Extra advice:

private tenancies from 2 January 1989

The information in this fact sheet will help you if you started renting your home from a private landlord on or after 2 January 1989 and you have:

- an assured tenancy; or
- a short assured tenancy; or
- a new private residential tenancy.

Some private tenancies have special rules which are different to the rules in this fact sheet. You can get more information about these kinds of tenancy on Shelter Scotland’s website. If you have one of these different kinds of tenancy and you need help, contact Shelter Scotland on 0808 800 4444.

Information:

private tenancies before 2 January 1989

The information in this fact sheet does not apply to you if:

- you rent your home from a private landlord; and
- you started your tenancy agreement before 2 January 1989; and
- your tenancy agreement has not changed.

If that is the case, you will find the information that you need in our Rent arrears – social housing fact sheet. The rules for council housing and housing association housing are similar to the rules for these older private tenancies. Contact us for a copy.

This fact sheet will give you practical information and advice if you are behind on your rent and you live in privately-rented property. It will explain your options, and the processes your landlord must follow. It does not cover commercially-rented properties with a business lease.

Use this fact sheet to:

- find out how your tenancy works;
- find out if there is any help you can get with your rent;
- help you negotiate with your landlord about your rent arrears; and
- get advice about dealing with action in the Housing and Property Chamber of the First-tier Tribunal for Scotland (in this fact sheet we call this ‘the Tribunal’).

If you think you may lose your home in the near future, contact your local council to make a homeless application. You can get help from the council if you are likely to become homeless in the next two months.

This fact sheet is split into four parts.
Everyone should read Part One. This part describes help that you may be able to get with the payment of your rent. Which one of the next two parts you need to read will depend on what kind of tenancy agreement you have.

Go to Part Two if:

- you rent your home from a private landlord; and
- you started your current tenancy on or after 2 January 1989, but before 1 December 2017; and
- your tenancy agreement has not been changed.

Go to Part Three if:

- you rent your home from a private landlord and you started your current tenancy on or after 1 December 2017.

Everyone should read Part Four. This part has Useful contacts to help you find organisations which might be able to help you.

Part One

Help with rent payments

Housing Benefit

Rent arrears can often build up when you don’t claim all the benefits to which you are entitled. Claiming Housing Benefit can reduce the amount of rent you have to pay.

- To find out how much you might get, contact Shelter Scotland or a local advice agency. See Useful contacts at the end of this fact sheet or use the Turn2us Benefit Calculator.
- To make a claim, ask your council’s Housing Benefit office for a form. You can also get information online at www.gov.uk.
- When you make a claim, keep a copy of your claim form and any letters you send or receive.
- Pay as much as you can towards your rent until your benefit comes through.
- Tell your landlord you have made a claim for Housing Benefit.

Extra advice:

Housing Benefit or Universal Credit

You might get help with the payment of your rent from either Housing Benefit or from Universal Credit. See either the Housing Benefit or Universal Credit section for more information. If you aren’t able to claim Universal Credit, you need to make a claim for Housing Benefit. If you are able to claim Universal Credit, the amount of your rent payment you get help with, called the ‘housing costs element’, forms part of your Universal Credit award. In Scotland, you can choose where the housing costs element is paid. You can ask that it is paid either to your landlord or paid to you.
Universal Credit

Universal Credit replaces benefits such as Income Support, income-based Jobseeker’s Allowance, income-related Employment and Support Allowance, Housing Benefit, Child Tax Credit and Working Tax Credit. However, people who are getting a Severe Disability Premium in their benefit cannot claim Universal Credit and will remain on their existing benefits.

You apply for Universal Credit through the online system. To apply online, go to the GOV.UK website and search using the words Universal Credit. Alternatively, type the website address www.gov.uk/universal-credit into your browser.

You may be moved onto Universal Credit from a benefit you are already getting. People will be moved onto Universal Credit at different times. It will be paid directly to you, and includes help with your rent, called the ‘housing costs element’. You will need to use part of your Universal Credit to pay your rent, unless you ask for the housing costs element to be paid directly to your landlord. Contact us for advice.

If you are under 35 years old

If you are under the age of 35 and you do not live with your partner or dependents such as children, you may only get enough Housing Benefit or Universal Credit housing costs element to pay for a single room with shared use of a living room, kitchen and bathroom. This rule only applies if you rent from a private landlord. There are some situations in which this rule will not apply to you, for example, if you live in a certain type of hostel. Ask Shelter Scotland if you are not sure whether this rule is affecting the amount of Housing Benefit or Universal Credit you get.

The ‘benefit cap’

The Government has introduced a ‘benefit cap’. This means there is a limit on how much you can receive in benefits if you and your partner are of working age but not working. You won’t usually be affected by the benefit cap if you are over Pension Credit age. The cap applies if your combined income from certain benefits is over a set limit, and means that the amount of Housing Benefit or Universal Credit you receive may be reduced. You will have to either make up the difference in rent yourself, or move somewhere cheaper. The cap will not apply if anyone in your household receives particular disability-related benefits or some other benefits. Also, it may not apply if you have childcare costs when receiving Universal Credit. Contact us for advice.

Extra advice:

direct payment to your landlord

If you claim Universal Credit, you can ask for your housing costs element to be paid directly to your landlord. The Scottish Government website page Universal Credit: new choices for people living in Scotland has more information about how to do this at any time during your claim for Universal Credit.
Local Housing Allowance

Local Housing Allowance (LHA) is the way that Housing Benefit (or the housing element of Universal Credit) is calculated. LHA rules generally apply to private tenants, although they can apply to other kinds of tenants in particular situations.

LHA means that you will only get a certain amount of Housing Benefit or Universal Credit, even if the rent on your home is higher. If this happens, you will have to pay the difference to stop rent arrears building up. The amount of LHA is worked out by a rent officer, using information about the cost of renting in your local area and the type of property you live in.

You can find the levels of Local Housing Allowance for each region on the Scottish Government’s website, www.gov.scot.

If you are not receiving the amount of housing benefit that you think you should be, other rules may apply. This is a complex area. Check your situation with your council or contact Shelter Scotland. See Useful contacts for details.

Part Two

You cannot be evicted for rent arrears without a Tribunal order if your tenancy began on or after 1 December 2017. If your landlord is threatening to do this, contact us for advice. Check the information on the Shelter Scotland website page: Renting privately in Scotland. Also, check the information on the Citizens Advice Scotland website page: You are a private sector tenant taken to the tribunal for rent arrears.

What type of tenancy do I have?

Short assured tenancies

Short assured tenancies last for a fixed time of at least six months and will have started between 2 January 1989 and 30 November 2017. Private landlords often used this type of tenancy because they can repossess the tenancy at the tenancy end date without having to prove any grounds. Before the tenancy began, your landlord must have given you a written notice (called an AT5 notice) informing you that you have a short assured tenancy. A short assured tenancy can be rolled over on a six-monthly or monthly basis if the landlord doesn’t bring the tenancy to an end at the six month end date.
Assured tenancies

Assured tenancies usually have no time limits, although some may last for a fixed time. If you have this kind of tenancy, it will have started between 2 January 1989 and 30 November 2017. Only private landlords were able to offer this type of tenancy. If you are not sure what tenancy you have, contact us for advice.

