



Staying in, taking control

Fact Sheet 8:

Court Action



Taking action to repossess a property involves a number of stages, which can take a few weeks or months. You may be able to stop the process at any stage, so get advice immediately and keep negotiating with your lender or freeholder.

Don't delay

The earlier you take action, the more options you will have and the less you will have to pay in legal costs. There are special rules about the procedures that must be followed at each stage - if things aren't done correctly, you may be able to stop or delay the eviction.

Reasons for repossession

There has to be a legal reason for your home to be repossessed. The most common reason is if you have mortgage or arrears on another secured loan taken out against your home. If you are in arrears you should try to pay as much as you can on a regular basis, even after court action has been started.

Notice from your lender

Firstly, your lender, your freeholder or their solicitor, should contact you, asking you to put the problem right. If they are not happy with your response, they should write to you, warning you that they are going to start court action. They can then apply to your local county court for a possession order.

A summons from the court

The court will write to you telling you when a hearing is to take place. This is called a summons. When you hear from the court, if you have not already done so, you should get advice immediately about what to do next. It is very important to reply to the court. Failing to reply can harm your case. An adviser may be able to help you prepare for the hearing, gather evidence and/or negotiate with the other side.

The hearing

At the hearing the judge will hear evidence from you and your lender or freeholder before making a decision. The judge may:

- adjourn the case
- strike it out
- allow you to stay in the property provided you keep to certain conditions, such as repaying the arrears in instalments

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- give you time to sell your property to avoid repossession
- decide that you should be evicted.

If you don't attend you can't defend...

If you have received a court summons to attend court it's very important that you go. Going to Court is nothing to be afraid of and it's a chance for you to tell the Court what you are doing to about your mortgage arrears.

If you don't attend it is more likely the Court will grant possession of your home to your mortgage lender meaning that you will have to leave your home.

The judge will want to know your views about your mortgage so you need to be prepared to tell them – so ensure your facts are correct. Write down your income and outgoings and work out beforehand what you can afford to pay back.

You need to show the Court that you can meet your mortgage payment and make a realistic offer towards paying back the arrears. Don't overstretch yourself or make promises you cannot keep.

*For more advice about you housing situation or debt please refer to the Useful
Contacts sheet*