



# PROTECTION AGAINST HARASSMENT AND ILLEGAL EVICTION

**A GUIDE FOR PRIVATE LANDLORDS  
AND TENANTS IN NORTHERN IRELAND**

THIS BOOKLET DOES NOT PROVIDE AN AUTHORITATIVE INTERPRETATION OF THE LAW; ONLY THE COURTS CAN DO THAT. NOR DOES IT COVER EVERY CASE. IF YOU ARE IN DOUBT ABOUT YOUR LEGAL RIGHTS OR RESPONSIBILITIES, YOU SHOULD SEEK INFORMATION FROM AN ADVICE CENTRE OR CONSULT A SOLICITOR.

## WHO SHOULD READ THIS BOOKLET

You should read this booklet if you are a landlord letting a domestic property to a tenant, or a tenant who is renting, or thinking of renting, a domestic property.

This booklet is primarily focused on private tenancies although the same law also applies to all landlords including the Northern Ireland Housing Executive and registered housing associations.

Through most of this booklet the terms 'landlord' and 'tenant' are used, but in some cases the arrangement between the parties will not be a tenancy but a licence. Where there are differences in the law between tenancies and licences, these are explained.

This booklet explains the most important features of tenants' and landlords' rights and responsibilities but it is only a general guide.

Landlords and tenants of protected and statutory tenancies should also read the Department for Social Development (DSD) booklet *'Protected and Statutory Tenancies – A Guide for Private Landlords and Tenants in Northern Ireland'*.

# CONTENTS

<b>SECTION</b>	<b>PAGE</b>
<b>1 Harassment and illegal eviction</b>	<b>3</b>
<b>2 Tenancies and licenses</b>	<b>4</b>
<b>3 What is harassment?</b>	<b>5</b>
<b>4 What is illegal eviction?</b>	<b>9</b>
<b>5 Other booklets for private landlords and tenants</b>	<b>12</b>
<b>6 Sources of advice and information</b>	<b>13</b>

# 1 HARASSMENT AND ILLEGAL EVICTION

It is a basic right of all tenants to be free from harassment and illegal eviction. This right is protected in two ways: by making harassment and illegal eviction a criminal offence, and by making it possible for someone who is harassed or illegally evicted to claim damages through the civil court.

This booklet describes some of the forms harassment can take and sets out what tenants can do if they are being harassed or are threatened with illegal eviction. It does not deal with harassment of landlords by their tenants and does not apply to licensees (see section 2 below).

Throughout this booklet the terms 'landlord' and 'tenant' are generally used. However, the law against harassment applies not only to tenants but also to members of their household, and to any lawful occupier residing in the property after a former tenancy has ended. Harassment applies not only to acts carried out by the landlord, but also covers anybody acting on behalf of a landlord and, in some cases, to people who may or may not be connected with a landlord.

## **The Rent (Northern Ireland) Order 1978**

The law makes it an offence to:

- do acts likely to interfere with the peace or comfort of a tenant or anyone living with him or her
- persistently withdraw or withhold services which the tenant needs to live in the premises as a home.

It is an offence to do any of the things described above if it is likely that they would cause the tenant to leave their home, or stop using part of it, or stop them from doing things that it is their legal right to do (for more information on rights of tenants see the booklet - *'Private Tenancies - A Guide for Private Landlords and Tenants in Northern Ireland'*). It is also an offence to illegally evict someone from their property.

The precise offences are set out in the Rent (Northern Ireland) Order 1978. These were extended by the Private Tenancies (Northern Ireland) Order 2006. The district council in whose area a tenancy is located can take a prosecution, or the tenant can act on his own behalf.

A person who is convicted by a magistrate of an offence under the Order may have to pay a maximum fine of £5,000\*, or be sent to prison for six months, or both. If the case goes to the Crown Court, the punishment can be prison for up to two years, or an unlimited fine, or both.

\*At April 2007

## 2. TENANCIES AND LICENCES

### What is a private tenancy?

A private tenancy is the occupation of a dwelling which is owned and let by the owner (the landlord) to a tenant or tenants.

There are two types of private tenancy:

- protected or statutory tenancies (including protected shorthold tenancies), and
- all other tenancies.

