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Guidance

Guide for tenants: Homes (Fitness for Human Habitation) Act 2018

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Applies to England

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1. Introduction

If you live in a rented house or flat, then this guide will help you understand your rights under the new [Homes \(Fitness for Human Habitation\) Act](http://www.legislation.gov.uk/ukpga/2018/34/introduction/enacted) (<http://www.legislation.gov.uk/ukpga/2018/34/introduction/enacted>).

This guide is for people who:

- rent privately
- rent from a housing association; **or**
- rent from their local council

If you are in temporary accommodation or are a lodger or a property guardian, then this guide **may** not apply to you. If you are unsure you may wish to check if you have a licence to occupy rather than a tenancy.

See the [Housing 'how to' guides](https://www.gov.uk/government/collections/housing-how-to-guides) (<https://www.gov.uk/government/collections/housing-how-to-guides>) for help and advice.

What is the new law?

On 20 March 2019 a new law came into force to make sure that rented houses and flats are 'fit for human habitation', which means that they are safe, healthy and free from things that could cause serious harm.

Most landlords make sure that the houses and flats they rent out are safe and secure, warm and dry. But some landlords do not, and this means that some tenants live in dangerous or unhealthy conditions. This new law, the Homes (Fitness for Human Habitation) Act 2018, will help these tenants and make sure irresponsible landlords improve their properties or leave the business.

If rented houses and flats are not 'fit for human habitation', tenants can take their landlords to court. The court can make the landlord carry out repairs or put right health and safety problems. The court can also make the landlord pay compensation to the tenant.

In this guide we refer to the new law as 'the Homes Act'.

2. About the Homes Act: what does it mean for me?

What should my landlord be doing?

Your landlord must make sure that your home is 'fit for human habitation', which means that it's safe, healthy and free from things that could cause you or anyone

else in your household serious harm. For example, if your house or flat is too cold and you can't heat it, this can affect your health.

If you are a private tenant, you can find more information on your landlord's other duties and responsibilities by having a look at our [How to rent' guide](https://www.gov.uk/government/publications/how-to-rent) (<https://www.gov.uk/government/publications/how-to-rent>). Your landlord or letting agent should have given this to you when you moved in.

Who can use the Homes Act?

The Homes Act applies to tenants who live in social or privately rented houses and flats. The type of housing you live in, for example a bungalow, house or flat, is not important. It also doesn't matter how you pay your rent, or if you are on Housing Benefit or Universal Credit. It is the agreement that you have with your landlord or letting agent that matters.

You can use the Homes Act immediately if you signed your tenancy agreement contract on or after **20 March 2019**, whether or not this meant you moved into a new property.

If you signed your contract before 20 March 2019, you will have to wait until **20 March 2020** before you can use the Homes Act (unless you sign a new tenancy or your tenancy becomes a monthly rolling contract). **But you should still contact your local council if you're worried about conditions in your home. They have powers to take action on your behalf, at no cost to you.**

Find out how to [contact your local council](http://www.gov.uk/find-local-council) (<http://www.gov.uk/find-local-council>). See additional advice for making a complaint if you are a [council tenant](https://www.gov.uk/council-housing/complaints) (<https://www.gov.uk/council-housing/complaints>) or [housing association tenant](https://www.gov.uk/housing-association-homes/complaints) (<https://www.gov.uk/housing-association-homes/complaints>).

The Homes Act applies to any tenancy with a fixed term of less than 7 years.

Are there any tenants who can't use the Homes Act?

The Homes Act only applies to tenants in England.

The Homes Act does not cover people who have 'licences to occupy', instead of tenancy agreements. This may include lodgers (people who live with their landlord), some people who live in temporary accommodation, and some, but not all, property guardians. See the Shelter website for help with [defining different types of tenancy](https://england.shelter.org.uk/legal/security_of_tenure/basic_principles_security_of_tenure/the_tenancy_agreement) (https://england.shelter.org.uk/legal/security_of_tenure/basic_principles_security_of_tenure/the_tenancy_agreement).

If you are unsure of whether you have a licence or a tenancy agreement, you can get advice from your local council, or from an organisation like Shelter or Citizens' Advice.

From 20 March 2019

From 20 March 2019, anyone who signs a new tenancy agreement for a home, either the one they are currently living in, or a new home, or anyone whose tenancy becomes a periodic tenancy on or after 20 March 2019, can use the Homes Act. This includes tenants who sign tenancies of shorter than 7 years.

