

**Factsheet 68**

# Preventing evictions

July 2023

**About this factsheet**



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## 1 Recent developments

The *Renters (Reform) Bill* was introduced to Parliament in May 2023. If it becomes law, it will provide greater security for private tenants by abolishing assured shorthold tenancies, section 21 evictions, and the use of fixed terms in assured tenancies.

New mandatory and discretionary possession grounds will be introduced. Private landlords will need to evidence that a selected ground is met for the court to consider granting an order for possession.

## 2 Help in a crisis

If you have been told you must leave your accommodation, do not panic. In most cases, the person owning or managing the property needs to get *order for possession*

If you are a tenant, your landlord can usually only evict you if they have a good reason. It is possible to challenge this in court and, in some cases, the court can consider whether it is reasonable to evict you, taking your age, health and other circumstances into account. Eviction can also be challenged on other grounds, for example if you are disabled and the

The key thing is to seek specialist housing advice as soon as possible. Legal aid is *possession claim*. You can get free legal advice and representation if you are on a low income and your case is considered strong enough. Check if there is a local Law Centre and, if not, speak to a local advice agency like Citizens Advice about sources of free legal help.

The earlier you do this, the stronger your chances of preventing eviction, but you should seek advice even if the eviction is at a very late stage. In some circumstances, it is possible to challenge eviction right up until the date the bailiffs are scheduled to attend.

It is unlawful for your landlord to harass you or withdraw services from you to force you to leave your home. Acts of harassment include threats or physical violence, disconnecting the energy supply, or refusing to carry out uET22 841.92 reW\*nBT/F1 12 Tf1 0 0 1 56.64 260.33 Tm0 g0 G(o)-3(r pAg0 G(ca)-3(rr)6(yE





It may be important to question the nature of your agreement and whether you have more rights than your landlord is saying. In the past, landlords would sometimes try to avoid giving renters strong rights by issuing them with licence agreements instead of tenancies. This is now much less common, but the courts have said it is the reality of the living





For example, *suspended* *postponed*  
struggle to comply with conditions the court has set (see section 6.1 for  
more information).

On the other hand, the court can sometimes allow a possession hearing  
to take place without the landlord serving notice first. It may do this if you  
have caused considerable nuisance to your neighbours, for example.

You may choose to leave at the end of the notice period or by the date  
specified on the order for possession, meaning no further action is  
necessary. Speak to an adviser before doing this.

## The stages

### Stage one **eviction notice**

It is likely you will receive a *notice to quit* or a *notice to leave*  
or a *notice to quit* or a *notice to leave*

### Stage three

If you do not leave by the date on the possession order or comply with conditions set by the court, your landlord can apply to the court for a warrant authorising bailiffs to evict you.

Most eviction cases are dealt with by the county court. However, your landlord can ask for your case to be transferred to the High Court. The county court judge decides whether to allow this. If they do, the eviction is carried out by officers working for the High Court, sometimes called *Sheriffs*. High Court eviction is usually quicker, and Sheriffs have

## Discretionary grounds

If a ground is discretionary, the court has discretion over whether it is *reasonable*. In some cases, suitable alternative accommodation must be available for you (see section 6.3).

In deciding whether eviction is reasonable, the court may consider factors such as the length of time you have lived in the property, your health and age, your conduct and willingness to remedy any issues, and in cases of anti-social behaviour, the effects of your behaviour on others.

When considering a claim for possession on a discretionary ground, the court has the power to *adjourn* (delay) the proceedings to give you time to clear rent arrears or rectify another issue. Alternatively, it can grant an order that is *suspended* or *postponed* on certain conditions.

If you fail to meet these conditions, the landlord can go back to court and ask for a possession warrant to be granted, although you may be able to ask the court to vary the terms of the order instead.

If your landlord is a local authority or a housing association, they must comply with a Ministry of Justice Pre-Action Protocol before seeking to evict. This sets out steps they should take if you are in rent arrears or are *particularly vulnerable*. If their ground for possession is discretionary and they do not comply with the protocol, the court can dismiss the case.

## 6.2 Defending a claim for possession

If you receive a notice from your landlord stating they want the property back, seek advice immediately. Bring a copy of the notice to your appointment with the adviser so they can check when your notice period runs out, why your landlord is seeking possession, and whether the notice is valid.

A notice may be invalid if the landlord uses the wrong form (for some tenancies, notice must be given using a specific form) or if the form is not properly completed, does not give enough information about why possession is being sought, or gives an incorrect date by which you should leave the property.

If your notice is invalid, the court may refuse to grant a possession order. This is unlikely to prevent eviction altogether, as your landlord can simply serve a valid notice to begin the process again, but it could buy you time to consider your options or remedy any issues.

It may be possible to raise a defence against eviction by disputing the ground for possession, or by claiming they are behaving unlawfully or unreasonably. If the ground for possession is discretionary, you can argue that eviction would be unreasonable. If the landlord must show that suitable alternative accommodation is available, you could challenge its suitability or availability.

