

THIS GUIDANCE HAS BEEN UPDATED ON 20 NOVEMBER TO REFLECT THE MOVE TO LEVEL 4 PROTECTION FOR 11 LOCAL AUTHORITY AREAS IN SCOTLAND

Where to get advice on responding to the Coronavirus Covid-19 outbreak.

You should keep up to date with and have regard to the latest advice from Government, the NHS and the Chief Medical Officer. The position is changing on a daily basis and therefore it is important to check that advice regularly.

- [Scottish Government advice](#)
- [Public health advice](#)
- [Latest advice and information from the UK Government](#)
- Health Protection Scotland has published guidance to support those working in non-healthcare settings give advice to their staff and users of their services about COVID-19. In particular section 1.2 has [information on how to prevent spread of infection in the workplace](#).
- [Further public health information for your staff and tenants](#).

On 23 October 2020, the Scottish Government published [Scotland's Strategic Framework](#) to reflect the strategic approach to suppress the virus level and the move to a five levels of protection approach.

Advice to give tenants on the outbreak.

You should refer tenants to the advice as above.

Supporting tenants if they are in financial difficulty or are worried about being able to pay their rent over the coming months.

It is important you encourage your tenants to contact you as soon as possible if they are, or think they will be, in financial difficulty and unable to pay their rent.

Tenants affected by coronavirus who are concerned about paying their rent can claim Universal Credit from the Department for Work and Pensions which includes support for housing costs, if eligible. The UK Government has [introduced some temporary changes](#) to make this easier.

If a tenant is getting Housing Benefit or Universal Credit, but still can't afford their housing costs, they may be eligible for a Discretionary Housing Payment (DHP). [Further information on DHPs and how to apply can be found here](#).

Further support is available for people on low incomes from the Scottish Welfare Fund if facing an emergency situation.

The Scottish Government has put together [information and sources of support for tenants in the private rented sector](#) during the Covid-19 outbreak.

The Chartered Institute for Housing Scotland, Homes for Good and the Scottish Association of Landlords have produced [guidance on maintaining tenancies and other Covid-19 related advice](#).

Tenant Hardship Loan Fund

The Scottish Government has established a £10M Tenant Hardship Loan Fund as part of the range of support and interventions to help tenants who are struggling with rent because of changes to their finances and/or employment during the pandemic. Eligible tenants can use the loan to clear rent arrears (a maximum of 9 months of agreed rent) from 1 January 2020. Tenants can also borrow up to 3 months of future rent payments as part of the 9 month total.

The loan provides an additional short-term offer that supports tenants to manage rent arrears and help them to come back into paying their rent. Loan repayments will be deferred for 6 months as standard and repaid over a 5 year period. This recognises the continuing uncertainty around the impacts of the pandemic.

The loan will not be an appropriate choice for every tenant and before applying for the loan, tenants should seek further advice about non-repayable financial support that they may be eligible for. Before being awarded a loan, applicants will need to pass an affordability check and a credit check.

To confirm the level of any arrears, the loan administrator will contact the tenant's landlord, or where applicable the landlord's letting agent, for verification of the tenant's current circumstances. This will include the amount of monthly rent due, the level of outstanding rent arrears and the dates that the arrears relate to. Landlords will also be asked to sign an agreement not to take action to repossess a property on the grounds of rent arrears, the landlord or their family member intend to live in the let property, the landlord intends to sell the let property and the landlord intends to use the let property for a purpose other than housing for the period of future rent covered by any loan. Any formal action to end a tenancy on these grounds that has already been started will also need to be withdrawn. To avoid delays in offering the loan to eligible tenants, landlords and letting agents are asked to provide the requested information as soon as possible.

Find out more about the loan and [how tenants can apply on the loan portal](#).

How private landlords can receive direct payments for rents from Department for Work and Pensions benefits.

The Department for Work and Pensions (DWP) have launched a new online service for landlords to request direct payments of rent or rent arrears.

The new [Apply for a Direct Rent Payment](#) service replaces the existing managed payment to landlord (MPTL) request process, that relied on requests to be made by completing a UC47 form which landlords could request online but then had to email or post to the DWP.

