



# Property Guardians: who are they, and what are their rights?

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## Property Guardians: A Definition

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- No statutory definition
  - Guardians are residents who provide a measure of security for vacant properties

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## Property Guardians: Tenant or Licensee?

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- The commercial nature of the arrangements depends upon the agreement being a licence - *Camelot Garden Management Ltd v Khoo* [2018] EWHC 2296 (QB)
- Exclusive possession? - *Street v Mountford* [1985] AC 809
- Not a tenant or licensee but a personal contract - *Oxley v Live in Guardians Limited*

## Can Property Guardians be Evicted?

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- Is the guardian a tenant? Usual rules apply
- Is the guardian a licensee? Protection from Eviction Act 1977 applies
- Who evicts (i.e. who is the claimant in the possession claim)?
- That depends: who is the landlord / licensor?

## Can Property Guardians make Disrepair Claims?

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- Is the guardian a tenant? Usual rules apply
- Is the guardian a licensee? Very limited disrepair rights (not s11, or any associated legal protections)
- In theory, could be contractual rights – but unlikely
- May be other (non-L&T) duties

## Is the building an HMO? Probably...

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- Occupied by 5 or more people, in 2 or more separate households
- Some or all of those people share bathroom, toilet or kitchen facilities
- At least one person pays for their occupation
- Living accommodation is not used for any other purpose



# Questions

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