## Discriminatory evictions

Your ability to raise a successful defence depends on factors such as your tenancy type, the reason your landlord is seeking possession, with public and human rights law), *public body* y must comply *protected characteristic Equality Act 2010*.

If you have a disability and possession is sought because you have done, or not done, something that might relate to being disabled, the possession proceedings may be considered discriminatory under the *Equality Act 2010*. For example, you may have been prevented from claiming Housing Benefit on time because of a mental health problem.

## Legal aid

If your notice appears invalid or th *defences* can raise against eviction, you may be referred for specialist legal help. Legal aid funding is available for eviction cases. You must meet eligibility criteria to qualify, such as being on a low income or in receipt of certain benefits. Contact a local Law Centre or Citizens Advice for more information.

## When can eviction be challenged?

You should always seek advice to see what can be done about an eviction. The earlier you do this, the better your chances of keeping your home, although it is possible to challenge eviction at every stage of the

In some exceptional cases, it is even possible to regain occupation of a property after you have been evicted. This includes where there has been an abuse of process or you have been given misleading information by the landlord or the court about the eviction and how you might act to stop it.

### **No-fault**

### **retaliatory**

For assured shorthold tenancies, no ground for possession needs to be *no-fault* can be difficult to challenge as, usually, the landlord must simply follow the correct procedure for possession to be granted.

There are legal restrictions that aim to prevent *retaliatory* evictions, when a landlord uses the no-fault procedure to evict a tenant who has complained about the condition of their property.

See section 5 of factsheet 67, *Home improvements and repairs*, for more information. See section 7.3 for other restrictions on using the no-fault procedure.

### 6.3 Suitable alternative accommodation

In some cases, the court can only grant a possession order if satisfied you are to be provided with suitable alternative accommodation. The suitability rules vary depending on your tenancy type but generally, the new tenancy must offer the same or comparable security of tenure and the new property must meet certain conditions.

If you are a regulated or assured tenant, the court must consider whether *reasonably suitable* workplace, cost, and size. If furniture was provided under your old *reasonably suitable* new property.

If you are a secure tenant, the court must consider additional issues, such as the *essential to wellbeing*) and the terms of the tenancy agreement. if

In some cases, a landlord can provide a certificate from the local authority stating they will re-house you

### 7.1.2 Discretionary grounds

Discretionary grounds for possession include:

not paying your rent

damaging or neglecting the property or furniture

causing a nuisance or annoyance

the landlord needs the property for themselves or family

you are a former employee of the landlord and the property is needed for a new employee

there is suitable alternative accommodation available.

The court must be satisfied it is reasonable to make a possession order.

## 7.2 Assured tenants

Assured tenants have strong tenancy rights and can only be evicted if the landlord can prove a ground to the court.

If the tenancy is within a fixed term, the landlord can only use some of the grounds to gain possession and, in most cases, only if there is a clause in the tenancy agreement allowing it to be ended in this way.

For example, the discretionary ground where the landlord can show that suitable alternative accommodation is available to you cannot be relied upon.

### 7.2.1 Mandatory grounds

The main mandatory grounds include:

the landlord previously lived in the property or intends to do so and told you this before your tenancy started (the court can make an exception)

the mortgage lender is repossessing the property this ground can only be used in certain circumstances, seek advice if in this position

the landlord intends to demolish or carry out substantial work to the property

significant rent arrears both at the date the landlord serves notice and the date of the hearing -

fortnightly, or                      arrears if paying monthly

conviction for a serious offence or anti-social behaviour that has been proven in another court see factsheet 9, *Anti-social behaviour in housing*, for more information.









## 8 Grounds for possession for local authority tenants

Most local authority tenants are *lifetime* secure tenants and can only be evicted on certain grounds. There are exceptions if, for example, your tenancy is probationary, fixed term or demoted, or you are homeless and living in temporary accommodation provided by the authority.

### 8.1.1 Mandatory grounds

These include:

your home is illegally overcrowded

your landlord needs the property empty in order to repair or demolish it

*absolute* -social behaviour (ASB), identical to the mandatory ASB ground for assured tenants in section 7.2.1.

Broadly speaking, the court will only make a possession order if satisfied that suitable alternative accommodation is available to you. This does not apply if your landlord is seeking possession due to *absolute* ASB.

### 8.1.2 Discretionary grounds

These include:

not paying your rent or breaking a condition of your tenancy agreement

damaging or neglecting the property or furniture provided by the landlord

causing a nuisance or annoyance to local residents or visitors

you or your partner have left the property because of domestic violence, including threats of violence, and are not going to return

you obtained your tenancy by giving false information to the landlord.

In these cases, the landlord must prove one of the grounds applies and the court must be satisfied it is reasonable to make a possession order.

There are discretionary grounds where the landlord must also show they can provide you with suitable





## 10.2 Flexible tenancies

A flexible tenancy is a secure tenancy granted for a fixed term, normally a minimum of five years. In *exceptional circumstances* a flexible tenancy can be granted for a minimum term of two years. Local authorities have been able to grant flexible tenancies since 1 April 2012.