In addition, the DWP confirms in [updated guidance to landlords](#) that both private sector and social landlords can use the new service. For more information see [Universal Credit: Landlord request for a managed payment or rent arrears deduction](#) from gov.uk.

Housing Benefit remains reserved to the UK Government.

The Scottish Government short-term emergency loan scheme.

The loan scheme opened for applications on 5 May. The interest-free loan is available to landlords who have five or fewer rental properties and will fund lost rental income from a single property. It is designed to take the pressure off landlords, in the short-term, if their tenants are having difficulty making rent payments. Landlords should still engage with their tenants as detailed above.

For further information on the loan, including the application form, please see the [PRSLandlord \(non-business\) Covid-19 Loan Support page](#).

Enquiries can be sent to the Scottish Government at PRSLandlordCovid19Loan@gov.scot.

Advice about mortgage repayments.

Mortgage lenders have agreed to offer payment holidays of up to six months where this is needed due to Covid-19 related hardship.

Where a tenant is unable to pay their rent in full the landlord – if a mortgagee – should discuss this with their lender, who can arrange a mortgage holiday where appropriate.

Charging rent during the outbreak.

Rent will still be due under the terms of the tenancy agreement and tenants who are able to pay rent as normal must continue to do so.

There is no 'one-size fits all' approach, as each tenant's circumstance is different and some will be worse affected in terms of their ability to pay than others. It is important for landlords to be flexible, and have a frank and open conversation with their tenants at the earliest opportunity, to allow both parties to agree a sensible way forward.

You should signpost tenants who are concerned about paying their rent to the financial assistance available. The Scottish Government has put together [information and sources of support for tenants in the private rented sector](#) during the Covid-19 outbreak.

Evicting a tenant

We have been clear that no landlord should evict a tenant because they have suffered financial hardship due to Covid-19 and we expect landlords to be flexible

with tenants facing financial hardship and signpost them to the sources of financial support available.

In recognition of the severity of the situation we now find the country in, the Scottish Government has passed emergency legislation to protect renters in Scotland during the Covid-19 outbreak. The Coronavirus (Scotland) Act 2020 protects tenants in Scotland from any eviction action for up to 6 months. This will apply to both the private and social rented housing sectors and will ensure the position is absolutely clear for all landlords and tenants in Scotland.

This new legislation temporarily extends the amount of notice landlords must give when ending a tenancy. In most cases landlords will now need to give tenants 6 months' notice, unless they are ending the tenancy for particular reasons, including antisocial and criminal behaviour by the tenant, or where the landlord or their family need to move into the property where the notice period is 3 months.

The legislation also temporarily makes all grounds for eviction in the private rented sector discretionary, ensuring that the Tribunal will be able to use discretion and take all factors relating to the impact of Covid-19 has had on both the landlord and tenant into account before deciding whether to issue an eviction order or not.

The new law applies in cases where a landlord serves notice on their tenant on or after 07 April 2020. Where a landlord has served notice on their tenant before 07 April 2020, the changes in the new law do not apply.

More information on changes to notice periods for private residential tenancies can be found [here](#). Information on notice periods for short assured and assured tenancies can be found [here](#).

Pre-action requirements which landlords should comply with for seeking repossession for rent arrears

Landlords should engage positively with tenants who are having difficulties paying rent, to work together to manage arrears as far as reasonably possible. The [private rented sector \(PRS\) tenant resource](#) can help your tenants, by signposting them to a range of financial support and advice.

New measures to support landlords to work with tenants who are struggling to pay their rent came into force on 30 September through The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.

To help landlords understand what steps to take to support tenants in rent arrears to sustain the tenancy (which can be used regardless when the rent arrears occurred), the [pre-action guidance](#) is a useful resource and toolkit, which includes access to template letters.

Landlords who have issued a notice to leave to a tenant on or after 7 April and who subsequently make an application to the First-tier Tribunal for Scotland (Housing and Property Chamber) to repossess the property due to rent arrears, which occurred all or in part after 26 May, will be asked by the Tribunal to demonstrate how they have

complied with the pre-action requirements. At the current time, the Tribunal has discretion to take all factors into account when determining whether it is reasonable to grant repossession of a let property.

Issuing a notice to end a tenancy.

