

## Factsheet 8

# Council and housing association housing

July 2018

### About this factsheet

This factsheet has information about applying for housing from local authorities and housing associations ('social housing'). It explains how applications are assessed, how waiting lists are organised and how properties are allocated. It also explains what to do if you want to move to a different local authority area.

You can find information on private rented housing in factsheet 63, *Finding private rented accommodation*. Information on housing intended specifically for older people is in factsheet 64, *Specialist housing for older people* and factsheet 2, *Buying retirement housing*.

Information about your rights as a tenant can be found in factsheet 35, *Tenancy rights - rent*, factsheet 67, *Home improvements and repairs* and factsheet 68, *Tenancy rights - security of tenure*.

Information on homelessness is in factsheet 89, *Homelessness* (or in Age Cymru's factsheet 89w *Dealing with homelessness in Wales*)

This factsheet is applicable to England and Wales. Please contact Age Scotland or Age NI for information applicable to those nations. Contact details can be found at the back of the factsheet.

Contact details for organisations mentioned in the factsheet can be found in the *Useful organisations* section.

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## 1 Recent developments

- In **England**, the *Housing and Planning Act 2016* requires local authorities to grant fixed-term tenancies in most circumstances. This is not yet in force, but you may be affected if you apply for social housing now and face a long wait. A full list of exceptions has not yet been announced, but will include a tenancy granted to an existing lifetime tenant who is fleeing domestic violence.
- Plans to apply Local Housing Allowance rates to social tenants' benefits have been abandoned. The Government is consulting on new plans for social tenants living in sheltered and extra care housing: tenants will continue to get help through the benefits system but, from April 2020, rents will be capped by the social housing regulator.
- In **Wales**, a new tenancy regime is introduced under the *Renting Homes (Wales) Act 2016*. Once in force, current tenancies will be replaced by two types of occupation contract (a secure contract, based on current secure local authority tenancies and a standard contract, based on current assured shorthold private sector tenancies). The Welsh Government has not announced when this will be implemented.

## 2 What is social housing?

The term '*social housing*' is generally used to mean lower-cost rented housing provided by landlords registered with the social housing regulator. In **England**, this is the Regulator of Social Housing. In **Wales**, it is the Welsh Government.

We refer to landlords registered with the regulator as '*social landlords*'. The majority are local authorities (councils) and housing associations. This factsheet refers to local authority housing as '*council housing*'.

Social housing is likely to be cheaper and offer greater security from eviction than private rented housing. It is usually a good option if you need an accessible or adapted property, although you may need to wait longer for this type of housing.

In some areas, it is difficult to get social housing unless you meet certain criteria, such as being homeless or needing to move on medical grounds. Waiting times can be long even if you meet these criteria.

Properties are often let unfurnished and you may have little choice over type and location if you do not have '*choice-based lettings*' in your area.

Speak to a housing adviser if you want to make an application for social housing or speed up an existing application. They can guide you through the process, make sure your application is given enough priority and help you to challenge any negative decisions.

### 3 How do I get it?

Most social housing is '*allocated*' by local authorities. This means each authority has a list of people waiting for social housing, called its '*housing register*'. Applications for housing are prioritised in line with policies set by the authority (its '*allocation scheme*'), although the law says some people must be given preference.

When a property becomes vacant, the authority selects someone from the waiting list to be the new tenant. Typically this is the person with the highest priority who meets any conditions attached to the letting. In areas with choice-based lettings, it is the person with the highest priority who bids for the property and meets any conditions.

Local housing associations may fill some or all of their properties through the housing register. Some associations have their own waiting lists and accept direct applications or referrals from organisations such as social services - a letting made in this way does not count as an '*allocation*'.

Some authorities appoint another organisation (a '*contractor*') to manage the allocations process on their behalf. This can be a housing association or a private company. The authority remains responsible for drawing up and making changes to the allocation scheme. Decisions made by a contractor can be challenged in the same way as decisions made by an authority.

Sheltered housing provided by local authorities and housing associations is allocated in the same way as general needs social housing, although there may be specific rules on who gets priority. See factsheet 64, *Specialist housing for older people*, for more information.