*periodic*

*lifetime*

you or a court. As a flexible tenant, you can be evicted at the end of the fixed term if your landlord follows the correct procedure, although the decision to evict must be *wrong in law* a public law, human rights, or equality defence. See section 6.2 for more information on defending an eviction claim.

When the fixed term ends, the local authority must either grant another flexible tenancy, or a periodic secure tenancy, or seek possession. If they do not do anything, the tenancy becomes a periodic secure tenancy at the end of the fixed term.

If the authority does not want to grant another tenancy when a flexible tenancy comes to an end, it must serve two types of notice:

the first notice must be served at least six months before the tenancy is due to end, with reasons for the non-renewal

the second notice must be served at least two months before the tenancy is due to end, saying that the authority is seeking possession.

If you receive notice that the local authority does not intend to renew your flexible tenancy, seek advice immediately. You have 21 days from the date the first notice is served to request a review. The law says a review must, in particular, consider whether the decision has been made in accordance with the local authority's tenancy strategy (see below). The

You can request a review if you think the authority has not followed its policies by offering you a flexible tenancy of a certain length. You must do so within 21 days of receiving the offer, unless the authority agrees to an extension. You can make a complaint about being offered a flexible instead of a periodic secure tenancy.

### 10.3 Demoted tenancies

Local authorities and housing associations can apply to have a tenancy *demoted* which reduces your security of tenure for a period of time, making it easier for the landlord to evict you.

The court makes a demotion order if satisfied you, or someone living with you or visiting

Note, same-sex married couples are treated the same as opposite-sex married couples. Civil partners are treated the same as married couples. Same-sex partners living together as if they are married or in a civil partnership are treated the same as opposite-

## 11.2.2 Regulated (protected and statutory) tenancies

partner, or a person who was living with the tenant as if they were their spouse or civil partner. You must have been living in the property

family if they lived in the property in the two years leading up to the other than the civil partner or partner takes over the tenancy, it becomes assured instead of regulated. Otherwise, the successor inherits a statutory tenancy.

Regulated tenancies can be passed on twice, but generally only if the first succession is to a spouse, civil partner, or co-habiting partner and the second is to a person who was related to both the original tenant and their successor. The second successor gets an assured tenancy.

## 11.3 Local authority tenants

### 11.3.1 Tenancies granted before 1 April 2012

These tenancies can be inherited by a spouse, civil partner, or a member of the family (including a partner the tenant lived with as if married or in a civil partnership).

A spouse or civil partner must have occupied the property as their only or

A member of the family (including a partner) must have lived with the tenant for at least 12 months and occupied the property as their only or principal home at the time of death. If there is more than one potential successor, the spouse or civil partner has priority.

spouse or civil partner of the deceased tenant, the authority can ask the court for permission to move you





If your partner leaves your property but has not served a notice to quit, you must establish whether you can be made a sole tenant. It may be possible through a deed of assignment (this means your partner *share* ), or by the creation of a new sole tenancy in your name.

Some social landlords (local authorities and housing associations) may be unwilling to do this, particularly if you are under-occupying the property. *public body* meaning it must comply with public and human rights law, which gives you more scope to challenge eviction.

## 12.2 Mortgage repossession

The property you rent may be mortgaged or your landlord may have secured other debts against its value. This gives the person who granted the mortgage or the loan *the lender* a right of possession if your landlord breaches the terms of their agreement, for example by failing to keep up with payments.

If your tenancy was granted before your landlord took out a mortgage and the lender obtains possession of the property, the tenancy is *binding* pay rent to them. They cannot evict you unless they can prove a ground for possession, or the no-fault procedure is available to them.

Your tenancy binds the lender if it was granted after the mortgage was taken out and with their consent, although there are specific grounds for possession that may apply in these circumstances. If your tenancy was *it will not be binding on them* and you can be evicted if they obtain possession.

You can ask the court to delay the possession date for up to two months to allow you more time to find somewhere else to live. You should be sent notices by the lender in advance of the mortgage possession hearing and before an application for *warrant* is made. This gives you an opportunity to ask the court to postpone the eviction.

## 12.3 Immigration status

*Right to rent* *the Immigration Act 2014*. Some people have an unlimited right to rent, such as British citizens and people with indefinite leave to remain. Others have a time-limited right to rent and or are disqualified from renting altogether.

You are disqualified from renting if you are not a British citizen and:  
you require leave to enter or remain in the UK but do not have it, or  
you have leave to enter or remain in the UK subject to a condition that you are disqualified from renting.





**Shelter**

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

Telephone 0808 800 4444 (free call)

A national charity providing telephone advice to people with housing problems on tenancy rights, homelessness, repairs, and housing benefit.

**Your local authority**

[www.gov.uk/find-local-council](http://www.gov.uk/find-local-council)

If you are not a local authority tenant and are having problems with your



## Age UK

Age UK provides advice and information for people in later life through our Age UK Advice line, publications and online. Call Age UK Advice to find out whether there is a local Age UK near you, and to order free copies of our information guides and factsheets.

### Age UK Advice

