



Lifting of the Eviction Ban on Residential Tenancies - the Rights and Procedures for Tenants - FAQ's

This resource was produced during a virtual Vacation Scheme in June 2021. The information and guidance reflects policy at the time and may be subject to change. Whilst this document provides legal information, this does not amount to legal advice.



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Notice Periods and the Ban on evictions

What changes have the
government made to the notice
period for evictions?

- As of the 1st June 2021 the government reduced the 6 month notice period that was introduced because of Covid-19 to 4 months.

When will the 4 month eviction
notice period expire?

- The notice period for evictions will return to the pre-pandemic requirements of 2 months from the 1st October 2021.
- This is subject to public health advice and progress with the roadmap out of Covid-19

restrictions.

Are there any exceptions to the rule?

- Yes. Shorter notice can be given in certain circumstances.
- Anti-social behaviour requires 4 weeks notice.
- Domestic abuse in the social sector requires 2-4 weeks notice.
- False statements requires 2-4 weeks notice.
- 4 or more months of arrears requires 4 weeks notice.
- When the tenant does not have the right to rent due to immigration rules 2 weeks notice is required.
- Where the tenant dies 8 weeks notice is required.

What if a tenant has less than 4 months arrears?

- When the tenant has less than 4 months arrears a notice period of 4 months must be given as of the 1st June 2021
- This will change on the 1st August 2021 to 2 months notice

What was the situation before 1st June 2021?

- On the 29th August 2020 government protections were introduced to require 6 months notice.
- Initially this was in place until the 31st March 2021 but was extended to the 31st May 2021.

What does it mean by 'the end of the eviction ban'?

- The end of the eviction ban means that bailiffs and enforcement officers can resume carrying out evictions when the court have granted a possession order.

Can tenants be evicted if they have symptoms of Covid-19?

- Evictions cannot be carried out if a member of the property has symptoms of Covid-19 or is self-isolating.
- An alternative time for eviction will be arranged and an additional 14 days notice will be given.

What happens if a tenant received an eviction notice before 1st June 2021?

- Notice periods have been subject to continuous change due to Covid-19. Landlords must adhere to the rules in place when they gave the eviction notice.
- For information for private tenants with a section 21 notice refer to https://england.shelter.org.uk/housing_advice/eviction/section_21
- For information for private tenants with a section 8 notice refer to https://england.shelter.org.uk/housing_advice/eviction/eviction_of
- For information for tenants in council or housing association rentals refer to https://england.shelter.org.uk/housing_advice/eviction/eviction_of

Terms and Procedure of Eviction

What type of tenancies are commonly held by tenants?

- For tenancies in council housing there are 3 common types of tenancies. Introductory tenancies that cover the first 12 months, a flexible tenancy for a fixed period and a secure tenancy that lasts a lifetime.
- For private tenancies an assured shorthold tenancy is the most common form of tenancy. Most tenancies are automatically an assured shorthold tenancy.
- Some private tenancies may be assured, regulated or excluded.
- A tenant may also be a lodger.

How does a tenant know if they have an Assured shorthold tenancy?

- Most Private tenancies are assured shorthold tenancies.
- An assured shorthold tenancy exists when the landlord does not live in the property, the tenancy started on or after the 15th January 1989 and the property is the tenants' main accommodation.

How does an individual know if they are a lodger?

- Lodgers are individuals who live with the landlord and share facilities.
- Lodgers may or may not have a contract.

What is the difference between a section 8 and a section 21 notice?

- Section 8 and section 21 notices are notices given to tenants with assured shorthold tenancies.
- A section 21 notice is used when the landlord does not have to give a reason to evict the tenant.
- A section 8 notice is used when the landlord needs to give legal reasons to evict the tenant such as a breach of terms of the tenancy agreement or rental arrears.

How does a tenant know if a section 8 notice is valid?

- To be valid the notice must follow the guidelines on the required notice period.
- The notice must provide the date where the court can start action.
- The notice must provide and explain the grounds for eviction.

How does a tenant know if a section 21 notice is valid?

- To be valid the notice must follow the guidelines on the required notice period.
- The deposit must be properly protected.
- The tenant must be given a copy of the gas safety and energy performance certificates.
- The landlord must give the tenant a copy of the government guide How to rent: the checklist for renting in England - <https://www.gov.uk/government/publications/how-to-rent>
- The landlord must not have taken a higher deposit or a banned fee, without having returned it.
- The landlord must not have been ordered by the council to do repairs under an improvements notice or an emergency works notice.
- A notice may be invalid if it was received after the tenant made a written complaint about the conditions of the property.

