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Private Renting Your Rights

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<http://www.cih.org/webinars>

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Content



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- Your 'right to rent' a home
- Types of letting agreement and your right to occupy
- Finding a home and what to look out for
- Fees and charges
- Protecting your deposit
- Keeping safe
- Your rights during the tenancy



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Your 'right to rent'

Right to rent



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- Your 'right to rent' depends on your immigration status
- 'indefinite leave to remain' you have an indefinite right to rent
- 'limited leave to remain' you have time-limited right to rent
- You can get a discretionary right to rent from the Home Office while your application for leave is being processed
- You can prove your right to rent online if you have a biometric residence card <https://www.gov.uk/prove-right-to-rent>
- Your landlord can use the Home Office checking service if your documents are with the Home Office or you have an outstanding appeal <https://eforms.homeoffice.gov.uk/outreach/lcs-application.ofml>

Right to rent: Documents



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- [Right to rent document checks: a user guide](#)
- Proving you have an indefinite right to rent (List A)
 - Group 1: proved by a single document - BRP with right to stay indefinitely, or passport showing the same (in either case current or expired)
 - Group 2: proved by two documents (official letters from Government departments no older than three months, current UK driving licence)
- Proving you have a time-limited right to rent (List B)
 - These documents may have to be checked again during your tenancy



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Letting agreements and your right to occupy

Types of letting agreement



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Lodger:

- You and the landlord live in the same dwelling as your main residence
- Your landlord can ask you to leave with reasonable notice (usually the period over which you pay your rent, e.g. weekly, monthly)
- Your landlord does not need a court order to evict you

Licensee/boarder:

- Your landlord lives elsewhere, and **either** you share the rent and the accommodation with others who can be nominated by the landlord **or** your landlord provides meals or personal services
- Your landlord can ask you to leave with four weeks notice or period over which you pay your rent
- Your landlord needs a court order to evict you but is likely to get one if s/he applies

Tenant:

- Your landlord lives elsewhere and you have the right to exclusively occupy the whole or part of (e.g. a room)
- Your landlord can ask you to leave – but certain rules and procedures apply
- Your landlord needs a court order to evict you but you may sometimes have a valid defence

Other insecure agreements



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- Part of your employment contract (tied accommodation)
- Hostels, refuges, care homes
- Holiday lettings
- Student accommodation from the institution (halls of residence)
- Mobile homes (typically on a park homes site)
- Airbnb/property guardians
- **Verbal agreement:** is legally binding if you pay rent weekly, monthly and either no term was agreed or the term is less than three years
- **Sham agreement:** one in writing that describes an insecure letting but in practice has the all the characteristics of a tenancy

Assured tenancies



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- Landlord cannot evict during first six-months – except with a court order and for certain specified reasons (two-months rent arrears)
- If agreement is for a longer period (e.g. one year) then the above applies for the whole term
- After initial term expires your agreement repeats indefinitely with each new rental period (week to week or month to month)
- After four months or the end of the term if longer the landlord can serve you with two months notice (for any reason)
- Landlord still needs a court order to evict you but provided s/he has followed the correct procedure and certain legal requirements s/he will be granted one

Standard agreements



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Oyez forms

- Unfurnished house: Agree19
- Furnished house: Agree20

- Unfurnished flat: Agree3B
- Furnished flat: Agree3C

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TENANCY AGREEMENT

This is a form of legal document and is not produced or drafted for use, without technical assistance, by persons unfamiliar with the law of landlord and tenant. IF EITHER PARTY DOES NOT UNDERSTAND THIS AGREEMENT OR ANYTHING IN IT, HE OR SHE IS STRONGLY ADVISED TO ASK AN INDEPENDENT PERSON FOR AN EXPLANATION. SUCH AN EXPLANATION MIGHT BE GIVEN BY A SOLICITOR, A CITIZEN'S ADVICE BUREAU OR A HOUSING ADVICE CENTRE. It should not in any event be used for any case relating to existing tenants or occupiers who have tenancy or assured tenancies: see Rent Act 1977, section 61, as amended by Housing Act 1988(1) and 1992. This form will usually create an assured shorthold tenancy or an ordinary contractual tenancy. The type of tenancy created depends upon the surrounding circumstances and the Housing Act 1988.

