

A Shelter guide

Council tenancies

Understanding your rights
and responsibilities

Shelter



Council tenancies

This guide gives information about the rights and responsibilities council tenants have. It also explains how councils decide who they should house.

If you have bought your home through the Right to Buy, or if your home comes with your job, your rights and responsibilities are very different and are not covered in this guide. Contact an adviser as soon as you can if you need help (see page 4).

If you need housing immediately, see page 4 and Shelter's free guide *Homeless? Read this* for information about how the council may be able to help.

This guide only applies to England and Wales. If you live in Scotland or Northern Ireland, the law is different, and you should contact Shelter Scotland or the Housing Rights Service (details on page 22) for help and advice

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Where can I get help if I'm having problems?

This guide is only an introduction to the law. If your problem isn't covered here, or you are having problems dealing with the council, you'll need to contact an adviser who is independent of the council to discuss your situation.

They may be able to help by:

- explaining complicated legal issues and how these affect your rights
- checking that you are getting everything you are entitled to
- negotiating with the council on your behalf
- helping you with practical issues, paperwork and court hearings.

There are several ways to get in touch with an independent adviser:

- call Shelter's free housing advice helpline on 0808 800 4444
- visit the advice pages of our website at www.shelter.org.uk/advice
- contact a housing aid centre, citizens advice bureau, law centre or other advice agency in your area
- find a solicitor specialising in housing – you can get details of suitable solicitors from the Community Legal Service (see page 22)
- get in touch with one of the organisations listed on page 22.

The council's housing department can also provide advice, but, if

you are not happy with the help you receive, or think you are being treated unfairly, get advice elsewhere as soon as you can.

What if I need housing immediately?

If you don't have anywhere safe to stay, or are likely to become homeless within the next 28 days, the council may have a duty to provide temporary housing for you immediately.

You should go to the housing department as soon as possible and tell them that you want to apply as homeless as well as applying for a permanent home. See Shelter's free guide *Homeless? Read this* for information about the rules on how they should help you.

If the council won't let you apply, or says that you are not entitled to emergency help, don't be put off. Contact an adviser to check whether the council has followed the rules.

How can I get a home through the council?

The system councils use to process applications is often referred to as the 'allocations scheme', 'housing register', or 'housing waiting list'. Procedures vary from one council to another, but all councils have to follow certain rules. The system applies to people applying for the first time

and to existing council tenants who want a transfer (see page 10). They are usually also used to decide who gets offered a housing association or housing co-op home in the area.

Everyone has a right to apply for housing, except a small minority of people who are not eligible (see below).

Who is eligible to apply?

Local councils can only provide housing for people who are eligible. Most people who are living in the UK permanently are eligible, but there are some exceptions.

You may not be eligible if:

- you are ‘guilty of serious unacceptable behaviour’
- you have come to the UK from abroad.

‘Serious unacceptable behaviour’ includes things like domestic violence, antisocial behaviour, large rent arrears, using your home for drug dealing or prostitution, and lying to get a tenancy. Contact an adviser if you are told that you’re not eligible for this reason – you may be able to challenge the council’s decision.

The rules are also complicated if you have been living overseas. Some people from abroad can apply but others can’t – so check with an independent adviser before you contact the council. If you are seeking asylum you cannot apply, but you may be entitled to help from the National Asylum Support

Service – see Shelter’s free guide *Asylum seekers and refugees*.

Being eligible for council housing doesn’t mean that you are guaranteed to be offered a place. It means that you are entitled to be considered for a home. In many areas, there is very little housing available, so there is often a very long wait, and some people may never get an offer.

How do I apply?

You can get an application form from the council’s housing department – its number should be in your local phone book. Many councils also have information about how to apply on their websites.

Most councils also have a leaflet explaining how the system works, and they must help you to apply if you find it difficult.

The council will use the information you provide in your application to decide whether you are eligible and, if so, how much priority you should get on the waiting list. So provide as much information as you can, and make sure it is accurate.

