

Rent Repayment Orders (RROs)

A Tenants' Guide: for tenants living within the private rented sector

1. Introduction

A Rent Repayment Order (RRO) is an order made by the First Tier Tribunal (FTT). An RRO is a means for tenants and former tenants living in the private rented sector to reclaim a **maximum of 12 months'** rent paid to a landlord. The Housing and Planning Act 2016 allows a tenant to apply for an RRO if a landlord has committed an offence or if the landlord has been convicted in court. The tenants will have to prove that the landlord has committed an offence or been convicted. This is explained in section 3 of this guidance.

HMO's that fall within the description given in section 2 (see below) require a licence within the borough of Ipswich. Tenants should apply for an RRO **as soon as possible** as the amount you claim could decrease over time. The application must be made within 12 months of the landlord's offence. The council will notify you if your landlord has committed an offence or conviction you can then apply to the FTT for an RRO.

Your landlord has no right to make you leave your home because you are applying for an RRO. The laws protecting your tenancy will still apply and there are extra legal restrictions on evictions by landlords who are running unlicensed accommodation.

Please note: Only private tenants and the council can apply for RROs, this power is not available to council tenants or tenants of housing associations or arm's length management organisations.

The tenant cannot claim rent paid by housing benefit/universal credit, this will be claimed by the local authority.

If a tenant receiving housing benefit/universal credit makes an application for a rent repayment order, then they can only receive an award in relation to any top-up they have paid. The housing benefit/universal credit money will be awarded to the council.

2. Does the house I rent or recently rented require a licence?

In Ipswich a HMO requires a licence if:

- If it is occupied as a main home by 5 or more people who are not all related; and
- one or more basic amenities (kitchen, bathroom or WC) are shared
- it is not a purpose-built flat in a block of three or more purpose-built flats

Examples include:

- bedsits
- shared houses or flats in multiple occupation (FMOs)
- resident landlord with more than two lodgers (and more than 5 occupants in total)

This is known as mandatory licensing which applies across England and Wales. There are some exceptions, so it is worth checking with us first.

Further information can be found at <https://www.ipswich.gov.uk/content/apply-hmo-licence>

3. When can I apply for an RRO?

You should only apply for an RRO if you can prove that your landlord has failed to comply with law including Housing Act 2004 and Housing and Planning Act 2016 this is outlined below:

- Your landlord has rented an HMO without a licence (see section 16)
- Your landlord has failed to control or manage an unlicensed HMO
- Your landlord has failed to comply with enforcement action:
 - Improvement notice
 - Prohibition notice
 - Civil penalty notice
 - Breach of a banning order
- You have been evicted illegally or been harassed by your landlord
- Your landlord has used violence to secure entry to a property

You will be informed by the environmental health officer if you are eligible to apply for an RRO. If you have been evicted illegally or been harassed by your landlord, you can contact the **housing options team on 01473 433370** or housing.options@ipswich.gov.uk who will be able to provide information about your rights as a tenant or licensee.

4. How soon should I apply for an RRO?

The tenant should apply for an RRO **as soon as possible** as the amount you can claim decreases over time. The application must be made within 12 months of the date of the offence committed by the landlord.

The rent cannot be reclaimed for any period after:

- the final period of rental payment if the tenant has left
- the landlord has sold the house or flat
- If the landlord has applied to the council for a licence (this could happen at any time)

5. How will the council support me with my application?

The environmental health officer in charge of the case will inform you, if you are able to apply for an RRO. If you decide to apply for an RRO the investigating officer will be able to support your application to the FTT by providing evidence i.e. witness statement to support your application.

6. Can one tenant act on behalf of all tenants?

If one tenant is willing to act for all the tenants in applying for the RRO the other tenants would need to sign a declaration stating the name of the person, they are appointing to act on their behalf. Alternatively, the person who acts for the tenant could be a person from the organisations mentioned below or a relative or friend of a tenant. The tenant must be able to trust the person they nominate to act on their behalf. An example of a declaration form can be found in **(Annex 1)**.

Please note: Form RRO1 contains a section to assign a representative as an extra declaration which is not necessary.