DATE

PARTIES 1. THE Landlord
.....
.....
2. THE Tenant
.....
.....

PROPERTY
.....
.....
And any fixtures and land held with the Property

TERM A fixed term of months/years(s) (start date)
from (end date)
until
And thereafter from to
(eg, month to month)

RENT £ per (period)

PAYABLE in advance by equal payments on the
day of each

FIRST PAYMENT to be made on (date)

DEPOSITS
If the tenancy granted is an assured shorthold tenancy and the landlord takes a deposit, the landlord must, within 30 days from the date of payment, give the tenant and any person who has paid the deposit on the tenant's behalf or on his written information about the way the deposit is protected. See the Housing Act 2004, s.21(5) and the Housing Tenancy Deposits (Prescribed Information) Order 2007, S.I. 2007/797. The landlord may not require a deposit which consists of property other than money.

1. SUBJECT to clause 7 of this Agreement where it applies, the Landlord lets the Property to the Tenant for the Term at the Rent payable as set out above.
2. THE Tenant agrees with the Landlord -
 - (1) To pay the Rent as set out above
 - (2) (a) To pay any council tax which the Tenant is obliged to pay under the Local Government Finance Act 1992 or any regulations under that Act
 - (b) To pay to the Landlord the amount of any council tax which, while the tenancy continues, the Landlord becomes obliged to pay under that Act or those regulations for any part of the period of the tenancy because the Tenant ceases to live at the Property
 - (c) To pay all other charges of any kind which are now or later come to be charged to the occupier of the Property as such by any body acting under statutory authority in making such a charge
 - (3) To pay for all gas, electricity, water and sewerage services supplied to the Property during the tenancy and to pay all charges for the use of any telephone at the Property during the tenancy. Where necessary, the sums demanded by the service provider will be apportioned according to the duration of the tenancy. The sums covered by this clause include standing charges or other similar charges and VAT as well as charges for actual consumption

AGREE11

Fixed term agreements



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- You have security during the whole term
- You are liable for rent for the full term – even if you move out earlier
- Your letting agent may charge you a ‘re-marketing fee’ to re-let the property (but see later on lawful fees)



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Finding a home
and what to look out for

Finding a home



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From a landlord

- Word of mouth
- Small ads in local newspapers and newsletters
- Lettings websites
- Local notice boards in community facilities and shops
- Most private landlords in the UK have just one or two properties
- Less professional more informal. Rent and deposit only

From an agent

- Usually a rentals department within a high street estate agent
- Visit agency or their website
- Make their money through volume of business, a percentage of rent and charges
- More professional more formal. Rent, deposit and other charges

Property agents



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- Some are members of industry quality mark schemes
 - The largest is [Propertymark](#)
- Must be a member of an approved redress scheme:
 - [The Property Ombudsman Limited](#)
 - [The Property Redress Scheme](#)
- Must be a member of an approved client money protection scheme
 - Propertymark
 - [Client Money Protect](#)
 - [Money Shield](#)
 - [RICS](#)
 - [Safeagent \(previously NALS\)](#)
 - [UKALA Client Money Protection](#)

arla | **propertymark**

PROTECTED

New contract fees



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The **only** fees that
can be charged for a
new or replacement
contract:

- a refundable tenancy deposit capped at no more than five weeks' rent
- a refundable holding deposit (to reserve a property) capped at no more than one week's rent
- payments associated with early termination of the tenancy, when requested by the tenant
- payments in respect of utilities, communication services, TV licence and council tax
- a default fee for late payment of rent and replacement of a lost key/security device giving access to the housing, where required under a tenancy agreement.
- [Government guidance](#) for tenants