It’s important to provide all the information the application form asks for, including detailed information about anything that will affect the housing you or any member of your family need, such as:

- health problems or disabilities
- bad conditions in your home
- other unusual circumstances that affect you.

This information will be kept confidential and may help you get suitable housing. Later on, you may be asked to provide evidence of these things, such as photographs of disrepair, letters from your doctor, or police incident reports. If possible, take photocopies of everything before you hand it in.

How long will I have to wait?

You can ask the council whether you are likely to be offered a home and, if so, approximately how long it is likely to take. It should be able to give you some idea, but this will probably depend on:

- how much council or housing association housing there is in your area
- how much priority you've been awarded (see below)
- what type and size of property you are willing to accept
- how many other applicants are on the waiting list.

There is a long wait in popular areas. In some areas, there is very little housing available, so some people may never get an offer.

Who gets housed first?

Waiting lists don't work on a 'first come, first served' basis. Certain groups of people are given preference. This includes people who:

- have applied to the council for assistance because they are homeless or about to lose their home (see page 4)

- live in very poor conditions (including people living with serious disrepair, overcrowding or a lack of basic facilities)
- have a physical or mental health condition that is made worse by where they live, or makes it difficult for them to get around the home
- need to live in the area to avoid hardship (eg to be close to a special school, support services, a carer, or someone they are caring for).

You can be given priority for more than one of these reasons. The council can also give you extra priority depending on the length of time you have been waiting, or how long you have been living in its area.

However, if the council believes that you, or any member of your household, are guilty of serious unacceptable behaviour, it can take away any preference you have been given. When it assesses your behaviour, the council will use the same criteria as it uses when assessing whether you are eligible (see page 5). The council could also give you less priority if you have significant financial resources of your own.

Will I get a choice?

The council should either:

- let you bid for individual properties that you like, or
- let you say which areas you would prefer to live in when you apply.

This does not mean that you will necessarily be offered a property that you like, or one in the areas you would prefer. Most councils will only make you one offer, as long as the offer can be classed as suitable (see below). Even if your council makes more than one offer, you may have to refuse one before you are offered another, and you may have to prove that the first place was not suitable. Ask the council what will happen if you turn the offer down, and contact an independent adviser before you make a decision.

What if the council offers me somewhere I don't want?

You can ask the council to review your situation, but you may have to show that it isn't suitable for a specific reason, such as:

- it is too small or too large for your household (ask the council for information about the rules on how many bedrooms you are entitled to)
- it will affect your health (did you provide medical evidence that the council has ignored?)
- it's too far from support services or special schools that you need access to
- you'd be at risk of racial harassment or domestic violence there.

Check with an adviser before you turn any offer down. There's no guarantee that you'll be offered something better and, if you refuse a place that is classed as suitable, you may be

suspended from the waiting list for a period of time. An adviser may be able to help you show the council that a particular property is unsuitable for you, but this is often difficult.

What types of tenancy do councils provide?

It's very important to check exactly what type of council tenancy you have, especially if you are having problems. The type of tenancy you have will affect:

- how and when the council can evict you (see page 13)
- whether you can pass your tenancy on (see page 17)
- whether you have the Right to Buy your home (see page 17)
- whether you can get a transfer or exchange (see page 10)
- whether you can take in lodgers or sublet part of your home (see page 9).

Most council tenants who live in self-contained accommodation are secure tenants. But some people who rent from the council are not. For example:

- if you live in temporary accommodation that the council arranged because you were homeless (see page 8)
- if you have been given an introductory tenancy – it's on a trial basis (see page 8)
- if the council got a court order to demote your tenancy, you will normally have a demoted

tenancy for one year (see page 9)

- if you work for the council and your home comes with your job – you are probably a service occupier and your right to live in your home will probably end if your job does. Your rights are not covered in this guide. Contact an adviser if you need help.

Your tenancy could be in one person's name only (a sole tenancy) or shared with someone else (a joint tenancy). Joint tenants have equal rights in the property:

- 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 21).

