

Issue 119 August 2017

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Housing matters

Housing matters is produced by Shelter for the NHAS and aims to provide a source of up-to-date housing and homelessness news, focus on important case law, cover key legal issues, and produce information for public use.

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Housing matters welcomes contributions from NHAS members. If you would like to provide an article or update for

Housing matters please email

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National Homelessness Advice Service

The National Homelessness Advice Service (NHAS) is a partnership between Shelter and Citizens Advice funded by the Department for Communities and Local Government.

The service aims to prevent homelessness and remedy other housing problems through increasing public access to high-quality housing advice in England, including online information on the NHAS website at www.nhas.org.uk

The NHAS provides the following to local authorities, local citizens advice and around 100 other advice agencies in England:

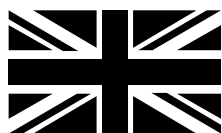
- a national telephone housing advice consultancy service for local authorities, local citizens advice and around 100 other advice agencies in England. Call **0300 330 0517** 9am–6pm, Monday to Friday, or send in an enquiry using the online enquiry form available on the members' areas of www.nhas.org.uk
- housing debt casework – specialist support for cases relating to mortgage arrears and other problems with housing affordability, including welfare benefits issues. Call **0300 330 0517** or use the online enquiries form (see above for details)
- free basic housing advice training courses to develop housing advice skills, covering the main housing advice presenting issues and how to advise households effectively on homelessness prevention options
- written briefings, articles in *Housing matters* and *Adviser*, information on housing issues and other written materials
- support in the implementation of new homeless prevention initiatives.

Contact details

For more information about NHAS training, please email JoanneK@shelter.org.uk or call **0344 515 1676**.

For general enquiries about the NHAS service, please email nhas@shelter.org.uk or call **0344 515 2268**.

Alternatively, please use the 'contact us' page at www.nhas.org.uk



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What's new?

Housing First feasibility study

Crisis has published the results of a feasibility study into the effectiveness of 'Housing First' in Liverpool. Housing First provides stable housing to homeless people with complex needs and builds personalised support around them.

[The feasibility study report](#) concludes that the current system is failing some of the most vulnerable homeless people. It recommends that Housing First should be used as part of a wider 'housing-led' system that addresses the needs of all homeless people and places emphasis on preventing people from becoming homeless in the first place. See HOMAT 118 for a feature on Housing First in Manchester.

EU nationals

The Immigration Law Practitioners' Association (ILPA) has produced (and will maintain) a series of free downloadable ['Brexit' information sheets](#) about EU rights of residence, and the issues affecting EEA citizens and their family members living in the UK, in the context of Brexit.

Support for Mortgage Interest

With effect from 6 April 2018, the Loans for Mortgage Interest Regulations 2017 SI 2017/725 provide that help with mortgage (and other eligible) payments will be made as loans rather than as part of a claimant's benefit award. The Secretary of State will have the power to make loan payments for indefinite periods to claimants of qualifying benefits (including income-based jobseeker's allowance, state pension credit and universal credit). Alternatively, payments can be made direct to the claimant's mortgage lender. Also in the regulations are provisions for the calculation of interest on loan payments and the circumstances when repayment is required. There will be limited transitional protection for existing claimants.

Benefit cap

The DWP has issued new guidance in relation to the High Court judgment in *R (on the application of DA & Ors) v Secretary of State for Work and Pensions [2017] EWHC 1446 (Admin)*, in which the High Court ruled that applying the current benefit cap to lone parents with children aged under two is unlawful. The government is appealing the decision, and the DWP advises in [HB Bulletin U2/2017](#) that the benefit cap should continue to be applied until advised otherwise.

English Housing Survey

The Department for Communities and Local Government has published a series of detailed reports on people's housing circumstances and the condition and energy efficiency of housing based on data collected through the English Housing Survey 2015/16. The reports include statistical data for on housing costs and affordability, attitudes and satisfaction with local area and accommodation, and movement between tenures. The English Housing Survey tables are available on [Gov.uk](#)

Ombudsman name change

The Local Government Ombudsman has changed name to the Local Government and Social Care Ombudsman (LGSCO). This has been done to clarify that the LGSCO looks at complaints about adult social care, including privately arranged or funded care.

