

## Leaving Your Tenancy Early

*This information is for students living in Private Rented Accommodation.*

Most students living in privately rented accommodation will have signed a Fixed Term Joint Assured Shorthold Tenancy Agreement. This means that the agreement is in place for a fixed period of time – usually 12 months – and that the agreement is between the landlord and several (joint) tenants.

**Ending your tenancy agreement may not be easy**, especially if the landlord does not agree. It is important that you end the agreement correctly as you will still be liable for the full rent and bound by the terms until the tenancy comes to an end.

### Ending the tenancy before you have moved into the property

Even though you have not moved into the property it is likely that you will still have signed a binding agreement which means that you have agreed to rent the property for the fixed term and are liable for the rent for the full term of the contract. If you cannot move into the property, talk to your landlord or letting agent. You, your housemates, your landlord or agent may know someone who wants to move in, and take your place on the contract.

### Once you have moved into the property

After you have moved into the property, there are a number of things which you need to take into consideration if you decide to move out:

- *Who wants to move out?*  
The situation may be different if all joint tenants decide to that they want to leave a property, or if just one person wants to leave.
- *What does your tenancy agreement say that you can and cannot do?*  
As you will have signed a tenancy agreement at the start of your tenancy, this is likely to set out the circumstances under which you can leave the property.

### If all the Tenants want to leave the property

If all joint tenants want to leave a property, then it is likely that there are two options which would be available.

#### Option one - Break Clause

Some tenancy agreements contain a clause which allows either the tenant or the landlord to end the agreement before the end of the fixed term: this is known as a “Break Clause”. The earliest a Break Clause can be exercised is after the first six months of the tenancy. If there is a Break Clause, you will still be required to provide your landlord with notice that you want to leave the property: it will tell you the amount of notice you must give to end the contract. If you have a joint tenancy agreement, all joint tenants need to agree, unless the clause specifically states that it can be used by individual tenants: it is likely that this will mean that all tenants will need to leave the property.

## Option two – Surrendering a Tenancy

This is a mutual agreement made between landlord and tenant(s), where the legal relationship that has been entered into will be brought to an end.

In order to *surrender* a joint tenancy, all joint tenants and the landlord must agree to end the tenancy agreement. The *surrender* will end the rights of all tenants, which means anyone who wants to continue to live in the property will only be able to do so if the landlord agrees to enter into a new agreement. It is better to have written proof that you want to surrender the agreement to minimise the risk of problems, disagreements and misunderstandings later on.

### If only one person wants to leave the tenancy

In most cases, the best solution when a joint tenancy is in difficulty is for one tenant to leave and be replaced by another. If one person leaves, the remaining tenants are still liable for the full rent, as is the tenant who has left until a suitable alternative tenant has been found.

If you have decided that you want to leave, talk to your housemates first and then the landlord as you can only end the tenancy if the landlord and all of the other tenants agree. If everyone agrees, there are a few ways to end a tenancy agreement.

Option	Information
<b>Break Clause</b>	If your tenancy agreement has a Break Clause then you may be able to use it to end the tenancy: however, all of the tenants would need to agree, and it is likely that it applied to all of the joint tenants (i.e. the expectation would be that all joint tenants would be expected to leave): it is rare that a Break Clause would allow just one tenant in a Joint tenancy to leave the agreement.
<b>Surrender</b>	If the landlord and the joint tenants agree, the original agreement can be brought to an end. Anyone who wants to stay in the property enters into a new joint tenancy agreement with the landlord. The old agreement will end and a new agreement will be drawn up with the names of the remaining tenants. If an alternative tenant has been found, the remaining tenants together with the new occupant should sign a new tenancy agreement with the landlord. This acts as a <i>surrender</i> of the former tenancy and the creation of a new one. The outgoing tenant will no longer be liable for the rent or any breaches of the new tenancy agreement.
<b>Assignment</b>	The remaining tenants, together with the outgoing tenant, <i>assign</i> the tenancy to the remaining tenants and any incoming occupants. In this situation, the original agreement is still in place: the outgoing tenant is still named as a joint tenant and remains responsible for the rent and any breaches in the agreement unless he is expressly released from future responsibility by the landlord. If the incoming tenant leaves, or falls behind with the rent, the outgoing tenant could still be liable for the share of the rent. By law, assignments should be in writing by deed to avoid any disputes at a later stage.