How long is a notice valid for?

- A notice is valid for 1 year.

What happens if a notice is given?

What happens after a notice is given to a tenant?

- A landlord issues a notice which sets out the date the tenant has to leave by.
- If the tenant fails to leave the property by the specified date the Landlord will seek a possession order.
- If the tenant fails to leave by the date in the possession order the landlord can seek a warrant of possession.
- A possession order will be issued by the court giving bailiffs authority to evict the tenant.

Can a tenant challenge an eviction notice?

- Yes a tenant can challenge an eviction notice.
- The tenant can provide evidence to the court to respond to the claims made by the landlord.
- The tenant should explain the circumstances that have resulted in the issues for instance an

explanation as to any financial difficulties that have led to rental arrears.

Are the impacts of Covid-19 valid grounds to challenge an eviction?

- Tenants who have been affected by Covid-19 such as by the death of a family member or loss of employment should inform the landlord of the situation.
- The landlord is obliged to inform the court of the circumstances.
- The court has the discretion to take into consideration the impacts of Covid-19 and stop or delay the eviction process.

When does a tenant need to return the defense papers?

- The tenant should return the defence papers within 14 days of receiving the court papers.

Can bailiffs evict a tenant?

- If a landlord has obtained a possession order and the tenant has received an N54 notice of eviction they can instruct bailiffs to evict the tenant.

- Bailiffs are required to give 14 days notice.
- Bailiffs cannot carry out an eviction if an individual in the property: has symptoms of Covid-19, is self-isolating or is awaiting Covid test results.

What happens if a landlord tries to force a tenant to leave the property without a court order?

- If a landlord tries to evict a tenant without a valid court order it is likely to be an unlawful eviction.
- A landlord who tries to carry out an unlawful eviction by forcing the tenant to leave by threats of violence, changing of the locks or cutting of essential services such as water commits a criminal offence.
- Tenants can contact the police, local council and advice organisations to stop an unlawful eviction and have help to regain access to the property.
- Greater Manchester Law Center provides legal advice on matters of unlawful evictions and assist tenants in applying for injunctions to prevent eviction.

Possession Proceedings

Can a landlord just evict a tenant?

- A landlord can only evict a tenant after giving notice.
- If the tenant does not leave the property by the time the notice expires the landlord will only be able to enforce eviction with a possession order that is obtained from the courts.

Are tenants evicted after they have been given notice?

- A landlord and tenant can reach an agreement after a notice has been given and before court proceedings begin.
- If an agreement is reached, e.g. payment plan or reduced rent, the tenancy will continue and the tenant can stay in the property.

Are courts considering possession cases during Covid-19?

- Possession proceedings resumed on the 21st September 2020

What is a review date in possession proceedings?

- When a landlord applies for a possession order a review date will be set.
- At the review date a judge reviews the claim and gives the landlord and tenant an opportunity to reach a settlement instead of progressing to a possession hearing.

Can an agreement be reached by methods other than court proceedings?

- At the review date the landlord and tenant may be referred to mediation where an independent 3rd party will help them reach a mutual agreement.
- The government introduced a Rental Mediation Service where funding is provided for mediation services when claims reach the court making it free for landlords and tenants. Further information can be at <https://www.gov.uk/guidance/rental-mediation-service>

What is a possession hearing?

- If a settlement is not reached at the review date or in mediation there will be a 15-minute possession hearing at court.
- At the hearing a judge will hear the claim and make a final decision.

What kind of decisions can a judge make in possession hearings?

- The judge may decide to make a possession order that requires the tenant to leave the property by the date set.
- Alternatively, the judge may dismiss the case and the tenant can stay in the property.
- The hearing may be adjourned/delayed until a further date.

Is there legal aid available for tenants during possession proceedings?

- Tenants can access legal advice and representation on the day of their hearing under the Housing Possession Court Duty Scheme.

- The scheme is available to all tenants facing eviction and possession hearings regardless of financial circumstances.
- More information can be found below or at <https://www.gov.uk/government/publications/housing-possession-court-duty-schemes-hpcds>

What if a possession claim was made before the 3rd August 2020 but there has not yet been a court hearing?

- If a possession claim was made before 3rd August 2020 and there has not been a court hearing the landlord had until the 30th April 2021 to send a reactivation notice for the possession claim to continue.
- If the landlord did not send a reactivation notice by the 30th April 2021 they will need to submit a N244 application for the claim to progress.
- For claims made after 3rd August 2020 they will be processed by the courts in due time.

What happens if a tenant does not leave the property by the specified date in a possession order granted by the court?