All protected and statutory tenancies have their rents controlled by legislation. In addition certain other tenancies which are found to be unfit for human habitation are also rent controlled. This booklet only relates to private tenancies. Some forms of occupation where the occupier pays rent to a landlord are not tenancies, but licences. Licensees do not have all of the protections described in the booklet.

### What is the difference between a tenancy and a licence?

It is important to establish whether an agreement is a tenancy or a licence as this will affect the rights and responsibilities of the owner and occupier. In general, the following types of occupation are licences and not tenancies:

- holiday lettings
- business tenancies
- where no rent or a low rent is charged
- the landlord provides services, such as cleaning, meals or personal care
- the landlord is a charity providing accommodation for charitable purposes
- the accommodation is provided by an employer *and* it is necessary for the employee to live in this accommodation *in order to do his/her job* (for example a

caretaker who is required to live on the premises)

- the landlord is a “resident landlord”, that is, all or part of the accommodation is shared with the landlord (for example, the bathroom or kitchen).

If an occupier has exclusive use of part of the accommodation, but also shares another part of the accommodation, such as a communal living room or kitchen, with someone who is not the landlord, this constitutes a tenancy.

**If you are in any doubt about what sort of agreement is in place, you should seek advice from a solicitor, or one of the advice agencies listed at the back of this booklet.**

## 3. WHAT IS HARASSMENT?

This booklet deals only with harassment of tenants when somebody is trying to force them out of their homes or if someone's actions are likely to cause the tenant to leave their home. Harassment is a very broad term and it can cover a wide range of activities.

Harassment can take many forms not necessarily including physical violence. Certain activities may be interpreted as intended to force the tenant from the property. On the other hand there may be cases where a landlord has good reasons for doing things which the tenant interprets as harassment. There are defences in the Rent Order for people facing harassment charges, for example if they had good reason for acting as they did, or for thinking that the tenant had left the property.

A landlord, their agent, or someone who may or may not be connected with either of them, may do things which are distressing to the tenant and undermine their sense of security. Whether or not these activities amount to harassment will depend on interpretation by the courts. For example, the landlord or his agent may fail to do certain things supposed to be done under the tenancy agreement, either wilfully, because they want the tenant to leave, or simply by neglecting to carry out their responsibilities; this neglect might also prevent the tenant and his household from enjoying their home.

There are things the tenant can do in a wide range of circumstances, some of which are outlined below.

### **Where should I go for advice?**

A tenant who thinks that their landlord is doing something so as to stop them enjoying their property, or force them out of the property, should speak to the environmental health department of their district council.

Alternatively, the tenant may wish to seek advice from an independent advice centre, such as the Housing Rights Service, a Citizens Advice Bureau or a solicitor. Contact addresses and telephone numbers are listed in Section 6. If physical violence is involved, tenants should contact the police.

District councils have the power to start legal proceedings for offences of harassment and illegal eviction under the Rent (Northern Ireland) Order 1978. They can carry out an investigation and prosecute if they believe an offence has been committed.

In extreme cases of harassment, and where the property is in poor condition, the Housing Executive also has powers to take over the management of a *house in multiple occupation* (that is, where the occupiers do not live together as a single household), by making it subject to a control order.

## 3. WHAT IS HARASSMENT?

### **Is this harassment?**

The following section gives some examples of events that may be seen as harassment. It is not a complete list. Any tenant who feels that they are being harassed should seek advice either from the environmental health department of their district council or from one of the advice agencies listed at the end of the booklet.

#### ***Withdrawal of services***

*The landlord has contacted the electricity board and instructed them to turn off the electricity for the property.* A landlord may be guilty of harassment if they persistently withdraw or withhold services which are necessary for the tenant to be able to live in the property. This also applies where a landlord is bound under the tenancy agreement to pay for electricity or gas supplies, and these are cut off because the bills have not been paid.

#### ***Withholding keys***

*The landlord refuses to give the tenants more than one set of keys even though there are two tenants.* A landlord may, in the interests of security, want to restrict the number of keys issued to occupiers of the property, and may only issue licensed keys which have a serial number and cannot be copied. In certain circumstances like those given above, not supplying a key may constitute harassment. In such a case, where normal negotiation with the landlord fails to obtain one, the tenant should seek advice.

