

The council no longer have a pest control service and we have found we are receiving more complaints regarding rat infestations in gardens, overgrown pieces of land and inside properties.

Whilst rats will never be eradicated completely, under The Damage by Pests Act 1949, we all have a duty to keep our land and properties free from vermin.

In cases where we receive complaints regarding refuse in gardens, we can take action to try and enforce the removal of the waste. We can act on items such as soft furnishings including mattresses, duvets and sofas, household food waste and an accumulation of cardboard as these items can provide harbourage for vermin. We write to the tenant and the landlord to request the items are removed and disposed of correctly. If the items fail to be removed, we can serve a Prevention of Damage by Pests Act 1949 notice on the tenant and landlord / owner of the property. If the items remain in the garden, we start the process of works in default where we get quotes from contractors and remove the waste from the garden. The bill for the works is passed onto the tenant and landlord / owner of the property.

If evidence of a rat infestation is witnessed by officers from environmental protection, we can take enforcement action to try and resolve and remove the infestation from the property/garden or piece of land.

The dangers of not dealing with an Infestation

Not dealing with a rodent infestation can have long-term consequences.

Rats and mice can cause significant damage to electrical wiring, floorboards (and other timber), roof insulation, and even plasterboard walls. The longer you ignore the problem, the more it will cost to repair the mess.

A failure to deal with a rodent infestation also leaves you open to prosecution by your local housing department.

Who is at fault for a rodent Infestation?

If a property is infested with vermin before a tenant moves in or the property has structural defects that allow rodents to gain access, it is the landlord's responsibility to deal with the problem.

The tenant may be at fault if the problem has arisen during their tenure (and it isn't caused by structural defects due to a failure by the landlord). For example, if a tenant has made holes in the wall to run cables into the property and leaves rubbish lying around, it could arguably be their fault if rats subsequently move in. The landlord must prove there was not an issue at the start of the tenancy.

A standard assured shorthold tenancy agreement may have a clause that states tenants are responsible for the cost of dealing with vermin. If the problem is caused by the landlord, this clause is not enforceable.

What does the law say about rodent infestations?

While there is no legislation that specifically says landlords are responsible for the eradication of vermin in a rental property, the law is clear on one thing: landlords have a legal responsibility to ensure their properties are habitable, which in a civilised society, means free from rodents. As a landlord, you must take reasonable steps to deal with a rodent problem.

Homes (Fitness for Human Habitation) Act 2018

Landlords are contractually obliged to provide rental housing that is fit for human habitation. The Homes (Fitness for Human Habitation) Act 2018 came into force to ensure homes in the private rental sector were free from anything that could cause serious harm. This includes vermin.

If a landlord fails to put right health and safety issues (a vermin infestation falls into this category), they can be prosecuted by the tenant or local authority. The Homes (Fitness for Human Habitation) Act 2018 applies to any tenancy with a fixed term of less than seven years.

Housing Act 2004

The Housing Act 2004 established the Housing Health and Safety Rating System (HHSRS). Section C Protection against infection covers domestic hygiene, pests, and refuse.

Domestic health and hygiene

This is concerned with protection against infection. Includes hazards resulting from:

- Poor design/layout/construction of the dwelling so that it is difficult to be kept clean and hygienic;
- Access into and harbourage within the dwelling for pests; and
- Inadequate and unhygienic provision for storage and disposal of household waste.

Note: hazards connected with sanitation and drainage, domestic water, personal washing facilities and food safety are considered in other profiles.

Landlord and Tenant Act 1985

There is an implied obligation in the Landlord and Tenant Act 1985 that states the landlord must maintain the structure of the building. This includes drains and external pipes, a common entry point for vermin.

Repairing obligations in short leases.

(1) In a lease to which this section applies (as to which, see sections 13 and 14) there is implied a covenant by the lessor—

(a) to keep in repair the structure and exterior of the dwelling-house (including drains, gutters and external pipes),

(b) to keep in repair and proper working order the installations in the dwelling-house for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences, but not other fixtures, fittings and appliances for making use of the supply of water, gas or electricity), and (c) to keep in repair and proper working order the installations in the dwelling-house for space heating and heating water

Environmental Protection Act 1990

A vermin infestation could be regarded as a statutory nuisance under the Environmental Protection Act 1990. If action is not taken by the landlord, the local authority has the power to enter the premises to inspect, enforce, and carry out treatment works, with only 24 hours' notice. If the problem is caused by a failure of the landlord to meet their contractual repair obligations, the local authority can prosecute them.

The Prevention of Damage by Pests 1949

Part 1, Section 3 of The Prevention of Damage by Pests 1949 states that the local authority can take steps to address a rodent problem. The authority can recover any expenses reasonably incurred whilst doing so if the person served with an enforcement notice doesn't carry out improvements by the time recorded in the notice.

Remedies for failure to comply with notice under s. 4.

(1) Subject to the provisions of the last foregoing section with respect to appeals, if any person on whom a notice is served by the local authority under that section fails to take any steps required by the notice at the time or within the period prescribed by the notice, the local authority may themselves take those steps and recover from him any expenses reasonably incurred by them in doing so.

Case law: Read v Notting Hill Housing Trust Bow County Court, 2013

Within a few months of moving into a ground floor flat, the tenant notified the landlord and the local council's environmental health department about a rat problem. He stated rats were getting into the property via holes in the floor. The flat had other problems, too, including a faulty boiler and rising damp. The tenant was offered alternative accommodation after a year, but one child had already decamped to a grandmother's house because of the rat infestation. The matter ended up in court and the tenant was awarded total damages of £14,825.

