

Recovering Possession from a Tenant



Being a residential landlord is not always easy, particularly if disputes arise between you and your tenant. If you want to end the tenancy to regain possession of the property, you will need to serve notice on the tenant (depending on the procedure or grounds for possession you are using). If the tenant does not leave after you have served a valid legal notice, you will have to apply through the Courts for an order for possession (to evict the tenant).

Based at our offices across Sussex, our team of experienced and specialist legal advisers provide effective, practical and timely advice to landlords and agents regardless of the number of properties owned or managed, from a single property to large portfolios. We believe that our proactive and cost effective approach will be advantageous to all landlords. Whatever the circumstances and grounds for seeking possession, you must not attempt to evict the tenant yourself; you must let the Courts do this on your behalf. If you take the law into your own hands, you could incur heavy fines and/or face criminal proceedings.

We have two options to help you recover possession:

LawEasier – our online assisted DIY option

Fixed Fee Scheme – traditional full-service option

LawEasier - £150*

Our LawEasier system uses technology that assists you to create the relevant documents you need to recover possession and provides online guidance on the process. Whilst essentially a DIY option, our fee includes a single call to our legal advice line and the facility to have one of your documents reviewed by a solicitor if needed. This option excludes all disbursements and Court fees. More details can be found at <https://www.laweasier.co.uk/for-you/landlord-tenant>

Fixed Fee Scheme

This scheme helps you recover possession of residential properties let under Assured Shorthold Tenancies (AST) where there are rent arrears or where the tenant is not at fault. The scheme includes one of our specialist solicitors to do all work for you from service of the appropriate Notice Seeking Possession to eviction if necessary and standard Court fees (as detailed)*. Our fees are broken down by stage and procedure required.

Acceptance of Instructions

£300

Acceptance into the fixed fee scheme is conditional on you providing copies of all relevant paperwork at the time of instruction:

- the Tenancy Agreement (plus extensions and/or renewals)
- deposit protection documentation including Prescribed Information given to the tenant
- the Energy Performance Certificate, Gas Safety Record and Government 'How to Rent' Guide given to the tenant
- confirmation that smoke alarms and carbon monoxide detectors are installed and were checked at the beginning of the tenancy
- an accurate and up to date Rent Statement (if rent arrears are being claimed)
- all correspondence or demands sent to the tenant regarding rent arrears and/or requests for possession of the property
- confirmation of Right to Rent Checks

Upon accepting your instructions, we will consider all documents, highlight any issues, serve the appropriate Notice Seeking Possession, and notify you of any response from the tenant.

Issue of Proceedings

On expiry of the Notice, we will seek your instructions to issue possession proceedings. At this point a Court fee of between £325 and £355[†] is payable before we can proceed. We will prepare and submit the proceedings to the Court via the Accelerated or Standard Procedure:

Accelerated Procedure

£300

This procedure can only be used for straightforward possession of your property on a 'no fault' basis following service of a Section 21 Notice and providing all legislative requirements have been met. The tenant will have 14 days after service of the proceedings to file a defence, failing which a 14-day Order for Possession and fixed costs can be requested.

Standard Procedure

£400

This procedure must be used if you are seeking an Order that the tenant pay rent arrears or if the Accelerated Procedure cannot be used. The Court will list a hearing date and allow the tenant 14 days after service of the proceedings to file a defence. We will notify you when the Court confirms the proceedings have been issued and served on the tenant, together with the date by which the tenant may file a defence.

Obtaining Order for Possession

In the absence of a defence being filed by the tenant, we will seek your further instructions to request an Order for Possession and fixed costs (Accelerated Procedure) or to prepare and submit the necessary evidence for the hearing (Standard Procedure).

Accelerated Procedure

£150

We will request a 14-day Order for Possession and fixed costs to be paid by the Tenant and forward a copy of the Order to you when received from the Court. We will also serve the Order on the tenant, requesting they vacate the property and pay your costs as ordered, failing which enforcement action will be taken.

Standard Procedure

£800

Approximately 14 days before the hearing we will prepare evidence required by the Court, including:

- a witness statement on your behalf (sent to you for approval and signature);
- all relevant exhibits, e.g. Land Registry documents, an up to date Rent Statement (if applicable), etc.

Once approved and signed, your evidence will be filed at Court and a copy served on the tenant no later than 2 clear days before the hearing**

A copy of the tenant's evidence will be sent to you if filed at Court and served upon us. We will instruct an advocate to attend the hearing on your behalf to seek a 14-day Order for Possession to include an Order that the tenant pays rent arrears claimed to the date vacant possession is given, plus your fixed costs (unless alternatively instructed). Please note that the fees of any advocate instructed are included in the term "disbursements".

Following the hearing, we will advise you of the outcome, or if the matter has been adjourned following a defence being filed at Court, or upon new issues having been raised.

Enforcement Action

£250

If the tenant does not leave the property as ordered, we will arrange eviction by a County Court Bailiff. A Court fee of £130[†] is payable before we can proceed. Upon the Warrant of Possession being issued, we will advise you of the eviction date. You and/or your agent should attend with the Court Bailiff together with a locksmith (you will be responsible for the locksmith's cost).

[†] Fees correct at time of publication

* Any work required that falls outside of our LawEasier or Fixed Fee Schemes will be charged at our standard hourly rates. All costs are exclusive of VAT which will be added at the appropriate current rate.

** Mayo Wynne Baxter LLP will accept no responsibility for your failure to sign and return a signed witness statement in time.

Offices at Brighton 01273 775533, Crawley 01293 561965 Eastbourne 01323 730543, East Grinstead 01342 310600, Lewes 01273 477071, Seaford 01323 891412, Storrington 01903 743201 and Peacehaven 01273 582680.

The team is happy to discuss further discounts which may be available for multiple instructions and regular clients.

Disclaimer: This document is written as a general guide only and is not intended to provide legal advice.

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