How Can I Stop Repossession?

"46% of Repossession orders can be suspended according to Government Figures - to find out how read on..."

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Report Updated June 2009

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How to use this Guide
Throughout this guide we have provided you with Action Points. These Action Points are in red bordered boxes like this one shown below.

Action Point:

It's important not to let a lender intimidate you into paying what you cannot afford. Tell them you understand the situation and that you will contact them with a repayment proposal.

Make sure you put everything in writing, and write down the details and time and date of all phone conversations. If your case does end up in court you will be better prepared if you have your notes ready.

This guide can help you to stop repossession by any lender including:

Abbey, Accord, Alliance & Leicester, Allied Irish, Amber Home Loans, Bank of Ireland, Bank of Scotland, Barclays, Barnsley Building Society, Bath Building Society, Beacon Home Loans, Birmingham Midshires (BMS), BM Solutions, Barnsley Building Society, Beverley Building Society, Bradford & Bingley, Bristol & West, Britannia, Buckingamshire Building Society, Capital Bank Mortgages, Capstone, Cambridge Building, CHL Mortgages, Chesham Building Society, Society Catholic Building Society, Chelsea, Cheltenham & Gloucester, Chorley & District, Clydesdale Bank, Derbyshire Home Loans, Direct Line Financial Services, Dudley Building Society, Ecology, Earl Shilton, Egg, First Direct, First National, First Plus, Future Mortgages, GE Money, GMAC RFC, Halifax, Harpenden Building Society, Hinckley & Rugby Building Society, HSBC, I Group (IGroup), Intelligent Finance, Ipswich Building Society, Irish Nationwide, Kent Reliance, Kensington, Lambeth, London Mortgage Society, Lloyds TSB, Manchester Building Society, Mercantile, Money Partners, Morgan Stanley, Mortgages 4, Mortgages Direct, Mortgages PLC, National Counties, Nat West, Nationwide, Newcastle Building Society, Nottingham Building Society, Northern Bank, Northern Rock, Norwich Union, Paragon, Platform, Portman Building Society, Preferred, Principality, Progressive Building Society, Prudential, Royal Bank of Scotland (RBS), Rooftop, Sainsburys, Scottish Widows, Southern Pacific, SPML, Standard Life, Stroud and Swindon, Stafford Railway, Skipton, Saffron Building Society, Swift, The Co-op, Tipton & Coseley Building Society, TMB - The Mortgage Business, TML, The Mortgage Works, UCB Homeloans, Ulster Bank, Unity Home Loans, Virgin One Account, Welcome Finance, West Bromwich Building Society, Woolwich, Yorkshire, Vernon Building Society, or any other secured loan lender.

Terms of Use of This Report - Disclaimer

This report is compiled for use a basic guide to the options and processes involved of those facing home repossession in England & Wales. The advice is purely practical and made available for the express purpose of showing some of the options available. It does not constitute financial advice and every circumstance may differ. You are advised to take independent legal advice with regards to your particular situation when facing repossession.

By further reading this guide you are accepting the terms as outlined in the paragraphs above.

Repossessions Have Risen Dramatically in 2009

Repossessions are now at an all time high. It's nearly 2 years on from the Northern Rock fiasco and there is little sign of things getting better for home owners in trouble.

Repossession can be a **scary and extremely stressful event**. It can and does happen to anyone, for many reasons. Most of us know little or nothing about the process involved, even fewer that **repossessions can be stopped in almost all cases.**

In this report we will show you clearly the following things:

- ***What repossession means***
- ***The step-by-step process you need to know***
- ***What you can do at each stage to avoid losing your home***
- ***How to avoid repossession even if you are only days away from a court appearance***

The Repossession Process and What Steps You Can Take To Avoid It.

If you miss or are behind with payments on your mortgage or any loan secured on your property then you are technically 'in arrears'.

If you are in arrears you are in danger of having your home repossessed if you do not act quickly.

Normally, lenders will allow you to be two months' payments in arrears before passing your case onto their legal department.

Under the terms of your mortgage agreement with your lender (or with your second charge lender), the lender can ask a court to grant them possession of the property so that they can recover the money they have loaned you, including any arrears and legal costs of this recovery.