- If the tenant does not leave the property by the specified date the landlord can apply for a warrant of possession that would be valid for 12 months.
- The warrant allows bailiffs to evict the tenant.
- Landlords can apply for a warrant of possession for up to 6 years after the specified date in the possession order.
- The tenant can apply to suspend the warrant which may delay the eviction.

Rights and responsibilities of tenants

Can a landlord threaten a tenant with eviction?

- A landlord can only lawfully pursue an eviction if they have sent an possession notice that states the legal grounds of the eviction

When can a landlord enter the property?

- A landlord has to give notice to the tenant before they can enter the property.
- There is an exception in an emergency situation.

What if a tenant cannot afford to pay rent?

- Due to unforeseeable circumstances tenants may be unable to pay their rent.
- The priority is to not allow arrears to build up and become unmanageable.
- Tenants should contact their landlord as soon as possible to see if an agreement can be made.
- Tenants can be insured in the event of sickness or unemployment to have help to cover rental payments.

Can tenants have a possession order changed?

- In some circumstances tenants can have the possession order cancelled.
- For a possession order to be changed it must have been made on discretionary grounds, the tenant must have a reason for it to be changed, the tenant must fill in a N244 court form and attend another hearing.

- Further details can be found at https://england.shelter.org.uk/housing_advice/eviction/how_to_get_a_possession_order

What if a tenant accidentally causes damage to the property?

- If the tenant accidentally causes damage to the property they should contact the individual responsible for the maintenance of the property.
- The tenants will have to cover the cost of repairs and replacements.
- The tenant should not ignore or hide the damage as it will be taken of their deposit.

What is the difference between an eviction notice and a possession order?

- An eviction notice is a letter/email sent by the landlord which states the grounds of eviction that they wish to use to evict the tenant.
- An possession order is provided by the court to allow the landlord to retake possession of the property and evict the tenant if they have not left by the date specified in the notice.

What is a tribunal?

- A tribunal settles dispute.
- The tribunal will hear a possession case and decide whether to grant an eviction order.

Does the tenant have to physically be at the hearing?

- Due to Covid-19 most cases are being held remotely

What is a tenancy agreement?

- A tenancy agreement is a contract that is signed by the tenant and landlord.
- The agreement sets out the rights and responsibilities of both parties.

What constitutes harassment by a landlord?

- Stopping services such as electricity.
- Withholding keys.
- Refusing to carry out repairs.
- Anti-social behaviour by the landlord or one of their agents.
- Threats and physical violence.

Rights and Responsibilities of Landlords

How much notice do I need to give my tenant?

- From the 1st June 2021 Landlord must give at least 4 months notice in the majority of cases.
- From the 1st August 2021 the notice period will be reduced to 2 months

Are there any exceptions for the length of notice required?

- Notice periods in more serious cases are less than the typical period at around 2-4 weeks
- These circumstances include: more than 4 months of arrears, anti-social behaviour, some cases of domestic abuse , situations involving false statements, the death of the named tenant or where there is no right to rent under immigration legislation

Can I reach an agreement with my tenant instead of giving notice?

- Yes! It is advised that landlords should try to reach an agreement or payment plan that works for all parties involved.
- The general guidance is that disputes should try to be resolved between the parties without going to court wherever possible.

How can I help my tenant?

- Landlords can signpost their tenants towards organisations such as Shelter, Citizens Advice and the Local Council who will be able to provide advice and support.

Is there any mediation support?

- The Government is funding a pilot Housing Possession Mediation Service which will be available to landlords for a minimum of 6 months starting from February 2021

How do I keep track of the changing situation?

- Landlords are encouraged to keep a record of all contracts and agreements that are made with their tenants.
- Landlords should follow the government guidelines and keep up to date with the changes throughout Covid-19 to monitor how they impact their tenancy agreements.

Can I take my tenant to court if they refuse to pay rent?

- If a tenant fails to pay their rent Landlords can give notice of eviction.
- If the tenant fails to leave the property by the specified date, the landlord can apply to the court for a possession order.

What if I am struggling to pay my mortgage?

- If Landlords are struggling to pay their mortgage they should inform the lender of the current situation as soon as possible.
- The Financial Conduct Authority has stated that borrowers, including those with Buy-to-Let mortgages, who have been impacted by Covid-19 should be given support through tailored forbearance options.

Organisations and resources for free support

Can I access free housing advice for evictions?

