

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 important you get legal advice as soon as possible. The quicker you act the more chances you have to keep your home.

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.

What can the court decide?

The court could:

- dismiss your landlord's claim for possession - this means the claim is thrown out
- adjourn (postpone) the claim indefinitely 'on terms' - this means no more action is taken as long as you comply with the terms of the order
- 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 for you to get legal advice (if you've not had it), and prepare detailed evidence before a further hearing. This is likely to involve presenting facts and legal arguments to the court, so make sure you get advice straight away.
- make a possession order against you which could be outright or suspended on payment terms

Not all of these options are available in every possession claim brought by a landlord. In some cases, the court must make a possession order as long as the landlord has done everything correctly.

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 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 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 order. You can ask the court to change the terms.

What happens next?

If your landlord applies for bailiffs to evict you, the bailiffs will write to tell you when they are coming. Even at this stage the court may have the power to prevent you being evicted by the bailiffs, so get advice on asking the court to stop the eviction.

The possession order isn't visible on your credit reference file, even if it orders you to repay rent arrears. It will appear if your landlord takes steps to recover the money, like asking bailiffs to visit your home to take goods. Get debt advice if this happens.

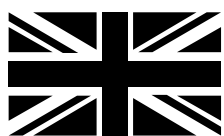
Help from the council

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](https://www.gov.uk/government/organisations/england), [shelter.org.uk/housing_advice](https://www.shelter.org.uk/housing_advice), a 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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