### 4 Making an application

To join a local authority waiting list, you must fill in an application form with details of where you live now, medical conditions and other relevant factors. The authority considers your application against their allocation scheme and gives you points or places you in a band to reflect the priority you have been given.

You may have to provide details and proof of income, savings and assets. You may have to provide evidence supporting your application, for example a GP letter explaining why you need re-housing on medical grounds.

Tell the local authority what sort of housing you need, for example particular features due to disability or illness, or if you need to live close to particular people or facilities such as shops or a bus route.

You have the right to request information to enable you to assess the likely outcome of your application, for example whether you are likely to be given priority, whether housing that meets your needs is likely to become available, and how long this is likely to take.

Waiting times vary significantly and depend on:

- the local housing market – how much social housing is available and how many people want it
- your level of priority and how this compares to others on the waiting list
- your needs – the type, size and location of the property you are looking for and whether you can be flexible.

Many local authorities have a limited number of housing vacancies and long waiting lists. Waiting times for sheltered housing may be shorter.

If you need help filling in the form, speak to the local authority. By law, they must ensure '*any necessary assistance in making...an application is available free of charge to [people] who are likely to have difficulty in doing so without assistance*'.

Keep the authority informed of changes in your circumstances affecting your level of priority. You may be sent a request each year for up-to-date information about your household. It is important to provide this information or you may be taken off the list.

## 5 Local authority allocation scheme

Local authorities must have an '*allocation scheme*' setting out the procedure they follow when allocating social housing and how they prioritise applications. They must publish a summary of the scheme and you can request a copy free of charge.

Schemes vary between local authorities. The law says certain groups of people must be given '*reasonable preference*' for housing, but authorities can set their own rules to determine the relative position of different applicants with reasonable preference and reflect local priorities.

In **England**, authorities have additional powers and can set rules restricting access to the waiting list, for example if you are not in a reasonable preference group or have not been living in the area for long enough. This should not prevent you from joining in exceptional circumstances.

### 5.1.1 In England and Wales

In drawing up schemes and allocating accommodation, local authorities must consider government guidance. In **England**, this is *Allocation of accommodation: Guidance for local housing authorities* (June 2012) and *Providing social housing for local people* (December 2013).

In **Wales**, this is the *Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness* (March 2016).

## Eligibility

Local authorities can only allocate accommodation to 'eligible' people. This means people who are eligible by virtue of their immigration status.

British citizens are normally eligible, but you may be classed as a 'person from abroad' if you have been living outside the UK or Ireland. You are subject to the Habitual Residence Test to determine whether you can join the housing register. See factsheet 25, *Returning from abroad*, for more information.

Speak to an adviser if you are not a British Citizen and want to know if you are eligible.

## Who gets priority on the list?

Certain groups of people applying to join a housing register must be given reasonable preference, giving them priority for social housing.

You should be given reasonable preference if you:

- are homeless or threatened with homelessness, even if you have not made a homelessness application to the local authority.
- live in overcrowded, unsanitary or unsatisfactory housing. For example, your property lacks adequate heating or is in disrepair.
- need to move on medical or welfare grounds e.g. a mental or physical illness or learning disability making your current home unsuitable.
- need to move to a particular area to avoid hardship to yourself or others. You may need to move to give or receive care or access specialised medical treatment.

## Can others get priority?

An allocation scheme does not have to allocate every available property to people in the reasonable preference groups. A scheme can take local priorities into account, as long as these criteria do not dominate the scheme. For example, it can promote work-related mobility or prioritise social tenants who are under-occupying their current housing.

## How do authorities decide between people with priority?

Authorities can set rules giving more priority to people within the reasonable preference groups who have more urgent housing needs.

You may receive this 'additional preference' if you:

- are homeless as a result of violence or threats of violence
- need to move due to a life-threatening illness or sudden disability
- live in a severely overcrowded property posing a serious health hazard
- are a member or former member of the armed forces, or the spouse/civil partner of a member of the armed forces who has died in service (the rules are complicated and differ in **Wales**).