Your tenancy agreement should say what type of council tenancy you have and how this affects your rights. Get in touch with an adviser if it's not clear, and ask the council for a copy of your current tenancy agreement if you don't have one.

Temporary housing

If you live in temporary housing that the council arranged because you were homeless, you may not have a council tenancy at all. You will probably have very limited rights if the council tries to evict you. Contact an independent adviser immediately if you're having problems, as the

council may still have to help you under the homelessness legislation.

Introductory tenancies

An introductory tenancy is a trial tenancy. It gives you many of the same rights as a secure tenancy but means you can be evicted much more easily. Therefore, you should contact an adviser straightaway if the council threatens to evict you.

Many councils give new tenants an introductory tenancy for the first year. But it may be possible for the council to extend the trial period for a further six months if it is worried about your behaviour or your rent payments. You will automatically become a secure tenant if the council does not take steps to evict you during the trial period.

If you have a joint tenancy, the trial period ends as soon as one of the joint tenants has completed the trial period. Any time you have spent as an introductory tenant in another council property, or in a starter tenancy with a housing association, immediately before the start of your current tenancy will count towards the trial period.

Secure tenancies

Secure tenants have stronger rights than any other tenants and can only be evicted in certain situations. You can take in a lodger and may be able to pass on your tenancy, get a transfer, exchange

your home or buy it at a discount. More information about these rights is provided later in this guide.

But you could lose some of these rights if your tenancy is demoted (see below). Contact an adviser if the council is thinking of demoting your tenancy.

Demoted tenancies

A demoted tenancy is a one-year probationary tenancy. It gives you more limited rights than a secure tenancy, and much less protection from eviction.

The council has to get a court order to downgrade your tenancy in this way. It has to give you at least four weeks' written notice before it can apply to the court. Contact an adviser, as soon as you receive a notice, to see if you can stop the demotion from going ahead.

The court will only agree to demote your tenancy if you have:

- behaved antisocially or caused nuisance in the area, or
- threatened to do so, or
- used your home for illegal activities such as drug dealing.

Demotion will last for one year from the date the court order was made, unless the council takes steps to evict you. 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.

What information should the council give me?

The council should give you a written tenancy agreement explaining the rights and responsibilities you have as a tenant. It should say:

- what kind of tenancy you have
- how and when you can be evicted (see page 13)
- how repairs should be carried out (see page 11)
- how much rent you have to pay, when you have to pay it, and when it can be increased (see page 12)
- whether there are any service charges (eg for maintenance or cleaning).

In most cases, the council can only change the conditions of your tenancy if it has consulted you. It can increase the rent, however, if it follows the correct procedure (see page 12).

Can I take in a lodger or subtenant?

If you are a secure tenant, you automatically have the right to take in a lodger. You can normally also sublet part of your home (eg give someone exclusive use of at least one room) if you get written permission from the council first. The council can only refuse permission if it has a good reason – for example, if your home would become overcrowded if someone else moved in.

If you have an introductory or demoted tenancy, you don't have an automatic right to take in a lodger or to sublet your home. You have to get written permission from the council first. If you allow someone to move in without the council's 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. This will be the case even if the person doesn't pay you any rent, and usually even applies to partners and adult family members who live with you.

You also need to remember that 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, you could lose your home altogether, and anyone living there is likely to be evicted as well.

Can I move out temporarily?

You can be away from home temporarily, but if you move out you risk losing your secure status and the council could end your tenancy. It is possible to spend time living somewhere else, but, if you want to keep your tenancy, you must be able to show that you are planning to return (eg by leaving your personal belongings at home).

If you are going to spend time living elsewhere (eg because of a long hospital stay or a prison sentence, or because you need to look after

a sick relative), you should talk to an adviser before you move out. Make sure that the council knows:

- that you will be away but plan to return
- how it can contact you if there are any problems.