7. Which Organisations can help?

There are many organisations which can help you with the process of applying for an RRO including:

- Shelter
- Citizen's Advice Bureau
- A Law centre
- Ipswich Council's Private sector housing team and Housing Options team
- Tenants and Residents Associations or Tenants Federations
- Other community organisations e.g. churches or mosques, black and ethnic minority groups or older or disabled peoples' group.
- Flat Justice <https://www.getrentback.org/>

8. How much rent can I reclaim?

Tenants can apply to reclaim the rent paid for a period of up to a maximum of twelve months ending on the date of the application to the First-Tier Tribunal (FTT). You can ask to reclaim the rent for the full twelve months if you lived in the HMO and paid rent to the same landlord throughout this period. However, the period for reclaim of the rent will end earlier if you have moved away, if the landlord has changed, or if the landlord has applied to the local council for a licence. **You cannot claim any rent paid by housing benefit/universal credit.**

You will need to be able to prove that you paid the amount of rent you are claiming and who you paid it to. When you apply for the RRO you will need to:

- send a copy of your rent book, if you do not have one, make a list of all payments made by each tenant
- any tenants who go to the hearing should take proof of payment i.e. bank statements or cheque stubs, in case there is a dispute about the rent. You should include any receipt of rent payments acknowledged by the landlord or managing agent i.e. email or text. If tenants have paid in cash and have no receipt take proof of cash withdrawal.

The RRO is likely to require the landlord to repay less rent than the amount of rent that you are asking to reclaim. Unless the landlord has been subject to previous conviction or a civil penalty notice has been served and is made at a time when there is no prospect of appeal against the civil penalty notice.

NB: The FTT may award less than the total amount particularly if the landlord has already had a large fine or there are other mitigating factors.

9. How do I make a claim?

Before applying for the RRO, you should make sure that you will be able to produce all the documents needed. These documents are listed in Annex 2.

You should make an application for a Rent Repayment Order to the First-Tier (property) Tribunal. You can download the application form from the First-Tier Tribunal (FTT) website

at http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=3075 or telephone 0207 446 7700 to ask for the form.

You may be subject to a £100 fee for the application unless you are eligible for 'help with fees. (Refer to section 10 of the application form).

See (Annex 4) for guidance on filling in the form.

It is essential that you attach the following documents to your application, see Annex 2 for more details:

- (a) Evidence that the landlord has committed an offence or convicted of an offence or RRO for housing benefits provide by your local council
- (b) Evidence of the rent paid during the period of up to twelve months. If the landlord did not give you a rent book or receipts for the rent and you have no other proof, make a list of all the rent payments you made and who they were paid to. Provide bank statements if available which can show the same amount of money withdrawn for rent.
- (c) If you and/or any of the other tenants in the house have appointed someone to represent them include all the agreements to appoint that person to act on their behalf.
- (d) Evidence of three or more tenants living in the house during the period of the claim, unless stated in (b) above.

10. What happens next?

The FTT will send your application to the landlord. They will ask for five copies of the papers you wish to present at the hearing by a certain date, one of these will go to the landlord.

The papers for the hearing need to be in a bundle which is easy for the tribunal to refer to, for a list of the documents to be included see (Annex 2). There is a Case Management Conference a few of weeks after the application which the applicant and respondent need to attend. It takes about half an hour and briefly looks at the case and clarifies the methods and protocol of communications.

All the papers prepared for your RRO bundle should be:

- put the papers in date order
- each page should be numbered
- a list of contents with page numbers should be at the front
- Once copied the papers need to be placed in a binding which will keep them in order. You may wish to get advice on preparing the bundle from one of the local organisations mentioned above.

The FTT panel members will may visit the house or flat before the hearing. If you are at home when they visit, it is okay to talk to them, but do bear in mind that they will not take what you say into account when making their decision. They can only make their decision on the written evidence and what is said at any hearing. You will normally get 21 days' notice of any hearing.

In some cases, the FTT will make a decision without an oral hearing, but this would be unusual in the case of an RRO. In any case you would be sent a written record of the FTT's panel's decision.

If you require help with preparing the bundle contact one of the organisations outlined in

11. What is the hearing like?

The hearing at the First Tier (property) Tribunal is similar to a court hearing, but less formal. The case is heard by two or three panel members. The panel chairman introduces the case and explains what will happen; you can ask the chairman questions at any time if you need to. The panel members can ask the landlord and the tenants' representative questions throughout the case and take notes.

FTT panels generally hear cases without lawyers, but everyone does have the right to be represented by a solicitor or barrister or by another appointed person. Do not let formal representation put you off, many landlords represent themselves. If you require help during the hearing the Chairman of the panel will help you if needed.

All tenants who are making the claim need to be present unless they have appointed a person to represent them. We recommend that two or more tenants are at the hearing, in case they need to answer questions about the rent, the accommodation, or any issues the landlord may raise about the behaviour of the tenants.

If a number of tenants have applied for the RRO themselves, it is easier if they appoint a spokesperson to lead their case at the tribunal. Other tenants will still get the opportunity to speak if they want to.

The hearing starts with the tenants' representative (rep) saying why they have applied for the RRO he/she can simply read out the Grounds of the Application from the application form and introduce the evidence in the bundle. The landlord or his/her lawyer will ask questions of the tenant rep and then put their own case to say why the panel should not make an RRO or why it should be for less money than is claimed. The tenants' rep will then be able to question the landlord, or comment on what has been said. Other tenants will be able to have their say too.