Beyond this, authorities can set their own rules to determine priorities between applicants in reasonable preference groups. These rules may relate to:

- the financial resources available to applicants
- any local connection with the area such as past or present residence, employment, family connection or other special circumstances
- the behaviour of the applicant or a member of their household where this affects their suitability to be a tenant.

In practice, many authorities determine relative priorities by reference to how long a person has been on the waiting list.

### 5.1.2 In England only – ‘qualifying people’

Local authorities can only allocate accommodation to ‘qualifying’ people.

Subject to the immigration rules noted above and any other rules put in place by the Secretary of State, authorities can decide who qualifies to join their waiting list.

An authority may decide only certain people qualify, such as people in a reasonable preference group. They may decide certain people do not qualify, such as people who are not living in the area, owner-occupiers and people with a history of rent arrears or anti-social behaviour.

The allocations guidance states that authorities may wish to disapply a policy of excluding owner-occupiers in cases where an older homeowner needs to move into sheltered accommodation.

Problems can occur if an applicant for housing falls within a reasonable preference category but does not meet the authority’s qualification criteria. The allocations guidance states that authorities ‘*may wish to adopt criteria which would disqualify individuals who satisfy the reasonable preference requirements*’, but the courts have disagreed on a number of occasions.

In one case, an allocation scheme disqualifying homeless applicants placed by the local authority in long-term suitable temporary accommodation was declared unlawful. In another, a scheme containing a blanket five-year residence requirement that excluded a homeless mother fleeing domestic violence was unlawful.

Seek advice if you are prevented from joining or removed from an authority’s housing register because you do not meet its qualification criteria. Whatever criteria are adopted, authorities are encouraged to have a policy on dealing with exceptional cases.

For more information about residence requirements and moving to another local authority area, see section 15.

## 6 Choice-based lettings

Although a local authority may allocate accommodation in whatever way it considers most appropriate, many operate choice-based lettings, allowing applicants to 'bid' for properties advertised in local newsletters or website. Bidding simply means expressing an interest in a property; it is not an auction and you should not have to pay to secure a property.

A local authority is likely to place restrictions on who can bid for a specific property, for example bidding might be restricted to homeless applicants or a household of a certain size. Bidders with the highest priority who meet the criteria attached to the property are invited to view it. The bidder with the highest priority who wants the property is formally offered it.

If you think you may have trouble with bidding, for example if you do not have access to a computer, tell the local authority. They should tell you how you can access the property listings, for example at your local library or housing office, or you may be able to place bids by phone.

In **England**, the social housing regulator requires local authorities to '*develop and deliver allocations processes in a way which supports their effective use by the full range of actual and potential tenants, including those with support needs*'. In **Wales**, authorities should support applicants who need help with completing forms and, where appropriate bidding for properties.

### Disability

If you have a disability within the meaning of the *Equality Act 2010*, the authority should take reasonable steps to ensure you are not disadvantaged under a choice-based lettings system.

Disability is defined as a '*physical or mental impairment*' that has a '*substantial and long-term adverse effect on [a person's] ability to carry out normal day-to-day activities*'. Let the authority know if you are in this position and seek advice from Shelter or the Equality Advisory Support Service if they do not make adequate provisions to help you bid.

## 7 Direct offers

Your local authority may allocate some or all of its housing by making direct offers to people on the waiting list. The law does not state how many offers of housing can or must be made, so different authorities have different policies on offers and refusals. Some make one offer only. Some reduce your priority if you turn down an offer.

You should be given a reasonable period of time to make a decision on an offer. You normally have a chance to look at the property before deciding. If unhappy with an offer, you may be able to have the suitability of the property reviewed. A property may be unsuitable if, for example, it is on the third floor without a lift and you have mobility difficulties.



Only households who are owed a duty under homelessness law have an automatic right to a suitability review, but your local authority may have policies on when it will review other offers. If you do not have a right of review, ask the local authority to make another offer and use their formal complaints procedure if they refuse.

Seek advice before refusing an offer, as the local authority may not give you any more help if they do not agree the property was unsuitable.

If you are concerned about the state of repair of the property, discuss this with your housing officer. Serious repairs should be done before you move in. If the property needs redecoration, you may be given an allowance to do it yourself. Seek advice if the landlord refuses to carry out the repairs.

