



OFFICE OF THE  
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# information sheet

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## Secure and Assured Tenancies

A large, stylized version of the TPAS logo, with the letters 'TPAS' in a bold, sans-serif font, and a dark swoosh above the letters.

# SECURE AND ASSURED TENANCIES

## Introduction

The Housing Act 1988 created differences between the rights of council and housing association tenants. Prior to the Act, the rights of council and housing association tenants were broadly the same. The 1988 Act changed the status of housing associations by putting them into the "independent rented sector" and changed the status of new housing association tenants from "secure" to "assured" tenants (taking effect from January 1989).

This information sheet sets out the differences between secure and assured tenancies.

## Secure tenancies

Nearly all council tenants have secure tenancies. There may be a small number who do not that are in temporary accommodation or whose homes go with their job. The rights of secure tenants are set out in the 1985 Housing Act and include:

- ✓ The right for certain close relatives as well as husband or wife to inherit the tenancy.
- ✓ The right to sub-let part of your home, with the council's consent.
- ✓ The right to improve your home, with the council's consent.
- ✓ The right to exchange your home, with the council's consent.
- ✓ The right to be consulted on changes in the housing management service.
- ✓ The right to information on certain services.

- ✓ The right to re-charge the council for repairs when there has been a long delay in carrying them out.
- ✓ The right to buy your home at a discount (dependent upon your period of tenancy).
- ✓ The right to take on the management of your homes (provided certain regulatory provisions are met by a Tenant Management Organisation).

The law gives councils some grounds for evicting tenants if they break their tenancy agreement. These grounds include not paying rent, not occupying the property, damaging it or causing a nuisance to others. On some grounds the court has to make an order to evict, while on others it can itself decide whether it is reasonable in that case to do so. The Housing Act 1996 strengthened grounds for eviction.

## Assured tenancies from Registered Social Landlords

As mentioned above, prior to January 1989 many tenants of Registered Social Landlords (RSLs) were also secure tenants but from that date the law changed.

All new tenants of RSLs after January 1989 have assured tenancies with more rights set out in the 1988 Housing Act, (e.g. the right of a spouse to inherit the tenancy) and the 1996 Housing Act (see below). Nearly all tenants of RSLs are given additional rights by contract (e.g. tenancy agreement).

The Housing Corporation is the organisation set up by and answerable to Parliament for overseeing the work of housing associations. It ensures that additional rights are given to assured tenants in the tenancy agreement. These are the right to exchange, to sub-let, to carry out improvements, to be

compensated for certain improvements, to have repairs done and to be consulted about housing management changes, subject to the same conditions as secure tenants. All RSLs have to comply with the Housing Corporation's regulatory code - *The Way Forward: Our Approach to Regulation* – published in April 2002. The code sets out the Corporation's approach to regulation and the fundamental obligations of housing associations within the regulatory system.

An individual RSL can also choose to give some or all of its tenants additional rights in their tenancy agreement.

### **Additional changes to assured tenancies**

The Housing Act 1996 introduced additional changes to assured tenancies. The changes mean: -

- ✓ Landlords need to notify tenants that they intend the tenancy to be an assured tenancy and not a shorthold tenancy. This written notice will usually be in the tenancy agreement. Existing tenancies will continue to be assured tenancies.
- ✓ Tenants of eligible RSL properties or new lettings provided with Social Housing Grant after 1 April 1997 will have a right to acquire their homes at a discount to open market value. Tenants of existing properties do not have this right.
- ✓ Rent arrears – grounds for possession for non-payment of rent has been reduced from 13 weeks to 8.
- ✓ Nuisance – it will be easier for a landlord to evict tenants if they, or someone living there or visiting them, cause a nuisance or annoyance to other local people.

### **Voluntary transfer tenants**

Tenants who have transferred to an RSL under the Large Scale Voluntary Transfer Programme are assured tenants. All transfer RSLs have to comply with the Housing Corporation's regulatory guidance which give assured tenants similar rights to secure tenants. Transfer RSLs can also choose to give additional rights in their tenancy agreement e.g. a guarantee on rent levels for a set number of years.

Transfer tenants also have a preserved Right to Buy at a discount transferred with them.

### **A single tenancy?**

In June 1998, the Chartered Institute of Housing published a discussion paper - *One for All: A Single Tenancy for Social Housing?* - to start a debate on the issue of a single tenancy for council and housing association tenants. The paper made a case for a single tenancy and showed in detail what it might include.

The Housing Green Paper, published in April 2000, saw "merit" in the Institute's proposals for a single tenancy and made a commitment to explore the benefits of, and options for, moving to a new form of tenure, excluding significant changes to the Right to Buy.

In March 2001, the Law Commission (a body set up by Parliament to keep the law under review and to recommend reform when it is needed) produced a document commissioned by the government on how it would conduct housing law reform. This document went beyond the single tenancy to argue for a general reform of all housing law. In April 2002, the Commission published *Renting Homes 1: Status and Security*, a consultation document which contained suggestions for the modernisation and simplification of housing law in England.

