



## Introduction

As with all relationships, the landlord and tenant relationship does not always go smoothly. Unfortunately some landlords do not behave in an acceptable way.

There may be many reasons for this. Perhaps your landlord does not understand tenants' rights and genuinely believes, for example, that he can enter the property as and when he likes.

Perhaps your landlord may think that you are not behaving properly, for example because you are not paying rent or because he thinks you are not looking after the property properly. He is entitled to complain about this, but occasionally this escalates into behaviour which can be classed as harassment.

And there are still some landlords (including some criminal landlords) who have no respect for their tenants rights, who if they consider it to be in their

## Harassment, guidance for tenants by Tessa Shepperson

interests, will simply ride roughshod over the tenants, for example if they want them to leave.

This article looks at all these situations and gives guidance on when behaviour is or is not harassment. It also gives guidance to tenants on how you can deal with what can often be a difficult, and sometimes frightening, situation.

*Note: for convenience only, both landlords and tenants are generally referred to throughout as 'he' or 'his'.*

## What is harassment?

Harassment is quite a wide topic. This article will only look at harassment in a landlord and tenant context. For other types of harassment, have a look at an excellent web-site on harassment law by barrister Neil Addison at [www.harassment-law.co.uk](http://www.harassment-law.co.uk).

Basically harassment, in a landlord and tenant context, is behaviour which interferes with the tenants use of the property, or behaviour which causes tenants to leave the property (when they would otherwise have stayed) other than by bringing a county court claim for possession.

## The law

There are two main systems of law in England and Wales.

**The civil law.** This is where people can take a private dispute to the courts to be resolved by a Judge, and ask to be awarded some sort of remedy, normally either financial compensation or (for certain types of case) an injunction from the court ordering a party to do or (more normally) refrain from doing something. Someone who refuses to obey an injunction can be imprisoned.

**The criminal law.** This is there to punish wrong doers, and cases are generally brought by the state, although it is possible to bring a private prosecution (e.g. shops will often prosecute

shoplifters). Although the purpose of the criminal law is punishment not to compensate the victim, it is possible for compensation orders to be made by the court in some cases.

Let us look at the two main legal bases for claims for harassment under the civil and criminal law.

## The covenant of quiet enjoyment - the civil law

A tenancy agreement is a contract, so any civil claim will basically be for breach of contract. All tenancy agreements have a clause, generally to be found in a section (usually a rather short section) on the landlords obligations, which runs something like this:

*“The Landlord will allow the Tenant peaceably to hold and enjoy the Property during the term without unreasonable interruption from the Landlord or any person rightfully claiming under or in trust for the Landlord, subject to the Landlord's right to take any lawful steps to enforce his rights against the Tenant if the Tenant breaks any of the terms of this Agreement.”*

This clause is known as the ‘covenant of quiet enjoyment’. This does not mean that you must be quiet or ‘enjoy yourself’ in the property. It means that your landlord must allow you to live in the property without interference, other than by lawful methods. The two main lawful methods are by agreement with you, or by obtaining a court order.

The covenant of quiet enjoyment applies to all tenancy agreements. If it is not specifically written into the tenancy agreement it will be implied. Any clauses in the tenancy agreement which interfere with the effect of it, for example a clause allowing your landlord to enter the property using his keys whenever he likes, will be void (ie invalid).

If your landlord breaches the covenant of quiet enjoyment (or indeed any other clause in the tenancy agreement) you can bring a claim in the county court for financial compensation or damages, and an injunction either to force him to let you back into the property (if you have been evicted) and/or to stop the harassment.

## **The Protection from Eviction Act 1977 - the criminal law**

This important Act specifically prohibits the following and makes them a criminal offence:

- ✓ Physically evicting a residential tenant other than by court proceedings
- ✓ Doing anything to cause the tenant to leave the property and give up his tenancy
- ✓ Preventing a tenant from exercising his rights under the tenancy agreement

Also

- ✓ Doing anything which will interfere with the ‘peace or comfort’ of the tenant or members of his household
- ✓ Withdrawing or withholding services which are reasonably required for the occupation of the property as a residence

So far as the last two are concerned, the offence is committed if the landlord (or his agent) knew, or had reasonable cause to believe, that his conduct was likely to cause the tenant to give up the tenancy

or exercise any right or remedy in respect of the property.

The fact that the Act specifically uses the words '*or had reasonable cause to believe*' means that even if your landlord did not do the harassment (whatever it was) specifically intending to make you move out, if the harassment was something which was likely to have this effect, then your landlord will normally still be guilty of an offence.

An offence is not committed if your landlord (or his agent) reasonably believed that you had moved out or if he had reasonable grounds for thinking that he was entitled to withhold or withdraw the service.