## 8 Joint and sole tenancies

Social landlords will usually grant joint tenancies to couples (including same-sex couples) and may offer joint tenancies in other circumstances.

Note that signing a joint tenancy has implications in terms of rent liability, succession rights and your rights following relationship breakdown. See factsheet 68, *Tenancy rights – security of tenure* for more information.

In **England**, previous allocations guidance stated that local authorities should normally grant joint tenancies '*where household members have long-term commitments to the home*'. This included couples, friends and unpaid live-in carers. Where an authority refused an application for a joint tenancy, the guidance stated that clear, written reasons should be given.

The current statutory guidance in section 5 is silent on this issue. However, authorities (and other social landlords) may continue to follow the old rules, or they may have their own policies on when joint tenancies are granted. They should follow these.

If a local authority or housing association is unwilling to grant a joint tenancy to you and a partner, friend or unpaid live-in carer, seek advice from Shelter or a local advice agency like Citizens Advice or Age UK.

**Welsh** Government guidance advises that authorities should normally grant a joint tenancy where household members have long-term commitments to the home, for example partners, friends or unpaid live-in carers.

In this way, the ability of other adult household members to remain in the accommodation on the death of the tenant is not prejudiced. Local authorities should ensure there are no adverse implications from the joint tenancy for the good use of their housing stock and for their ability to continue to provide for housing need.

## 9 Fixed-term and ‘lifetime’ tenancies - England

There are a number of different social tenancies. The standard local authority tenancy is a secure tenancy and the standard housing association tenancy is an assured tenancy. Both can be granted for a fixed period, or for life.

‘Lifetime’ tenancies offer greater security of tenure, as they roll on indefinitely unless terminated by the landlord or tenant. If the landlord wants to terminate, they can only do so on certain grounds and in many cases the court must be satisfied it is reasonable to evict the tenant. By contrast, fixed-term tenancies can be brought to an end fairly easily at the end of the fixed term.

Social landlords have been encouraged to make greater use of fixed-term tenancies and the *Housing and Planning Act 2016* requires local authorities to grant them in most circumstances. This provision is not yet in force, but you may be affected if you apply to join the waiting list now and face a long wait for housing.

Check what kind of tenancy you will be offered before bidding for or accepting a property. Speak to the local authority or landlord if unsure.

If you are concerned the proposed tenancy would not offer you enough security, seek advice immediately. Look at your local authority’s tenancy strategy. This sets out matters the local authority and local housing associations must consider when drawing up their policies on:

- the types of tenancy they grant
- the circumstances in which they grant a particular type of tenancy
- if they grant tenancies for a fixed term, the length of the terms, and
- the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

The social housing regulator says social landlords must have a *‘policy on taking into account the needs of those households who are vulnerable by reason of age, disability or illness, and households with children, including through the provision of tenancies which provide a reasonable degree of stability’*.

They must tell you how you can complain about the type of tenancy offered and, if fixed term, the length of the term.

You have a legal right of review if you are offered a fixed-term tenancy by a local authority and the length of the term is not in line with its policies.

## 10 Affordable rents - England

Social landlords in **England** can charge '*affordable rents*' in certain circumstances. Affordable rents can be up to 80 per cent of the local market rent. This means they are generally higher than rents on other social properties, but lower than local private rents.

Not all social properties are let on an affordable rent basis. It should be clear if a property advertised or offered has an affordable rent level, but check with the local authority or landlord if you are unsure.

Make sure you are also clear about the type of tenancy on offer, as these vary. When the affordable rent system was brought in, it was envisaged that most affordable rent tenancies would be offered for a fixed term.

In **Wales**, local authorities and housing associations must set rents for social housing properties using a specific policy framework. For more information, see [www.gov.wales/topics/housing-and-regeneration/services-and-support/managing-social-housing/social-housing-rents-policy](http://www.gov.wales/topics/housing-and-regeneration/services-and-support/managing-social-housing/social-housing-rents-policy)

## 11 Challenging decisions

You have the right to request a review if the authority decides you are:

- not eligible for an allocation on the basis of your immigration status
- in **England**, not a '*qualifying person*'.

