

Mortgage Arrears

Your options and rights

midland heart
housing, care and opportunity



This leaflet is a basic guide on how to best cope with mortgage arrears.

The law is complex and if you do not maintain your agreed mortgage payments (or payments on any other loan secured on your home) your lender will eventually repossess and sell your property to get their money back, you could therefore lose your home.

Talk to your lender

If there's a problem and you cannot pay your mortgage payment, please don't ignore it, you should contact your lender straight away to explain your difficulties. If your lender does not know why you are not paying and doesn't hear from you, they are likely to start legal action to repossess your home. Even if possession action has begun, by contacting your lender you may be given extra time to stop you losing your home.

Seek advice

If you need more information or assistance you can get advice from NHA, alternatively you can contact the Citizens Advice Bureau (CAB) or one of the other organisations listed in the back of this booklet.

Remember your mortgage debt is a **priority** and must be paid before other debts. Seek help before arrears escalate, you may save your home and save a lot of money and stress

Making mortgage payments

Paying your mortgage is very important, so make sure you pay this before all other debts. If you get into mortgage arrears your home is at risk and it can become difficult to clear the arrears. There are things that your mortgage lender can do to help you, and your lender is more likely to help if you explain your problems before any payments have been missed. If you cannot pay all your mortgage payment, pay as much as you can. Tell your lender why you are only able to afford this. This shows them that you are willing to make an effort to pay and increases the chances of keeping your home.

Mortgage lenders should only take possession action as a last option. Your lender should think about what they can do to prevent you from losing your home, for example, they may:

- Agree to change or lengthen the term of your loan
- Accept reduced payment from you in the short term, or
- Add your debt to the amount you have borrowed

However they can only help if you contact them.

Resolving payment problems

Take a good look at what you are spending your money on and see if there is anywhere you can cut back on spending. Visit NHA or CAB where an Advisor can help you do this.

You may be also be able to increase your income by

- Letting out a room (some mortgage arrangements require the lender's permission first). You will also need to check the welfare benefits and tax implications of this.
- Take out a temporary or part time work to ease financial pressure
- Establish whether you are entitled to any welfare benefits
- Reducing non- priority debts to a minimum (a debt advisor will be able to help you with this)
- Draw up a list of income and expenditure to highlight where expenditure can be reduced (see leaflet entitled 'Managing Your money')

Deciding to sell your home

If your home is larger than you need or it is in an expensive area, you could consider selling it and moving to a cheaper home. Downsizing may be appropriate if you could afford a smaller house without a mortgage or your income could meet the payments on a smaller mortgage.

Remember that there are major costs in selling a home and buying another and you may need to spend further money to make a new home habitable.

If you are already in financial difficulty it may also be difficult to arrange a new mortgage.

If the money from selling your home is not enough to pay the sale costs and the full amount of all of the mortgage, then you have negative equity. You can only sell with the permission of the lender. If your home is sold with negative equity, the lender can still expect you to pay the balance of the loan and can continue adding interest despite you no longer having possession of the property

Before taking steps to sell, always get advice. This is very important because in some circumstances you may be seen to have made yourself 'intentionally homeless'. If this happens and you then apply to NHA as homeless, there may not be a duty to rehouse you.

Should I hand in the keys?

It's not advisable to hand back the keys before the lender has obtained a possession order and you have somewhere else to live. The mortgage will not come to an end till the property has been sold.

Court Action

You cannot be evicted from your property without a court order. However, if you move out of your home or have a business mortgage, the lender may take possession without a court order.

The sequence of events from the first missed payment through to eviction is as follows. Remember - seek assistance at the earliest stage possible.

1 Standard arrears letter

Sent after the first or second missed payment inviting the borrower to bring the account up to date or to call and discuss the problem

2 Strongly worded arrears letter

Sent usually after two months advising the above or the case will be passed to the lender's solicitor

3 Notification of a County Court Possession Hearing date (Possession Summons)

If you have not reached an agreement with your lender, they will apply to the county court for a hearing. You will receive a claim form, which will set out the claim and what the lender wants, along with the date and place of the hearing. There will be a reply form with the court papers for you to supply details to be considered by the court. The claim form is important; however it does not mean that you will automatically lose your home. There is still time to speak to your lender, and many options to consider. Remember that most lenders would prefer your continued custom than your home. They are in the business of lending money.

Always go to the hearing, unless you have been advised not to. If you decide to see a solicitor, you may qualify for legal aid. Which means the

Government pays your legal costs, although you may have to make a contribution or pay your costs from the sale proceeds of your home

There will also be the court desk duty solicitor who will be available on the day of the court hearing for 'eleventh hour' advice, negotiation and advocacy. You will not have to pay for this service, although they may have a number of clients to give advice to before the hearings and you are not guaranteed a representation in court.

