

Unlawful Eviction

If your landlord evicts you, or threatens to evict you without a court order you should seek immediate advice. To evict a residential occupier without following the correct legal procedure may be unlawful. If your landlord turns up at your home to evict you illegally, or changes the locks while you are out, you should phone the police immediately on 999.

You should also seek advice if your landlord harasses you (for example by cutting off your water or electricity supply) as this may also be a criminal offence.

You have the right to seek compensation if you have been evicted illegally. You should seek legal advice if you wish to do this.

Getting Help

You may be able to obtain free legal advice and representation from a law centre (who employ housing solicitors) or a housing aid centre. If you are on a low income you may be able to get free help from a local firm of solicitors. It is always best to get help as soon as possible.

If you live in Govanhill you may be able to get free help from Govanhill Law Centre.

Contact Details

Govanhill Law Centre
168 Butterbiggins Road
Govanhill
Glasgow
G42 7AL

Telephone: 0141 433 2665

Fax: 0141 433 2984

GOVANHILL
LAW
CENTRE

RENT ARREARS AND EVICTION



Govanhill Law Centre is part of Govan Law Centre Trust, an independent community controlled organisation. Registered Charity No. SCO30193. It's legal work is undertaken by the independent legal practice of Dailly & Co. Solicitors, a partnership between Mike Dailly and Iain Nisbet. It is funded by the Scottish Government and receives financial support from Govanhill Housing Association, Govanhill Community Development Trust, Oxfam and UNISON.



RENT ARREARS AND EVICTION

Notice to Quit

If you have missed paying your rent your landlord may threaten to evict you. Receiving a notice is the first stage in this process. The type of notice you receive will depend on the type of tenancy you have. If your landlord is a housing association or local authority, you should receive a NPRP (this stands for “Notice of Proceedings for Recovery of Possession”). If you have a private tenancy, the notices are called a “Notice to Quit” and an AT6. By serving a valid notice upon you, your landlord becomes entitled to take you to court at the end of the notice period.

You cannot be evicted just because a notice has been served upon you. Your landlord requires a court order to evict you.

Repayment Arrangement

If you are threatened with eviction and accept that you have rent arrears you should make an arrangement to repay your arrears as soon as possible.

If your arrears have built up because of problems with benefits or your circumstances have changed recently, you should seek advice from a Welfare Rights Officer or the Citizens Advice Bureau.

It is also a good idea to speak to your landlord and explain your situation. This is especially important if your landlord is a housing association. Some housing associations employ Welfare Rights Officers who can help you resolve any benefits problems, free of charge.

Court Summons

If the landlord won't agree to your repayment plan and decides to evict you they will have to raise an “action for recovery of heritable possession” at the sheriff court. You should receive a document called a “summons”. Your landlord has to formally serve the summons on you by recorded delivery post or by sheriff officers. If you receive a summons you should take it immediately to a local law centre or housing law solicitor for advice.

Not the Tenant

Even if you are not a tenant, you may have the right to defend any court action if you live at the property, for example if you are a member of the tenant's family or a partner, or you are a lodger who has the landlord's permission to live there. The rights you have will depend on a number of factors so you should always seek legal advice.

Defending Court Action

If a court action is raised against you, you may be able to defend the action. There are various grounds on which you can defend the court action. Again, these grounds will vary depending on what type of tenancy you have and your particular circumstances.

For example

- You think the amount of rent owed on the summons is wrong
- Your home is damp
- Your landlord failed to carry out important repairs

- It is not reasonable to evict you because you can repay your arrears and/or you are eligible for Housing Benefit
- It is not reasonable to evict you because you would have nowhere to go if you lost your home.

You can also defend a court action on procedural grounds, for example your landlord has not served the correct notice upon you. This is a very complex area of law and you should always seek legal advice.

Decree Already Granted

If you ignore the summons and fail to attend at court, a court order for eviction may be granted against you. It may still be possible to avoid eviction - even if you have already received a letter with a date and time for eviction.

In many cases it will be possible to stop the eviction and get your case back into court. This is a court process called “minute for recall of decree”. You will need to seek immediate help from a local law centre, Shelter Housing Aid Centre or a housing law solicitor. You cannot “minute for recall” if you have already been evicted i.e. you and your belongings have been removed from the property. You cannot minute for decree more than once.