This is an internal review by a senior officer or panel of officers not involved in the original decision.

You have a right of review in relation to '*any decision about the facts of [your] case which is likely to be, or has been, taken into account in considering whether to allocate housing*' to you.

This is likely to include decisions about:

- the type of property you will be allocated
- who is considered as part of your household
- your medical condition and welfare needs
- factors taken into account when deciding whether you have reasonable or additional preference
- the level of priority you are awarded.

Seek advice to find out if you have good grounds to ask for a review and how to prepare your case. Normally, you have 21 days to do this.

If you are not satisfied with the outcome of your review, seek specialist advice from Shelter, Citizens Advice or a law centre about challenging the decision, for example through judicial review. You should also seek advice if you are not given a right of review.

In **England**, you can complain to the Local Government and Social Care Ombudsman (LGSCO) if you think a local authority has not followed correct procedures in handling your application or not acted fairly.

However, if you are an existing local authority tenant and you make an application for a transfer dealt with outside the statutory allocations rules, complain to the Housing Ombudsman instead. See section 14.1 for more information.

You normally have to exhaust the authority's internal complaints procedure before complaining to an Ombudsman.

The LGSCO expect you to complain no later than 12 months after becoming aware of the issue at hand. There are exceptional circumstances when they may investigate older complaints, for example if you could not complain on time due to ill health.

In most cases, a complaint to the Housing Ombudsman must be referred by a '*designated person*' such as an MP or local councillor. However, complaints can be submitted directly if you have waited eight weeks since completing the authority's complaints procedure, or if the designated person refuses to help. Complaints should be made no later than 12 months after the authority's complaints procedure is completed.

In **Wales**, housing complaints are dealt with by the Public Services Ombudsman for Wales.

If you feel you have been discriminated against, get advice from the Equality Advisory Support Service. A public body like a local authority is not allowed to discriminate on the basis of a '*protected characteristic*' such as age, disability, gender reassignment or race, under the *Equality Act 2010*. See *factsheet 79, Equality, discrimination and the Public Sector Duty* for more information.

## 12 Renting from a housing association

Housing associations and other non-local authority social landlords are known as '*private registered providers of social housing*'. Registered means registered with the Regulator of Social Housing in **England** or the Welsh Government in **Wales**.

Many housing associations have arrangements with local authorities whereby some or all of their accommodation is let to people on the authority's waiting list.

Some housing associations accept direct applications for housing, but may still require you to be assessed by the authority. Some accept referrals from organisations like social services and charities. Speak to the local authority or a local advice agency about the routes to obtaining social housing in your area.

When running their own waiting lists, housing associations must have clear application, decision-making and appeals processes.

In **England**, the Regulator of Social Housing requires associations to have accessible allocations processes for people with support needs.

Housing associations must have published policies stating how they make use of local authority housing registers and allocation schemes and the criteria used to exclude people from their own waiting lists. You can ask to see a copy of these policies.

If you are interested in making a direct application to a housing association, ask them about the terms on which they make such lettings. They may grant tenancies with less security in this way. However, as most housing associations are classed as public bodies and their actions can be scrutinised by the courts, you are still likely to be in a stronger position than if you rent privately.

If you are not satisfied with the way your application for housing is handled by a housing association, you can complain via their internal complaints procedure. If you have completed this procedure and are dissatisfied with the outcome, you can complain to the Housing Ombudsman in **England** or the Public Services Ombudsman in **Wales**.

### Right to rent checks in England

Under the '*right to rent*' rules, housing associations have to carry out immigration checks on the prospective adult occupiers of a property let through their own waiting list. Only those people with a right to rent are able to lawfully occupy the property.

Housing associations do not need to do this when making lettings to households on the local authority waiting list, because authorities already check that applicants for housing are eligible on the basis of their immigration status.

For more information, see factsheet 63, *Finding private rented accommodation*.

## 13 Sheltered housing

If you apply for social housing, you may be asked whether you are interested in sheltered housing. This is a type of housing-with-support intended specifically for older people.

The support is generally low level and may be limited to an emergency alarm and visiting staff. Sheltered housing is intended for people who may have some support needs, but are capable of living independently.

