



Renting in the Private Sector

Disclaimer

This leaflet is not a statement of the law. Nor does it cover every situation. If you are in doubt about your legal rights or obligations you should seek further advice from our Housing Advice Service, the Citizens Advice Bureau, or an independent solicitor.

Every effort has been made to ensure that this information is correct at the time of publication, however changes will arise from time to time. If you have any comments or ideas on how the leaflet could be improved please let us know.

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last updated 06 April 2010 - Housing - Renting in the Private Sector Ref: 753

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If you would like a copy of this document in large print, on tape or in Braille, please contact 01372 732000

If you require a translation in your language, please contact:

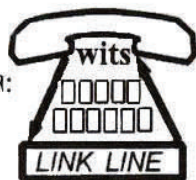
ਜੇਕਰ ਤੁਹਾਨੂੰ ਆਪਣੀ ਜ਼ਬਾਨ 'ਚ ਅਨੁਵਾਦ ਚਾਹੀਦਾ ਹੈ, ਤਾਂ ਕ੍ਰਿਪਾ ਕਰਕੇ ਰਾਬਤਾ ਕਰੋ:

જો તમને પોતાની ભાષામાં ભાષાંતર જોઈએ છે, તો મહેરબાની કરીને સંપર્ક સાધો:

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যদি আপনার নিজের ভাষায় অনুবাদ চান তাহলে অনুগ্রহ করে যোগাযোগ করুন:

اگر آپ کو ترجمہ اپنی زبان میں چاہئے تو براہ کرم مہربانی رابطہ کریں۔



01483 750548

Information required by Housing Benefit to process your Housing Benefit Claim

In order to process your claim the Housing Benefit section will ask to see original documents in support of your claim. This will be copied and returned to you.

You will need to provide:

Proof of Identity for yourself and partner if you are living with someone (e.g. birth certificate, passport, benefit book)

National Insurance Number(s) (e.g. national Insurance card, p45/p60, wage slip, benefit book)

Proof of Income for you and your partner, including any benefit you may receive (5 consecutive weekly/2 monthly wage slips &/or benefit books)

Proof of Savings (e.g. two consecutive months bank /building society statements or an up to date pass book)

An original signed copy of your tenancy agreement or signed statement of rent, which is included as tear off slip on the housing benefit form.

Rules affecting single people under 25

From 7 October 1996, for single people under 25 years old (without dependant children) the maximum rent to be used in the calculation of housing benefit cannot exceed the single room rent. The single room rent will be based on the local housing allowance (LHA) rents for single room accommodation with shared facilities.

This means that if you are a single person under 25 and looking for private rented accommodation you will only be entitled to housing benefit up to the maximum LHA for a room in a house share.

There are extra rules if you are a care leaver aged under 22 or severely disabled.



- Payment for meals that you may be provided with.
- Your landlord may still want money for these expenses but it is your responsibility to pay these costs from your own money.

How housing benefit is paid

If you make a new claim for benefit on or after 7 April 2008 any Housing Benefit you are entitled to will be paid fortnightly in arrears directly to the claimant.

Housing Benefit can now only be paid to the landlord in limited circumstances, e.g. if a claimant is vulnerable and will experience great difficulty managing rental payments. If a claimant and their representative, feels they are vulnerable, they can request that the payment is made to the landlord. Any request for payment to a landlord will need to be supported by evidence from a third party. This is known as Safeguarding.

Benefit can still be paid to the landlord if a tenant falls into arrears of 8 weeks or more. Written proof of arrears will be required and so landlords should ensure they keep detailed records of the rent account.

Delays with your claim

To avoid delays:

- Hand your form in on time
- Ensure that you hand in all of the other information required either with your claim or as soon as possible after you claim. See list below
- Make sure that you fill the form in accurately and answer all the question asked – seek for help if you need it
- Fill in the official form from the Council - do not rely on the form from your income support claim
- Remember to make a new claim when you are told that your benefit is being reviewed.
- Contact the Benefits Section if your claim is late & your landlord is likely to be more understanding if s/he knows what the problem is.

