

“My relationship has broken down – what are my rights?”

A relationship breakdown can be a stressful time, especially when it affects your accommodation. You should consult your solicitor or a legal centre to get advice before you make the decision to move out of your property. However if you are fleeing an abusive relationship, then it is vital you prioritise the safety of yourself and your children.

Your housing rights are dependant on whether you are a home owner or a tenant, if you are cohabiting or married and if you have any dependent children.

Do you own your home?

<p>Sole Ownership <i>You alone own the property</i></p>	<p>Joint Ownership <i>Two or more people own a property together</i></p>
<p>If you are a sole owner you have an absolute right to live in the property.</p>	<p>If you are the joint owner you have an absolute right to live in the property.</p>
<p>If you are married and your spouse/civil partner is the sole owner, you still have the right of occupation of the matrimonial home. If you have any financial interests (known as beneficial interest), you will need to seek legal advice to find out what your rights are.</p>	<p>If you have moved out, you have the right to return to the property.</p> <p>No joint owners can change the locks or make the joint owner leave.</p>
<p>If you are the sole owner you have the right to exclude others from the property.</p>	<p>Joint owners cannot raise a mortgage or loan against the house without a signature or consent of the other owner/owners.</p>
<p>If you are not married/civil partnership and living with your partner who is the sole owner, your rights may be limited. However, you may have a beneficial financial interest in the property if your relationship has been long term and you have made contributions towards the</p>	<p>Court orders can be obtained if faced with difficult circumstances and you cannot reach an agreement to either remove one of the joint owners from the property or specify who can remain in the property.</p>

<p>mortgage or any household expenses. Consult your solicitor if you fall under this category.</p>	
<p>Occupation order – you may be entitled to obtain an occupation order from the courts; you should seek legal advice for this. Occupation orders cover various circumstances; they are temporary and may grant you some time to stay in the property while you pursue a longer term housing solution. Courts are reluctant to grant them unless there is current domestic abuse or a need to protect children.</p>	<p>If you are considering transferring ownership or if you want to establish your financial shares in the property (known as beneficial interest) you need to consult your solicitor.</p>
<p>If your spouse is the sole owner and is wanting to sell the property, you can request Land Registry to put a note on the land register which will notify any potential buyers (who will then be affected by any decisions made about the property regarding you and your spouse) which could affect the buyer therefore it is unlikely anyone would purchase the property whilst the notice is in place. You can do this by completing a HR1 form and applying to Land Registry. The owner will be informed when the notice is made.</p>	<p>A joint owner has the right to sell a property but the other joint owner must agree to the sale.</p>

Do you rent your home?

<p>Sole tenancy <i>The tenancy is only in your name</i></p>	<p>Joint tenancy <i>The tenancy is in the name of you and your partner</i></p>
<p>If you are a sole tenant, you have the right to live in the property (unless there is a court order in place which overrides that right).</p>	<p>If you and your partner are both joint tenants, you both have equal right to live in the property.</p>

If you are married and your spouse is the sole tenant, then you still have a right to live in the property through matrimonial rights.

Joint tenants cannot force each other to leave the property. If you want to remove a joint tenant from the premises and prevent them from returning, you must do this through the legal process of obtaining a court order. The courts will assess your situation and take the necessary action.

If you are not married and the tenancy is in your partner's name, you only have limited rights to remain.

You can apply for an Occupation Order through the courts which, depending on the situation, for example it can: allow you back into the property if your partner illegally locked you out, stop your joint tenant from entering the property or the order can allocate different parts of the property to each tenant. They are short term orders granting temporary rights.

If you are not married but have been in a long term relationship and have dependent children together, the court judgement may allow the tenancy to be transferred to the main carer of the children. Seek legal advice from a Family Law solicitor.

Seek legal advice if you want to apply for an Occupation Order. Courts are reluctant to grant them unless there is current domestic abuse or there is a need to protect children.

If you are married and your spouse is the sole tenant and has left the property, your tenancy will remain secure and you can continue residing there. Although you will not be liable to pay the rent, you may risk losing the tenancy if your spouse stops paying and there is a build up of rent arrears which may cause the landlord to terminate the tenancy. So you may need to consider paying the rent to avoid this from occurring.

If you are starting divorce proceedings, the tenancy can be transferred into a sole tenancy as part of the divorce settlement.

If you are not married but have been in a long term relationship, you can still apply to have the tenancy transferred into a sole tenancy under the Family Law Act 1996.

If you have dependent children, it is likely the court will transfer the tenancy to the tenant who will be the main carer of the children.

Joint tenancies can only be changed if one tenant voluntarily gives up their tenancy or if a court order requires it.

If you have a periodic tenancy and a joint tenant ends the tenancy, this will end the tenancy for all tenants.

My relationship breakdown is due to my partner inflicting domestic abuse

If you are fleeing domestic abuse, it is not necessary for you to leave your home or give up your tenancy.

Please remember: If you are in immediate danger, you should prioritise your safety and your children's safety (if any).

This may require you to leave your property, but this can be on a temporary basis whilst you have the perpetrator removed from the property by applying for an injunction. You can then move back in once it is considered safe to do so.

You have the right to take legal action against the abuse regardless of whether you are a tenant or an owner.

For further detailed information on fleeing domestic abuse, visit our 'Fleeing domestic abuse' advice page where you will also find contact details of support agencies that can provide you with safe accommodation in a refuge and/or can help you apply for an injunction (court order) against the perpetrator.