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Protecting your deposit

Deposit protection schemes



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- There are three approved schemes
 - [Deposit Protection Service](#)
 - [MyDeposits](#)
 - [Tenancy Deposit Scheme](#)



- Custodial scheme
 - the scheme hold the deposit for free
- Insured scheme
 - The landlord or agent holds the deposit and pays the scheme to insure it
- If your deposit isn't protected you can get compensation and your landlord may not be able to use the 'notice only' procedure to recover the tenancy when it ends

How it works



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- The landlord/agent must put your deposit (including a holding deposit) in the scheme within 30 days of getting it
- At the end of the tenancy your deposit should be returned if:
 - you met the terms of your tenancy agreement
 - you did not damage the property
 - you paid the rent and bills
- If you have a dispute the deposit is held in the scheme until the issue is settled (if insured the landlord must pay it to the scheme)
- It must be returned within 10 days of you reaching an agreement

Information you must get



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Your landlord/agent must tell you within 30 days:

- the address of the rented property
- how much deposit you have paid
- how your deposit is protected
- the name and contact details of the scheme and its dispute service
- their name and contact details
- the name and contact details of any third party who paid the deposit
- why they may keep some or all of it (e.g., to repair any damage)
- how to apply to get the deposit back at the end of the tenancy
- what to do if they cannot get hold of you at the end of the tenancy
- what to do if there's a dispute over the amount to be returned

Avoiding deductions



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- Most disputes are about property damage and cleanliness
- High cleaning charges are a frequent tenant complaint
- ✓ Make an inventory at the start of the tenancy
- ✓ Take meter readings for gas, electricity and water
- ✓ Ideally walk through and identify any damage and agree or photo and send to landlord/agent as soon as possible and repeat at end
- ✓ If landlord not present have someone witness it
- ✓ Clean the property thoroughly before you leave and remove rubbish



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Keeping safe

HMO licensing



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- House in Multiple Occupation (HMO) is a rented house where you share a toilet, bathroom or kitchen facilities with other households
- The landlord of a 'large HMO' must have a local authority licence
- A large HMO is one that is rented out to five or more people who form more than one household
- Some local authorities require small HMOs and other houses to be licensed
- The licence sets conditions about how the HMO is managed, its condition, facilities, safety features and maximum number of occupiers
- You can check if your landlord has a licence on the local authority register

Unlicensed HMO landlord



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- Unlimited fine and/or prison sentence
- A civil penalty of up to £30,000 as an alternative to prosecution
- May have to repay up to one years rent
- Can be banned from letting or managing property
- The local council (or their agent) can take over the management of the property

Smoke alarms



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All private lettings (without a resident landlord)

- must have a smoke alarm on each storey of the building
- must have **carbon monoxide alarm** in each room where there is a solid fuel appliance
- A check must be carried out at the start of each new tenancy to see if they are working correctly



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Your rights during your tenancy

Protection from eviction



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Your landlord may not be able to use the notice only procedure if:

- s/he has not provided you with the right information at the start of the tenancy (How to Rent, EPC, gas and electrical safety)
- s/he has failed to follow the deposit protection rules
- s/he has charged you an illegal fee or over 5 weeks rent deposit
- the authority has served an improvement notice in last 6 months
- s/he is required to have a licence but does not have one (HMO)
- If the notice was served at the wrong time or is not on [Form 6A](#) or is but has been completed incorrectly

Early notice



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You can't be evicted during first six months or fixed term unless:

- you have two months rent arrears (mandatory)
- you have other rent arrears or persistent arrears (discretionary)
- you have breached your agreement (discretionary)
- you have engaged in anti-social behaviour (either)
- the lender wishes to sell the property (mandatory)
- It is the landlords former home and they are returning to live there (mandatory)
- certain other specified reasons

Unlawful harassment



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Examples of unlawful harassment

- Eviction without a court order
- Threats of violence or intimidating behaviour
- Removal or interference with your possessions
- Changing locks
- Cutting off services
- Entering the property without your permission