Contents

Introduction	4
Housing Needs Register and allocation of social housing	4
Homebuy	5
Finding private rented accommodation	5
Be prepared	6
Types of accommodation	7
What to consider when viewing a property	7
Health and safety	8
If you are renting a room only	9
Rent	9
Tenancy Deposit Protection	10
Inventories	11
Types of tenancy	12
Assured shorthold tenancies	13
Assured tenancies	14
Other rights of private tenants	15
Housing Benefit	16
Information required by Housing Benefit to process your Housing Benefit Claim	19
Rules affecting single people under 25	19
Disclaimer	20

Introduction

This leaflet has been produced to help you find privately rented accommodation. It will advise you on the types of accommodation available, how to go about looking for private rented accommodation, and what sort of security of tenure, rights and tenancy conditions private rented tenants may have.

As well as looking for private rented accommodation you may also want to consider applying to the Council to put your name on the Housing Needs Register. Listed below is some more information about this type of social housing. Please be aware that the Housing Needs Register is a waiting list and is generally unable to assist with rehousing quickly or in emergencies. If you have a more urgent housing problem you may wish to seek advice on your alternative housing options. Please contact Housing Services to arrange an appointment.

Housing Needs Register and Home Choice

There are no council houses in Epsom & Ewell as the stock was transferred to Rosebery Housing Association in February 1994. Low cost rented housing, or 'affordable housing', is provided by a number of different housing associations, the largest of which is Rosebery Housing Association.

The Council has 'nomination rights' to a percentage of the housing associations' vacancies and, in order to decide who will be put forward for each vacancy, the Council operates a Housing Needs Register. This is a waiting list for people in the borough who are in need of low cost rented accommodation. When a property becomes available it is advertised through the Council's choice based letting system, Epsom & Ewell Home Choice, www.eebc-homechoice.org.uk.

Epsom & Ewell Home Choice is a way of allocating Housing Association properties that gives our applicants more choice over where they want to live. Every week we advertise any vacancies on the Home Choice website and an automated telephone service. Applicants can see a full range of available properties and apply or bid for any to which they are matched. The successful applicant will be the person with the highest points for the property they have bid for.

Rent Service will set a flat rate LHA for properties in the broad market area based upon the number of bedrooms. This will form the starting point of the LHA calculation. Entitlement will still be assessed taking into account a claimant's income and personal circumstances and thus may be paid at a rate lower than the Rent Service's figure.

The LHA for differing sizes of accommodation will be set by the Rent Service each month and the details will be publicised locally by the Housing Benefit Section. The LHA will be the rate for the month in which the claim starts. Unless there is some relevant change (e.g. the birth of a child), the LHA will be unchanged for 52 weeks.

How to make a claim

Housing Benefit is administered by the local council in whose area the rented property is located. You should fill in the Council's form even if you have completed a form when you made your claim for Income Support. Ensure that you fill in the form accurately and complete all sections in full. If you need help with this, ask the Benefits Section

When to make a claim

You must hand in your claim form to Benefits section as soon as you move into your new home. If your claim is even a few days late, you may lose benefit!

The Benefit Section will need other information such as a copy of your tenancy agreement, proof of your income, and savings etc. You will be told what else you need to supply when you hand in the form. If you can not supply all of the documents needed straight away, still put your claim form in and you will be allowed up to four weeks to supply the other information. Your claim will then be assessed and any benefits which you are entitled to will be granted from the Monday following the date that the application form was handed in.

What housing benefit covers

Housing Benefit is only assessed on the "eligible rent" and will not include:

- Deposit Money
- Money for bills, such as electricity, gas, water etc.

Harassment and Illegal Eviction

Some landlords try to make life difficult for tenants because they want them to leave, perhaps by withdrawing services such as gas and electricity, denying access to part of the accommodation or by threatening violence. This is known as harassment. If the landlord actually throws a tenant out, changes the locks while they are out or otherwise gets a tenant to leave without serving the correct notice or going through the proper legal procedure, this is illegal eviction. Harassment and illegal eviction are criminal offences. Landlords can be prosecuted under the Protection from Eviction Act 1977 and/or the Protection from Harassment Act 1997.