In some areas, you are eligible for sheltered housing if aged 50 or over; in other areas, aged 60 or over.

Some local authorities place all sheltered housing applicants in the same band or give them the same number of points. Others give more priority to applicants seen as having particular needs for sheltered housing, for example mobility issues.

Usually, local authorities avoid allocating social housing to people who already own their own home, but they may do so in exceptional circumstances. Guidance on housing allocations in **England** specifically mentions older owner-occupiers who cannot stay in their own home and need to move into sheltered accommodation.

In **Wales**, guidance says local authorities are expected to consider the housing needs of owner-occupiers in the same way as other applicants. This ensures appropriate support is given to older people whose homes are no longer suitable for them.

If you already rent a local authority or housing association home and you need accommodation with more support, you may be able to transfer.

For more information, see factsheet 64, *Specialist housing for older people* and factsheet 2, *Buying retirement housing*.

### Note

If you apply for social housing, you may be told you are only eligible for sheltered housing due to your age. You may be able to challenge this if you would prefer social housing that is not designated for older people (sometimes called '*mainstream*' or '*general needs*' housing).

If the authority assessed your needs and decided these would be best met in sheltered housing, you can ask for a review of the type of property to be allocated (see section 11). If they have a blanket policy on allocating sheltered housing to applicants over a certain age, this may be unlawful and can be challenged via judicial review.

In any event, you are more likely to be successful if you can show that you do not have significant support needs and that other more suitable accommodation is clearly available.

## 14 Moving home

### 14.1 Transfers

If you are an existing council or housing association tenant, you can apply for a transfer. Most transfer applications are dealt with by the local authority, but some housing associations have their own transfer lists.

If you are a housing association tenant, ask your housing officer what the arrangements are. Getting on an internal list can mean you are able to move across local authority boundaries as well as within your local authority area.

If you are in a reasonable preference group and apply to the local authority for a transfer, you are treated the same as a new applicant for housing.

Lettings made to existing social tenants without reasonable preference, for example under-occupiers, do not count as an *'allocation'* and can be dealt with outside of the allocation scheme. This means your local authority may have separate policies that apply if you are an existing social tenant without reasonable preference.

Check whether your authority has a specific policy on the type of tenancies granted to transferring tenants. Always check what tenancy you would be granted at a property before you accept it. Social landlords can grant a range of tenancies, some offering less security of tenure.

If your type of property is in high demand, you may be given additional priority. Some social landlords offer financial incentives to people who want to transfer from larger to smaller homes.

Before seeking a transfer, think carefully about your rights and the long-term suitability of any alternative property. This is particularly important if, for example, you are giving up a *'lifetime'* tenancy for one with lower security, transferring to a higher-rent property, or moving to a different area. If things do not work out and you then ask the local authority for help in rehousing you, they may say you became homeless intentionally.

## 14.2 Mutual exchange

You may be able to move to another council or housing association property via *'mutual exchange'*, also known as home swap. This could enable you to move across local authority boundaries as well as within your local authority area.

If you are interested in mutual exchange, you need to organise this through a mutual exchange website. In **England**, the social housing regulator requires landlords to subscribe to a mutual exchange website on their tenants' behalf or pay the subscription fees of individual tenants wishing to exchange. It requires landlords to provide *'reasonable support'* to tenants who want to arrange an exchange but do not have access to the internet. Contact your landlord if you want to know more.

In **Wales**, the Welsh Government *'strongly encourages'* social housing providers to join one of the mutual exchange websites to increase the pool of exchange properties available to their tenants.

### Mutual exchange via *'assignment'*

Exchanges can happen via *'assignment'*, although not all social tenancies can be assigned. Secure (including fixed-term secure – or *'flexible'* – tenancies), assured and some assured shorthold tenancies can.

If exchange happens via assignment, the actual tenancy is swapped, not just the property. This means you could end up with a different tenancy giving you different rights. Make sure you understand what kind of tenancy you are getting before you swap.

In most cases, assignment is only permitted with the landlord's consent. This means you should seek your landlord's permission to swap and the other household should seek their landlord's permission. If you swap without consent, the landlord may take steps to evict you.