New Housing Minister

Alok Sharma MP was appointed the new housing and planning minister on 13 June 2017.

Armed Forces housing

The House of Commons Library has published a briefing paper looking at current issues with armed forces accommodation. The paper, [Armed Forces Housing](#), highlights issues of poor maintenance, increased rents and uncertainty over future accommodation plans. In this issue of HOMAT, we look at Service Family Accommodation on page 2.

UC roll-out concerns

In [Delivering on Universal Credit](#), Citizens Advice says that problems with universal credit mean that many people are falling into debt and without the means to make ends meet. If the problems aren't fixed, Citizens Advice warns that 7 million households could be at serious financial risk.

Fire risk in high rise blocks

Following the tragic fire at Grenfell Tower, the House of Commons Library has provided an overview of the legal framework under which fire risks in tower blocks are managed in England. The report [Grenfell Tower fire: Response and tackling fire risk in high rise blocks](#), covers the building regulations, the Regulatory Reform (Fire Safety) Order 2005, and the Housing, Health and Safety Rating System.

Service Family Accommodation

In this article, Richard Bickley considers the provision of family accommodation for armed forces personnel.

Richard Bickley is an NHAS consultancy line adviser.

The allocation of Service accommodation is governed by the 'TSARs', or the [Tri-Service Accommodation Regulations](#) (Joint Service Publication 464 (JSP 464)), published by the Ministry of Defence (MoD).¹

JSP 464 is the definitive policy source document for the provision of Service Family Accommodation (SFA) and Single Living Accommodation (SLA). Volume 1 covers SFA and is split into two parts: part 1 contains the regulations and directives for the provision of SFA, part 2 contains supplementary guidance.

Qualifying personnel

SFA is provided by the Defence Infrastructure Organisation (DIO), part of the MoD. SFA is allocated to army, navy and air force personnel who are:

- married or in a civil partnership, and who would normally live with their partner
- single and either pregnant (within three months of the expected date of delivery), or with the care of dependent children
- single with particular personal circumstances (to be approved on assessment), eg being a foster carer.

Applicants for SFA must be 18-years-old or over, and have at least six months to serve in their unit. The type of property allocated depends on rank in the case of officers, and family size in the case of all other personnel.

Cohabiting couples who are not married or in a civil partnership will not be allocated SFA under any circumstances.²

Security of tenure

Successful applicants are issued with a licence agreement. SFA is excluded from security of tenure under the assured³, secure⁴ or protected⁵ tenancy regimes. Section 3 of the Protection from Eviction Act 1977 entitles them to a court order before they can be evicted. There is no right to assign, sublet or succeed to the property. The licence is for the occupation by the licensee, her/his spouse or civil partner and dependent children.

Other persons may occupy the property with prior written consent of the DIO. Rent and a charge in lieu of council tax are payable, and are deducted from the licensee's pay.⁶

Where SFA is not available, entitled personnel will usually be provided with privately rented accommodation allocated and managed by the Ministry of Defence (MOD). This is known as 'Substitute SFA' (SSFA) and is initially available on a six-month licence under similar conditions to regular SFA.⁷ Property not required for SFA is known as 'Surplus SFA' and may be available for personnel who don't meet the criteria for SFA.

Ending the agreement

The SFA licensee can terminate her/his licence by giving a 93-day written notice after three months of the license have passed.⁸ A 40-day notice is required to vacate SSFA, although this cannot be ended by the occupier during the first six months.

The DIO must issue a notice to vacate (NTV). The notice period varies:

- most NTVs will be for 93 days
- a 28-day NTV can be issued for breach of licence or on dismissal from the Services on disciplinary grounds
- a 28-day notice can be issued if a service licensee loses her/his entitlement to SFA, or where the property has been allocated as 'surplus SFA'
- an SSFA can be ended with a 40-day NTV.

