

# Keeping your home and where to get advice

## Information for homeowners



the **MORAY** council

Updated July 2012

We try to review our leaflets regularly to make sure you have the most up-to-date information, however the contents of this leaflet is only correct at the time the leaflet is published.

For more information or advice contact us on 0300 1234566 or visit our website at [www.moray.gov.uk](http://www.moray.gov.uk).

We have sent you this leaflet because your lender (for example bank or building society) must by law tell us when they take court action to repossess your house. Your home is at risk. We want to help you keep your home. The quicker you act, the more likely you are to be able to keep your home and get yourself out of debt.

If you are confused or worried about what to do, phone us now.



**0300 123 4566**

If you feel able to cope, please read on. We will explain what you need to do and where you can get free and confidential information.

**Whatever you decide, please do something and act now. If you ignore court papers, your lender can get a judgement against you automatically. This may mean that you lose your home and become homeless.**

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## **Act now**

**The possibility of becoming homeless often makes people feel anxious, frightened, depressed and unable to cope. You may feel that your world is crashing in on you. Remember, everyone facing homelessness feels like that. The first step is asking for help.**

You can get free legal and money advice to help you access your rights, take control of your life, and save your home. This leaflet tells you what you can do to prevent homelessness and where you can get free legal advice and assistance and support for any other problems you might have.

### **How will I know if I am facing court action by my lender?**

If your lender is taking court action against you they will send you a legal document called a Notice. They can start court proceedings. You may be able to get help under the Mortgage Rights (Scotland) Act 2001 (the Act). So, you must get legal advice immediately.

### **What rights do I have if my lender takes court action?**

You have the right to contest court proceedings for the repossession of your home. The Act allows you to ask the court to give you:

- Time to pay the debt so you can keep your home; or

- Time for you and others who live with you to sell up and to find somewhere else to stay.

This also applies if you live in the house and are married to, or are the partner of, the person in mortgage arrears. Even if the owner has left, a former cohabitee may be able to apply. The important thing is to act quickly and contact one of the agencies listed at the end of this leaflet.

### **When should I apply to the court under the act?**

You need to apply to the court within 21 days from when you receive the ‘initial writ’ – that is the formal court papers which were served on you.

### **Will I need a solicitor?**

Yes, you will normally need a solicitor to represent you in court. You can access one through the agencies listed at the end of this leaflet. When you see a solicitor or any advisor remember to bring the following paperwork:

- the court papers served on you;
- proof of your income; and
- letters from your lender or sheriff officer.

### **Can I get help to cover the cost of a solicitor?**

If you have a low income/savings you may get free or cheap legal advice and help. You may be entitled to civil legal aid or advice and assistance which can pay for

outlays and whatever needs to be done to defend you. For more information contact the Civil Legal Advice Office (Highlands and Islands), which covers the Moray area.

### **What can the court do?**

On an application under the Act the sheriff can continue or freeze (sist) the case in order for you to pay your mortgage and pay something towards the arrears. The sheriff can also give you time to sell your home or make an application under the Scottish Government's Mortgage to Rent scheme which allows you to become a secure tenant of your home by selling it to a housing association.

### **What else should I do?**

You should contact your lender as soon as possible. You may be able to make a repayment plan with your lender. However, if you do enter into a repayment plan please remember that if they have raised a court action against you the repayment plan will not itself prevent a court judgment being granted. They may get this by default if you fail to make an application under the Act within 21 days from receiving the court papers.

Although your lender may say they will not enforce this court order, if you get into further difficulties they can. It is always safer to use the Mortgage Rights (Scotland) Act

to prevent any court order from being granted and to provide you with the maximum legal protection. Using the Act will also let you get the court case dismissed once you've established regular payments.

### **Can I get any financial help?**

You may be able to get help from the Department of Works and Pensions (DWP) to pay your mortgage interest if you get:

- Income Support;
- Income based Jobseeker's Allowance;
- Pension Credit; or
- Income related Employment and Support Allowance.

