

Name	Illegal evictions
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Policy	Protection from Eviction Act 1977
Related content	
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Introduction

The Protection from Harassment Act 1977 provides the legislation to deal with both unlawful evictions and the harassment of a residential occupier by the landlord or the landlord's agent.

Chapter 1 title: Unlawful eviction and harassment of occupier

What is an illegal eviction and what constitutes harassment of a residential occupier? How do we deal with those circumstances?

Section header 1: Legislation

Protection from Eviction Act 1977 S.1 (1 – 6) Unlawful eviction and harassment of occupier

(2) If any person unlawfully deprives the residential occupier of any premises of his occupation of the premises or any part thereof, or attempts to do so, he shall be guilty of an offence unless he proves that he believed, and had reasonable cause to believe, that the residential occupier had ceased to reside in the premises.

(3) If any person with intent to cause the residential occupier of any premises—

(a) to give up the occupation of the premises or any part thereof; or

(b) to refrain from exercising any right or pursuing any remedy in respect of the premises or part thereof;

does acts calculated to interfere with the peace or comfort of the residential occupier or members of his household, or persistently withdraws or withholds services reasonably required for the occupation of the premises as a residence, he shall be guilty of an offence.

Subject to subsection (3B) below, the landlord of a residential occupier or an agent of the landlord shall be guilty of an offence if—

(a) he does acts likely to interfere with the peace or comfort of the residential occupier or members of his household, or

(b) he persistently withdraws or withholds services reasonably required for the occupation of the premises in question as a residence,

and (in either case) he knows, or has reasonable cause to believe, that that conduct is likely to cause the residential occupier to give up the occupation of the whole or part of the premises or to refrain from exercising any right or pursuing any remedy in respect of the whole or part of the premises.

Protection from Eviction Act 1977 – S. 3 Prohibition of eviction without due process of law.

(1) Where any premises have been let as a dwelling under a tenancy which is neither a statutorily protected tenancy nor an excluded tenancy and—

(a) the tenancy (in this section referred to as the former tenancy) has come to an end, but

(b) the occupier continues to reside in the premises or part of them,

it shall not be lawful for the owner to enforce against the occupier, otherwise than by proceedings in the court, his right to recover possession of the premises.

(2) In this section “the occupier”, in relation to any premises, means any person lawfully residing in the premises or part of them at the termination of the former tenancy.

Criminal Law Act 1977 – S.6 Violence for securing entry.

(1) Subject to the following provisions of this section, any person who, without lawful authority, uses or threatens violence for the purpose of securing entry into any premises for himself or for any other person is guilty of an offence, provided that—

(a)there is someone present on those premises at the time who is opposed to the entry which the violence is intended to secure; and

(b)the person using or threatening the violence knows that that is the case.

Section header 2: Licence or Tenancy

In the UK there are only two ways a person can rent accommodation:-

Under a licence.

This is a form of legal permission to occupy, which the landlord can withdraw at any time. It is important to bear in mind that, unless the licensee is an excluded occupier, the landlord must still obtain a possession order from the court in order to evict.

Under a tenancy which is a form of ownership of land.

This is why council tenants can complete mutual exchanges and why, when a tenant dies, the tenancy will automatically be passed on to their spouse or children. A landlord does not choose whether to give someone a licence or a tenancy. The difference is a matter of fact and degree, covered by legislation. A rental agreement is either a tenancy or a licence, the main difference is that a tenancy usually offers more protection from eviction. It is not licence or tenancy because that's what the landlord says, it is dependent on the housing situation

There are nearly 30 different kinds of licence and tenancy. All residential occupiers can only be lawfully evicted by the landlord obtaining a possession order. The following are "Excluded Occupiers" and are not entitled to a possession order.

- Lodgers (those with a resident landlord)
- People in holiday lets
- Lettings for no monies worth
- People placed in property under certain asylum seeker regulations
- Lettings to a former trespasser
- Occupants in a public sector hostel

Section header 3: Eviction

To evict or attempt to evict a person who is entitled to a possession order without the having first obtained a possession order is to commit a criminal offence under the Protection from Eviction Act 1977. It is the local authority not the Police that prosecutes under this legislation.

The first stage in obtaining all possession orders is for the landlord to serve the tenant with a valid eviction notice informing them that they want possession of the property back. A notice on its own does not end the person's rights to remain, it is simply a warning notice. The occupier can remain after the notice expires.

Once the landlord has a possession granted in the local county court the tenant still does not have to leave. Any attempt to remove them with a possession order alone is a criminal offence under the Protection from Eviction Act 1977.

If the occupier doesn't leave when the possession order takes effect the landlord has to go back to the court and apply for a Warrant of Eviction, commonly called a 'Bailiff's warrant'. Any attempt to evict a renter without a bailiff's warrant is a criminal offence.