The DIO will issue a 93-day NTV where the licensee is:

- declared absent without leave
- unable to live with their spouse or civil partner following a relationship breakdown (see below)
- medically discharged. A 93-day 'continued use and occupancy' will be granted and further extensions can be given (a non-entitled rent will be charged which may be higher)
- regularly discharged from service.

A 93-day NTV can also be issued where the property is required for refurbishment or disposal. The DIO should give six-months' prior notice if this is their intention. In the case of a mid-tour of duty, moving expenses and an appropriate disturbance allowance should be paid.

Once the NTV expires, remaining occupiers are classed as irregular occupants and are liable to pay damages for trespass ('mesne profits'). Such occupiers are classified as 'Crown tenants' because the interest in the land is held by a government department, and are therefore excluded from entitlement to housing benefit.⁹ The exclusion does not apply to universal credit (UC), which may arguably cover any charges that are due.¹⁰

A person leaving SFA who needs to make a homelessness application can request a 'Certificate of Cessation of Entitlement to Occupy SFA'. This should be accepted by the local housing authority as evidence of the date they will become homeless, without the need for a court order.¹¹

Relationship breakdown

In cases of relationship breakdown, a maximum 93-day reconciliation period will be granted during which the licensee will usually be placed in SLA, whilst her/his family remains in the SFA. S/he will have to pay for both the SFA and the SLA. If there is no reconciliation by the end of the period, the service licensee will have their '[personal status category](#)'¹² amended in line with the change of circumstances.

Remaining occupants of the SFA will be served with a 93-day NTV. The DIO will conduct a proportionality exercise to establish any need for occupancy beyond the expiry of the 93-day NTV. It should consider factors such as children's schooling, and welfare and medical considerations. After the exercise is completed, the DIO may stay legal action for a period.¹³

The licensee will not necessarily lose the accommodation if abandoned by a spouse/civil partner. Depending on her/his personal status category s/he may be able to remain in the property. The licensee can be issued with a 28-day NTV if entitlement to SFA is lost.

Death in service

If an SFA licensee dies in service, the remaining spouse/civil partner will be offered a two-year entitlement to SFA, extendable at the discretion of the local Service commander. Six months after the death of the licensee, the DIO will conduct a review of the spouse/civil partner's housing needs with a view to integration back into the civilian community. Further reviews will be undertaken at three-monthly intervals. The DIO reserves the right to withdraw entitlement to SFA at any time.

The bereaved spouse/civil partner will be liable for the cost of the accommodation. The rent will depend on the type and grade of the accommodation. Charges in lieu of council tax can be reduced by 25% in the case of single occupancy. The DIO will try to provide suitable alternative accommodation if the property is required for disposal or refurbishment during the period of entitlement, plus removal expenses and disturbance payments.

The DIO will assist with removal costs if a bereaved spouse/civil partner requests a move to be closer to family within six months of the death in service. The accommodation offered could be SSFA.

At the end of the entitlement period plus any discretionary extension, a 93-day NTV (40 days for SSFA) will be issued to the bereaved spouse/civil partner. If the bereaved spouse/civil partner secures privately rented accommodation they will be entitled to relocation expenses. On expiry of the entitlement to SFA, the bereaved spouse/civil partner may also apply for 'Surplus SFA'.

Defending possession proceedings

The DIO will apply to the county court for a possession order if occupants do not leave the accommodation on expiry of the NTV. As an outright possession order is mandatory, any defences are mainly of a technical nature (eg a faulty notice). However, a defence could be brought in the county court:

- on public law grounds¹⁴ where the MoD (as a public authority) has acted irrationally, illegally or with procedural impropriety
- under the Equality Act 2010 if the MoD, in seeking to evict persons with a protected characteristic (or associated persons), directly or indirectly discriminates unlawfully against them.¹⁵

The county court should consider the proportionality of any order for possession being made having regard to the occupiers' rights to respect for the home under article 8(1) of the European Convention on Human Rights.¹⁶ The MOD may well be able to demonstrate that a possession order is proportionate as the court will consider its need to have SFA available for serving personnel, and article 8(2) allows for interference with article 8(1) rights by a public body in the interests of public safety and national security.