What will happen at court?

The purpose of the possession hearing is to decide on an arrangement which is fair to both sides – not to find anyone guilty or innocent. The judge will consider reasons for the arrears and want to know if the borrower can afford to pay off the arrears within a reasonable period. You should attend the court hearing to verify your circumstances. The judge will then decide what will happen next. There is a range of possibilities of which the most likely are:

- Dismissal, where the arrears have been paid
- Procedural adjournment, where the lender has got the procedure wrong or where you need time to get legal advice
- Adjournment to give you time to pay the arrears over a reasonable period
- Suspended possession order, this is a possession order but if you keep to the order, usually by making the payments required, you will not have to leave your home. If you break the order, the lender can evict you
- Outright possession order, this will give you a date by which you must leave your home

Generally the judge will want to adjourn or make a suspended possession order, provided that you can show you will pay off the arrears within a reasonable period. You will need to show not only that you are willing, but you will be able to pay.

Eviction

If an outright possession order has been made against you, or if you breach a suspended possession order, the lender can ask the court bailiffs to evict you. The bailiffs will send you a letter about 14 days before they are coming. It is best to leave with your belongings. If you fail to leave, the bailiffs can remove you using force if necessary.

Sale by the lender after the repossession

If you are evicted, the lender will sell your home to pay back the mortgage. After your home is sold, the lender uses the money received to pay sale costs and all of the mortgages on it. If there is any money left this will be paid to you. If there is not enough money to pay the balance, it will leave you in negative equity.

Useful Contacts

For Housing advice and information

Newcastle Housing Advice Service
61-63 Lower Street, Newcastle-under-Lyme Staffs, ST5 2RS
Tel: 0345 850 9698
www.nhaoptions.co.uk

For Independent help and advice

Newcastle CAB
25-27 Wells Street
Newcastle-under-Lyme
Staffs ST5 1BP
Tel: 0844 499 445

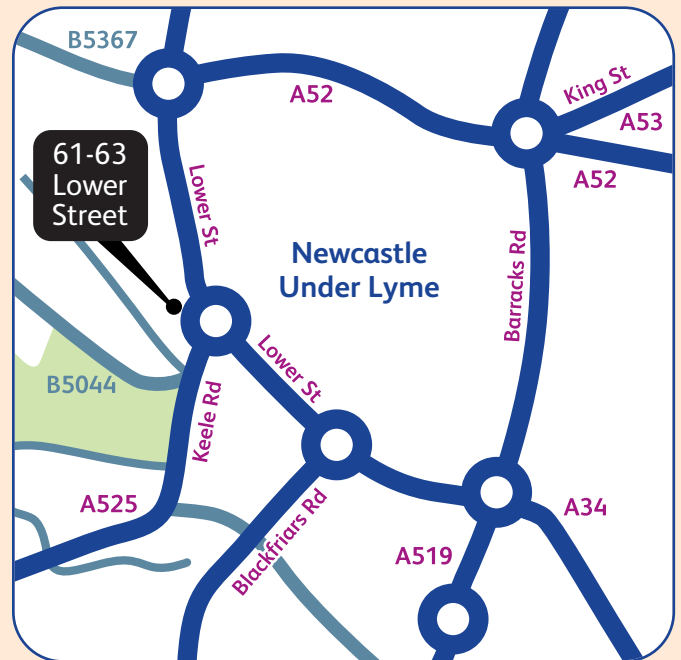
Shelter
Offers help with housing, mortgage debt or problems with welfare benefits
Tel: 0808 800 4444

Community Legal Service Direct
Tel: 0845 345 4345

Kidsgrove CAB
ire House, Liverpool Road, Kidsgrove,
Stoke-on-Trent ST7 4EH
www.Advice.guide.org.uk

Payplan
Gives you advice on your debts
Tel: 0800 917 7823
www.payplan.com

How to contact us



The Newcastle Housing Advice Centre is located at
61-63 Lower Street,
Newcastle-under-Lyme.
Staffs, ST5 2RS

Tel: **0345 850 9698**
email nha@midlandheart.org.uk
www.nhaoptions.co.uk

Our opening hours:
Monday to Friday 9am until 5pm

For homelessness emergencies out of the normal office hours, you can call
01782 615 599

Appointments can be made by telephone or in person by calling into the reception at NHA Lower Street, Newcastle.

www.nhaoptions.co.uk