

Free Report

Repossession Guide

With the compliments of



Ronan Property Services

Cost Effective House and Property Solutions

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The information in this document refers to the procedures in England and Wales only.

Why have you got close to repossession? There are many numerous reasons why people end up facing repossession, most of which are emotionally charged situations; all include a mortgage or loan not being paid.

Examples include

- Divorce, Separation or Relationship breakdown.
- Illness, including long periods off work.
- Death in family.
- Unemployment or varying income, including the lack of overtime, and self employed opportunities.
- Overspending on items you could not afford, including Credit Card debts.
- Failing to prioritise by paying other debts first.
- Taking out a second mortgage that you could not really afford.
- The one that most are too embarrassed to admit which is the lack of ability to manage money correctly.

From the list above, you will most likely have identified the reason why you are in this position, so what do you need to do now.

What can you do to stop it?

The first thing is to recognise that you have a problem and take steps to avoid repossession. The worst thing that you can do is to stick your head in the sand and hope that it will go away. Not opening envelopes and stating that you have not received notices will not help you in any way whatsoever.

There are many things that you can do to avoid being repossessed and the key to this is to act in good time.

Before you do this you need to be aware of the repossession process and timescales.

The Background and the procedures of repossession

1. Repossession is normally taken by a Bank, Building Society or other Lender who holds the first charge on the property. It can however be taken by a secondary Lender who has a charge on the property, (further advances and loans such as secured finance) and also if someone has obtained a charging order following a County Court Judgement. The latter being extremely rare.
2. The Lender is entitled to seek repossession action if the loan is two months or more in arrears. Typically however, this becomes a trigger point for referral to their internal Debt Recovery department who will write to and liaise with the Borrower in an attempt to determine the cause of the problem and to arrange for the arrears to be cleared without resorting to court action. However some of the secondary lenders use this as the point to immediately commence recovery proceedings.

STAGE 1 - Issue of Possession Proceedings

Three to six months is normally the trigger point in terms of the amount of arrears which results in Lenders issuing court action. This will be by way of a County Court Summons issued, in the local court of the Borrower. On filing a request for issue, the matter will ordinarily be listed for a hearing date that could be 4 – 6 weeks hence, dependant upon the hearing courts current backlog.

STAGE 2 – WEEK 4 – 6 – Possession Court Hearing

At the hearing the borrower should attend. If they do not, the claim for possession by the Mortgagee would be deemed to be unopposed, and an order for possession will be made 28 days from the date of the possession hearing.

STAGE 3 – WEEKS 8 –10 – Order for Possession on a given date

If the Borrower can demonstrate their ability to meet the current monthly instalment, and to pay a contribution towards the arrears, the Court will in almost every instance, at the first hearing, make a suspended possession order. That is that they will grant possession to the Lender, but this can not be enforced by eviction so long as the Borrower meets the monthly payments, and the arrears payments as agreed.

1. A common failing of Borrowers is to make a promise to repay the arrears back as quickly as possible in the hope of securing favour with the court. This leaves them with committing to an unmanageable Repayment Order which they invariably default upon shortly afterwards.
2. It is widely accepted by the court following the case of Cheltenham and Gloucester –v- Norgan that Borrowers only need to demonstrate, that they can pay the current monthly mortgage payment, and their contribution towards the arrears such that the arrears will be paid off over the remaining

mortgage term. Thus a person with £2,400 arrears with 20 years remaining on the mortgage, only has to agree to pay the current instalment, and £10 more to have the Order suspended. This is much more manageable, and less likely to default.

STAGE 4. WEEKS 10–13 - Issue of Possession Warrant (Eviction)

1. If either an Order of Possession is made, or a Suspended Order which is later defaulted on by the Borrower, the Lender will submit an application to the court without a hearing for the Bailiff to attend and forcibly evict (Possession Warrant). NOTE: The date in the order of possession is not the same date that the borrower has to leave the property. The lender has to issue the Possession Warrant. Usually this process takes 2-3 weeks dependant upon the courts backlog and Bailiffs work load. This is the key and most pressing deadline date for any repossession action.
2. If a deal is agreed between the Borrower and a buyer to sell the property, even with a Bailiffs eviction looming it is possible to apply to the court to have the Possession Warrant suspended. The Court fee for doing this is currently £30, and the application is submitted to the local County Court.