The execution of all bailiff's warrants, whether granted in the county court or high court must be overseen by a court bailiff or high court enforcement officer. If no such officers are present at a lock change then it is likely to be an illegal

eviction, a criminal offence. A landlord should be able to show attending officers copies of at least the bailiff's warrant and possibly the possession order if they have it.

County court bailiffs don't work outside of office hours or weekends, so if an officer is called to an eviction outside of these times, it is likely an illegal eviction. High court enforcement officers can begin at 7am however.

In real terms an illegal eviction could be quite easily identifiable by the actions at the scene. These may include changing the locks; forcibly evicting someone; forcing the tenant to leave by threatening/harassing/bullying; withholding services such as gas or electricity etc.

Section header 4: Harassment

The Protection from Eviction Act 1977 protects all residential occupiers from harassment, regardless of whether they are licensees or tenants.

Harassment is defined in the Act as "Acts that are done that are likely to cause the residential occupier to give up their accommodation", so clearly harassment of residential occupiers can be more than threats or violence.

Harassment as defined can consist of:-

- Persistently visiting the property
- Disconnection of utilities
- Persistent emails or texts
- Demands for money
- Seizing of personal belongings
- Insisting that a person leaves the accommodation
- Unreasonable demands
- Landlord entering property without the tenant's permission

For this last issue, remember that a tenancy is a form of ownership of land and a tenant, as the temporary, owner of that land, can exclude anyone from the property, including the landlord, who would be trespassing if they entered without the tenant's permission or did not leave when requested to do so.

A landlord is not allowed to seize a person's possessions in lieu of any money they claim is owed to them. The previous right to do so was abolished in 1977.

Section header 5: Remedies

The Local Authority can take out a criminal prosecution of landlords or agents for harassment and illegal eviction and may apply for a warrant to have a landlord arrested. Local Authorities can levy penalties of up to £30,000 against a landlord for a variety of offences.

A landlord or agent may be given a Banning Order by the local authority, prohibiting them from managing property for 12 months or longer. A landlord or agent may be placed on a national rogue landlord database.

Whilst harassment and illegal eviction are criminal offences, a tenant can also sue their landlord in the civil court for the same offences under what is known as "Breach of covenant for quiet enjoyment". A tenant can obtain injunctions with powers to commit a landlord or agent to prison for contempt of court in cases of harassment and illegal eviction.

If illegally evicted, a tenant or someone acting on their behalf can use force, such as employing a locksmith, to re-secure entry to their accommodation under section 6 of the Criminal Law Act 1977, providing there is nobody in the property to object to the force being used. Similarly, via the courts, the occupier may pursue damages incurred via the stress of being unlawfully evicted.

Section header 6: Police Process Illegal Eviction

Upon attending a call to an eviction there are several points to consider. Firstly a Breach of the Peace must be prevented. Secondly, identify if the legality of the situation. Only when a court bailiff is present and there is a warrant for eviction is it a legal eviction.

Without the presence of both a bailiff and a warrant for eviction, the eviction is illegal and the action to take is as follows:

1. Create a CRIS report for illegal eviction
2. Report the Landlord on the Greater London Authority "Rogue Landlord Tool"
3. Classify the CRIS report as an illegal eviction 087/01
4. Close the report with the GLA Rogue Landlord reference

Practical steps for frontline officers:

Once it has been ascertained that a bailiff isn't present and it is therefore an illegal eviction the police should:

- notify the landlord of this and that if they proceed they would be committing an offence;
- arrest where the necessity criteria exist and where the landlord commits an offence;
- request the landlord to let the tenant back in to the property;
- notify the Private Rented Sector enforcement team at the relevant local authority;
- recommend that the tenant make contact with their local authority;
- and make use of the Report a Rogue Landlord [tool](#).

Presumption in the tenant's favour:

It is likely that the evictions that MPS officers attend are likely to be illegal and therefore the presumption is in favour of the tenant to remain in their home. Landlords will not always be fully aware of the legal framework surrounding evictions and their rights and responsibilities.

Distinguishing a criminal and civil offence:

It is important to make the distinction between what constitutes a 'civil' offence and a 'criminal' offence in this context. Civil offences include disagreements about the tenancy, rent and repairs etc. Whilst criminal offences under this legislation included, illegal eviction, harassment, assault and use of force or violence to gain entry.

Section header 7: Police Process Unlawful Harassment

Upon attending a call to Unlawful Harassment of Residential Occupier. Firstly, consider preventing any Breach of the Peace. Secondly, if upon investigating further the offence is made out:

1. Create a CRIS report for Unlawful Harassment
2. Report the Landlord on the Greater London Authority "Rogue Landlord Tool"
3. Classify the CRIS report 087/02
4. Close the report with the GLA Rogue Landlord reference.

Section header 9: Useful Links

<https://www.london.gov.uk/what-we-do/housing-and-land/improving-private-rented-sector/report-rogue-landlord-or-agent>

<https://www.london.gov.uk/rogue-landlord-checker>

<https://www.legislation.gov.uk/ukpga/1977/43/2020-09-29>