Housing Benefit

This section is not a complete guide to the Housing Benefit System. It gives you some of the most important points to help you with your claim. If you need more information or have a general question, telephone Housing Benefit Section on 01373 732000.

What is Housing Benefit & who can claim it?

Housing Benefit is a national scheme to assist those on low incomes to meet their rent payments. It is administered by local authorities and can be claimed by those on income support, income-based jobseeker's allowance, contribution-based jobseeker's allowance, incapacity benefit, employment support allowance or pension credit as well as others with a low income, subject to the relevant criteria being met. If you are unsure whether or not you are entitled to Housing Benefit, make a claim and find out.

In many cases, Housing Benefit does not cover all of the claimant's rent and so s/he may have to make up the shortfall her/himself. Housing Benefit is also called 'rent rebate' for council tenants and 'rent allowance' for private tenants and tenants of housing associations/registered social landlords

Local Housing Allowance

From 07 April 2008 people renting from a private landlord and changing address or making a new Housing Benefit claim will have their benefit calculated from the Local Housing Allowance (LHA).

HomeBuy

HomeBuy is a scheme that makes it easier for local authority tenants, housing association tenants, and people on Housing Needs Register to purchase a home. A range of new HomeBuy schemes came into effect in April 2006. The new HomeBuy scheme has three parts:

- **New Build HomeBuy:** shared ownership of the home with a housing association.
- **Open Market HomeBuy:** part-purchase of a property with the rest funded by an equity-loan from a housing association.
- **Social HomeBuy:** assistance for housing association and local authority tenants to buy their current home.

Epsom & Ewell Borough Council work with [Catalyst Housing Group](#), the Government appointed Homebuy Agent covering the Surrey area, to promote the HomeBuy initiative and all the available options. You can contact them on 0845 601 7729 or online at www.catalysthomebuy.org.uk. More details about the options and schemes are available on this website. You will also need to be on the Council's Housing Needs Register.

Finding private rented accommodation

Private renting can be much more flexible than other forms of housing, with periodic and fixed terms, short and long lets available. You may be able to find and move into a property in the private sector very quickly.

You could consider looking for accommodation through:

- **Personal Contacts:** Ask your family, friends and work colleagues.
- **Shop Windows and Notice Boards:** Landlords will often advertise accommodation vacancies on cards in shop windows. Newsagents' shops are often good for this type of advertisement.
- **Newspapers:** Try looking in local free newspapers, especially if you want to live in a particular area.

- **Self-Advertising:** You could try to advertise what you are looking for by placing a card in a shop window.
- **Accommodation and Letting Agencies:** These agencies can provide a service for people looking for accommodation, although they usually charge for this. A list of local agents is available from Housing Services.
- **The Internet:** The Internet is a very quick, easy and effective way of finding accommodation. There are a number of accommodation websites that may be useful, such as www.rightmove.co.uk, www.thinkproperty.com, or www.propertyfinder.com. These allow you to enter the area, type of property, and amount of rent you can afford – then search for a home using these criteria. If you do not have access to the internet at home, you may wish to go to your local library or the Town Hall and use the internet facilities available there.

Be prepared

- When looking for private rented accommodation it is important to get regular information about vacancies and to follow them up the same day or as soon as possible thereafter.
- A local street map and a bus guide will help you find accommodation addresses and help assess the ease and cost of travel. Free copies are available from the Town Hall reception area.
- As lettings can be made so quickly, you should aim to visit and decide whether a property is suitable without delay. You should have money and references organised in case you decide you want the accommodation.
- Many landlords/agents require prospective tenants to provide one or more references from previous landlords, bank managers or employers. Rent in advance and a deposit are usually required, and prospective tenants may also be asked to pay agency or holding fee.
- If you are on a low income and/or will be claiming Housing Benefit the landlord may require a guarantor. Ask family or friends whether they would be prepared to stand as a guarantor for you.