**Subletting** This is an alternative solution for the remaining tenants to share with a new tenant without changing the tenancy agreement. The outgoing tenant remains on the agreement and continues to be legally responsible for the rent along with his or her former housemates.

You will need to check your tenancy agreement before deciding to assign or sublet, as some agreements do not allow assignment or subletting to take place.

## Finding an alternative tenant

It is usually the responsibility of the tenants, not the landlord, to find someone to take over the tenancy. Landlords and agents often charge a fee to accept a surrender of tenancy and accept an alternative tenant.

RUSU Advice Service does not keep a list of students looking for accommodation, but you could consider advertising spare rooms in houses or enquiring about the availability of rooms using:

- The RUSU “Find a Housemate” Facebook Group:  
<https://www.facebook.com/groups/RUSUFindahousemate/>
- The RUSU “Find a Housemate” Noticeboard (located in the Advice and Representation Centre within the RUSU building on Whiteknights campus)

## Frequently Asked Questions

### What happens if I cannot find anyone to replace me?

Joint Tenants are jointly and severally liable to pay rent and comply with the terms of the tenancy. If one person falls behind with his share of the rent or leaves the tenancy, the landlord can ask any one of the tenants to pay this. As a joint tenant, if you leave the property but cannot find anyone to replace you, you will remain jointly and severally liable for the full rent and could be pursued by the landlord for any arrears which accrue, and not just for your proportion of the rent. The same will apply to everyone else named on the agreement. The landlord can pursue county court action to recover the unpaid rent by taking you to the Small Claims Court. If your landlord charges the rent to the remaining tenants, they could pursue county court action against you for rent arrears

### What happens to my deposit?

If all parties agree that a change of tenants can take place and a new agreement has been drawn up for the remaining tenants, the outgoing tenant's share of the deposit should be returned by the landlord- less any agreed deductions. The landlord should notify the Deposit Protection Scheme of a change in tenants and the deposit for the new tenancy will be registered with the DPS. A new DPS Certificate should be issued along with the Prescribed Information to the tenants (if this is not included already in the tenancy agreement).

## What happens if I have a guarantor?

Any guarantors who have signed Guarantor Agreements will also remain liable for any unpaid rent: if you leave a tenancy early but remain liable for the rent, then the landlord can chase your guarantor for any outstanding rent. You should check individual agreements to note what proportion of the rent each guarantor has agreed to guarantee.

## What happens if I leave the property and stop paying rent?

If you have moved into the property and change your mind about living there, remember, you cannot simply move out and post your keys: This is known as “abandonment” and will not end your agreement. Your landlord can carry on charging you rent until the fixed term of your agreement comes to an end even though you are not living in the property. The landlord can take court action against you and a court will decide if you have to pay the rent or not. If you abandon a property, you may find it harder to find somewhere else to live as you may need a reference before you can move into a new home.

## Other ways of ‘escaping’ a tenancy

There are some circumstances under which a tenant may be able to give up your tenancy against the wishes of the landlord; however, these are less common, and can rely on complex housing law. These are:

- Fundamental Breach of Contract;
- The Contractual Remedies of Misrepresentation;
- Consumer Protection Legislations concerning the “right to unwind”.

The Advice Service would be happy to discuss these further with you and help you to determine if they apply in your circumstances.

## RUSU Advice

If you have further questions or would like specific advice, please get in touch with the RUSU Advice Service. The specialist Advisers offer a confidential service, independent from the University so they can discuss your case with you in private.

Contact us by email at [advice@rusu.co.uk](mailto:advice@rusu.co.uk) or complete an online client form at [www.rusu.co.uk/getadvice](http://www.rusu.co.uk/getadvice).