

# Repossession Looming

## What can I expect?

### 1. Financial Difficulty

46,000 hard-working British families had their homes repossessed in 2009. It is a sad fact of life that in the coming years many more people will lose their homes, mainly due to financial difficulty. Unemployment and loss of income are the main causes, but illness and business failure can also lead to repossession and eviction. 53,000 British families are forecast to have their homes repossessed in 2010.

### 2. What is a mortgage?

A mortgage is a loan “secured” against property. Most banks and building societies offer mortgages. If you fail to comply with the terms of the mortgage – typically to make payments when required – the lender may be able to repossess the property and sell it to pay back the loan. As soon as you miss a payment the lender can initiate repossession proceedings.

### 3. Seek advice as soon as you can

As soon as you think you may have a problem making your mortgage repayments, you should do something about it! Don't bury your head in the sand!

- Review your financial situation – perhaps using an online budget planner.
- Seek independent money advice.
- Ensure you are taking advantage of the full range of benefits the government provides

You should probably be thinking about your options now and the sooner the better. These include selling your property.

#### 4. Getting into arrears

The total of any missed payments are called “arrears”. If you miss a payment for whatever reason, your lender will write to you asking you to clear your arrears. This letter is called a ‘notice of default’.

- **Do not ignore letters received from your lender!** Make sure you read and act on any letters you receive from them.

#### 5. Talk to your lender

Even though the majority of lenders really do try to keep people in their homes, tens of thousands of British families will be evicted this year. Repossession doesn’t happen automatically though. It may be possible to stop the process at any stage. So if you are struggling to pay your mortgage, it is important not to bury your head in the sand but keep focused on what has to be done.

Talk to your lender as soon as possible to see whether you can negotiate terms with them to keep your home and avoid repossession. Generally, lenders are willing to talk about your situation and help you find a solution.

#### **To help you manage your repayments, your lender may:**

- agree to change or lengthen the term of your loan
- accept reduced payments from you in the short term
- add any repayment debt to the amount you have borrowed

You need to:

- show you are willing to make repayments you can afford
- pay what you can, when you can, if you can’t afford the full payments at the moment
- get a written copy of any repayment arrangement you make with your lender
- keep in regular contact with your lender and let them know about any changes in your circumstances

**Don’t just hand in the keys.** You will still be liable for the mortgage.

Repossession happens when the terms of a mortgage are breached and the lender takes control – although not the ownership – of a property and then sells it to recover the loan amount plus all arrears and fees.

- You may get nothing back. In fact you may still owe the lender if the property is in “negative equity” (the value of the property is less than the loan)
- The process can take anything from three months to a few years.

## **7. Legal action**

- Legal action may only be started by the lender after 3 months of arrears, during which time they will have sent several reminder letters (they are legally entitled to commence legal action if you are 2 months in arrears).
- If you haven’t been able to repay the arrears the lender will apply to the County Court for a possession order
- A claim form will be sent initially from the County Court. It will explain what the claim is for, the amount and the circumstances. For a repossession case this will also have a date and place for the court hearing.
- A hearing does NOT mean repossession will occur.
- Usually the homeowner will have several hearings before an eviction warrant is issued.
- Make sure you reply to the court
- Get legal advice immediately –

## **8. The Court hearing**

- If you do have to go to court, make sure you turn up, turn up early, and take all relevant documents with you. Work out in advance all of your monthly income and expenses, and how much you can afford to pay the lender.
- You can speak with the lender’s solicitor and try to come to an arrangement before the hearing. If this is successful you will explain to the judge that a settlement has been reached.
- Hearings are private.
- The process takes 5 – 15 minutes only.
- The judge will give you the opportunity to put your case forward. You need to prove that a repossession should not take place by showing:

- Your detailed income and expenses information.
- The background of the case.
- What is happening now?
- Why are payments now affordable?
- And you must show an alternative plan to stop the repossession from going ahead
- The judge will come to a decision about what should happen next. Their decision will depend on whether you can repay the mortgage and whether the terms and period to make the repayments are acceptable.
- Note that the courts do not like to repossess properties, and so will try to find an alternative solution for both you and the lender.

## 9. Court Judgements

For the first hearing the judge may require more information before they can make a decision, so the case may be adjourned with a new hearing date set.