The reality is that most lenders will prefer to reach an agreement with you for repayment of any arrears rather than take you to court. At this point you still have options to address the situation.

Stage 1 Your Mortgage Company Contacts You About Your Late Payments

When you miss payments for two months or more, your account will probably be passed on to the lender's debt recovery department. They will contact you

either by phone or in writing. Many of the so-called ‘sub-prime’ lenders may call you a number of times and write a number of letters to you threatening court action if you do not pay ‘x’ amount right now. Some may even ask you to put these arrears payments on a credit card and pay them over the phone.

Action Point:

It’s important not to let a lender intimidate you into paying what you cannot afford. Tell them you understand the situation and that you will contact them with a repayment proposal.

Make sure you put everything in writing, and write down the details and time and date of all phone conversations. If your case does end up in court you will be better prepared if you have your notes ready.

Stage 2 A Letter From the Solicitors

Most lenders have automated computerised systems that will alert them when you are **3 months in arrears** and will **automatically pass the case on to their solicitors.**

You will probably receive a letter demanding that you pay all arrears in full including any fees and penalties.

This letter will be probably be worded in such a way that it appears that you might lose your home any day now. This is not the case! Of course, if you do nothing and do not contact your lender to maker arrangements to pay, then eventually you will face repossession. But this solicitors’ letter is the only the first step in the legal process of repossession.

Action Point:

At this point, the lender may insist that you speak only to their solicitors. Try to make an arrangement with them to pay your arrears as an extra payment each month going forward. Remember taking you to court is costly and time consuming. The reality is that your lender wants your money - not your home. Making payments to cover the arrears will stop or at least suspend the action.

Make sure you get everything in writing. If your lender or solicitor does not write to you confirming the arrangement, you must write to both of them outlining the agreement you have made. The more written evidence you have the better your case if it goes to court.

Stage 3 Possession Order - Commonly Known as Repossession Proceedings

If you do not contact your lender or their solicitors, or if you promise to make payments agreed by them, then the lender will start the repossession process in the local County Court. The lender will ask the judge for a Possession Order - the right to take your property, evict you and anyone living there, and to sell the property to recover the mortgage and all costs involved in the repossession process.

As the number of repossessions is rising in many areas, it can take between 2 and 12 weeks for the court to grant a hearing date.

Action Point: If you receive a County Court Summons you must

- Complete and return the forms to the Court.
- Complete the reply form received from the Court stating your intentions e.g. that you wish to remain at the property.
- Include as much detail as possible about your financial situation including your income and outgoings. The court will require evidence that you can meet any payment agreement that you may reach to pay off your arrears and continue with your mortgage.
- The more information you can show to the Court to prove that you are doing everything in your power to resolve the situation the better

When you reply to the Court Summons remember to include as much information as possible. This should include notes or copies of discussions with your lender and also any extenuating circumstances (such as a buyer with an offer for your property, or promise of funds to pay the arrears etc)

Make sure you take the form to the Court yourself. It's too important to trust to the Royal Mail. Keep your own copy of any forms you complete and anything you include with it.

We have seen many homeowners who can't remember the date and time of the hearing, or who think it is not important to go to the hearing in person. It is very important to be there in person, and not to be late. Sometimes agreements can be reached in the 30 mins before your hearing session!

Before you go to Court you can stop the procedure by paying the arrears in full - it's not too late!

Even if you agree a payment scheme to overpay your monthly mortgage and pay off the outstanding arrears, your lender has the power to **suspend proceedings** (known as a suspended possession order - see below) provided you have reached an agreement and made any necessary payments before the hearing.

You MUST attend the hearing.

There are some sub-prime lenders who really do want your home and not your arrears paid. This may be because they can charge you exorbitant fees for the disposal of your house (sale by auction, or via estate agent etc) after the property has been repossessed. Some lender even have their own estate agents dealing only in repossessed properties.

Do not let anyone from the lender or from their solicitors tell you that there is no point in turning up in person, or in fighting the possession order. They don't want you to turn up. The reason? If you don't the judge has no choice but to grant the lender possession of your home.