Most importantly, make arrangements for your rent to be paid while you are away. Otherwise, you'll have a backlog of arrears when you get back (see page 12) and you could lose your home. If you are claiming benefits, it may be possible to continue claiming while you are away.

Can I get a transfer?

If you want to move, you may be able to get a transfer to another council property in the area. You will have to go on the waiting list and in many areas you may have to wait a long time. However, in some limited circumstances, the council should rehouse you as a matter of urgency.

The council will use the same waiting list it uses to house people who are applying for the first time, and will use the same rules to decide who gets priority (see page 6). You are more likely to be offered a transfer if you have a secure tenancy and if your home is very unsuitable for you. Even if this is the case, you may have to wait a long time, especially if you need a large property. Ask the council for information about the rules.

Can I exchange homes with another tenant?

If you have a secure tenancy, you may be able to exchange homes with another council or housing association tenant. You can exchange with someone in your area, or with someone in another part of the country.

However, you must both get permission from your landlords and the exchange must be arranged properly. Otherwise, you could both lose your homes. The council can only withhold permission for certain reasons. If either of you have rent arrears, the council can refuse to allow the exchange until these are paid off. Contact an adviser for help with the paperwork.

You should also check what type of tenancy you would have after the exchange. Make sure you don't sign away your rights! Contact the Housing Mobility and Exchange Service (HOMES) for more information (see page 22 for details).

If you have an introductory or demoted tenancy, you cannot exchange your home. You will have to wait until your tenancy becomes secure.

How should repairs be carried out?

The council should give you information about what repairs you

are responsible for. This usually includes internal decoration and putting right any damage you cause. The council is responsible for most other repairs to your home, including any problems with the roof, guttering, windows, external doors and brickwork. It also has to ensure that the plumbing, gas and electricity are working safely. The council is usually responsible for repairs to lifts, stairwells and other shared areas and services.

If you have a repair problem, report it to the council immediately – it's always best to do so in writing. It should have a 24-hour service for emergencies, and proper procedures for carrying out any work involved. Keep a note of what you reported, to whom, and when.

The council must carry out repairs within a reasonable time. What is reasonable will depend on how serious the problem is and the practical difficulties in putting it right. Major repairs may take weeks or even months. In some cases, the council may have to rehouse you temporarily or permanently. Many councils will provide you with information on what counts as an emergency and about how long they should take to carry out a particular repair.

But remember, the council won't necessarily put right any internal decoration, apart from repairing damage caused during repair works it has carried out.

If the repairs aren't carried out in a reasonable time, or are done badly, you should tell the council who should arrange to complete the works properly. If you are not satisfied with the response you get, contact an independent adviser. It may be possible to force the council to do the work needed, or, alternatively, get it done yourself and claim compensation for the cost. But be very careful, as you have to follow the correct procedure. You should not stop paying the rent because you could risk being evicted if you do.

If you want to make improvements or alterations to your home, you must get written permission from the council first. If you're a secure tenant, it can't refuse you permission for certain improvements, without a good reason. If you give up your home later on, you may, in specific circumstances, be able to get compensation for money you have spent on improving it – from £50 to £3,000.

What are the rules on rent and rent increases?

The council sets the amount of rent you have to pay. The type of council tenancy you have will make no difference. The rent is usually less than private landlords would charge for a similar property.

Your rent may also include charges for water rates or services such as heating or use of a garage. Ask the

council exactly what it includes.

Your rent should always be your top financial priority, as you could lose your home if you don't pay it. Your tenancy agreement will tell when you should pay your rent, and the council will give you rent statements from time to time, showing how much rent was due and how much rent was paid.

It may be possible to pay your rent in different ways, such as:

- in person – at a council office or the post office
- through your bank – by standing order, or direct debit.

What if I'm having problems paying it?

You may be able to claim Housing Benefit if you are on benefits or have a low income. Ask your council office for an application form as soon as possible, if you need to claim.

