

Access Injunctions – Legal Update incorporating new guidance issued on 13 July 2026

This article sets out the relevant legal principles that apply to applications for access injunctions, and attempts to provide a summary of the current position and latest guidance on forced access.

The article incorporates the guidance given by HHJ Glen on 13 July 2026 in [Stonewater Limited v Rosie Marie Harris](#) [2026] EWCC 42.

THE APPLICATION

The nickname “gas injunction” or “access injunction” provides a convenient shorthand but does not accurately describe the legal basis for the application. Every application to the court requires a cause of action and the correct procedure to be applied.

When a landlord applies for an injunction for access, the landlord is asking the court for an order for specific performance of a contractual term.

The contractual terms are set out expressly in the terms and conditions of the tenancy agreement. Implied terms are also imported by s.11(6) of the Landlord and Tenant Act 1985 and, in the case of assured tenancies, by s.16 of the Housing Act 1988.

The correct procedure is therefore to send a letter before claim, then to apply using the Part 8 procedure. This requires;

- Claim Form N208
- Application for an Injunction N16A
- A draft injunction order, preferably on form N16
- A witness statement setting out;
 - The relevant terms of the contract that the landlord is seeking to enforce
 - The factual background including the composition of the household and any known vulnerabilities
 - A copy of the tenancy agreement with the full terms and conditions
 - A copy of the letter before claim
 - Any other relevant correspondence

It is important to remember that an injunction is a discretionary remedy. The landlord will need to persuade the court that the discretion should be exercised.

THE DRAFT ORDER

The draft order is arguably the most important document in the application.

The mechanism for achieving access is reflected in the tenancy agreement. The court's power is to grant specific performance of the contractual terms. The draft should accurately reflect what the parties have already agreed.

APPLICATIONS WITHOUT NOTICE

Part 23 allows for applications to be made without notice in the circumstances permitted by r.23.8(1) and Practice Direction 23 paragraph 3:

r.23.8(1) The court may deal with an application without a hearing if—

- (a) the parties agree the terms of the order sought;
- (b) the parties agree to dispense with a hearing; or
- (c) the court does not consider that a hearing would be appropriate.

PD23 para 3. An application may be made without serving an application notice only:

- (1) where there is exceptional urgency,
- (2) where the overriding objective is best furthered by doing so,
- (3) by consent of all parties,
- (4) with the permission of the court,
- (5) where the applicant is seeking a direction that their address not be provided to a party,
- (6) where paragraph 2.8 above applies, or
- (7) where a court order, rule or practice direction permits.

In access cases, the landlord has to show that it would be appropriate not to have a hearing on notice because the matter is a case of “exceptional urgency”.

The test in *American Cyanamid v Ethicon* [1975] 1 All ER 504 is relevant:

1. Is there a serious issue to be tried.
2. Are damages an adequate remedy instead of granting an injunction.
3. Where does the balance of convenience lie?

Where an order is made at a hearing made without notice, r.23.8(3) applies:

(3) If the court decides the application without a hearing under paragraph (1)(c) and does so in circumstances where the parties affected by the application have not had an opportunity to make representations about the substance of the application—

- (a) a party affected by the court's order may within such period as the court may specify apply to have the order set aside, varied or stayed;

- (b) if no period is specified, the application must be made within 7 days after the date the order was served on the party applying; and
- (c) the order must contain a statement of the right to make such an application.

There is an obligation of full and frank disclosure where an application is made without notice to a Defendant. The duty is broad: an applicant must disclose any fact or matter which might reasonably influence the court's decision to make an order. This includes points of law, procedural history and any matter that might affect whether the court asks the Claimant to give an undertaking to the court in terms that they will pay damages to the Defendant if the order is revoked and damage has been suffered by the Defendant. Relevant cases include: *Brink's Mat Ltd v Elcombe and others* [1988] 3 All ER 188, and *Astor Asset Management 3 Ltd & Ors v Pliego & anor* [2025] EWCA Civ 1060.