There is a formal process that you must follow if you want to end a tenancy agreement with a tenant. The exact process you must follow depends on the type of tenancy in place. Due to the Covid-19 crisis the Scottish Government has brought in new rules to extend the notice periods given to tenants before legal action to obtain an order for eviction can be started. Information on ending a tenancy and the amount of notice a landlord must give a tenant during the Covid-19 crisis can be found [here](#) for a private residential tenancy and [here](#) for a short assured tenancy.

If a landlord, or their agent, tries to physically or forcefully remove a tenant from the property it will be considered to be an illegal eviction which is a serious criminal offence. Illegal eviction attempts are not allowed and could impact on a landlord's registration or a letting agent's registration.

The Society of Messengers-at-Arms and Sheriff Officers issued [updated guidance](#) to their members on 6 November, advising that evictions should not be carried out where the property concerned is located in an area subject to level 3 or 4 restrictions, except in relation to exceptional circumstances such as anti-social behaviour. Further information can be found [here](#).

Process if the tenant doesn't leave at the end of the notice period.

If a tenant does not move out on or before the date in the 'Notice to Leave'/AT6/section 33 notice the landlord must apply to the First-tier Tribunal (Housing and Property Chamber) for an eviction order and the tenant does not have to move out until they are served with an eviction order granted by the Tribunal.

If a landlord, or their agent, tries to physically or forcefully remove a tenant from the property it will be considered to be an illegal eviction which is a serious criminal offence.

Definition of an illegal eviction.

An illegal eviction is when a landlord, or their agent, fails to follow the proper process for ending a tenancy. The following actions may be illegal and can result in a landlord committing a criminal offence:

- Changing the locks to keep the tenant out of the property
- Making life so uncomfortable for a tenant that they are forced to leave their home by for example cutting off water, gas or electricity supplies
- Physically removing a tenant from the property, only a sheriff officer may do this

Illegal eviction attempts are not allowed and could result in the landlord being convicted of an offence. On indictment, the court can impose an unlimited fine or

imprisonment for a term not exceeding two years or both. An illegal eviction conviction will also impact on a landlord's registration. Involvement by an agent in an illegal eviction will also impact on a letting agent's registration.

Opening a letting agency, or landlord's, office to the public.

Letting agents can continue to support clients in the marketing of properties and can now open premises for business. They should consider how and when to reopen their premises, though, if possible, remote working should be considered, and they should follow the [Scottish Government Guidance for businesses and employers](#). This is particularly important in areas under higher protection levels, such as level 4. Letting agents should inform customers and their own staff about their safer working procedures, in order to minimise the public health risk as far as possible. If possible use appointment systems for your offices.

In areas at Level 4 Protection, housing services are essential services and work in other people's homes should only be undertaken if it cannot be delayed and appropriate safety measures can be implemented.

Conducting viewings and moves as a letting agent or landlord.

You should refer to the [Moving Homes guidance](#).

The following recommendations apply for all home moves in the rented sector:

- Viewings should not be conducted in properties where tenants are showing symptoms or self-isolating, or in quarantine following arrival into the country, or where it has been determined that they are shielding. Where there is no alternative, landlord staff and agents can accompany landlords and prospective tenants on physical viewings but should seek to minimise contact with prospective tenants and home occupiers at all times and follow government guidelines on physical distancing and the use of face coverings.
- Landlords should ask whether any member of a tenant's household is showing symptoms, or has been asked to self-isolate, or is shielding before going ahead with any visits to properties. This applies as well to households of multiple occupation (HMOs) with common areas.
- Where an unaccompanied viewing is being carried out, agents and landlords should make sure that tenants and prospective tenants clearly understand how the viewing should be conducted safely and that they should comply with health guidance including physical distancing.
- All parties viewing a property should wash their hands with soap and water or use hand sanitiser immediately after entering the properties, with internal doors opened and surfaces having been wiped down before they enter. Separate towels or paper towels should be used. The landlord, should be responsible for providing these, unless the tenant objects, in which case the tenant must take responsibility.
- Appointment systems should be used for tenants visiting offices and when conducting viewings. Virtual viewings should be carried out where possible, with physical viewings only where there is no other alternative.

- Any visits to a property must be made in accordance with the Scottish Government guidelines on physical distancing.

