

Help for landlords



Whether you are a landlord renting out one or multiple properties or a managing agent, unavoidable issues with tenants can arise at any time. We appreciate how stressful this can be so our team are here to help you every step of the way.

At Wilkin Chapman solicitors, we have a dedicated team advising landlords and managing agents on all tenancy issues including: preparing tenancy agreements, serving notices, taking court action to remove troublesome tenants and disrepair claims. By taking our advice at the outset we can help you act quickly to save you precious time and money. Our expert team can offer you:

- 40+ years' collective experience of dealing with possession claims for a variety of landlords and businesses;
- A guarantee to serve any notices, or issue any proceedings, on the same day if we receive all details/payments required before midday or the following day if received after midday;
- A full explanation of the process at the outset and;
- Updates as the case progresses;
- A promise to keep to our quoted fixed fee prices;
- A quick, efficient and cost effective service.

our step by step guide to taking possession of your property

Step 1: Notices

For assured shorthold tenancies there are two types of notices that can be served on a tenant requiring them to give up possession of the property.

- **Section 21 Notice**
- **Section 8 Notice**

Section 21 Notice

A Section 21 notice must be in writing.

It must give the tenant at least 2 clear months notice to vacate (not 8 weeks which is a mistake often made).

Remember - if you have taken a deposit for the property and if you have not protected the deposit and served the prescribed information within the required period, any Section 21 notice you serve will be invalid. We can provide further advice and assistance to help you remove your tenant in these circumstances.

For all tenancies (even those granted on or after 1 October 2015), there are requirements to be complied with before you can serve a Section 21 notice.

1. Each tenant must be given their own copy of:

- a) The Energy Performance Certificate for the property;
- b) The Gas Safety record for the property at the start of the tenancy;
- c) The Gas Safety record which is completed every 12 months during the tenancy;
- d) The “How to Rent – Checklist for renting in England and Wales” booklet downloaded from GOV.UK website – it is regularly updated so make sure you use the most up to date version.

2. There are also new rules preventing landlords serving a Section 21 notice when a tenant has raised issues of disrepair – known as “Retaliatory Evictions”.

3. You cannot serve a Section 21 notice in the first 4 months of the tenancy and the notice is only valid for 6 months from date it is served.

4. There is also a prescribed form of Section 21 notice which must be used.



Section 8 Notice

A Section 8 notice can be used when the tenant is in arrears of rent and the notice must be in a prescribed form.

It is most commonly used in cases of rent arrears (but can be used in other circumstances e.g. antisocial behaviour or other breach of tenancy).

There are different grounds under Section 8 – they appear in Schedule 2 to the Housing Act 1988. Grounds 8, 10 and 11 are the main grounds and the wording of each ground must be specified in the notice.

Ground 8

Under Ground 8, at the date of the service of the Section 8 notice and the hearing;

- a) if rent is payable weekly or fortnightly, at least 8 weeks' rent is unpaid;
- b) if rent is payable monthly, at least 2 months' rent is unpaid;
- c) if rent is payable quarterly, at least 1 quarter's rent is more than 3 months in arrears.
- d) if rent is payable yearly, at least 3 months' rent is more than 3 months in arrears and for the purposes of this, ground rent means rent lawfully due from the tenant.

Ground 10

Under Ground 10, a Section 8 notice can be used if rent lawfully due from the tenant;

- a) is unpaid on the date on which the proceedings for possession are begun; and
- b) was in arrears at the date of the service of the notice.

Ground 11

Under Ground 11, whether or not any rent is in arrears on a date on which proceedings for possession are begun, the tenant must have persistently delayed rent which has become lawfully due.

When to serve?

It is best to use a Section 8 notice when the tenant is two months or 8 weeks in arrears.

Under Ground 8 the court must give a possession order if the tenant has 2 months, or 8 weeks, arrears when the notice is served and when the court hearing takes place.

Once served, a Section 8 notice gives the tenant two weeks to vacate the premises or pay the arrears before proceedings for possession can be issued.

In our experience, the tenant rarely pays after a Section 8 notice is served and possession proceedings usually follow.

Step 1 Fees

Our fees* for Step 1 preparing notices, are £120.00 (including VAT) per notice served by 1st class post.