However, if you turn up to defend the case, the judge can use some discretion and in general judges are people just like you and can be more sympathetic to you than to lenders.

We have had experience of judges telling lenders off in Court for even bringing a case. So the rule is always turn up and try your best to present a good case with the judge. It really can make a difference.

You should attend even if an agreement has been reached with your lender just in case the solicitor hasn't been told and the judge is forced to grant a possession order anyway.

What to do in Court

Forget what you may have seen on television. Repossession cases are not brought in open court, there is no jury and no judge in a wig to put you off. In fact, these sessions are quite informal and the better judges know that anyone facing repossession may be feeling nervous and unsure of the procedure and will offer help and advice before and during the session.

If you wish to continue living in your home, then tell the judge.

Make the Court an offer to pay the current monthly installment, and an additional amount to clear the arrears. It's worth noting that the Court will almost always accept a lower monthly payment plan than the lender would accept in your previous negotiation. The Court will always prefer that people do not get repossessed and give them a chance if it is at possible.

Even if the judge must grant a possession order, he or she has the power to grant a suspended possession order. This means that you can remain in your home as long as your new payment schedule is maintained and the lender cannot evict you.

Stage 4 Court Order For Possession

There are **a number of possible outcomes at the hearing**, depending on your situation and circumstances of the case:

Case dismissed (or *Adjourned indefinitely*). **This means the repossession will be stopped.** Any payment in full of arrears and costs before the hearing will result in this outcome.

Case adjourned. If you can show good reason why the case is not a straightforward example of mortgage arrears then the judge will probably reset the date. This can give you between 4-12 weeks before the next hearing, but you cannot rely on a judge to adjourn a case.

Suspended Possession Order. Once you have made an agreement in the Court to repay arrears the judge can grant the suspended possession order. This is a good outcome for you as it means you will be able to stay in your home as long as you are making payments as agreed.

(It is also a good outcome for the lender because a) they have a Court enforced agreement to get their money and b) because if you default (fail to pay) your new payments then the lender can take a short cut to repossession without having the start the whole procedure all over again.)

Suspended Possession Orders are very commonly applied by the Court because they are a win-win situation for both sides.

Remember, if you fail to keep to the terms of the agreement , the lender has the right to seek **possession by Eviction or Possession Warrant** (see below) **without any further hearing.**

Action Point:

If you are granted a Suspended Possession Order make sure that you keep up the payments and pay them so that funds can arrive in good time. This way you will prevent the lender from taking any further action to evict you and repossess your home.

Possession Order. A Possession Order gives the lender **the right to possession of the property after a fixed period of 28 days**.

A Possession Order will usually be granted if:

You fail to respond to the Court Summons
You don't turn up in person for the hearing
You fail to show good reason why you are in arrears and what you intend to do to resolve the problem
Or, if the judge simply does not believe that you have the means to pay off the arrears and stick to an agreed schedule of payments

In some case the judge may grant this order for 56 days maximum

Action Point:

Even at this point it is not too late to save your home. See the sections below.

Stage 5 Possession Warrant or Bailiff's Eviction Notice

If the lender has been granted a 28 day Possession Order and you have not left your home and returned the keys to your lender by the date on the order, then your lender will apply to the court for a Possession Warrant.

Your lender will almost certainly inform you of this, but there will be no hearing and you will not be able to stop the bailiffs from evicting you unless you pay all the arrears in full or exchange contracts for the sale of your property.

A Possession Warrant is usually set for 7 days after the date the Court grants it. You can lose valuable time if you are unaware of the lender's action in obtaining a Bailiff's Eviction Notice as your copy of the notice

can take several days to reach you by post. We have known cases where the homeowner only received their notice by post a few hours before the eviction time!

The order will have a time and date at which point the someone from the lender, along with the bailiffs and a locksmith.

They will only give you 10 minutes to collect your possessions and leave.

After this all locks will be changed and you will be granted one further visit to collect any remaining possessions after 2 weeks.

This eviction order is not a threat, but will be carried out regardless of who is in your home. Elderly, the sick, or children, all of them will be made to leave. If necessary the Police will be called to assist in the eviction process and resistance could lead to arrest and charges.

