

Serving a Section 8 & Section 21 Notice

Serving a Section 21 Notice

Please note you are advised not to serve a Section 21 Notice before the deposit has been registered with one of the deposit protection schemes.

We recommend that a Section 21 Notice is issued after the deposit has been registered, ideally this would be one month after the Assured Shorthold Tenancy Agreement has been signed.

The date that you request the property back is the last day of the fixed period entered on the tenancy agreement. The form you should use is Section 21 (1) (b) of the Housing Act 1988. You should support the Section 21 with a letter informing the Tenant(s) that the tenancy can continue after this date if the Landlord and Tenant(s) agree to it.

If either party wishes for the tenancy to continue they should write to the other party to inform them of their wishes and both parties should agree.

If at the end of the fixed period the tenancy continues it becomes a periodic tenancy.

During the periodic period either party may give notice to the other.

The Tenant has to give 28 days notice and the Landlord has to give two months notice.

If the Landlord wishes to take possession of their property they may do so via a Section 21 (4) (a) of the Housing Act 1988. The section 21 must be completed correctly to ensure the Courts do not reject it.

For our managed properties we will issue the Section 21 Notice on behalf of the Landlord at no cost.

A Section 21 can only be used to gain possession of the property after the fixed period has expired. An exception to this rule is if a break clause has been added which can take effect after the initial six months. Using a break clause is normally used for fixed periods greater than six months. It is very important that the Section 21 is worded, completed and served correctly. Failure to complete or serve it correctly it will not comply with the Housing Act of 1988. Failure to serve the Notice correctly may lead to your request for the property back being denied by the Court.

Once a Section 21 Notice has been served it does not expire.

You must have proof of how the Notice was served. Ideally have the Tenants sign for it or have a witness with you when you serve the Notice personally or post it through the Tenants letterbox. The independent witness should read the Notice and write up a statement that they have read the Notice and witnessed you serve it and include the time and date. If you wish to post the Notice use first class post and get 'Proof of

Postage'. Do not use registered mail as the Tenant may not be in to accept it or may decline to sign for it or collect it from the Post Office.

For our managed properties we will complete the next stage for the Landlords for a fee. Please discuss this further with your Property Manager.

If the Section 21 Notice has already been served, as discussed above, the Landlord can then proceed to the Acceleration procedure. The Landlord may use the online service via the following link <https://www.possessionclaim.gov.uk/pcol/HomePage.do>

A Section 21 Notice is by far the easiest course of action to use if the Landlord wishes to gain possession for any reason, be it rent arrears or disruptive/antisocial behaviour, or simply because he wants the property back for his own use. There is no need to mention in the court papers the real reason why the Landlord is seeking possession and no need to prove that the Tenant has breached any grounds for possession.

Serving a Section 8 Notice

If during the period of the tenancy there are been a breach of the terms of the Assured Shorthold Tenancy Agreement you may use a Section 8 Possession Notice.

If the Tenant has damaged your property, broken any terms of the agreement, been constantly late with their rental payment or there are 8 weeks or more arrears then it is necessary to first serve a Notice in accordance with the provisions of Section 8 of the Housing Act 1988 to request your property back. This is known as a Section 8 Notice.

There are risks with serving a Section 8 Notice because you can seek possession but the court may not agree to your request. The Tenant may pay off the arrears or reduce them to bring the amount below 8 weeks and this may be used in court to stop the Section 8 action.

The court may also decide to allow the Tenant to stay in your property and repay the arrears over a period of time.

Furthermore the Tenant may challenge the Section 8 in court by counter claiming that they have not paid rent due to the property being in disrepair. If this should happen the court may request a report to be drawn on your property leading to further delays, rent arrears and incurred costs.

If you decide you wish to use a Section 8 Notice to take possession back you must take the following action.

- Issue a Notice seeking possession of a property known as a Section 8 and include all the relevant grounds for possession. Normally grounds 8, 10 & 11 are used for rent arrears or erratic payments.
- It must be shown on what grounds you are requesting the property back.
- This must be supported with documentation informing the Tenant(s) of what each ground the court must order possession.
- Inform the court of your losses including legal fees

- You must also support your claim with a rent schedule of at least the previous 24 months rent. If the tenancy period is shorter show this period.

You must have proof of how the Notice was served. Ideally have the Tenants sign for it or have a witness with you when you serve the Notice personally or post it through the Tenants letterbox. The independent witness should read the Notice and write up a statement that they have read the Notice and witnessed you serve it and include the time and date. If you wish to post the Notice use first class post and get 'Proof of Postage'. Do not use registered mail as the Tenant may not be in to accept it or may decline to sign for it or collect it from the Post Office.

The Notice will give the Tenant(s) two-week Notice that you are requesting your property back via the court.

For our managed Properties we will issue the Notice seeking possession of a property known as a Section 8 on behalf of the Landlord at no cost.

Once the notice period has expired the Landlord can use the online service to request their property back.

You must include all your losses to date including legal fees & court costs.

Once you have completed the online form you will be given a court date. It is important that you register at the court at least two weeks before your court date all supporting documentation and an up to date rental schedule.

The Landlord may use the online service via the following link

<https://www.possessionclaim.gov.uk/pcol/HomePage.do>

On the day of your hearing you must have all supporting documentation that you presented at the court plus an up to date rent schedule. Furthermore include all your current losses to date including mesne profits.

I am sorry we are unable to complete this on behalf of the Landlord for our managed Properties. We will support the Landlord where possible to enable them to carry out this process. We will support the landlord in court for a fee. Please discuss this further with the Property Manager.

All information is offered without guarantee as to its accuracy and applicability in all circumstances. Please consult a Solicitor, Accountant or other professional to discuss your individual circumstances.