It is very important to provide all the information the form asks for. You should also ask for receipts for any form you hand in, or for any documents you provide (such as copies of pay slips), and take photocopies of them if possible. If you need extra help, you may be able to get a discretionary housing payment. An adviser can help you work out what you are entitled to. See Shelter's free guide *Housing Benefit* for more information.

If you're struggling to pay your rent, or you have already fallen behind, contact an independent adviser straightaway. 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 (see 'Can the council evict me', below). Shelter's free guide *Rent arrears* provides more information about your options.

What can I do about rent increases?

Check your tenancy agreement to see what it says about how the rent can be increased. The council normally has to give you written notice first. If you pay your rent weekly, it should give you at least four weeks' notice. It is very difficult to challenge rent increases, even if they seem unfair.

Can the council evict me?

The rules on how and when the council can evict you are complicated. If you are threatened with eviction for any reason, you should contact an independent adviser straightaway. Even if the bailiffs are due, it's worth getting advice to find out if you can get the eviction stopped or delayed.

The procedure the council must follow will depend on the type of tenancy you have.

Introductory and demoted tenancies

People with introductory and demoted council tenancies can be evicted much more easily than secure council tenants. The council doesn't have to prove a legal reason

in court – if it has followed the correct procedure, the judge will have no choice but to evict you.

The council must give you at least four weeks' written notice that it is going to ask the court to evict you, and explain the reasons why. The notice must also tell you that you have a right to request a review of its decision.

Contact an adviser as soon as you receive this notice. Do not wait. An adviser may be able to:

- talk to the council on your behalf
- sort out any problems with your Housing Benefit claim
- arrange help with personal problems
- help you settle a dispute with neighbours (see page 19)
- help you to request a review (see below).

You have the right to ask the council to review its decision to evict you, but you must do so within 14 days of receiving the notice. A specialist adviser may be able to help you put together the legal arguments you will need. If you miss the 14-day deadline for requesting a review, you are in serious danger of losing your home. But it may not be too late – contact an adviser immediately.

Secure tenancies

If you are a secure tenant, the council 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 to the court, and gets a court order – but, even if it gets one, the court may say that you can keep your home if you keep to certain conditions.

If the council threatens to evict you for any reason, contact an adviser as soon as possible. An adviser can check whether the council has a legal reason to evict you. Even if it has, the adviser may be able to help you put things right.

What notice will I get?

Before the council can apply to the court, it has to give you, or send you, a warning notice called a Notice Seeking Possession. The notice has to set out clearly what the grounds for the eviction are. It normally also has to give you at least four weeks’ notice of the court hearing. The only exception is if the council 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 council doesn’t start court action before the end of that time, it has to begin the process again.

If you don’t respond to the notice, or if the council isn’t happy with your response, the next step it will take is to apply to the court. You will then receive papers from the court, saying:

- that the council is applying for ‘possession’ of your

home (ie to evict you)

- what grounds the council is using for the eviction (see below)
- when the court date is.

If you have not spoken to an adviser before this point, do so now!

What grounds can the council use to evict me?

Secure tenants can only be evicted for certain legal reasons, or ‘grounds’. In some cases, the court may decide that it’s not reasonable to evict you, even if the council can prove that the grounds are true. In others, the council may have to offer you somewhere else to live. The council may have grounds for eviction if, for example:

- you have rent arrears
- you break your tenancy agreement
- you (or people who live with you or visit you) cause nuisance or annoyance in your home or in the neighbourhood
- you use your home for illegal or immoral activities (eg drug dealing)
- you are violent towards your spouse or partner and s/he leaves as a result
- you damage your home or any furniture the council provided with it
- you lied about your circumstances in order to get the tenancy
- you paid money in order to exchange your home
- you have lodgers or subtenants and your home is overcrowded as a result
- you took on the tenancy when

the original tenant died (see page 17) and the council thinks your home is now too large for your household – the council can only use this ground for a limited period after the previous tenant’s death

- the council plans to demolish your home
- the council needs to do major repairs that it can’t do while you are living there
- your home was designed or adapted for a person with special needs, and the people in your household no longer need those special facilities.