Private residential tenancy

If you started a new tenancy with a private landlord on or after 1 December 2017, you will usually have a private residential tenancy. This is a new kind of open-ended tenancy without a set end date. It has to have particular terms in the agreement. You can read more about this on the Scottish Government's website page: Private residential tenancies: information for tenants. If you have this kind of tenancy, you need to use Part Three of this fact sheet because Part Two is not suitable for your kind of tenancy.

If you aren’t sure what kind of tenancy you have, you can find out on Shelter Scotland’s website or contact us for advice.

What can I do if my benefit does not pay all my rent?

- You could ask your landlord if you could take in a lodger to help with the rent. Get advice though, to see how this would affect your benefits, your tax position and your tenancy (which may have restrictions about having other people live with you).

- If you are getting Housing Benefit, write to your local council asking them to review their decision about how much Housing Benefit they will pay. If you are not happy with their response, you can appeal against that decision to an independent benefit tribunal within one month of the review decision, but only if you think a mistake has been made. Contact us for advice.

- If you are getting Universal Credit, you must apply for a mandatory reconsideration before you can appeal, normally within one month of the decision. If the reconsideration does not change the decision, you can appeal to an independent benefit tribunal within a month of the mandatory reconsideration decision if you think a mistake has been made. Contact us for advice.

- Payments made directly to your landlord for the extra rent by friends, family, or a charity should not usually affect your benefits, but check if you are not sure. Contact your local council if you get Housing Benefit or contact the Department for Work and Pensions (DWP) if you get Universal Credit.
Getting rent paid

Housing Benefit
It can sometimes take several weeks for a Housing Benefit claim to be sorted out. If you are either an assured or a short assured tenant, it is very important that your Housing Benefit is paid quickly because if you have at least three months’ rent arrears and your landlord takes you to the Tribunal, the Tribunal cannot allow you to stay in your home.

The council should start paying your Housing Benefit within 14 days. So, if your claim has been delayed, ask for a payment on account, sometimes called an interim payment. You should get a payment on account unless you haven’t given all the information asked for to deal with your claim.

You will normally receive your Housing Benefit directly. This means that you are then responsible for paying it to your landlord to keep your rent up to date.

Universal Credit
Universal Credit takes five weeks from claim to payment, sometimes longer. If you are either an assured or a short assured tenant, it is very important that your rent arrears do not rise quickly. If you have at least three months’ rent arrears and your landlord takes you to the Tribunal, the Tribunal cannot allow you to stay in your home.

The DWP should start paying the housing costs element of your Universal Credit within five weeks. So, if your claim has been delayed, ask for a Universal Credit advance payment. You should get a payment unless there has been a problem processing your claim. Contact us for advice.

You will normally receive your Universal Credit directly. This means that you are then responsible for paying it to your landlord to keep your rent up to date. You can ask for your housing costs element of Universal Credit to be paid directly to your landlord. You can get more information about how to do this on the Scottish Government website page: Universal Credit: new choices for people living in Scotland. Contact us for advice.

Rent increases

- With assured and short assured tenancies there is no fixed limit on the rent. If your landlord increases it, and you have an assured tenancy, you may be able to refer the rent increase to the Tribunal for its decision. Your landlord will send you an AT2 form to notify you of the proposed increase to your rent. If you want to refer the increase in your rent to the Tribunal, you will need to use an AT4 form.

- Keep paying your old rent. Put money aside to pay the increase in case the Tribunal decides the new rent is correct.

- Contact your local authority or the DWP immediately. Tell them that your landlord has increased your rent, but you have referred the increase to the Tribunal. Don’t wait until the Tribunal decides your appeal, or you may lose benefit. If you are not already claiming Housing Benefit or the housing costs element of Universal Credit, the increase in rent may mean that you will now qualify.

Appealing to the Tribunal can be complicated. Contact Shelter Scotland or contact us for advice.
Paying off my rent arrears

It is never too early or too late to come to an arrangement to repay your arrears. You may not be in arrears yet, or your landlord may have started Tribunal action. Whatever the situation, don’t delay. Contact your landlord as soon as possible.

Contact your local council if you are waiting for a Housing Benefit claim to be sorted out and this is making your rent arrears worse. Ask for a short-term benefit advance payment on account if you have been waiting more than 14 days. If you are waiting for your claim for Universal Credit to be sorted out and it is making your arrears worse, contact the DWP and ask for a Universal Credit advance payment. Contact us for advice.

Have my rent arrears been worked out properly?

Get a breakdown of your rent account from your landlord. Check that all the payments you have made have been added to your account. Make sure that the rent arrears shown on your account are for unpaid rent and not put on the account for any other reason. Ask for regular statements and keep your receipts.

If Housing Benefit or Universal Credit housing costs element is paid directly to your landlord and there has been an overpayment, the rules on whether or not an overpayment should be treated as rent arrears are complicated. Contact Shelter Scotland for advice on 0808 800 4444 or contact us for advice.

If you are not sure if your rent arrears include a Housing Benefit or Universal Credit overpayment, contact Shelter Scotland or contact us for advice.

Extra payments to clear the arrears

- Use Your budget to work out how much you can afford to pay each week month towards the arrears. Don’t be afraid to offer only a small amount if that is all you can afford.

- Depending on what benefit you receive (Housing Benefit or Universal Credit), consider whether you can afford to pay by direct deduction. The deduction from your Universal Credit can be up to 20% of your standard allowance. The DWP should take account of your financial circumstances when deciding how much they will take. If the amount of the deduction is causing you hardship, contact us for advice.

- Start paying the amount you have offered straight away. If you cannot afford to pay anything, contact us for advice.

Information:

Deduction from benefit

If you get Income Support, Pension Credit, income-related Employment and Support Allowance, income-based Jobseeker’s Allowance or Universal Credit, you can have a set amount taken out of your benefit and paid directly to your landlord for rent arrears. In some circumstances they can be paid from certain other benefits. The amount of the deduction that can be taken from your benefit for rent arrears varies, depending on whether it is deducted from Universal Credit or another kind of benefit. Contact us for advice.
My landlord refuses to accept my rent arrears offer

Just because your landlord refuses your offer of payment, this does not mean you will automatically lose your home. If your landlord refuses to accept your offer:

- start paying your rent immediately plus the amount you have offered off the arrears;
- contact your landlord and use Your budget to show that the amount you have offered is all you can afford;
- keep a record of all payments and letters to and from your landlord; and
- keep paying your rent and arrears payments.

If your landlord still takes action against you, you could seek help from:

- a solicitor, especially if you can get legal aid;
- Shelter Scotland on 0808 800 4444;
- Money Advice Scotland to speak to a local money adviser; or
- your local Citizens Advice Scotland office.

