

# Property Guardianship :

## Guide for current/ potential guardians (Jan 2016)

*This short guide has input from guardians, ex-guardians, activist-researchers, housing activists and a housing lawyer. We've developed this to answer some of the questions people might have about property guardianship, including some of the possible risks of being a guardian, and some suggestions about how to organise as guardians. It's completely understandable that some people might want or need to be a guardian; our aim is not to tell you whether or not to do it, but to give you some potentially useful knowledge about what guarding involves and how to deal with problems.*

***NB: This FAQ is not intended to be a substitute for legal advice about a specific situation.***

### 1. What property guardian (PG) companies are out there? And are they all the same?

At the moment there are over 30 organisations offering property guardians/'caretakers' in the UK. The big ones are Camelot and Ad Hoc, but other key players in London are Guardians of London, Live-In Guardians, Global Guardians and DotDotDot. There are basically 4 types of PG company:

- 1) Big international ones with multiple UK offices (e.g. Camelot and Ad Hoc)
- 2) Ones that have evolved from security companies (e.g. Orbis, VPS)
- 3) 'Start-ups' that have been set up to manage properties, mainly through guardians (e.g. Global Guardians)
- 4) Social enterprise/ 'ethical' small organisations with an interest in housing particular types of people as guardians and supporting the surrounding community (e.g. DotDotDot, Acorn Guardians)

All PG companies behave towards clients (building owners) and guardians in different ways, and some are cheaper than others. But in general they will all provide 'flexible' accommodation (you can be asked to leave at less than 4 weeks' notice, more below) and in general will charge you less than market rent. No companies will allow under-18s or pets. Most require references from both work/study contacts and landlords, and proof of income. They may also require you not to have a criminal record. They will all require you to follow 'rules' in the property like no candles, no parties, only certain kinds of heaters etc – and have the power to fine or evict you if those rules are broken.

The property guardian sector has very little regulation – this means all the codes they are signed up to (usually building contractor/security codes) are voluntary codes of practice. There is no national legislation covering guardians and anyone can set up as property guardian company.

### 2. How much should I expect to pay per month?

Anything from £200-700 (and in London probably not less than £400). This is usually inclusive of council tax and water, sometimes electricity. In addition, you may have to buy your own fire

safety pack as a condition of the contract, and will probably have to sort out phone/internet yourself.

### 3. Will I have to pay a deposit, and will I get it back?

You will almost certainly need additional money for a deposit before you move in. Deposits (as with the private rented sector) vary; expect £500-1000. It takes some companies a long time to return deposits, and in some cases they have been retained without good reason. Unlike private renting, there is no possibility of deposit protection by law for guardians, unless you can manage somehow to prove in court that – whatever the document that you signed – the nature of your agreement in practice means that it is a lease rather than a licence (more information below).

### 4. What should I expect?

A license to occupy (see below) will get you permission to occupy a room of your own (with a lock) and also share certain parts of the property with other people. Some buildings on offer will have a lot of room, others not so much. **Legally, you should have access to running water, electricity and the property should be secure and watertight.** This doesn't mean it's guaranteed though! You will probably have to sort out phone/internet/cooking appliances yourself. Many properties are not fully clean and sanitary, and some may be unsafe. Lots of guardians have had to do serious cleaning to make them habitable. Make sure you view the property carefully first and ask lots of questions. Make a note of cleaning expenses you do incur.

### 5. IMPORTANT BIT - The guardian companies say that a guardian is not a tenant. Does that mean I have no housing rights at all?

Lawyers have spent years arguing over the difference between a lease and a licence. **The one thing that is clear is that simply writing the word 'licence' on an agreement is not *by itself* enough to prevent you having the rights of a tenant – (including, for example the right to have your deposit protected).** Whether you are a tenant or a licensee is a question of fact that in practice is likely to revolve around whether or not you have been granted exclusive possession of the space you occupy. For this reason, property guardian companies will be keen to include provisions granting them/ owners access at any time for inspection, and these provisions, especially if they are actually used, may well mean that your agreement is a licence. However, all is not lost; **this is because you still count as a protected occupier** within the meaning of the Protection from Eviction Act 1977. This means two things – a) unless you want to leave, you **cannot** be evicted except by order of the court; and b) (unless it is for a fixed term) the guardian company cannot go to court to get such a court order, without first serving you a notice which complies with various technical formalities and which gives you at least 4 weeks' (28 days') notice.

**In other words, it is highly questionable whether notice periods of less than 28 days are legal. If they try and remove you without following the above steps** you can get an injunction to prevent them, or - if they have already thrown you out - you get the court to order that you be let back in, and/or claim damages. Many guardian companies are not aware of these provisions, and will often ask you sign terms agreeing that they can give you 2 weeks' notice or less: **these terms have NO legal effect – no contract can override the basic legal**

**protections for people who count as protected occupiers.** Given this lack of knowledge, it may be effective to write to them early on setting out their obligations, and letting them know you will be happy to go to court to enforce them. It is also important to keep a very detailed record of all actions and communications. Legal aid is available for unlawful eviction claims, and where the evidence is strong, you may also find solicitors willing to take the case on a no-win no-fee basis. Guardians have used the Protection from Eviction Act to get substantial compensation for being locked out of her home and having her belongings withheld. Unlawful eviction is also a criminal offence, *but* the police tend not to be very responsive to this accusation; sometimes they even assist the landlord to unlawfully evict people.

