

## Protected tenancies

This information is for private landlords.

Private tenancies that meet certain criteria are called protected tenancies. You can only charge a fixed rent for this type of tenancy.

You may find it hard to end a protected tenancy. A protected tenant may be able to pass on their tenancy when they die.

## Finding out if a tenancy is protected

Your property may have a protected tenancy if:

- the current tenancy began before 2007
- the property was built or converted for letting before 1956
- the property was first rented out before 1978
- a tenant was living in the property in October 1978

The property does not need to have been rented to the same tenant since 1978. If it meets the above criteria, it can still be considered a protected tenancy, even if:

- it has been vacant, or
- the owner has lived there

You can [check the rent register](#) to see if your property has a protected tenancy. But a tenancy can still be protected even if it is not included on this list.

A tenancy cannot be protected if the property:

- was let with a large amount of land before 1978

- has a net annual value (NAV) over £140 and has been re-let since October 1978
- was owned by the Crown, Housing Executive or the government in October 1978
- was let as a condition of the tenant's job (such as a resident caretaker) in October 1978

Protected tenancies are rare and, since 2007, it is not possible to create a new protected tenancy.

If there is uncertainty about whether a tenancy is protected, the onus is on the landlord to supply evidence to show it is not protected.

## **Buying a property with a sitting tenant**

Landlords of protected tenancies have extra legal responsibilities, even if the tenancy began before you became the owner.

Before you buy a property, your solicitor should check if a property with a sitting tenant is a protected tenancy. If you buy a property with a protected tenancy, you have limited rights to increase rent or evict the sitting tenant.

## **Rights in protected tenancies**

Protected tenants have more rights than other private tenants.

In addition to basic private tenants' rights, a protected tenant:

- has [a rent-controlled tenancy](#)
- may be able to pass on their tenancy when they die
- cannot be evicted unless you have 'grounds' to end the tenancy

## **Rent control in protected tenancies**

The [Rent Officer for Northern Ireland](#) sets the maximum rent for all protected tenancies.

Rent amounts for rent-controlled tenancies do not automatically increase. But the rent officer can review rents to decide whether to increase them.

You can apply to the rent officer to for a rent assessment if you think the rent you're getting is too low.

## Passing on a protected tenancy

A protected tenant may have the right to pass on their tenancy when they die. This is also known as 'succession'.

Only a relative who was living with the tenant at the property for at least six months before the tenant died can inherit or succeed to the tenancy.

You'll first need to find out:

- if the current tenant is the original tenant
- when they became a tenant – if they are not the original tenant

This area of law is complex. [Speak to Landlord Advice](#) or a solicitor if you're not sure whether your tenant has the right to pass on a tenancy.

## Eviction in protected tenancies

Unlike in other tenancies, you can only evict a protected tenant under certain circumstances.

You must prove to a court that you have [legitimate 'grounds', or reasons, to evict the tenant](#).

## Repairs in protected tenancies

Your tenancy agreement should outline who is responsible for which repairs. If there is no written tenancy agreement, [the law sets out](#) what you and your tenant are responsible for.

You must maintain:

- the structure of the property
- the interior and exterior of the property
- all water, gas, electricity, heating and sanitation systems
- all fixtures and furnishings you provide
- all appliances you provide

Your tenant must:

- report disrepair to you
- take proper care of the property

- get your permission before making changes
- repair any damage they (or their guests) cause

These default repair obligations do not apply if your property has never had a regulated rent certificate. Speak to Landlord Advice if you're unsure of how to find out if the property has this certificate.

## **Evicting a protected tenant**

Protected tenants have extra protection from eviction. You can only evict a protected tenant under certain circumstances.

To evict a protected tenant, you'll need to:

1. give written notice
2. go to court if your tenant does not leave

You must prove that you have genuine 'grounds', or good reason, to repossess your property.

This [Department for Communities guide to protected tenancies](#) lists the acceptable reasons for evicting a protected tenant.

## **Giving your tenant written notice**

You must write to your tenant if you want to evict them.

You must:

- give the tenant this written notice a set amount of time before you want them to leave
- explain which grounds you're relying on to evict them

Your tenant must get a minimum amount of notice of the date their tenancy ends.

For protected tenants, this is:

- 8 weeks if they've rented the property for between 1 and 10 years
- 12 weeks if they've rented the property for more than 10 years
- 12 weeks if you have them notice between 5 May 2020 and 4 May 2022

## **Going to court to evict a protected tenant**

If your tenant does not leave when the written notice ends, you'll need to go to court to get a possession order.

The court will only give you a possession order if:

- the mandatory grounds for possession apply, or
- the discretionary grounds apply and it is reasonable to evict the tenant

## Grounds for repossessing a protected tenancy

There are eight **mandatory** grounds, or reasons, for evicting a protected tenant. The court must give you a possession order if you prove that these grounds apply.

There are ten **discretionary** grounds for evicting a protected tenant. The court will give you a possession order if:

- you can show that one (or more) of these grounds apply, and
- the court believes it is reasonable to grant the order

When deciding if it is reasonable to evict the tenant, the court will usually ask if the tenant has other accommodation.

It will help your case if you:

- can rent another property to the tenant on similar terms, or
- have helped your tenant to find somewhere else suitable to live

You cannot evict your tenant without a court order. Even if you've served your tenant written notice to quit and this has expired, they have a right to stay in the property until the court evicts them.

## More advice

- [Rent control](#)
- [Landlord Advice](#)