



## Staying in, taking control

### Fact Sheet 7:

#### Steps required before repossession



Your lender has to follow certain steps to ensure that your home is repossessed only as a last option. These steps are outlined in the 'pre-action protocol'.

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#### What is the pre-action protocol?

The pre-action protocol sets out what you and your lender should do before your lender takes action to repossess your home. It applies to most residential mortgages. At a court hearing you and your lender will need to be able to prove that you have followed the protocol.

Your lender must:

- notify you about what you owe and any charges you'll have to pay on your debt
- consider any reasonable request from you to change the way you pay your mortgage
- respond to any offer of payment you make
- give you their reasons for turning down your offer of payment within ten working days

If you don't keep to any agreement you make with your lender, they have to warn you in writing that they plan to start court action. They should send you a letter that gives you 15 working days' notice of the action they plan to take.

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#### Postponing repossession

There are a number of situations where your lender may postpone repossession action.

#### Making a claim on mortgage payment protection policy

Your lender may postpone repossession action if you make a claim on your mortgage payment protection policy – if you have one. This is an insurance policy that covers your repayments if you become ill or lose your job. If you make a claim, you may be able to cover your mortgage repayments, or a percentage of them.

To avoid repossession you'll have to satisfy your lender that you are likely to be eligible for a payment under that insurance. You'll also need to show you can make up any part of your monthly repayments that isn't met by the policy.

#### Making a complaint about your lender to the Financial Ombudsman Service

If you feel your lender has treated you unfairly you may be able to make a complaint to the Financial Ombudsman Service (FOS). The pre-action protocol allows a lender to

postpone repossession action when the FOS is dealing with a complaint. Your lender can decide to continue with repossession action while your complaint is being dealt with. However, they must give you five working days' notice of their plans. The FOS can only look at how the lender dealt with your case. You'll still need to get advice about the action your lender may take.

## **Taking steps to sell your home**

Your lender may agree to delay action if you show you are taking reasonable steps to sell your home. You can get help from an independent adviser to make sure you are following the right steps to sell your home.

You'll need to keep your lender up to date on the progress of the sale. If your lender doesn't agree to you selling your home, they should give you their reasons at least five working days before starting any action.

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## **Be aware of 'sale and rent' schemes**

Companies that buy your home and rent it back to you are offering 'sale and rent back' agreements. Selling your house to this type of scheme may pay off your debts, but you will no longer own your home.

If you sell your home to one of these schemes:

- your new landlord may increase your rent, making it too expensive, or ask you to leave after six or 12 months
- you may not be able to claim Housing Benefit if you are on a low income or if you lose your job
- you may be evicted - if the company that bought your home gets into financial problems and can't pay the mortgage

Most of these schemes will offer you less than the actual value of your home. Before considering this type of scheme, get advice from an independent adviser.

*For more advice about your housing situation or debt please refer to the Useful Contacts sheet*