#### **6. I've heard people can sometimes get asked to leave at less than 2 weeks' notice. Is that true?**

**Yes.** Although some guardian residencies last for many months, the license contract you (will) have as a guardian will say that the minimum notice the company can give you is 2-4 weeks, depending on the company (and usually 2-4 weeks to give them if you want to leave). *However, we know from talking to guardians that people's licenses have been terminated with only a few days' notice, and sometimes with no alternative accommodation or compensation offered.* As stated above, if you don't want to, or can't leave within that time frame, stand firm; get legal advice and call their bluff. It is always advisable to have a back-up plan though, especially given how difficult it is to find appropriate, low-cost housing quickly, especially in London.

#### **7. Do property guardians have any obligation to re-house me?**

**No.** Several companies say they do try to re-house guardians, and some of them do. The larger companies may find this easier because they have more 'stock'. But you have no legal entitlement to this. Also, see above.

#### **8. Am I legally liable for the security of the building?**

**No.** Guardians cannot be considered security guards if they are not trained for that purpose. Even though you are entrusted and given responsibility to 'guard' this is not legally codified. In other words, it's the company, not you, who are responsible for the building's security. This means, for example, if you're out at work in the day (or even if you're in) then a break-in or vandalism is **NOT** your fault. If you are asked to do something as a guardian that makes you feel vulnerable or anxious, don't do it!

#### **9. I've heard that I am not allowed to leave the property for long periods. Can I go on holiday?**

**Maybe.** It depends on your contract. In general, guardians are required to spend a number of nights a week in the property. It may be that the PG company will let you go away for weeks at a time but that's at their discretion.

## 10. How can I get the most out of being a guardian?

- **Know your rights.** Read your contract carefully before signing and clarify things you aren't sure about, preferably using legal resources/ people.
- **Have a back-up place to stay.** We know from talking to guardians that not having somewhere you can crash at short notice makes you very vulnerable to homelessness. If you are a single person, councils do not have a legal duty to house you (with a few exceptions, e.g. you are pregnant, very old or seriously ill or disabled).
- **Work out if it's the right choice with your work/study plans.** For example: If you're working from home, it might be a good option, but if you might have to relocate at short notice without other housing options, think carefully. PG companies seem to like postgraduate/part-time worker combinations, as well as artists and other people with freelance work. These seem to be the people it suits best.
- **Get to know other guardians** and find a (preferably secure) way to communicate with each other without the company knowing (eg a forum on RiseUp or similar encrypted site). You never know when you might need it!
- **Keep a record of ALL your interactions with the property guardian company** (verbal and email). If they make a promise to you, **INSIST** you have it in writing, or else email them yourself to confirm in writing any oral agreements made.

## 11. What should I do if I have a problem and the guardian company is being unreasonable/ unresponsive?

**The most common problems we've heard about PG companies are: a) not responding to urgent requests b) being fined unreasonably c) not returning deposits and d) unsafe/ unsanitary conditions. Here's some tips.**

- **Get together with other guardians** and work out your legal position and what action you want to take together. Try to take action together because that makes you stronger. A PG company will be less keen to evict ALL of you in retaliation to a complaint than one person (although this is still a possibility).
- **Get proper legal advice.** The legal setup of PG is still very much a grey area. A housing lawyer may be interested in taking on a case for you. You might be entitled to (free) Legal Aid if on a low income. Even threatening legal action might get a problem sorted, if you think you're safe if they call your bluff. Property guardianship operates without proper scrutiny.
- **Know who else has your back.** Is there a local housing support/activist group? They will have housing law knowledge, and you could organise a protest or a group delivery of a letter of complaint ('march on the boss' technique). Publicise the issue! Might the local paper be interested in a story about poor housing in the area? Bear in mind that contacting the media might well be a breach of your contract (read it carefully!) so use your judgement and stick together with other guardians and sympathetic people.

- **Contact the property owner.** In the case of some companies, this would be an explicit breach of your contract and they would have legal grounds for evicting you. If they are unsatisfied with the PG company, you'll probably end up losing your home because they will terminate their agreement with the company. BUT if you've got options and if you think the owner might be sympathetic OR it would be bad publicity for them (*especially if they are a local authority or social landlord*), then it may be a risk worth taking.

#### **AND FINALLY....**

**As a guardian, you are or will be likely to be one of the millions of people in this country who are vulnerable to losing their home at short notice, having your rent raised without notice, and feeling like you're powerless. You aren't. There are housing campaigns made up of private renters, social tenants, squatters and co-operative members. Join in, make links, get the housing you need. Everyone deserves decent, secure, appropriate and affordable housing.**

#### **Useful links:**

<http://propertyguardianresearch.wordpress.com/> - group researching PG

<http://radicalhousingnetwork.org/> - network of London housing action groups

<http://bondprecairewoonvormen.nl/> - Dutch Union of Precarious Tenants (started around PG, now more general)

**Facebook Group: London Property Guardian Discussion (lots of useful info here)**

#### **Sources for this leaflet:**

- Property Guardian websites and publications, interviews with guardians 2011- 2014, media analysis over several years, experienced housing lawyer

**For more info/questions, contact [propertyguardianresearch@gmail.com](mailto:propertyguardianresearch@gmail.com)**

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