Contact us for advice.

Renewing your short assured tenancy

If you have a short assured tenancy, your landlord does not have to renew your tenancy when it runs out. They are not likely to let you stay if you are behind with your rent.

You must try to come to an arrangement with your landlord and pay the amount you have offered off your arrears. If you pay regularly, your landlord may be willing to renew your tenancy.

Extra advice:
no eviction without a Tribunal order

You cannot be evicted without a Tribunal order. If your landlord threatens to evict you without going to the Tribunal, or harasses you to make you leave, they may be acting illegally. If this is happening to you, contact your local council. Ask for the person who deals with tenants who are being harassed. You could also contact the police.

Extra advice:
proceedings in the Tribunal

If you are a short assured tenant and your landlord starts action in the Tribunal because your tenancy has come to an end, then the Tribunal cannot allow you to stay in your home. However, your landlord may miss a time limit or make another technical mistake. If this applies to you, contact Shelter Scotland on 0808 800 4444 or see scotland.shelter.org.uk for more information.
Landlord ends the tenancy

Your landlord can start proceedings in the Tribunal to end your tenancy if:

- you have any rent arrears; or
- you have ‘persistently delayed’ paying your rent (for example, if your Housing Benefit or Universal Credit always arrives after the date the rent is due). You do not have to be in arrears when your landlord starts action for this reason.

If you have a short assured tenancy that has run out, see the previous section Renewing your short assured tenancy.

Before the Tribunal

These are the usual stages leading to action in the Tribunal.

- The landlord will normally send a letter asking you to pay off the arrears. If you have not already contacted your landlord, do so now and try to reach an agreement. Keep paying your rent and the amount you have offered off the arrears. If you haven’t made an arrangement to pay off the arrears, some landlords may send a second letter or may get their solicitors to write to you.
- Before landlords can take Tribunal action, they must end the contract by Issuing a Notice to Quit, in writing, in the correct form, giving at least four weeks’ notice. The notice to quit in effect just quits the contract, not the tenancy. They will then issue a Notice of Proceedings (also known as a NOP or an AT6) indicating grounds for eviction. Your landlord may send both these notices at the same time.
- If your landlord applies for an order for possession, they must tell your local council. This may help you to get extra advice from your local council to deal with your situation.
- Contact your landlord straight away and try to reach an agreement. Keep paying your rent and the amount you have offered off the arrears. This will help you later if you ask the Tribunal for time to pay your rent arrears.

If you have three months' arrears

- If you have at least three months' rent arrears, start paying your rent and something off the arrears immediately. The amount you pay must aim to reduce your arrears to less than three months’ worth by the date of the Tribunal hearing. The Tribunal can choose whether it is reasonable or not to make an order for possession if you reduce your rent arrears to less than three months’ worth.
- If you are in arrears because your claim has been delayed, ask for a short-term benefit advance of Housing Benefit or ask for a short-term advance of Universal Credit. You should get a ‘payment on account’ unless you haven’t given all the information asked for to deal with your claim.
- If you can’t start paying immediately or if you can’t reduce your arrears quickly enough, contact us for advice.

Extra advice: three months' arrears

If you have at least three months’ rent arrears on the date of the hearing, the Tribunal cannot allow you to stay in your home.

My Money Steps is our free, independent and confidential online debt advice service. My Money Steps will help you work out a budget and give you a personalised action plan setting out practical steps to deal with your debts.

www.mymoneysteps.org

Freephone 0808 808 4000
www.nationaldebtline.org
What if my landlord takes action for rent arrears?

If you have not been able to make an arrangement with your landlord and the time limit on the notice has run out, your landlord can apply to the Tribunal for a decision to possess the property and evict you.

Your landlord can start Tribunal action even if you have no rent arrears, but have had arrears in the past. This is known as persistent delay in paying your rent. However, your previous delays in paying rent would usually need to be quite serious before the Tribunal will give possession to your landlord.

- Keep paying your rent and any amount you have offered towards the arrears. This shows the Tribunal that you can make regular rent payments.

- Even if you have managed to clear your arrears by the date of the Tribunal hearing, the landlord can still go ahead with the action. So you must respond to the Tribunal papers and go to any Tribunal case management discussion or hearing. If you are in this situation, contact us for advice.

- If your landlord applies to the Tribunal and there is a case management discussion or hearing, you will not have to leave your home on the date of the discussion or hearing. The Tribunal will send you a copy of the landlord’s application form (and any other information provided to them) and invite you to make a response, either by post or email. You have 14 days to make a written response. It is assumed this time starts 48 hours after it was sent (or longer is stated by the Tribunal in the letter). Notices such as this from the Tribunal will usually be delivered by Sheriff Officer.

Your response

Read through the copy of the landlord's application. It should tell you:

- why the landlord has made the application;
- what they want you to do;
- that a money action has been taken against you and that you can ask for time to pay; and
- what they want the Tribunal to decide.

If you do not agree with any of the details, say so in your written response, stating what you think is wrong and what the correct details are. If you are going to respond in writing, be brief and accurate in what you write. If you are not in rent arrears now, but have been in the past, explain why you got into rent arrears and why you can now afford to pay your rent.
Use Your budget to work out what you can afford to pay. If your landlord is asking for possession because you have at least three months’ rent arrears, remember it could be very important to reduce them to less than this by the date of the hearing.

If you cannot afford to pay anything off the arrears, contact us for advice.

If you are going to find it difficult to find somewhere else to live, explain why. If you expect an order for possession to be made, ask the Tribunal if you can be given extra time to find somewhere else to live.

What you should ask for

- If you are not in arrears, ask the Tribunal to dismiss the hearing because you can now afford to pay your rent regularly.
- If your arrears will be paid in full by a pending Housing Benefit or Universal Credit claim, ask the Tribunal to adjourn or dismiss the hearing until the outcome of the claim has been determined.
- If you agree that you owe the rent arrears and you want to pay it back, either by instalments or a lump sum, you can ask for a time to pay direction, based on what you can afford to pay. The application form to ask for a time to pay direction and a guidance note on how to fill in the form will be sent with the paperwork from the Tribunal.
- If the Tribunal will not accept your offer, they can make an order for you to be evicted at a future date. This is called an order for possession.

Extra advice: three months' arrears

If you have at least three months’ rent arrears on the date of the hearing, the Tribunal cannot allow you to stay in your home.

If you cannot pay your arrears, contact us for advice.

The Tribunal

You should go to the Tribunal hearing, even if you have no rent arrears or if you have already made an agreement with your landlord. If you attend, you are much more likely to be successful. If you do not attend, you are less likely to get what you want.

If you cannot go to the hearing because of illness or disability, write to the Tribunal to explain your circumstances. You should include a ‘soul and conscience certificate’. This is a letter from a doctor explaining why you are too unwell to go to court. Ask if a relative or friend can represent you. Don’t forget to include the case number in the letter. You will find this on the Tribunal form.

