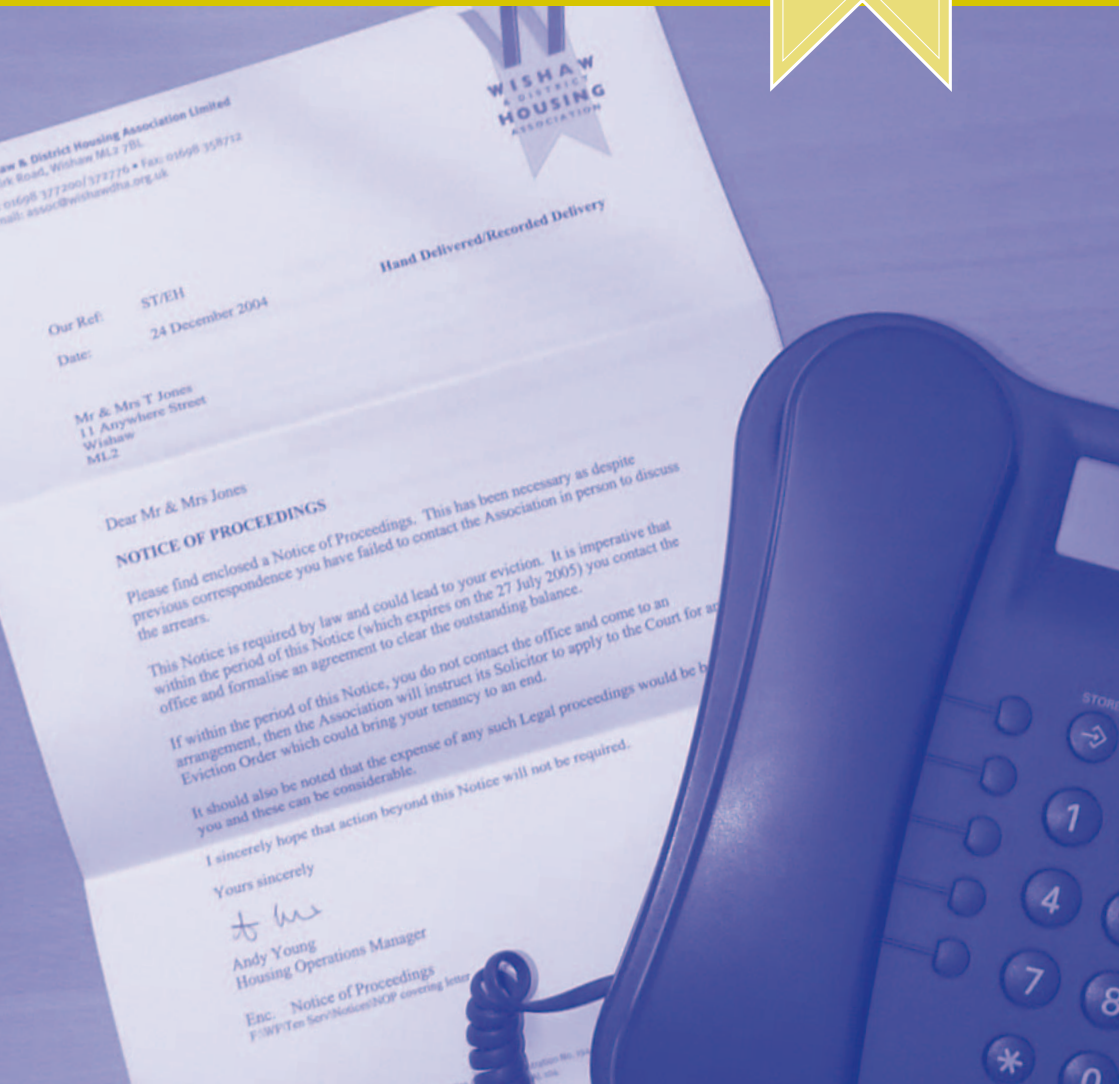


Eviction

A guide to avoiding or dealing with the
eviction process



Wishaw & District Housing Association Limited
11 Anywhere Street, Wishaw ML2 7BL
Tel: 01698 377200/377776 • Fax: 01698 358712
Email: ask@wishawdha.org.uk



Hand Delivered/Recorded Delivery

Our Ref: ST/EH
Date: 24 December 2004

Mr & Mrs T Jones
11 Anywhere Street
Wishaw
ML2

Dear Mr & Mrs Jones

NOTICE OF PROCEEDINGS

Please find enclosed a Notice of Proceedings. This has been necessary as despite previous correspondence you have failed to contact the Association in person to discuss the arrears.