Problems Caused by Tenants

Assured shorthold tenancy agreements state that a landlord is contractually obliged to maintain a rental property so that it is fit for human habitation. The structure must be in a good state of repair and there must be no vermin residing there, but tenants may bear some responsibility too. Whilst a landlord has a duty of care to ensure there are no holes

where vermin can get in and there are suitable bins provided for rubbish collection, the tenant also must do their bit.

Landlords can only do so much to prevent vermin from infesting a property. Tenants also have a contractual obligation to dispose of waste correctly, keep their rental property clean, and store food in appropriate containers.

Do not delay if your tenants report a vermin infestation. Visit the property as soon as possible and look for the root of the problem. Look for maintenance issues, such as holes in the floor or open drains, and fix them as soon as possible. Fixing structural defects is the only long-term way to eradicate vermin.

Working with tenants to eliminate the issues

If your tenant reports a vermin problem or you receive an enforcement notice from the local authority, you need to talk to your tenants as soon as possible. Visit the property to verify what's happened and why.

If the issue has arisen because of structural defects fix these immediately and explain to the tenant what the next steps are. If your tenants are at fault, you should remind them of their contractual obligations and educate them on how to keep the property clean and free of anything that may be attracting vermin.

Working with the local environmental health department

Under Part 1, Section 3 of The Prevention of Damage by Pests 1949, Landlords have an obligation to inform their local environmental health department if a tenant reports substantial numbers of rats on their land or in their property.

Obligation of occupiers of land to notify local authority of rats and mice.

(1) Subject to the provisions of this section, the occupier of any land shall give to the local authority forthwith notice in writing if it comes to his knowledge that rats or mice are living on or resorting to the land in substantial numbers.

Even if there aren't hundreds of rats roaming around chomping on discarded pizza crust, once a tenant reports a vermin infestation, it is sensible to call your local environmental health department to try and work out the origin of the problem.

An environmental health officer should be able to determine if the infestation is a symptom of a wider problem in the local area. It may also be caused by an act or omission by the tenant or landlord. They can also offer specific advice on how to deal with the problem.

Eradicating rodents

Unless the rodent problem is significant, you may be able to tackle it using DIY methods. The first step is to eliminate all entry points into the property. Rats and mice can squeeze

through very small gaps, and in the case of mice, if you can fit a pencil in the opening, a mouse can push through.

Pay close attention to gaps where pipes come through the wall. Fill small gaps with caulking and mortar – a mix of steel wool and mortar will keep rats out of larger openings. Seal gaps around windows and doors and look for openings in the eaves of the roof, which are common in older properties.

Old-fashioned Mouse Traps baited with peanut butter are useful if the problem is mouse-related or you're not sure there even is a problem. Set traps in strategic areas around the house, such as in the attic or a pantry. Mice are curious and will usually take the bait within a day. If you catch one mouse, then you can assume there are many more hiding away out of sight. Note that it can be upsetting for tenants to find mouse corpses in a trap.

Spring-loaded rat traps can be used to catch and kill rats outside, but they are not for the faint-hearted. There are also rat trap cages, which don't kill the rat, but this means someone must then humanely deal with the rat or relocate an angry rat to a new location.

Poison bait is another common strategy for killing both mice and rats, but it isn't advisable to use poison traps when there is a danger pets or children might come into contact with the bait. Vermin poison is just as lethal to other small animals and your tenant will never forgive you if their cat dies after eating rat poison.

Note that many domestic anticoagulant rodenticides are no longer effective against rats and mice. Due to incorrect use of such products, rodents have built up resistance to the chemicals they contain.

Bear in mind that if you use rat or mouse poison the animal won't die immediately. Instead, it will go and die somewhere else, and if the final resting place happens to be in a cavity wall or under the floorboards, your tenants can look forward to a deeply unpleasant aroma for many weeks while the corpse decomposes.

Always dispose of dead rodents safely. Leaving a poisoned rat out in the open could inadvertently lead to the death of other animals and birds that scavenge on the rat's carcass. The BPCA recommends that dead rodents are double-bagged and placed in the general waste bin. It is best to check with your local council first, as there may be restrictions on dumping dead animals in the household waste.

Calling in the experts

The best way to deal with a vermin infestation is to call in the experts. They have tools and rodenticides not available in your local DIY store. They'll use a range of methods to monitor the size of the infestation, identify where the nest is located, and come up with a strategy to deal with the problem in the shortest possible time frame.

Adopting a professional approach to a rodent infestation is more likely to inspire goodwill with your tenants.

Look for a pest control company that is a member of the British Pest Control Association (BPCA). This gives you peace of mind that the pest control company is insured, fully trained, and trustworthy.

Bear in mind that it may take several visits before a rodent problem is truly eradicated. Rats are naturally wary of new objects placed in their environment.

Does landlord insurance cover rodent infestations?

Read the terms and conditions of your landlord insurance to see if rodent infestations are covered. Landlord emergency policies often feature comprehensive protection that covers pest infestations, including vermin.

Even if you can't claim for the cost of calling in a professional pest control company, you may be able to claim for any damage caused by rats or mice, such as chewed electrical cables or gnawed timber.

Preventing a rodent infestation

Preventing a problem from occurring in the first place is always better than calling out an expensive pest control company.

- Fill in gaps around pipes and vents
- Check outbuildings for access points
- Cover open drains and block off unused pipes and drains
- Keep gardens tidy and cut back overgrown shrubs and hedges
- Be wary of storing piles of wood
- Don't allow debris and rubbish to accumulate
- If tenants feed the garden birds, ask them to use a bird table or feeder and not to leave food out overnight
- Make sure damaged bins are replaced as quickly as possible
- Discourage tenants from leaving food waste in plastic bags on the kerbside the night before a scheduled collection

Please contact environmental protection if you require further advice.

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