Basic tenancy rights



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Your tenancy includes these rights (whether it says so or not):

- The right to 'quiet enjoyment'
- The landlord agrees:
 - to keep in good repair the structure and exterior of the dwelling
 - to keep in repair and proper working order the installations for the supply of water, gas and electricity and for sanitation
 - to keep in repair and proper working order the installations for space heating and heating water
 - to ensure that the dwelling is [fit for human habitation](#) at the start of tenancy and remains so throughout the term of the agreement

Poor conditions



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- Your local authority has wide powers to deal with poor conditions
- These are based on the [housing health and safety rating system](#) (HHSRS) which identifies category 1 and category 2 hazards
- Powers include:
 - Serve a hazard awareness notice
 - Serve an improvement notice
 - Carry out the works itself in extreme cases, close or demolish the building
- When an improvement notice is not complied with the authority may:
 - Impose a civil penalty of up to £30,000
 - Prosecute for failure to comply (unlimited fine)
 - Apply to a tribunal for a banning order
 - Apply to a tribunal for repayment of the rent

Which local authority



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District, borough or city council

- Property conditions/hazards
- HMO licensing
- Electrical safety
- Unlawful harassment and eviction

Borough, city or county council

- Unlawful fees (Trading standards Department)

Health and Safety Executive

- Gas safety



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Checklist

Checklist



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- ✓ has your landlord/agent given you the right documents
- ✓ Is your letting agent in an approved property redress scheme
- ✓ Is your letting agent in a client money protection scheme
- ✓ What are your letting agent's fees and charges
- ✓ Is your deposit protected in an approved scheme
- ✓ If your tenancy is an HMO does your landlord have a licence
- ✓ Was the smoke alarm tested in at start of tenancy
- ✓ Take pictures at the start and end of your tenancy (walk through)



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[More information](#)

Housing Rights Website



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<https://www.housing-rights.info/index.php>



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The Chartered Institute of Housing and BME National welcome
you to the Housing Rights website

The Housing Rights website gives recent arrivals and housing advisers up-to-date information about people's rights when looking for a home, based on their immigration status. Please click the links below to go to the pages for New Arrivals or Housing Advisers in England and Wales, or click for pages on Scotland.

New Arrivals

Housing Advisers

[Click here for pages on Scotland](#)

Refugees and asylum seekers | People with indefinite leave | People with limited leave | European workers | Other European nationals | European family members | British and Irish citizens | People fleeing domestic violence | People with social care needs | People who are destitute

Search

You are here: Home | New Arrivals | Obtaining a rented home from a private landlord

Finding a rented home from a private landlord

This page is for new arrivals. If you are a housing adviser please click here for information more relevant to you.

Click here for pages on Scotland

Your legal rights as a private tenant

'Right to Rent' checks by landlords

TDS Charitable Foundation Funded project

Contents:

- Why choose a private rented house or flat?
- Finding a tenancy
- Making sure you are treated fairly
- Starting a tenancy
- What is included in the rent?
- Sharing a home
- Your legal rights
- Your rent
- Getting help to pay your rent: universal credit and housing benefit
- 'Right to Rent' checks by landlords

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BME national

More information

- What does it mean? - key immigration terms explained
- The EU Settlement Scheme
- Housing in England & Wales explained
- Who is eligible for a housing allocation or homelessness assistance?
- Finding a rented home through the local council
- Applying as homeless to local councils
- Housing associations and new migrants
- Finding a rented home from a private landlord
- Who can get universal credit (UC), housing benefit (HB) and council tax rebate (CTR)?

Private landlords are individuals or companies who offer private rented accommodation on the open market, by advertising or using agents. The majority of private landlords in the UK rent out only one home, and most have only been landlords for ten years or less. Few get training or join organisations that offer advice and many use agents to manage their property.

<https://www.housing-rights.info/renting-from-a-private-landlord.php>



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Any questions?

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