**How this affects occupiers who are not tenants.** In this article I have used the word 'tenant' as the article is on 'advice for tenants'. However note that the act also applies to residential occupiers who are not tenants, but who are licensees (people who are entitled to live in the property but who do not have the legal rights of tenants).

For example if you rent accommodation on a boat, or are required to live in certain accommodation because of your job (both examples of licensees), you will also be protected under the Act.

However lodgers (people who share living accommodation with their landlord) are specifically excluded from protection under the Act, as is holiday accommodation.

There are a few other types of accommodation to which the Act does not apply, for example some types of hostel accommodation provided by registered social landlords, and accommodation centres under the Nationality Immigration and Asylum Act 2002.

Occupiers living in these 'excluded' types of accommodation can be evicted without a court order, save that landlords cannot use force to do this.

If the occupiers refuse to leave voluntarily and it is impossible to evict them peacefully, the landlord will still have to get a court order (under the Criminal Law Act 1977), but the court procedure to be used will be the same as that used to evict

squatters, which is quicker than normal possession proceedings.

Someone who commits an offence under the Act can be prosecuted under the criminal law, and if convicted can be fined or (for serious cases) imprisoned for up to 6 months, or both. Prosecutions will be in the Magistrates court.

## What behaviour can be harassment?

The following types of behaviour will be harassment under both the civil and criminal jurisdictions:

### Physical eviction.

This is the worst case scenario where you are locked out of the property and your possessions either destroyed or put outside in bin bags etc.

## Cutting off services.

This is where your landlord arranges for one or more of the essential services, such as electricity, to be cut off.

Note that if the service is cut off by the *service provider* e.g. because you have not paid your gas or electricity bill, your landlord will not be at fault. However if it is your landlord who cuts off the service, perhaps because you are behind with your rent, where rent is inclusive of the cost of services, then this is harassment.

## Damaging the property/failure to maintain.

This can be where the landlord does something to damage the property such as taking out doors and windows. Although this sounds extreme, some criminal landlords have been known to do this sort of thing, to force tenants to move out.

On a lesser scale it will also be deemed harassment if your landlord fails to do essential maintenance to

the property. For example failing to repair the boiler or electrical faults.

Landlords are obliged under the repairing covenants (section 11 of the Landlord and Tenant Act 1985) to maintain the structure and exterior of the property and the installations for services, space and water heating.

This obligation is not conditional (for example) on tenants paying rent, and tenants are entitled to expect the property to be properly maintained.

## **Entering the property without consent.**

This is frequently a problem. Often landlords simply do not understand that once a property has been let to a tenant, they lose most of their rights in respect of it (save for the right to receive rent and the right to get the property back after the tenant has left) and cannot just go in and out as they please.

The only occasions when your landlord is entitled to enter the property without a specific invitation from you are

- ✓ when carrying out the regular inspection visits (where they have to give at least 24 hours notice in writing) and
- ✓ in a case of emergency.

So far as inspection visits are concerned, these should not be too frequent (four times a year is normal) and should genuinely be for inspecting the condition of the property (i.e. rather than for intimidating or spying on you).

Sometimes tenants will not want landlords or their agents or workmen going into the property unless they are there. This is entirely reasonable. If you have objected to a particular appointment, then your landlord cannot enter the property at that time.

Sometimes however tenants object to landlords and their agents entering the property at all to do inspections. My view is that you are entitled to forbid your landlord to enter your property to do inspection visits if you wish, and if you do this then your landlord is not entitled to enter the property.

However you will then be in breach of your tenancy agreement and your landlord may be able to use this as the basis of a court claim for possession.

You should also note that you will not be entitled to complain about (or seek compensation for) your landlords failure to keep the property in repair if the reasons the repair work has not been done is that you refused to let him in to do inspections!

So far as emergencies are concerned, this needs to be something of the order of a fire or other real danger.

## **Intimidating behaviour.**

Perhaps the most obvious example of this when landlords go round shouting at tenants because they have not paid their rent.

However any behaviour which puts you in fear or which affects the way you use the property will be deemed harassment.

**Harassment-Claims 4 U**

**CALL 05981 555 476 9834 NOW!**

**No Win No Chance**



**TAKE THE CASE OF MR X, WHO DOESN'T  
REALISE THAT EVEN WHILE HE'S SAT  
HERE, THE LANDLORD IS AT HOME,  
THROWING HIS STUFF INTO THE STREET...**

# Remedies

Both the civil and the criminal systems can be used in connection with harassment cases.

## Local Authority assistance.

For most cases you will be best off going to see your Tenancy Relations Officer or Housing Advisor at your Local Authority, most of whom run housing advice services.

Local Authorities are the main organisations empowered to enforce the provisions of the Protection from Eviction Act 1977. The officer will write to your landlord for you, and if necessary bring a prosecution at the Magistrates Court. Often a landlord is not aware that he is breaking the law, and a letter from the Local Authority will stop the offending behaviour.