- Case management directions . This is where the Court directs you and the lender how to get the case ready for trial.
- Dismissal - where your arrears have been paid.
- Adjournment - where you are given time to pay your arrears.
- Suspended possession order - You are given certain conditions to abide by and payment amounts that *must* be made. The repayment schedule should be what you can comfortably afford. This means that the repossession is on hold for the short term but remember, if you fail to keep up with the payments it is possible for the lender to evict you *without* another hearing!
- Outright possession order where you must leave your home by a set date – this is what the lender’s solicitor is aiming for. The judge will issue an eviction warrant only after they’ve exhausted all alternatives with you and the lender.

## 10. After a Possession Order

- It’s vital you get legal and financial advice immediately to try to stop or delay your eviction. A solicitor or adviser can help you work out your options.
- Often a judge will suspend the possession order to give you a chance. However if you fail to comply with the agreed payments or terms you

may be given another chance but eventually an eviction warrant will be given

- Even if eviction is imminent, the repossession can be stopped if your circumstances have changed, and you can provide evidence to the court about why the original order needs changing.
- Through the County Court, you can apply for:
  - The Possession Order to be set aside
  - The Possession Order to be varied or suspended, or
  - A Stay of the possession warrant (prevents bailiffs from evicting while appeal takes place).
- You would request an emergency hearing (before the eviction date) from the court (Form N244 ). Fill out the form and deliver it to the court urgently if you want to apply for a suspension.

## **11. Warrant for Possession**

- If you don't leave your home by the date given in an outright possession order, or you have not complied with the terms after suspension of a possession order, your lender can ask the court for a 'warrant for possession'. If the court gives a warrant, you'll be sent an eviction notice that gives a date (4 to 6 weeks) when you must leave your home. If you don't go, bailiffs can evict you. The costs of doing this will be added to the money you owe.
- You can ask a judge to 'suspend the warrant for possession' (Form N244 ). This means they will delay the eviction or allow you to stay in your home if you are able to make payments again. A new hearing will be held but the judge won't automatically agree to suspend the possession warrant – it depends what happens in court.
- If you can get your arrears down to less than 3 months the judge may suspend the eviction warrant even if lender does not agree.

## **12. Eviction**

- If a Possession Order is made or a Suspended Order is breached, the lender can ask the court bailiffs to evict. If you have not left your home by the date the judge has said you must leave by, your lender will apply to the court for a warrant of execution so that a court bailiff can legally remove you from your home.
- The warrant allows the bailiff to carry out the eviction.

- The bailiffs notify you of the date and time of the eviction, either in person or by post. You may need special arrangements to be made because of your personal circumstances, for example you:
  - have children
  - are elderly, or
  - are disabled.
- You should have at least a few days' notice from the bailiff's office. There are no rules about what time they can come but it will normally be within normal working hours, and often in the morning.
- You may still be able to prevent the bailiffs coming, but you **MUST** act **QUICKLY**.
- The bailiffs are allowed to physically remove you from your home. They can use necessary force to enter your property and can remove anyone living there at the time.
- They must act reasonably and not use unreasonable force. They will normally change the locks so you can't get back in, even if you're not in the property when they arrive.
- You will need to arrange to collect your belongings later; otherwise your lender may be able to dispose of them.

Your local council should try to help if you are homeless, or you can contact the Shelter homeowner helpline on 0300 3300 515.

Don't let it get this far. Take steps now to avoid being repossessed.

## **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 2010 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 can sell via an estate agent. However, if you are facing repossession even a good estate agent can only do so much because it is the buyer who makes the offer and who ultimately decides whether to continue or pull out before exchange.

Right now Estate Agents are struggling. There are very few buyers who can get a mortgage because of the strict lending criteria.

This means that you will have to sell for less than similar properties and even then will you get a guaranteed sale within a reasonable time frame needed to avoid repossession?

It's very unlikely !

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:

**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.

**Do You Have Time For This?**

- **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.

- **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 take weeks for a buyer to get a confirmed offer and who knows if your buyer is even credit worthy?

- **Selling Your Home Privately**

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

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.

**We Can Buy Houses** offer a different solution to any Estate Agent or trying to sell your property privately.

We can act **VERY QUICKLY!**

- We can pay your asking price
- You do NOT pay us any commission fees
- Low or Negative equity is not a problem

**Action Point:**

Call **We Can Buy Houses** now on **07789 778 656**

or email: [angela@wecanbuyhouses.co.uk](mailto:angela@wecanbuyhouses.co.uk)

or visit [www.wecanbuyhouses.co.uk](http://www.wecanbuyhouses.co.uk)

for further information