Follow the Scottish Government's [latest guidance on distancing measures](#) necessary to help stop the spread of the virus.

Regardless of the circumstances, your legal rights and obligations about access to the property contained in the tenancy agreement still apply. Your tenants are only under legal obligation to grant access to the property in order to:

- carry out essential repairs to the property
- do an annual gas safety check
- inspect a tenant's home for any repairs that need to be done

You need to give tenants appropriate notice and should not enter the property without their consent except in an emergency. If the tenants refuse access you must not enter the property.

Level 4 protection areas and home moves (including the private rented sector)

People can continue to move home in all protection levels, and to and from areas with different levels. People may wish to consider whether they can postpone a move and related activities in areas subject to level 4 protections. Businesses can also continue to support people to move home in all areas, following relevant guidance, including the Scottish Government's [latest guidance for employers and businesses on Covid-19](#).

Rules for homes of multiple occupancy (HMO)

You should take care to ensure that where the property is an HMO that the rules on isolation and hygiene apply to all the tenants and the common areas of a property.

You should ensure that any visits to an HMO is arranged to ensure that tenants are informed and able to avoid any unnecessary contact. For example you should ensure that any property viewing is restricted to common areas and the vacant room or rooms.

What to do if someone in an HMO has the virus.

The UK Government has issued [specific guidance](#) on what to do if someone in a household has contracted the virus, including self-isolating the whole household for 14 days.

Nobody can be removed from their home because of the virus.

Landlords are not obliged to provide alternative accommodation for tenants if others in the property contract the virus.

You may wish to direct your tenants to [Scottish Government guidance on cleanliness and hygiene for non-medical location](#).

Repairs, or health and safety inspections to a property

Where reasonable, safe for you and in line with other Scottish and UK Government guidance you should make every effort to review and address issues brought to your attention by your tenants, and keep records of your efforts.

Where possible, repairs, gas and electrical safety checks and energy performance assessments should be conducted in the period between a property being vacated and a new tenant moving in. See [guidance on cleaning empty properties](#). However, if visits are needed to an occupied property, this should be done by appointment with measures put in place to ensure physical contact is minimised, for example with residents staying in another room during the visit.

Landlords should make every effort to abide by gas safety requirements, which continue to be of great importance for tenants' safety. This may be more difficult due to restrictions associated with the COVID-19 outbreak, for example where a tenant has COVID-19 symptoms, is self-isolating or shielding. Under such circumstances, provided the landlord can demonstrate they have taken reasonable steps to comply, they would not be in breach. Read the [latest guidance for landlords and Gas Safe engineers and inspectors](#) from the HSE.

Landlords should also make every effort to abide by electrical and other fuel safety requirements, which continue to be of great importance for tenants' safety. This may be more difficult due to restrictions associated with the COVID-19 outbreak. Where inspections have already been carried out, documents can be provided by post or in some circumstances it may be possible to provide digital copies.

You should use your best efforts to deliver a service, such as a gas service and safety check, and undertake the safety check or make the repair. However, if you are unable to do so because a tenant is self-isolating or has the virus and refuses to give entry, you should record this fact and that this is related to the Coronavirus COVID-19 outbreak. You should consider retrying as soon as is possible and appropriate, having full regard for advice on self-isolation, hygiene and distancing and make sure that you reflect the level of such instances in your performance reporting.

We are encouraging local authorities and other enforcement agencies to take a pragmatic, common-sense approach to enforcement in these unprecedented times.

Letting agents may also want to consider obtaining landlord and tenant consent for inventory clerk appointments to also occur before a tenant moves in or after a tenant moves out during vacant periods if possible.

Managing health and safety and maintenance issues

On 23 October 2020, the Scottish Government published [Scotland's Strategic Framework](#) to reflect the strategic approach to suppress the virus level and the move to a five levels of protection approach. In line with the Scottish Government guidance on business and physical distancing published on 29 June, nonessential repairs and maintenance to rented homes can go ahead, provided that the tradesperson and

occupants of the house are well and are not showing coronavirus symptoms and there is no one in the household who is self-isolating. Good communication between landlords and tenants, planning, and taking a risk-based approach are important. Landlords should be mindful that some tenants may still be shielding or vulnerable, and also may be anxious about tradespeople coming into their home. Landlords should take reasonable account of these factors, especially if work requires access to two or more rooms.