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11.5.14.4 paras 41-44 Tied accommodation.

Footnotes

¹ The regulations can be found on Gov.uk; also on Gov.uk is a useful page providing general guidance on [Service Family Accommodation](#)

² Joint Service Publication (JSP) 464 Volume 1 Part 1 Section V para 0110.

³ Schedule 1 Housing Act 1988.

⁴ s.80 Housing Act 1985.

⁵ s.13 Rent Act 1977.

⁶ Referred to as a CILCOT charge.

⁷ Para 0509, JSP 464 Volume 1, Part 1.

⁸ Clause 4.1, Annex A to Chapter 2, JSP 464, Volume 1, Part 2. Para 0706, JSP 464 Volume 1, Part 1.

⁹ reg 12(2)(e) HB Regulations 2006 SI 2006/213.

¹⁰ para 2(b) Sch. 1 Universal Credit Regulations 2013 SI 2013/376.

¹¹ para 8.33 and Annexes 14 & 15, Homelessness Code of Guidance for Local Authorities.

¹² Personal status category (PStatCat) is used to classify a service member's entitlement to expenses and allowances and not solely entitlement to accommodation. See JSP 752, Part 2, Chapter 1 Section 3.

¹³ para 0715, JSP 464 Volume 1, Part 1.

¹⁴ Wandsworth LBC v Winder [1984] UKHL 2, [1985] AC 461.

¹⁵ Akerman-Livingstone v Aster Communities Limited [2015] UKSC.

¹⁶ Manchester City Council v Pinnock [2010] UKSC 45.

Homelessness Reduction Act 2017

The Homelessness Reduction Act 2017 significantly amends the Housing Act 1996. In this article, John Gallagher summarises the main effects of the Act. Further articles giving details of the changes will follow in future issues of HOMAT.

John Gallagher is principal solicitor at Shelter.

The Homelessness Reduction Act 2017 will make the most far-reaching changes to homelessness legislation since the original Housing (Homeless Persons) Act was enacted forty years ago. It significantly amends the Housing Act 1996 and is expected to come into force in either April or October 2018.

Under the Act, local housing authorities will be required to intervene at earlier stages in order to prevent homelessness and to take reasonable steps to help those who become homeless to secure accommodation. Its main purpose is to ensure that everyone who approaches a local authority because they are either facing homelessness or actually homeless should receive some assistance, whether they are in priority need or not, and irrespective of whether they may be considered intentionally homeless.

A draft of the new Homelessness Code of Guidance is expected to be issued for consultation in the autumn.

New duties

There are three major new duties in the Act, namely duties to:

- **assess** all eligible applicants and agree a plan
- take reasonable steps to **prevent** homelessness
- **relieve** homelessness by helping the applicant to secure accommodation.

(1) Duty to assess

If a local authority is satisfied that an applicant is eligible for assistance and either homeless or threatened with homelessness¹, it must carry out an assessment into:²

- why the applicant is homeless or threatened with homelessness
- their housing needs
- the support they need to have and retain suitable accommodation.

Following the assessment, the authority must work with the applicant to agree a 'personalised housing plan'. The plan will record actions to be taken by both parties to obtain/retain suitable accommodation. If it can't reach an agreement with the applicant,

the authority must record the reasons in writing, together with any steps the authority considers it would be reasonable to require the applicant to take, and the steps the authority is itself to take.

(2) Duty to prevent homelessness

Authorities will be under a duty to take reasonable steps to help an eligible applicant who is threatened with homelessness to secure that their existing accommodation does not stop being available for their occupation.³ The steps to be taken should be informed by the personalised plan.

The Act will extend the period of being threatened with homelessness from the current 28 days to 56 days. The prevention duty will therefore start eight weeks before the anticipated date of actual homelessness.