If you are a secure tenant of a local authority, your landlord cannot unreasonably refuse permission for a mutual exchange taking place via assignment.

However, they may refuse permission if, for example:

- either you or the exchanging tenant has a notice seeking possession and/or a court order against them, for example for rent arrears or anti-social behaviour
- exchange would leave your current accommodation overcrowded or substantially under-occupied
- your property is adapted for a disabled person and the person you are exchanging with does not have the same needs
- your property is sheltered accommodation and the person you are exchanging with is not an older person.

If you are an assured tenant of a housing association, check what your tenancy agreement says about assignment. If the agreement permits assignment with your landlord's consent, this cannot be unreasonably withheld.

If you have a periodic or rolling tenancy and your agreement says nothing about assignment, the law says assignment is not possible without consent, which may be withheld for any reason. If your agreement prohibits assignment absolutely, you can try negotiating with your landlord.

### **Mutual exchange as a 'transfer' – England only**

In **England**, exchange happens as a '*transfer*' in certain circumstances. This was introduced by the *Localism Act 2011* and should not to be confused with the transfers in section 14.1.

When exchange happens as a transfer, you '*surrender*' your old tenancy and are granted a new tenancy at the new property. The new tenancy is the same as your old one, if the landlord can grant that kind of tenancy, or one with a comparable level of security.

You may end up with a different tenancy. If you are a secure local authority tenant and swap with a housing association tenant, you surrender your secure tenancy and receive an assured tenancy from the housing association. Make sure you understand the terms of your new tenancy and are happy to accept them.



The *Housing and Planning Act 2016* changes the law on mutual exchange that happens as a transfer. This part of the Act has not yet been implemented but, once in force, a tenant swapping in this way is not necessarily granted their existing tenancy or its equivalent by the other party's landlord.

Instead, they are granted a tenancy on whatever terms the landlord determines. There is transitional protection if a landlord has not complied with a tenant's request for one of these transfers before the Act comes into force.

### **Before you swap**

If you have found a property you like, speak to a specialist housing adviser about whether the swap would take place as an exchange or a transfer. Make sure you understand:

- what kind of tenancy you will have
- what the terms of your new tenancy are
- what your new rent will be.

Make sure you look carefully at the new property and are happy with its condition. Your landlord is responsible for carrying out some repairs but it is likely you will be responsible for decorating the property and maintaining the garden.

Make sure you are happy to make whatever improvements you feel are necessary. Check the Council Tax payable for the property, particularly if moving across local authority boundaries.

## **15 Moving to another area**

If you have a particular need to move to another area, you may be able to ask your local authority to nominate you for an allocation of accommodation by another local authority.

If you want to move to a neighbouring local authority area, ask your local authority whether it has entered into an arrangement allowing cross-border bids.

Otherwise, you can apply directly to the local authority of your choice. You can apply to join any local authority waiting list, but note authorities can consider local connection when determining relative priorities between applicants with reasonable preference.

Connection includes employment, past residence, family associations and other special circumstances.

In **England**, some local authorities have set residency requirements as part of their policies on who qualifies for social housing. Residency requirements exclude applicants who do not live in the area or have not lived there long enough.

The allocations guidance encourages authorities to have a residency requirement and suggests that two years might be a reasonable qualification period. However, authorities should '*retain the flexibility to take proper account of special circumstances*'.

This means making exceptions to a residency requirement for specific groups, for example vulnerable people and under-occupiers, and having a policy on dealing with exceptional cases. Certain groups cannot be excluded by a residency requirement, for example existing social tenants moving areas for work and some members or former members of the armed forces.

You may find a local authority relaxes its residency requirement if you are looking for sheltered accommodation in the area, for example if you need to move closer to family and friends.

Speak to an adviser if you are interested in moving to a particular area but the authority will not make exceptions to its residency requirement. This is particularly important if you should be given reasonable preference for social housing.

A number of allocation schemes have been declared unlawful because they contain qualification criteria that disqualify residents who should be given reasonable preference, including one scheme with a residency requirement.

