



YOUR HOUSING RIGHTS

**A brief
guide for
people at
risk of
housing
crisis**



homeless action scotland

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A brief guide for people at risk of housing crisis



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Everyone has the right to assistance when homeless

In Scotland there are specific housing rights in place for all people over the age of 16, but not everyone knows what their rights are or how to go about making sure their housing rights are upheld.

This guide aims to make clear

- What my housing rights are
- What I can do if I get into trouble with my housing
- Am I really homeless if I've got a place to sleep for the night?
- What I can expect at a homeless interview
- What help I can get
- Where I can find further legal advice and information



If when reading this guide you come across terms you don't understand check the link below to find out what they mean.

<https://www.homelessactionscotland.org.uk/about-us/key-housing-and-homelessness-words/>

My housing rights

Universal Housing Rights



- Everyone who rents has a right to a written tenancy agreement.
This is the basic contract between you and your landlord.
- You have a right to running water, gas or electricity for cooking, heating, and lighting, a functioning toilet, a bath or shower, a place to store food, a service to take away refuse, sewerage and drainage, and access to the emergency services should you need them. Your home should be safe to live in. At a bare minimum, it must be wind and watertight, and a defence against the cold and damp.
- Depending on the type of tenancy you have, your landlord may be limited in how often and by how much the rent can be increased. You may be able to challenge any increase you feel is too much.
- No one should be discriminated against. If you are over 16 your right to housing doesn't depend on age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.



Scottish Housing Rights



The rights you have are dependent on the type of tenancy you hold. There are three main types in Scotland.

- 1 Since 1 December 2017 if you have moved into a place owned by a private landlord you are most likely to have a **Private Residential Tenancy**. If it was before 1 December 2017 you might have a Short Assured or Assured Tenancy. There is no fixed end date to a Private Residential Tenancy or an Assured Tenancy.

To end this kind of tenancy either you have to give your landlord a minimum of 28 days' notice that you will be moving out or your landlord has to apply for a **Notice to Leave**, clearly stating which one of the 18 different grounds, or reasons, for eviction applies and how long you have until you must leave the property.

- 2 If you have moved into a place owned by a Registered Social Landlord, Housing Association or Council you will most likely have a **Scottish Secure Tenancy**. There is no fixed end date to a Scottish Secure Tenancy.

In order end this type of tenancy either you need to give your landlord notice (the amount varies depending on how long you have been a tenant) or your landlord has to apply for a **Notice of Proceedings**, clearly stating which of the 18 grounds for eviction applies and how long you have until you must leave the property depending on to how long you have lived there, but no less than 28 days.

- 3 If your tenancy is a fixed period of 6 months and your landlord is either an RSL or Council you are most likely to have a **Short Scottish Secure Tenancy**.

If you try to end the tenancy before the end date you may be liable to pay the full amount of rent that would have been due up to the end of the fixed period. After the fixed period has ended your tenancy can be ended either by you giving your landlord notice or your landlord giving you notice. Your landlord should tell you why they are ending the tenancy.

What I can do if I get into trouble with my housing

Eviction is rarely the first thing a landlord will do if you have trouble with your housing. A landlord can not evict you without first obtaining an order from the Sheriff Court if you are a social tenant, or the First-tier Tribunal if you are a private tenant.

For any housing problem you might have, your first action should be to contact your landlord or housing officer and let them know. There might be something they can do to help stop things getting worse and ending up in court.

There are three questions you might want to ask when getting help:

① Is it legal?

If you have received written notice that your landlord wants to evict you check that they have followed the right legal process to do so. If they haven't followed the law your eviction might be illegal and could be stopped.

Get advice from your local **Law Centre**, **Shelter Scotland**, or **Citizens Advice Bureau** as soon as possible to make sure.

② Is it unavoidable?

Even if your landlord has followed the law there might be a fair way of stopping the eviction process. A landlord must tell you on which ground – or reason – you are being evicted. There is a list of recognised legal grounds for eviction: a landlord can't invent a reason, it has to be one of those listed.

- In cases of **rent arrears**, you could come to a formal agreement with your landlord to clear them. For example, this could be by paying a little more rent each month.
- If you are **waiting for a benefit claim** to be processed you could offer to give them copies of any receipts or paperwork related to your claim to prove you will be getting money for rent soon.
- In cases of **anti-social behaviour** you could give assurances that you will stop and show them any evidence that you are working with an agency to make positive changes.

If you break an agreement within six months of the date on the **Notice of Proceedings or Notice to Leave** a landlord has the right to continue with the eviction process.



③ Is it reasonable?