From 20 March 2020

After 20 March 2020, everyone who has a secure or assured tenancy, or a statutory tenancy, or a private periodic tenancy, can use the Homes Act regardless of when their tenancy began. Anyone who is still on the fixed term of a private tenancy that began before 20 March 2019 cannot use the Act until the end of that fixed term.

Are there any exceptions?

Your landlord is responsible for fixing a lot of problems in your home. However, there are some exceptions:

Problems caused by tenant behaviour

This means that if you or another tenant have behaved irresponsibly or illegally, the landlord may not have to fix any problems caused by your behaviour.

Events like fires, storms and floods which are completely beyond the landlord's control (sometimes called 'acts of God')

You won't be able to use the Homes Act, but you will still be able to contact your local council for help if your landlord doesn't take the necessary steps to help.

The landlord will not repair your possessions or furniture belonging to previous tenants

For example, if it is not included in the inventory at the beginning of your tenancy.

If the landlord hasn't been able to get permission from certain other people.

You will not be able to use the Homes Act when the landlord has not been able to get permission to do work from people like the owners of a building that has flats in it, or the local council if planning permission is needed. You are allowed to ask for evidence that your landlord has tried to get permission, and you will still be able to contact your local council for help.

3. What do I need to do?

If at any stage during this step-by-step process you find that you cannot use the Homes Act please go to the [What should I do now?](#) section.

Step 1: Check if the way you rent your house or flat is covered by the Homes Act.

You can do this by checking the [About the Homes Act](#) section of this guidance, or by checking the agreement you signed with your landlord.

If you are still confused, or are unable to find this agreement, you can ask for help from your local [Citizens Advice](https://www.citizensadvice.org.uk/about-us/contact-us/contact-us/search-for-your-local-citizens-advice/) (<https://www.citizensadvice.org.uk/about-us/contact-us/contact-us/search-for-your-local-citizens-advice/>), [Shelter](https://www.shelter.org.uk/) (<https://www.shelter.org.uk/>), [your local council](https://www.gov.uk/find-local-council) (<https://www.gov.uk/find-local-council>), a solicitor or a tenants' rights group. The [Generation Rent website](https://www.generationrent.org/) (<https://www.generationrent.org/>) has a list of local tenants' rights groups covering the country.

If you think you might be able to use the Homes Act, please go on to step 2.

Step 2: Identify what the problem is.

Is it one of the following?

- the building has been neglected and is in a bad condition
- the building is unstable
- there's a serious problem with damp
- it has an unsafe layout
- there's not enough natural light
- there's not enough ventilation
- there is a problem with the supply of hot and cold water
- there are problems with the drainage or the lavatories
- it's difficult to prepare and cook food or wash up

There is a problem with any of the following 29 things:

- damp and mould growth
- excess cold
- excess heat
- asbestos and manufactured metal fibres
- biocides (chemicals that treat mould)
- carbon monoxide
- lead
- radiation (from radon gas, which is airborne or in water)
- uncombusted fuel gas (leaks in gas appliances)
- volatile organic compounds (chemicals which are gases at room temperature)
- crowding and space
- entry by intruders (such as not having a lock on your front door)
- lighting

- domestic hygiene, pests and refuse (including inadequate provision for disposal of waste water and household waste)
- noise
- food safety
- personal hygiene, sanitation and drainage
- water supply
- falls associated with bath or shower
- falls associated with stairs and steps
- falls on the level (danger of falling on a flat surface)
- falls between levels (danger of falling from one level to another, for example, falls out of windows)
- electrical hazards
- fire and fire safety
- hot surfaces and materials
- collision and entrapment
- explosions
- physical strain associated with operating amenities (i.e. very heavy doors)
- structural collapse and falling elements

If you do have one of the problems above, please go on to Step 3. If the problem is not covered, then you may not be able to use the Homes Act. You can ask for help from your local [Citizens Advice \(https://www.citizensadvice.org.uk/about-us/contact-us/contact-us/search-for-your-local-citizens-advice/\)](https://www.citizensadvice.org.uk/about-us/contact-us/contact-us/search-for-your-local-citizens-advice/), [Shelter \(https://www.shelter.org.uk/\)](https://www.shelter.org.uk/), [your local council \(https://www.gov.uk/find-local-council\)](https://www.gov.uk/find-local-council), a [tenants' rights group \(https://www.generationrent.org/\)](https://www.generationrent.org/) or a solicitor if you are having problems in your rented home.