Whatever the reasons, it’s always a good idea to speak to an adviser. They may be able to help you negotiate with the council, and/or represent you in court. It’s very important to prepare your case properly and attend the hearing. Otherwise, the judge may assume that you agree with everything the council has said.

What orders can the court make?

You should have arranged advice before the court hearing. If there has not been enough time to prepare, your adviser may write to the court asking for more time, or may tell you to ask for more time. If you have no adviser, some courts have a ‘duty adviser’ who may be able to help you on the day.

The judge will make a decision at the court hearing. If you do not understand what it means, check with

an adviser immediately. It is likely that the judge will do one of the following:

- **strike out the council’s claim.** This means that the council hadn’t followed the proper procedure and it will have to start the process again if it wants to evict you
- **adjourn the hearing to another date.** This is usually to give you more time to prepare your case. You should not rely on the court doing this, and should always contact an adviser as soon as possible
- **adjourn the hearing on a condition** (eg that you regularly pay your rent and something towards the arrears). If you stick to the conditions, it will probably not go back to court
- **make a suspended order for possession.** This 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 nuisance). If you break the conditions, you could be evicted quickly and without another court hearing. A suspended order is meant to be a last chance
- **make an outright possession order,** which means that the property will be given back to the council on a certain date. If you don’t leave, the council 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 in which to leave. The bailiffs can use reasonable force, if necessary

- **make a money judgment**, which 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.

Even if the court makes an outright possession order and the council asks the bailiffs to remove you, it may still be possible to stop or delay the eviction. Contact an adviser immediately.

Will I have to pay the council's legal costs?

Unless you can show that the council was wrong to make an application to the court in the first place, it is possible that you will have to pay the council's court costs, even if no possession order is made. This can include the court fee and solicitors' fees, which can be expensive.

If you think that you should not pay your landlord's costs because the action was brought unfairly, you should ask the judge to make no order for costs at the end of the hearing. If you have no money and have not behaved in an unreasonable way, the court may agree to this. Your adviser may be able to help you show that this is the case.

If you are unsuccessful and

are ordered to pay the council's costs, in most cases they will be added to your rent account. You can ask for time to pay them off after you have paid any arrears.

Can I ask the court to change the order?

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

If you have a suspended or outright possession order and the council has asked for the bailiffs to evict you, you can apply to the court to '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.

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

- fill in an application form, which is available from the county court offices
- explain why you think the order should be changed
- pay a court fee, unless you can show the court that you are claiming benefits or are unable to pay a fee.

The judge will look at your application, and may agree to another hearing

if s/he thinks you have a good reason. Contact an adviser for help putting your case together.

Do I have the Right to Buy my home?

If you have been a secure tenant for at least five years, you have the Right to Buy your home as long as you are eligible (see below). You'll probably also keep this right if:

- your home has been transferred from the council to a housing association since you moved in, or
- you spent some time as a housing association or armed forces tenant immediately before you got your council tenancy.

Introductory tenants do not have the Right to Buy.

If your tenancy has been demoted, your Right to Buy is suspended until your tenancy becomes secure again. The time you spent as a demoted tenant will not count towards your eligibility period or your discount.

Am I eligible?

The Right to Buy is not automatic. You are probably not eligible if:

- your home isn't self-contained
- you don't use it as your main home
- you live in sheltered housing or in a housing scheme that has been designed or adapted for people with special needs
- the council has demoted

your tenancy

- you break the conditions of a suspended possession order
- you are an undischarged bankrupt
- your home comes with your job (eg if you are a caretaker).

If you don't have the Right to Buy, ask the council whether it has any other schemes to help people get on the property ladder. You may be able to buy a place through shared ownership, Homebuy or a cash incentive scheme.

How much is the Right to Buy discount?

The maximum discount that you can get will depend upon:

- the area of the country you live in
- the age and condition of the property
- whether it is a house or a flat
- how long you've been a secure tenant (including any time spent as an introductory tenant, a housing association tenant or an armed forces tenant, but not time spent as a demoted tenant).

