

Qualifying occupiers



the **MORAY** council

www.moray.gov.uk

Qualifying occupiers

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This leaflet tells you about the rights that you have if you are a 'qualifying occupier' when legal action is being taken to take possession of the house you live in. It is important that you read this leaflet to make sure you know your rights.

What is a 'qualifying occupier'?

You are a 'qualifying occupier' if you live in one of our tenants' homes as your only or main home and:

- a you are a member of the tenant's family and aged at least 16;
- b the tenant has, with our agreement, transferred the tenancy, sublet or otherwise given up possession of their home or any part of it to you; or
- c they have, with our agreement, taken you in as a lodger.

What rights do I have as a qualifying occupier?

If we apply to the court to take legal action to recover the home you live in you, as a qualifying occupier, have the right to apply to the court to be included in future proceedings.

If you want to apply to be included in court action, you should speak to a solicitor. (For more information, please see page 7.) You are entitled to have the court consider your rights alongside the tenant and you or your representative will be able to put your point of view to the court, for example, to explain the consequences on you of the repossession action.

Why would you want to repossess my home?

There are many reasons why we would repossess your home. Although any action that we take will be against the tenant, the result may be that we will evict you from your home. However, we will only repossess your home as a last resort after considering all other alternatives first.

The law gives the reasons when we can take action to recover possession of your home. These include:

- rent due by the tenant has not been paid; and
- the tenant (or a person living with the tenant or visiting the tenant) has acted in an antisocial way towards or has harassed a person in the area.

What do you have to do before you can repossess my home?

We can only evict you when we have an order from the sheriff court.

To repossess your home we have to start legal proceedings in court. However before we can do this, we must serve on the tenant and every qualifying occupier a 'notice of proceedings'.

What is a notice of proceedings?

This is like a final warning, which allows us to apply to the court (within six months of sending you the notice) to start legal action. Legal action can range from making a formal repayment agreement with the tenant, getting permission to start taking the rent out of the tenant's wages or getting permission to evict the tenant and all of their household.

The notice will tell you:

- the earliest date that we can contact the court to ask for a court date (this must be at least four weeks away);
- that we may get an order from the sheriff court to make the tenant repay the rent payments they have missed or

- evict the tenant and everyone living with them from the property; and
- the reason or reasons why we want to take legal action against the tenant.

If we do not start legal proceedings (that is, ask for a court date) within six months of the date given on the notice, we will have to start the process again by sending you another notice of proceedings.

What should I do if you send me a notice of proceedings?

Don't ignore it! Talk to the tenant. Once you know why we have served the notice, you may be able to do something to stop the case going to court. For example, you may be able to pay the rent. Most repossession action is for rent arrears. Or, you might be able to help by making sure the tenant makes a repayment agreement as soon as possible and keeps to it.

What if I want to be part of the court proceedings?

If you want to be part of the court proceedings, you must apply to the court. You may want to contact a solicitor or a citizens advice bureau to help you. When you apply to the court to be a part of the proceedings, the court must agree to your request. This allows you to put your point of view to the court, for example to explain what the repossession action will mean to you. It will be for the sheriff to decide whether to take your views into account when deciding if it is reasonable to grant an order to possess the house.

What will happen next?

If we decide to go ahead with court action, we will apply to the court and send the tenant a copy of the summons. The summons is a document which starts the court action. Before a court order can be granted, the case must be heard at the sheriff court. We will write to you and tell you that we have served a copy of the summons on the tenant. Because of data-protection law, we will not be able to give you any more information. However, if you want to know what is in the summons, you can ask to see a copy at the

sheriff clerk's office. This will tell you what date has been set for the court hearing. You can also find this date out by asking the tenant if we have sent the summons to them.

What should I do if you have started the legal process to evict me?

If the process has started, you should get independent advice. You can speak to a solicitor who can represent you in court. They will advise you if you are eligible for legal aid. Other independent rights organisations, such as Citizens Advice or Shelter, may be able to give you advice and help.