This Notice is required by law and could lead to your eviction. It is imperative that within the period of this Notice (which expires on the 27 July 2005) you contact the office and formalise an agreement to clear the outstanding balance.

If within the period of this Notice, you do not contact the office and come to an arrangement, then the Association will instruct its Solicitor to apply to the Court for an Eviction Order which could bring your tenancy to an end.

It should also be noted that the expense of any such Legal proceedings would be yours and these can be considerable.

I sincerely hope that action beyond this Notice will not be required.

Yours sincerely

Andy Young
Andy Young
Housing Operations Manager

Enc: Notice of Proceedings
F:\BP\Ten Serv\Notions\NOP covering letter





Eviction

A guide to avoiding or dealing with the eviction process

What do you mean by eviction

Eviction is the term used to remove someone from their home. The most usual reason for eviction is non payment of rent or anti-social behaviour. The anti-social behaviour could be your own behaviour or that of a member of your household or even that of a regular visitor.

How can I prevent myself from being evicted?

You must abide by the terms of your tenancy agreement. This means, amongst other things, that you must pay your rent regularly and on time, look after your house and not act in a way that causes a nuisance to others living near you.

However, if you experience problems in any of these areas you must discuss these issues with your Housing Officer straightaway, and you must respond to any letters or phone calls from us, or to any cards that we may put through your door. If we jointly make an arrangement to try and sort things out then you must adhere to this arrangement.

We will only evict as a last resort and after all other avenues have been explored. We will do all that we can to support you to meet your obligations, and if you follow our advice you can avoid eviction.

How Do I Know When I Might Be Facing Eviction?

We will issue you with a **Notice of Proceedings** that tells you on what grounds you have breached your Tenancy Agreement. This Notice is a warning that the Association may raise court action at any time during the period of the Notice. It will tell you the earliest date we can raise court action. This Notice does not affect your right to live in the house or your obligation to pay rent or to behave appropriately.

A Notice will also be issued to anyone who lives with you who is over the age of 16 as such persons have the right to

apply to the court to be involved in any proceedings arising from the Notice.

If matters do not improve or you fail to abide by any agreements or arrangements then this Notice allows us to ask the court to evict you. If we decide to do that then you will receive a **Court Summons** which will tell you the date and time your case will call in court.

What should I do if I receive a notice of proceedings or a Court Summons?

You must contact your Housing Officer immediately.

If it is a Notice that you have received, your Housing Officer will explain why we have issued it and what it means and advise you what you must do to prevent us proceeding to the next stage, which is court action.

If it is a Court Summons it is possibly still not too late to mend matters and it is even more important that you speak to your Housing Officer as quickly as possible.

As well as speaking to us you may wish to get independent advice. There are a number of agencies who can help and these are listed in the Contacts List in this leaflet. You can contact these agencies directly or your Housing Officer can make a referral on your behalf.

Due to the seriousness of the matter you may also wish to seek legal advice from a solicitor.

If I receive a Court Summons do I have to go to court, and do I have to have a solicitor?

You do not have to have a solicitor but most people would want to have some formal and independent legal advice.

A solicitor will also speak for you in court. However we also strongly advise you to attend court personally so that you can make sure that anything you think should be said on your behalf is said.

Who meets the costs of Court Action?

You will be required to pay for any legal representative you appoint. However if your income is low you may be entitled to legal aid to assist with this cost.

You are likely to be asked to pay your share of the court expenses, and depending on what the Sheriff decides you may also be required to pay ours.

What actually happens in court?

In court our solicitor will present our case to the Sheriff and ask for eviction or, if we have come to an agreement over the original problem, we might ask for the case to be “sisted”, which means that the case is delayed whilst we see if matters can be resolved.

Assuming we are still asking for eviction, you, and/or your solicitor will be given a chance to say why you do not think the court should order eviction. This process is called a Hearing.

After the Sheriff has heard all the arguments for and against he or she will decide whether to order eviction, or whether to give you further time to resolve the situation, in which case you will be asked to return to court at a later date or, unusually, the Sheriff may find that we have no case at all and that the matter is finished with.