The purpose of the hearing is not to find anyone guilty or innocent, but to come to a fair decision for both sides. As long as your arrears are under three months’ worth, the Tribunal should consider any reasons why you shouldn’t be evicted. If your arrears are for at least three months’ worth, and this is because of a problem with your Housing Benefit or Universal Credit (such as a delay in it being paid), the Tribunal should take this into account.

Remember: no eviction at the hearing

You will not be evicted from your home on the day of the hearing.
Preparing for the Tribunal

- Make short notes about what you want to say at the hearing. Take these with you and refer to them if you need to.
- If your circumstances have changed since you filled in the form, bring any evidence you need to show this.
- If English is not your first language, ask the Tribunal if you can take an interpreter with you.
- Don’t be afraid to approach the landlord or their representative before the hearing to see if you can come to an agreement to present to the Tribunal. But don’t be pressed into offering more than you can afford.

At the hearing, the chairing member will introduce any other Tribunal members present and explain the purpose of the hearing. You are allowed to have a legal representative such as a solicitor or lay representative. You can also bring a supporter to the hearing, who can assist you. A supporter cannot address the Tribunal in the way a solicitor can, but they can:

- give you moral support;
- help you to manage any paperwork;
- take notes for you; and
- advise you without disturbing the hearing.

Answer questions clearly, calmly and fully. This will help the Tribunal make its decision. You have as much right to put your case forward as the landlord.

Orders the Tribunal can make

The Tribunal can make the following orders.

- **Dismiss your landlord’s action.** The Tribunal may decide to do this if you have paid off all the arrears before the hearing date or they think that the landlord’s request is unreasonable.
- **Postpone or adjourn the case to give you or the landlord more time.** This could be to provide extra information to support your case.
- **Issue a direction for somebody to do something.** This could be to allow you time to pay your rent arrears.
- **Make an order for possession of the property.** This means that at the end of a set period (at least 30 days) your landlord can take the next step towards taking possession of your home. See the later section **Eviction for rent arrears - what can I do?** for more information.
Registry Trust

If the Tribunal's decision includes an order for payment or eviction, they may send a copy of the decision to the Registry Trust. The details of the decision may be accessible through the Registry Trust's website Trust Online. This could have an impact on your credit rating. See the Useful contacts section at the end of this fact sheet for details.

Time to pay order

If the Tribunal has made a payment order and you did not make an application for a time to pay direction during those proceedings, you may still be able to ask the Tribunal to give you time to pay. You can do this by asking the Tribunal to make a time to pay order.

You can only make an application for a time to pay order once ‘diligence’ has started and before it has ended. Diligence is the word used to describe the steps a creditor can take to get their money back, after they have taken court or Tribunal action against you. This could include actions such as: an earnings arrestment, a bank arrestment or an attachment of property outside your home.

Extra advice:
time to pay direction already

You cannot ask for a time to pay order if you have previously received a time to pay direction in earlier Tribunal proceedings and:

- you have missed more than two repayment instalments and the third has become due; or
- you have not paid the lump sum at a later date.

See our fact sheet: Credit reference agencies and credit reports

See our fact sheet: Diligence – how creditors can enforce debts

The form and guidance note for time to pay orders are available on the Forms and Guidance - Evictions and Civil Proceedings page of the Tribunal’s website. These documents provide more information about how to make your application. You will need to use Your budget to work out what you can afford to pay before completing the Tribunal form.

If your application is accepted by the Tribunal, they will make an interim order to prevent (‘sist’) further diligence until the application has been considered. The Tribunal will send a copy of your application to the creditor, who will have received it within 48 hours of it being sent. If the creditor does not object within 14 days of receiving the form, the Tribunal will make a time to pay order in the terms that you have asked for, as long as it thinks that it is reasonable to do so.

If the creditor objects to your application within 14 days of receiving it, a case management discussion or a hearing will be scheduled. The Tribunal will notify the creditor and you of the location, time and date. You should always attend the case management discussion or hearing to make the case for your time to pay order. The Tribunal will decide whether or not to make a time to pay order and, if it is made, the Tribunal will notify both you and the creditor. Time will start to run on the payment arrangement from the date of the Tribunal’s decision.

My Money Steps is our free, independent and confidential online debt advice service. My Money Steps will help you work out a budget and give you a personalised action plan setting out practical steps to deal with your debts.

www.mymoneysteps.org

Freephone 0808 808 4000
www.nationaldebtline.org
If your circumstances change and you cannot afford to pay what you have offered, you can ask for the time to pay order to be amended or recalled. Contact the Tribunal for details of how to do this. See the Useful contacts section at the end of this fact sheet for details.

Recall

You may be able to apply to the Tribunal to ask for the recall of a decision that the Tribunal has made if:

- you have not previously taken part;
- you have not attended or been represented in the hearing after which the decision was made; or
- you have a good reason for not having taken part before.

You must apply to the Tribunal in writing and send a copy to your landlord at the same time. Send your letters so that they arrive within 14 days of the date of the decision. Further enforcement action must stop until the Tribunal makes the decision about your application. You are allowed to ask for a recall only once during a case. You could seek help from:

- a solicitor, especially if you can get legal aid;
- Shelter Scotland on 0808 800 4444;
- Money Advice Scotland to speak to a local money adviser; or
- your local Citizens Advice Scotland office.

Your landlord can object within 10 days of receiving your letter by sending a statement of objection to the Tribunal. If they do, you should be sent a copy of their statement at the same time.

The Tribunal may:

- refuse to recall the decision; or
- order everyone involved to appear at a case-management discussion, where the Tribunal will consider whether to recall the decision.

Eviction for rent arrears – what can I do?

The Tribunal will not take action to evict you unless your landlord asks it to. Contact your landlord immediately if the time given on an order for possession has run out.

Try to make an arrangement with them. If you cannot reach an agreement, your landlord can ask sheriff officers to evict you.

Sheriff officers

Before you are evicted, you will receive a letter, called a form of Charge for Removing. This tells you the date and time when the sheriff officers will come to evict you. You may be able to stop this, but you must act quickly. See the Shelter Scotland website page: Eviction by sheriff officers for more information.
Try and move out before the eviction date because the sheriff officers can force their way into your home if they have to. They might remove your possessions from the house.

After you have been evicted your landlord may:

- ask you to pay the rent you still owe; and
- ask you to pay for repairing any damage done to your home while you were renting it.

## Returning the deposit

At the end of the tenancy, either the landlord or you can ask for the deposit to be returned from the scheme provider.

Your landlord should ask for the deposit to be returned, as soon as it is reasonable for them to have done so, after the end of the tenancy. They must tell the scheme provider how much they think you should get back and how much they think they should be paid. The scheme provider will contact you and ask you to confirm within **30 working days** whether you agree with your landlord’s statement or not. If you do not dispute the amounts, you will be paid within **five working days** of the end of the 30-day confirmation period.