The guidance on full and frank disclosure includes the following principles;

1. Disclosure Without Mini-Trial

Urgent without notice hearings are not the forum for resolving heavily contested factual disputes. The claimant should touch on the relevant facts, summarise them accurately and neutrally, so that the Judge can take them into account.

2. Materiality as the Decisive Test

Whether a fact has to be disclosed depends on how important it is to the court's decision. Would the fact have been capable of swaying the court's decision one way or another – or put another way – if the court had known that fact would the decision have been different.

Cross undertaking in damages – the price of an injunction

The claimant/landlord is likely to be expected to give what is called a 'cross undertaking in damages'. This is the price of a without-notice injunction.

A cross-undertaking in damages at a without-notice hearing is a formal, binding promise made by the claimant to the court to compensate the absent defendant for any financial loss if the urgent interim injunction is later found to have been wrongly granted.

The wording of a cross undertaking is usually:

“The Claimant gave an undertaking (through its Counsel or Solicitor) promising to pay any damages ordered by the court if it later decides that the defendant has suffered loss or damage as a result of this order.”

Specific instructions need to be provided to the advocate representing the claimant as to whether they should give that undertaking on the claimant's behalf.

The options open to the advocate at the hearing, on being required to give such an undertaking as the price of the interim injunction, are;

1. To give the undertaking, or
2. Abandon the application for an interim injunction and ask for the matter to be listed on notice asap.

FORCED ACCESS

If the tenancy agreement provides that the landlord can force access to the tenant's home, then the court has the power to grant specific performance of that express provision and this can be sought in the first instance. The obligation is on the landlord to accurately reflect in the draft order the express term. The guidance below will still be relevant, in particular because injunctions are discretionary remedies.

If the tenancy agreement does not allow for forced access, then the following applies.

It is now settled law that r.70.2A(2) provides the authority for a court to allow the landlord to do the "act" which the tenant has not done, in the context of an injunction for specific performance of a contractual term.

This means that where a tenancy agreement does not have an express term for forced access then (according to guidance in *Stonewater Ltd v Harris* [2026] EWCC 42) the landlord has a two stage process:

1. Apply for the injunction for specific performance of the contractual term.
2. Apply for a variation of the injunction pursuant to r.70.2A(2) that the landlord be permitted to do the "act" that the tenant has failed to do.

It is vitally important that, if the landlord wants to have the option to use forced entry if the tenant does not provide access, then the "act" that the tenant is expected to do must be capable of being "done" by the landlord.

A good example of an injunction order capable of being enforced in this way would be "the tenant must [give] *or* [grant] the landlord access [set out mechanism reflected in the tenancy agreement]". The act of giving or granting access can be done by the landlord in lieu of a tenant, by drilling the lock for itself.

A poor example would be “the tenant must permit the landlord access...”. The word permit is unlikely to be capable of being done by the landlord, by drilling the lock. This is because permission to enter is fundamentally different to forcing access.

Applications for forced access must be accompanied by a witness statement giving full information to the court about the occupiers of the property and any vulnerabilities they have.

The draft order to such an application must make provision for the following:

1. An order providing for forced access should only take place on 48 hours’ notice.
2. An order must provide that if the tenant is present at the property and opposes the forced access then the landlord must not proceed with the forced access.
3. An order for forced access must provide for the door to be made good and the new key to be placed in a keysafe affixed to the outside of the premises.

THE AUTHORITIES AND LATEST GUIDANCE

The most recent court authorities have concentrated on the provisions set out in the civil procedure rules at r.70.2A(2). The rule bears reading in full, but in summary, it provides that if the court has made an order for specific performance of a contractual term, and that order is not complied with, then “the court may direct that the act required to be done...be done by another person”.

The rule has been interpreted to “enable the court, when an order is not being complied with, to appoint either a party or some other person to perform the order on behalf of the person who has failed to do so.” (per Browne-Wilkinson LJ in *Parker v Camden London Borough Council* [1986] 1 Ch 162).

