

Fact Sheet

Mortgage Repossession

Coed Pella,
Conway Road,
Colwyn Bay.
LL29 7AZ



What happens if I fall behind with my mortgage payments?

Although this is a very early stage, it is still important to act quickly. By contacting your lender to explain your circumstances, you could reach an agreement and avoid any further action.

They may be able to change Your Payment Plan, to allow you to make changes to your payments for a short period (Reduced Interest Rates, Interest Only, Reduce the amount you've borrowed, extend the time over which you pay)

Remember to discuss the long term effects of these options with your Lender

Rules a lender must follow:

- your lender must try to discuss your finances with you and give you a reasonable chance to pay the arrears
- Your lender must send you the National Homelessness Advice Service (NHAS) booklet on mortgage arrears or
- the Financial Conduct Authority (FCA) leaflet on arrears or default

Both leaflets offer advice on what steps you can take to keep your home.

Your lender must communicate with you in a way that's clear and easy to understand. Tell them if you find it difficult to understand any information they send you.

Your lender must also give you details of:

- Your payments over the past two years
- Your monthly instalments
- The amount of your arrears
- How much is left to pay on your mortgage
- The interest or charges that will be added
- Consider any offers for repaying the arrears and any other reasonable options you suggest to keep your home.
- If they don't accept your suggestions they must write to you within 10 working days to explain why.
- If your lender comes up with a proposal for you to clear your arrears, it should be easy to understand and you should be given a reasonable amount of time to consider it.
- Your lender must communicate with you in a way that's clear and easy to understand. Tell them if you find it difficult to understand any information they send you.

Are there any other options if my Mortgage Lender cannot change my current arrangements?

Yes – You could consider switching Mortgage Lender – Other lenders may offer an alternative Mortgage deal that will be better suited to you. Keep in mind that any arrears with your current lender will still need to be paid. There may also be a charge for switching lender

What happens if I can't make any changes to help?

If you continue to have difficulties your Mortgage Lender may apply to Court for a 'Claim for Possession' after the claim is issued, the standard timescale for a hearing is 4 - 8 weeks.



What can I do to help me?

- You'll need to show the court that you've kept in touch with your lender and have acted responsibly. This means you must not ignore any contact from your lender.
- You'll also need to show you've explored all available options for paying off arrears and that you've tried to come to an arrangement by negotiating with your lender.
- Keep to any agreement you make with your lender. If you don't your lender can take you to court after giving you 15 working days' notice.

When your lender should delay court action

The pre-action protocol says your lender shouldn't start court action if you've made a claim:

- under a mortgage payment protection policy and are likely to get a payment
- for support for mortgage interest (SMI) or Universal Credit for help with mortgage costs and are likely to get a payment

If these payments won't cover your monthly instalments you'll also need to show your lender that you can cover the shortfall. Your lender should also delay court action if:

- you're getting help from your local authority under a mortgage rescue or homeless prevention team
- your income is about to improve enough to enable you to (for example you've been offered a better paid job or you're taking in a lodger)
- you have made a complaint to the Financial Ombudsman Service (FOS) about how your lender has dealt with your arrears
- you are taking steps to sell your home at a realistic price

Delaying repossession while you sell your home

- If your lender agrees to delay court action because you're selling your home you need to give them details of any offers you get and the Energy Performance Certificate (EPC), or proof that you've arranged for your property to be assessed.
- You should give your estate agent and solicitor permission to contact your lender directly about the progress of any sale.

What will happen at court?

The Judge will consider your defence and decide how to proceed with the lenders claim.

There are a number of options the judge could consider:

- **Adjourn the Hearing**
This usually happens if the court needs more information to decide on possession.
- **Dismiss the Case**
If the case is dismissed you can continue to live in the property. This would usually happen if the arrears have been cleared in full.
- **Grant an Outright Possession Order**
This is usually effective within 28 days. When the Order for Possession expires the Lender can apply to Court for an Eviction Warrant. If you are issued with an Eviction Warrant you must be out of the property before the date shown, unless you can provide a further defence against this.
- **Grant a Suspended Possession Order**
If the Courts grant a Suspended Possession Order there will be terms to it (e.g. repayment plan) If you keep to the terms of the Order it will be discharged and you can stay in the property. If you do not keep to the terms the Court is likely to grant an outright Possession Order.



If a Possession order is granted, are you still able to help?

Yes - The Homeless Prevention Officer will discuss all your options, and give advice on securing affordable, alternative accommodation, should you have to leave your current home.

When an Order for Possession is within 56 days of expiring you will be classed as Statutory Homeless. At this stage the Homeless Prevention Officer may be able to do more to help you, depending on your personal circumstances and will discuss this with you in more detail during your assessment.

What happens if my lender doesn't follow the rules?

If your lender hasn't followed pre-action protocol the court could:

- Give you time to negotiate with your lender by delaying the court hearing
- Order the lender to pay your legal costs
- Stop your lender from adding their costs on to what you already owe them

Mortgage Options

- Change Your Payment Plan – Your Mortgage Lender may allow you to make changes to your payments for a short period (Reduced Interest Rates, Interest Only, Reduce the amount you've borrowed, Extend the time over which you pay) Remember to discuss the long term effects of these options with your Lender.
- Switching Mortgage Lender – Other lenders may offer an alternative Mortgage deal that will be better suited to you. Keep in mind that any arrears with your current lender will still need to be paid. There may also be a charge for switching lender
- Ensure that you make payments – devise a household budget, cutting your expenditure and looking at ways of boosting your income. If you show your lender that you are committed to pay as much as you can they should give you more time to resolve your financial issues
- You may be eligible for assistance from Support for Mortgage Scheme

Support for Mortgage Scheme

What is the Support for mortgage Interest?