If you ask the scheme provider to return the deposit, you must tell the scheme provider how much you think you should get back and how much you think they should pay to the landlord. The scheme provider will contact your landlord and ask them to confirm within **30 working days** whether they agree with your statement or not. As long as your landlord does not dispute your amounts, you will be paid within **five working days** of the end of the 30-day confirmation period. However, if your landlord makes an application during the 30-day confirmation period, the scheme provider will progress the landlord’s application and not yours.

If either you or your landlord disputes the amounts to be paid, you can use the free dispute resolution scheme and ask an adjudicator to resolve the matter. You don’t have to use the dispute resolution scheme if you want to resolve the matter between yourselves. However, if you want to use the dispute resolution scheme, the landlord must use it. Your landlord must prove that they have a claim to retain some or all of the deposit. If they cannot, the adjudicator must return the deposit to you. For more information see the Tenancy deposit (Tenants) page on mygov.scot website.

## Getting rehoused

If you think you may lose your home, contact your local council to make a homeless application. You can get help from the council if you are likely to become homeless in the next **two months**. If the council determine that you meet all the homelessness criteria, they have a duty to offer you settled accommodation. If you only meet some of the homelessness criteria, they will provide you with advice and assistance which may include the offer of temporary accommodation.
The Debt Arrangement Scheme (DAS) and rent arrears

A DAS debt payment programme is a special scheme to help you repay your debts at an affordable rate over a certain period. It provides protection from bankruptcy and diligence. This means that your landlord could still take possession action to evict you, despite the debt payment programme, if you are behind with your rent payments. You can exclude rent arrears, if that is what you want to do. For instance, you may already have an arrangement to repay your rent arrears agreed with your landlord. An excluded debt will still be noted in the debt payment proposal. Discuss this with your money adviser.

If your landlord still takes action to evict you from your home, you can ask the Tribunal to take your debt payment programme into account when deciding what to do.

Part Three

Private residential tenancy

Extra advice: the Tribunal

The Tribunal has taken on responsibility for most of the rent proceedings that used to happen in the sheriff court. New proceedings started on or after 1 December 2017 for private tenancies are now dealt with by the Tribunal.

If you signed a new tenancy agreement with a private landlord on or after 1 December 2017, you will usually have a private residential tenancy. This is a new kind of open-ended tenancy without a set end date. It has to have particular terms in the agreement. You can read more about the details of this kind of tenancy on the Scottish Government’s website page: Private residential tenancies: information for tenants. Also, Check the information on the Shelter Scotland website page: Renting privately in Scotland.

Information: tenancy deposit

If you give a private landlord a tenancy deposit, the landlord must register the deposit with an approved deposit scheme provider. Your landlord must confirm that the deposit has been registered and should give you information about the scheme provider within 30 working days of the start of the tenancy. If this does not happen you can apply to the Tribunal to make an order for payment. The Tribunal can order your landlord to pay you up to three times the amount of the deposit, and to pay the deposit into an approved scheme. You can either do this during your tenancy or within three months of the end of the tenancy. See information on the mygov.scot website, Shelter Scotland or contact us for advice.

Some kinds of tenancies cannot be private residential tenancies. If you are not sure what kind of tenancy you have, you can find out on Shelter Scotland’s website or contact us for advice.

My Money Steps is our free, independent and confidential online debt advice service. My Money Steps will help you work out a budget and give you a personalised action plan setting out practical steps to deal with your debts.

www.mymoneysteps.org
What can I do if my benefit does not pay all my rent?

- Pay the extra rent yourself out of your income.
- Consider whether to take in a lodger. But get advice first to see how this would affect your benefits, your tax position and your tenancy. You must get the permission of your landlord before you allow any other people to live at the property.
- If you are getting Housing Benefit, write to your local council asking them to review their decision about how much Housing Benefit they will pay. If you are not happy with their response, you can appeal against that decision to an independent benefit tribunal within one month of the review decision, but only if you think a mistake has been made. However, you do not have to seek a review first: if you prefer, you can appeal directly to an independent benefit tribunal by writing to your local council within one month of the original decision, stating that you are appealing against the decision and explaining what you think is wrong. Contact us for advice.
- If you are getting Universal Credit, you must apply for a mandatory reconsideration before you can appeal, normally within one month of the decision. If the reconsideration does not change the decision, you can appeal to an independent benefit tribunal within one month of the mandatory reconsideration decision if you think a mistake has been made.
- Payments made directly to your landlord for the extra rent by friends, family, or a charity should not usually affect your benefits, but check if you are not sure. Contact your local council if you get Housing Benefit or contact the Department for Work and Pensions (DWP) if you get Universal Credit.
- Councils can pay extra towards your rent from a limited fund. These payments are called discretionary housing payments. They will only help if you can show you will be in hardship due to exceptional circumstances. If the fund has no money left in it, the council can refuse to pay. Contact your council’s housing department and ask for a discretionary housing payment. You can ask the council to review their decision but there is no right of appeal.

Getting rent paid

Housing Benefit

It can sometimes take several weeks for a Housing Benefit claim to be sorted out. It is very important that your Housing Benefit is paid quickly because if you have not paid all of the rent or some of the rent which is due, for at least three months in a row, and your landlord takes you to the Tribunal, it may not be able to allow you to stay in your home.

The council should start paying your Housing Benefit within 14 days. If your claim has been delayed, ask for a payment on account, sometimes called an interim payment. You should get a payment on account unless you haven’t given all the information asked for to deal with your claim. Contact us for advice.

You will normally receive your Housing Benefit directly. This means that you are then responsible for paying it to your landlord to keep your rent up to date. Contact us for advice.

Remember:
discretionary housing payment

If your benefit payment does not cover your full rent amount, you need to pay the difference to make up your full rent payment or you will build up arrears. Contact your local council to see if you can get a discretionary housing payment to make up your rent to the full amount. Contact us for advice.
Universal Credit

Universal Credit takes five weeks from claim to payment, sometimes longer. It is very important that your rent arrears do not rise quickly. If you have not paid some, or all, of the rent which is due for at least three months in a row, the Tribunal may not be able to allow you to stay in your home.

The DWP should start paying the housing costs element of your Universal Credit within five weeks. So, if your claim has been delayed, ask for a Universal Credit advance payment. You should get a payment unless there has been a problem processing your claim. Contact us for advice.

You will normally receive your Universal Credit directly. This means that you are then responsible for paying it to your landlord to keep your rent up to date. You can ask for your housing costs element of Universal Credit to be paid directly to your landlord. You can get more information about how to do this on the Scottish Government website page: Universal Credit: new choices for people living in Scotland. Contact us for advice.

Rent increases

Your landlord can only apply to put up your rent once a year. Before the rent can go up, you must be given an official notice called a rent-increase notice. This notice might be sent by email if your agreement allows for this. Any rent-increase notice must be given to you by the landlord at least three months before the date that the rent is due to go up. If you accept the rent increase, you should return Part 3 of the rent-increase notice to the landlord to tell them that.