## Self Help.

Before taking any sort of self help action, you must first write to your landlord (or his agent where appropriate) asking him to stop. Sign and date the letter and make sure you keep a copy. It is best to

deliver the letter by hand (perhaps with an independent witness present), so if challenged you can prove that it was served.

For situations where your landlord is persistently entering the property without your consent, the most obvious thing to do is to change the locks.

Most tenancy agreements will prohibit this, however it can be justified if the only reason you are changing the locks is your landlord's breach of the covenant of quiet enjoyment.

In particular female tenants who are frightened by male landlords letting themselves into the property without giving notice should, if the landlord continues to do this after being asked to stop, have no hesitation in changing the locks.

This is also the case if the person entering the property is the landlord's agent or someone who has been given a key by the landlord.

The other main area of self help is in the context of disrepair, which technically can come under the definition of harassment. However this is not covered in this article and readers are referred to

the other articles and items on the Landlord-Law site on disrepair claims.

## County court claims.

In many (although not all) cases of harassment you are entitled to claim compensation. In serious cases you can also ask the court to make an injunction forbidding your landlord to continue the harassment behaviour.

If you have actually been evicted, you can claim compensation for unlawful eviction and (if you want this) an injunction allowing you back into the property.

Bringing a court claim is not a simple matter however, and if you are thinking of this you should get legal advice before taking any action.

Free legal advice can be obtained from

- ✓ the Citizens Advice Bureau,
- ✓ the housing charity Shelter (who have offices in various parts of the country),
- ✓ a Law Centre,
- ✓ some Local Authority Advice centres.

- ✓ Plus some firms of solicitors will offer an initial free interview.

If you are on benefit or a low income you may be entitled to free legal aid.

If you have a financial claim, some solicitors firms may be prepared to act for you on a 'no win no fee' basis. However be very careful about signing up to a financial agreement, particularly if you are signing with a claims company rather than with the solicitors firm itself.

## Formal complaints

If it is your landlords agent who is causing the harassment, if they are a member of a professional organisation there will normally be a complaints procedure you can use. The main organisations are:

- ✓ the National Approved Letting Scheme (NALS)
- ✓ The Association of Residential Letting Agents (ARLA)
- ✓ The Royal Institute of Chartered Surveyors (RICS)
- ✓ The National Association of Estate Agents (NAEA)

You will be able to find information about these organisations' complaints procedures from their web-sites (see further information below).

Unfortunately, in most cases where it is an agent causing the problem, it will be a 'cowboy' agent who is not a member of any professional organisation. However in this case consider speaking to your local **Trading Standards Office**. They have enforcement powers in respect of businesses who are not complying with consumer protection legislation.

You can also consider speaking to Trading Standards if it is the landlord who is causing problems, but except in the case of larger professional landlords (who realistically are most unlikely to harass their tenants) you will probably be better off speaking to someone at the Local Authority Housing Advice service as suggested above.

## Conclusion

Harassment can be terrifying, but there are remedies and sources of help available. If you are unfortunate enough to suffer harassment, you

should seek legal help and advice as soon as possible. Generally the best source of help will be your Local Authority advice service, but see also the web-sites for further information below.

## Further information

[www.adviceguide.org.uk](http://www.adviceguide.org.uk) - **Advice Guide**. This is an excellent web-site run by the Citizens Advice Bureau. As well as providing information you can also use it to find your local CAB office.

[www.shelter.org.uk](http://www.shelter.org.uk) - **Shelter**. This is a national housing charity. You can use the web-site to find your local office where you can go and get help and advice. Plus they run an advice line on **0808 800 4444** where you can ring for free advice. The lines are open 8.00 am to midnight seven days a week.

**Law Centres** - Many towns now have Law Centres where you can obtain free advice, and possibly legal help.

[www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk) - The **Community Legal Service** operate the service

generally known as ‘Legal Aid’ You can use this web-site to find out if you qualify for legal aid.

[www.victimsupport.com](http://www.victimsupport.com) - **Victim support.** This is a national charity which helps people affected by crime. If you have suffered serious criminal harassment then this service can help you recover from the experience.

[www.harassment-law.co.uk](http://www.harassment-law.co.uk) - This is a web-site run by barrister Neil Addison which contains advice on other types of harassment.

[www.nalscheme.co.uk](http://www.nalscheme.co.uk) - **The National Approved Letting Scheme.** An accreditation scheme for lettings and management agents

[/www.arla.co.uk](http://www.arla.co.uk) - **The Association of Residential Letting Agents** (known as ARLA)

[www.rics.org](http://www.rics.org) - **The Royal Institute of Chartered Surveyors** (known as RICS)

[www.naea.co.uk](http://www.naea.co.uk) - **The National Association of Estate Agents** (known as NAEA)

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