- Yes. The Legal Advice Center provides free advice covering different issues including Housing. There are also multiple organisations that operate across Greater Manchester and the UK that provide free advice and support on housing issues and evictions.
- Greater Manchester Law Center - Phone: 016117692244, email: reception@gmlaw.org.uk or housing@gmlaw.org.uk
- The Bond Board - Phone: 01204546130 (Bolton) or 01706342404 (Rochdale)
- Shelter Greater Manchester - Phone: 01618207589
- Citizens Advice - Visit website to find local center: <https://www.citizensadvice.org.uk/about-us/contact-us/contact-us/contact-us/>
- Civil Legal Advice - <https://www.gov.uk/check-legal-aid>

What support is available for me if I am worried about being evicted or being given notice?

- The Greater Manchester Law Center offers free legal advice and support against unfair evictions to people across the community. Additionally, they provide resources and legal aids to support individuals to defend against an eviction notice.
- The Bond Board operates a tenant advocacy scheme which provides specialised one-to-one housing advice and support to tenants in private renting covering issues such as eviction and financial struggles.
- Shelter provides free advice and support to anyone who is homeless, in housing need or who has housing-related issues such as eviction. They provide a specialist legal service for those entitled to legal aid for matters including unlawful evictions. Shelter offers help to tenants facing financial difficulties to try to reach an affordable agreement with their landlord and prevent eviction. They provide a letter template and help explain the circumstances to the landlord.
- Citizens advice provide support to defend against an eviction notice and help complete a defence form.
- Civil Legal Advice provides legal aid to those who are eligible.

Can I access free legal aid during possession proceedings?

- When Possession claims new arrangements were introduced and there is now a free face-to-face on the day service provided by Housing Possession Duty Schemes which offers free legal advice and representation to anyone facing eviction, regardless of financial circumstances, on the day of the hearing.

What is provided by the Housing Possession Court Duty scheme?

- The scheme provides free legal advice, advocacy and representation to anyone at both the review date and substantive hearing.
- The scheme is not subject to eligibility requirements and can be accessed by anyone with a listed hearing.
- Under the scheme the tenant receives: Advice on the day of the hearing, representation during the proceedings, advice explaining the outcome and available options, help communicating with third parties on the day of the hearing such as negotiations with the landlord, referrals for further advice where necessary and a summary of all the advice in writing.

What if I am not protected by the eviction ban?

- The eviction ban does not provide protection for: lodgers, homeless individuals in temporary accommodation, individuals in council or social housing hotel accommodation and some individuals who are in accommodation as part of employment.
- But Greater Manchester Law Center provides urgent legal advice to individuals in these groups when threatened with eviction and try to help keep them in the accommodation and housing

Is there help available for rental arrears?

- If a tenant is struggling to pay their rent they should first speak to their landlord to see if they can reach an agreement for a payment plan or reduced rent.
- There are several organisations that provide financial support for rental payments to prevent tenants from falling into arrears and being evicted.
- These include various grants and emergency aid such as discretionary housing payments that may be available from the council for eligible low-income families.

- Organisations include City South Manchester Trust (08008401444) and Help with Rent Team who operate a mobile advice center.
- For information and contact details for organisations offering financial support visit <https://www.billhelp.uk/manchester-rent-deposit-scheme-programmes/>
- Tenants may also be able to use the Breathing space scheme that was introduced in May 2021 to help with debt including rental arrears.

What is 'Breathing Space'?

- Breathing Space is a debt scheme that was introduced to provide legal protections from creditors for 60 days whilst the tenants work with a debt advisor to find a long-term solution.
- A standard Breathing Space is available for anyone with debt problems.

How does 'Breathing Space' offer support?

- Breathing Space is not a payment holiday and tenants must continue to pay rent; but, if they are unable to pay legal protections are provided for a period of 60 days.
- The scheme prevents creditors from asking for payments, freezes interests and charges on

arrears, pauses enforcement action and prevents the landlord from giving notice and evicting the tenant due to arrears.

- During the 60 days the tenant works with a debt advisor to find an affordable and long-term solution for the debt.

Am I eligible for 'Breathing Space'?

- To apply for Breathing Space a tenant will need to contact a debt advisor authorised by the FCA or a local authority that provides debt advice.
- The tenant must meet the eligibility criteria: they must be an individual who owes a qualifying debt (rental arrears), live or usually reside in England or Wales, not have a debt relief order/ individual voluntary agreements or an interim order, not currently have Breathing Space/ had Breathing Space in the last 12 months, they must be unable to repay some or all of the debt and the debt advisor must be satisfied that breathing space is appropriate.
- Information on how to apply can be found at <https://www.stepchange.org/how-we-help/applying-for-breathing-space.aspx>