



Temporary Tenants Rights Leaflet

This leaflet summarises your rights as a temporary tenant. That means you have approached our homelessness service for housing and this has been provided on a temporary basis.

In order to provide housing on a temporary basis we use two different types of tenancy agreement in different situations. These are outlined in this leaflet.

The leaflet is intended only as a plain language summary of your legal rights. It is not a precise statement of the law.

The Council is generally referred to as “we” throughout this leaflet. Tenants are normally referred to as “you”.

This leaflet is available, on request, in different formats such as audio format, Braille and in large print. It can also be made available in other languages on request.

Duties towards homeless applicants

Where a household is found to be:

- Homeless, unintentionally so and with a local connection, the Council has a duty to permanently rehouse that household.

Where a household is:

- Homeless, but intentionally so.
- Homeless, unintentionally so, but without a local connection.

The Council has a duty to temporarily house the household for a ‘reasonable’ length of time.

‘Reasonability’ is not defined by the legislation but is generally interpreted as being 28 days, unless local issues relating to the housing market would indicate otherwise.

The Council also has a duty to offer temporary accommodation while they investigate the household’s homelessness and make a decision as to their status in relation to the ‘three hurdles’.

Two additional leaflets provide further information on issues around homelessness. These are “homelessness” and “homelessness: your temporary accommodation”.

Tenancy Agreement

You have the right to a written tenancy agreement. This agreement is a legal contract between Orkney Islands Council and their tenants. The terms of the Agreement cannot be changed unless:

- We both agree changes.
- The changes are made by court order.

This does not apply to rent charges, however, as we can change rents provided we first give you four weeks written notice. We must also consult with you before making any changes and take account of your views.

Legal Rights

You have a wide range of legal rights. Below is a summary and if you wish any more information please contact Housing Services.

Information

We have to provide you with certain information before your tenancy starts. This includes information on our responsibilities for repairs.

We have to provide you with:

- Information about our complaints system.
- Information on our major policies such as allocation, repairs and rent setting (if you ask us).

Contractual Common Law Tenancy

This type of tenancy agreement is used if a property is let to a tenant expressly on a temporary basis for a term of less than six months. This relates specifically to meeting the council's statutory duties concerning homeless people.

The common law tenancy is therefore used:

- While a decision is being made under the terms of the homelessness legislation.
- Where a household is homeless, but intentionally homeless.
- Where it is anticipated that the household will wait less than 6 months to be permanently rehoused.

Although this tenancy offers very limited security, it does provide a broad range of rights including good access to repairs services.

Your responsibilities include occupying the property, paying rent, keeping the property in good condition and considering your neighbours.

The tenancy can be ended by you giving us 7 days notice or by our serving notice of our intention to recover the property. This would allow 28 days notice. However, before you could be removed from the property we would require to obtain a court order.

Short Scottish Secure Tenancy (Short SST)

The Short SST can only be used in certain circumstances, these include:

- Temporary lets of over 6 months to homeless households.
- Lets to persons evicted for anti-social behaviour within the last 3 years.
- Lets to persons where a member of their household is subject to an anti-social behaviour order.
- Temporary lets to persons moving into the area in order to take up employment.
- Lets in houses leased by the landlord from another body where the terms of the lease preclude the landlord subletting an SST.

In relation to the homelessness legislation we use this type of tenancy where:

- A household is homeless, unintentionally so and with a local connection.

The Short SST provides increased security to that of the contractual common law tenancy, although it remains a temporary tenancy and therefore has limited security of tenure. This tenancy type provides a good range of tenant rights.

These include the right to be consulted, the right to repair and right to sublet.

It does not however, include the right to assign the tenancy or right to succeed to the tenancy on the death of the tenant.

Your responsibilities include occupying the property, paying rent, keeping the property in good condition and considering your neighbours.

Our leaflet entitled *Scottish Secure Tenant's Rights* provides further details.

The tenancy can be ended by you giving us 28 days notice or by our serving notice of our intention to recover the property. This would allow at least 2 months' notice. However, before you could be removed from the property we would require to obtain a court order.

Action such as the above would normally only be taken in instances where the tenant was in breach of their tenancy agreement. For instance if they had rent arrears or their behaviour was anti-social and attempts to address this had failed. Action of this type remains a last resort and in some instances our duties under the homelessness legislation would remain.

For most short SST tenants, it is likely that you will hold this type of tenancy agreement until such time as a permanent house becomes available. Our leaflet called "Homelessness – an offer of permanent accommodation" provides further details.

Contacts

Orkney Islands Council

Housing Services

Address: Council Offices, School Place, Kirkwall, KW15 1NY.

Telephone: 01856873535.

Website: <https://www.orkney.gov.uk>

Email: housing@orkney.gov.uk

Emergency out of hours repairs service: 01856873430.

Emergency out of hours homelessness officer: 07921582962.

Housing Benefit Section

Address: Finance Division, Council Offices, School Place, Kirkwall, KW15 1NY.

Telephone: 01856873535 extension 2116 or 01856886312 (direct dial).

Email: benefits@orkney.gov.uk

Orkney Health and Care

Address: Council Offices, School Place, Kirkwall, KW15 1NY.

Telephone: 01856873535.

Fax: 01856886453.

Emergency out of hours duty social worker service telephone: 01856888000.

Education and Leisure

Address: Council Offices, School Place, Kirkwall, KW15 1NY.

Telephone: 01856873535 extension 2477.

Fax: 01856876327.

Email: education.leisure@orkney.gov.uk

Voluntary Sector

Citizens Advice Bureau

Address: 6 Bridge Street, Kirkwall, KW15 1HR.

Telephone: 01856875266.

Shelterline

Telephone: 08088004444 (free 24 hour advice).

Website: <https://scotland.shelter.org.uk/>