Just because a landlord takes you to court/tribunal doesn't mean that it's a done deal and your landlord will automatically get an eviction order.

The court/tribunal may need to be convinced that it is reasonable to make you leave your home.

Your best chance of convincing a court/tribunal that you should be allowed to stay in your home is to be represented in court by an expert.

Law Centres, **Shelter Scotland** and the **Citizen's Advice Service** can all speak on your behalf.

Think carefully before deciding to represent yourself in court: it is unlikely that it will go well for you.

Am I really homeless if I've got a place to sleep for the night?

The short answer is **yes**. You do not have to be sleeping rough to be considered homeless.

The law in Scotland says that your local council has a legal duty to provide advice and assistance to all people who are homeless or threatened with homelessness. Although you may have accommodation available for your occupation, you can be considered homeless if it is not "reasonable" for you to continue to occupy that accommodation.

You do not have to "deserve" help with housing: everyone has a right to fair access to services and to be treated with dignity and respect.

You can get housing help from the council if you:

do not have a home of your own

- you are sleeping on a friend's sofa
- you're staying with relatives

are going to have to leave your home

- your home is overcrowded and your family has been forced to live apart
- your home is no longer suitable for your needs because you are elderly or disabled
- your home is in a poor state of repair which is damaging your health
- you're likely to be evicted in the next two months
- you can't pay your mortgage
- you're at risk of violence or you are being threatened

can't get into your home

- your landlord has changed the locks or
- you're not allowed to live there anymore

You are entitled to ask any council for homelessness help.

They cannot refuse to let you make an application if you are homeless or likely to become homeless in the next

56 days.

What should happen when I ask for help

You should be offered a **homelessness interview**.

If you make it clear that you have **no safe place to stay** you should be interviewed on the **same day**.

If you have somewhere safe to stay you might get interviewed the same day or you might have an appointment to return in the next few days.

You may be offered a **Housing Options** interview first. Although this may be useful, in many cases it is not the same as a homelessness interview. Even after a Housing Options interview you still have a right to a homelessness interview.

If you believe that you are homeless and you are not offered a homeless interview when you have requested one this can be known as **gatekeeping**. Gatekeeping is when a council is rationing its resources and in doing so denies someone a service that they have a legal right to access.

Gatekeeping is illegal. If you believe you are deliberately denied a service that you have a legal right to access, seek help immediately from your local **Law Centre, Shelter Scotland, or Citizens Advice Bureau**.



What I can expect at a homelessness interview

Most homelessness interviews take place at a local council office. If you have a disability or other health issue that might make going to a council office difficult a homelessness officer can arrange to visit you where you are currently staying.



If you have difficulties with reading or writing, or if English is not your first language, you can ask for help with this.

You don't have to go alone to your interview. You can be accompanied by friend or a support worker.



A homelessness officer will ask you a lot of questions about how you became homeless and your personal circumstances. These are to help assess what help you might be eligible for, it's not being nosy or intrusive for no reason. You are there to be assessed for your right to housing, help and assistance, not to be judged.

If you have any relevant paperwork, it is useful to take this with you to the homeless interview. The sorts of relevant documentation you could be asked for includes, identification (passport, birth certificate, visa, driver's licence, etc), proof of income – including benefits, proof of address, your tenancy agreement, any letters from the courts, medical letters, bank statements, utility bills, divorce papers, crime numbers, bail conditions, proof of pregnancy, discharge from armed forces, letters from the DWP, etc.



If you can't get hold of the information straight away, don't worry – you can take it to your council at a later date, but the more prepared you are in advance the quicker you are likely to receive help.

Three Tests

There are three main “tests” that the Council needs consider before deciding if they can offer you settled accommodation.

1. Are you legally homeless or threatened with homelessness?

This can include if where you are staying is unsuitable or dangerous, or if you have been asked to leave your home within the next two months

2. Did you become homeless or threatened with homelessness intentionally?

Did you choose to do something – or not do something (such as not paying rent) that has led to your being made homeless? (This can be complicated and you should take advice about your situation if the Council says this applies to you.)

3. Do you have a local connection?

Do you have links to the area to which you are applying? Links can include things such as family, work, studying, etc.



