

Possession proceedings: the court's powers

This factsheet looks at the decisions the court can make when your landlord applies to court to evict you.

Your landlord must usually go to court and get a possession order before evicting you.

Get advice

You may have a defence to your landlord's claim for possession so it's very important that you seek legal advice as soon as possible. The sooner you act the more chances you have to keep your home, but it's never too late.

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

What can the court decide?

The court could:

- dismiss your landlord's claim for possession - in this case your landlord will have to restart the possession procedure from the beginning
- adjourn (postpone) the claim indefinitely 'on terms' - the court orders you to meet certain conditions, such as paying a sum towards your rent arrears each week
- adjourn the case for a fixed period so that you can return with more evidence, such as letters about your benefits
- if your case is complicated, set out a timetable to allow you to get legal advice (if you've not had it), and to get detailed evidence before a further hearing
- make a possession order against you.

Not all of these options are available in every possession claim brought by a landlord.

What type of possession order?

The order the court makes depends on the type of tenancy you have and the legal reason for your landlord's claim.

A possession order can be:

- **outright** – normally you'll be ordered to leave your home within 14 days of the order, or 42 in cases of 'exceptional hardship'. Ask for extra time when you send in your defence form or at the hearing. If you don't leave by the date ordered your landlord can apply for the court bailiffs to evict you.

- **suspended** – you can stay in your home but you must stick to any conditions the court sets out, such as paying current rent plus an amount towards rent arrears. If you break any of the conditions your landlord can apply straight away for the court bailiffs to evict you.
- **postponed** – as for suspended orders above, except that if you breach a condition of the order your landlord must go back to court to fix a date when you must leave. After that date has passed, your landlord can ask the court bailiffs to evict you.

The court will also decide if you must pay any of your landlord's legal costs.

Varying the conditions of the order

Get advice immediately if you can't keep to the conditions of a suspended or postponed order because you can ask the court to change the terms.

What happens next?

If your landlord obtains a 'warrant' from the court authorising the bailiffs to evict you, the bailiffs will write to tell you when they are coming. If your landlord changes the locks, threatens you or harasses you to leave before the bailiffs evict you this is illegal and a criminal offence. Even at this late stage the court may have the power to prevent you being evicted by the bailiffs, so get advice on asking the court to suspend the bailiff's warrant.

Help from the council

If you are seeking help with housing from the council after you're evicted, stay in the property until the bailiffs come unless the council says in writing you can leave earlier. The council may decide you are 'intentionally homeless' otherwise - which means you could get less help.

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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