The authority must keep its assessment (first duty) under review and must notify the applicant of any changes while the prevention duty continues.

Examples of the type of step a local authority might take under the prevention duty include advising on defending a claim for possession, or offering mediation to help keep families together. The duty could extend to providing a security deposit to secure alternative accommodation for when the existing accommodation comes to an end.

The prevention duty lasts for a period of 56 days. However, it may be brought to an end earlier where the authority is satisfied that:

- the applicant has suitable accommodation available, and
- there is a reasonable prospect that it can be occupied for at least six months.

The prevention duty can also end where the applicant:⁴

- deliberately and unreasonably refuses to cooperate, or
- becomes homeless.

In these cases, the applicant will proceed to the 'relief' stage. To bring the duty to an end, the authority must give notice. The applicant will have a right of review of that decision.

Section 21 notices

Special provision is made for the situation where a valid 'section 21' notice has been given to an assured shorthold tenant, requiring him/her to leave in at least two months' time. The period of being 'threatened with homelessness' will start 56 days before the expiry date of that notice.

However, the prevention duty will not automatically come to an end after 56 days. Prevention activity should continue to take place until the authority is satisfied that the applicant is homeless.⁵

(3) Duty to relieve homelessness

Where an applicant is homeless and eligible for assistance, authorities must take reasonable steps to relieve homelessness by helping her/him to secure suitable accommodation.⁶ The steps to be taken should be informed by the personalised plan.

This duty is owed to all eligible applicants, irrespective of priority need and whether or not they might be found intentionally homeless. If the applicant has no local connection with the authority, it can refer the relief duty to another authority with which the applicant does have a connection (unless s/he would run the risk of violence in the second authority's area).

The relief duty lasts for a period of 56 days. The authority may give notice to bring it to an end before that time if the applicant:

- has suitable accommodation which is likely to last for at least six months
- refuses an offer of suitable accommodation⁷ of at least six months' duration
- deliberately and unreasonably refuses to co-operate with the relief process.

Interim accommodation duty

At the same time, where the authority has reason to believe that an applicant may be homeless, eligible for assistance and have a priority need, they must provide interim accommodation.⁸ This duty lasts until the authority make a decision on the homelessness application or (where the applicant is in priority need only), until the relief duty ends, if later.

As now, if the authority's decision is unfavourable and the applicant requests a review, the authority has a power (but no duty) to extend temporary accommodation pending its decision on review.

The main homelessness duty

Where the authority is unable to relieve the applicant's homelessness by providing, or assisting him/her to obtain, suitable accommodation within 56 days, what happens next depends on whether the applicant is found to be in priority need:

No priority need

The authority will owe no further duty.

Priority need

Where the applicant is in priority need, and is not intentionally homeless, the authority will, as now, owe her/him the 'main' housing duty (under section 193 Housing Act 1996). However, if s/he has refused a suitable final offer at the relief stage, the main duty will not apply and the authority will owe no further duty. If s/he has deliberately or unreasonably refused to co-operate with the steps set out in the personalised housing plan, the authority will only owe a duty to make a 'final accommodation offer' - which will usually be a six months' tenancy of private rented accommodation.

Where the applicant is intentionally homeless, the authority must (as now) provide temporary accommodation for a reasonable period, together with advice and assistance.

Care leavers and local connection

Under the Act, homeless care leavers who are owed 'leaving care' duties will be considered to have a local connection with:⁹

- the local authority that owes them the leaving care duties.
- any authority in the county where they were looked after by a county council
- an authority in which the young person has lived for at least two years, at least some of which was before they turned 16. This will last until they are 21.

Duty of public authority to refer cases

The Act also creates a potentially important duty on certain public authorities (to be specified by regulations, but likely to include hospitals, schools and prisons) if they consider that a person who is in their charge may be homeless or at risk of becoming homeless. The public authority must ask that person to agree to a local authority of her/his choice being notified and, provided the person agrees, must then notify that authority and provide them with the person's contact details.¹⁰

Footnotes

¹ Defined as homeless within 56 days in s.175(5) Housing Act 1996 as amended by Homelessness Reduction Act 2017.