#### ***Anti-social behaviour by landlord's agent***

*A person who is a friend of the landlord has moved in next door and is making life unpleasant for the other tenants.*

Life can be made intolerable for residents by a neighbour who indulges in anti-social behaviour, for example by making excessive noise late at night. If a tenant believes that the person in question is an agent of the landlord and that their behaviour is intended to force the tenants out, this could be seen as harassment. Tenants should seek advice in this situation from the environmental health department of their district council. Where the problem is excessive noise, the district council has powers to prevent the disturbance under The Pollution Control & Local Government (NI) Order 1978.

#### ***Demand for excessive repairs***

*The landlord has asked the tenant to do thousands of pounds' worth of work.*

The tenancy agreement should set out the responsibilities for repairs. Where these are not described clearly, and where the tenancy began after 1 April 2007, the landlord will normally have a duty to carry out the repairs described below. If a landlord presents a tenant with a list of works which the tenant believes are unnecessary, or works which are not the tenant's responsibility, they should seek advice as this may be harassment.

### 3. WHAT IS HARASSMENT?

#### ***Failure to carry out or complete repairs***

*The landlord has neglected the property badly; he or she seems to want to drive the tenant out by letting the place fall into severe disrepair.*

The district council has a range of powers to deal with repairs, including cases where the property is in such poor condition that it is not fit for human habitation. It can also take action where there is serious disrepair, for example where the condition of the tenancy is interfering materially with the personal comfort of the occupying tenant.

It can also take action where there is a public health nuisance. This power, under the Public Health (Ireland) Act 1878, applies to all accommodation regardless of the status of the occupier. As such, it applies whether the occupier is a tenant or a licensee. For more details see the Department's booklet – *'Repairs – A Guide for Private Landlords and Tenants in Northern Ireland'*.

Where a tenancy began after 1 April 2007 and unless the written statement of tenancy terms provides a different division of responsibility, the landlord is responsible for keeping in repair:

- the structure and exterior of the home, including the drains, gutters and external pipes
- the installations for the supply of water, gas, electricity and sanitation, which he or she must keep in proper working order

- the installations in the home for space heating and water heating.

The landlord is not liable for repairs which have been made necessary because the tenant has misused the property or installations.

A landlord's failure to carry out or complete repairs may have a reasonable explanation: for example, they may genuinely not think that the repairs are necessary, or may be too ill to carry them out, or they may be in dispute with the builder. Where the tenant has made reasonable approaches to the landlord and the landlord has failed to carry out the repairs, this may constitute harassment and the tenant may wish to contact the environmental health department of their district council. In the past it has been possible for a landlord to delay completing repairs in the knowledge that the inconvenience of works in progress may force the tenant out. The council can stipulate a completion date for the required works, so that they are completed in a reasonable time. It has also been known for a landlord to blame a delay in commencing essential repair work on the Northern Ireland Housing Executive's grants procedures. The right to claim grant aid retrospectively where a notice of unfitness has been served, will render such a defence futile.

## 3. WHAT IS HARASSMENT?

### ***Locks being changed***

*The tenant goes away for the weekend and returns to find the landlord has changed the locks and has not provided a key.*

If a landlord changes the locks of the tenancy which denies the tenant entry to the property this can be seen as harassment as the landlord is denying the tenant access to the property. This remains the case even if a written notice to quit has expired. Any tenant whose landlord has changed the locks should seek advice from the environmental health department of their council.

### ***Threats and physical violence***

The landlord has used violence or sexually or racially abusive behaviour.

If a landlord uses language or physical behaviour against the tenant which is threatening or violent, the tenant should consult their district council, an advice centre or a solicitor. The tenant should always call the police where there is actual physical assault. The abusive behaviour could be prolonged and systematic, or could consist of isolated incidents. Where it is sexually or racially motivated, there may be grounds for action under legislation dealing with sexual and racial harassment. Where the harassment is so severe that it could cause the tenant to leave home, this may be seen as illegal eviction.

### ***Persistent access without permission***

*The landlord lets himself into the property without notice and at unsociable times of day.*

A tenant must allow the landlord and anyone authorised by him to have reasonable access to the property to inspect the dwelling and carry out any repairs which the landlord is under an obligation to do.