The consultation document suggested:

- One new law which should apply to all rented homes. This would mean council and housing association tenants would have the same kinds of agreement.
- The requirement for landlords to provide a written agreement in plain English which would have to cover almost all relevant law. Tenants would be able to check their agreement against easy to use model agreements which would be widely available.
- A Type I agreement which would replace the current assured and secure tenancy agreement. The Law Commission expects this to be the main type of agreement used for long term housing by both councils and housing associations.
- A Type II agreement which would be less secure and replace current “introductory tenancies” used by councils and “assured shorthold tenancies” used by housing associations.
- Supported housing schemes would be outside the new law altogether.

The paper also proposes significant changes in relation to anti-social behaviour, suggesting that a general duty be imposed on all social landlords to take action against anti-social behaviour and that all landlords have the same powers to seek injunctions.

As mentioned above, these proposals are only suggestions.

The Law Commission plans to follow up the above with a second stage of consultation later in 2002, when there will be a second consultation paper entitled: *Renting Homes: Transmission of Tenancies* which will cover assignment, succession, sub-letting and related

issues.

The Law Commission will make a final report on housing law reform to the Government the summer of 2003 and the Government will then decide whether or not to accept it. If the Government does accept the suggestions, it may be possible to introduce the legislation in the Parliamentary session which starts in Autumn 2003.

## Summary of differences

	<b>Secure tenants</b>	<b>Assured tenants of RSLs</b>
Accountability	Accountable through elected councillors and other participation arrangements.	RSLs are run by trustees or board members. Some encourage tenants to be board members as part of their participation arrangements.
Right of succession	Applies to spouse or close relative who has lived in the property for at least 12 months.	Only applies to spouse but some tenancy agreements extend this right.
Right to buy	Yes	For local authority transfer tenants only. Certain tenants of certain RSL properties have a Right to Acquire.
Right to carry out improvements	Yes – with landlord’s consent.	Yes – covered by Housing Corporation regulations (with landlord’s consent).
Right to compensation for (certain) improvements.	Yes – with landlord’s consent.	Yes – covered by Housing Corporation regulations (with landlord’s consent).
Right to Consultation	The 1985 Housing Act gives you the right to be consulted on major changes to the way your home is managed.	Yes – covered by Housing Corporation regulations.
Right to exchange	Yes – with landlord’s consent.	Yes – covered by Housing Corporation regulations (with landlord’s consent).
Right to Manage	Yes	No similar right.
Right to repair	Yes – in law.	Yes – covered by Housing Corporation regulations.
Right to take in lodgers/sub-let	Yes – sub-letting requires landlord’s consent	Yes – covered by Housing Corporation regulations. Sub-letting requires landlord’s consent. Some landlords require consent to take in lodgers.
Security of tenure	Yes – in law.	Yes – covered by Housing Corporation regulations.

## Further reading

**Assured Tenants Charter**, 1998, Free, The Housing Corporation, 149 Tottenham Court Road, London W1P 0BN Tel: 020 7393 2000

**Landlord and tenant: a practical guide for social landlords**, 1999, £25.00, National Housing Federation, 175 Gray's Inn Road, London WC1X 8UP Tel: 0207 278 6571

**New single social housing tenancy for Scotland: rights, obligations and opportunities**, 1999, Free, Scottish Executive, Area I-G23, Victoria Quay, Edinburgh EH6 6QQ Tel: 0131 244 2105

**One for All - A Single Tenancy for Social Housing?**, 1998, Chartered Institute of Housing, Octavia House, Westwood Way, Coventry, CV4 8JP Tel: 01203 851700

**Renting Homes 1: Status and Security**, 2002, Free summary available from the Law Commission – Tel: 020 7453 1220 or visit [www.lawcom.gov.uk](http://www.lawcom.gov.uk)

Full report available from The Stationery Office, £24,50 – Tel: 0870 600 5522 or visit [www.thestationeryoffice.com](http://www.thestationeryoffice.com)

**Secure Tenants Charter**, 1998, Housing Corporation (contact details as above)

**Security of tenure: law and practice in the management of social Housing**, 1995, £16.95, Lemos Associates, 20 Pond Square, London N6 6BA Tel: 020 8348 8263

**Single social housing tenancy - draft model**, 2000, Scottish Executive, Area I-G23, Victoria Quay, Edinburgh EH6 6QQ Tel: 0131 244 2105

**The Way Forward: Our Approach to Regulation**, 2002, Housing Corporation (contact details as above)

## Useful Contacts

**Housing Corporation**  
149 Tottenham Court Road  
London W19 0BN  
Tel: 020 7393 2000  
[www.housingcorp.gov.uk](http://www.housingcorp.gov.uk)

**Independent Housing Ombudsman**  
Norman House  
105-109 The Strand  
London WC2R 0AA  
[www.ihos.org.uk](http://www.ihos.org.uk)

**National Housing Federation**  
175 Gray's Inn Road  
London WC1X 8UP  
Tel: 020 7278 6751  
[www.housing.org.uk](http://www.housing.org.uk)

**Tenant Participation Advisory Service**  
5<sup>th</sup> Floor  
Trafford House  
Chester Road  
Manchester M32 0RS  
Tel: 0161 868 3500  
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