

Guidance Notes:

Tenancy at Will?

1. Businesses and other people often occupy premises under a lease. A lease is a formal agreement between the Landlord and the Tenant for the premises for a specified period of time with the provisions of the lease governing what a Tenant must and must not do. The Landlord has a reversionary interest in the premises.
2. Sometimes it is not appropriate to grant a lease if the person going to occupy the premises is only negotiating a lease but the parties may wish to use a Licence.
3. A Licence may also be appropriate if the person is not going to have exclusive use of the land or a Landlord's office accommodation.
4. A Tenancy at Will has no fixed term and can be terminated with immediate effect. It is suitable for very short term arrangements.
5. A Licence is similar to a lease in that it is not an estate in land. However, a Licence is unlike a lease in that the licensee cannot acquire security of tenure.
6. An arrangement is a lease if it is for a fixed term. Such an arrangement cannot be a licence just because the parties call it a licence.
7. Beware of granting a "licence" if the person is really a tenant. If there is any doubt as to whether a proposed arrangement is a lease or a licence, the safest approach is to grant a lease which excludes the possibility of a licence.

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