Solutions To Avoid Repossession

It is a fact that 75% of repossessions can be stopped if action is taken by the homeowner effectively and early enough.

The Possession Warrant can be suspended in one of two ways:-

- Payment of the arrears, and maintaining the ongoing mortgage payments. If the arrears are cleared the court will see no reason to proceed with the possession action and will allow the borrower to remain.
- Sell the property to a quick cash buyer such as an investor who is an associate of bmvleads.net a subsidiary of Ronan Property Services with or without rent back and with or without an option to buy back in the future. Here the Borrower will need written evidence that a deal has been agreed and that the buyer is in a position to proceed. The application to the court should include a letter from the buyer confirming the offer to purchase the property, a letter from the Borrowers solicitors confirming that they have instructions to sell, and a letter from the purchaser's solicitors confirming that they hold instructions to proceed with the purchase. It is further advisable for the Borrower to make the most recent monthly payment prior to the application to the court, and agree to make any further monthly payments that fall due until the sale completes.

Repossession can be stopped at any time during the process by completing and submitting the N244 Application Form which is obtainable from the court or Click www.hmcourts-service.gov.uk/courtfinder/forms/n244_e.pdf . This generates an emergency court hearing.

At this hearing, no matter what has gone before, it is possible to suspend the possession order by the making of an arrangement, or by asking for time to sell within a realistic timescale.

In the majority of cases, where we can clearly see a before and after scenario and where the homeowners can afford their contractual repayments, an arrangement can be made which will spread the full arrears over the remaining term of the loan.

Section 36 of the Administration of Justice Act grants that a homeowner should be allowed to stay in their home and have their possession order suspended, if they can pay the arrears within a reasonable period.

Case law (C+G Vs Norgan and others) demonstrates that the reasonable period can sometimes be the remaining term of the mortgage.

In practise, however, it is better to make a realistic offer to the courts; usually 1% of arrears balance pcm should demonstrate desire to clear arrears (minimum £25pcm).

The lenders solicitors will often argue against an arrangement or demand an unrealistic amount, 8% - 10%pcm; often this is why they are back in court because of such a failed arrangement.

It is important that homeowners speak honestly and clearly and explain to the judge that they do not want to agree to an amount that is unsustainable; the arrangement must work long term.

A simple budget should be presented, which must be accurate but can be structured to demonstrate affordability and prioritisation of mortgage.

To clarify, if someone is paying £300pcm to credit cards, this can be shown on the budget as £100pcm towards a debt management plan as long as this is the intent after leaving court.

The budget must demonstrate some flexibility, perhaps £50-£75pcm excess for unforeseen eventualities.

In cases, where homeowners will no longer be able to afford their contractual repayments or will be highly unlikely to be able to maintain a payment arrangement, time to sell or refinance should be requested.

When a judge is given the choice between Two Yeses, (an indefinite arrangement or time to sell) at worst a judge should grant time to sell.

A period of 56 days is regarded as standard and this should always be requested even if they think they can complete a sale quicker.

The homeowner should explain that there is sufficient equity in the property, that there will be no prejudice to the lenders interest by a short delay.

They should also demonstrate value with Estate Agent letters or documents demonstrating an existing buyer's position (Memorandum of Sale, Offer Letter, Solicitors letter etc)

If they are selling to a fast buying company, such as an associate of bmvleads.net then the buyer can often make arrangements to attend the court as a helpful advisor or supporter.

It is also recommended that the buyer explains to the judge that he/she is an associate of a reputable National Home buying organisation and that, they (the buyers) are in a viable financial position and able to complete the transaction, are chain free and thus the transaction is fully able to proceed quickly to completion.

The Pitfalls of Ignoring the Situation.

To do nothing will mean that the Borrower will lose his/her home and if the Lender sells the property for less than the combined amount of the outstanding debt, the Borrower will still have to continue paying until the debt is finally cleared. The Lender can pursue the Borrower for 12 years. In addition the Borrower will then have a poor credit rating and will be unable to raise further finance for whatever reason.

General Comment

1. Ultimately whether possession will be suspended is a matter for the District Judge, and they have absolute discretion based upon consideration of all the facts. If the Borrower has several suspended Possession warrants he/she may come across some difficulties. However the guidance given to District Judges is that where there is an imminent prospect of a sale, they should look to allow a short adjournment to facilitate the sale as being in the best interests of all the parties.
2. From the lenders point of view they get mortgage discharged quickly and without further additional costs and work of repossessing.
3. From the Borrowers point of view they theoretically achieve a better deal which solves all their immediate and pressing problems.