Council and housing association tenants can make a complaint if they have a problem with their property. The following links contain steps for making a complaint if you are a [council tenant \(https://www.gov.uk/council-housing/complaints\)](https://www.gov.uk/council-housing/complaints) or a [tenant in a housing association property \(https://www.gov.uk/housing-association-homes/complaints\)](https://www.gov.uk/housing-association-homes/complaints).

These groups are not able to use the Homes Act on your behalf, but they may be able to give you advice.

Step 3: Is the problem so bad that it makes your house or flat not fit to live in?

Remember that if you do go to court, you will be asked this question by the judge, and your landlord will be asked to explain why he or she doesn't think that this is true.

If you think your house or flat is in a seriously dangerous condition, you should also tell your local council. They have legal powers that they may be able to use to get

repairs done quickly, at no cost to you, and also may be able to help protect you against being evicted because you've complained. Council and housing association tenants can also follow the complaints process for their housing provider and where necessary escalate this to the [Housing Ombudsman](https://www.housing-ombudsman.org.uk/) (<https://www.housing-ombudsman.org.uk/>).

If you think that your home is 'unfit', please go on to step 4.

Step 4: Check if there might be a reason why your landlord won't have to help.

The right of reasonable access

In an emergency, the landlord is allowed to enter the property. However, in the case of repairing a property to make it fit for habitation, your landlord should usually give you at least 24 hours' notice and the visit should be within 'reasonable' hours. For most people, this means not too late at night, and not too early in the morning but may also include other factors such as caring responsibilities.

If your landlord hasn't given you reasonable notice, or wants to do repairs at unreasonable hours, he or she can't say they have made reasonable efforts to make the house or flat fit for human habitation.

Keep a record of all the letters, phone calls, emails, texts and other contact from your landlord. This will help you show that you weren't given reasonable notice.

Has this problem arisen due to:

- you or another tenant acting irresponsibly or illegally
- faults with your own possessions;
- events such as fires, storms and floods which are completely beyond the landlord's control (sometimes called 'acts of God')?

Or is the landlord / leaseholder:

- unable to get permission from someone who owns the building, or to get planning permission to carry out work? You can ask to see evidence that your landlord has applied for permission.

If any of these are true, you may not be able to use the Homes Act. If you are not sure, you may want to talk to someone like Citizens' Advice, Shelter, your local council or a tenants' rights group.

Otherwise, please go on to step 5.

Step 5: If you have not already told your landlord, tell them now.

If you have not already told your landlord, you should do that immediately.

Your landlord must fix problems in your home, but you need to tell them so that they can. You should make a request for the problem to be fixed, in writing if possible (this includes by email or text, provided you keep them as evidence), to your landlord. You should allow your landlord a reasonable amount of time to fix the problem.

If you have told your landlord, or if you are unable to contact your landlord but you're still worried about the problem, please go on to step 6. You can also tell your local council if you don't know how to contact your landlord.

Note: Check your tenancy agreement for contact details. If your landlord hasn't given you a tenancy agreement, it might be harder for your landlord to evict you. You should speak to your local council for more information.

Step 6: Fixing the problem in a reasonable time

Your landlord has a duty to repair any problems in your home in a reasonable amount of time. This amount of time will depend on what the problem is and how serious it is. If you live in social housing then your landlord may be held accountable by the Housing Ombudsman for the length of time taken to fix or repair any problems within your home.

If you think your landlord has taken too long to fix a problem that makes the house or flat unfit, please go on to step 7.

Step 7: Use the Homes Act

If you have reached this step, you can think about using the Homes Act and taking your landlord to court over the conditions in your home.

a. You will need to **write to your landlord again** asking them to solve the problem. You should do this in writing by email or letter. If you go to court, you will need to show that you tried to sort out the problem with your landlord first. If you have a letting agent, send the letter or email to them too.

b. Your letter or email should state what needs putting right, when you reported it and if you had to report it more than once, as well as any problems you have had because of the state of your home – for example if it has made a physical or mental health condition worse.

c. **Keep a copy of the letter** and any reply you get. Your landlord might offer to make repairs or come to an agreement. This can be easier than going to court.

d. See [Small claims track, fast track and multi-track guidance](https://www.gov.uk/government/publications/small-claims-track-fast-track-and-multi-track-guidance) ([https://www.gov.uk/government/publications/small-claims-track-fast-track-and-multi-track-](https://www.gov.uk/government/publications/small-claims-track-fast-track-and-multi-track-guidance)

