

Unlawful Eviction & Harassment - for private sector tenancies

In this leaflet the word 'tenant' is also used to cover people who in law are known as 'licensees' that is people who do not have a tenancy but have permission (a licence) to occupy accommodation.

What are unlawful eviction & harassment?

Illegal eviction:

- Using force to remove someone from the property
- Changing locks and not giving the tenant the key
- Stopping tenant from accessing part of the premises – (such as putting a locking on bathroom door, or kitchen, or blocking access to a room)

Harassment

Harassment is doing something that is likely to interfere with the peace and comfort of the tenant and their household, or cutting off services, for example:

- Forcing occupiers to sign agreements that take away their legal rights
- Persistent, unwanted visits to the property
- Entering the accommodation without the tenant's permission
- Persistently offering the occupier money to leave
- Harassment on grounds of gender, race, disability or sexuality.
- Turning off supplies of water, gas or electricity

Tenants can only be lawfully evicted by serving the correct notice and obtaining a court order. (There are a few exceptions – see 'Excluded Occupiers' below).

A court order is required for eviction even if the tenant is in rent arrears or in breach of other terms of the tenancy agreement.

Unlawful eviction, harassment or cutting off services are criminal offences. A tenant who has been illegally evicted or harassed can also make a claim for damages in the County Court, and for repayment of rent.

Landlords convicted of illegal eviction and harassment can be prohibited from being landlords or letting agents.

Criminal Offences

[The Protection from Eviction Act 1977](#) makes it a criminal offence to:

- illegally evict or,
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- harass any 'residential occupier' this covers the tenant and anyone who normally lives with the tenant or has a right to live with the tenant.
- cut off services such as gas, electricity and water.

A person found guilty of eviction or harassment in the Magistrates' Court can receive a prison sentence up to 6 months, or a fine up to £5,000. If found guilty in the Crown Court the penalty rises to up to 2 months' imprisonment and an unlimited fine.

Using or threatening violence to gain entry to someone's accommodation is a criminal offence contrary to section 6 Criminal Law Act 1977.

A person found guilty of any of the above offences will also have a criminal record which may affect chances of future employment, travel abroad, getting a mortgage, or insurance, or continuing to be a landlord.

Either the local authority (Lewes and Eastbourne Councils) or the Police can prosecute for the offences of illegal eviction.

Other Remedies for Illegal Eviction and Harassment

A tenant who has been unlawfully evicted can apply for a court order (injunction) ordering the landlord to let the tenant back into the premises. The tenant may also be entitled to compensation.

In a case in Lambeth the landlord was ordered to pay the tenant £90,000 damages for an unlawful eviction.

A tenant can also apply for a Rent Repayment Order, which requires the landlord to repay up to 12 months' rent if the landlord (or agent) has used or threatened violence to gain entry to the premises, or illegally evicted or harassed the tenant.

To make an application for Rent Repayment Order contact BHT Sussex (contact details below).

Banning Orders

Following conviction of any of the above offences (and a number of other offences) the local authority can apply for a banning order which prohibits the landlord from renting out accommodation, working as a letting agent or working in property management.

What to do if subjected to harassment or illegal eviction

If you are subjected to harassment, or your landlord is cutting off the services, or you are illegally evicted it is important that you make note of what has happened, note the date, time, and details of what has happened and of any conversations with the landlord/agent. Make the notes as soon as possible after any event so it is fresh in your mind.

These notes are important if you enter into court action to get back in the property or get damages from your landlord.

If you think you may be unlawfully evicted, take a copy of your tenancy agreement, and keep it on your phone, or email it to yourself, or give a copy to a friend, so that

you have proof that you are a tenant at the property. If you do not have a tenancy agreement, take copies of proof of rent payment, or photos of the property with your possessions in it.

Married Couples/Civil Partners

For married couples and civil partners, where one partner is on the tenancy agreement, the other partner automatically has the right to live in the property. The partner who is not on the tenancy agreement has the same rights as the other partner whose name is on the agreement. This is known as 'home rights'.

If either partner prevents the other partner from entering the property this is an illegal eviction.

How much notice does the landlord have to give to evict?

Most private sector tenants are assured shorthold tenants.

Section 21 (Housing Act 1988) is the 'no fault' eviction, the landlord does not have to have any reason for wanting to evict the tenant. Two months' notice required on a s21 notice, which must also be on [the correct form](#). (see [s21 validity checker guide](#))

[Section 8 notices](#) are used when the landlord is evicting for one of the reasons listed in [Schedule 2 of the Housing Act 1988](#). The notice period varies depending on the ground.

What if I live with my landlord?

There are some circumstances in which a tenancy is not an assured tenancy, the most common is where the landlord lives in the same house, or if in a flat, in the same flat.

The law identifies two different situations with resident landlords:

- Landlord lives in the same house as the tenant but does not share any accommodation – to evict a tenant the landlord needs to serve a valid notice to quit and then get a court order.
- Landlord lives in the same house or flat as the tenant and shares some accommodation – see 'Excluded Occupiers' below.

What rights do I have if I am not an assured shorthold tenant?

The Protection from Eviction Act lists certain types of tenancy that are 'excluded tenancies and licences' this means that the landlord does not have to get a court order to evict, but only needs to give 'reasonable notice'.

The most common types of excluded tenancies and licences are:

- Lodger arrangements, where the tenant shares accommodation with the landlord or one of the landlord's family members, both before the tenancy started and at the end. Shared accommodation could be, for example, a living room or kitchen, but stairs, passage or corridor do not count as accommodation.
- Accommodation offered rent free; for example, staying with family or friends who are not charging.

- A holiday let – but it must be a genuine holiday let; a tenancy agreement ‘with holiday let’ at the top will not create a holiday let. It must be to a let to someone who is genuinely on holiday.
- Hostels where the landlord is the local authority, or a charitable housing trust.
- Accommodation provided by the local authority to homeless applicants, until a decision is made on a homeless application. Often referred to as interim or emergency accommodation.

Where to find further advice

The Government’s website [Gov.uk](https://www.gov.uk) has information and the correct form for s21 evictions.

[Shelter website](#) gives details on evictions and illegal evictions.

[Lewes & Eastbourne Councils](#) – telephone 01323 410000 or 01273 471600

Landlords

There are national and local associations that advise landlords. The following are given as examples, not recommendations.

[National Residential Landlords Association](#) (NRLA) has some free advice on the website and some information is for subscription paying members only.

[British Landlord Association](#) is free to join.

[Landlord Law](#) offers a free blog or pay to join.

[Find a solicitor](#) specialising in housing on the Law Society’s website

Government’s [Technical guidance for landlords on the provisions of the Coronavirus Act 2020](#)

Tenants

[BHT Sussex](#) offer advice, support and legal representation for tenants.

For Lewes Residents: Brighton Advice Centre 01273 645455 enquiries@bht.org.uk

Eastbourne Advice Centre 01323 642615 eastbourneadvice@bht.org.uk