In areas at level 4, work can continue in other people's homes but this should only be to provide essential services, including urgent repairs and maintenance and work to support a home move, for example furniture removal.

Any tradespeople entering people's homes should follow the latest Scottish Government guidance on physical distancing and hygiene and refer to the [general guidance for safer workplaces](#). They should also refer to the [Frequently Asked Questions page](#) about working in other people's homes.

Delayed new energy efficiency regulations.

The Energy Efficiency (Domestic Private Rented Property (Scotland) Regulations 2020 were due to come into force on 1 April 2020. However, because of the COVID-19 crisis, the decision has been made not to launch these regulations at this time. This is to reduce the burden on local authorities, who are focusing on frontline emergency responses, and to put the safety of tenants and workers at the forefront. We do not want to put pressure on landlords to try to undertake works in their properties at this time, when medical and government advice continues to mandate physical distancing measures. The work on improving energy efficiency in private rented housing will resume once the current COVID-19 crisis comes to an end.

Advice for businesses

Advice in relation to protection levels

All businesses should follow the Scottish Government's [latest guidance for employers and businesses on Covid-19](#) and other relevant guidance including Health Protection Scotland's [Covid-19 information and guidance for general \(non-healthcare\) settings](#). Remote working remains the default position for those who can. The Scottish Government has also produced [general safer workplaces guidance](#) covering offices, for example.

At level 4 of Scotland's Strategic Framework the associated deteriorating state of the virus and widespread community transmission means that although people can work in other people's homes, this should only be to provide essential services, which can include services to support a home move. Importantly, this is also only if the person or persons working are well and are not showing any Covid-19 symptoms and neither they nor any of their household staff are self-isolating. People must also adhere to the physical distancing regulations and guidance. See also [guidance about workplaces in level 4](#).

How businesses can get help financially.

The Scottish Government recognises that many businesses, including private landlords and registered Letting Agents, will have very serious concerns over how they will continue to operate during this period of great uncertainty. You will be aware that both the UK and Scottish Governments have outlined plans for to provide businesses with support and we attach links to more detailed explanations of this help below:

- Find [business support](#) on gov.scot. A helpline providing businesses across Scotland with advice and guidance on COVID-19 was launched by the Scottish Government on 13 March. The helpline is open Monday to Friday between 8.30 am and 5.30 pm and can be contacted on 0300 303 0660.
- The Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Regulations 2020 [grant 100% non-domestic rates relief to retail, hospitality and leisure business](#), including letting agents who are registered letting agents (within the meaning of Part 4 of the Housing (Scotland) Act 2014), or who had applied to the Letting Agent Register by 21 March 2020.

Support for business - announcements:

- [Scottish Government](#)
- [UK Government](#)
- UK finance has published [information for businesses](#) in recognition that the cash flow of small and medium sized businesses may be disrupted by the impact of the coronavirus (Covid-19) to help you prepare and understand the options available.

Advice for staff.

Immediate action should include circulating Government Guidance to staff. NHS Scotland have developed a communication toolkit containing a poster, video and social media posts for organisations to print and share. [Download the coronavirus \(COVID-19\) communication toolkit](#).

Consider how you might be able to support staff with their health and wellbeing, particularly in a period where a prolonged shutdown of the office may be necessary.

How to make sure that the public areas of offices and other premises are as safe as they can be.

Health Protection Scotland provides [general advice](#) on protecting people from the virus.

Some steps to support business continuity efforts

First, make sure that you keep up to date with the advice from government and health authorities. It is important that you ensure your business continuity/resilience plan is up to date and accessible to all who may need it. You will want to ensure that all staff fully understand what is required of them. You may want to test your plans,

simulating your continuity plan in advance of having to action it to ensure all staff fully understand what is required of them. You will want to engage with your contractors and suppliers to establish contingency arrangements with them. You may want to audit the ability of your staff to be able to adapt to agile or remote working. Establish the contingency arrangements for your contractors and suppliers. Finally, consider how you will communicate any changes to services to your tenants and service users, and how you will respond to any enquiries they may make.