If you are on Income Support, income based Jobseeker's Allowance or income related Employment and Support Allowance, you may normally only get help towards your mortgage interest after you have been claiming the benefit for 13 weeks. If you get Pension Credit, you may be eligible to receive help towards your housing costs from the start of your claim. If your mortgage or other qualifying loans are more than £200,000 in total, your housing costs might not be met in full.

If you can get this help, it will not cover all of your mortgage payments. It will provide a contribution towards the mortgage interest payments.



Even if you are not claiming one of these benefits right now you might still be eligible for help.

It is your responsibility to make a claim for help with housing costs. You can get free help to do so and more information from one of the agencies listed at the end of this leaflet

### **Can you increase your regular weekly income or get a one off extra sum of money?**

This could help pay your mortgage and arrears. The checklist below contains some suggestions. Remember there could be other possibilities and you can discuss all of these with one of the agencies listed at the end of this leaflet.

- ✓ Are you receiving all the welfare benefits, or the correct levels of welfare benefits, you are entitled to?
- ✓ Do you have any insurance policies you might be able to claim on? For example, mortgage protection insurance, payment protection insurance, or loss of earnings insurance?
- ✓ If you are not working, can you or any partner get a part-time job? If you work for 16 hours or more per week you may be eligible for Working Tax Credits which could substantially increase your income. Support might be available to help you re-train for work and develop new skills.

- ✓ If you have kids and are separated are you getting all the maintenance you are entitled to?
- ✓ Are you paying too much tax? (including income tax and council tax).
- ✓ Do you own anything you could sell to raise some cash? (don't sell something you owe money on).
- ✓ If you have a spare room, can you take in a lodger? (ask your mortgage lender for permission first).
- ✓ Have you had credit card or bank charges applied to your account(s)? Your advisor might be able to reclaim these.
- ✓ If you are a student, can you get a larger student loan or an emergency payment?

### **Can you find ways of spending less money?**

You could put any money saved towards your mortgage and arrears. The checklist below contains some examples:

- ✓ Are you repaying arrears on other debts and bills? If so it might be possible to reschedule those debts to free up some money to put towards your mortgage.
- ✓ As your mortgage is 'secured' on your home it needs to be treated as a priority debt.
- ✓ Are you finding it impossible to meet the interest and charges applied to multiple debts? Your advisor might be able to get the interest delayed or frozen and

charges stopped.

- ✓ Can you refinance and get a cheaper rate of interest on loan(s)?
- ✓ Can you save some money by spending less on entertainment?
- ✓ Are you buying anything on credit that you could return?
- ✓ Can you cut back on non-essential items?
- ✓ Have you got the cheapest tariff for your mobile phone, phone, gas, electricity, internet or insurance? It might be worth shopping around for better deals.

### **Do I have any other housing options?**

Yes. There are other housing options that you can consider.

- Home Owners' Support Fund. The Scottish Government operates two schemes as part of this Fund to help owners who are experiencing difficulty in paying any loans that are secured against their property - the Mortgage to Rent scheme and the Mortgage to Shared Equity scheme. Under the Mortgage to Rent scheme they can arrange for a social landlord such as a housing association to buy your home and for you to continue to live there as a tenant. The Mortgage to Shared Equity scheme involves the Scottish Government taking a financial stake in your

home. You will still own your home and continue to have responsibility for maintaining and insuring it. But you will be able to reduce the amount you have to pay to your lender every month.

- Private renting. There are a variety of types of accommodation available across Moray, including furnished and unfurnished properties. Although the private rented sector can, in general, be more expensive than the social rented market, it may be an affordable option for you.

You may be eligible for Local Housing Allowance. This is a benefit that may cover all, or part of your rent. It is based on the area that you live in and the number of people living in the property.

- Social housing. This includes housing managed by public authorities and housing associations (registered social landlords or RSLs). Providers of social housing use allocation policies (set of rules) to decide how to give out their housing. Some of the rules are based on the law, and others are up to the individual council or RSL to decide. Most providers allocate properties based on a person's housing need.