Action Point:

At this point the only thing that will stop the eviction is payment in full of all arrears and fees in CASH to your lender. Continue reading for further options.

What Are My Options?

The most important thing to remember when facing eviction is that it is not shameful - many other people are experiencing the same issues as you. It may not even be your fault that your circumstances have lead to the threat of repossession. You are certainly not alone in this.

The following is a list of possible solutions to avoid repossession. The golden rule is that the earlier you act to understand your options, the more options you actually have!

Pay Your Arrears in Full

If you can obtain the money to pay your arrears from an unsecured source then the chances of being repossessed may be lessened. Borrowing from friends or family members should be considered and or in the worst case scenario using a credit card to make payments. This is because these

sources of funds are not secured against your home, and therefore are less risky. However, credit card payments do attract higher interest than secured loans.

The important thing to remember is that if you **pay your arrears in FULL** then **your lender no longer has a case against you** and **cannot repossess** your home!

Borrowing more money from lenders such as those who offer consolidated loans can be very dangerous.

Anyone facing repossession is likely to have a poor credit history and especially now since the so called credit crunch, lenders will charge very high interest rates for you to borrow money. This is a classic case of robbing Peter to pay Paul. The interest you pay on even a small amount could add up to more than your mortgage arrears!

Negotiate new payments terms

If you are able to carry on making your normal monthly payments plus an additional amount each month to cover your arrears then talk to your lender.

Make sure that any agreement is in writing and that you feel you can keep to the payment schedule you agree.

In some cases a lender may not want to let you make the overpayments at a level you can afford. If this is the case then apply to the judge via the Court showing how you can pay and why you feel this is a fair payment arrangement. The judge has the ability to order your lender to accept a fair offer of payment!

If you can reach this kind of agreement you will keep your home.

If you are unable to keep to your payment schedule then your lender can apply to the Court for an eviction order without further notice or another hearing because you will have broken the terms of the Suspended Possession Order.

Remortgage

Until early this year remortgaging was an attractive option for those facing financial problems.

Now almost all of the US owned sub prime lenders have either left the UK market or have severely restricted monthly funds to lend. On top of this the fall in house prices means that lenders who previously would have lent you

up to 110% of an inflated property value, will now likely lend on 80-85% of a lower value. Many lenders are instructing surveyors to value properties at the price they would fetch in auction if repossessed and sold today. By doing this the lenders are storing trouble for themselves yet again this time by down-valuing the assets they lend against. However, if looking to remortgage this is the reality you could face. Be prepared for your home to be valued at 70-80% of what it may have been worth 6 months ago.

If you apply for a remortgage and are turned down by your own lender, this will also send warning signals to other lenders who will be able to view this information on your credit file. With mortgage lenders cutting back on the amount of money they are prepared to lend and tightening the criteria on who they will lend to, a large number of people will find themselves paying the lender's standard interest rate which could be as high as 10%!

If you have even one missed payment on your mortgage then you may be refused remortgaging altogether and will almost certainly not be able to use a mainstream lender.

The lenders who target those with poor credit ratings always charge higher interest rates.

If you find that you are able to remortgage, you may also be liable to very expensive penalties (known as ERPs or Early Redemption Penalties) when you try to move your mortgage from your current lender.

If you cannot afford to pay the higher interest rates and penalties on a remortgage then you could be throwing good money after bad.

If you remortgage to the point where your borrowing is more than 85% of your home's value then you will have problems later if you fail to meet your payments and face repossession in the future. In the current market it is unlikely that other solutions such as sell and rent back, will be possible if you have less than 20-25%% equity left in your home.

Selling Your Property

You can sell home to pay your debts and move out to buy elsewhere or to rent. ***Provided your home is worth more than your mortgage and any secured loan and early repayment penalties!***

Note: If you have little or no equity there may still be a solution click here to find out more

There are many indications that the housing market in 2009 will continue to suffer from a fall in the actual sale prices. Some areas will be less affected but the general fast growth of the last 7 or 8 years has already ended and prices have been in free fall in some areas.

Selling via an Estate Agent

You will get the highest price today if you sell via an estate agent. There is no doubt about this. However, if you are facing repossession even a good estate agent can only do much because it the buyer who makes the offer and who ultimately decides whether to continue or pull out before exchange.

