

Demoted Tenancies

Your Questions Answered

This leaflet answers a number of questions about your rights and responsibilities as a Demoted tenant. Please see the Tenancy policy and your tenancy agreement for full details.



Demoted tenancies

Most people living in houses and flats owned by social landlords are either secure tenants or assured tenants. Secure and assured tenants cannot be evicted unless the landlord can prove to the court that the tenant has not kept to the terms of his or her tenancy agreement (e.g., non-payment of rent or nuisance to neighbours) and, except in limited circumstances, that it is reasonable to make an order for possession against the tenant.

Even where the landlord proves these two requirements, the court has a wide discretion as to what order to make.

The court has the power to make a “demotion order” to a secure or assured tenancy. A demotion order results in a tenancy no longer being a secure or assured tenancy and becoming, instead, a “demoted tenancy”.

An order may only be made if the tenant (or someone living with the tenant) has caused, or has threatened to cause, “housing-related anti-social behaviour” or behaviour which consists of or involves using the “premises for unlawful purposes”, and it is reasonable to make the order.

The demoted tenancy is a new tenancy. The terms of the previous tenancy as to rent are carried across into the new tenancy, but the demotion results in reduced rights of security of tenure for the tenant.

This means that we can apply to the court to reduce your secure or assured tenancy to a demoted tenancy, which would affect your rights for a period of 12 months. This can also be extended for a further 6 months.

What is a Demotion Order?

The court grants a demotion order. It tells the tenant that they have responsibility to stop causing anti-social behaviour. Their tenancy will be insecure for a period of a year. During this time, the tenant cannot buy their property or exchange it. If during the period of one year the tenant breaches the tenancy agreement in any way, we only have to prove in court that we have kept to the procedure for demoted tenancies.

In these cases, the tenant will find himself or herself automatically evicted and probably intentionally homeless, which means the local authority will have no duty to find them somewhere else to live.

This is a very powerful deterrent to prevent anti-social behaviour; it also helps us prevent unnecessary evictions.

An application for a demotion order can be made as a stand-alone remedy or as an alternative to a possession order (eviction).

How will my tenancy change if it is demoted?

You will lose several rights, including the right to:

- Exchange your home or get a transfer;
- Take in a lodger;
- Sublet part of your home;
- Pass on your tenancy by assignment, or
- Make improvements in your home.

What will not change if my tenancy is demoted?

Many of the terms of a demoted tenancy are the same as those you have now, including:

- The period of your tenancy;
- Your obligation to pay rent and any rent arrears;
- The amount of rent you must pay;
- Any rent you've paid in advance or any credit to your rent account – this will be carried over, and
- The right to repair.

How long does a demoted tenancy last?

A demoted tenancy lasts for 12 months, unless:

- we have started court action possession proceedings during the 12 months
- the tenant leaves the property
- the court or a reviewer overturns the order to demote the tenancy
- the tenant dies and no one is entitled to take on the tenancy.

If there are no further problems during the 12 months, you will automatically return the tenancy you held before your tenancy was demoted unless we serve you with a notice saying the tenancy will be for a fixed-term.

Can anyone succeed to my tenancy during the demotion period?

The rules for passing on a demoted tenancy if you die are as follows:

- If you have a joint tenancy, the other joint tenant will automatically take over the tenancy when you die. This is called survivorship.
- If you are the sole tenant, your tenancy passes (by a legal process called succession) to your husband, wife or civil partner (or person living with you as your spouse or civil partner).

If the succession goes ahead, a new tenancy isn't created and the old one continues. Only the name on the tenancy will change. The person taking over the tenancy takes on the rights and responsibilities of the previous tenant. So the person taking on the tenancy will be a demoted tenant for the remaining period of demotion.

Can you evict me?

We can end a demoted tenancy much more easily than other types of tenancy. If anti-social behaviour continues, or you break any conditions of the demoted tenancy, such as not paying your rent, we may take steps to evict you and gain possession of the property.

We can do this without proving a legal reason in court. We will first send you warning letters. If you go on breaking conditions, then as a last resort we will serve you a notice of seeking possession. Once the period of this notice has ended, we will apply to the court to evict you.

What are my responsibilities as a demoted tenant?

Your responsibilities as a demoted tenant are the same as every other tenant and are set out in your tenancy agreement. In general you must:

- Not cause a nuisance to people living locally or allow others living with you or visiting your home to cause a nuisance, for any reason;
- Pay your rent regularly and on time;
- Not harass any of our employees or anyone acting on our behalf;

- Carry out repairs which are your responsibility and allow our employees or agents access to your home if we need to (e.g. to inspect your home or to carry out repairs);
- Give us four-weeks notice in writing if you want to end your tenancy; and,
- Occupy your home as your only or main residence.

Can I apply for a transfer or a mutual exchange if my tenancy has been demoted?

No.

What can I do to make sure I don't get evicted?

You need to keep to your tenancy conditions and any further conditions placed on you through your demotion order.

If anti-social behaviour led to the demotion, you must make sure it stops. If you owe us any rent, you must pay this and make sure you pay your rent on time in the future.

I have received a Notice to demote my tenancy, what can I do?

You have the right to ask us to review our decision to get a demotion order. We will attach a form to the notice so you can ask us to review it. We must receive your written request for a review within 21 days of the date we served the notice or we will apply to court for a demotion order.

If you ask for a review we will send you a copy of the review procedures.

The reviewing officer has the power to cancel the notice if they think there was something wrong with how we dealt with your case or believes you will keep to the tenancy agreement in future.

What does a review involve?

The review will be carried out by an independent person who was not involved in the decision to apply to court for a demotion order.

The reviewing officer will make a decision based on any statement you make, or the evidence you present and the original information the decision was based on.

You do not have to go to the review. However, you may ask for a hearing. If you ask for a hearing you can represent yourself or ask someone to speak on your behalf (they don't have to be legally qualified).

You will be told the reviewing officers decision, in writing, before any application is made to court for a demotion order.

If the reviewing officer makes a decision in your favour, your tenancy will continue. If, however, the reviewing officer decides that asking court for a demotion order was appropriate, we will then make an application to court. We will tell you where you can get independent advice.

If we did take action against you, help is available from a citizen's advice bureau, advice centre or a solicitor.

We are here to help you.

This leaflet tells you what happens if there are problems with your tenancy.

This is to show you that we are serious about protecting people from anti-social behaviour.

As a demoted tenant you will get as much help as any other tenant. If you experience anti-social behaviour or have any other problems during the demotion period we'll help you in exactly the same way as we would help a secure tenant.

If you have any questions about your tenancy please contact your Tenancy Management Officer. They are here to help you.