For more information on any of the above, please refer to a Guide to Housing Options in Moray, available online at [www.moray.gov.uk](http://www.moray.gov.uk) or contact us using the details provided at the end of this leaflet.

## **What happens once my home has been repossessed?**

Once your home has been repossessed and the locks have been changed it will be too late to do anything about this. However, even if a court order (decree) has been granted for the repossession of your home it might still be possible to save your home prior to the locks being changed.

It may be possible for a solicitor to ask the court's permission to lodge a late application under the Mortgage Rights (Scotland) Act. To do this the court order against you has to first be recalled - this is known as 'reponing'. You will not be able to make a late application if you had already defended the case and made an earlier application under the Act.

## **What if I lose my home?**

If you have no prospect of saving your home or you become homeless, we may have a duty to provide you with temporary or permanent accommodation. Please contact us as soon as possible. Or you can also get independent advice on your legal rights from one of the advice agencies listed at the end of this leaflet.

## **Advice agencies that can help you**

### **The Moray Council**

Housing & Property



0300 123 4566



housing@moray.gov.uk



www.moray.gov.uk

### **Civil Legal Advice Office (Highlands and Islands)**

This covers the Moray area.

2nd Floor, 16 Union Street, Inverness, IV1 1PL



0845 123 2353



mail@pvs.slab.org.uk



www.slab.org.uk/civiloffice

### **Legal Aid Helpline**



0845 122 8686

### **The Money Advice Service**

Trading Standards, 232 High Street, Elgin, IV30 1BA



01343 554623



money.advice@moray.gov.uk



www.moray.gov.uk

## **Moray Citizens Advice Bureau**

30 - 32 Batchen Street, Elgin, IV30 1BH



01343 550088



bureau@moraycab.casonline.org.uk



[www.moraycab.org.uk](http://www.moraycab.org.uk)

## **SHELTER**

4th floor, Scotiabank House, 6 South Charlotte Street, Edinburgh, EH2 4AW



0808 800 4444 (calls are free from UK landlines and main mobile networks (Virgin, Orange, 3, T-mobile, Vodafone and O2).



[www.scotland.shelter.org.uk](http://www.scotland.shelter.org.uk)

## **Scottish Legal Aid Board**

More than 80% of applications for legal aid for mortgage rights and repossession cases. Recent changes to eligibility for civil legal aid mean that more people than ever before now qualify financially for civil legal aid.



[www.slab.org.uk](http://www.slab.org.uk)

**If your lender wants to evict you get advice immediately. If you ignore court papers your lender can get a judgment against you automatically and you may lose your home.**

**For more information about housing options in Moray please visit [www.moray.gov.uk](http://www.moray.gov.uk) or phone 0300 123 4566.**



If you need information from the Moray Council in a different format, such as Braille, audio tape or large print, please contact:

如果閣下需要摩里議會用你認識的語言向你提供議會資訊的話，請要求一位會說英語的朋友或親人與議會聯繫

Jeżeli chcieliby Państwo otrzymać informacje od samorządu rejonu Moray w swoim języku ojczystym, Państwa przyjaciel lub znajomy, który mówi dobrze po angielsku, może do nas

Se necessita de informação, do Concelho de Moray, traduzida para a sua língua, peça o favor a um amigo ou parente que fale Inglês para contactar através do:

Jeigu Jums reikalinga informacija iš Moray regiono Savivaldybės [*Moray Council*], kurią norėtumėte gauti savo gimtąja kalba, paprašykite angliškai kalbančią draugą arba giminaičių susisiekti su mumis

Чтобы получить информацию из Совета Морэй на Вашем языке, попросите, пожалуйста, Вашего друга или родственника, говорящих по английски, запросить ее

Si necesitas recibir información del Ayuntamiento de Moray en tu idioma. Por favor pide a un amigo o familiar que hable inglés que:



Project Officer  
Chief Executive's Office  
High Street  
Elgin, IV30 1BX



Phone: 01343 563319



Email: [equalopportunities@moray.gov.uk](mailto:equalopportunities@moray.gov.uk)



Textphone (Wednesday or Thursday only):  
18002 01343 563319