

## Checklist: Tenants Facing Eviction by their Landlord's Mortgage Lender

<ul style="list-style-type: none"> <li>• What type of tenancy does the client have?</li> </ul>
<ul style="list-style-type: none"> <li>• When did the client's tenancy commence?</li> </ul>
<ul style="list-style-type: none"> <li>• When did the client become aware that the mortgage lender was taking court action against the landlord?</li> </ul>
<ul style="list-style-type: none"> <li>• Did the lender send a notice of court proceedings addressed to 'the occupiers' of the property?</li> </ul>
<ul style="list-style-type: none"> <li>• Does the client know whether the court has granted a possession order?           <ul style="list-style-type: none"> <li><b>If yes:</b> <ul style="list-style-type: none"> <li>○ When was this granted?</li> <li>○ Did the client attend the hearing?</li> <li>○ Was the possession order suspended on terms?</li> <li>○ Did the client ask for more time at the hearing and was this granted?</li> </ul> </li> <li><b>If no:</b> <ul style="list-style-type: none"> <li>○ Does the client know if there is a court hearing scheduled?</li> <li>○ Has the client made an application to the court to join the proceedings as a party? (please note unauthorised tenants wishing to apply to the court for postponement of a possession order (see below) will not need to apply to be joined in proceedings)</li> </ul> </li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• Information needed to establish whether a tenancy is binding on the lender           <ul style="list-style-type: none"> <li>○ Does the client know if the landlord took out the mortgage or loan after the tenancy had started?</li> <li>○ Has the lender consented to the tenancy e.g. does the landlord have a buy-to-let mortgage?</li> <li>○ Has the lender accepted the tenancy as its own? (the lenders knowledge of the existence of a tenancy is not sufficient, the lenders actions must amount to the creation of a new tenancy)</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• Has the mortgage lender contacted the client directly?           <ul style="list-style-type: none"> <li><b>If yes:</b> <ul style="list-style-type: none"> <li>○ Has the lender asked for rent to be paid to them?</li> <li>○ Has the lender appointed a receiver?</li> </ul> </li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• If the tenancy is not binding on the lender has the client asked the lender for a written undertaking not to enforce the order for two months?           <ul style="list-style-type: none"> <li><b>If yes:</b> <ul style="list-style-type: none"> <li>○ Has the lender responded to this?</li> <li>○ If the lender has refused to give such an undertaking, has the client made an application to the court to stay or suspend the execution of the order for two months?</li> </ul> </li> </ul> </li> </ul>

- Does the client know if a warrant of eviction has been applied for?

**If yes:**

- Has the client received a 'notice of execution of possession order' from the lender? (no warrant or writ may be executed until 14 days after the notice is given)

- Is it reasonable for the client to continue to occupy the property?

**If no:**

- Has the client made a homeless application?