² s.189A Housing Act as amended.

³ s.195(2) Housing Act 1996 as amended.

⁴ s.193B Housing Act 1996 as amended.

⁵ The Government has given assurances that new guidance will urge authorities to treat a household as homeless from the date given in the section 21 notice.

⁶ s.189B Housing Act 1996 as amended.

⁷ Article 3 of the Homelessness (Suitability of Accommodation) (England) Order 2012 SI 2012/2601 (enhanced suitability standard) applies to a final offer made under the relief duty (and to accommodation offered to a person in priority need to end the 'prevent' duty).

⁸ There is no duty to provide accommodation for someone who does not appear to be in priority need during the relief period.

⁹ s.199 Housing Act 1996 as amended.

¹⁰ s.213B Housing Act 1996 as amended.

Tenant's NTQ

The first of two features by Tony Benjamin looking how a tenant can end their tenancy.

Tony Benjamin is a legal writer and editor at Shelter Legal.

A tenant can end her/his tenancy in two ways: by serving a valid notice to quit (NTQ), or by surrendering the tenancy.

This feature outlines the requirements for a tenant to end a periodic tenancy by serving a NTQ. Tenants with fixed-term tenancies are considered at the end of the feature.

Whether to serve an NTQ is the tenant's decision – the landlord's wishes are not relevant. However, to surrender a tenancy, the landlord's agreement is required. We will examine surrender in the next issue of *Housing matters*.

Notice period

The Protection of Eviction Act 1977 sets out the minimum requirements for a tenant's NTQ to be valid, namely:¹

- it is in writing
- the notice period is for a minimum of 28 days.

In calculating the notice period, the day on which an NTQ is served is included but the last day referred to in the NTQ is not (see example below).²

A longer period of notice will be required if:³

- the tenancy expressly spells this out
- the period of a tenancy exceeds 28 days.

Where the period of a tenancy is more than 28 days, the notice period must be at least as long as a period of the tenancy. For example, the minimum notice for a monthly tenancy is one month, for a quarterly tenancy it is three months (although for a yearly periodic tenancy the required notice period is only six months).

The requirements under the Protection of Eviction Act 1977 that the NTQ is in writing and for a minimum period of 28 days do not apply to residential occupiers excluded under section 3A of the Act, such as lodgers.

Additional content

An NTQ must set out the address of the tenancy that is to be ended and the name of the tenant. Unlike for an NTQ served by a landlord on a tenant, there is no requirement for any prescribed information to be included.

Date of expiry

An NTQ must expire on either the first or last day of a period of the tenancy, unless the tenancy agreement sets out otherwise.⁴

The first day of a period of a tenancy is the anniversary date of each week/month etc (as appropriate) after the tenancy began. This is often the same date as the rent is due, but not always, and this can cause difficulties. For example, if a tenancy agreement says that the rent is due on the 1st of each month, and the tenancy started on 12 April then the 12th of each following month will be the first day of a period of the tenancy.

To avoid getting the expiry date wrong, a tenant can include a 'savings clause' in an NTQ. For example, an NTQ for a monthly tenancy could say 'my tenancy will end on [a specific date] or on the day on which a complete period of my tenancy expires next after the end of four weeks from the service of this notice'. The fact that an NTQ may in effect incorporate two different expiry dates does not invalidate it.⁵

Example calculation

To end a weekly tenancy which began on a Monday, an NTQ served on Sunday 1 July that expired on Sunday 29 July would be valid:

- it gives 28 days' notice (the first but not the last day of notice is counted)
- the notice expires on the last day of the weekly period which runs from Monday to Sunday.

Had it been served on Monday 2 July it would not be valid - counting from 2 July to 28 July (the last day is not counted) is only 27 days.