[ex305-and-ex306](#)) to start the court process. For smaller claims, you need to **print and fill in form N1** (<https://www.gov.uk/government/publications/form-n1-claim-form-cpr-part-7>). Follow the link to see the form, as well as some guidance which can help you fill it in. You will need to provide as much detail as possible. For larger claims more detail will be required.

e. If you are worried that you haven't got enough evidence, and you're not a council tenant, then your local council's environmental health department may inspect your home and make a report. Find [your local council's contact details](#) (<https://www.gov.uk/find-local-council>).

f. You should **get evidence together** before you go to court. This can include:

- a copy of letters or emails you sent to your landlord or letting agent and local council about the repairs;
- photographs of the problems
- a doctor's note setting out any mental or physical health problems that have been caused or made worse by your home being 'unfit for human habitation'
- receipts of items you have had to replace, for example wallpaper that has been damaged by mould, or carpets suffering water damage from a faulty pipe
- a copy of your tenancy agreement if you have one, or proof you are paying rent to your landlord
- a report from any experts you have paid to look at the problem. Their evidence can help to strengthen your claim. This is optional and examples include electricians or the environmental health department of your local council. If your local council's environmental health department, or your council's estates team, have already inspected, they might have provided a report.

g. This **evidence should be sent in with your form**, but you should keep copies of it. If you need help filling in the form, you could ask [Citizens Advice](#) (<https://www.citizensadvice.org.uk/about-us/contact-us/contact-us/search-for-your-local-citizens-advice/>) or a tenants' rights group.

h. You will need to send **3 copies to your local county court**, and you can find that address here. You will have to pay a fee with your court form, and you will get this back if you win your case. If you are unsure what you need to pay, you may wish to contact Citizens Advice, Shelter, your local council or a tenants' rights group.

i. Once you have sent the form, the court will send you paperwork and a date for your hearing. You will need to send a copy of the paperwork to your landlord or letting agent.

Step 8: The hearing

You will have to go to the court hearing. You can take a friend, colleague or relative with you for support. If they take notes this will help you remember important points later.

The court will look at the evidence you and your landlord have supplied.

If the judge accepts that an unfit property has been rented out, he or she may order the landlord to improve conditions in the property.

They may also make your landlord pay you **compensation**. There is no fixed limit on how much may be awarded and this will be judged by the court depending on the facts such as how bad the problem is, the mental or physical health problems it has caused and the length of time the problem has existed for.

If you don't win in court, and you're not a council tenant, then you can still contact your local council for help with the problem in your home. Council and housing association tenants can also still make a complaint if they have a problem with their property.

The following links contain steps for making a complaint if you are a [council tenant \(https://www.gov.uk/council-housing/complaints\)](https://www.gov.uk/council-housing/complaints) or a [tenant in a housing association property \(https://www.gov.uk/housing-association-homes/complaints\)](https://www.gov.uk/housing-association-homes/complaints). Where necessary you can escalate the issue to the [Housing Ombudsman \(https://www.housing-ombudsman.org.uk/\)](https://www.housing-ombudsman.org.uk/) for redress.

The court may also order your landlord to pay some or all of your legal costs.

What if my landlord tries to evict me?

This is sometimes called 'retaliatory eviction'. If you're worried that your landlord will evict you when you complain or try to take them to court, you should contact your local council as soon as possible and explain the situation.

If your council decides that they are going to take enforcement action against your landlord to make them carry out repairs or works, it can be harder for your landlord to evict you.

You do not have to wait for your local council to take action. If you think there is a serious health and safety problem at your rented house or flat, you can tell your council at the same time as taking your landlord to court yourself.

If you're worried about being evicted, you should contact Citizens Advice, Shelter, your local council or a tenants' rights group.

What will happen to my landlord if I win in court?

If the court decides that your landlord has not provided you with a home that is fit for habitation, then they can do one or both of these two things:

- they can make your landlord do the necessary works to improve your home
- they can make your landlord pay you compensation

The court will decide how much the compensation should be by looking at how long the house or flat was unfit, how bad it was and how this harmed you.

What will happen if I lose?

If you do not win the case in court, you might have to pay some costs. If you're worried about this, you may want to consider speaking to a solicitor, your local council, Shelter or Citizens Advice.

4. Frequently asked questions

Q. I already have a tenancy agreement with my landlord, which I signed before 20 March 2019. How long will I have to wait before I can use the Homes Act?

