



## Mortgages, secured loans & arrears

Mortgages and secured loans should be treated as a priority because ultimately you are at risk of losing your home if you fall into arrears. **However, this cannot happen without a Court Order.**

How your arrears are treated will depend on your lender, your individual circumstances, the type of mortgage/loan you have and the length of time you have held it. If you have made your payments on time and have some equity in the house i.e. the value of the house exceeds the amount of money that is owed for your mortgage and/or secured loan, your lender might be more willing to review your circumstances.

You may be able to get help under certain government initiatives such as the Mortgage Rescue Scheme. It is important that you seek specialist advice so you are aware of all options open to you.

### **Contacting your lender.**

If you are in arrears, contact your lender straight away to discuss the situation. Your lender will normally expect you to resume full payment plus pay something towards the arrears. They will usually expect the arrears to be cleared within a reasonable period of time. This can be up to the length of time you have left on your mortgage.

If you are unable to pay the full instalment due to a short-term problem, such as illness or unemployment, you should pay as much as you can afford and keep your lender informed of the situation. You can make an offer to clear the arrears at a later date.

With mortgage arrears it may also be worthwhile asking your lender if any of the following options would be available to you:

- Changing to a repayment mortgage.
- Increasing the mortgage term.
- Adding the arrears to your mortgage (recapitalising).
- Paying interest only.
- Re-mortgaging.

### **On Benefits?**

If you are a homeowner and get certain benefits you may qualify for help towards your mortgage interest payments.:-

This is payable as part of your benefit and is called Support for Mortgage Interest (SMI). To find out if you qualify for SMI check out –

[http://www.direct.gov.uk/en/MoneyTaxAndBenefits/BenefitsTaxCreditsAndOtherSupport/On\\_a\\_low\\_income/DG\\_180321](http://www.direct.gov.uk/en/MoneyTaxAndBenefits/BenefitsTaxCreditsAndOtherSupport/On_a_low_income/DG_180321)

### **Going to Court.**

If you allow the arrears to build up over a long time and do not come to an arrangement to pay, you may receive a Claim for Possession from the County Court. This would include a reply form for you to send to the County Court and would tell you when the Court Hearing is.

Even at this stage you should contact your lender with an offer of payment and start to make this payment straight away.

You must attend the Court Hearing even if you have made an agreement with your lender prior to the hearing. You should take along a "Financial Statement" to show that your proposal is reasonable. If you are unable to go because of illness or disability, write to the court to explain your circumstances and ask if a relative or friend can represent you.

The purpose of the hearing is for the court to decide upon an arrangement that is fair to both sides, not to find anyone guilty or innocent. The Court Hearing will be in "chambers" i.e. in private with only you, the lender's representative and the District Judge present.

### **The Court Hearing.**

- Make short notes about what you want to say at the hearing. Take these with you and refer to them if you need to.
- Take three copies of your current financial statement with you; one for you, one for the District Judge and one for the lender's representative.
- If English is not your first language you should take an interpreter with you.
- Do not be afraid to approach the lender's representative before the hearing to see if you can come to an agreement to present to the District Judge. But do not be pressed into offering more than you can afford. Remember it is the District Judge who makes the final decision and not the lender's representative.
- Answer questions clearly, calmly and fully, this will help the District Judge make his or her decision. Remember you have as much right to put your case forward as the lender.

**There may be representatives from the "Duty Court Scheme" at court on the day of your hearing who are willing to help you.**

The District Judge will usually expect the arrears to be cleared within a reasonable period of time; this can be the full term of the mortgage. However, if your offer of repayment will take longer than a few years to clear the arrears, explain to the District Judge why you cannot offer more and shown him/her your financial statement.

If the District Judge thinks your offer is reasonable s/he is likely to make a Suspended Possession Order on the basis of your offer. As long as you keep to these payments the lender cannot take any further action.

If no agreement is reached, a Possession Order can be made – usually in 28 days. However you can ask the District Judge for more time, to find alternative accommodation.

### **Secured Loans**

- Secured loans agreements will inevitably be regulated under the Consumer Credit Act 1974 and as such the court may grant a "Time Order" if it appears just to do so.
- A Time Order is usually appropriate if you can only make small payments, even less than the contractual repayments, and your financial problems are of a temporary nature.
- The court can order reduced payments and/or reduced interest rates for a set period.
- Seek advice if you think a "Time Order" may be appropriate for you.

### **Eviction Notice**

- If you have not kept up with the payments ordered by the court or the time has run out under an outright Possession Order your lender can apply for a "Warrant of Possession".

This is a letter from the court bailiffs giving you a date and time when they will come to evict you.

- If your lender won't agree to stop the eviction you can apply to court for the eviction to be suspended. However, the court is only likely to agree to this in limited circumstances.

**If an outright Possession Order is made against you, or you receive a Warrant of Possession you should seek advice and / or contact the Housing Advice Service without delay.**

### **Should I hand the keys in?**

If your situation seems hopeless, you may be tempted to hand the keys back to your lender. This is not usually a good idea. Until your lender can sell the property, the monthly instalments will still become due, and you also be deemed intentionally homeless. It is almost always better to try to come to some arrangement to pay and put the property on the market yourself. Seek Advice.

**Further help and advice regarding these and other related housing issues can be obtained from the CAB and the Housing Advice Service.**