Questions You Might Be Asked

Other questions you are likely to be asked might include

- where you have been living
- why you left -or will have to leave- your accommodation
- whether you will be able to return there
- whether there is anywhere you can stay on a short term basis (such as with friends or relatives)
- any problems you have had with domestic abuse
- whether you are fearing violence or harassment
- your income and whether you are claiming benefits etc.
- any health conditions you or anyone in your household has. This includes,
 - physical disabilities
 - mental illness
 - addictions or dependencies
 - old age
 - pregnancy
- how many people there are in your household and who they are. This includes,
 - anyone who currently lives with you, including partners and children
 - anyone who could be expected to live with you if you had accommodation where you could all live together (such as extended family and children for whom you have a legal responsibility)



Sensitive Information

It's important that you explain your situation fully so that any accommodation you're given,

- is not overcrowded
- is suitable for you to stay in
- meets any health needs you may have
- meets social needs (such as close to health services, family, or schools if you have children or are pregnant)



You may find it hard to tell the homelessness officer if you

- have been experiencing domestic abuse,
- have been targeted for harassment,
- have been the subject of racist abuse,
- if you are from the LGBTQ+ community,
- if you have an invisible disability,
- if you come from a looked after background,
- or if you are pregnant.

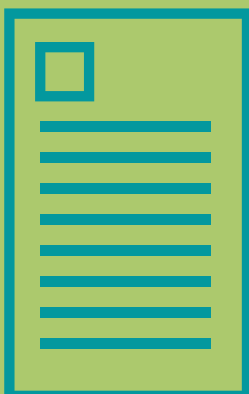


However, it's important that you tell the officer about this as it may help make clearer what the council's duty to help you might be and **you might have a right to additional help.**



After the assessment, a decision letter detailing if you're eligible for assistance in finding settled accommodation is usually sent within 28 days.

This letter will also highlight that you have 21 days to appeal a decision if you disagree with the outcome.



What help I can get

If you have nowhere suitable to stay, have made a homeless application, and the council believe you may be eligible for further assistance, you are entitled to be offered emergency temporary accommodation even if they need to do further investigations.

Initially you are likely to be offered emergency accommodation. This includes,

- **“rapid access accommodation”** for rough sleepers or those at risk of rough sleeping. It must be of a good standard, have a lockable bedroom, and offer specialist support services
- **a shared tenancy** with no more than five people. It must be of a good standard and have a lockable bedroom
- **community hosted accommodation** in a member of the community’s home

If you have children living with you there is a limit of 7 days in “unsuitable accommodation” (e.g., B&Bs) during which time the council must find you somewhere more suitable.

Other temporary accommodation should then be found for you.

Temporary housing can be:

- private flats
- housing association flats
- council houses
- bedsits
- supported housing
- hostels, bed and breakfasts, or hotels (in an emergency or as a last resort)



In all types of temporary accommodation, it is possible that you will need to share facilities such as a living room or kitchen with other people.

Paying for temporary accommodation



Temporary accommodation is not free, however the council must take into account your finances when working out what rent to charge you.

If you are on benefits or have a low income you may be entitled to housing benefit/the housing component of Universal Credit to pay for your accommodation.

As well as the charge for rent there are often additional costs, such as meals, cleaning services, heating, and lighting, that are not covered by benefits.

You are entitled to apply for a **Discretionary Housing Payment (DHP)** to help cover this. DHP is a temporary payment, not a long term benefit. It is not a loan and does not need to be paid back.

It is always advisable to contact a specialist agency for help and support.

Even if you haven't contacted an advice or support agency before it is important to get in touch with an adviser straight away if

- **you are told that you can't get temporary accommodation**
- **you are just handed a list of hostels and told to find somewhere yourself**
- **you are told that you cannot get help to store your belongings**
- **you have reported unsuitable temporary accommodation and the council won't help**
- **your temporary accommodation doesn't suit your needs**
- **you have been offered rapid access, shared tenancy, or community hosted accommodation and you don't want to accept it**
- **you're asked to leave temporary accommodation and you have nowhere else to go**
- **you need to appeal an unfavourable decision**
- **the council charge you rent that you can't afford**

**Sometimes councils make mistakes, sometimes those mistakes break the law.
No one in Scotland should be left to sleep rough.**

Where I can find further legal advice and information

Shelter Housing Law Service
0131 466 8053/0808 800 4444

Citizen's Advice Scotland
<https://www.cas.org.uk/>

Other agencies:

The Aberdeen Law Project
01224 272 434
School of Law, University of Aberdeen,
Taylor Building,
Aberdeen, AB24 3UB

Gordon Rural Action
01466 793676
Huntly Business Centre,
Gordon Street, Huntly
AB54 8FG

Robert Gordon University Pro-Bono
Unit 01224 263408

Clackmannanshire Tenants and Residents Federation
01259 450000
Kilncraigs, Alloa, Clackmannanshire,
FK10 1EB
housing@clacks.gov.uk

