

# FIRST CHOICE HOMES OLDHAM

## TENANCY RELATIONS SERVICE

### Advice and Information for Tenants

#### TYPES OF TENANCY

If you rent your accommodation from a Private Landlord, it is important that you know the type of tenancy you have been granted.

This is important because the type of tenancy you have affects the rights you may have, eg. Regarding rent increases and/or notice to quit.

#### **Licensee**

If you do not have exclusive occupation of your accommodation you may be a Licensee. Generally speaking, to be a tenant you must have what is called Exclusive Occupation of your accommodation. (This may be just one room). This usually means you have the right to exclude others, including the Landlord, from the accommodation you occupy.

Examples are:

- If you are a Lodger
- If you stay in a public sector hostel
- If you are staying with a member of your family as a favour
- If you share accommodation with your Landlord or member of your landlord's family.

It is not necessary to have a written agreement to create a tenancy. However, a written agreement will make it easier for you to prove what exactly was agreed by both parties should a dispute arise. Furthermore, if your Landlord has not given you a written agreement, you can ask him or her to give you a written statement setting out:

- the date the tenancy began
- the rent and when it is payable
- any rent review arrangements
- the length of any fixed term.

The Landlord must provide this information within 28 days of receiving the request in writing. Failure to provide this information may result in prosecution.

If you are unsure about whether you are a Licensee or a Tenant and wish to know more about your rights, please contact **First Choice Homes Oldham's Tenancy Relations Service.**

If you do pay rent and have exclusive occupation of your accommodation then a tenancy exists. The most important thing to consider next in determining the type of tenancy you have is when your tenancy commenced.

### **Assured Shorthold Tenancy**

This is now the common form of private tenancy and it is governed by the Housing Acts 1988 and 1996. It is also the automatic form of letting for all new tenancies created since 28<sup>th</sup> February 1997. There are exceptions where an Assured Shorthold Tenancy cannot exist, and one common example is where the landlord resides in the same property.

One of the main features of Assured Shorthold Tenancies is that landlords are able to control how long they will last. In many cases a contract is made which specifies the length of the tenancy. An Assured Shorthold Tenancy must initially be for a period of no less than six months. If the landlord does not wish to continue to rent the property on the expiry of the contract, notice can be served to advise the tenant that possession of the property is required.

It is acceptable in law for an Assured Shorthold Tenancy to be created without a fixed term. If this is agreed, the tenancy is "periodic". This means that the tenancy automatically renews itself in common law on every rent day and continues to do so until one party serves notice on the other to end the arrangement.

Sometimes, an Assured Shorthold Tenancy will start with a fixed term contract but become "periodic" after the last day on the fixed term. This occurs automatically in law where neither party has served notice on the other and no new fixed term contract has been agreed.

The more important points relating to assured shorthold tenancies are as follows:

- The tenancy must be for a term of not less than six months.
- The tenancy must not contain a power for the landlord to end the tenancy during the first six months.
- The tenant must not have been, immediately before the grant of the tenancy, an assured tenant of the landlord.
- To end an assured shorthold tenancy the landlord must give two months written notice that he requires possession of the premises. This notice may be served two months before the tenancy is due to end but cannot take effect before the end of any fixed term.

- If the landlord wishes to recover possession of the premises during a fixed term, he may apply to the court for possession under grounds 2, 8, 10 to 15 and 17, after first serving notice of proceedings for possession on the tenant.

### **Assured Tenancy**

Tenancies which began before 28<sup>th</sup> February 1997 would automatically have been Assured Tenancies unless the landlord served a special notice stating that the tenancy was to be an Assured Shorthold Tenancy. Assured Tenants have greater rights covering their rents and their rights to remain in the accommodation.

If the landlord wants the tenant to leave, he must serve him/her with a notice on a special form. This form must state the grounds on which he intends to seek possession.

The more important consequences of an assured tenancy are as follows:

- The tenant shall be notified either before or after the tenancy commences that it is to be an assured tenancy.
- The tenancy cannot normally be brought to an end by the landlord except by obtaining a court order.
- Repossession of the property cannot be obtained without an order of the court.
- The tenant must always be given notice by the landlord that he is applying for a court order (Proceeding for Possession).
- The court can only award possession under certain circumstances laid down in Part II Schedule 2 of the Housing Act 1988, as amended by the Housing Act 1996. There are 17 'grounds' under which the landlord can seek possession. Grounds 1-8 are mandatory and the court must award possession if one of these grounds can be proved. Grounds No. 9-17 are discretionary and the court may award possession.
- The rent chargeable is a matter for agreement between the landlord and the tenant and will be an 'open market' rent. In certain circumstances this may be referred to a rent assessment committee.

### **Regulated Tenancy**

Tenancies which started before 15<sup>th</sup> January 1989 will most likely be Regulated Tenancies covered by the Rent Act 1977. Regulated Tenants have the right to register a Fair Rent. Regulated Tenants should not sign a new agreement or agree to any increase in rent without obtaining advice. The landlord may be seeking to create a new, less secure type of tenancy and the

tenant, in signing the new agreement and accepting a rent increase, could in fact be signing away their rights.

For further assistance, support and advice please contact

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

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Telephone: 0161 770 4463      Answer Phone available

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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

**First Choice Homes Oldham's Tenancy Relations Service** is committed to the highest standards of quality information and every attempt has been made to present up to date and accurate information. However we give no warranty as to the accuracy of the information on this web site and accept no liability for any loss, damage or inconvenience caused as a result of reliance on such information

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.