

LEGAL ACTION AND EVICTION

INFORMATION SHEET 14



Legal Action and Eviction – What does it mean?

As a tenant of Easthall Park Housing Co-operative, you signed a Tenancy Agreement agreeing to accept certain rules and conditions. Your Tenancy Agreement is a legal document and if you do not keep to these rules and conditions, the Co-operative, as your landlord, may start legal action against you. Ultimately this may lead to the Co-operative taking you to court and asking the Sheriff to grant an eviction decree against you. This could lead to you and everyone living with you losing their home.

Easthall Park does not want to take legal action against tenants – we view it as last resort. Our staff will do all they can to help and support tenants stay in their homes but if they persistently fail to meet their tenancy obligations – whether that is not paying their rent or acting in an anti- social way - the Co-operative will take legal action.

This leaflet explains the various steps in the legal action process and what you can do to prevent it leading to your eviction.

How will you know if you are being threatened with legal action and eviction?

It shouldn't come as surprise to you! If you haven't been paying your rent or have broken arrangements to pay your arrears our staff will have been in touch with you several times to try and get you to deal with the matter. They will also before will have warned you and will have warned you that failure to address the issue would lead to legal action. Similarly if you have broken another tenancy obligation then staff will have been talking to you about this in an effort to get you to do something about it.

LEGAL ACTION AND EVICTION

INFORMATION SHEET 14

So what will happen?

There are 5 key stages in the process

Stage 1: The Co-operative will serve you with a Notice of Proceedings

Stage 2: The Co-operative will raise court action against you

Stage 3: Your case will be heard at the Sheriff Court and the Sheriff will decide what happens next

Stage 4: The Sheriff will grant us a decree for your eviction

Stage 5: The Co-operative will arrange for the Sheriff Officers to enforce the decree and evict you from the property.

This leaflet will explain a bit more about each of these stages but always remember that it is possible for legal action to be stopped at any stage of the process if you co-operate with us to resolve the issues that have led to us taking legal action in the first place.

Stage 1 - Notice of Proceedings

A Notice of Proceedings is a legal document which will tell you that the Co-operative intends to raise court action against you. It will lay out why the Co-operative is taking this action and what part of your tenancy agreement you have failed to keep to - for instance you have not paid your rent or have behaved in an anti-social manner.

By law, a Notice must be served on **everyone in your household over the age of 16** explaining why the Co-operative is planning taking action against you.

This Notice is NOT an eviction notice - the Co-operative cannot evict you without getting a court order. However the notice tells you that the Co-operative intends taking court action against you to get an order. Please do not ignore it - at this stage if you

take action to sort things out we may decide not to take the next step of actually taking you to court.

For example

- If you have rent arrears you could come to an arrangement to deal with them
- If you have let the condition of your house or garden deteriorate, you could take steps to improve things

So, if you get a Notice of Proceedings you **MUST** contact your housing officer and agree what you should do to avoid legal action.

The Notice of Proceedings tells you the earliest date we can raise court action against you (this will be at least 4 weeks after it is served). After that date the Notice is valid for 6 months. If you take the action the Co-operative requires (for instance if you keep to an arrangement to pay your rent arrears, or there is no repetition of anti-social behaviour) within this 6 months period then we will not ask our solicitors to raise court action.

Because of the seriousness of the situation, you may also want to get independent advice. There a number of organisations which can help you – some of them are detailed at the back of this leaflet.

Stage 2 - Court action

If you do not sort out things out, we will ask our solicitors to start court action. We will write to you telling you that we are doing this. We will also notify the Council's homelessness team that you are going to be taken to court and could potentially lose your home.

You will receive a Summons from the court. You must not ignore this - if you do you may be evicted. Contact us - it is not too late, even though court action has started, to talk to us and come to an arrangement with us in order stop us asking the Sheriff to grant an order for your eviction.

LEGAL ACTION AND EVICTION

INFORMATION SHEET 14

If we cannot come to an agreement at this stage we will let you know that we will be asking the Sheriff to grant a decree for eviction.

You should let the Court know in writing why you think you should not be evicted or why you want the eviction stopped. This is called 'replying to the summons' and you'll find details on what to do on your summons.

Although you can represent yourself in court, we strongly advise you to seek advice and assistance from one of the agencies detailed at the back of this leaflet or from a solicitor.

Stage 3 - The Court hearing

Whether or not you are represented, it is best if you actually attend court personally. You or your representative will have chance to give your side of the story. If you accept that you have broken a condition of your tenancy agreement then you will have a chance to say what you will do to remedy the problem and this could prevent the Sheriff deciding to grant an order for your eviction.

For example

- If you have rent arrears, how you will clear them
- If you have been anti-social, what you have done to ensure it won't happen again.