Open Secret/Wellbeing Scotland
01324 630 100
14- 16 Bank Street, Alloa,
Clackmannanshire,
FK10 1HP

Dundee Law Centre
01382 918230
163 Albert Street,
Dundee,
DD4 6PX

Cl@n Childlaw
0131 475 2567 or 075 275 66682
Norton Park, 57 Albion Road,
Edinburgh,
EH7 5QY

Ethnic Minorities Law Centre - Edinburgh
0131 229 2038
103-105 Morrison Street,
Edinburgh, EH3 8BX

Edinburgh University Legal Advice Centre
0800 073 0150
School of Law,
University of Edinburgh,
7 Bristo Square,
Edinburgh EH8 9AL

Community Help and Advice Initiative
0131 442 2100
Advice Service 0131 442 1009
CHAI Head Office, ELS House,
555 Gorgie Road,
Edinburgh,
EH11 3LE

Granton Information Centre
0131 552 0458
134-138 West Granton Road,
Edinburgh,
EH5 1PE

The Advice Shop

0131 200 2360
249 High Street,
Edinburgh,
EH1 1YJ

Scottish Child Law Centre

0131 667 6333
(Under 18's freephone 0800 328 8970)
54 East Crosscauseway,
Edinburgh,
EH8 9HD

Edinburgh Napier Law Clinic

0131 455 2689
219 Colinton Road,
Edinburgh,
EH14 1DJ
<http://enlc.co.uk/>

The Royal Air Forces Association

0131 225 5221
20 Queen Street,
Edinburgh, EH2 1JX

The Royal British Legion Scotland

0131 550 1583
Legion Scotland, New Haig House,
Logie Green
Road, Edinburgh, EH7 4HQ

Scottish Women's Aid

0131 226 6606
2nd Floor, 132 Rose Street, Edinburgh,
EH2 3JD

RNIB

0131 652 3140
12-14 Hillside Crescent, Edinburgh,
Midlothian EH7 5EA

Families Need Fathers Scotland

0131 557 2440
10 Palmerston Place, Edinburgh,
EH12 5AA

MECOPP Carers Centre

0131 467 2994
info@mecopp.org.uk
Maritime House, 8 The Shore,
Edinburgh,
EH6 6QN

Scottish Women's Rights Centre

0141 552 3201
or 01698 527 006
46 Bath Street, Glasgow, G2 1HG

Drumchapel Law & Money Advice Centre

0141 944 0507
Unit 1, KCEDG Commercial Centre,
Ladyloan Place, Drumchapel,
Glasgow,
G15 8LB

Castlemilk Law and Money Advice Centre

0141 634 0313

Gorbals Law and Money Advice Centre

0141 418 1010

Toryglen Law and Money Advice Centre

0141 647 4333

Ethnic Minorities Law Centre - Glasgow

0141 204 2888
41 St Vincent Place, Glasgow, G1 2ER

University of Strathclyde Law Clinic

0141 548 5995
enquiries@lawclinic.org.uk
Rm GH844, Level 8,
Graham Hills Building,
40 George Street,
Glasgow, G1 1QE
www.lawclinic.org.uk

Govan Law Centre

0800 043 0306

0141 440 2503

Orkney Street Enterprise Centre (Units
4 & 6),
18-20 Orkney Street,
Glasgow,
G51 2BX

Govanhill Law Centre

0141 433 2665

Samaritan House, Lower Ground Floor,
79 Coplaw Street,
Glasgow,
G42 7JG

Legal Spark

0141 280 0330

contact@legalspark.co.uk

Savoy Tower, 77 Renfrew Street,
Glasgow,
G2 3BZ

Legal Services Agency

GLASGOW

0141 353 3354

mail@lsa.org.uk

Fleming House,
134 Renfrew Street,
Glasgow,
G3 6ST

GREENOCK

01475 725665

greenock@lsa.org.uk

9 Sir Michael Street,
Greenock,
PA15 1PQ

Midlothian Council Welfare Rights Service

0131 270 7500

enquiries@midlothian.gov.uk

North Lanarkshire Disability Forum

01698 275 710

42 Civic Square,
Motherwell,
ML1 1TP

Perth & Kinross Association of Voluntary Services Ltd (PKAVS)

01738 567076

admin@pkavs.org.uk

The Gateway,
North Methven Street,
Perth,
PH1 5PP

Renfrewshire Law Centre

0141 561 7266

65-71 George Street,
Paisley,
PA1 2JY





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With thanks to our friends at LSA for their services in ensuring this guide accurately represents the law regarding housing rights in Scotland.