How to serve an NTQ

An NTQ can be served by personally handing it to the landlord. It will also be validly served where a tenant posts an NTQ using registered post or recorded delivery, or personally delivers it to the landlord's address,⁶ provided that the tenancy agreement expressly:

- states that service will be effective when in accordance with section 196 of the Law of Property Act 1925, or
- spells out these methods of service.

Where this is the case and one of these methods of service is used, this is sufficient proof of service. So, for example, in the event of a dispute where an NTQ was sent by recorded delivery (to the correct address), and is not returned by the Post Office, it does not matter that the delivery was signed for by someone other than the landlord.⁷

Where a tenancy agreement does not refer to section 196 (or make express provision for service by the methods set out in section 196) then a tenant needs to rely on common law rules and provide evidence that the NTQ has come to the landlord's attention.⁸

The surest way to do this is by personal service or delivery to the landlord's address. In practice, the court may be satisfied that notice was served if the tenant can produce a recorded delivery slip (or possibly a certificate of posting).

Is email service valid?

Service by email will be valid where the tenancy (or other signed) agreement allows for it. It is not clear whether it would be valid where the landlord has in practice made and accepted communications by email during the tenancy.

Service on joint landlords

Where there are joint landlords, an NTQ is effective if served on only one of joint landlords.

Where to serve notice

An NTQ must be served on the landlord at:

- an address set out in the tenancy agreement
- their last-known abode or place of business.⁹

In the absence of a last-known address or place of business, the property owner's address on the Land Registry record (where the landlord is the property owner) can be used for service.¹⁰

What happens after expiry

A landlord can lawfully evict a tenant without obtaining a court order if the tenant remains in occupation of the premises after the notice period s/he gave in a valid NTQ expires, except when the tenant is a:¹¹

- secure tenant
- occupier with basic protection.

If the tenant remains in occupation without the landlord's permission after a valid NTQ expires, the landlord can claim 'double rent'.¹²

This will be in the form of mesne profits or damages for use and occupation until the tenant vacates. This does not apply if the landlord gives the tenant permission to stay on.

A valid NTQ once served can't be withdrawn. A tenant must be sure they want to end the tenancy. They will be reliant on the landlord's willingness to offer a new tenancy if they wish to remain after serving notice.

The acceptance of rent after the expiry of the NTQ is not sufficient in itself to show that the landlord has accepted that a new tenancy has been created.

Validity of NTQs

An invalid NTQ, for example one which gives a notice period of less than 28 days, will not end the tenancy. It could only end the tenancy if it operates as an offer to surrender, and this requires the agreement of the landlord.¹³ In the absence of the acceptance of a surrender the tenancy continues and the tenant remains liable for the rent.

A minor mistake included in an NTQ would not normally invalidate it, for example an NTQ referring to 12 Amhurst Road rather than 12 Amherst Road. The courts will generally look at whether a reasonable recipient would be misled by the error.¹⁴

Joint tenants

A valid NTQ served by one joint tenant, with or without the consent or knowledge of the other joint tenant(s) will end a periodic joint tenancy.¹⁵

Fixed term tenancies

A tenant cannot end a fixed-term tenancy by serving an NTQ. Neither can it be served before the end of the fixed-term.

However, a tenancy agreement may contain a break clause that allows the tenant to give notice to end the tenancy early.

The break clause will spell out when such notice can be served and how much notice must be given.

Flexible tenants

The Housing Act 1985 allows a council tenant with a flexible tenancy to serve notice to end their fixed-term tenancy. However, they cannot do this if they are in rent arrears or in breach of their agreement unless their tenancy agreement explicitly allows for this to happen.¹⁶

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11.6.1.15 Ending your tenancy

Footnotes

¹ s.5 Protection From Eviction Act 1977.

² Schnabel v Allard [1967] 1 QB 627.

³ Doe d Peacock v Raffan (1806).

⁴ Crate v Miller [1947] All ER 45, CA.

⁵ Bradford Community Housing Ltd v Hussain [2009] EWCA Civ 960.

⁶ s.196 Law of Property Act 1925.