This is a scheme where the Government steps in and makes interest payments on the first £200,000 of your outstanding mortgage or £100,000 if you are in receipt of Pension Credit for the time you cannot afford them. The level of interest is set by the government.

You might be able to get help towards interest payments on:

- your mortgage
- loans you've taken out for certain repairs and improvements to your home

This help is called Support for Mortgage Interest (SMI).

It's paid as a loan, which you'll need to repay with interest when you sell or transfer ownership of your home.

You usually need to be getting, or treated as getting, a qualifying benefit to get SMI.

There's no guarantee that you'll get SMI for a mortgage or loan you take out.



What is the Eligibility criteria?

To qualify for a Support for Mortgage Interest (SMI) loan you usually need to be getting one of the following:

- [Income Support](#)
- income-based [Jobseeker's Allowance \(JSA\)](#)
- income-related [Employment and Support Allowance \(ESA\)](#)
- [Universal Credit](#)
- [Pension Credit](#)

You can start getting a loan:

- from the date you start getting Pension Credit
- after you've had 9 consecutive Universal Credit payments
- after you've claimed any other qualifying benefit for 39 consecutive weeks

You might still be able to get SMI if you apply for one of the qualifying benefits but cannot get it because your income is too high. You'll then be treated as getting the benefit you applied for.

You will not be treated as getting Universal Credit if you cannot get it because your income is too high.

What you cannot use SMI for

SMI cannot help you pay:

- the amount you borrowed - only the interest on your mortgage
- anything towards insurance policies you have
- missed mortgage payments (arrears)

If you qualify for Support for Mortgage Interest (SMI), you'll get help paying the interest on up to £200,000 of your loan or mortgage. This figure is £100,000 if:

- you're getting [Pension Credit](#)
- you started claiming another [qualifying benefit](#) before January 2009

If you're already getting SMI and move to Pension Credit within 12 weeks of stopping your other benefits, you'll still get help with interest on up to £200,000.

The interest rate used to calculate the amount of SMI you'll get is currently 2.61%.

What will I pay back?

SMI is paid as a loan. You'll need to repay the money you get with interest when you sell or transfer ownership of your home.

The interest added to the loan can go up or down, but the rate will not change more than twice a year. The current rate is 1.7%.

If you want to pay the loan back more quickly, you can also make voluntary repayments.

The minimum voluntary repayment is £100 or the outstanding balance if it's less than £100.

How SMI is paid?

SMI is normally paid direct to your lender.

Payments can start either:

- from the date you start getting Pension Credit
- after you've had 9 consecutive Universal Credit payments
- after you've claimed any other qualifying benefit for 39 consecutive weeks



Mortgage Rescue Scheme

Is there any extra help in Wales for homeowners to keep their homes?

The Mortgage Rescue Scheme (different authorities might give it a different name) is aimed at families whose annual income is under £60,000, have "priority needs" (someone pregnant, elderly, disabled or with young children must live there) and in danger of losing their home.

If you qualify for the Mortgage Rescue Scheme, there are two options:

- Outright purchase of the property
- Homebuy Scheme (only available when the scheme is funded by the Welsh Government)

Shared ownership (only available where the scheme is funded solely by Grŵp Cynefin, for example or Welsh Government funding)

If Grŵp Cynefin is satisfied that it can help, it will liaise with the homeowner's mortgage lender, (and the lenders of any other debts which are secured on the property). Where possession proceedings are imminent, Grŵp Cynefin will provide written confirmation that an application has been accepted under the Mortgage Rescue Scheme and the homeowner can then produce this at a possession hearing. This document is normally sufficient for the hearing to be adjourned or for a possession order to be suspended.

Please note that Mortgage Rescue is subject to funding being available.

For more information on Mortgage Rescue in Conwy, please contact Grŵp Cynefin on 0300 111 2122.

The Pre-Action Protocol from Mortgage Lenders (available in England and Wales only)

This scheme exists to ensure that lender have considered all other available options before trying to repossess the property such as:

- Your lender must send you legal information before repossessing your home and provide you with information of how much money you owe on your mortgage
- Must consider any reasonable request from you to change the date or how you pay it
- Delay taking action if your property is up for sale
- If you have tried to come to an agreement about changes with your lender and they refuse, they must let you know in writing (within 10 days of making the request) outlining the reasons they declined your offer
- If you have made an agreement with your lender and you have been unable to keep to it, your lender must warn you in writing if they plan to start court proceedings, giving you at least 15 working days' notice of the action they plan to take.

You may find that your outgoings are still too high. During your meeting with your Homeless Prevention Officer, affordable, alternative housing will be discussed and how you can access it.

Remember, if your circumstances worsen it is important to keep us informed



Are there any other services that can give me advice on mortgage arrears?

Yes – Our partner agencies can offer a range of advice and support:

Shelter
Cymru

☎ 01792 469400

💻 www.sheltercymru.org.uk

📍 Unit 5, Station Bldg., Bodfor St, Rhyl LL18 1AT



☎ 0344 477 2020

💻 www.citizensadvice.org.uk

📍 Eryl Wen, Eryl Place, Llandudno, Conwy LL30 2TX



Dewis Cymru is a place for information about well-being in Wales.

If you would like information that can help you think what matters to you, along with information about local organisations and services that can help, you can visit the Dewis Cymru website at www.dewis.wales

This website will help you access local support services and find information and advice. It is a single, clear and reliable point of access

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