In *Metropolitan Housing Trust v Cifci* [2024] EWCC 13 (Edmonton County Court, 26 January 2024) the matter came before District Judge Cohen. The Judge had been invited to make an order in terms that if the tenant did not provide access then the claimant would be entitled to force access. The Judge had asked the advocate for the claimant to provide authority for the court’s power to do so. The advocate had returned, relying on CPR r.25.1(c) which gives the court the power to grant an injunction for the purpose of preserving and inspecting property, and r.25.1(d) which provides that the court may grant an order “authorising a person to enter any land or building in the possession of a party to the proceedings for the purposes of carrying out an order under sub-paragraph (c)”. The Judge considered whether these provisions in fact allowed ‘forced’ entry – causing criminal damage to a property. The advocate argued successfully that the door belonged to the landlord and so, as long as the provision of the injunction provided that the lock be replaced and the door

made good immediately, then the court had the power to force entry. Forced entry was allowed. [*It was not considered in this case that r.25.1 applies to interim orders only*].

In *Sovereign Housing Association Ltd v Jane Hall* (unreported, Bristol County Court, 10 July 2024) the landlord had applied for an injunction relying on CPR 25.1(c) and (d) as above. The court was not persuaded that these provisions allowed ‘forced’ entry. They only provided that the court could order a person to provide access, which would then be enforced with a contempt application. On appeal, HHJ Berkeley held that the Court did in fact have power, albeit under CPR 70.2A, to permit a claimant to use forced entry to secure access to a property where, in breach of a prior injunction, a tenant has failed to allow such access. As he put it at [12]:

“I accept Mr Bigwood's submission in relation to CPR 70.2A. It seems to me that the court must be in a position to be able to enforce orders that it makes of this nature and I find that Rule 70.2A covers this precise circumstance. The defendant is clearly a “disobedient party”, being a person who has failed to comply with a mandatory order and/or a person who is the subject of an order for specific performance of a contract - the tenancy agreement. The court is therefore empowered to order that the claimant carry out the act required to be done, namely the granting of access to the property in question for the purposes of inspection. The fact that access is gained by unconventional means is nothing to the point in my judgment. The door belongs to the claimant and so any damage done to the door or the frame would not be to the defendant’s property (although I am told that access can be gained without damaging either the door or the frame). In fact I doubt that damaging the defendant’s property would be a bar to the making of an order under the paragraph, but it weighs in the balance in considering whether to exercise the court’s discretion.”

In *Southern Housing v James Emmanuel* [2025] EWCC 58 (Bromley County Court, 27 October 2025) District Judge Cridge determined that r.70.2A(2) does not allow for forced entry. There were two reasons for this: firstly, following the wording of r.70.2A(2) the “act” to be done by the tenant was permitting access, and forcing access was fundamentally different. The landlord could not step into the shoes of the tenant to force access where the injunction term was permissive. Secondly and more fundamentally, he determined that ‘the Englishman’s home is his castle’ – it being a fundamental principle in law that the tenant has exclusive possession, it would only be Parliament (and not civil procedure) to legislate for forced access. This decision as come to be known as the “Englishman’s home is his castle” approach.

In *Taylor Clark Ltd v Mohamed* (unreported, Central London County Court, 5 March 2026), District Judge Le Bas determined that the tenant has already given consent to a landlord for access. This decision has come to be known as the ‘deemed consent’ approach. For the purpose of r.70.2A(2) the “act...[to] be done by another person” is facilitating access. That

act is unlocking or opening the door. If the tenant will not open the door voluntarily then the court may grant that the door be opened by another person, forcing the lock.

In *Plymouth Community Homes Limited v Lee Hammond* [2026] EWCC 27 (Plymouth County Court, 5 May 2026), District Judge James considered circumstances where an access injunction had been granted but no access provided by the tenant. The landlord had then applied to the court for an order under r.70.2A(2) to force access. He recognised that any entry by a landlord will be a trespass if without permission or other authority. However, the tenant's right to exclusive possession is subject to the terms of the tenancy agreement and no trespass is committed if the landlord acts within its rights as set out in the express or implied tenancy terms. The court also considered that it depends on the words used in the underlying injunction. If the word used was for the tenant to "permit" access, then DJ Cridge would be correct, that the "act" to be done for the purpose of the rule at injunction stage is for the tenant to permit access, whereas the act that the landlord was seeking to do was to force access, which are fundamentally different. However, if the injunction wording was for the tenant to "give" or "grant" access, then it is entirely proper to use the purposive approach to r.70.2A(2) adopted by HHJ Berkeley in *Sovereign v Hall* to allow a landlord to drill the lock, as long as the order provides for the landlord to make good the damage and provide the keys to the tenant as soon as reasonably practicable.