It's important to remember that if you buy your home, you will have to pay for buildings insurance and repairs as well as your mortgage payments. If it is a flat, you will also have to pay service charges for the upkeep of communal areas. You could also have to pay a share of expensive repairs or improvements, such as the replacement of all the windows in a block of flats.

Can I pass on my tenancy?

This may be possible, in one of two ways:

- where it is legally transferred into someone else's name during your lifetime (this is called 'assignment') or
- where it is passed to someone else when you die (this is called 'succession').

The precise rules about how and when it can be passed on in either of these ways depend on the type of tenancy you have. It is not always allowed.

Assignment

You can't assign a demoted or introductory tenancy, except as part of a court order in a divorce or separation settlement. You will not be able to assign it under any other circumstances until your tenancy becomes secure.

You can assign a secure tenancy to any person who would be eligible to take on the tenancy by succession (see below). But you must use the correct procedure, or the assignment will not be legal. You could still be responsible for paying the rent and the person who stays on could be evicted.

You can also assign your tenancy as part of a court order in a divorce or separation settlement. Ask the council for help, or speak to an adviser before you agree to anything.

Succession

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

If you are the sole (ie only) tenant, there are rules about who the tenancy can be passed on to:

- first priority will always be given to your husband or wife as long as s/he was living with you at the time of your death
- if you're not married, or your spouse doesn't qualify, your tenancy can pass to another member of your family (see below), as long as they lived with you for at least a year before your death.

Succession can only happen once, unless your tenancy agreement says otherwise. So, if you took on the tenancy by succession yourself, you probably can't pass it on again.

If you are a demoted tenant, your husband or wife can only succeed if they lived with you for at least a year before your death.

Only certain people are classed as being 'members of your family'. This includes a heterosexual partner, a child, a parent, a grandparent, a grandchild, a step relation, a half relation, a relation by marriage, an uncle, an aunt, a niece or a nephew. A gay or lesbian partner can also succeed to the tenancy, but the law is more complicated in this area, so contact an adviser. If you are not married, and more than one member of your family qualifies and they

cannot agree who should take over the tenancy, the council will decide.

What if I'm having problems with neighbours?

Many disagreements between neighbours can be sorted out by talking. But if you are having serious problems, contact an adviser as soon as you can.

Can mediation help?

Problems between neighbours 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 councils can arrange mediation services for their tenants. If yours doesn't, contact Mediation UK or the National Mediation Centre (see page 22).

What can the council do about antisocial behaviour?

In recent years, most councils have been getting much 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.

But if the council is satisfied that there is a serious problem, there are several things it can do, such as:

- **getting an antisocial behaviour injunction (ASBI) or an antisocial behaviour order (ASBO)** – this could order the person to stay away from a certain area, or to stop doing certain things
- **prosecuting the people involved for nuisance** – this often happens where there is noise nuisance or trouble involving animals
- **demoting the person's tenancy** – this makes it much easier to evict the person if the behaviour continues (see page 9)
- **evicting the person** – this will usually only happen as a last resort. It is much easier if the person has an introductory or demoted tenancy (see page 13)
- **getting a closure order** – this means that the property is secured and only authorised people can enter it. It can only happen if the police believe that the property has been used to produce, supply, or use Class A drugs.

What should I do if I've been accused of behaving antisocially?

It's very important to talk to an adviser as soon as possible, particularly if you have an introductory or demoted tenancy. Contact your local housing aid centre, law centre or citizens advice bureau. They

may be able to help you by:

- arranging mediation to help sort out disagreements with neighbours or family
- referring you to an organisation that can help if you need help with drugs or alcohol, mental health problems or a learning disability
- helping you to negotiate with the council if it is planning to take action against you
- helping you prepare if you have to go to court.

It doesn't make any difference whether the person causing problems is you, a member of your household, or even a visitor to your home. For example, if one of your children is causing a nuisance, you can be held responsible.