The panel will not make their decision at the hearing. A written decision will be sent in the post maximum 6 weeks.

The landlord and the tenants can appeal to the Lands Tribunal against an RRO, including the amount of money to be repaid, but must apply within 28 days. If the appeal to the Lands Tribunal involves a hearing the same tenants who were at the FTT hearing, will need to be there, the procedures are similar to those for the FTT.

12. How much rent will be repaid?

The FTT must order the maximum amount of rent (up to 12 months) is repaid where the landlord has been convicted of the offence to which the RRO applies. Even if the tenant has applied for a lesser amount.

If the landlord has not been convicted but committed an offence the FTT will determine the amount of rent to be repaid in accordance to the following:

- If you have been evicted illegally or been harassed by your landlord the FTT will take into account the 12-month period before the offence (12 months must end with the date of the offence).

If the landlord has committed the following offences:

- Failed to comply with a formal enforcement notice
- Improvement notice
- Prohibition notice
- Civil penalty notice
- Breach of a banning order
- Failed to control or manage an unlicensed HMO

The RRO must related to rent paid by the tenant in respect of a period not exceeding 12 months where the landlord has committed an offence.

The Tribunal must decide on an amount they consider to be reasonable for the RRO, this decision will be based on the:

- Conduct of the landlord (i.e. how well he/she manages the accommodation and its condition)
- Conduct of the tenant
- The financial circumstances of the landlord
- If the landlord has at any time been convicted of any of the offences in section 2 of this guidance

If a landlord has been convicted in respect of the same offence which the RRO is being made the FTT must award the maximum amount of rent possible (capped at 12 months).

13. How will the money be paid?

The FTT will set a date by which the RRO money must be paid to the tenants. The FTT may agree to the landlord paying the money in instalments.

14. What if the landlord doesn't pay up?

If the RRO payment is not received by the agreed date the tenants can apply to the County Court for permission to reclaim the money as a civil debt (see The Residential Property Tribunal Procedure (England) Regulations 2006, regulation 34). Refer to the 'I have a tribunal decision, but the respondent has not paid leaflet (EX328)'.

15. Can my landlord evict me?

Your landlord has no right to make you leave your home because you are applying for an RRO. If your landlord does try to evict you, you should seek legal advice, there are extra restrictions on landlords' powers to evict, where the accommodation is not licensed, see Housing Act 2004, section 75. You can contact one of the above-mentioned organisations who will advise you on such a matter.

Contact Ipswich 01473 433370 and ask for Housing Options or email housing.options@ipswich.gov.uk

16. Conclusion

Tenants and former tenants (& persons occupying under a licence) can reclaim up to twelve months rent in an RRO where the tenant can prove the landlord has committed an offence or been convicted. Tenants should apply for an RRO as soon as possible after an offence has been committed or RRO for housing benefits/universal credit, as in most cases the amount of rent that can be reclaimed will reduce as time goes on.

Please note: This advice has been produced in consultation with experienced housing practitioners. It is not statutory guidance, so should be read in conjunction with the law. The advice may be subject to challenge by the courts or the FTT.

TIPS:

- Ask for application fees to be repaid by respondent at the hearing
- Check who the real landlord of your property is/was. Often agents put themselves as a landlord on a tenancy agreement. Key to deciding who is the landlord is really the "control" of the property: who is managing it and who receives the rent. Even though an agent might be in this position it's worth checking that they haven't covered themselves with a clause on licensing, for example, in their contract with the head landlord: such clauses leave the licensing as the responsibility of the head landlord and so the head landlord needs to be named as the respondent
- Go to a hearing before yours to see how things work: the public are allowed to attend. You can find out about upcoming hearings by checking the schedule at First-tier Tribunal (Property Chamber) Residential Property, Cambridge County Court, 197 East Road, Cambridge, CB1 1BA telephone: 01223 841 524 email rpeastern@justice.gov.uk.
- Be especially well prepared to defend against claims by the landlord for costs to be offset against the rent paid
- On the day of the hearing, make sure you allow plenty of time for security checks at the entrance to the tribunal building. Allow at least 15 minutes for this.
- Evidence is often in the form of text/whatsapp/etc. message screenshots. Often these don't have full dates, so they need to be carefully compiled in chronological order with the dates clearly marked.

Annex 1

**Authority to Act on Behalf of Tenant in
application for Rent Repayment Order**

I [name of tenant] of [address of tenant] {formerly of [address of unlicensed house or flat]} authorise and give my consent to [name of representative] [Ipswich Council] to act on my behalf in the process of applying for a Rent Repayment Order to reclaim the rent paid at [address of unlicensed house or flat] which was operated without a licence.

I request that those who it may concern provide my representative with all relevant information and I authorise them to discuss my case with them including any necessary financial data.