The Sheriff will hear both sides of the case and make his decision. He can take any of these actions

- **Continue the case**

The Sheriff may not make a final decision but arrange a date for another hearing in a few weeks – this could be to allow you to set up and keep to an arrangement to deal with an arrear, get a housing benefit claim in or simply to get more evidence

- **Sist the case**

If the Sheriff sists this case it means it is being suspended for now but it means it can be called back to court if you do not keep to any agreement you have made

- **Grant decree**

If the Sheriff grants decree then it means they have made a decision to grant the order the landlord requests. This decree could be for one or all of these

- o Eviction – ending your legal right to live in the Co-operative's property
- o An order for you to repay any money owed to the Co-operative
- o An order to pay court costs

The Sheriff will advise you of his decision at the end of the court hearing. You will also receive a letter from the Co-operative telling you what the decision was and what action the Co-operative will be taking

Stage 4 - Eviction decree granted

If a decree is granted for your eviction, the Co-operative can legally evict you. The earliest this can happen is normally 14 days after the decree has been granted but the decree is valid for 6 months after this.

We will write to you after the court date and advise you that we have obtained decree. Even at this stage it may be possible for you to take action which will mean that the Co-operative will not evict you. If you are being evicted because of rent arrears, full payment of the sum outstanding will normally stop the eviction action. You will also be expected to make an arrangement to pay court costs.

If you are being evicted for anti-social behaviour it is unlikely the eviction will be cancelled. However you should still contact the Co-operative to discuss the situation and any assistance which may be available to you.

Even at this late stage, it is not too late to get legal advice from a solicitor or from any of the agencies listed on the back page. It may be possible to stop an eviction if you have not had representation at the court hearing.

LEGAL ACTION AND EVICTION

INFORMATION SHEET 14

Stage 5 - Eviction decree enforced

If the Co-operative decides to go ahead and evict you the Sheriff Officers will be asked to carry out the eviction. We will ask the Sheriff Officer to serve you with a 'Charge for removing' which gives you 14 days' notice of the date and time they will carry out the eviction.

When you get this 'Charge', and if you haven't done so already, you may still get legal advice from one of the agencies at the back of this leaflet.

Prior to the time of the eviction you should arrange for yourself and all members of your household to vacate your home and you should also arrange for all your belongings to be removed from the house.

If you do not move out before the eviction date, the Sheriff Officers will remove you and your household from the property. The locks will be changed and you will not be able to re-enter. If you cannot remove your belongings at the time then the Co-operative may allow you to come back and get them within 5 days. **Please note that we have no duty to allow you to do this and we have no duty to look after your belongings.**

What happens after an Eviction?

You should contact the Council's Homelessness Team (details are at the back of this leaflet). You are entitled to advice and support and to be provided with temporary accommodation. If you have been evicted the Council does not have a duty to rehouse you permanently.

You should also bear in mind

- If you are evicted, this may affect your chances of being rehoused by another housing association or local authority.
- If you are evicted for rent arrears, you are still liable to pay your rent arrears as well as the court costs. The Co-operative can arrest your wages or bank/building society accounts to recover the debt. You may also be credit blacklisted, and may be refused bank loans, hire purchase or mortgage facilities.

Remember you CAN avoid Eviction

Easthall Park evicts tenants only as a last resort, when all other options have been exhausted.

To help avoid eviction you should:

- Act early when difficulties arise
- Keep in contact with us throughout the process
- Seek independent legal advice

- Don't put your head in the sand – **act before it's too late**



You can get free impartial advice and legal assistance from:

Shelter Housing Advice Helpline Phone: 0808 800 4444

Easterhouse Citizens Advice Bureau
46 Shandwick Street, G34 9DS
Phone: 0141 771 2328

North Glasgow Advice Centre
Phone 0141 770 7869

Glasgow Advice & Information Network (GAIN)
Phone 0808 801 1011

You can of course choose to use a solicitor and can find one using the law society website www.lawscot.org.uk/find-a-solicitor. You may have to pay a solicitor but may be entitled to legal aid

Other agencies which may provide help

Glasgow City Council Easterhouse Homeless Service
33 Burnmouth Road
G33 4ST
Phone 0141 276 6153

Glasgow City Council Easterhouse Social Work Service
Westwood House
1250 Westerhouse Road
G34 9AE
Phone 0141 276 3410

We always welcome your views and comments about improving our service.

If you would like this leaflet in another format, for example in large print or on tape, or in another language, please contact reception.

Easthall Park Housing Co-operative,
Glenburn Centre, 6 Glenburnie Place, Glasgow G34 9AN.
Tel 0141 781 2277 Fax 0141 773 1958
www.easthallpark.org.uk