Right now estate agents are overloaded with properties whose owners are keen to sell at any price. There are very few buyers that can get a mortgage. This means that you will have to sell for less than similar properties and even then you will get a guaranteed sale within a reasonable time frame needed to avoid repossession.

Estate agents also charge between 1.5 and 2% fees. That's another £2000 fees on a property worth £150,000.

Selling property via an estate agent can be a lengthy process and take up to 3 months - *even in a normal market*

As you have seen from the repossession process, your lender and the court will not wait for 3 months for a buyer (who may pull out at any time), before repossessing your home.

Houses that sell quickly are either those where a lot of money has been spent to make them the most attractive in the area, or those that are so cheap that the buyer has nothing to lose.

Most buyers in the UK will be part of a chain. It is very common that even if your buyer really wants to buy your home, that they can be forced to withdraw because of a broken chain.

If you decide to market your home with an agent:

1. **Don't expect that the Estate Agent will get you the highest price they promised when they came to view.** Agents will overvalue your property to get your business and then put it on the market just in case someone out there is happy to pay over the odds for your home. If not, after a few weeks they will suggest that you reduce the price substantially.

You do not have the time for this!

2. **Don't be afraid to use more than one agent.** Make sure the agents agree to let you sell the house privately as well. They will only agree to this if you ask. Otherwise your contract may state that you can only sell via the agent. If the agent is not a good one or doesn't have faith in the price your home will fetch they won't make an effort to sell it.

3. **Check your buyer!** Before you accept an offer and take the house off the market make sure your buyer has the funds in the form of a mortgage offer. Never accept an offer without this. It can takes weeks for a buyer to get a confirmed offer and who knows if your buyer is even credit worthy?

There are a number of places you can research the approximate value of your home.

www.nethouseprices.net Sold prices are listed for free

www.rightmove.co.uk Current properties on the market, local rents and sold prices

www.hometrack.co.uk Free access to sold prices

Selling Your Home Privately

You don't have to use an estate agent. You can sell your home privately.

This is commonly known as FSBO For Sale By Owner. The most common method these days is to sell online. There are a number of websites that will let you advertise and even sell you a For Sale board to put outside your home. Some buyers actively seek private sellers. However, despite popular press coverage of selling via this method and the cost savings against using an estate agent, the reality is that buyers are attracted to estate agents in a way that they are still not attracted to these websites. Estate agents spend a fortune on local and national advertising. None of these private sale websites does this yet. This means fewer potential buyers and even fewer viewings.

There is also a safety aspect to selling your home privately. Estate agents usually pre-screen clients and obtain basic information from them before bringing them to your home. Online who knows who the person is who may turn up to your home. If you agree to show someone your property make sure that you are not alone at home, or at least inform someone else that you are showing your property to a complete stranger.

For all their well known faults, estate agents are professionals at negotiating. Are you?

If you don't feel that you are able to negotiate the best deal then this method might not be for you. Buyers will haggle with you. Don't take it personally!

Make sure your buyer can show proof of his or her mortgage offer before you agree to accept an offer.

Some useful private selling websites are

www.housenetwork.co.uk
www.littlehousecompany.co.uk
www.houseladder.co.uk
www.themovechannel.com/sell/
www.privatehousemove.co.uk

Selling to a Cash Buyer

There are specialist cash buyers of property who will buy your property for cash in return for a discount on the price of your home.

STOP PRESS UPDATE JULY 1st 2009 Please note From July 1st 2009 I will no longer be able to advise on dangers of sell and rent back due to new Government legislation designed to protect a few large companies with a vested interest in paying you less for your property.

Cash buyers will usually :

- **Pay 70-75% of market value** in return for a fast exchange in days and completion soon after
- **Offer a guaranteed sale** because they are chain free and have cash waiting
- **Buy the property 'as is'** - you won't need to spend money to smarten up your home

Most cash buyers deal regularly with people in your circumstances and will always try to help you find a solution other than selling

However, if you do sell to a cash buyer you will get less than the market value for your home.