- holiday lets

Occupiers who fall into any of the above categories are likely to be occupiers with basic protection or excluded occupiers. These types of occupiers have very limited rights and landlords can usually regain possession very easily.

Other rights of private tenants

Name and address of the landlord

Private tenants have a legal right to know the name and address of their landlord. A tenant has a right to this information under s. 1 of the Landlord and Tenant Act 1985.

Rent Book

It is good practice for all tenants to be issued with a rent book in order to keep a record of payments made and for tenants who pay rent weekly this is a legal requirement. There is no obligation upon the landlord to provide receipts unless rent is payable weekly, so if possible it is advisable to avoid paying in cash so that records can be kept of payments made.

Discrimination

As the private rented sector is not regulated, it is sometimes the case that landlords and letting agents engage in discriminatory practices, both in selecting tenants and in the treatment of existing tenants. If you would like more information on your rights in relation to race, sex & disability discrimination please contact the Housing Adviser in Housing Services.

Repairs

Landlords are responsible for keeping the structure and exterior of the property free from disrepair and to keep in repair and proper working order the installations in the property for the supply of water, gas, electricity, sanitation, space heating and heating water. Depending on the terms of the tenancy tenants responsibilities will generally only extend to the decorative and interior parts of the premises.

(e.g. rent arrears). However, after the first six months, landlords can regain possession by serving a minimum of two months written notice. Tenants will not have to leave at the end of the notice period, but can stay until the court has granted a possession order. However, if they stay they may be liable for the landlord's costs in having to go to court. If the correct notice has been served, the court must grant a possession order.

Tenancies started between 15 January 1989 and 27 February 1997, tenancies will only be assured shorthold tenancies if a section 20 notice was served at the start of the tenancy. This is a special legal form to say that the tenancy was to be an assured shorthold rather than an assured tenancy. If this notice was not served or did not contain the specified information it is likely that the tenancy will be assured.

Assured tenancies

Assured tenants have greater security of tenure than assured shorthold tenants in that the landlord cannot normally regain possession without serving correct notice and proving a ground for possession to the court. However, in some circumstances, the court can waive the requirement for this notice.

There are some types of private sector lettings which cannot be assured or assured shorthold tenancies, including:

- licences (where other people in the household have an unrestricted right to enter the accommodation)
- accommodation provided as part of a job for the better performance of that job (e.g. caretaker)
- accommodation provided by a friend or family where there was no intention to create a legally binding agreement
- accommodation where there is a resident landlord who lives in the same building
- accommodation rented from a college or other educational institution

Types of accommodation

There are various types of private rented accommodation available, including:

- **Self-contained houses/flats:** A self-contained property that is let out by a private landlord/agent.
- **Studios:** Studios are more self-contained than a bedsit and usually made up of a bedroom/lounge all in one room with a separate bathroom & kitchenette.
- **Shared houses or flats:** A room in a house or flat, sharing the use of the kitchen, bathroom and lounge with others. Often properties can be let to a group who will rent a whole property or the landlord may let out rooms on an individual basis.
- **Bedsits:** A bedsit is usually made up of a bedroom/living room containing its own cooking facilities while amenities such as the bathroom/WC may be shared with other tenants.
- **Lodgings:** These are rooms in the landlord's own home, often with a family. You will either have use of the kitchen or meals may be provided.
- **Houses in Multiple Occupation (HMO):** If a property is rented out to more than one household it may be classified as an HMO. HMO's include bedsits, shared houses and lodgings. HMO's are covered by additional legislation which requires them to have adequate facilities and safety procedures. A tenants' guide to HMO's standards is available from the Council's Environmental Health Division. If you think that the property is unsafe or not fit to live in you should approach the Environmental Health Division at the Town Hall.

What to consider when viewing a property?

Try to take a friend or member of your family with you when you go to view accommodation. It is helpful to have a second opinion and it is also safer. Always make sure that someone knows where you are going and what time to expect you back.