If you receive a rent-increase notice and you think the rent is higher than for similar properties, you can ask a Rent Officer to decide whether the increase is fair. You must follow certain steps to ask the Rent Officer to make this decision and there is a 21-day time limit for this to be done. The time period begins 48 hours after the notice was sent and finishes 21 days later.

- Return Part 3 of the rent-increase notice to the landlord to tell the landlord that you intend to ask the Rent Officer to decide whether the rent increase is fair.
- Fill in a form called the Tenant's Rent Increase Referral to Rent Service Scotland under section 24 (1) of the Private Housing (Tenancies) (Scotland) Act 2016. You can get a copy on the Scottish Government website. See the Useful contacts section for more details.
- Send the completed form to the Rent Officer.

If you do not follow these steps within the 21-day time limit, starting from when you received the rent-increase notice, you lose your right to challenge the rent increase and the rent will increase to the amount the landlord asked for.

You can also return Part 3 of the rent-increase notice to the landlord to say that you have not been given long enough notice of a rent increase, if less than three months' notice was given. If the landlord gives less than the three months' notice, then you will not need to pay the increased rent until three months have passed from when you received it.
Rent pressure zone

If the property is in a rent pressure zone, you cannot go to a Rent Officer about the rent increase. This is because Scottish Ministers have already limited the amount by which the rent can be increased with a cap. As the landlord cannot usually increase the rent higher than the cap, you don't need to pay any rent above the cap. If your landlord tries to increase your rent above the cap, your options are to:

- contact a free, independent money adviser to get further advice;
- pay only the rent up to the limit of the cap as this is all the landlord can require under the terms of the agreement and cap; or
- apply to the Tribunal to draw up the terms of the tenancy to make it clear what terms are in operation (since the terms of tenancy have changed because the rent has increased).

Once you have made up your mind, tell your landlord what you intend to do. If you apply to the Tribunal, you must give your landlord 28 days' notice.

If your landlord improves the property while you are in a rent pressure zone, they can apply for an additional increase to your rent. There is more information about this on the Scottish Government’s website page: Private residential tenancies: information for tenants.

Paying off my rent arrears

It is never too early or too late to come to an arrangement to repay your arrears. You may not be in arrears yet, or your landlord may have started action in the Tribunal. Whatever the situation, don't delay. Contact your landlord as soon as possible.

Contact your local council if you are waiting for a Housing Benefit claim to be sorted out and this is making your rent arrears worse. Ask for a payment on account, sometimes called an interim payment if you have been waiting more than 14 days. If you are waiting for your claim for Universal Credit to be sorted out and it is making your arrears worse, contact the DWP and ask for a Universal Credit advance payment.

Contact us for advice.
Have the rent arrears been worked out properly?

Get a breakdown of your rent account from your landlord. Check that all the payments you have made have been added to your account. Make sure that the rent arrears shown on your account are for unpaid rent and not put on the account for any other reason. Ask for regular statements and keep your receipts.

If Housing Benefit or Universal Credit housing costs element is paid directly to your landlord and there has been an overpayment, the rules on whether or not an overpayment should be treated as rent arrears are complicated. Contact Shelter Scotland for advice on 0808 800 4444 or contact us for advice.

If you are not sure if your rent arrears include a Housing Benefit or Universal Credit overpayment, contact Shelter Scotland or contact us for advice.

Extra payments to clear the arrears

- Use Your budget to work out how much you can afford to pay each week or month towards the arrears. Don’t be afraid to offer only a small amount if that is all you can afford.
- Depending on what benefit you receive, consider whether you can afford to pay by direct deduction. The deduction from your Universal Credit can be up to 20% of your standard allowance. The DWP should take account of your financial circumstances when deciding how much they will take. If the amount of the deduction is causing you severe hardship, contact us for advice.
- Start paying the amount you have offered straight away. If you cannot afford to pay anything, contact us for advice.

My landlord refuses to accept my rent arrears offer

Just because your landlord refuses your offer of payment, this does not mean you will automatically lose your home. If your landlord refuses to accept your offer:

- start paying your rent immediately plus the amount you have offered off the arrears;
- contact your landlord and use Your budget to show what you can afford;
- keep a record of all payments, and letters to and from your landlord; and
- keep paying your rent and arrears payment. This will help you later if you ask the Tribunal for time to pay your rent arrears.

If your landlord still takes action against you, contact us for advice.

Your landlord might make it difficult for you to pay, for example, by not calling for the rent so that your rent arrears increase. If this happens, contact us for advice.
What if my landlord takes action to end the tenancy?

Your landlord can only end your tenancy by using one of the 18 grounds for eviction. Some of these are mandatory, meaning that the Tribunal must grant eviction if the ground is proved. Some grounds are discretionary, meaning that the Tribunal can choose whether or not to grant the eviction order. When your landlord gives you notice to leave, they must tell you what eviction ground (or grounds) they are using and may provide evidence to support this. You can find information about all the different grounds for eviction on the Scottish Government’s website page: Private residential tenancies: information for tenants.

Rent arrears ground

The eviction ground for rent arrears can be mandatory in some circumstances and discretionary in others. This means that, if the Tribunal accepts that the ground is proved, then:

- in some cases the Tribunal must issue the eviction order; but
- in other cases, the Tribunal can choose whether or not to issue the eviction order.

The mandatory ground

This ground is mandatory and the Tribunal must issue the eviction order, if:

- you have not paid some of the rent or all of the rent which is due, for at least three months in a row; and
- on the first day that the issue comes before the Tribunal, an amount equal to at least one month’s rent remains unpaid; and
- the Tribunal is satisfied that the reason for you not paying the rent is not a delay or failure in the payment of some benefits, including Housing Benefit or Universal Credit.

The discretionary ground

This ground is discretionary and the Tribunal can choose whether or not to issue the eviction order if:

- you have not paid some of the rent or all of the rent which is due, for at least three months in a row; and
- on the first day that the issue comes before the Tribunal, an amount less than one month’s rent remains unpaid; and
- the Tribunal is satisfied that it is right on this basis to issue an eviction order.

In deciding whether it is right to evict, the Tribunal can look at many things, including whether the reason for your not paying the rent is a delay or failure in the payment of some benefits, including Housing Benefit or Universal Credit.

If you have three months’ arrears in a row

- If you have rent arrears for three months in a row, start paying your rent and something off the arrears. You should aim to pay off your arrears so that there is less than one month’s arrears owed on the date of the hearing.
Contact your local council if you are waiting for a Housing Benefit claim to be sorted out and this is making your rent arrears worse. Ask for a payment on account, sometimes called an interim payment if you have been waiting more than 14 days. If you are waiting for your claim for Universal Credit to be sorted out and it is making your arrears worse, contact the DWP and ask for a Universal Credit advance payment on account. Contact us for advice.

**Notice to leave**

The amount of notice your landlord has to give you will depend on how long you've lived in the property and the grounds your landlord is using to evict you.