Signed: _____

Name: _____

Date: _____

Annex 2

List of documents needed for a Rent Repayment Order (RRO)

The following documents need to be provided either with the application for the RRO or in the bundle for the hearing. The original documents should be kept by the tenants or their representative and will need to be available at the hearing.

Evidence to show:	Details to be included	Format	Who can help	When these documents are needed	Checklist (tick once you have the relevant information)
1. Evidence of offence committed by landlord or RRO for Housing Benefit/Universal credit provide the council officer with this information	Date of offence or conviction, amount of fine, name of person or organisation responsible (must be same landlord stated in your RRO application).	<ul style="list-style-type: none"> Housing Benefits RRO or Press cutting/ press release, or statement from council officer. 	Ipswich Council Private Sector Housing team	With application	
2. Rent paid by the tenants during the period of 12 months up to the date of the application for the RRO	<p>For each tenant.</p> <p>Dates when rent was paid and who it was paid to.</p> <p>Do not include any rent paid by housing benefits.</p>	<ul style="list-style-type: none"> Rent book or receipts for rent or Bank Statements Cheque stubs table listing all payments, or document from landlord or managing agent stating rent payments are up to date. 	If the rent is paid to an agent, ask if they can confirm that the rent is up to date.	With application	
3. Tenants' agreements to appoint another person to act on their behalf (where relevant).	See Annex 1			Obtain as early as possible and send with application.	
4. Completed application form sent to the FTT				Bundle for hearing	
5. Correspondence with the FTT		Letters or emails received and sent		Bundle for hearing	
6. Tenancy agreement, if provided when you moved in.			Other tenants	Bundle for hearing	
7. Evidence to show three or more tenants, if not shown in 2 or 6 above.	Tenants names and dates they lived in the house or flat for the period the rent is being claimed.	List	Other tenants and tenants who have moved out	Bundle for hearing	
8. Statement from Council officer (optional)	<p>This should include:</p> <ul style="list-style-type: none"> details of the prosecution or conviction or housing benefits/universal credit RRO letters inviting the landlord to apply for a licence details of any licence 		Council Environmental Health or Private Sector Housing Officer	Bundle for Hearing	

Before applying for the RRO, you should make sure that you will be able to produce all the documents needed. If the council is administering your claim, then you will need to provide the documents listed below:

Annex 3

The Laws on Rent Repayment Orders

1. **Housing Act 2004** <http://www.legislation.gov.uk/ukpga/2004/34/contents>
 - Section 73 Other consequences of operating unlicensed HMOs: rent repayment orders.
 - Section 74 further provisions about rent repayment orders
 - The Houses in Multiple Occupation (Certain Blocks of Flats) (Modifications to the Housing Act 2004 and Transitional Provisions for section 257 HMOs) (England) Regulations 2007 – this covers certain converted blocks of flats and is a complex area of law, you are advised to speak to a Council officer if you wish to carry out an RRO in this type of HMO.
2. **The Housing and Planning Act 2016**
<http://www.legislation.gov.uk/ukpga/2016/22/contents>

Chapter 4
3. **Rent Repayment Orders (Supplementary Provisions) (England) Regulations 2007**
4. **The Residential Property Tribunal Procedure (England) Regulations 2006**
(Statutory Instrument 831/2006) Regulation 18
5. **Rent repayment orders under the Housing and Planning Act 2016 guidance**
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/606654/Rent_Repayment_Orders_guidance.pdf

Annex 4

Application Form to the Residential Property Tribunal for a Rent Repayment Order

You can download the application form (**rro1-eng.doc**) from http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=3075 alternatively you can telephone 0207 446 7700 to ask for the form.

Most of the questions are straight forward, but please note:

Question 4: the **respondent** is your landlord and needs to be the same person or company or other organisation who was found guilty in court or who was required to repay housing benefit money under an RRO made by the Council.

Question 6: opt for the paper hearing as you are not charged for this, the FTT can make the decision to change this at any time. Contact the FTT directly to confirm. **If the tribunal decide that a hearing is required, you will have to pay an additional £200 fee.**

Question 9: Grounds of the Application you will need to say:

“This application for a rent repayment order follows the {[offence] [conviction] of [respondent’s name] on [date] for running an unlicensed house in multiple occupation} {making of a rent repayment order on [date] requiring [respondent’s name] to repay rent paid as housing benefit paid for accommodation} at [address of house or flat].

Rent amounting to £xxx was paid, by the tenants living at [address], to [respondent’s name] [agent of the respondent Mr/Ms xxxxx] {during the twelve months ending on the date of this application} {during the period between [date twelve months before this application] and [date you moved/landlord changed/licence application was made]}. This amount does not include rent paid for by housing benefits or any provision of services such as meal provision or laundering.”

Remember you will need to send some of the papers listed in Annex 2 with your application form.