## Useful organisations

### **Citizens Advice**

England or Wales go to [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

In England telephone 0344 411 1444

In Wales telephone 0344 477 2020

National network of advice centres offering free, confidential, independent advice, face to face or by telephone.

### **Equality and Human Rights Commission**

[www.equalityhumanrights.com](http://www.equalityhumanrights.com)

Provides advice and assistance on people's rights and responsibilities under the *Equality Act 2010*.

### **Equality Advisory Support Service**

[www.equalityadvisoryservice.com](http://www.equalityadvisoryservice.com)

Telephone 0808 800 0082

Helpline provides information and advice about the *Equality Act 2010*.

### **Gov.uk**

[www.gov.uk](http://www.gov.uk)

Government website providing information on a variety of subjects and services. The social housing allocations guidance for local authorities in England can be found here.

### **Housing advice services**

There may be a specific housing advice or housing aid centre in your area, providing advice on a range of housing issues. Your local authority or Citizens Advice should be able to tell you about these services.

Contact your local authority as soon as possible if you are worried you may become homeless.

### **Housing Ombudsman Services**

[www.housing-ombudsman.org.uk](http://www.housing-ombudsman.org.uk)

Telephone 0300 111 3000

Investigates complaints made by tenants of landlords registered with the social housing regulator in England. The complaint must relate to the landlord's 'landlord functions'.

### **Law Centres Network**

[www.lawcentres.org.uk](http://www.lawcentres.org.uk)

Telephone 020 3637 1330

Supports a national network of community law centres. They can tell you if there is a community law centre in your area and signpost you to other legal advice providers if not.

## **Local Government and Social Care Ombudsman**

[www.lgo.org.uk](http://www.lgo.org.uk)

Telephone 0300 061 0614

Investigates complaints about local authorities 'public' housing activities, such as housing allocations, decisions on homelessness applications, general housing options advice and anti-social behaviour investigations.

Complaints about transfer applications by existing tenants that fall outside of statutory allocations rules are dealt with by the Housing Ombudsman.

## **Public Services Ombudsman for Wales**

[www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)

Telephone 0300 790 0203

Deals with complaints about local authorities and social landlords and housing associations in Wales.

## **Regulator of Social Housing**

[www.gov.uk/guidance/about-the-regulator-of-social-housing](http://www.gov.uk/guidance/about-the-regulator-of-social-housing)

Telephone 0300 124 5225

Regulates registered providers of social housing in England, including local authority landlords and housing associations. It sets a number of standards that providers are expected to meet, but only intervenes in serious cases where harm has been caused or is likely (in Wales, see Welsh Government entry).

## **Shelter**

[www.shelter.org.uk](http://www.shelter.org.uk)

Telephone 0808 800 4444 (free call)

## **Shelter Cymru**

[www.sheltercymru.org.uk](http://www.sheltercymru.org.uk)

Telephone 0345 075 5005

National charity providing telephone advice to people with housing problems on tenancy rights, homelessness, repairs and housing benefit.

## **Tai Pawb**

[www.taipawb.org](http://www.taipawb.org)

Telephone 029 2053 7630

Welsh organisation promoting equality and social justice in housing.

## **Welsh Government**

[www.wales.gov.uk](http://www.wales.gov.uk)

Telephone 0300 0604400

Devolved government for Wales with responsibility for the regulation of social housing in Wales.

## Age UK

Age UK provides advice and information for people in later life through our Age UK Advice line, publications and online. Call Age UK Advice or Age Cymru Advice to find out whether there is a local Age UK near you, and to order free copies of our information guides and factsheets.

### Age UK Advice

[www.ageuk.org.uk](http://www.ageuk.org.uk)

0800 169 65 65

Lines are open seven days a week from 8.00am to 7.00pm

### In Wales contact

#### Age Cymru Advice

[www.agecymru.org.uk](http://www.agecymru.org.uk)

0800 022 3444

### In Northern Ireland contact

#### Age NI

[www.ageni.org](http://www.ageni.org)

0808 808 7575

### In Scotland contact

#### Age Scotland

[www.agescotland.org.uk](http://www.agescotland.org.uk)

0800 124 4222

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### Next update July 2019

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