

HOUSING CONTRACTS

Whilst every effort has been made to ensure the accuracy of the information in this leaflet, it is not intended to provide an authoritative statement of the law - you are advised to always seek advice if you have any queries. The information only applies to agreements between tenants and private landlords. If you rent your home from the University, a housing association or a local council, you should seek further advice if you have any queries.

When you find a house it may be tempting to sign the contract immediately. However, you must remember you are signing a legally binding document so it is important that you understand what you are signing before you sign. It is possible to have a verbal agreement, which is binding but more difficult to establish your legal position and enforce.

If you are renting from a private landlord, the protection you have largely depends upon the type of tenancy you have. This leaflet gives an outline of the most common form of agreement - the Assured Shorthold Tenancy - and the rights and responsibilities of tenants with this type of tenancy.

Assured Shorthold Tenancies

Most students who rent their homes from a private landlord will have an Assured Shorthold Tenancy. Very broadly, we can make the following statements about these tenancies:

- an Assured Shorthold Tenant has the exclusive right to occupy the tenanted room or house.
- They are also entitled to 'quiet enjoyment' of the premises. This means you have the right to occupy without being disturbed by your landlord or their 'agents' (e.g. letting agent or workmen etc.)
- an Assured Shorthold Tenant has the right to occupy the tenanted room or house for at least 6 months. If you have agreed to rent for a fixed-term (e.g. 10 months, 12 months etc.) you have the right to occupy for at least the duration of this fixed term.
- landlords can recover possession of the property at the end of the fixed term (or after 6 months if there was no agreed fixed-term), but you are entitled to at least written 2 month's written notice that possession is required. Until you receive this notice you have the right to stay.
- you cannot be evicted unless the landlord obtains a court order, regardless of what your agreement may say. During the fixed-term a court order would only be available to a landlord on a limited number of grounds e.g. rent arrears, causing a nuisance to neighbours etc.
- Assured Shorthold Tenants have the right to refer the rent to the Rent Assessment Committee within the first 6 months of the tenancy. The Committee can reduce the rent (or confirm it, but not increase it) if it is higher than that which the landlord could reasonably have expected to obtain.
- landlords have certain obligations for carrying out repairs (see our 'Repairs' leaflet). Again, this is regardless of what your agreement says.

Tenancy types

It is a very common arrangement for students to live together as tenants in a shared house with either an individual or joint Assured Shorthold Tenancy agreement. These are the two main ways in which the landlord could grant to the tenants the exclusive right to occupy:

1. Individual tenancy

Each tenant has a separate agreement they alone have signed, with the exclusive right to occupy their room, and the shared right of access to the common areas e.g. bathroom, kitchen. Each tenant is individually responsible for paying the rent for their room. So, if one or more of the other tenants moves out or is unable to pay rent, the landlord's legal remedy is only against the defaulting tenant(s). However, the landlord has the right of access to the common areas without your consent (unless your contract says they will give reasonable notice before coming into the property), and the right to bring in tenants to replace tenants who move out. If you have a TV in your room you will need a separate television licence.

2. Joint tenancy

This is a single tenancy granted to, and signed by, a group of people. The whole of the house or flat is tenanted and the tenants, together, have the exclusive right to occupy all of the premises. There are no common areas to which the landlord retains the right of access. However, joint tenancies are popular with landlords, mainly because they enable the landlord to impose 'joint and several' liability for observing the terms of the contract, including the obligation to pay rent. So, if one of a group of joint tenants is in breach of the agreement the landlord's legal remedy is against all of the tenants. With regard to rent, if one or more tenants move out and/or stop paying rent, the landlord can lawfully demand that other tenants make up the shortfall. You should check your contract to see whether you are/will be jointly liable for the rent or whether it is each tenant's responsibility to maintain their own rent alone, as not all joint tenancy agreements impose joint liability for rent.

What if I live with my landlord?

If you have a 'resident' landlord you will not have an Assured Shorthold Tenancy - you will be either an 'unprotected tenant' or a 'licensee'. To qualify as resident your landlord must have lived in the same building as you continuously since the start of the tenancy and it must be your landlord's only or main home. If you have the exclusive use of part of the building and you only share with your landlord a storage area, staircase, corridor, passage or other means of access it is likely that you will have an unprotected tenancy. If you share any living accommodation, e.g. a bathroom, toilet, kitchen or living room, you will probably be a licensee. If you live with the landlord or a member of the landlord's family, you should seek advice about your status.

Fixed-Term or Periodic Tenancy

A tenancy may either:

- Last for a fixed number of weeks, months or years - a fixed-term tenancy.
- Run indefinitely from one rent period to the next - a periodic tenancy.

What type of tenancy you have affects the notice you must give to end the tenancy. It is unusual to be able to give notice during a fixed-term tenancy (unless there is a break clause in your contract, which is rare). If you want to give notice, you should seek advice to see what your rights are.

What if the landlord has a mortgage on the house?

Commonly where a landlord has a mortgage, the lender is unaware that the property is being let. In such cases, it is almost certain that the mortgage deeds prevent him/her from renting out the property. This has no effect on the tenants' rights or the landlord's obligations to the tenant whilst the mortgage payments are maintained. However, if they should fall into arrears and the lender moves to repossess the property from the landlord, the tenants are deemed to be illegal occupiers and have no security of tenure. Most lenders require vacant possession as soon as possible. The lender must send notice, at least 14 days before the hearing, to the property addressed to the occupiers informing them of the possession proceedings against the landlord.

Unfair Tenancy Terms

Your landlord (or their agent) cannot use unfair terms in the agreement or take away your legal rights. Unfair terms are traps hidden in the small print or which impose unfair penalties, restrictions, or obligations on you or are not clear about what you have to pay. For example, the agreement does not make it clear that the landlord needs a court order to re-enter or take possession of the property or it allows the landlord the complete freedom to decide whether you have breached the contract. The Office of Fair Trading has produced guidance on unfair tenancy terms - you can get more information from the Student Advice & Representation Centre. You can also complain about landlords' unfair terms by emailing unfair.terms@oft.gov.uk

Renting: Basic advice

If you are renting property in the private sector there is no reason why you should accept poor standards. It is not possible to state categorically what a tenant should expect, but you may increase the likelihood of a problem-free tenancy if you observe the following:

- Before moving in, read through the contract thoroughly and clarify anything that is unclear. If possible, bring it to the Student Advice and Representation Centre and get it checked over. Always get a signed copy to keep.
- Negotiate with the landlord over the terms of the contract e.g. the level of rent, break clauses, agreed improvements and/or repairs etc. If terms are varied or added, get them in writing.
- If you are not happy with any terms in the contract try to get them changed. If any changes are agreed, get them in writing.

- Keep copies of any correspondence you have with the landlord and make a note (signed and dated) of any conversations.

If you have any further queries concerning housing contracts or your rights and responsibilities as a tenant, please contact the Student Advice and Representation Centre.

Tel: 0115 8468730

Email: student-advice-centre@nottingham.ac.uk