

Possession proceedings: going to court

This factsheet advises on what you should do when your landlord starts the eviction process and looks at what happens in court.

The eviction process begins with the landlord giving you written notice to vacate the property by a certain date.

Your landlord must then apply to court for a possession order to lawfully evict you. You have the right to stay in the property until the court makes an order telling you to leave and the bailiffs have a warrant to evict you. This doesn't apply to lodgers (and a few other types of occupier).

Seek advice straight away

If you don't come to an agreement with your landlord, they will probably start possession proceedings. The court will send you a letter giving you details of your landlord's claim. You will usually be given the time, date and address of the court hearing. But if you're an assured shorthold tenant your landlord may start down the quicker route to eviction when there may be no hearing - see the factsheet *Section 21: accelerated procedure* for more information.

You'll also be sent a defence form to complete. This is your chance to explain why you think that you should be allowed to keep your home. You may have a defence so get advice as soon as possible.

Legal aid

If you're on a low income or in receipt of benefits, you may be eligible for legal aid. A housing solicitor may be able to represent you at court. Check if you're eligible by calling the Civil Legal Advice helpline on 0345 345 4 345.

Why you should go to the hearing

The hearing will usually be in your local county court. Turn up even if your landlord says you don't need to. It's best to be there so the judge can hear what you have to say before making a decision on your landlord's claim for possession.

Court duty desk scheme

Many courts have a scheme where an adviser can give you free last-minute advice and, sometimes, negotiate with your landlord and speak on your behalf to the judge. Always try to get legal advice before you go to court because the service isn't always available.

On arrival

When you arrive, check in with the court staff so that your name is called when your case comes up. They will tell you where your case will be heard. Don't be late or your case could be decided before you arrive.

What you should bring with you

Bring along your current tenancy agreement (and any previous agreements you've had with your landlord, together with any related correspondence). You should also bring any relevant paperwork, such as:

- letters about your benefits
- evidence of any disrepair in the property
- details of any tenancy deposit you paid
- medical letters if you haven't been well
- proof of your earnings and expenses
- evidence of your rent payments.

Who will be there?

The possession claim is heard in front of a judge in private. Only you, your landlord and any legal representatives can attend. You may be accompanied by a friend or by someone helping you (they can only speak for you if the judge gives permission, or if they are part of the court duty desk scheme).

How long will it take?

Most hearings take less than 10 minutes. Your case will probably be listed for the same time as other hearings, so you could have to wait for up to a couple of hours before your case is heard.

What happens next?

At the hearing the judge may make an order for possession, adjourn (postpone) the hearing to another date, or dismiss the claim. See the factsheet *Possession proceedings: the court's powers* for more information about this.

Further advice

You can get further advice from england.shelter.org.uk/housing_advice, local Shelter advice service or local Citizens Advice. If you have nowhere to sleep tonight, are at risk of harm or losing your home within the next 2 months, call Shelter Helpline on 0808 800 4444 for advice and information on your options.*

*Calls are free from UK landlines and main mobile networks.



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Note

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