Step 2: Possession Proceedings

If, when the Section 21 or Section 8 notice expires, the tenant has not vacated the property, possession proceedings must be issued otherwise you may face an unlawful eviction claim and prosecution by the local authority.

Remember

- The local authority do not usually re-house a tenant until a possession order is made.
- If the local authority find out about the arrears they will treat the tenant as intentionally homeless and may not re-house them at all.

Step 2 Fees

Our fees* for Step 2 issuing proceedings, attending the first hearing and obtaining a possession order are £1242* (including the court fee, VAT and an advocate's fee).

If the tenant defends the proceedings or disputes the claim then further charges may be payable. However, by asking you the right questions and obtaining all necessary information, we can normally tell if there will be a defence raised before we issue court proceedings for you and change our approach to defeat any defence.

*Fees quoted are valid as at 01/04/19 and are subject to change.

Step 3: Warrants

If the tenant fails to vacate after the possession order is given then a Warrant of Possession will have to be issued.

Step 3 Fees

Our fees* for Stage 3 for drafting and issuing the Warrant are £241 (this includes the court fee and VAT).



what we need from you

- The tenancy agreement.
- Full names and addresses of the landlord and the tenant.
- A rent statement in four columns.

Date	Rent Due	Rent Received	Arrears
1.1.15	£500	£450	£50
1.2.15	£500	£475	£75
1.3.15	£500	£100	£475
1.4.15	£500	£0	£975

This enables the Judge to see clearly what the arrears are on any given date including on the date of service of the notice and the date of the court hearing - relevant for Section 8 notices.

- Short details of efforts made by you to collect the arrears and any correspondence.
- Confirmation of protection of any deposit and service of prescribed information.
- Copy of any notices served (if you have served notice yourself).
- Where applicable, evidence which confirms you have given each tenant the 'How to Rent' booklet, gas safety record and energy performance certificate.
- Details of any issues raised by the tenant about repairs to the property.



Property Tax Changes - What you need to know

With effect from 6 April 2017:

Interest will not be allowed in full as a deduction from rental income, but will be allowed as a basic rate reduction.

This will be phased in over the years 2017/18 to 2020/2021. This does not apply to companies.

The team at Wilkin Chapman is incredibly efficient and knowledgeable.

New instructions or queries are always actioned without delay and we are kept informed at all times. Their fees are reasonable and their work is of excellent quality. Transferring to Wilkin Chapman was the best decision we have ever made. They are competent and resourceful and we are very happy with all of the work they have carried out so far.

**SHIBANI PUSHPARAJAH,
MSL LEGAL EXPENSES LTD**

We have had a close association with Wilkin Chapman over many years.

They know our industry inside out. They work quickly and efficiently to remove troublesome tenants and help our landlords limit financial losses. They always keep to their fee quotes which are agreed up front and have been proactive in providing information and guidance on the changes to the legal landscape before they come into force.

HUMBER LANDLORDS ASSOCIATION, TONY WILLIAMSON, CHAIRMAN

As a professional landlord operating a large portfolio of properties efficiently and without using agents, it is vital that I have a firm of solicitors at my right hand to intervene and deal effectively with tenants who fail to comply with their obligations.

Over the past 10 years Wilkin Chapman has been my silent/integral partner for both my business and personal affairs. Their level of expertise has resulted in a 100%, cost effective outcome for my business in all challenging legal matters.

They are an approachable firm, whose early intervention and guidance immediately removes the personal and emotional strain which is created in all disputes.

GEORGE MARRAY

Other services you may consider

Domestic Property: With our fixed fee service, we handle all aspects of buying and selling property. Please ask for further details on our fees.

Corporate & Commercial: We can advise you on a wide range of commercial issues including company formations for tax purposes, memorandum and articles of association, incorporation of a new company, shareholder agreements and general corporate structure.

Wills, Estates, Tax and Trusts: We can help you take steps to plan for and deal with the changes that life may bring and advise you on making or updating your Will, tax, trust and estate planning issues.

We can also help you make a Lasting Power of Attorney where you can choose people you trust to manage your affairs on your behalf should you become physically and mentally incapable of doing so.



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Family: Whatever your new direction in life, we offer advice on the full range of family matters and can advise on the best process for you.

Personal Injury: We offer advice for private individuals and commercial businesses on making and taking claims relating to personal injury.

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