

Registered Social Landlord Fact Sheet 6

Removing Squatters

What is a Squatter?

A squatter is a person who occupies your property without your consent usually having gained entry whilst the property was empty.

You may also have a person who was invited into the property by the previous tenant and when the tenancy came to an end remained in occupation. That person would be known as an unauthorised occupant and normal procedures for possession would apply.

A squatter has some protection from the law and cannot be removed without a court order unless they agree to leave voluntarily. You will be committing a criminal offence if you physically remove a squatter from your premises or use violence to gain entry.

Protected Intending Occupier

If you have allocated a property and the prospective tenant is unable to take up occupation because a property is found to be squatted you may be able to remove a squatter without going to court.

The prospective tenant will be known as a *Protected Intending Occupier* and providing the correct procedures are followed the police can remove the squatter.

Notices

There is no requirement to serve a warning notice on a squatter. However a squatter may try to suggest that you have in some way granted them rights of occupation either by accepting rent that you assumed was paid by the previous tenant or knew of the squatters occupation and took no action.

If this is likely to be the case you could send the squatter a letter giving them 7 days to leave or you will take legal action to evict them. You could also state in the letter that you revoke any implied licence that they may claim.

Ending the previous tenancy

The squatter may have a defence to a claim for possession if the previous tenancy has not been brought to an end. You should check that you have a valid surrender or if not arrange to serve a Notice to Quit. See our fact sheet "*Ending a Tenancy*".

Possession proceedings

The process of obtaining a court order against a squatter has now been greatly speeded up and it is possible to apply for what is known as an *Interim Possession Order*.

To use this procedure you must act quickly and make your claim within 28 days of becoming aware of the existence of the squatter occupying your property.

The Court process:

Once you have issued the claim the court will fix a hearing date usually within 3 days of receiving the court papers. You must then arrange to serve the court papers on the squatter within 24 hours of your claim being issued by the court.

There are strict rules as to what is correct service and this is an area that often causes problems.

If the court grants an Interim Possession Order you must arrange to serve a copy of the order on the squatters within 48 hours of the order being made. The squatter will then have 24 hours in which to leave.

If the squatter does not leave they are committing a criminal offence and you can ask the police to arrest him or her.

The advantage of the Interim Possession Order is that it secures the immediate removal of the squatter. It is then followed by a further hearing in which the court will consider any possible defences and then make a final possession order.

Between the Interim Possession Order and the final Possession Order you must not re-let your property just in case the squatter has a valid defence and he is allowed by the court to return to the property.

After the Possession Order

In most cases squatters will leave without much trouble usually after the Interim Possession Order is made. However if the court makes a final possession order and the squatter is still in occupation you can ask the court to issue a warrant for possession and a court bailiff will evict the squatters.

Tips for avoiding squatting in the first place

- Keep your property securely locked
Fit window locks
- Give the appearance that the property is occupied
Leave net curtains up
Remove junk mail from the front door
- Make regular visits to the property
- Avoid long vacancy periods and pre allocate where possible
- Contact the police immediately
Act quickly if you become aware or suspect a squatter
- Refer the matter to your solicitors without delay