This right can only be exercised at reasonable times of day. The tenant must also be given reasonable notice of this. If a landlord enters the dwelling at unreasonable times of day or without notice it can be seen as harassment. Tenants should seek advice from the environmental health department of their council or from any of the agencies listed in Section 6.

If the tenant will not give consent to access, the landlord must apply to the court for an order to enter the property. An order can be made subject to conditions about the time at which the work is carried out and about alternative accommodation arrangements for the tenant.

## 4. WHAT IS ILLEGAL EVICTION?

### **What is illegal eviction?**

An illegal eviction is where the landlord attempts to evict a tenant without due process of law. A landlord seeking possession from a residential tenant must serve the tenant with a written notice to quit giving at least four weeks' notice of the date the landlord wishes the tenant to leave. The tenant is not required to leave the property until the notice expires, and even then may not be evicted without an order of the court.

Where the tenancy was granted for a fixed period of time (*fixed term tenancy*) there is no obligation to serve a notice to quit at the end of the agreed period of the tenancy. However it is good practice to serve a notice of intention not to renew the tenancy, giving four weeks' notice of the date of the end of the fixed term. However the tenant may not be evicted without an order of the court. If a tenant stays on in the property after the end of the fixed term and the landlord does not ask them to leave, they will become a periodic tenant if no new fixed term tenancy is entered into. If a new fixed term tenancy is entered into, the tenancy remains a fixed term tenancy.

Prior to commencing court proceedings, the landlord must tell the tenant of his or her intentions by serving a notice of seeking possession on him or her. Should the court issue an order requiring the tenant to leave, the tenant will be liable for all of the

landlord's legal fees. With this fact in mind, any tenant who is considering staying on in a property after they have been given notice to quit the property should seek advice from one of the advice agencies listed in Section 6.

For further information on the rights and responsibilities of landlords and tenants, see the Department's booklet '*Private Tenancies – A Guide for Private Landlords and Tenants in Northern Ireland*'.

### **Do all occupiers need a court order to evict them?**

The Rent (Northern Ireland) Order 1978 makes it a general requirement for a landlord to obtain a court order before they can evict a tenant. This requirement still applies to licensees, however in this case the process is much quicker as a licensee has no defence to enable them to remain in the property (see above for details about the difference between tenants and licensees.) Any licensee or tenant who is considering staying on in a property after they have been given notice to quit the property should seek advice from one of the advice agencies listed in section 6.

However, although it is not necessary to give 28 days' notice to evict a licensee, there is a common law requirement for a landlord to give notice which is reasonable in all the circumstances, sometimes known as 'reasonable packing-up time'.

## 4. WHAT IS ILLEGAL EVICTION?

### What if it is a protected tenancy?

Tenants in protected tenancies can only be evicted through a court order and only in specific situations. The Private Tenancies (Northern Ireland) Order 2006 brought to an end the creation of new protected tenancies. Any new private tenancy created after 1 April 2007 cannot be a protected tenancy. There are now two forms of private tenancy, namely protected or statutory tenancies (which commenced before April 2007) and other private tenancies. However most tenants who were living in their present home before 1 April 2007 are not protected tenancies. For further details about protected tenancies see the booklet – *‘Protected and Statutory Tenancies – A Guide for Private Landlords and Tenants in Northern Ireland’*.

### Can the landlord end the tenancy by refusing to accept the rent?

A landlord should end a tenancy in the ways described above. Returning the rent to the tenant *does not* bring the tenancy to an end. If a landlord does this, the tenant should keep the rent, perhaps in a bank, building society or other safe place, and should keep a record of any correspondence concerning their offer to pay the rent and the landlord’s refusal to accept it. The tenant should continue to offer the rent, and should seek advice from an advice centre or solicitor.

### Can a tenant be compensated for having been harassed or illegally evicted?

In certain circumstances a tenant may take legal action against their landlord for

‘breach of the covenant for quiet enjoyment’. In other words, the landlord has broken a term which every tenancy agreement contains (whether set out in words or not) that the tenant should be able to enjoy their home in peace. The tenant may also have grounds for damages on other counts according to the nature of the case.

A landlord who evicts the tenant without going through the proper legal process, because they consider that behaviour on the tenant’s part has provoked them to make the eviction without following due process, may use this as part of their defence in court.