Health and safety

Health and safety law covering private rented accommodation, and especially shared houses, is very complicated. The following is a list of the main things to consider:-

- **Gas Appliances** - Landlords are legally responsible for making sure that pipe work, appliances and flues provided for tenants are maintained in a safe condition and checked for safety every year. A [Gas Safe registered engineer](#) must carry out the safety check in the properties in Great Britain and the Isle of Man every 12 months. The landlord must give tenants a copy of the [gas safety certificate](#) within 28 days of it being carried out or before they move in.

Landlords are also obliged to show tenants how they can turn off the gas supply in the event of a gas leak. Do not take accommodation where the gas appliances have not been checked in the last 12 months - you may be putting your life in danger.

- **Heating** - Ensure that there is adequate heating and that it is in good working order. This is particularly important if you view the property in the summer - it may be very cold in the winter.
- **Electrical Wiring** - Look out for badly fitted sockets, hanging flexes, bare wires, very old looking sockets/wiring/light fittings. If you are unsure about the safety of the electrics ask the landlord to have them checked by a qualified electrician.
- **Damp** - Damp properties can cause health problems. Check for mould growth, peeling wall paper, and damp smells.
- **Windows** - Check that they open and close. This is important for ventilation and as a possible means of escape in cases of fire.
- **Kitchen and Bathroom** - Check that all the taps work and that the WC flushes. Check that the cooker and fridge are in good working order.
- **Furniture** - If you are looking at a property which is currently occupied make sure you ask which furniture is provided by the landlord and that it conforms to the current safety standard.

allowing the tenant to give notice they can be held liable for the rent for the remainder of the fixed term

- who you should contact if there are any problems during the tenancy.

Tenants of assured shorthold tenancies which started after 28 February 1997 have the right to ask for a written statement of certain terms and conditions) which are:

- the date the tenancy started
- the rent payable and the dates of payment
- any provision for rent review
- the length of any fixed term.

Assured short-hold tenancies

Private sector tenancies let since 15 January 1989 are governed by the Housing Act 1988, as substantially amended by the Housing Act 1996 and the majority will be assured or assured shorthold tenancies (see below).

If you are about to move into private rented accommodation you should be aware of the tenancy rights you are likely to have before moving. There are various forms of tenure which it is possible to have in the private rented sector.

Since 28 February 1997 most new private sector tenancies (were there is no resident landlord) will automatically be assured shorthold tenancies, unless the tenancy agreement specifically states that the tenancy is to be an assured tenancy. This will be the case even if no written tenancy agreement has been provided.

Assured shorthold tenancies can either be for a fixed term (usually 6 months or 12 months), or periodic (rolling from week to week, or month to month).

During the first six months of the tenancy (whether there is a fixed term or not), landlords cannot automatically regain possession of the property. They can only do so if they can prove a ground for possession to the court

Types of Tenancy

If your landlord wants you to sign a tenancy agreement make sure you know what you are signing. Any reasonable landlord will allow you to take a copy away for 24 hours so that you can seek advice. The Housing Adviser at the Town Hall is available to look through contracts and explain the implications.

Tenancy or licence agreements may be written or verbal. Verbal agreements are as legally binding as written ones. However, it is advisable to get an agreement in writing so that it is clearer where each party stands. Tenancy agreements cannot take away from tenants the rights granted by Acts of Parliament, even if the tenancy agreement says otherwise

Although in theory the terms of a tenancy agreement may be negotiated between the landlord and the prospective tenant. In practice you may not have much scope to negotiate favourable terms. However, any terms which are unfair may be challenged using the Unfair Terms in Consumer Contracts Regulations. If practicable, before you sign an agreement, you should read it carefully and check:

- what type of agreement are you signing, is the letting for a fixed term and if so, for how long
- what do you have sole use of, what facilities do you share with others, the amount of rent and whether it includes payments for council tax, gas, electricity, water and services such as laundry or telephone
- how often the rent is due, and the date on which it is payable
- how often can the landlord increase the rent
- the amount of the deposit
- if there are any other charges payable
- what are your obligations to repair and decorate the property
- what happens if you want to leave. You may want to ask the landlord to include a right for you to end the tenancy with for example, one month's notice. This is known as a break clause. It is particularly important for fixed term tenancies, because if there is no clause

- **Repairs** - If a landlord or agent promises to carry out repairs or changes which you require, ask for these to be confirmed in writing and check they are done before you move in.
- **Cleanliness** - Does the property look clean and well cared for?

