

Illegal eviction and harassment

Just because your landlord owns your home does not mean they can evict you without following the correct legal procedures. If they do not follow them, they may be breaking the law.

As a tenant you're entitled to the correct written notice. In most cases your landlord additionally has to obtain a possession order from the courts, and apply for a bailiff authorised by the court to evict you. If a possession order is granted, you cannot be forced to leave your property before the bailiffs arrive.

Rules around evictions are complicated. The period of written notice will vary depending on your tenancy agreement. There are some types of tenancy where a court order is not required. This includes if you're a lodger (you share your home with your landlord), or where you're residing in emergency temporary accommodation.

If you have concerns about your landlord's actions, and think they may be acting illegally, you should always seek advice. We have specialist officers who are trained to help and can confirm your rights and whether your landlord is following the law.

Examples of illegal eviction

An eviction is usually illegal if your landlord:

- changes the locks while you're out
- stops you from using part of your home
- forcibly throws you out
- forces you to leave by threatening or harassing you

There are many examples of illegal eviction. Even a well-meaning landlord can be acting illegally on a technicality – if you're concerned you should seek advice, as you may have more rights than you think.

Harassment

Harassment is something that your landlord, or someone acting on their behalf, does which aims to disrupt your life at home to make you leave.

It includes anything which prevents you living safely and peacefully in your home. Tenants have had their lives made a misery without realising that they are protected under law and can get something done about it.

Harassment is:

- an action by a landlord or someone acting on their behalf
- likely to interfere with the peace or comfort of someone who has a legal right to live in a property

- breaches your right to “quiet enjoyment”, which means the right to live peacefully in your home – if anyone interferes with this right they could be committing a criminal offence

Harassment varies from the most brutal and violent acts to the more subtle, which can still be frightening and distressing.

Examples of harassment can include:

- entering your home when you're not there or without your permission
- persistently asking you to leave
- threatening you to make you leave, or offering you money to leave
- removing or restricting utility supplies such as water, gas or electricity supplies or failing to pay bills so that they are eventually disconnected
- forcing you to sign agreements which are designed to reduce your rights
- allowing the property to fall into such a bad state of repair that it becomes uncomfortable or even dangerous to live in
- refusing to let you into certain parts of your home, or letting you in, or letting you use facilities only at certain times
- harassment because of your race, sex or sexuality

What can the council do to help you?

If you're concerned that your landlord is not acting legally please contact us immediately. Our officers can:

- provide you with advice and guidance, establishing whether your landlord's actions are legal.
- speak to your landlord, explaining your rights and their responsibilities under the law, ensuring they are aware of the law, and any breaches
- mediate between you and your landlord to try and resolve any problems so you can stay in your home
- persuade the landlord to stop harassing you
- where you have been illegally evicted, persuade your landlord to let you back into the property and / or return your belongings

Where the landlord has broken the law and is refusing to change their actions our officers will:

- give you advice and support about how to go about obtaining a court injunction through the civil courts to let you back into your home and or stop the harassment – you will need a solicitor to do this
- help you to find alternative accommodation

While our officers will do everything we can to resolve disputes between landlords and tenants, and give advice on your legal rights – where the landlord will not cooperate, you may need to go to court to enforce your rights.

What practical steps should you take if you're being harassed or threatened with unlawful eviction?

- get in touch with the council's Housing Needs and Strategy service immediately. The council can help you by advising you on your rights and by investigating your complaint of harassment or illegal eviction.
- keep a record or diary detailing incidents/threats that have occurred, including dates and times, as this evidence will support any court injunction
- try to ensure that all communication is in writing
- keep a record of the names and addresses of anyone who has been involved, for instance any witnesses or police involved
- if you have to deal with the landlord in person, try to have someone present with you as a witness when seeing the landlord
- write to the landlord to say that if the harassment continues you may be forced to leave and/or take legal action
- report all events to our housing needs and strategy service, the police or a solicitor

If you are being harassed, or suffered illegal eviction, you can apply to the County Court to get a court order. This will require your landlord to refrain from harassing you and /or reinstate you to or home if you have been unlawfully evicted. This can be an effective form of action, because if your landlord breaches the order, he/she could be sent to prison. You can also seek advice regarding compensation for harassment or unlawful eviction.

If your landlord is violent

If your landlord is violent you or a household member you should always call the police. If you are still in the property but feel unsafe due to violence from your landlord then speak to housing advice about alternative accommodation

I have been illegally evicted, can I break back into the property?

Although if you have been illegally evicted, you may have the right to re-enter your home, please be aware the law is very complicated. If you act alone and get it wrong you could be committing a criminal offense. You should not try to re-enter the property if it has been re-let.

We would strongly advise you to get legal advice before taking any action to get back into your home. If you damage the property while gaining re-entry you could be responsible for repairing the damage. Where the Council has been unable to negotiate re-entry to the property, then court action through an injunction may be the best way to get access to your home. The police may be willing to attend as you attempt to re-enter your home.

Can I get my stuff?

If you have been evicted, you have a legal right to get your belongings. Your landlord must keep your possessions that were in the property safe for a reasonable time – normally 21 days. It is illegal to destroy or sell your belongings, within this reasonable period even if you owe rent. Where a landlord refuses to give you your belongings – you should be able to get a court injunction to get access to your belongings or claim damages.

Going to court – and getting an injunction

Where an illegal eviction takes place – the easiest and quickest solution is to apply for an injunction through the civil court. An injunction is a court order obtained through the county court. If you have been evicted illegally you can apply to the court for an order to:

- let you back into the property
- return your belongings
- stop the landlord from harassing you

Your landlord could be fined or sent to prison if they don't obey an injunction.

You can also apply for compensation (damages) through the courts if you were harassed or illegally evicted for the distress, and expense, that this has caused you.

The amount of damages will depend on your tenancy type and the behaviour of your landlord. The amount of damages will be higher if the harassment from your landlord was serious. The more evidence and records you have the greater the likelihood that your case will succeed.

The process for an injunction and compensation is relatively simple. While the council cannot take an injunction on your behalf, a local high street solicitor or law centre will be able to help you. If you're on a low income you may be entitled to legal aid. Local solicitors that take legal aid can be found at <https://find-legal-advice.justice.gov.uk/>

If you're not entitled to legal aid then a solicitor may take your case with a no win no fee agreement.

- any successful case will require evidence to support your case. It is important you keep:
- written records of all communication and agreements between you and your landlord
- pictures of any damage caused by your landlord
- witness statements and records of any threats made by your landlord or someone on his behalf
- records of all reports to the Police or council

Can the council prosecute my landlord?

Councils do have the power to prosecute landlords, however such action is usually only taken in the most serious cases where it is in the public good. As this is a criminal offence the burden of proof (beyond reasonable doubt) is much higher than for an injunction, and any case requires a very high evidence threshold to proceed to court. Most cases do not have enough evidence to back a prosecution

A successful prosecution unlike an injunction will not enable the tenant to return to the property, get their belongings back, or receive compensation. Instead it will result in a court fine or potential imprisonment against the landlord.