





The content

Debt Advice Handbook 15th edition

Description

With living costs and unemployment rising, budgets squeezed and problem debt on the increase, no adviser should be without this essential guide to the practice and process of giving money advice in England and Wales.

Who's this book for?

It is essential for debt advisers, welfare rights advisers, lawyers, local authority and housing association staff, social workers and union official.

What does it do?

The handbook provides the most comprehensive information needed by advisers on the key stages of money advice, including interviewing clients, establishing liability, prioritising debts, preparing a financial statement, negotiating with creditors and dealing with bailiffs. Fully indexed and cross-referenced to law, regulations and official guidance, and to court and tribunal decisions Includes tactical guidance and examples

What's new?

Fully updated to cover all recent changes to legislation, caselaw and court procedure and practice Emphasis is placed on taking due care of vulnerable clients and making sure that any payment arrangements agreed are appropriate. There is a focus on sustainable credit arrangements that do not affect a client's abilities to pay essential living expenses and priority debts.

Properties

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2. Recovering property

Negotiating before the hearing

Note: enforcement agents are now required to to give 14 days' notice of evictions and, from 7 August 2021, if an eviction does not take place on the date specified in the notice, a further notice of eviction must be delivered to the premises at least seven days before the new eviction date. ¹

This chapter only covers the action taken when there are unpaid payments due under a

mortgage (or other secured loan) or unpaid rent due under a tenancy. It does not cover the details of all the law in these areas and you should refer to specialist books (see Appendix 2) and to a housing specialist where necessary. ²

A landlord or a mortgage lender can start action in the county court for possession of a tenant's or owner-occupier's home by completing a claim form (Form N5) and particulars of the claim (Form N119 for tenants and N120 for mortgages). The creditor cannot request a default judgment (see here) or apply for summary judgment (see here) in this type of action. If the client does not respond, the hearing must still go ahead.

Housing Possession Court Duty Schemes are available which provide free, non-means-tested advice to clients at both the review and substantive court hearings. Each court has its own arrangements for access. A list of schemes is available at gov.uk/government/publications/housing-possession-court-duty-schemes-hpcds. The scheme is now extended to provide early legal advice in housing as well as some debt and benefits.

There must be a hearing to consider the merits of the claim. The procedure is contained in Part 55 of the Civil Procedure Rules. Possession claims are normally brought in the county court hearing centre for the area in which the property is situated. A claim may only be brought in the High Court in 'exceptional circumstances'. If you encounter a possession claim or order made in the High Court, get specialist advice.

Note: a client cannot be forced to leave their home against their will unless a court order and warrant have been obtained.

¹ r83.8A(2) CPR

² For a summary of recent developments in mortgage arrears cases, see M Robinson, 'Mortgage possession update', *Adviser* 147

Negotiating before the hearing

You should always try to negotiate with a creditor and reach a satisfactory agreement before going to court. This is preferable to relying on the decision of a district judge and avoids the possibility of things going wrong at the hearing. In addition, the following apply.

- If an order is made for possession of the property and/or payment of rent arrears, the court usually orders the client to pay the landlord's costs.
- Most mortgages allow the creditor to charge all their costs to the client in connection with

default and repossession without needing a specific order for costs made by the court.

- It is important to avoid unnecessary court hearings or delays.
- Ideally, both parties should apply for the matter to be adjourned generally (ie, without a future hearing date) on the agreed terms (see below).

Often landlords and lenders insist on a suspended possession order (see [here](#)) being made rather than agreeing to the case being adjourned on the basis of the agreed terms. This puts the client's home at risk, but it may result in a better order for them than if the matter had been left to the discretion of the district judge. If the creditor agrees to a suspended possession order, check that any solicitor representing the landlord or lender has been informed and get the terms of the proposed suspended order in writing so they can be produced at the hearing if there is any dispute. See Chapter 8 for possible strategies.

If the agreement to clear the arrears was made before the landlord or lender issued court proceedings and the client has not defaulted under the agreement, ask the court to adjourn the matter and not allow the landlord's or lender's costs. This is because the Civil Procedure Rules and paragraph 6 of the pre-action conduct practice direction (see [here](#)) require people to act reasonably in trying to avoid the need for court proceedings (see [here](#)).

In addition, a lender that issued proceedings in these circumstances would be in breach of the spirit of the mortgage arrears pre-action protocol (see [here](#)). In the case of social landlords, if the payment agreement is made before the issue of proceedings, under paragraph 10 of the rent arrears pre-action protocol, the landlord should agree to postpone proceedings, provided the client keeps to the agreement. If the payment arrangement was made after proceedings were issued, the landlord should agree to an adjournment (see [here](#) and [here](#)).

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Please be aware that welfare rights law and guidance change frequently. This page was printed on Friday, October 17, 2025 and may go out of date.