NOTE: Remember this is only a brief list of some of the main points to consider. If you are unsure or would like more information about health and safety standards in private rented accommodation, you should contact Environmental Health Services at the Town Hall.

If you are renting a room only

- Look at the whole property, not just the room.
- Are the facilities adequate for the number of people?
- Is the room large enough? This is particularly important if you will be spending a lot of time in the room or if there is no communal lounge.
- Can you meet the other people? If you are going to be sharing facilities, it helps if you get on with the other occupants.
- Is the cost of the bills included in the rent?
- If the bills are extra, how is it decided how much you will have to pay? How often is this amount payable? Who will collect the money from you and ensure that the bills are paid?

Rent

Private rents in this area tend to be quite high, so it may be worth trying to negotiate a lower rent with the landlord.

Think about whether you can you afford to pay the rent. If you intend to claim Housing Benefit check to see whether the rent is within the Local Housing Allowance rate for the size and area. This will help you decide if you can afford to rent the property before you accept the tenancy. Check if the rent includes bills such as electric/gas/water/council tax, or are these extra. How is your rent to be paid and at what interval - weekly/four weekly or per calendar month. Remember if your rent is due weekly you are entitled to a rent book and don't forget to obtain a receipt for any cash payments.

Tenancy Deposit Protection

From 6th April 2007, when you pay a deposit, your landlord or agent must protect it using a government authorised tenancy deposit scheme.

The Government wants to make sure your tenancy deposit is protected so that:

- You get all or part of your deposit back, when you are entitled to it
- Any disputes between you and your landlord or agent will be easier to resolve

At the beginning of a new tenancy agreement, pay your deposit to your landlord or agent as usual. Within 14 days, the landlord or agent is required to give you details about how your deposit is protected including:

- The contact details of the tenancy deposit scheme
- The contact details of the landlord or agent
- How to apply for the release of the deposit
- Information explaining the purpose of the deposit
- What to do if there is a dispute about the deposit

If you don't get this information, ask your landlord or agent the simple question – **'how is my deposit protected?'**

You have a responsibility to return the property in the same condition that it was let to you, allowing for fair wear and tear. So it is a good idea to make sure that when you sign your tenancy agreement, you:

- Keep a detailed list of contents (furniture and fittings)
- Record the condition of the property and its contents (photographs are a good idea)

Check the circumstances in which your landlord or agent could have a claim on your deposit.

The three Tenancy Deposit Schemes are:

Tenancy Deposit Solutions Ltd

www.mydeposits.co.uk

info@mydeposits.co.uk

The Tenancy Deposit Scheme

www.tds.gb.com

0845 226 7837

The Deposit Protection Service

www.depositprotection.com

0870 707 1 707

If your landlord or agent hasn't protected your deposit you can apply to your local county court. The court can order the landlord or agent to either repay the deposit to you or protect it in a scheme. If your landlord or agent has not protected your deposit, they will be ordered to repay three times the amount of the deposit to you.

At the end of the tenancy, check whether you are leaving the property and its contents in the condition in which it was let to you – allowing for fair wear and tear – and check that you have paid your rent and any other expenses. Then agree with your landlord or agent how much of the deposit should be returned to you. Within 10 days – you should have received the agreed amount of the deposit.

When you move out, if you and your landlord or agent can't agree how much of your deposit should be returned, there will be a free service offered by the scheme protecting your deposit to help resolve your dispute. Check the information your landlord or agent gave you at the beginning of your tenancy for details. Your landlord cannot give notice that he is repossessing the property at the end of the tenancy until he has protected the deposit and told you how it is protected.

Inventories

An inventory check can prevent you from being charged for damages and breakages that were done before you moved in. If you are not given an inventory ask your landlord/agent to supply one. Check the inventory thoroughly and note any damages then ask the landlord/agent to initial them as verification. - Remember to keep a copy.