not all solicitors do legal aid work. You can get details of those who do from Civil Legal Advice (see page 31). If you do not qualify for legal aid, a solicitor may be willing to do a first interview with you for a fixed fee, but following that, the fees can get expensive.

Contact Shelter

You can call our free housing advice helpline. Calls to Shelter and Shelter Scotland are free from UK landlines and main mobile networks. We can provide minicom or interpreting services.

The cost of calling Shelter Cymru will depend on your landline and mobile provider and your contract with them.

Shelter

 **0808 800 4444**

Mondays–Fridays: 8am–8pm
Weekends: 8am–5pm

Shelter Cymru

 **0845 075 5005**

Mondays–Fridays: 9am–5pm

Shelter Scotland

 **0808 800 4444**

Mondays–Fridays: 9am–5pm

For online information about your housing rights and details of local advice services, visit:

- shelter.org.uk/advice
- sheltercymru.org.uk
- shelterscotland.org

Useful organisations

Advice UK

☎ 0300 777 0107
mail@adviceuk.co.uk
www.adviceuk.org.uk

Citizens Advice

☎ 08454 04 05 06
www.citizensadvice.org.uk

Civil Legal Advice

☎ 0845 345 4345
<https://claonlineadvice.justice.gov.uk>

Court service

www.justice.gov.uk/about/hmcts

Gov.uk (the Government's public services website)

www.gov.uk
Find a legal adviser:
www.gov.uk/find-a-legal-adviser
Eligibility for legal aid:
www.gov.uk/check-legal-aid

Homes and Communities Agency

www.homesandcommunities.co.uk

HomeSwapper

www.homeswapper.co.uk

Housingmoves

www.housingmoves.org

Housing Ombudsman Service

☎ 0300 111 3000
www.housing-ombudsman.org.uk

Housing Rights Service

(Northern Ireland)
☎ 028 9024 5640
www.housingadviceni.org

Jobcentre Plus

To claim for benefits:
☎ 0800 055 6688
www.gov.uk/browse/benefits
To apply for a NI number:
☎ 0300 200 3505
www.gov.uk/national-insurance

Law Centres Network

www.lawcentres.org.uk

Law Society

www.lawsociety.org.uk/find-a-solicitor

Leasehold Advisory Service

☎ 020 7383 9800
www.lease-advice.org

Local Government Ombudsman

☎ 0300 061 0614
www.lgo.org.uk

National Debtline

☎ 0808 808 4000
www.nationaldebtline.co.uk

National Housing Federation

☎ 020 7067 1010
www.housing.org.uk

The Money Advice Service

☎ 0300 500 5000
www.moneyadviceservice.org.uk

We help over a million people a year struggling with bad housing or homelessness – and we campaign to prevent it in the first place.

We're here so no-one has to fight bad housing or homelessness on their own.

Please support us at **shelter.org.uk**

Until there's a home for everyone

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