

CABmoney

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Fact Sheet #2: Rent Arrears

Maintaining payments on rent will normally be your number one priority expenditure as failure to do so will almost certainly mean your landlord will commence legal action to evict you from your home.

For a number of reasons including job loss, relationship breakdown, interest rate rises, **paying other less important debts first**, many people have got behind with their rent payments or are struggling in one way or another to maintain them.

This fact sheet has been designed to explain what steps you can take if you are having difficulty in paying your rent. This advice covers before and after your landlord has commenced court action.

If you have fallen behind with your rent your landlord will usually send you a letter asking you to pay off the arrears before commencing with any legal action. If you have rent arrears you should contact your landlord straight away by letter or telephone and try to reach an agreement (this may be full rent plus a weekly / monthly amount for arrears).

If you do not or cannot make an arrangement with your landlord to pay off the arrears your landlord may take further action in the form of a solicitor's letter leading to court action. Please note there are some **mandatory** grounds (eg ground 8) for rent arrears regarding possession so it is important you get proper advice as soon as possible.

Useful Contact

- Shelter
0808 800 4444
www.shelter.org.uk

Before landlords can take court action they must send you a formal letter, this is called Notice of Seeking Possession or Notice to quit (eg. section 21) which will name a date your

landlord is asking you to leave by / after. If you receive one of these it does not mean you have to leave your home before, on or after the given date, however after the section 21 expiry date your landlord can then apply to court to send you a Possession Summons which will give you a time and date for a hearing at the County Court (see below).

Court Hearing Papers

If you do not or cannot reach an agreement with your landlord and he / she has followed the correct procedure as briefly described above you will be sent a summons by the court which will include a form called 'particulars of claim', this will set out your landlords case for gaining possession of your home. You should also get an N11 defence form which you should normally fill and return within 14 days; however the court will accept your defence at any time before, or even at the hearing. You should note however that if you do return the form after the 14 day period, the court may order you to pay any costs caused by the delay.

Please note you may be entitled to free legal assistance from a solicitor, depending on your

financial circumstances. If so, your solicitor may be able to provide you with initial advice and assistance and then represent you at court under the legal aid scheme.

What will happen at the court hearing?

It is important that you should attend the hearing (even if you have agreed repayment of any arrears with your landlord) allowing yourself plenty of time to get to the court.

Attending the court hearing will give you the chance to state your side of the story, and may mean that you are more likely to be able to stay in your home. If you do not have a solicitor, an adviser from a Citizens Advice Bureau or Housing Aid / Law Centre may be able to attend court with you. Some courts have advisers available in court that may be able to help you (this is often known as the duty scheme). Contact your local court to find out whether they have a duty scheme, if they do it is advisable to arrive at least an hour before your hearing so the adviser has time to help you.

Before making a decision the judge will take into account the information provided by the claimant (landlord) and any provided by you. Examples of information you could provide to assist your case are details of your financial circumstances (Financial Statement), any proposals you have (whether previously discussed or not) for paying off any arrears and any dispute you have about the amount owing. Please note the judge can only take the information into account if you provide it, so it is in your interest to fill in the details on the defence form and attend the hearing.

What kind of orders can the judge make?

This may depend on the type of tenancy you have for example, secured / assured (usually social landlords, local authority, housing

associations, etc.) or assured shorthold (usually private).

- Decide not to make an order for possession
- Make a suspended possession order, this means that you will not have to give up possession of your home as long as you can pay off any arrears in a reasonable time (the judge will decide how long) and pay the normal contractual rent as well
- Make a possession order for some future date to allow you time to move out or find somewhere else to live
- Make an order that you give up possession a very short time ahead

If the judge makes a suspended possession order on terms you **must** maintain payments as agreed as failure to do so will very likely result in your landlord asking the court to issue a **warrant for eviction** which can be done without another hearing.

If you have problems maintaining a suspended possession order speak to your landlord immediately, do not ignore the situation as you may be able to stop him / her from asking the court for a warrant of eviction. Also if for some reason you find that you cannot pay the amount ordered you can ask the court for the order to be changed by using form N245, however this decision would be up to the judge if it cannot be agreed with your landlord.

Enforcement of a possession order / warrant for eviction

If you do not attend the court hearing and / or no arrangements can be made to suspend possession of your property the judge can make an order for possession (for example 28 days). If you do not give up possession on the date given in the order your landlord would then

still have to apply to the court for a warrant to evict you from the property.

If your landlord obtains a warrant for eviction you will get a letter from the court bailiffs informing you of the time and date when they will come and evict you. Where an eviction warrant has been obtained the date of actual eviction is usually around 10 to 14 days after issue.

If you receive a warrant for eviction for **any reason** including the above you may **still** be able to stop it taking place by submitting form N244 (fee payable unless exempt via form ex160), requesting it be suspended on your proposals and / or reasons. On receipt of the form N244 the court will grant you a hearing (before the eviction date) and will also inform your landlord.

At the court hearing you will have chance to put forward your case / proposals / circumstances and request the judge to suspend the eviction. If for whatever reason this fails you could ask the court for more time to get re-housed.

Eviction

If all your efforts to stay / remain in your home fail, you will be given an eviction time and date as already explained.

This is really the end of the road and unfortunately on the named day the bailiffs will come and evict you, forcing their way into your home if necessary (with a police presence if needed) and may remove your furniture / possessions or secure the home with them inside.

Getting re-housed

If you are faced with eviction with no hope of suspending any warrant you will need to look for alternative accommodation as soon as possible. Many people believe that their Local Authority (council) will / must re-house them

when evicted or homeless, this is not true in all cases as you may be deemed intentionally homeless or not be classed as top priority.

If you think you are going to face re-possession / eviction or become homeless for **any reason** contact your Local Housing Department as soon as possible and ask what they can do for you with regards to re-housing including a request for a list of local landlords both social and private.

Advice and assistance contacts

If you have problems with rent arrears or any housing issues, then **get advice as soon as possible**.

- Community Legal Advice:
Housing and Homelessness
0845 345 4 345
www.communitylegaladvice.org.uk
- Shelter
0808 800 4444
www.shelter.org.uk
- Find your local Citizens Advice Bureau
www.citizensadvice.org.uk

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