The court decides the level of any damages to be awarded. This sum may be reduced if the court considers that:

- the tenant’s behaviour or the behaviour of anybody living with the tenant, justifies an award of less than the full damage, or
- where the landlord offered to let the tenant back into their home before the court proceedings began, it would have been reasonable for the tenant to accept that offer.

A landlord sometimes obtains an order for possession from the court by misrepresenting or concealing the true facts. If this happens, and the tenant proves this in court, the court in most cases can order the landlord to compensate the former tenant.

## 4. WHAT IS ILLEGAL EVICTION?

### **If the tenant does not want to go to court**

Where harassment is occurring as a result of a dispute between landlord and tenant, it should not be necessary in all cases to take the matter to court. There may be cases where the landlord is willing to stop any potential harassment after a letter from the district council or the tenant's solicitors. The district council will initially try to resolve a dispute between landlord and tenant. The Housing Rights Service, Citizens Advice Bureaux and other independent advice centres should also be able to give advice on landlord and tenant issues. However, in the end, a tenant may find it necessary to go to court to enforce their rights. This process is usually not as difficult or off-putting as the tenant might imagine. The tenant may be able to gain support from any of the advice agencies listed in section 6 and if they cannot help they may be able to refer them to a solicitor who could support them. The tenant may also be eligible for legal aid.

## 5. OTHER BOOKLETS FOR PRIVATE LANDLORDS AND TENANTS

The following booklets are available, free of charge, from advice agencies, district council offices and libraries.

They can also be downloaded from the DSD website [www.dsdni.gov.uk](http://www.dsdni.gov.uk) and from the website of the Rent Officer for Northern Ireland [www.rentofficer-ni.gov.uk](http://www.rentofficer-ni.gov.uk)

- *Protected and Statutory Tenancies – A Guide for Private Landlords and Tenants in Northern Ireland*
- *Repairs – A Guide for Private Landlords and Tenants in Northern Ireland*
- *Private Tenancies – A Guide for Private Landlords and Tenants in Northern Ireland*

## 6. SOURCES OF ADVICE AND INFORMATION

**Rent Officer for Northern Ireland**  
**James House**  
**Cromac Avenue**  
**Belfast BT7 2JA**  
**Tel: (028) 9081 9509**  
**Email [info@rentofficer-ni.gov.uk](mailto:info@rentofficer-ni.gov.uk)**  
**Website: [www.rentofficer-ni.gov.uk](http://www.rentofficer-ni.gov.uk)**

will be able to advise on:

- whether or not a rent is registered
- the procedure for registration
- rent determinations
- rent assessment committees

**Housing Executive**  
 (see telephone directory under  
 "Northern Ireland Housing Executive")

**District Offices**

will be able to advise on the payment of housing benefit

**Grants Offices**

will be able to advise on the availability of Grants or on standards for Houses in Multiple Occupation

**Valuation and Lands Agency**  
**Local Office**  
 (see telephone directory under  
 "Government – Department of Finance  
 and Personnel")  
**Website: [www.vla.nics.gov.uk](http://www.vla.nics.gov.uk)**

check website for details of net annual value

**District Council Environmental  
 Health Department**  
 (see telephone directory under  
 the name of the council)

- will be able to advise on whether a certificate of fitness, notice of refusal, notice of unfitness or notice of disrepair has been issued
- will advise on the procedure for issuing a public health notice
- will provide advice in a case of illegal eviction or harassment
- is responsible for enforcing the rent book and tenancy terms regulations

## 6. SOURCES OF ADVICE AND INFORMATION

**Housing Rights Service  
Middleton Buildings  
10 – 12 High Street  
Belfast BT1 2BA  
Tel: (028) 9024 5640**

is a voluntary organisation which provides free independent advice and representation on all housing matters including rent assessment committee hearings

**Local Citizens Advice Bureau  
(see telephone directory under  
"Citizens Advice Bureaux")**

telephone for details of your nearest Citizens Advice Bureau providing advice and information

**or telephone (028) 9023 1120**

**Advice NI  
Tel (028) 9064 5919**

telephone for details of your nearest local independent advice centre providing advice and information

## 7. NOTES

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**This document is available at:**

[www.rentofficer-ni.gov.uk](http://www.rentofficer-ni.gov.uk)  
or [www.dsdni.gov.uk](http://www.dsdni.gov.uk)

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