If your landlord is using the ground of rent arrears, they must give you at least 28 days' notice in a document called the notice to leave. If your landlord sends you the notice to leave by post or email, they must allow you 48 hours to receive it and then the notice period begins after that.

If you receive the notice from your landlord, contact them straight away and try to reach an agreement. Keep paying your rent and what you have offered to pay off the arrears.

Your landlord's notice must say:

- which one (or more) of the 18 grounds is the reason why the landlord is ending the tenancy;
- why the landlord thinks that ground applies; and
- the date on which the tenancy is to end.

Your landlord should give you a copy of any supporting evidence for the eviction ground when they serve the notice. Once you have received the notice, you can choose either to:

- leave by the date stated on the notice;
- ask for more time to leave;
- seek legal help from a solicitor, especially if you can get legal aid;
- seek advice from Shelter Scotland on 0808 800 4444;
- contact Money Advice Scotland to speak to a local money adviser;
- contact your local Citizens Advice Scotland office; or
- wait for the landlord to apply to the Tribunal for an order to evict you.

You do not need to move out until an eviction order is granted by the Tribunal. Keep paying your rent and what you have offered to pay off the arrears.
Landlord’s application to evict

If you have not been able to make an arrangement with your landlord and do not leave the property on the tenancy end date stated on the notice, your landlord can apply to the Tribunal to get an order to evict you. If your landlord applies for an eviction order, they must give the Tribunal a copy of the notice to leave. They must also inform the local council that they are seeking to evict you.

If there is to be a hearing, you will be notified at least 14 days beforehand. The Tribunal will send you a letter, a copy of the landlord’s application form (and any other information provided to them) and invite you to make a written response, either by post or email. You will have 14 days (or longer depending on what is said in the tribunal letter) to make a written response, starting from when you should have received it. It is assumed that you will have received the notice 48 hours after it was sent. Notices such as this from the Tribunal will usually be delivered by Sheriff Officer.

Making a written response

Read through the copy of the landlord’s application. It should tell you:

- why the landlord has made the application;
- that a money action has been taken against you and that you can ask for time to pay; and
- what they want you to do and the Tribunal to decide.

If you do not agree with any of the details, say so in your written response, stating what you think is wrong and what the correct details are.

- Use Your budget to work out what you can afford to pay.
- If you cannot afford to pay anything off the arrears, contact us for advice.

If you are going to respond in writing be brief and accurate in what you write. If you are not in rent arrears now, but have been in the past, explain why you got into rent arrears and why you can now afford to pay your rent.

If you agree that you owe the rent arrears and you want to pay it back, either by instalments or a lump sum, you can ask for a time to pay direction, based on what you can afford to pay. The application form to ask for a time to pay direction and a guidance note on how to fill in the form will be sent with the paperwork from the Tribunal.

If you are going to find it difficult to find somewhere else to live, explain why. If you expect an eviction order to be made, ask the Tribunal if you can be given extra time to find somewhere else to live.

Although there may be a hearing, it does not mean that you will automatically lose your home. Even if the Tribunal decides that you cannot afford to stay there, you will not be evicted from your home on the date of the hearing.

Keep paying your rent and the amount you have offered off the arrears. This will show the Tribunal that you are now able to pay.
The Tribunal

You should go to the Tribunal hearing, even if you have no rent arrears or if you have already made an agreement with your landlord. If you attend, you are much more likely to be successful. If you do not attend, you are less likely to get what you want.

If you cannot go to the hearing because of illness or disability, write to the Tribunal to explain your circumstances. You should include a 'soul and conscience certificate'. This is a letter from your doctor explaining why you are too unwell to go to court. Ask if a relative or friend can represent you. Don't forget to include the case number in the letter. You will find this on the Tribunal form.

Preparing for the Tribunal

- Make short notes about what you want to say at the hearing. Take these with you and refer to them if you need to.
- If your circumstances have changed since you filled in the form, bring any evidence you need to show this.
- If English is not your first language, ask the Tribunal if you can take an interpreter with you.
- Don’t be afraid to approach the landlord or their representative before the hearing to see if you can come to an agreement to present to the Tribunal. But don’t be pressed into offering more than you can afford.

On the day of the hearing, the chairing member will introduce any other Tribunal members present and explain the purpose of the hearing. You are allowed to have a legal representative such as a solicitor. You can also bring a supporter to the hearing, who can assist you. They are not able to address the Tribunal in the way a solicitor can, but they can:

- give you moral support;
- help you to manage any paperwork;
- take notes for you; and
- advise you without disturbing the hearing.

Answer questions clearly, calmly and fully. This will help the Tribunal make its decision. You have as much right to put your case forward as the landlord.

Orders the Tribunal can make

The Tribunal can make the following orders.

- **Dismiss your landlord’s application.** The Tribunal may do this if you have paid off all the arrears before the hearing date or they think the landlord’s request is unreasonable.
- **Postpone or adjourn the case to give you or the landlord more time.** This could be to provide extra information to support your case, or to pay off your arrears in full, for example by sorting out your Housing Benefit or Universal Credit claim, or for some other reason.
- **Issue a direction for somebody to do something.** This could be to allow you time to pay your rent arrears.
- **Make an eviction order.** This means that sheriff officers will be given the power to remove you from the property. Your tenancy will end on the date set out in the eviction order. See the later section Eviction for more information.
Registry Trust

If the Tribunal's decision includes an order for payment or eviction, they may send a copy of the decision to the Registry Trust. The details of the decision may be accessible through the Registry Trust's website Trust Online. This could have an impact on your credit rating. See the Useful contacts section at the end of this fact sheet for details.

Time to pay order

If the Tribunal has made a payment order and you did not make an application for a time to pay direction during those proceedings, you may still be able to ask the Tribunal to give you time to pay. You can do this by asking the Tribunal to make a time to pay order.

You can only make an application for a time to pay order once ‘diligence’ has started and before it has ended. Diligence is the word used to describe the steps a creditor can take to get their money back, after they have taken court or Tribunal action against you. This could include actions such as: an earnings arrestment, a bank arrestment or an attachment of property outside your home.

See our fact sheet:
Diligence – how creditors can enforce debts

The form and guidance note for time to pay orders are available on the Forms and Guidance - Evictions and Civil Proceedings page of the Tribunal’s website. These documents provide more information about how to make your application. You will need to use Your budget to work out what you can afford to pay before completing the Tribunal form.

If your application is accepted by the Tribunal, they will make an interim order to prevent (‘sist’) further diligence until the application has been considered. The Tribunal will send a copy of your application to the creditor, who will have received it within 48 hours of it being sent. If the creditor does not object within 14 days of receiving the form, the Tribunal will make a time to pay order in the terms that you have asked for, as long as it thinks that it is reasonable to do so.

If the creditor objects to your application within 14 days of receiving it, a case management discussion or a hearing will be scheduled. The Tribunal will notify the creditor and you of the location, time and date. You should always attend the case management discussion or hearing to make the case for your time to pay order. The Tribunal will decide whether or not to make a time to pay order and, if it is made, the Tribunal will notify both you and the creditor. Time will start to run on the payment arrangement from the date of the Tribunal’s decision.
If your circumstances change and you cannot afford to pay what you have offered, you can ask for the time to pay order to be amended or recalled. Contact the Tribunal for details of how to do this. See the Useful contacts section at the end of this fact sheet for details.

