

# **FIRST CHOICE HOMES OLDHAM**

## **TENANCY RELATIONS SERVICE**

### **Advice and Information for Landlords**

#### **ENDING A TENANCY**

It is important to follow the correct legal procedure when asking a tenant to leave. Failure to do so can result in heavy penalties.

Tenancies can be either Assured or Assured Shorthold, and the procedure for ending the tenancy will depend on the type of tenancy.

#### **Assured Tenancy**

To end an Assured Tenancy, a landlord:

- must serve a correct legal notice seeking possession (obtainable from a legal stationers)
- must state grounds for possession under the Housing Act 1988 as amended by the Housing Act 1996
- when the notice has expired, if the tenant has not vacated the property, the landlord must go to Court and get a Court Order and Eviction Warrant.

The landlord cannot change the locks on the property, nor physically evict the tenant.

**IF THE CORRECT PROCEDURE IS NOT FOLLOWED, THE TENANT WILL NOT HAVE TO LEAVE.**

#### **Assured Shorthold Tenancies**

To end an Assured Shorthold Tenancy:

- Two months notice must be given if the landlord wishes the tenant to leave. The notice can be given at any time during the fixed term, in which case the tenant should leave at the end of the term or when the notice expires, if that is beyond the fixed term date.
- The Notice must be in writing, although it does not have to be on a special form.

- **PLEASE NOTE: If the initial fixed term is for less than six months, shorthold tenants still have the right to remain in the property for a period of six months.**
- If the tenant will not leave, the landlord must go to Court and obtain a Court Order and Eviction Warrant. The Court must make an Eviction Order if the correct procedure has been followed.

### **Accelerated Possession Procedure**

With certain Assured and Assured Shorthold tenancies, it is possible to regain possession without having a Court hearing by using the Accelerated Possession Procedure. This applies to:

- Assured tenancies under Grounds 1 (landlord's occupation)
- Ground 3 (winter let)
- Ground 4 (student let)
- Ground 5 (Minister of Religion)
- Assured Shorthold tenancies where the fixed term has ended and notice has been given.

### **Resolving Disputes**

- Sometimes it is inevitable that the landlord will want the tenant to leave. The landlord may want to return to live in the property, or sell it without a sitting tenant.
- At other times, the tenant may be asked to leave because of problems such as rent arrears, or behaviour which is not felt to be acceptable.
- Obtaining an eviction through the Court is not guaranteed.

It may be good practice to:

- Try to sort the problem out amicably between the landlord and tenant
- Seek independent advice or arbitration
- Ask the tenant to visit **First Choice Homes Oldham Housing Options Centre** to see if the problem can be sorted out without legal action
- It is always better to seek independent advice before any action is taken.

### **Notice Needed**

- A Notice of Seeking Possession should be served on the tenant before Court proceedings are commenced.

- At least 2 weeks Notice should be given if using Grounds 3, 4, 8, 10, 11, 12, 13, 15 or 17.
- At least 2 months Notice should be given if using Grounds 1, 2, 5, 6, 7, 9 or 16.
- For Ground 14, Court proceedings can commence immediately Notice has been served.
- If the tenancy is a Statutory Periodic or Contractual Periodic, the Notice period must end at the last day of a tenancy period.

### **Grounds for Possession**

The Grounds for Possession can be either:

- **Mandatory** – which means that, if the Ground is proved, the Court must award the landlord possession,

**OR**

- **Discretionary** – where the Court will award possession if it is reasonable to do so.

### **Mandatory Grounds**

The first five grounds are Prior Notice grounds. The tenant must be advised of these before the start of the tenancy, in writing.

- **Ground 1:** A Prior Notice Ground that the landlord, or one of the joint landlords, used to live there as their only or main home. Or, provided the property was not bought after the tenancy began, they intend to live in it as their only or main home.
- **Ground 2:** A Prior Notice Ground that the property is subject to a mortgage and the mortgagee wants to see it, for example, to pay off mortgage arrears.
- **Ground 3:** A Prior Notice Ground that at some time during the twelve months before the tenancy started, the property was let or licensed for a holiday let. The tenancy must be a fixed term tenancy and for not more than eight months.
- **Ground 4:** A Prior Notice Ground that at some time in the twelve months before the tenancy started, the property was let by a specified educational establishment to students. The tenancy must be a fixed term for not more than twelve months.

- **Ground 5:** A Prior Notice Ground that the property is held for use by a Minister of Religion and is now needed for that purpose.

**The following Grounds do not need to be notified prior to the start of the tenancy.**

- **Ground 6:** The landlord intends to re-develop the property and cannot do so with a tenant in residence.

But, if the landlord bought the property with a Sitting Tenant, or can do the work with the tenant there, this Ground cannot be used.

The tenant's removal expenses will have to be paid.

- **Ground 7:** The former tenant was a Periodic tenant and has died in the twelve months before proceedings were started. Where a person is living there with the Right to Succeed, this ground cannot apply.
- **Ground 8:** The tenant owed at least 8 weeks rent, if paid weekly, or two months rent if paid monthly, when you served a Notice Seeking Possession and at the date of the Court Hearing.

### **Discretionary Grounds**

- **Ground 9:** Suitable alternative accommodation is, or will be available for the tenant when the Court Order takes effect. The tenant's removal expenses will have to be paid.
- **Ground 10:** The tenant was behind with their rent when Notice Seeking Possession was served and when Court proceedings began.
- **Ground 11:** The tenant has been persistently behind with their rent, even if they were not behind with the rent when Court proceedings began.
- **Ground 12:** The tenant has broken one or more of their obligations under the tenancy agreement, excluding the obligation to pay rent.
- **Ground 13:** The condition of the property has got worse because of the behaviour of the tenant or any other person living there.
- **Ground 14:** The tenant, or someone living in or visiting the property –
  - has caused, or is likely to cause, a nuisance or annoyance to someone living in or visiting the locality,

OR

- has been convicted of using the property, or allowing it to be used, for immoral or illegal purposes, or an arrestable offence committed in the property or in the locality.
- **Ground 15:** The condition of the furniture has got worse because it has been ill-treated by the tenant or another person living there.
- **Ground 16:** The tenancy was granted because the tenant was employed by the landlord, or previous landlord, and is no longer employed by them.
- **Ground 17:** The landlord was persuaded to grant the tenancy on the basis of a false statement knowingly or recklessly made by the tenant, or a person acting at the tenant's instigation.

### **PLEASE NOTE**

**The wording used above is not the precise wording in the Housing Act 1988, as amended by the Housing Act 1996, which is more detailed and with additional provisions.**

For further assistance, support and advice please contact

#### **First Choice Homes Oldham's Tenancy Relations Service**

1 Media Square  
Phoenix Street  
Oldham  
OL1 1AN

Telephone: 0161 770 4463      Answer Phone available

Fax: 0161 770 3557

E-mail: [fcho.tenancy.relations@oldham.gov.uk](mailto:fcho.tenancy.relations@oldham.gov.uk)

Web -address [http://www.oldham.gov.uk/fcho-tenancy\\_relations\\_service.htm](http://www.oldham.gov.uk/fcho-tenancy_relations_service.htm)

Opening hours:

Monday – Friday (excluding Wednesday) :	9.00am – 5.00pm
Wednesday :	11.00am – 5.00pm
Weekends and Bank Holidays :	Closed

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The above information is **NOT** an exhaustive guide to the law, nor does it cover every situation that may arise. For more detailed interpretation of the law, seek legal advice.