Whether you are there or not we will advise you of the outcome of the hearing and how it affects you.

What if the decision is to evict ?

If a decision is made to evict you, you will receive a letter from us informing you of the date and time for the eviction.

You will also receive a ‘Notice of Eviction’ from the Sheriff Officers at least 48 hours prior to the eviction.

Can the eviction action be stopped ?

Even at this late stage it is sometimes possible to stop an eviction if there is something you can do to rectify the original problem or if there are some special circumstances.

You would need to seek the immediate advice of your Housing Officer, independent advisor, or solicitor.

If I am evicted, where will I live?

Prior to the date of eviction you should seek alternative accommodation and make arrangements to remove all your belongings from the house.

You may wish to go to your local First Stop Shop (see contacts list), and advise them of your impending homelessness. They may be able to provide you with emergency accommodation.

We would also advise you to contact the Social Work Department, especially if you have children, as they may be able to provide help and support of various kinds.

What happens at the eviction itself?

Sheriff Officers will attend on the date of your eviction along with representatives from the Association.

You will be asked to leave the property and the locks will be changed.

Your tenancy will be terminated from the date of your eviction.

If I am evicted because of rent arrears, will these automatically be cleared from my account?

No. If you are evicted as a result of rent arrears, the Association will pursue the outstanding debt together with any court expenses that have been awarded.

This will affect your credit rating and may also affect your chances of being rehoused with some other landlords.

Can I appeal the decision to evict me?

Any party affected by the Association's decision to carry out an eviction has the right to appeal that decision. A copy of the Association's Complaints and Appeals procedures is available from the office.

If you wish to make an appeal against the decision to evict you from your home, you MUST submit your appeal to the office NO LATER than 24 hours prior to the date and time of the actual eviction. Once the sheriff officers are instructed to carry out the eviction an intimation that you intend to lodge an appeal will not stop the eviction and you will still be required to remove your household and your belongings from the property.

Useful Contacts

Wishaw Area:

ADVICE/SUPPORT AGENCIES

Citizens Advice Bureau, 58 Roberts Street, Wishaw ML1 7JF
Tel: 01698 373388

First Stop Shop, 236 Main Street, Wishaw ML2 7ND
Tel: 01698 302920 (within office hours)

North Lanarkshire Council, Homeless Persons
Tel: 01236 760120 (outwith office hours)

Social Work Department, Kings House, King Street,
Wishaw ML28GS. Tel: 01698 348200

Shelter Housing Aid Centre, 53 St Vincent Crescent,
Glasgow G3 8NG. Tel: 0141 221 8995

Motherwell Area:

Citizens Advice Bureau, 32 Civic Square, Motherwell ML1 1TP
Tel: 01698 251981/259389

First Stop Shop, 69-71 Merry Street, Motherwell ML1 1JJ
Tel: 01698 332233 (within office hours)

North Lanarkshire Council, Homeless Persons
Tel: 01236 760120 (outwith office hours)

Social Work Department, Scott House, 73-77 Merry Street,
Motherwell ML1 1JJ. Tel: 01698 332000

Shelter Housing Aid Centre, 53 St Vincent Crescent,
Glasgow G3 8NG. Tel: 0141 221 8995

Shotts Area:

Citizens Advice Bureau, 58 Roberts Street, Wishaw ML2 7JF
Tel: 01698 373388

First Stop Shop, 162-164 Station Road, Shotts ML7 4AW
Tel: 01501 824747 (within office hours)

North Lanarkshire Council, Homeless Persons
Tel: 01236 760120 (outwith office hours)

Social Work Department, 169 Station Road, Shotts ML7 4GQ
Tel: 01501 824700

Shelter Housing Aid Centre, 53 St Vincent Crescent,
Glasgow G3 8NG. Tel: 0141 221 8995

Further information

Wishaw & District Housing Association Limited
55 Kirk Road, Wishaw ML2 7BL
Tel: 01698 377200/372776 • Fax: 01698 358712
E-mail: assoc@wishawdha.org.uk
Web: www.wishawdha.org.uk



Open: Monday – Thursday: 9.00am – 4.30pm and
Friday: 9.00am – 4.00pm
Closed for lunch: 12.30pm – 1.30pm