**Appeal**

It may be possible to ask for permission to appeal the decision of the Tribunal to the Upper Tribunal on a point of law. You will need to make written application to the Tribunal to ask for permission. You will need legal help to do this, possibly from a solicitor if you can get legal aid. Alternatively, contact Shelter Scotland on 0808 800 4444, or Money Advice Scotland to speak to a local money adviser or your local Citizens Advice Scotland office to see whether you have grounds for an appeal.

If you make a written application for permission to appeal the decision of the Tribunal, it will consider whether to give you permission. The Tribunal may agree to give permission or it may refuse.

If the Tribunal agrees to give you permission, it will notify you and any other people who are connected with the case. If the Tribunal refuses, it will notify you of its decision and its reasons for refusing permission. It will also inform you of your right to make an application to the Upper Tribunal for permission to appeal that decision, the time limit for applying and how to do make the application.

**Recall of the decision**

If you were not present and were not represented at the hearing when the Tribunal made the eviction order, you can apply to have the decision recalled or reopened. You must make the application in writing to the Tribunal within 14 days of the Tribunal’s decision, explaining why it should be recalled. You must send a copy to your landlord and anyone else taking part in the case. You can only make an application to recall once during the proceedings.

Your landlord can object to the recall of the decision by giving the Tribunal a ‘statement of objection’ within 10 days of receiving the copy of your application. They should send a copy of their statement to you at the same time as they make their application.

The Tribunal will consider the application and any statement of objection and either:

- grant the application and recall the decision;
- refuse the application; or
- order you and your landlord to take part in a discussion, before considering whether to recall the decision or not.

**Eviction for rent arrears – what can I do?**

**Sheriff officers**

Before you are evicted, you will receive a letter, called a form of Charge for Removing. This tells you the date and time when the sheriff officers will come to evict you. You may be able to stop this, but you must act quickly. See the Shelter Scotland website page Eviction by sheriff officers for more information.

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**My Money Steps** is our free, independent and confidential online debt advice service. My Money Steps will help you work out a budget and give you a personalised action plan setting out practical steps to deal with your debts.

www.mymoneysteps.org

**NATIONAL DEBTLINE**

Freephone 0808 808 4000

www.nationaldebtline.org
Try to move out before the eviction date, because the sheriff officers can force their way into your home if they have to. They might remove your possessions from your home.

**Returning the deposit**

At the end of the tenancy, either the landlord or you can ask for the deposit to be returned from the scheme provider.

Your landlord should ask for the deposit to be returned, as soon as it is reasonable for them to have done so, after the end of the tenancy. They must tell the scheme provider how much they think you should get back and how much they think they should be paid. The scheme provider will contact you and ask you to confirm within **30 working days** whether you agree with your landlord’s statement or not. If you do not dispute the amounts, you will be paid within **five working days** of the end of the 30-day confirmation period.

If you ask the scheme provider to return the deposit, you must tell the scheme provider how much you think you should get back and how much you think they should pay to the landlord. The scheme provider will contact your landlord and ask them to confirm within **30 working days** whether they agree with your statement or not. As long as your landlord does not dispute your amounts, you will be paid within **five working days** of the end of the 30-day confirmation period. However, if your landlord makes an application during the 30-day confirmation period, the scheme provider will progress the landlord’s application and not yours.

If either you or your landlord disputes the amounts to be paid, you can use the free dispute resolution scheme and ask an adjudicator to resolve the matter. You don’t have to use the dispute resolution scheme if you want to resolve the matter between yourselves. However, if you want to use the dispute resolution scheme, the landlord must use it. Your landlord must prove that they have a claim to retain some or all of the deposit. If they cannot, the adjudicator must return the deposit to you. For more information see the [Tenancy deposit (Tenants)](mygov.scot) page on the [mygov.scot](mygov.scot) website.

**Wrongful termination**

If your tenancy has ended and you think you were misled into leaving, you can apply to the Tribunal for a wrongful termination order.

The Tribunal may make a wrongful termination order if it decides that your landlord:

- misled the Tribunal into issuing an eviction order when it shouldn't have; or
- wrongly made you leave the property.

If your landlord gets a wrongful termination order, the Tribunal will tell them to pay you compensation of up to **six months’** rent. They will also notify the local council that the wrongful termination order has been made if the landlord is registered with the council.
Getting rehoused

If you think you may lose your home, contact your local council to make a homeless application. You can get help from the council if you are likely to become homeless in the next two months. If the council determine that you meet all the homelessness criteria, they have a duty to offer you settled accommodation. If you only meet some of the homelessness criteria, they will provide you with advice and assistance which may include the offer of temporary accommodation.

The Debt Arrangement Scheme (DAS) and rent arrears

A DAS debt payment programme is a special scheme to help you repay your debts at an affordable rate over a certain period. It provides protection from bankruptcy and diligence. This means that your landlord could still take possession action to evict you, despite the debt payment programme, if you are behind with your rent payments. You can exclude rent arrears, if that is what you want to do. For instance, you may already have an arrangement to repay your rent arrears agreed with your landlord. An excluded debt will still be noted in the debt payment proposal. Discuss this with your money adviser.

If your landlord still takes action to take possession of your home, you can ask the Tribunal to take your debt payment programme into account when deciding what to do.
Part Four

Useful contacts

Citizens Advice Scotland
Phone: 0345 404 0506
www.cas.org.uk

GOV.UK
www.gov.uk

Housing and Property Chamber
First-Tier Tribunal for Scotland
Glasgow Tribunals Centre
20 York Street
GLASGOW
G2 8GT
Phone: 0141 302 5900
Email: HPCAdmin@scotcourtstribunals.gov.uk
www.housingandpropertychamber.scot

Law Society of Scotland
www.lawscot.org.uk

Money Advice Scotland
Email: info@moneyadvicescotland.org.uk
Phone: 0141 572 0237
www.moneyadvicescotland.org.uk

Scottish Courts and Tribunals Service
Phone: 0131 444 3300
Email: enquiries@scotcourts.gov.uk
www.scotcourts.gov.uk

Scottish Government
www.gov.scot

Shelter Scotland
Phone: 0808 800 4444
scotland.shelter.org.uk

Trust Online
Phone: 020 7380 0133
Email: info@trustonline.org.uk
www.trustonline.org.uk

Turn2us
www.turn2us.org.uk

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National Debtline endeavour to keep our fact sheets as up-to-date as possible, however, we cannot be held responsible for changes in legislation or for developments in case law since this edition of the fact sheet was issued.


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My Money Steps is our free, independent and confidential online debt advice service. My Money Steps will help you work out a budget and give you a personalised action plan setting out practical steps to deal with your debts.

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