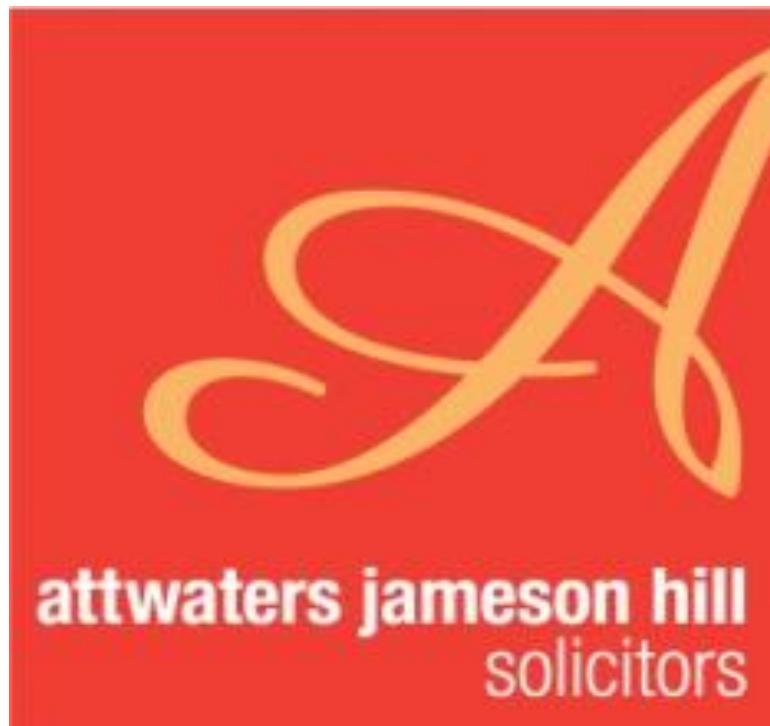


Attwaters Jameson Hill solicitors

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Residential Landlord and Tenant Disputes

Possession Proceedings for Assured Shorthold Tenancies

the basics

In today's world it is becoming ever more common for Tenants to fall behind with rent payments and in some cases stop paying rent altogether. Landlords will often find that when tenants fail to pay rent they also fail to leave and the only way to evict a Tenant legally is to obtain a Possession Order from the Court.

Therefore Landlord's find themselves in the situation of not being able to remove a tenant until they have been through the formal court process of obtaining a Possession Order losing months of rental income.

The three steps to follow in order to lawfully evict a Tenant.

Step 1 Eviction Notice

Section 21 Notice

A Section 21 tenant eviction notice is used to obtain possession of a property by landlords when there are no rent arrears.

The Housing Act provides for two types of notice under Section 21. One type must be used if the term of the tenancy has not come to end. The other must be used if the tenancy agreement has ended but a new tenancy agreement has not been entered into.

Section 8 Notice

A section 8 notice is used to obtain possession of a property when the Tenant is behind with rent or in breach of the tenancy agreement. It can be served at any time during the tenancy agreement.

Step 2 Possession Proceedings

Accelerated possession proceedings

If the Landlord is simply seeking recovery of the Property after the expiry of an Assured Shorthold Tenancy then the Landlord should use the Accelerated Possession Procedure.

The process to obtain the Accelerated Possession Order is as follows:

- Serve the correct Section 21 Notice
- Issue Claim Form within the County Court for the district in which the property is situated.
- Court serves the Claim Form
- Defendant has 14 days to file a defence
- The judge will consider the claim and if satisfied grant the Order for Possession without a court hearing,
- The process should not take longer than 12 weeks, however it is dependent on how quickly the courts process the claim

A Landlord can use this route if there are rent arrears but he simply wants to remove the Tenant at the end of the tenancy agreement and forgo the rent. It is extremely difficult to pursue a Tenant for rent arrears once they have left the property. It is unlikely they will leave a forwarding address or have any assets to enforce any monetary judgment against.

Normal Possession Procedure

If the tenancy agreement has not come to an end and the tenant is in arrears or fundamentally breached the tenancy agreement then the Landlord must follow the normal Possession Procedure.

- Serve correct Section 8 Notice
- Issue Claim Form within the County Court for the district in which the property is situated
- Court serves Claim Form
- Defendant has 14 days to file a defence
- Matter allocated to court track and directions given
- Witness Statements filed
- Hearing
- This process could take up to six months to reach the final hearing.

Step 3 Bailiff

If the tenant does not vacate the property even after you have obtained an eviction order, a bailiff will need to be instructed to evict the tenant.

Unfortunately, the County Court bailiffs are very busy and over worked. In some instances, you may have to wait for 10-12 weeks for a bailiff to attend and evict the tenant. It may in this situation be possible to instruct the London Sheriff's office to carry out the eviction but it is dependant on the Possession Order granted by the court. The Sheriffs fees are higher than County Court bailiff's fee.

fees

If you are a Landlord looking to instruct a solicitor to obtain a Possession Order we would be happy to assist. The fees and disbursements from initial instructions to eviction are:

Action	Accelerated Procedure	Normal Procedure
Section 21 Notice	£50.00 plus VAT	
Section 8 Notice		£75.00 plus vat
Court fee on issue of claim	£175.00	£175.00
Solicitors costs	*£300.00 plus VAT	**£650.00 plus VAT
County Court Bailiff fee	£110.00	£110.00
Solicitors costs for instructing and liaising with bailiff	£50.00 plus VAT	£50.00 plus VAT

*If a hearing is necessary additional costs will be incurred, we estimate our fees for attending will be in the region of £200.00 to £300.00 plus VAT.

**solicitors costs include attending court for the eviction hearing, if more than one hearing is required a further fee of £150.00 plus Vat will be incurred for each subsequent hearing.

Court fees quoted are correct at the time of printing but may change from time to time.

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For more information please contact



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Leanne deals with all aspects of Commercial and Civil disputes, including breach of contract claims, contentious probate and court work.

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