

Arrears and Repossession

If you are struggling to pay your rent or mortgage, this fact sheet will provide you with information about what must happen before your landlord/mortgage lender can evict you, how you may be able to avoid eviction and keep your home and what will happen during an eviction.

If you are in rent/mortgage arrears, your landlord/mortgage lender will want you to clear them. If you aren't able to clear them, you could be evicted from your home. This is called taking possession. You can contact the Housing team at any time for help and advice on housing@eastcambs.gov.uk

How your mortgage lender/landlord can take possession of your home

Your landlord/lender must go to court before they can take possession of your property. This is called taking possession action.

Your landlord/mortgage lender should not start possession action against you without giving you a reasonable chance to make arrangements to pay off the arrears, if you are able to.

If your landlord/lender starts possession action, you will receive a claim for possession of property from the county court. This will give you details about a court hearing and full details about the case against you.

At the court hearing, a judge will decide whether or not to grant your landlord/lender possession of your home. This will depend on whether or not you are able to come to an agreement with your landlord/lender to pay off the arrears.

If you are able to make an acceptable offer to repay the arrears, the court will make a **suspended possession order**. This means that, so long as you keep to the terms of the order, you will be able to stay in your home.

However, if the judge decides that you are unable to make an acceptable offer to repay the arrears, they may make an **outright possession order**. This is an order which says that your landlord/lender can take possession of your property and that you will have to leave it by a certain date.

If you haven't left your home by the date on the outright possession order, your landlord/mortgage lender will need to apply to the court for a **warrant of possession** before you can be evicted.

There may still be time before the warrant of possession is issued for you to take action which will allow you to stay in your home.

Changing the courts decision to grant a possession order

Even though the court may have granted your landlord/mortgage lender possession of your home, it still might not be too late to stop the eviction going ahead. You may be able to ask the court to grant another order allowing you to stay in your home. You may be able to do this even if your landlord/mortgage lender has been granted a warrant of possession.

You may be able to ask the court to:

Suspend an outright possession order

After the court has made an outright possession order, you may think that you are able to make an offer to repay the arrears. In this case, you can apply to the court for the order to be suspended. To do this, you should complete the court form N244. If your offer is acceptable, the court will make a suspended possession order.



Appeal against the order

If you believe that the judge was wrong to make a possession order, you may be able to appeal to a higher court. You may be able to do this if you think the correct procedures weren't followed, or the law wasn't applied properly or the facts the judge used to make a decision at the hearing were wrong. There is a time limit of 21 days to apply for an appeal.

If you think you have reasons to appeal, you should get expert legal advice.

Set aside the order

You may be able to apply for the court to set aside the possession order. For example, if you had good reason for not attending the hearing and you have a defence against the claim. If you think you have reasons for the court to set aside the order, you should get expert legal advice.

What happens after the court hearing?

If the court has granted your landlord/mortgage lender an **outright possession order**, the order will give a date by which you should leave your home. This is normally 28 days after the hearing. You can ask the court for an extension of this period. You might want to do this if, for example, you need more time to find alternative accommodation.

Your landlord/lender can also apply for a warrant of possession if they have a suspended possession order and you have not kept to the terms of the order.

You don't have to leave by the date of the possession order. If you haven't left by this date, your landlord/lender must apply for a **warrant of possession**. Your lender can't legally evict you without this warrant.

The warrant of possession gives the court bailiff the authority to evict you from your home. The date for eviction may be a week or two after the date on the possession order.

The bailiff must deliver a **notice of eviction** (form N54), which sets out the time and date of eviction, to your address. The notice must either be given to you personally, or left at the property in an envelope addressed to you by name and 'any other occupiers'. The notice must be delivered as soon as possible after the eviction date has been fixed to give you as much time as possible to act on it.

You could use the time before the warrant of possession is granted to try and come to an agreement with your landlord/ lender which would let you stay in your home. Or you could go back to the court and ask them to vary or postpone the possession order.

Even if your landlord/lender has got a warrant of possession, it's not too late to try and come to an agreement with them or to ask the court to suspend the warrant.

If you have a mortgage you may be able to do this if you want more time to sell the property yourself, or because you are able to make an offer to pay the arrears.

If the court agrees to suspend the warrant, this will allow you to stay in your property. If you are selling your property, you will still have to leave once the property is sold.

What happens during an eviction?

There is no fixed procedure for an eviction. For example, there are no rules about what time of day bailiffs can call, or what they must do or say. However, bailiffs must act responsibly. They are entitled to use a reasonable amount of force if they need to, to enter your home, to remove you and anyone else that is there.

Your landlord/lender will be at the eviction so that the bailiff can hand over the keys of the property to them.



Your landlord/lender has a right to vacant possession of your property, which means that all your furniture and belongings must be removed. The bailiffs should not remove any of your furniture or belongings but will usually watch while you do this. If you refuse to remove your possessions, your landlord/lender is entitled to remove them. Your lender can also get a court order requiring you to remove your possessions.

Once you have been evicted, you will not usually be able to get back into the property. However, you may be able to make arrangements with your landlord/lender to leave your belongings locked inside and to collect them later.

If the bailiffs arrive when you are not at home and change the locks, leaving your possessions in the property, you will need to contact your lender. Your lender should then arrange to let you into the property to collect your possessions.

Support for Mortgage Interest (SMI)

If you're on certain benefits and you're struggling to pay your mortgage, you might be able to get help from the Government to pay the interest on your mortgage. This is called Support for Mortgage Interest (SMI). For more information head to <https://www.gov.uk/support-for-mortgage-interest>

Finding somewhere to live after eviction

If you have been evicted and you have nowhere else to live, please contact your housing options officer as soon as possible for further advice and assistance to prevent your homelessness.

Useful Contacts

East Cambridgeshire Housing Team

The Grange
Nutholt Lane
Ely
CB7 4EE

Telephone 01353 665555

By visiting our Drop-In Surgeries:

Monday, Tuesday and Wednesday between 8:45 to 12:00 (other interviews are appointment only)

Tenancy Support Thursday and Friday 8:45 to 12:00

Community Hub's

Ely Hub

Ely Lighthouse Centre
13 Lynn Road
Ely
CB7 4EG

Every Tuesday 10:00 to 1:00pm



Littleport Hub
The Village Hall
Victoria Street
Littleport
Ely
CB6 1LX

First Thursday of every month 10:00 to 1:00pm

Financial Ombudsman Service

<http://financial-ombudsman.org.uk>

Telephone: 0800 023 4 567 or 0300 123 9 123

Citizens Advice Bureau Winchester

70 Market Street,

Ely

CB7 4LS

[https://www.citizensadvice.ruralcamb.](https://www.citizensadvice.ruralcamb.org.uk/find-us/ely-office/)

[org.uk/find-us/ely-office/](https://www.citizensadvice.ruralcamb.org.uk/find-us/ely-office/)

Telephone 03442451292

Shelter

<http://england.shelter.org.uk/>

Telephone: 0808 800 4444



EAST CAMBRIDGESHIRE
DISTRICT COUNCIL