The Homes Act came into force on 20 March 2019. If you signed your tenancy agreement before 20 March 2019, your landlord has until 20 March 2020 before you can seek redress through the courts. This is in order to give landlords time to make sure they comply with the Homes Act. This applies unless you are on a replacement tenancy, or a rolling contract after 20 March 2019.

However, there are other ways of getting help. You can contact your local council or Citizens Advice. If you rent through a letting agent, you may be able to complain through a [Redress Scheme \(https://www.gov.uk/government/publications/lettings-agents-and-property-managers-redress-schemes\)](https://www.gov.uk/government/publications/lettings-agents-and-property-managers-redress-schemes).

If you are in a social rented property, then [your landlord has an obligation to carry out repairs on your property \(https://www.citizensadvice.org.uk/housing/repairs-in-rented-housing/repairs-what-are-your-options-if-you-are-a-social-housing-tenant/repairs-what-are-the-landlord-s-responsibilities/\)](https://www.citizensadvice.org.uk/housing/repairs-in-rented-housing/repairs-what-are-your-options-if-you-are-a-social-housing-tenant/repairs-what-are-the-landlord-s-responsibilities/) including the common parts of the building.

If your social landlord has not acted to repair or rectify the problem following your complaint and you have followed the necessary steps, then you can escalate your issue to the [Housing Ombudsman \(https://www.housing-ombudsman.org.uk/\)](https://www.housing-ombudsman.org.uk/).

Q. So, what has changed with this legislation?

The Homes Act requires:

- that landlords must ensure that any dwelling they rent out is free of hazards from which a risk of harm may arise to the health or safety of the tenant or another occupier of the property. This requirement applies from the outset and for the duration of the tenancy; and
- where a landlord fails to do so, the tenant has the right to take action in the courts for breach of contract on the grounds that the property is unfit for human habitation. The remedies available to the tenant will include an order by the court requiring the landlord to take action to reduce or remove the hazard and damages to compensate them for having to live in a property which was not fit for human habitation.

This means that tenants will have an alternative route for seeking redress rather than relying on their council to prosecute on their behalf. The obligations for the

landlord to provide decent housing remain the same, as do the obligations on the tenant to act in a responsible and appropriate manner.

Q. Does this mean my local council can no longer help me?

No. Tenants who are not council tenants may still choose to contact their local council rather than seeking redress through the courts. If a tenant did wish to take their landlord to court, they may wish to contact their Citizens Advice or local council for advice on how best to proceed, or for help interpreting the legislation.

5. I read the step-by-step guide, and I can't use the Homes Act. What should I do now?

If you have read the above guide and have found that you're not able to use the Homes Act, there are still plenty of things that you can do to improve the conditions in your home.

Make a complaint

If you are not a council tenant and you feel that your home is not being kept in a suitable condition, and your landlord fails to get the necessary repairs done after being told about them, you can contact your local council.

We would urge any private tenants whose landlords fail to carry out their repairing or management duties to bring this to the attention of their local council. Find [your local council \(https://www.gov.uk/find-local-council\)](https://www.gov.uk/find-local-council).

For more general help for on problems you may be facing, you can look at the [How to rent guide \(http://www.gov.uk/government/publications/how-to-rent\)](http://www.gov.uk/government/publications/how-to-rent). This helps tenants to understand their rights and responsibilities. It provides a checklist and more detailed information on each stage of the process, including:

- what to look out for before renting
- living in a rented home
- what happens at the end of a tenancy
- what to do if things go wrong

Housing association tenants can also contact their local council, or can go to the [Regulator of Social Housing \(https://www.gov.uk/government/organisations/regulator-of-social-housing\)](https://www.gov.uk/government/organisations/regulator-of-social-housing).

There is information on how [council tenants can make a complaint \(https://www.gov.uk/council-housing/complaints\)](https://www.gov.uk/council-housing/complaints).

Shelter

You may also find Shelter has helpful advice, especially if you are worried that you may be made homeless. You can find contact details on the [Shelter website](#)

https://england.shelter.org.uk/get_help).

Citizens Advice

Citizens Advice provides free, confidential and independent advice to help people overcome their problems. They help with everything from money issues to problems at work, housing to consumer rights. You can find their advice pages, and [your local branch \(https://www.citizensadvice.org.uk/about-us/contact-us/contact-us/search-for-your-local-citizens-advice/\)](https://www.citizensadvice.org.uk/about-us/contact-us/contact-us/search-for-your-local-citizens-advice/).

Tenants' rights organisations

Tenants' rights organisations have been established in many areas of the country. You can search for a tenants' rights organisation on the internet, in your local library or community centre.

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