⁷ S.7 Interpretation Act 1978, CA Webber (Transport) Ltd v Railtrack plc [2003] All ER (D) 250.

⁸ see Enfield LBC v Devonish and Sutton (1997) 29 HLR 691, CA.

⁹ s.196(3) Law of Property Act 1925.

¹⁰ Oldham MBC v Tanna [2017] EWCA Civ 50

¹¹ s.3 and s.8(1) Protection from Eviction Act 1977.

¹² s.18 Distress for Rent Act 1737.

¹³ Hackney LBC v Snowden (2001) 33 HLR 49, CA.

¹⁴ Mannai Investment Co Ltd v Eagle Star Life Assurance Co Ltd [1997] UKHL 19.

¹⁵ Hammersmith & Fulham v Monk [1991] UKHL 6.

¹⁶ s.107C(5) Housing Act 1985.

Fire safety for tenants

If you rent your home, your landlord has legal duties to take fire safety measures.

In the light of the Grenfell Tower tragedy, a public inquiry will look at fire safety in tower blocks. This leaflet deals with fire safety in other types of housing, including houses in multiple occupation.

General duty

All landlords must make sure that:

- electrical wiring and any appliances they provide are safe
- the gas supply and appliances are safe and are checked every year
- furniture they provide is fire resistant.

Get advice if your landlord does not do these.

Shared houses

If you live in a 'house in multiple occupation' (HMO), your landlord must also:

- assess the fire risks in the property
- provide and maintain smoke alarms
- make sure escape routes are kept clear.

There must be notices pointing out fire exits if the HMO has five or more occupiers.

If your HMO is licensed by the council, your landlord may also have to provide a fire extinguisher and fire blankets.

Your landlord should check regularly that fire precautions remain in place.

Blocks of flats or maisonettes

If you live in a block of flats or maisonettes there must be a fire evacuation plan. Ask your landlord if you don't know where to find this. Your plan will either advise you to 'stay put' or to get out if there is a fire in your block that doesn't start in your own home.

All front doors and doors to corridors and staircases must be 'fire doors'. A fire door can resist fire and will close itself to help stop a fire spreading. Escape routes should be built to resist fire. They should be clearly signed and illuminated.

Prevention

You can find advice on fire safety on Gov.uk

The most important steps you can take are:

- check your smoke alarm every month
- tell your landlord if you are worried about the electrics in your home, eg if you see burn marks around a plug. Your landlord has a duty to fix faulty electrics.

- don't overload electrical sockets
- keep escape routes clear and don't prop fire doors open.

Private landlords must fit a working smoke alarm on each floor of your home.

Contact your local fire service

In some areas your local fire service will visit your home free of charge and advise you on reducing the risks from fire. In other areas, or if you don't qualify, you may be given telephone advice or sent a leaflet.

If you live in a block, your fire service can review fire safety advice you have been given.

Ask [your local council](#) or search online for your area's fire and rescue service.

Private tenants

Contact your local council's environmental health department if your landlord has not taken proper fire safety precautions, or if you are worried about fire safety in your home for any other reason. The council can inspect your home and can tell the landlord to fix things that are dangerous or to install fire safety equipment.

What to do if there is a fire

If you don't live in a block of flats, get out as quickly as possible. Close windows and doors behind you to slow the fire spreading. Don't use a lift.

Call 999 even if you think you can get a fire under control yourself. The quicker the fire service arrive the more likely they are to be able to help.

If you are homeless after a fire

If a fire leaves you homeless, the council must find you somewhere to stay on an emergency basis. It may also have to provide you with somewhere longer term. See the [factsheets on 'Applying as homeless'](#).

Further advice

You can get further advice from Shelter's free* housing advice helpline (0808 800 4444), a local Shelter advice service or local Citizens Advice office, or by visiting shelter.org.uk/advice or adviceguide.org.uk

*Calls are free from UK landlines and main mobile networks.



Note
Information contained in this leaflet is correct at the time of publication. Please check details before use.