In *Stonewater Limited v Rosie Marie Harris* [2026] EWCC 42 (Portsmouth County Court, 13 July 2026, HHJ Glen) the landlord had presented a draft order to the court which contained a paragraph seeking forced entry if the tenant did not provide access. This was not granted at the first hearing, but the application was renewed later when the landlord sought to vary the terms of the injunction after several unsuccessful attempts to access the tenant's property. The application to vary the injunction was referred to the designated district judge, HHJ Glen, for guidance. HHJ disagreed with both the analysis of DJ Cridge in *Southern Housing v Emmanuel* (the broad conclusions are unsupported: illustrations of the court's power to force entry are in 'search and imaging' orders, and in r.25.1(d) for interim orders), and that of DJ Le Bas in *Taylor Clark Ltd v Mohamed* (in covenanting to allow access, the tenant is binding themselves contractually to give access when asked to do so. They are not agreeing that the landlord can without more enter the premises as and when notice to do so has been given).

HHJ Glen determined that the key to unlocking the question lies within r.70.2A(2) itself, by identifying the "act" to be done by the tenant in the first instance, which is capable of being carried out by the landlord in default of the tenant carrying out that act. At para 27: "The core 'act' in in this context is enabling the landlord to obtain access. If it cannot be enabled by the tenant's consent, then in my judgment CPR70.2A(2) permits the Court to empower the landlord to enable access in another way."

Guidance was given as follows in paragraph 29:

“In my judgment, District Judges and Deputy District Judges do in principle have the power to make an order permitting landlords to force access to rented property in order to carry out gas and electrical safety inspections. I however consider that this is subject to the following:

- (i) Whilst in my judgment it is technically possible on the authorities for a ‘rolled up’ order to be made at a first hearing (i.e. an order that the tenant provide access coupled with a CPR70.2A(2) order in default), I do not consider given the serious nature of the interference with a tenant’s property and Convention rights that this will normally be appropriate in cases of this kind.
- (ii) On any application for a CPR70.2A(2) order, the Court will (in concordance with the approach taken by District Judge James) expect to be provided with information regarding the tenant and their household, including anything in relation to potential vulnerabilities.
- (iii) Any order should provide that forced access should only take place on 48 hours prior notice. Plainly, the Claimant should not proceed where the tenant is present and actively opposes entry.
- (iv) It seems to me that the additional provision in this application for the affixing of a key safe to the outside of the premises represents good practice.

CONCLUSION

The authorities now point to forced access being permissible but subject to the wording of the underlying injunction order. The landlord must be capable of stepping into the shoes of the tenant. Words like ‘permit’ are unhelpful and should be avoided as this is permissive only. Strong drafting in terms that the tenant “must grant” access should be favoured.

Recent guidance also emphasises the discretionary nature of injunctions. The balance being struck between the tenant’s and the landlord’s rights favouring a 2-stage process. Safeguards are built in – avoiding forced access where the tenant is in and objecting, forced access to have its own notice to the tenant (ie “the landlord will force access on [date and time]”), and providing a keysafe for new keys.

It also bears emphasising that, due to the discretionary nature of the relief, that if the court has questions about the tenant’s circumstances that are not adequately addressed in the evidence, it is likely that the court will adjourn the hearing and ask for more evidence to be filed. It is vitally important that landlords provide as much information as possible for the court to enable a decision to be made at the earliest opportunity.

This article was written by Elizabeth England of Five Paper Barristers on 14 July 2026 and is intended to assist practitioners. It is not intended to constitute legal advice. For assistance with specific cases please refer to a legally qualified professional.