How We Can Help You.

We can speedily contact hundreds of investors who are looking for properties such as yours and hopefully find one who will offer you a speedy cash sale for your home.

If we can agree on a discount price that will interest investors in the current market situation then, the process and solution will be much quicker. Once we have found an investor who is wanting to purchase your property, then the investor will arrange for his/her lawyers to apply to the court for a suspension in order to give you both, time to complete the sale and the investor will also pay your solicitors costs subject to completion (up to £500). A FREE approximate on-line valuation can be obtained on any of our buying sites listed below or by speaking with our consultant over the telephone. Our consultant will then carry out further research to ascertain the correct valuation and confirm it with you.

In this situation it is important that our consultant gathers as much information as possible about the vendors current, financial and legal position, and that the Borrower is frank and honest when answering the questions asked or completing the on-line questionnaire provided, so that we can provide the best possible solution regarding the Borrower and his/her property, and also ensure that no surprises can be brought out in court that could jeopardize getting the possession warrant suspended.

We offer a range of solutions that can be adapted to fit each individual set of circumstances, including but not limited to:-

- Selling outright and receiving the surplus monies that are left over after the mortgage has been discharged.
- Selling and renting back which enables you being able to stop in your home without your friends or neighbours knowing anything about you situation.
- Lease Option to purchase which could include an investor paying off your arrears, taking over the management of the house and your mortgage payments in exchange for the granting of an option to purchase at a future date.
- Rent to Buy which would mean that you can sell now and then rent it from an investor with an option to buy document in place so that you can buy it back

at a future date when your circumstances have improved. For more information on Rent to Buy. Website: www.rent2buyonline.co.uk

- Lawyer's involvement will be to ascertain the present position, liaise with Borrower and Lender if necessary, then advise, and assist in making an application to the court to suspend the action. It will also include liaising with any local agency solicitors to attend the hearing and reporting back. The solicitor can then deal with the sale on behalf of the Borrower, ensuring that any deadlines imposed by the court to allow for the sale to proceed are monitored and met.

In this situation time is of the essence and requires swift and concise action to ensure that you do not lose your home and everything that you have worked for.

The alternative of selling through an estate agent can be very slow, and the possibilities of finding a seller within the limited time frame of a repossession are remote, even more so when a possible buyer has to sell their own house first. On top of that you have the maximum amount of stress to deal with which can be intolerable in your situation.

Contact us NOW

Go online to any of our buying sites listed below and fill in our on line application form. Please do not leave it until it is too late for us to help you. **The situation will not go away.**

Our consultant will telephone you the same day and at the latest within 48 hours to ask and confirm the most relevant questions to ensure that we identify the right investor to buy your property as soon as possible. Please ensure that you give the correct telephone number and the most suitable time to contact you. Please give a landline number if at all possible.

You do not have to fill the entire form in, however as most of the boxes are drop down selections it is relatively easy to do so. The more you do fill in, the faster and more effectively we will be able to respond. (* indicates required field).

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Your home is your most valuable asset. Sell it as an asset, before it slowly becomes a liability. We can help you to get on with your life.

Apply today to while this is fresh in your mind!

For London www.londonpropertybuyers.org.uk/

North East www.northeastpropertybuyers.org.uk

North West www.northwestpropertybuyers.org.uk

Yorkshire www.yorkshirepropertybuyers.org.uk

For the rest of the UK <http://www.speedypropertybuyers.co.uk/>

If you have property in Europe <http://www.speedypropertybuyers.eu/>

DATA PROTECTION ACT 1998

Please note that we take the issue of privacy very seriously. Any information that you supply will be used in accordance with the Data Protection Act 1998 (UK) and any other applicable UK or EU legislation. The data you supply is confidential and will only be used within the businesses of Ronan Property Services to match your requirements for a property with an investor who has a property available or to introduce

property related services to you that could be of use or save you money in the future. Your personal address and contact details will not be sold to any other organisation and only be revealed to the investor when you have expressed an interest in becoming a tenant/buyer for a particular property. Your data will be kept secure and will not be used for any other purpose or disclosed to third parties without your permission.

Updated 31/08/2010

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