In order to sell your home for cash you must have enough equity to repay all your outstanding loans and mortgages and still be able to discount the selling price.

It's important to avoid dealing with any company who does any of the following

• **Make sure the company you sell is regulated by the FSA - if in doubt walk away as the buyer will be acting illegally.**

• **Do not ever pay for a any kind of 'valuation'**

• **Never pay any fees for the 'service'** - after all you are accepting less for your home so why pay agents' fees or commissions?

• **Do not agree to pay ANY of your own legal costs -** all reputable cash buyers will pay these in full for you

Useful contacts

Cash For My House provides a different solution to most others. A solution that pays your asking price.

purchase option all over the UK and unlike many others:

- **You pay nothing for a valuation**, or surveyors report if needed
- **You don't pay any commissions**
- **Low or negative equity is not a problem**

Action Point: Call Cash For My House now on 01462 889316 or email moreinfo@cashformyhouse.co.uk or visit www.cashformyhouse.co.uk for further information

Sell and Rent Back

Sell and rent back has become a common way to avoid repossession and stay in your home. A cash buyer will buy your property and agree to rent it back to you as a tenant.

This has the advantage of clearing all your secured debts and your mortgage leaving you financially free.

IMPORTANT: From July 1st 2009 All Sale and Rent Back buyers must be registered with the Financial Services Authority (FSA). Do not engage in any transaction to sell and rent back your home unless the company shows proof of registration.

Do not let the buyer talk you into hiding the fact that you will be selling and renting back your home from surveyors, solicitors or lenders. Some unscrupulous rent back operators have been known to commit mortgage fraud. Mortgage lenders do not generally lend when the original owner is to become a tenant.

Renting is now cheaper than buying.

With the rise in interest rates, for the first time in many years, monthly rents are now significantly cheaper than even interest only mortgage payments.

House prices are also falling fast, so renting can make sense in a stagnant property market too.

Sell and Rent Back means you can stay in your home as a tenant without anyone having to know you no longer own it.

Some people are also entitled to state benefits as tenants

You may also get some cash back from the sale if you have enough equity in your property. Most companies will offer you a package suited to your particular needs and the best ones even offer a buy back option for you to buy back your home at a later date and at a price agreed today.

However, you must remember that although you will be able to stay in your own home, you will no longer own it (unless you decide to buy it back later)

The most important element of Sell and Rent Back that almost always overlooked is that the buyer of your home will be your new landlord.

Who is going to be your landlord? Will it be the person you first spoke to on the phone? Or the person who turns up to view your home? Don't know? Make sure you ask. Some landlords are better than others. Some are downright rogues.

Ask as many questions as you can think of about the process. No reputable Sell and Rent Back company will ever mind explaining to you every aspect of how the process works and what it will mean for you and your family.

Useful contacts

Please note From July 1st 2009 I will no longer be able to advise on dangers of sell and rent back due to new Government legislation designed to protect a few large companies with a vested interest in paying you less for your property.

Danger! Don't Sell and Rent Back Until You Read This

FREE Guide on how to avoid the dangers of sell and rent back with someone who is only after your property and is not really serious about renting back long term. Click Here to download the PDF guide

Action Point: If you wish to simply sell your home even with little or no equity
Call Gary on 01462 889316 or email moreinfo@cashformyhouse.co.uk or visit www.cashformyhouse.co.uk . Cash For My House no longer offers Sell and Rent Back services.

Thank you for reading this guide to How to Stop Repossession. If you need further information please contact me on the numbers above.

Where to Get Further Help
Useful Links and Resources

Citizens Advice Bureau

Citizens Advice Online Find A Citizens Advice Bureau Near You Debt / Bankruptcy / Arrears Fact Sheets

Consumer Credit Counselling Service

Help with understanding income & expenses and managing debt (especially credit cards and loans)

Bankruptcy

Bankruptcy Association Insolvency & Bankruptcy

www.insolvency.gov.uk

Shelter

Repossession Advice

"Need to Sell Your Home Fast? Low or Negative Equity OK"

Cash For My House www.cashformyhouse.co.uk Call Gary on 01462 889316

Repossession Help

Cash For My House Call Gary on 01462 889316