If you do nothing and are evicted because of your behaviour, you will probably find it difficult to get another tenancy. People with a history of antisocial behaviour don't usually get any priority on the waiting list (see page 6), and if you apply as homeless the council may only have limited duties to help you. You may be able to get a private tenancy, but this would probably be much more expensive. Also, most private landlords ask for references and aren't keen to rent to people who've been antisocial in the past.

Can I get involved in the management of my home?

The council is required to consult you about decisions that affect you, except about rent levels. It should take your views into account when making decisions about how your home is managed. This includes any decisions about whether your building (or estate), or all the council properties in your area, should be sold to a housing association.

However, the fact that it has to take your wishes into account doesn't necessarily mean that you will get what you want. The council must take the views of its other tenants into consideration, as well as its finances.

You might be able to join a tenants' association or committee. Ask the council for more information about how you can get involved and how decisions will be made. In certain circumstances, tenants can set up a tenants' management organisation (TMO) to manage their own homes.

What if I have a complaint?

If you think the council isn't treating you fairly or has failed to fulfil its responsibilities, you can complain, using its official complaints procedure. This may resolve the problem, and you have to do this before you can take any further steps.

If you're not happy with the response you get, you can then complain further to the Local Government Ombudsman (see page 22 for contact details). The Ombudsman will investigate your complaint and can recommend that the council takes specific action, or pays you compensation. Their services are free and independent. An adviser may be able to help you put your case to the Ombudsman.

If you're 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. But it may be possible to end your tenancy without giving notice, if you can come to an agreement with the council. 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.

What if I want to leave?

You must end your tenancy properly if you want to leave. If you don't, you may still be liable to pay rent, even after you've moved out. You normally have to give at least four weeks' notice to end your tenancy. The notice must be in writing and must end on a day when the rent is due, or the day before.

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

- if one of you gives notice to the council, the agreement will normally automatically be ended for all of you, whether you agree to the notice being given or not
- 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.

Useful organisations

To contact Shelter

You can call our free housing advice helpline on **0808 800 4444**. Our advisers can provide minicom or interpreting services, if you need them. You can also visit our website **www.shelter.org.uk/advice** for more information about your legal rights and practical solutions to common housing problems, and for contact details of local advice centres.

Other organisations that may be able to help you

- **Advice UK**, 12th Floor, New London Bridge House, 25 London Bridge Street, London SE1 9SG. 020 7407 4070. www.adviceuk.org.uk
- **Citizens Advice**, Myddelton House, 115–123 Pentonville Road, London N1 9LZ. 020 7833 2181. www.citizensadvice.org.uk
- **Community Legal Service**, 0845 345 4345. www.clsdirect.org.uk
- **Housing Mobility and Exchange Service (HOMES)**, 242 Vauxhall Bridge Road, London SW1V 1AU. 0845 080 1089. www.homes.org.uk
- **Housing Rights Service**, 4th Floor Middleton Buildings, 10–12 High Street, Belfast BT1 2BA. 028 9024 5640. www.housingrights.org.uk
- **Law Centres Federation**, Duchess House, 18–19 Warren Street, London W1T 5DB. 020 7387 8570. www.lawcentres.org.uk
- **Local Government Ombudsman**, 0845 602 1983. www.lgo.org.uk
- **Mediation UK**, Alexander House, Telephone Avenue, Bristol BS1 4BS. 0117 904 6661. www.mediationuk.org.uk
- **National Debtline**, 0808 808 4000. www.nationaldebtline.co.uk
- **National Mediation Centre**, 23 St James Gardens, Ffynone, Swansea SA1 6DY. 01792 469626. www.dispute.co.uk
- **Shelter Cymru**, 25 Walter Road, Swansea SA1 5NN. 01792 469400. www.sheltercymru.org.uk
- **Shelter Scotland**, Scotiabank House, 6 South Charlotte Street, Edinburgh EH2 4AW. 0131 473 7170. www.shelter.org.uk

Bad housing wrecks lives

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