Where can I get advice and more information?

Good legal advice is vital, and the sooner the better. Things can get complicated! If you are facing court action for eviction, you should get legal advice immediately. You can get advice from Shelter and Citizens Advice and this is normally free. You can also get advice from a solicitor but you will have to pay (depending on your income). Please see the end of this leaflet for contact details.

Where to get information and advice

The Moray Council	
Housing Needs Section (Homelessness) The Moray Council High Street, Elgin IV30 1BX	
Phone	0300 1234 566
Email	housing@moray.gov.uk

Citizens Advice Bureau	
30-32 Batchen Street Elgin IV30 1BH	
Phone	01343 550088 or
Fax	01343 548910
E-mail	bureau@moraycab.casonline.org.uk

Citizens Advice Outreach Centres (by appointment only)	
Buckie	01542 832121
Keith	01542 885500
Lhanbryde	01343 843025

Shelter

Freephone	0808 800 4444
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Solicitors

 You can get names of local solicitors from:

The Law Society of Scotland
Client Relations Office
26 Drumsheugh Gardens
Edinburgh



Phone:	0131 226 7411
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Useful websites

Citizens Advice	www.adviceguide.org.uk
Govan Law Centre	www.govanlc.com
Law Society	www.lawscot.co.uk
Legal Services Agency Ltd	www.lsa.org.uk
Scottish Association of Law Centres	www.lawcentres.org.uk
Scottish Child Law Centre	www.sclc.org.uk/index
Scottish Government	www.scotland.gov.uk
Shelter	www.shelter.org.uk

For more information, please contact your local area access point.

Moray Council Access Points

<p>Buckie Access Point Environmental Services 13 Cluny Square Buckie</p> <p> housing@moray.gov.uk</p> <p> Phone: 0300 123 4566</p>	<p>Elgin Access Point Environmental Services Council Office High Street Elgin</p> <p> housing@moray.gov.uk</p> <p> Phone: 0300 123 4566</p>
<p>Forres Access Point Environmental Services Auchernack High Street Forres</p> <p> housing@moray.gov.uk</p> <p> Phone: 0300 123 4566</p>	<p>Keith Access Point Environmental Services The Institute Mid Street Keith</p> <p> housing@moray.gov.uk</p> <p> Phone: 0300 123 4566</p>

Please tell us if you need us to translate this document into your language, or if you would like a copy in **large print**, Braille or on audio tape.

For alternative formats, languages or further information, please ask an English speaking friend or relative to:

Phone: 01343 563319
Email: equalopportunities@moray.gov.uk
Write to: Project Officer (Equal Opportunities)
Chief Executive's Office
High Street
Elgin
IV30 1BX

如要索取其他的版式、各種語文的翻譯本，或需要更詳細的資訊，請叫一位會說英語的朋友或親屬與我們聯繫：

電話： 01343 563319
電郵： equalopportunities@moray.gov.uk
信件郵寄地址： 計劃主任(平等機會)
Project Officer (Equal Opportunities)
Chief Executive's Office
High Street
Elgin
IV30 1BX

Jeżeli chcieliby Państwo otrzymać informacje w innym formacie, języku lub dodatkowe informacje, mówiący po angielsku znajomy lub członek rodziny może do nas:

Zadzwoń na numer: 01343 563319
Wysłać mail: equalopportunities@moray.gov.uk
Adres korespondencyjny: Project Officer (Equal Opportunities)
(Urzędnik ds. Jednakowego Traktowania
Mniejszości Narodowych)
Chief Executive's Office
High Street
Elgin
IV30 1BX

Para outros formatos, idiomas ou para obter mais informações, peça para um amigo ou parente que fale a língua inglesa entrar em contato conosco:

Telefone: 01343 563319
Email: equalopportunities@moray.gov.uk
Endereço: Project Officer (Equal Opportunities)
Chief Executive's Office
High Street
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Clarity approved by
Plain English Campaign